

**Minutes of the Licensing Sub-Committee 3  
Tuesday, 24<sup>th</sup> October, 2023 at 10.00 am  
In the Council Chamber  
at the Council House, Priory Road, Dudley**

**Present:**

Councillor M Evans (Chair)  
Councillors K Denning and A Goddard

**Officers:**

N Slym – Assistant Team Manager (Waste, Fleet and Licensing) (Directorate of Environment), S Wright – Solicitor and K Malpass – Democratic Services Officer (Directorate of Finance and Legal).

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16. **Apology for Absence**

There were no apologies for absence for this meeting of the Sub-Committee.

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17. **Appointment of Substitute Member**

There were no substitute Members appointed for this meeting of the Sub-Committee.

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18. **Declarations of Interest**

No Member made a declaration of interest in accordance with the Members' Code of Conduct.

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19. **Minutes**

**Resolved**

That the minutes of the meeting held on 5<sup>th</sup> September, 2023, be approved as a correct record, and signed.

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20. **Review of a Premises Licence – The Broadway Service Station, 154 South Road, Stourbridge**

A report of the Interim Service Director of Environment was submitted on an application for the review of the premises licence in respect of The Broadway Service Station, 154 South Road, Stourbridge.

The following persons were in attendance, at the meeting: -

Mr P S Virdee (Premise Licence Holder)  
Mrs Virdee (Premises Licence Holder's wife)  
Ms K Turley (West Midlands Police)  
Mr R Jones (Environmental Health and Trading Standards)

Following introductions, the Assistant Team Manager (Waste, Fleet and Licensing) presented the report on behalf of the Council. Members were advised that on 11<sup>th</sup> July, 2023, Walsall Magistrates Court considered an application from Dudley's Environmental Health and Trading Standards under Section 80 of the Anti-Social Behaviour, Crime and Policing Act 2014 to close the premises for a three month period due to nuisance, crime and disorder to the local community. The application was approved and the premises was ordered to close until 11<sup>th</sup> October, 2023. An extension to the previous Closure Order was applied for on 11<sup>th</sup> July, 2023 by Environmental Health and Trading Standards and approved by Dudley Magistrates Court on 20<sup>th</sup> October, 2023 for a further three month period and was due to expire on 10<sup>th</sup> January, 2024.

The Premises Licence Holder confirmed that he would not be supported at the meeting by a legal representative.

Mr R Jones presented the representations of Environmental Health and Trading Standards which related to the Prevention of Crime and Disorder and the Protection of Children from Harm licensing objectives under the Licensing Act 2023. The Premises Licence Holder had failed to uphold both objectives due to a number of incidents that had occurred which amounted to criminal behaviour at the premises following the sale of the business in November 2022 to Mr S Mehmud and Mr R Salar.

Members were then provided with a summary of nuisance, crime and disorder that occurred at the premises which had been submitted to the Magistrates Court to support the Closure Order application as detailed below.

It was noted that on 11<sup>th</sup> April, 2023, at 18.40 hours, Trading Standards had visited the premises to conduct a test purchase following several complaints received from members of the public that staff had been supplying children with disposable e-cigarettes and that the premises stocked and sold illegal over-sized e-cigarettes. During the test purchase, two sixteen year old child volunteers were sold an Elf Bar, Cherry Flavour disposable e-cigarette, containing 2% of nicotine for £5.00. The seller failed to ask the volunteers for identification and following the test purchase two Trading Standards Officers entered the premises, identified themselves to the seller, informed the seller of the underage sale and carried out an inspection of the premises under the Consumer Rights Act 2015. During the inspection, Mr R Salar had entered the premises and became aggressive and obstructive, filming officers on his mobile telephone and using offensive language towards the officers which had resulted in an officer being assaulted. West Midlands Police were called to the premises where details of the offending parties were recorded. The inspection found a large amount of illegal over-sized e-cigarettes and prior to leaving the premises, officers advised the owners on the legislation relating to disposable e-cigarettes, specifically that any e-cigarette over 600 puffs was illegal to supply to the public.

Following the inspection, it was reported that all e-cigarettes seized had been illegal and the tank size exceeded the 2ml legal limit resulting in a breach of Regulations 36, 48(d) and 51 of the Tobacco and Related Products Regulations 2016.

