

Coventry City Council
Minutes of the Meeting of Licensing and Regulatory Sub-Committee (Hearing)
held at 10.00 am on Monday, 16 January 2017

Present:

Members: Councillor J Clifford (Chair)
 Councillor G Crookes
 Councillor C Thomas

Employees (by Directorate):

Place A Harwood, R Masih, P Thompson

Resources M Salmon, A Wright

In attendance Mr R Sharif (Premises Owner)

Apologies: There were no apologies

Public Business

1. **Appointment of Chair**

RESOLVED that Councillor Clifford be appointed as Chair for the meeting.

2. **Declarations of Interest**

There were no disclosable pecuniary interests declared.

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

The Sub-Committee considered an application to review a premises licence in respect of Easy Shop, 74b Walsgrave 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 Mr Hardi Hussain Amin 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 in August 2016. The licence was granted on 1st 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 previous history of the nominated DPS, namely Mr Amin, as well as the history of the Licensee.

The Review Applicant explained that following a complaint received that illicit cigarettes were being sold from the premises, a visit was made by Trading Standards on 5th October 2016. During this visit, a box was found in the rear store room amongst other stock, containing 94 packets of foreign labelled cigarettes and 9 packets of counterfeit cigarettes.

A man who appeared to be working in the shop walked out of the premises during the inspection, and another man advised officers that he was 'Mr Sharif', the owner of the premises. However, the Review Applicant confirmed that the Licensee in attendance at the Hearing was not the male in the shop. The Licensee produced his driving licence at the Hearing to confirm his identity. The identity of the male working in the shop on the day of the inspection is therefore unknown.

The Review Applicant advised the Sub-Committee that on 19th October 2016, a letter was hand delivered to the premises inviting the Licensee to an interview under caution, which he failed to attend.

The Sub-Committee heard that in February 2015, Police witnessed a van unloading boxes into a Vauxhall Insignia car. They stopped the car to check the boxes and discovered thousands of illicit cigarettes. The details of the van were checked and the registered keeper was the Licensee.

In addition, the Sub-Committee heard that the DPS is known to Trading Standards for being involved in the sale and supply of illicit cigarettes. In November 2012, whilst he was DPS and licence holder at a different retail outlet, multiple seizures of illicit cigarettes took place at the premises culminating in the premises licence being suspended for three months.

In 2014, Mr Amin was stopped at Birmingham Airport for trying to leave the country with a significant quantity of cash (£34,550). During POCA proceedings before the Crown Court, the Judge found that on the balance of probabilities the money was associated with Mr Amin's sale of illicit cigarettes, and the money was seized.

The Review Applicant confirmed in response to a question from the Sub-Committee that CCTV exists at the premises but this was not checked as the Licensee had not attended the interview under caution.

The Sub-Committee then heard representations from the Licensee, who stated that he knew nothing about what was being sold from the shop. He advised the Sub-Committee that he did not sell alcohol and only got a premises licence to make his business more saleable.

The Licensee said that he had spoken to his employees regarding the seizure in September 2016, who told him that a girl had entered the shop, whom they did not know, and asked if she could leave her rucksack there whilst she went into town. The box of cigarettes was in the rucksack and had nothing to do with the business.

The Sub-Committee asked to see the box and it was held up by the Review Applicant. It was evident that a box of its size would be unlikely to fit into a rucksack. The Review Applicant also advised the Sub Committee that the value of the illicit cigarettes was around £500 so it is unlikely that somebody would have left it in the shop with people she does not know.

With regard to the incident in February 2015, the Licensee confirmed that he was the driver of the van but disputed the account given by Police. He does not accept that he was moving boxes into a Vauxhall Insignia, or that any boxes of cigarettes were in his van.

In response to questions from the Sub-Committee, the Licensee confirmed that he lives in London but comes to Coventry 2 – 3 times a week. He had not met Mr Amin before asking him to be DPS and made no checks regarding his history as a DPS, instead relying on a personal recommendation from somebody he knew.

He has now met Mr Amin on one occasion, when he came to sign the premises licence application, but has not seen him since the licence was granted. The Licensee confirmed that Mr Amin has no managerial role or responsibility within the business.

The Licensee further confirmed that he does not make formal checks for his employees and relies on personal recommendations from people he trusts.

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 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 was concerned that the Licensee had only met the DPS on one occasion and had no checks or controls in place to determine whether an employee of the business is suitable for the role. It considered that this showed the Licensee to have a disregard for his responsibilities as a business owner, and premises licence holder.

The Sub-Committee noted that the Licensee has breached his licence conditions by virtue of the discovery of illicit cigarettes on the premises.

The Sub-Committee considered that the Licensee had failed to provide any assurances or details of any controls that he 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 one month after the licence was granted. Further, the Licensee's contradictory and implausible remarks gave the Sub-Committee concerns that he has no real control over his business or his employees that would reassure them that the licensing objective of Prevention of Crime and Disorder would not be undermined in the future.

The Sub-Committee decided that as the DPS has no managerial role at the premises, it would be inappropriate for the purposes of upholding the licensing objective to simply terminate his position.

As such, the Sub-Committee concluded that only revocation of the premises licence would be appropriate and proportionate in the circumstances.

RESOLVED that Premises Licence is revoked.

4. **Any Other Business**

There were no other items of business.

(Meeting closed at 11.55 am)