

MINUTES of the meeting of Regulatory Sub Committee held at Committee Room 1, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Tuesday 7 February 2017 at 3.30 pm

Present: Councillors: BA Durkin, DW Greenow and MT McEvilly

Officers: Fred Spriggs, Tim Thorne, Leah Wilson, Inspector Carl Paskin and Jim Mooney

8. ELECTION OF CHAIRMAN

Councillor DW Greenow was elected as chairman for the regulatory sub-committee.

9. APOLOGIES FOR ABSENCE

No apologies for absence were received.

10. NAMED SUBSTITUTES (IF ANY)

There were no substitutes present at the hearing.

11. DECLARATIONS OF INTEREST

There were no declarations of interest made.

12. APPLICATION FOR A NEW PREMISES LICENCE IN RESPECT OF 'EUROPE QUALITY FOOD, 29 BROOKEND STREET, ROSS-ON-WYE, HR9 7EE' - LICENSING ACT 2003

The meeting was adjourned until 15:40 to allow for the arrival of Councillor Durkin.

Members of the regulatory sub committee considered the application for a new premises licence in respect of Europe Quality Foods, full details of which appeared before the Members in their agenda and the background papers.

Prior to making their decision the members heard from Fred Spriggs, licensing officer, Tim Thorne, trading standards, Herefordshire Council, Inspector Carl Paskin and Jim Mooney, West Mercia Police. Members also heard from the applicant's solicitor and the applicant.

It was noted that the committee were hearing a new application for a premises licence. However, the background information in relation to the premises and the current premises owner were considered to be relevant by the police and trading standards and was brought to the attention of members.

In particular, it was noted that the current owner of the premises had been connected with criminal behaviour. It was believed by the police that the applicant and the current owner of the premises are in a relationship and living at the same address.

In December 2014 the police received an anonymous tip that the premises were selling illegal tobacco. This information was shared with trading standards.

In May 2016 the police received a complaint that the current owner of the premises had assaulted two males who had entered the shop premises. The owner of the shop suspected the two males of breaking into the shop. There was an allegation that the owner had produced a claw hammer and a length of wood from behind the counter and told both males to leave. The owner of the shop was arrested and received a police caution for having an offensive weapon in a public place.

Between July and September 2016 following receipt of information that the shop was selling illegal tobacco, trading standards conducted four test purchases. During 15 September 2016 test purchase, the applicant sold illegal non duty paid cigarettes and tobacco which is a serious customs offence. With the consent of all parties examples were shown to the committee

On 20 September 2016, trading standards visited the shop and as the principal trading standards officer entered the shop premises witnessed the applicant handing over six packets of illegal and smuggled cigarettes. With the consent of all parties, photographs which showed where the illegal and smuggled cigarettes were stored and examples were shown to the committee. Both the applicant and the current owner of the business were arrested and interviewed by trading standards. A decision was taken to prosecute only the owner of the shop and not the applicant.

The committee heard from the applicant's solicitor who provided some personal background information in relation to the applicant. It was noted that the applicant had been granted a personal licence to sell alcohol and was willing to provide the certificate as evidence to the committee. The applicant's home licensing authority were aware of this licence.

It was further noted that the applicant was willing to have conditions to reduce the hours when alcohol was sold imposed on the licence and only when the applicant and an approved manager was on the premises. The applicant apologised unreservedly for the sale of illegal tobacco last year and was fully aware of the seriousness of the incident. With the consent of all parties, the committee received a petition which showed the appreciation of the community of the shop.

In response to questions from members, the applicant confirmed:

- she was the only employee;
- the current owner of the shop runs the business but that she was not answerable to him for the business operation.

RESOLVED:

Having carefully considered those matters brought before them and in reaching their decision, the members had full regard to both the provisions of the Licensing Act 2003, the guidance Issued under section 182, the council's licensing policy and the representations (including supporting information) presented by all parties.

The committee are seriously concerned that to grant a licence to the applicant would undermine the prevention of crime and disorder licensing objective. The reason for this being that the current owner remains present and in control at the premises and was associated with both serious and sophisticated criminal activity at the premises. Furthermore, members noted that while the applicant has undertaken personal licence training to sell alcohol, they are only an employee of the owner of the premises and further they have been involved in two separate incidents of criminal activity to do with

the sale of illegal tobacco at the premises, albeit the committee acknowledge that there had been no prosecution.

The committee are not persuaded that the applicant would be able to uphold the licensing objectives in all of the above circumstances and in particular the licensing objective of the prevention of crime and disorder. They would also note that they have seriously considered whether any other conditions could be imposed which were appropriate and proportionate and would be suitable alternatives to refusal. However, the committee feel that it is appropriate and proportionate to refuse the application having regard to all the circumstances to prevent the undermining of the prevention of crime and disorder licensing objective.

13. APPLICATION FOR A VARIATION OF A PREMISES LICENCE IN RESPECT OF 'ROYAL HOTEL, ROYAL PARADE, ROSS-ON-WYE, HR9 5HZ' - LICENSING ACT 2003

This item was withdrawn from committee as conditions had been agreed with the applicant.

The meeting ended at 5.20 pm

CHAIRMAN