The Sub-Committee were further advised that on 18<sup>th</sup> April, 2023 at 12.10 hours, a Trading Standards Officer conducted a test purchase at the premises where the seller had sold the Officer an illegal R and M Tornado disposable e-cigarette containing 2% nicotine and 700 puffs and a pack of counterfeit Polish Malboro Gold cigarettes. Following the seizure, officers were prevented from entering the premises to conduct an inspection under the Consumer Rights Act 2015 as the security shutters were activated, locking the owners inside, however, counterfeit tobacco had been received from the empty flat directly above the establishment that was rented by Mr S Mehmud and Mr R Salar.

The Sub-Committee were advised that following a subsequent examination of the seized products, all products had been counterfeit or illicit in nature which was a breach in the Trade Marks Act 1994 and/or Tobacco and related Products Regulations 2016.

It was noted that on 25<sup>th</sup> April, 2023 at approximately 12.12 hours, a surveillance operative entered the premises and was sold an Elux Legend 3500 puff, containing 2% nicotine disposable e-cigarette. The tank size of the e-cigarette sold exceeded the legal 2ml limit which breached Regulations 36, 48(d) and 51 of the Tobacco and Related Products Regulations 2016.

On 1<sup>st</sup> May, 2023 at approximately 13.48 hours, a surveillance operative entered the premises and was sold a packet of counterfeit Lambert and Butler cigarettes which had breached the Trade Marks Act 1994.

It was noted that on 16<sup>th</sup> May, 2023, following the incident where officers were prevented from entering the premises, Trading Standards Officers, assisted by Officers from West Midlands Police, executed search warrants granted by Dudley Magistrates Court at the premises following suspected storage and sale of illegal tobacco and disposable e-cigarettes. During the search, a small amount of counterfeit cigarettes and illegal oversized e-cigarettes were recovered from the premises and a large amount of illegal oversized e-cigarettes and counterfeit tobacco from a motor vehicle and residential property, both of which were associated with the shop premises and business operators.

On the 19<sup>th</sup> June, 2023, a 15 year old test purchaser was sold a can of 4% alcohol by volume, namely Strongbow Cider, by a male identified to be Mr S Mehmud.

In concluding, R Jones indicated that it had been proven that the premises was being used to sell counterfeit tobacco and illegal e-cigarettes to the general public on a number of occasions, which had ultimately led to a Closure Order being granted for a period of six months. Members were advised that the maximum period of time that a Closure Order could be applied for was six months and following the expiry of the Order on 10<sup>th</sup> January, 2024, it was envisaged that Mr Mehmud and Mr Salar would continue to operate the premises in an illegal manner. Whilst it was accepted that the Licence Premises Holder (PLH), Mr Virdee had been very accommodating to Environmental Health and Trading Standards, it was evident that he had no involvement in the management or operation of the premises. The lack of positive action taken by the PLH to prevent illegal activity and to uphold the licensing objectives in relation to prevention of crime and disorder and protection of children from harm was concerning and the Sub-Committee were urged to consider the revocation of the Premises Licence in respect of The Broadway Service Station, 154 South Road, Stourbridge.

Whilst the PLH had no specific questions in relation to the case outlined by Environmental Health and Trading Standards, Mrs Virdee indicated that both the PLH and the Designated Premises Supervisor (DPS), Mr J Singh, had no knowledge of the products being stored or sold at the premises or at the private address of the DPS. R Jones indicated that the DPS would be interviewed during the ongoing criminal investigations in relation to the criminal activity conducted at the premises.

In response to a question from Councillor A Goddard, R Jones indicated that investigations into the landlord/owner of the premises would have taken place shortly after the first incident was reported on 11<sup>th</sup> April, 2023. Tenancy agreements and information from HM Land Registry was requested and following further investigations, it revealed that Mr Mehmud and Mr Salar owned the flat above the premises, a hair salon and a car wash.

In responding to a number of questions raised by Councillor K Denning, R Jones confirmed that Mr Salar held a personal licence, however, no paperwork had been requested at any time as Mr Salar did not hold the position of DPS or PLH at the premises. Mr Mehmud and Mr Salar had leased the property from Mr Virdee, however, he remained the PLH. The boxes that had stored the illegal e-cigarettes and counterfeit tobacco had been significant in size, which would have amounted to hundreds of thousands of pounds worth of sales had the seizures not been made. In responding to a further question from Councillor K Denning, R Jones confirmed that make up or any products that enhanced the age of children used during test purchase operations was not permitted.

