

**MINUTES of the meeting of Licensing sub-committee held at Committee Room 1, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Thursday 2 November 2017 at 10.00 am**

**Present:** Councillor DW Greenow (Chairman)  
Councillors: PGH Cutter and PJ Edwards

**Officers:** Emma Bowell and Fred Spriggs

**72. APOLOGIES FOR ABSENCE**

No apologies for absence were received.

**73. NAMED SUBSTITUTES (IF ANY)**

There were no substitutes present at the meeting.

**74. DECLARATIONS OF INTEREST**

There were no declarations of interest made.

**75. REVIEW OF A PREMISES LICENCE IN RESPECT OF: 'MILA, 102-104 BELMONT ROAD, HEREFORD, HR2 7JS CALLED BY HEREFORDSHIRE COUNCIL AS THE LICENSING AUTHORITY' - LICENSING ACT 2003**

Members of the licensing sub committee of the council's planning and regulatory committee considered the above application, full details of which appeared before the Members in their agenda and the background papers.

Prior to making their decision the members heard from Emma Bowell, technical licensing officer, Fred Spriggs, licensing authority and Jim Mooney, West Mercia Police. Members also heard from the premises licence holder consultant, June Clarke, and the premises licence holder, Hardi Mohammed.

The committee carefully considered all the representations made, the statutory framework as well as having regard to the statutory guidance and Herefordshire council's licensing policy.

Fred Spriggs presented the licensing authority's reasons for calling for a review of the premises. The history of the premises was that it had been a Polish convenience store since 2005. There had been an expedited review of the premises licence on 29 November 2016, with a full review 16 December 2016 where the licence was revoked. A new premises licence was granted to Mr Hardi Mohammed on 10 April 2017 as the new owner of the business. At that time new conditions were agreed by all the responsible authorities and the premises licence holder's agent. The new conditions related to CCTV; an incident log, staff training log, immigration log book; prominent clear and legible signage in not less than 32 font be displayed in relation to noise and exiting the premises; refusals register; challenge 25 policy; a personal licence holder to be on the premises at all times; and there should be a 75% unobstructed view into the premises.

On 25 April, it had been noticed that condition 6 (unobstructed view) was not being complied with. Mr Spriggs wrote to Mr Mohammed to inform him that he was not

complying with condition 6. The police had visited the premises on 12 May and informed the licensing authority that condition 6 was not being complied with and had provided photographic evidence. The police also reported on 17 June that the condition was still not being complied with. Mr Spriggs visited the premises again on 29 June and found that conditions 1-3 and 5-9 were not being complied with and had subsequently written to Mr Mohammed to inform him of these breaches. The police had visited the premises on 30 July in order to view the CCTV footage in relation to shoplifting crime which had been reported by Mr Mohammed. The member of staff in the shop could not operate the CCTV system. On 11 August, Mr Spriggs visited the premises and had explained to Mr Mohammed that he was still in breach of some of the premises licence conditions, in particular the unobstructed view; incident log and signage. At this point, the licensing authority took the decision to launch a review rather than to prosecute through the court. Mr Spriggs advised the committee that they may wish to consider removing condition 5 in relation to an immigration log book as the Immigration Act made this a mandatory requirement and was therefore no longer required.

The committee heard from Jim Mooney representing West Mercia Police. Mr Mooney advised the committee that the police supported the application for review. There had been five separate incidents where the premises licence holder had breached the conditions of his licence. This represented a clear undermining of the licensing objectives. The police representations in connection with the granting of the licence had added new conditions to the licence and these had been agreed with the then licensing agent of Mr Mohammed.

The committee then heard from June Clarke, JMC Licensing, who was representing Mr Mohammed. Ms Clarke explained that her client had purchased the premises in February 2017 and appeared to be a victim of the problems caused by the previous premises licence holder. She stated that it felt like he was being punished for the actions of the previous owners of the shop. The application in February had been dealt with by an agent in Birmingham who had agreed to the conditions without properly consulting Mr Mohammed. If Mr Mohammed had been fully aware of the details of the conditions, he would not have agreed to them as they were very onerous and conditions have to be proportionate. The cost of having a personal licence holder on the premises at all time was very costly and Mr Mohammed was having difficulty recruiting staff as all the previous staff had left. Ms Clarke had gone through the conditions with Mr Mohammed and had provided him with all the necessary log books in order to comply with the conditions but emphasised that as a new shop owner, he did need someone to show him what to do as there were large amounts of legislation which needed to be complied with and new owners did feel overwhelmed. Mr Mohammed was very sorry and upset that he was not complying with all the conditions but he had not previously understood them. Once they had been explained, Mr Mohammed had taken steps to comply with the conditions. Ms Clarke requested that condition 6 (unobstructed view) be removed from the licence as it was too onerous on Mr Mohammed as it would mean that he would lose some of his display shelves. Ms Clarke also requested that the committee remove condition 2 (personal licence holder).

Following questions from the committee, it was explained:

- Ms Clarke indicated that the previous agent had not communicated very well and therefore Mr Mohammed did not have a full picture of the history of the premises and the conditions attached to the licence. The previous agent had not supplied Mr Mohammed with a copy of the licence and Mr Mohammed had had to travel to Birmingham in order to obtain a copy.
- Ms Clarke confirmed that Mr Mohammed was the only person who knew how to operate the CCTV system and that in the experience of Ms Clarke if other staff knew how to operate the system it was open to abuse. Ms Clarke's advice to her clients was that responsible authorities requesting sight of the CCTV system should only

request this through the designated premises supervisor and not through members of staff. It was further noted by Fred Spriggs that the CCTV condition was a model condition for all licences and required to allow police urgent access to CCTV in the event of an incident.

- It was confirmed by Fred Spriggs that the licensing authority do work with premises licence holders but if they have an agent / solicitor then communication is with them.
- Ms Clarke stated that if Mr Mohammed were to have 75% unobstructed view into the premises, then he would not be able to run his business.
- Mr Mohammed is currently the only worker in the shop but on 30 July 2017, there was another member of staff who had subsequently left.
- Mr Mohammed confirmed that following explanations from Ms Clarke, he now fully understood the conditions on the licence.

## **DECISION AND REASONS**

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 licensing authority acknowledges that progress has been made in complying with conditions on the licence albeit it is far from satisfactory that it has taken a review to achieve this position. The committee have considered comments of the premises licence holder's agent regarding the practical difficulties of window covering but this needs to be balanced against the need to promote the prevention of crime and disorder licensing objective in light of the representations from the responsible authorities.

The guidance makes it clear that the committee should take remedial actions that are appropriate and proportionate to address the causes that instigated the review. Therefore the committee are removing the existing condition relating to obstruction of windows and replacing it with the following condition:

"No later than 14 days from the date that this condition first appears on the licence, the premises licence holder will ensure that there is an unobstructed view at all times into the licensable area of the premises. Provided that in respect of the street facing windows any obstruction will be restricted to the top 25% of the window and the bottom 25% of the window in each case. (Window refers to the whole of the area covered by glass) This will mean at least 50% of all windows and 100% of all doors looking into the premises from Belmont Road are clear of obstruction. No obstruction includes any permanent or temporary signage placed on glass surfaces of windows and doors, as well as any other item within the shop which obstructs the view through the window."

This was considered an appropriate and proportionate response to the review which ensured the promotion of the prevention of crime and disorder licensing objective by maintaining visibility into the premises while addressing a practical issue which had to date made compliance with the existing condition commercially problematic, namely that due to limited space there was the need to have some racking for goods in front of the windows.

The committee also agreed that condition 5 could be removed as the condition was obsolete.

The meeting ended at 11.36 am