

Minutes of Licensing Sub Committee 1

Monday 4 July 2022 at 10.00am
in the Council Chamber, Sandwell Council House, Oldbury

Present: Councillor Allen (Chair);
Councillors Fenton and Gavan.

Observing: Councillor Wilkes

In attendance: Balbir Dhugga (Licensing Officer);
Geeta Bangerh (Licensing Officer);
Makhan Singh Gosal (Senior Licensing Officer);
Jaswinder Matoo (Trading Standards Officer);
Anthony Sloniowski (Trading Standards Officer);
Paul Fisher (Deputy Director of Public Health);
Mrs Azar Ebrahimi (Premises Licence Holder);
Ms Nastaran Khanoie (Designated Premises Supervisor);
David Elliott (Legal Advisor);
Stephnie Hancock (Senior Democratic Services Officer);
Connor Robinson (Democratic Services Officer);
Mateusz Sliwinski (Democratic Services Officer);
John Swann (Democratic Services Officer).

27/22 **Apologies for Absence**

No apologies for absence were received.

28/22 **Declarations of Interest**

There were no declarations of interest.



29/22

Application to review a premises licence in relation to Top Tak, 74 - 76 Cape Hill, Smethwick

The Sub Committee considered an application by Trading Standards, under Section 51 of the Licensing Act 2003, to review the premises licence in respect of Top Tak, 74- 76 Cape Hill, Smethwick on the grounds of the prevention of crime and disorder licensing objective.

The premise operated as a convenience store with an off licence.

The Trading Standards representative set out the reasons for their representation:-

- as part of an ongoing investigation, a number premises were being visited by Trading Standards to identify counterfeit wine, of which a number of bottles were found and seized;
- in the course of their investigation a large quantity of duty evaded and counterfeit cigarettes were also found and seized. The products were not compliant with the Tobacco and Related Products Regulations 2016 as they failed to carry the appropriate health warnings on their packaging;
- the sale of illicit and counterfeit goods had a serious impact upon the economy and adversely impacted upon legitimate traders;
- it was an offence under Section 144 of the Licensing Act 2003 to keep any goods on a licensed premises that had been imported without payment of duty.

The Sub Committee also considered representations from Public Health:-

- illicit tobacco:-
 - o was harmful to health and tobacco use was the leading cause of ill health and death in the United Kingdom;
 - o undermined measures to reduce smoking in the United Kingdom;
 - o undermined the effectiveness of tobacco control strategies such as high taxation;



- often contained poor quality, and dangerous ingredients that were not found in genuine tobacco products – containing higher levels of tar, nicotine and carbon monoxide than cigarettes that were legally sold in the UK.

In response to the representations made, the Premises Licence Holder advised:-

- she was unaware that the wine was counterfeit. It had been part of the existing stock when they took over the premises;
- it was an employee that had accepted the counterfeit cigarettes. This person was still an employee;
- in future either the Designated Premises Supervisor or the Premises Licence holder would be present at all times to ensure good practice;
- losing the licence to sell alcohol would have a detrimental impact upon the business;
- training for staff would be improved in relation to compliance with the licensing objectives.

Members noted that the majority of the receipts presented were for purchases made after the date of the inspection by Trading Standards.

The Sub Committee sought to establish the businesses compliance with the conditions of the licence, including Challenge 25 signage, CCTV usage and maintaining a register of customers who had been refused licenced products. Members were informed that there was no refusal register in operation at the time of the visit from Trading Standards and that CCTV footage was only retained for two weeks. It was noted that the conditions of licence stated that that footage must be retained for 31 days.

The Sub Committee took advice from its Legal Advisor before adjourning to make a decision on the review.

Having taken into consideration representations made by all parties, the Sub Committee was minded to revoke the licence on the grounds that:-



- guidance stated that revocation of the licence, even in the first instance must be seriously considered;
- members recognised that practices were not in accordance with Council policy;
- industry standard practices were not being adhered to and the actions of the business were contrary to Council policy;
- on the basis of the evidence put forward, the Sub Committee was not satisfied that this was a genuine mistake;
- extra conditions being imposed upon the licence would do little to remedy the current situation;
- consideration had been given to both the representations from Trading Standards and Public Health in relation to the prevention of crime and disorder licensing objective.

Resolved that the Premise Licence in relation to Top Tak, situated at 74- 76 Cape Hill, Smethwick, be revoked.

In making its decision the Sub Committee took into account the Licensing Act 2003, the Section 182 guidance and noted that it must carry out all its functions under the Act with a view to promoting the licensing objectives. It also took into account the Human Rights Act 1998.

The Premises Licence Holder would be advised of her right of appeal under section 53c of the Licensing Act 2003 to the Magistrates Court within 21 days of receipt of the decision letter.

Meeting ended at 4.04pm

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