K Turley, West Midlands Police shared her concerns and supported the representations submitted by Environmental Health and Trading Standards. It was reported that the Premises Licence Holder, Mr Virdee had been involved with the business throughout the time in which Mr Mehmud and Mr Salar had owned the business and had failed to operate the premises lawfully or uphold the Prevention of Crime and Disorder and the Protection of Children from Harm licensing objectives.

The Head of Safeguarding and Quality Assurance was not in attendance at the meeting due to illness, however, representations had been submitted with the documentation and circulated to all parties prior to the meeting. The representation referred to the owners failure to uphold the Protection of Children from Harm licensing objective by the numerous sales of alcohol and illegal e-cigarettes to children on the licensed premises. There were clear conditions in place preventing the sale of alcohol to those under the age of 18 and having reviewed the documentation submitted by Environmental Health and Trading Standards, supported the revocation of the premises licence.

The Sub-Committee agreed for Mrs Virdee to make representations of behalf of the PLH. Mrs Virdee indicated that The Broadway Service Station had been operated as a family business for thirty-five years by the PLH and the current DPS. The business had a good reputation with the community and had always operated in line with the four licensing objectives. Concerns had been identified since the current owners had purchased the premises and whilst apologies were made on behalf of the criminal activity being conducted at the establishment, it was considered that the events which had resulted in a Closure Order being granted should not damage Mr Virdee's character and reputation as he had no knowledge of the activity being carried out at the premises. Mrs Virdee indicated that a reliable tenant, that the family had known for twenty years, was interested in leasing the premises and urged the Sub-Committee not to revoke the premises licence as it would significantly impact on the future management and financial arrangements of the premises.

Councillor K Denning queried what measures had been put in place to prevent any illegal or criminal activity occurring at the premises in future. In responding, Mrs Virdee indicated that the potential tenant had been known to the family for twenty years, held a personal premises licence and had not been involved in any police investigations. She assured the Sub-Committee that the potential licensee was reliable and would operate the premises in line with the four licensing objectives.

Councillor M Evans repeatedly asked what measures had been put in place to address any criminal activity at the premises. Whilst Mrs Virdee indicated that the PLH had supported the Closure Orders, which would allow sufficient time to source a reliable licensee for the premises, the Sub-Committee were informed that no action had been taken to date to address the issues.

In responding to questions from Councillor A Goddard, the PLH assured the Sub-Committee that no connection had been made with the current owners of the premises since the initial Closure Order was granted on 11<sup>th</sup> July, 2023. Whilst it was noted that Mr Mehmud and Mr Salar had indicated that it was their intention to manage the operation of the premises when the Closure Order had expired, no threatening behaviour had been observed.

It was queried by the Assistant Team Manager (Waste, Fleet and Licensing) and clarified by Mrs Virdee that Mr Mehmud and Mr Salar had requested £150,000 to terminate the current lease agreement. However, following investigations by the PLH's solicitor, it had been established that a legal lease contract had not been entered into resulting in Mr Mehmud and Mr Salar not being entitled to any financial settlement.

In responding to a query from S Wright, the PLH outlined the financial benefits should the premises licence continue at the premises. S Wright indicated that it was evident that the licensing objectives had not been upheld and no action taken to prevent any criminal activity taking place at the premises whilst Mr Virdee was the PLH. Mr Virdee acknowledged that having taken no preventative measures to address the criminal activity taking place, he had disregarded his responsibilities as PLH of the premises.

R Jones was then provided with the opportunity to sum up the case on behalf of Environmental Health and Trading Standards and in doing so reiterated concerns raised previously in the meeting. He reported that Mr Mehmud and Mr Salar had taken ownership of the Broadway Service Station with no formal legal agreement having been entered into. The criminal activity that had taken place at the premises had resulted in ongoing criminal investigations that could potentially lead to prosecution. The Closure Orders that had been granted by Walsall and Dudley Magistrates Court on 11<sup>th</sup> July and 20<sup>th</sup> October, 2023 was considered the most effective and immediate method to cease trading which had temporarily prevented sales of illegal e-cigarettes and counterfeit products being sold to patrons.

