

SOUTHERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE SOUTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 11 MARCH 2015 AT MEETING ROOM - CITY HALL, MALTHOUSE LANE, SALISBURY, SP2 7TU IN RESPECT OF AN REVIEW OF A PREMISES LICENCE: THE POLISH SHOP, 62 WINCHESTER STREET, SALISBURY, WILTSHIRE, SP1 1HL

Present:

Cllr Jose Green, Cllr Leo Randall and Cllr Pip Ridout

Also Present:

Yvonne Bennett, Trading Standards
Paul Taylor, Senior Solicitor,
Linda Holland, Public Protection Team Leader
Ian Garrod, Public Protection Officer (licensing)
Lisa Moore, Democratic Services Officer
Lisa Pullin, Democratic Services Officer

1 Election of Chairman

Nominations for a Chairman of the Licensing Sub Committee were sought and it was

Resolved:

To elect Councillor Leo Randall as Chairman for this meeting only.

2 Procedure for the Meeting

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 6 of the Agenda refers).

3 Chairman's Announcements

The Chairman informed the Hearing that Cllr Jeans would be replaced by Cllr Pip Ridout on the Panel, as he was unable to attend. He then gave details of the exits to be used in the event of an emergency.

4 **Declarations of Interest**

There were no interests declared.

5 **Licensing Application**

Application by Trading Standards for a Review of the Premises Licence in respect of The Polish Shop, 62 Winchester Street, Salisbury, Wiltshire, SP1 1HL.

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities and those who had made a Relevant Representation were given the opportunity to address the Sub Committee.

Ian Garrod, Public Protection Officer, provided information of the case as set out in the agenda pack.

- An application for a review of a Premises Licence in respect of The Polish Shop, 62 Winchester Street, Salisbury, SP1 1HL made by Yvonne Bennett on behalf of Trading Standards, for which no other relevant representations have been received at this time.
- On 4 December 2013 the Premises was visited and advice was given on ensuring English labelling was on food products.
- As a result of intelligence received that illegal tobacco and alcohol products were being sold at the Polish Shop a visit was made to the Premises. This was on 15 July 2014 when a significant quantity of cigarettes and hand rolled tobacco were found on the premises by Trading Standards Officers. The products were labelled in various languages and were found to be illegal because the packaging did not bear the appropriate health warnings and failed to carry a UK duty paid fiscal mark.
- When spoken to, the Premises Licence Holder and Designated Premises Supervisor, Mrs Malgorzata Gumula claimed that the illegal products were for personal use and were not in her possession for supply. However they were found in the shop premises, underneath the till area and in a store room. Some were also found in her vehicle. The shop also appeared to be under the control of inexperienced staff.
- At the beginning of October 2014 Trading Standards received a complaint alleging that alcohol was being sold at the Polish Shop to persons under the age of 18. As a result of this a Test purchase operation was set up by Trading Standards using a 16 year old

volunteer. A test purchase attempt by the volunteer resulted in a sale of alcohol on 30 October 2014 and a purchase of cigarettes. The person who sold the tobacco and alcohol to the 16 year old spoke very little English and had insufficient retail experience and training to be left alone on a premises selling alcohol and tobacco products. A letter was sent to Mrs Gumula notifying her in both English and Polish of the intention of Trading Standards to undertake a test purchase exercise.

Key points raised by the Responsible Authority (Yvonne Bennett of Trading Standards) were:

Grounds for review A – Prevention of Crime and Disorder

- In March and April 2014, Trading Standards received intelligence that illegal tobacco and alcohol products were being sold at the Polish Shop.
- On 15 July 2014, during a visit to the premises, accompanied by a dog handler and sniffer dogs, Trading Standards Officers seized a significant quantity of cigarettes and hand rolled tobacco found on the premises. The products were labelled in various languages and were found to be illegal because the packaging did not bear the appropriate health warnings and failed to carry a UK duty paid fiscal mark.
- The Licence holder claimed that these products were for her personal use and not for sale in the shop. However, they were found on the shop premises underneath the till area, in a storeroom and in her vehicle. In total 1,100 cigarettes and 1,150 grams of hand rolled tobacco comprising 11 different brands was found.
- The shop appeared to be under the control of inexperienced volunteers.

