Herefordshire Council

Minutes of the meeting of Licensing sub-committee held at Online Meeting only on Tuesday 30 June 2020 at 10.30 am

Present: **Councillor Alan Seldon (chairperson)**
Councillors: Paul Andrews, John Hardwick and Tony Johnson

Officers: **Legal advisor to the sub-committee, technical licensing officer and principal trading standards officer.**

67. APOLOGIES FOR ABSENCE

No apologies for absence were received.

68. NAMED SUBSTITUTES (IF ANY)

There were no substitutes present at the meeting.

69. DECLARATIONS OF INTEREST

There were no declarations of interest made.

70. REVIEW OF A PREMISES LICENCE IN RESPECT OF: I.R.I LTD T/A EUROPE, 24 EIGN GATE, HEREFORD. HR4 0AB' LAUNCHED BY HEREFORDSHIRE COUNCIL TRADING STANDARDS - LICENSING ACT 2003

Members of the licensing sub-committee from the council's planning and regulatory committee considered the above application, full details of which appeared before the Members in their agenda, the background papers and the supplement published on 29 June 2020.

The technical licensing officer presented the report.

The sub-committee heard from trading standards who highlighted:

- That the sale of illegal tobacco was a major problem and had links to serious organised crime.
- Illegal cigarettes were cheaper to purchase and therefore it encouraged people to smoke. This had an impact on retailers who sold cigarettes produced to UK standards.
- The packaging on the cigarettes found at the shop was potentially under two UK statutes giving rise to a criminal liability.
- The mother of the under aged young person had provided photos of the illegal cigarettes and these matched the cigarettes found at the premises.
- European cigarettes were not produced to UK required standards and contained more tar and nicotine than those purchased in the UK.

The sub-committee heard from West Mercia Police:

- Supported the review and believed that there was an undermining of the licensing objectives by selling smuggled cigarettes.

- The sale of illegal tobacco was not controlled and their content puts people's health at greater risk.
- The view of the police was that the premises licence holder (who was also the designated premises supervisor) was dishonest.
- The cigarettes were sold to an under aged person which is of the greatest concern to the police.
- The Section 182 statutory guidance stated that the sale of illegal tobacco is a serious crime and that even at the first occasions revocation should be considered.
- Since April 2018 the police had visited the premises 5 times due to ongoing issues in relation to the premises making alcohol sales to street drinkers which caused low level anti-social behaviour.
- The view of the police was that the licence should be revoked.

The sub-committee then heard from Ms Ina Turuliene, the premises licence holder who highlighted the following:

- That she would like to see the proof that she sold the cigarettes in question.
- The Marlboro cigarettes on sale in Europe and the UK had the same bar code.
- Under duty free, you can bring in 2 cartons (20 packs) of cigarettes.
- A friend had brought the Marlboro cigarettes.
- She was currently in the process of a divorce and her personal belongings were at the premises. The cigarettes were now kept in her car and there were currently 15 packs in the vehicle.
- She had bought the illegal cigarettes the evening before as she smoked and knew where to purchase illegal tobacco.
- The sub committee could revoke the licence as the level of sales of alcohol was not high.
- She would continue to smoke illegal tobacco.
- She had been premises licence holder since 2007 in Marden.

Following queries from members of the committee, it was confirmed that:

- Either the premises licence holder or a friend had bought the cigarettes in via duty free.
- The premises licence holder knew a lot of shops which sold illegal tobacco.
- Cigarettes made in the Europe were not manufactured to the same standards as the UK.
- The quantity of cigarettes found at the premises was greater than that which would be for personal use.

The committee carefully considered all the representations, reports and evidence before them today. They have had regard to their duties under S4 of the Licensing Act and considered guidance issued under s182 of the Licensing Act 2003 and Herefordshire Council's statement of licensing policy.

DECISION

The sub committee's decision following a review of premises licence was to suspend the licence for the three months.

REASONS

The sub committee had taken into account all the statements from the parties present. As a premises licence holder, Ms Turuliene was bound to uphold the four licensing objectives. The sale of illicit tobacco was a serious crime and revocation could be considered even at the first occasion. There was a detrimental impact on the health of people who smoked illicit tobacco which was not manufactured to UK standards, together with a financial effect on the Exchequer with regard to avoiding paying duty on the cigarettes. However, there was a lack

of evidence of sales on the premises but the presence of illicit tobacco within the licensed premises undermined the licensing objectives, in particular the prevention of crime and disorder. It is for this reason that the suspension of the licence for three months was considered to be appropriate and proportionate.