

MINUTES of a meeting of the LICENSING SUB COMMITTEE held in the Abbey Room, Stenson House, London Road, Coalville, LE67 3FN on WEDNESDAY, 28 JUNE 2023

Present: Councillors J G Simmons, A Barker and R Johnson

Officers: Mr A Cooper, Ms K Woollett, Mr T Devonshire, Mrs R Wallace and Ms T Cooper

Interested Parties: Retailic (Trading Standards) and Walker (Trading Standards)

## **1 ELECTION OF CHAIRMAN**

By affirmation of the meeting, it was

RESOLVED THAT:

Councillor Johnson take the chair for the remainder of the meeting.

## **2 APOLOGIES FOR ABSENCE**

There were no apologies for absence received.

## **3 DECLARATION OF INTERESTS**

No interests were declared.

## **4 APPLICATION FOR REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003**

The Chairman asked the parties in attendance to introduce themselves and then outlined the procedure to be followed. It was agreed that the maximum presentation time would be fifteen minutes.

The Licensing Team Leader presented their report, highlighting to members the history of the licence for the premises including transfers of the licence and amendments to the licence, Trading Standards involvement with the premises in relation to the sale of illicit tobacco and the Licensing Authorities involvement with the premises in relation to breaches of licence conditions. They were satisfied that the premise licencing review had been advertised as required. They set out the sanctions available to the panel and the nature of the appeals process.

In response to a question from a Member about who the licensee was in 2013, it was accepted that there had been a transfer of licence since then.

The applicant presented their report. They set out the history of licence conditions violations and the investigations by Trading Standards in the years from 2015. The criminality most significantly revolved around the sale of illicit tobacco on a plethora of occasions, and, less frequently, the sale of illicit alcohol, out of date food and the sale of alcohol to minors. The licence breaches entailed lack of staff training, a failure to maintain a log of alcohol sale refusals, and a lack of working CCTV. They concluded that this amounted to a history of organised criminality and persistent licencing breaches. The revocation of the licence should be seriously considered and that is what they were requesting.

In response to a question from a Member about whether the CCTV had ever been working, the applicant said they had no records other than when they had visited.

A Member commended the comprehensive report.

Chairman's initials

In response to a question from the Legal Adviser about whether the applicant was looking to prosecute, the applicant felt a licence review was a more proportionate response in this instance.

The Licence Holder inquired if there was any evidence of illegal tobacco sales since February, and particularly to a child, as had been alleged? They also said that they did not own the business in Leicester as suggested in the additional papers.

The applicant explained the complaints process: the allegation of sales to a child in April 2023 had not been further investigated as they were already dealing with existing allegations and moving through with the process. They did not tend to revisit complaints whilst going through the licencing revocation process. They added that the Licence Holder was still showing as the owner of the business in Leicester on Company's House.

The Licence Holder presented their response. They said that they were responsible for ongoing since January 2021 only. They said they had been wrongly advised on the regulations around illicit tobacco; after the February visit when they found out the regulations, they had not been violating them. They had also been on the premises daily since February to comply with the licencing conditions. Since February they had said to staff that they could not sell alcohol without the Licence Holder's presence. The Licence Holder also asserted that they did not own a shop in Leicester; they did own one from 2015-2021, but they had now sold it. They explained that the Company was still showing on Companies House as there were debts to be paid before the company linked to the shop in Leicester could be closed. They added they never had any problems with the public or Officers in Coalville. They felt guilty for their mistake, which was their first and last. They concluded that if they entirely stopped selling alcohol it would be increasingly hard to run the business; especially with current inflationary pressures.

In response to a question by a Member about CCTV, the Licence Holder said it had been working in February 2023 when Trading Standards visited but their cousin had been unable to turn it on properly. They added that they had been more on top of staff training since February.

In response to a question from a Member about whether staff knew about the Licence Holder needing to be on the premises if alcohol was to be sold, the Licence Holder said that they had been since he had become aware of this himself.

In response to a Member question about the incident on P.93 when in March 2023 the Licence Holder's cousin had sold alcohol against licence conditions, the Licence Holder said they had told him not to sell alcohol when they were not present. They clarified it was actually since this March visit that they became aware of that condition of the licence.

In response to a question from a Member about records and staff training and how often training was done, the Licence Holder set out the training schedule: using the till, engaging with customers, maintaining stock, and then asking for ID when customers appear to be under 25 and refusing a sale if necessary.

In response to a question from a Member about the refusal record and the failure to maintain it, the Licence Holder said they did not realise until recently that records had to be kept and had since rectified this.

In response to a Member suggestion that these were mandatory conditions and had been set out in April 2021 when the licence had been granted, the Licence Holder reemphasised that they were not aware that the conditions had been different to those for their previous premise.

The Licencing Team Leader said as a point of clarification that a copy of the licence with the particular conditions was sent out with every premise licence they grant.

In response to a question from the Legal Advisor about the CCTV, the Licence Holder explained that they realised the cameras were not working following his return from a holiday absence; they confirmed that they were now all working. The second time they suggested that the CCTV was working but their cousin had been unable to use them.

In response to a question from the Legal Advisor about why training records and refusal logs had not been brought, and whether training was accredited, the Licence Holder said that they had forgotten to bring them and that all training was verbal and done by themselves.

The Responsible Authority set out their report. They concurred with Trading Standards and detailed the history of violations as set out in the report; and reemphasised the conditions of licence and the statutory and strategic frameworks within which they were incorporated. They disputed the Licence Holder's claim that they were constantly on site since February; the Responsible Authority had visited in May to display notices for this review hearing, and the Licence Holder was not present. During a visit in March, the CCTV was again not working, and the premise licence was not on display although this was rectified there and then. Despite attempts to work with the Licence Holder there had been no attempts to comply with the terms of the licence. They supported Trading Standards call to revoke the licence.

In response to a question from a Member about whether any personal licence applications had been received from anybody else employed at the premises, the Responsible Authority said that nothing had been received at the time of the sub-committee hearing.

The applicant's concluding speech stressed again the long history of a variety of licence violations; noted that Trading Standards had given legal advice and tried to work with the Licence Holder as the Trading Standards process was a gradual one; added that revocation was not something they took lightly but was something that had to be counterposed with the impact on the community of the premise maintaining its licence; and they also detailed some of the pernicious aspects of the illicit tobacco trade. They then thanked the panel for their time.

The Licence Holder's closing speech said the out of date food was kept to return with the next delivery and should not have been for sale. They concluded by saying that they did not believe they had breached any licencing conditions since becoming aware of them.

The Responsible Authority declined the opportunity for a closing speech.

Members thanked officers for a comprehensive report and the meeting was adjourned for deliberation at 11:50am.

The panel reconvened at 1:10pm and the Legal Advisor read out the decision.

RESOLVED THAT:

The licence be revoked.

The Sub-Committee was of the view that there was a significant history of non-compliance with tobacco legislation and licensing conditions at the premises. This, coupled with the explanations provided by the Licence Holder in relation to the conditions and the storage of out-of-date food did not give the Sub-Committee confidence that the Licence Holder could be trusted to promote the licensing objectives, particularly the prevention of crime

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and disorder. This was further supported by the fact that the Licence Holder had been given numerous advice and warning letters, yet continued to break the law.

The Licence Holder was advised of the right of appeal to the magistrates' court for anyone aggrieved by the decision.

The meeting commenced at 10.30 am

The Chairman closed the meeting at 1.20 pm