

Coventry City Council
Minutes of the Meeting of Licensing and Regulatory Sub-Committee (Hearing)
held at 10.00 am on Wednesday, 4 November 2015

Present:

Members: Councillor R Thay (Chair)
 Councillor J Birdi
 Councillor J Mutton

Employees (by Directorate):

Place: D Cahalin-Heath, D Gardner, A Harwood, P Thompson

Resources D Joy, U Patel

In Attendance: K Malik – Applicant
 K Said – Applicant’s Representative

Public Business

1. **Appointment of Chair**

RESOLVED that Councillor Thay be elected as Chair of this meeting.

2. **Declarations of Interest**

There were no declarations of interest.

3. **Licensing Act 2003 - Application for a New Premises Licence**

The Sub-Committee considered an application for a New Premises Licence in respect of Koshnaw Supermarket, 70 Walsgrave Road, Coventry. The application was for a premises licence permitting the sale of alcohol for consumption off the premises from 8.00am to 11.00pm Monday to Friday and from 8.00am to 1.00am on Saturday and Sunday.

During the application process West Midlands Police had proposed the following condition in the event that a premises licence was granted, which was accepted by the Applicant:

“Whilst the venue is open to the public a personal licence holder should be working at the premises”.

One Responsible Authority (Coventry City Council, Trading Standards) had submitted a representation opposing the grant of a licence. The Responsible Authority was of the view that the grant of a licence would undermine the licensing objective of preventing crime and disorder.

The Sub-Committee heard submissions from the Applicant in support of the application. In response to a question from the Sub-Committee the Applicant stated that he would be present on the premises 2-3 days per week to prevent a re-occurrence of the recent problems. The Applicant stated that the illicit cigarettes

seized at the premises on various dates were nothing to do with him although he accepted that as the business owner he needed to control what occurred on the premises.

The Sub-Committee considered the written and verbal representations made by Trading Standards. The Sub-Committee noted that there had been 5 incidents of illicit tobacco being found on or sold from the premises. The most recent incident was on 22 October 2015, which was after the application for a premises licence had been submitted. The investigation into these incidents was continuing.

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

In relation to the prevention of crime and disorder the Sub-Committee noted the position of West Midlands Police, namely, that the imposition of a condition could meet their concerns.

However, whilst the Police were generally regarded as the primary source of advice on the promotion of crime and disorder (paragraph 9.12 of the statutory guidance), Trading Standards were the main source of information in respect of the trade in illicit cigarettes.

The Sub-Committee also noted paragraph 11.27 of the statutory guidance which notes (in the context of review applications) that matters may be considered by the Sub-Committee notwithstanding that a criminal investigation onto the same affairs had not been concluded. The Sub-Committee were advised that the principle applied to an application for a new licence to the same extent as it applied to review applications.

The Sub-Committee also noted paragraph 11.27 of the statutory guidance which states that there is certain criminal activity that should be treated as particularly seriously including smuggled tobacco. Paragraph 11.27 relates to review applications. However, the Sub-Committee was advised that the same principle applies equally to an application for a new licence. It was clear from the evidence that the premises were being used for the possession and supply of illicit tobacco in an area where there is a widespread problem regarding illicit tobacco.

The Sub-Committee noted that the final incident occurred during the application process at which time the Applicant would have been fully aware of the concerns regarding the possession and supply of illicit tobacco from the premises.

The Sub-Committee considered that the Applicant had failed to provide any assurances or details of any controls that he would put in place to prevent a re-occurrence of the reported incidents.

In light of the above, the Sub-Committee considered that there were no conditions that could be attached to a licence that would deal with their concerns. It therefore concluded that to grant the application would undermine the crime and disorder objective.

RESOLVED that the application for a new premises licence for the premises Koshnaw Supermarket be refused.

4. **Any Other Business**

There were no other items of business.

(Meeting closed at 10.45 am)