Grounds for review B – Protection of Children from harm

- In October 2014, Trading Standards received a complaint alleging that alcohol was being sold at The Polish Shop to persons under the age of 18.
- A test purchase attempt by a 16 year old volunteer resulted in a sale of alcohol on 30 October 2014.
- On 30 October 2014 the 16 year old volunteer was also sold cigarettes.
- The person who sold these to the 16 year old spoke very little English and had insufficient retail experience and training to be left alone on the premises selling alcohol and tobacco products.

Key points raised by Mrs Gumula, Premises Licence Holder of The Polish Shop, 62 Winchester Street, Salisbury, SP1 1HL were:

- There had been several changes to the way that the shop was run since the visit by Trading Standards. The person serving at the time of the visit was no longer employed by the shop.
- The premises licence holder had found guidance online relating to the sale of alcohol and cigarettes to underage customers, and had since had that guidance translated in to Polish for all future employees.
- A new employee had been taken on who has been trained to ask all young people for ID before selling any cigarettes or alcohol to them.
- Information was now displayed around the shop advising customers of the Challenge 25 Scheme and staff wear badges from the scheme.
- The experience had taught the licence holder a great deal about who to employ in the future.
- The owner was generally at the shop during opening hours, however as she had two young children, there were some occasions when she had to be elsewhere. During those instances she was always available on the telephone to give advice to staff on any issue which may arise.

The parties were given the opportunity to ask questions of the Applicant, Responsible Authority, those who made a Relevant Representation and Wiltshire Council Officers.

During the debate, the Sub Committee members sought clarification on some points before retiring to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Sub Committee then retired to consider the review application at The Polish Shop, 62 Winchester Street, Salisbury, SP1 1HL.

The Hearing reconvened at 1.00pm.

Following the deliberations of the Sub Committee Members, the Solicitor for the Council made a statement of material legal advice given in closed session.

The Sub Committee considered all of the submissions made to it and the written representations together with the Licensing Act 2003, Statutory Guidance and Regulations and the Licensing Policy of the Council

Resolved:

The Southern Area Licensing Sub Committee determined that, in order to promote the licensing objectives, particularly those relating to the

prevention of crime and disorder and the protection of children, it would be appropriate to take the following steps in relation to the premises licence for the Polish Shop, 62 Winchester Street, Salisbury:-

1. to suspend the premises licence for three months, in order to allow time for Trading Standards and the Licensing Authority to be satisfied that all Licensing Objectives and conditions on the premises licence are being met.
2. to add the following conditions to the premises licence:-
 - Only products available for retail sale can be stored at the licensed premises.
 - Only Employees of the business who have been formally trained on age restricted sales may serve behind the counter
 - Only Staff who have undertaken appropriate training (as agreed with the Licensing Authority) to be present at the premises during trading hours
 - Staff to undertake appropriate training (as agreed with the Licensing Authority) in all aspects of relevant Licensing legislation, law and practice in relation to age restricted sales. This training will be recorded and refreshed on a regular basis and must be available upon request by Police, Trading Standards or Licensing officers
 - The premises to maintain a record to include successful challenges to proof of age and this record to be available upon request by Police, Trading Standards or Licensing officers

In reaching its decision the Sub Committee has considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 52); the guidance issued under Section 182 of the Act (in particular paragraphs 11.24 – 11.28) and the Licensing Policy of Wiltshire Council.

Reasons

The Sub Committee accepted the evidence presented by Trading Standards that illegal tobacco had been kept on the premises and that, on at least one occasion, there had been a sale of alcohol to a child under the age of 18. They noted that the licence holder had been notified in advance that Trading Standards would be making test purchases on age-restricted products, but that nevertheless the unlawful sale took place shortly thereafter.

The Sub Committee were concerned that the sale of alcohol was being undertaken by inexperienced and untrained staff who had been left in charge of the premises.

The Sub Committee took particular account of paragraphs 11.24 – 11.28 of the S.182 Guidance. They noted that the guidance stated that, where premises were being used to further crimes, revocation should be seriously considered, even in the first instance. The sale and storage of smuggled tobacco was one of the criminal activities that was specifically mentioned in the Guidance as being something that should be treated particularly seriously.

However, the Sub Committee also took account of the comments from the premises licence holder that things had changed in the shop since these events and that more experienced staff were now employed.

On balance, although the Sub Committee had seriously considered revocation of the licence, it was felt that the licensing objectives could be met by the imposition of the additional conditions proposed, together with a suspension of the premises licence for three months. This should allow time for the licence holder to address the failings that had been identified and for the relevant authorities to satisfy themselves that the situation had improved and that the licensing objectives and the licence conditions were being met.

(Duration of meeting: Times Not Specified)

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