

**Coventry City Council**  
**Minutes of the Meeting of Licensing and Regulatory Sub-Committee (Hearing)**  
**held at 10.00 am on Monday, 12 June 2017**

Present:

Members:                   Councillor A Lucas (Chair)  
                                  Councillor J Clifford  
                                  Councillor G Crookes

Employees (by Directorate):

Place:                     A Harwood, A Jones, R Masih, U Patel, A Wright

In Attendance:           S Hennigan – Licensee’s Legal Representative  
                                  E Mohammadi - Interpreter  
                                  C F Ondrea – Licensee  
                                  A Tandy – Trading Standards – Review Applicant

**Public Business**

1.       **Appointment of Chair**

**RESOLVED that Councillor A Lucas be appointed as Chair for the meeting.**

2.       **Apologies**

There were no apologies.

3.       **Declarations of Interest**

There were no declarations of interest.

4.       **Licensing Act 2003 - Application to Review a Premises Licence**

Further to the hearing adjourned on 8 May 2017, the Sub-Committee reconvened to consider an application for a review of the premises licence at Sam Mini Market, 681 Foleshill Road, Coventry. The review application sought to either revoke the premises licence, suspend the premises licence for a period of three months and/or terminate the role of Ms Corina Florina Ondrea as Designated Premises Supervisor (DPS).

The grounds for the review were that the Licensing Objective of Prevention of Crime and Disorder had not been promoted and a condition of the licence had been breached. This followed a visit to the premises, during which illegal tobacco products were discovered and seized.

The Sub-Committee heard that the premises applied for a licence to sell alcohol off the premises on 23 August 2016. The licence was granted on 23 September 2016 with the following condition attached to it:-

*'All alcohol and tobacco products must be purchased from legitimate traceable sources that provide receipts to confirm purchased items. Goods sold should not evade any duty or taxes and should be authentic goods, which comply with UK legislation. All receipts and records will be made available to officers at Coventry City Council for inspection when requested by that officer.'*

The Sub-Committee heard that this condition was added to the licence with the agreement of the Licensee due to the intervention that she has been subject to during the preceding 14 months.

The Review Applicant explained that on a number of previous occasions prior to the grant of the licence, the Licensee had been subject to intervention from Trading Standards due to illicit cigarettes found both on the shop premises and in the flat above the shop.

Following the grant of a premises licence with the condition as suggested by Trading Standards attached, a visit was made to the premises on 9 December 2017. During this visit, a search dog was taken to the premises by Trading Standards and 6 packets of foreign labelled cigarettes were found hidden in sweet containers at the till area. A further 10 packets were found in a locked cupboard under the counter and 20 packets were in a concealment area of a sewage drain.

The Review Applicant advised the Sub-Committee that since this date, two anonymous complaints had been received alleging that the premises was continuing to sell foreign labelled and counterfeit tobacco. One such complaint was received as recently as 9 June 2017. The Sub-Committee confirmed that with no evidence to substantiate the anonymous complaints, they would not be lending weight to them.

The Review Applicant reiterated in response to a question from the Sub-committee that the cigarettes were not on open display but had been well hidden. For example, the cigarettes concealed in a sweet jar were concealed amongst actual sweets rather than an empty jar.

The Sub-Committee then heard representations from the Licensee through the Licensee's Representative, who stated that the Licensee accepted the findings placed before the Sub-Committee. However, the Licensee disputes having anything to do with any cigarettes ever found on her premises, instead blaming various members of staff who had the cigarettes on the premises for personal consumption.

In response to a question from the Sub-Committee, the Licensee accepted that she had responsibilities and obligations as Designated Premises Supervisor. However, when questioned by the Sub-Committee about the fact that the cigarettes were concealed, she maintained that this was done by staff members and was only for their personal use. The Licensee accepted that some of the packets were for her personal use too. She denied that they had ever been sold from the shop, stating that she had no knowledge of the test purchase carried out on 30 March 2016 during which a manufacturer was sold a packet of counterfeit cigarettes on the premises.

In reaching its decision, the Sub-Committee had regard to both national guidance and the Council's own policy.

In particular, the Sub-Committee noted that whilst the Police were to be regarded as the primary source of advice on the Prevention of Crime and Disorder (paragraph 9.12), Trading Standards were the main source of information in respect of the trade in illicit cigarettes.

The Sub-Committee noted paragraph 11.27 of the statutory guidance which notes, in the context of review applications, that certain criminal activity should be treated as being particularly serious, including the sale or storage of smuggled tobacco.

The Sub-Committee also had regard for paragraph 11.28, which noted that where reviews arise and the Licensing Authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

The Sub-Committee accepted the evidence presented by Trading Standards as being true on the balance of probabilities, and considered that the explanations given by the Licensee were both evasive and implausible and unsupported by any evidence. The Sub-Committee could not accept that illicit cigarettes found on the premises during the visit by Trading Standards on 9 December 2016 were for personal consumption given the methods used to conceal the cigarettes. As such, the Sub-Committee accepted that the licensing objective of Prevention of Crime and Disorder had been seriously undermined.

In addition to this, the Sub-Committee noted that the Licensee had breached her licence condition by virtue of the discovery of illicit cigarettes on the premises.

The Sub-Committee considered that the Licensee had failed to provide any real assurances or details of any controls that she could put in place to prevent a recurrence of the reported incident.

The Sub-Committee considered that a suspension of the licence would not be appropriate owing to the fact that the cigarettes were found only 11 weeks after the licence was granted, the Licensee having voluntarily accepted a condition by Trading Standards regarding the legitimacy of alcohol and tobacco. The Sub-Committee were particularly of the view that the Licensee must have had knowledge of the illicit nature of the cigarettes stored on the premises given the previous intervention by Trading Standards.

The Sub-Committee was well aware of the Council's commitment to ensuring that all premises holding a licence in Coventry are conducting themselves in a manner that promotes the licensing objectives. This includes adhering to any conditions placed on a licence, which ensures that a premises operates within lawful parameters and is therefore safe for residents. The vast majority of licence holders would respect the conditions of their licences and endeavour to uphold the licensing objectives at all times in accordance with their obligations. However, the minority which flout the rules and operate in a manner that undermines the licensing objectives would be dealt with appropriately.

In light of all matters considered, the Sub-Committee concluded that only revocation of the premises licence would be appropriate and proportionate in the circumstances.

**RESOLVED that the Premises Licence in respect of Sam Mini Market, 681 Foleshill Road, Coventry, be revoked.**

5. **Any Other Business**

There were no items of urgent private business.

(Meeting closed at 11.25 am)