

**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 7 March 2019 at 10.00 am**

Present: Councillor DW Greenow (chairperson)

Councillors: KS Guthrie and FM Norman

42. APOLOGIES FOR ABSENCE

No apologies for absence were received.

43. NAMED SUBSTITUTES (IF ANY)

There were no substitutes present at the meeting.

44. DECLARATIONS OF INTEREST

There were no declarations of interest made.

**45. APPLICATION FOR A NEW PREMISES LICENCE IN RESPECT OF 'FORGE FILLING
STATION, WORMBRIDGE, HEREFORD. HR2 9DH' - 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.

Emma Bowell, Technical Licensing Officer, presented the report and it was noted that a site visit had taken place on 14 February 2019.

Trading standards confirmed that their representation was now withdrawn as the conditions had been agreed.

The licensing officer outlined the licensing authority's objection to the application and highlighted the following:

- The objection was a point of law and in particular section 176 of the Licensing Act 2003.
- In order for a licence to be granted at a garage, it had to be demonstrated that the primary use of the garage was for the sale of non-fuel items.
- There were stated cases which the subcommittee needed to take into account and these were listed in the agenda papers for this item.
- The view of the licensing authority was that the figures supplied by the applicant indicated that the primary use of the premises was as a petrol station.
- The petition which had been submitted by the applicant was not relevant to the application.
- That it was disappointing that the agent for the applicant had not engaged with the licensing authority. If the applicant's agent had contacted the licensing authority, a licensing sub committee meeting may have been avoided.

Mr Nick Semper, the applicant's agent then addressed the committee and highlighted the following:

- The grocery side of the business had expanded and would probably expand further as there were approximately 120 houses due to be built in the area.
- There are other businesses on the site and there was not just a convenience store.
- There was public support for the application which included Kilpeck Parish Council. There were no public objections to the applications.
- The licensing authority had used snapshots of the data supplied which were not representative to the usage of the premises. The dates selected by the licensing authority were a Friday, Saturday and Monday which included days when families traditionally do not use a local shop but go to a large supermarket.
- The Forge Filling Station's primary use was as a grocery store and not a garage. Based on the details provided by the applicant 80.2% of the transactions were for non-fuel items.
- It was the intensity of sales which should be calculated and not the gross sales.
- There was ample parking at the Forge Filling Station.
- The sub committee should treat the Forge Filling Station the same as other premises in the county.

Following questions, it was confirmed:

- On appendix 7, the figure on the left hand side under each category of sales represented the number of transactions.
- The percentage of sales for fuel on 13 July 2018 equated to approximately 70% of the sales.
- It was estimated that the sale of animal feed would be 8% but accurate records are not kept.
- The monthly accounts do account for each transaction but do not show in the figures until the account is settled.
- The alcohol would be stored in a secure area which had been alarmed and CCTV had been installed. Anti-burglary glass was being installed.
- There would be a small dedicated area for alcohol. It was anticipated that the premises would be stocking local alcoholic products
- Where will alcohol will be displayed – little corner store – not predominately alcohol; will be stocking local alcohol produce. Small dedicated area in rear of store. Sales volume will not be high. Groceries will be seen; but alcohol will be out of sight.

DECISION

The sub committee's decision is to grant the licence for the premises.

REASONS

The committee had listened very carefully to all the representations. Based on appendix 7 of the agenda papers which detailed the number of transactions under each heading, the sub-committee were satisfied that the primary use of the premises was grocery and not fuel and as such the licence could be granted.

46. APPLICATION FOR A NEW PREMISES LICENCE IN RESPECT OF 26 EIGN GATE, HEREFORD. HR4 0AB - 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 issued on 4 March 2019.

Prior to making their decision the members heard from Emma Bowell, Technical Licensing Officer, and Sergeant Duncan Reynolds. The committee also heard from the applicant.