Whilst R Jones was sympathetic towards to PLH, he indicated that the overall control of the premises had remained with the PLH who had allowed the activity to take place at the premises. The establishment had previously been successfully operated as a family run business, however, since the business had been managed by Mr Mehmud and Mr Salar, hundreds of thousands of pounds worth of illegal sales had been made. Mr R Jones acknowledged the benefits of allowing the premises licence to remain in place, however, he indicated that the premises required a “clean break” to enable Mr Mehmud and Mr Salar to be removed from any responsibility of the premises and requested that the Sub-Committee consider the revocation of the premises licence.

K Turley echoed the comments made above and requested that the Sub-Committee consider the revocation of the premises licence.

The PLH and Mrs Virdee was then provided with the opportunity to sum up their case and urged the Sub-Committee to allow the premises licence to remain in place at the premises whilst the process to transfer the premises had taken place. Members were provided with a guarantee that Mr Mehmud and Mr Salar would not gain entry to the premises in future, however, should the Sub-Committee decide to revoke the premises licence, whilst it would have financial repercussions for the family, it would be accepted.

S Wright provided legal advice and all parties confirmed that they had received a fair hearing and sufficient opportunity to present their cases. All parties then withdrew from the meeting to enable the Sub-Committee to determine the application.

Having made their decision, the meeting was reconvened, and the Solicitor outlined the decision.

## **Resolved**

That, following careful consideration of the information contained in the report submitted and as presented at the meeting, the premises licence in respect of The Broadway Service Station, 154 South Road, Stourbridge, be revoked.

## **Reasons for the Decision**

The Sub-Committee considered its powers as set out in the report submitted to the meeting, together with the paperwork submitted and representations made by all parties at the hearing.

The Solicitor to the Sub-Committee provided legal advice, which was given in public session. The Sub-Committee, in making its decision, had regard to the Section 182 Statutory Guidance and carried out the functions under the Licensing Act with a view to promoting the licensing objectives and taken account of the Human Rights Act 1988, as set out in paragraph 2.5 of the Licensing Policy.

The Sub-Committee had taken such steps as they considered appropriate for the prevention of crime and disorder and the protection of children from harm.

In considering the evidence, the Sub-Committee noted:

- The six events contained within the application for review, as set out in pages 25 – 28 of the Sub-Committee report.
- The bundle for the application for a Closure Order, heard on 11<sup>th</sup> July and the continuation of that order.
- The summary of the application made by the representative from Trading Standards.
- The Closure Order made on 11<sup>th</sup> July 2023.
- The continuation of the Closure Order on 20<sup>th</sup> October 2023.
- The matters that came before the Sub-Committee, when the six events above, were also considered, when the Sub-Committee refused a transfer of the premises licence and a variation of the DPS.
- The representations in support of the application to review, put forward by the West Midlands Police and as read out by a representative from West Midlands Police.
- The letter from the Directorate of Children's Service supporting the application to review.
- The representations put forward by the premises licence holder. Such representations were focused on the wish to avoid a revocation in order to sell the business with a licence rather than anything in connection with the promotion of the licensing objectives.

The Sub-Committee could clearly see that the premises were indeed in the grips of an organised crime gang and was selling illegal tobacco and vapes to the public.

The Sub-Committee noted child volunteers had been used by Trading Standards to purchase alcohol and also to purchase vapes containing nicotine.

Paragraph 11.27 of the Section 182 Guidance stated certain criminal activities that may arise in connection with licensed premises should be treated particularly seriously. These are the use of the licensed premises:

- For the illegal purchase and consumption of alcohol by minors.
- As the base for the organisation of criminal activity.
- For the sale or storage of smuggled tobacco.

It was clear that the licensing objectives mentioned to the Sub-Committee were not being promoted.

The Sub-Committee were of the view that the appropriate step for them to take was to revoke the licence.

The revocation would not have effect until the end of the period given for appealing against the decision or if the decision was appealed against, until the appeal was disposed of.

The premises licence holder, responsible authorities and the applicant were informed of their right of appeal the decision of the Sub-Committee under section 181 of the Licensing Act.

An appeal must be commenced by notice of appeal to the Black Country Magistrates' Court in Dudley Magistrates within a period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision which was being appealed.

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## 21. **Questions Under Council Procedure Rule 11.8**

There were no questions to the Chair pursuant to Council Procedure Rule 11.8.

The meeting ended at 11.25am

CHAIR