West Mercia Police outlined their representation in connection with their objection to the application which included:

- Granting the licence will undermine the licensing objectives.
- There are other licensed premises in the area, one of which was a large national supermarket.
- The area was at saturation point and the granting of a further premises licence would undermine the licensing objectives
- There is significant antisocial behaviour during the day time which centred around the plinth outside All Saints Church.
- This anti-social behaviour is having a negative impact on the public using the area
- Steps were being taken to either prevent or discourage the behaviour. The steps included proactive visits to the other licensed premises; restrictions on the sale of single alcohol containers etc.
- The premises licence holder has indicated that that they will be on the premises at all times and this was not practicable nor achievable.
- There is no recorded history of a licensed premises at the address. However, the following number of incidents have been recorded in the area in the following years:
 - 2015 - 512
 - 2016 - 518
 - 2017 - 575
 - 2018 - 426
 - 2019 up to 20 February 2019 - 50 incidents
- The decrease in the figures were due to changes in recording incidents and the proactive work of the police. Officers can record their own observations of the incidents and in 2018 there had been 115 alcohol related incidents and in 2019 up to 20 February 2019 there had been 47 incidents alcohol related incidents.
- There was a common pattern of behaviour which consisted of purchasing alcohol early in the morning and then get involved in arguments with school children; elderly and commuters; There was also begging in order to purchase items such as food, drugs etc. The homelessness or street beggars could obtain food from the local church.
- The anti-social behaviour had a negative impact on the public and local business.
- Eign gate was a hot spot for anti-social behaviour and the sub committee may wish to consider the impact of licensing another premises in the area.

The applicant then addressed the sub committee and highlighted the following:

- There were other shops in the area which had a licence.
- The shop had been opened for three weeks and the applicants had not seen any signs of crime or disorder.
- It was a family business and they work in the shop all day.
- The shop was opened between 1000 hrs and 1900 hrs
- They had only seen the police once (yesterday) and had seen no incidents.
- The intention was not selling large amounts of alcohol but the shop needed to be competitive with the other shops in the area.
- The applicant had been a designated premises supervisor for nine years at a local farming business and had been employed at the same farm for 18 years.
- They were committed to upholding the licensing objectives and working with responsible authorities to prevent the crime and disorder in Hereford.

- The shop would stock a small amount of alcohol which would be more expensive than that on offer in the other nearby shops.

Following questions it was confirmed that:

- Eign Gate had a higher number of reported incidents compared to Commercial Road.
- The shop was currently opened between 1000hrs and 1900hrs and the designated premises supervisor would be on site at all times.
- There were 6 confirmed licensed premises in the immediate vicinity. Four were in sight of the premises. The supermarket was behind the premises.
- The number of licensed premises did not include public houses.
- The applicants had been employed to run the shop at Brook Farm but were no longer employed by the farm.
- It was intended to offer food from six different nationalities.
- The applicant felt that it was important to be able to see into the shop so as to be different from the other shops. They felt that covering the frontage would indicate that there was something to hide.

DECISION

The decision of the licensing sub committee was to grant the licence; subject to the following:

- model trading standards conditions being applied;
- 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 Eign Gate 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.
- The licensable area would be restricted to the area behind the till.
- The licensable hours would be:
 - Sale/Supply of Alcohol (consumption off the premises)
 - Monday-Sunday 1000 hrs-1900 hrs

REASONS

The committee had taken into account all the statements from the parties present. The sub committee had listened to the applicant and the explanation that they planned to sell on small quantities of alcohol which would be more expensive than the other shops in the area.

47. REVIEW OF A PREMISES LICENCE IN RESPECT OF: MILA, 102-104 BELMONT ROAD, HEREFORD, HR2 7JS CALLED BY WEST MERCIA POLICE - 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 6 March 2019.

Prior to making their decision the members heard from Fred Spriggs, Licensing Officer and Sergeant Duncan Reynolds, West Mercia Police. The committee also heard from June Clarke, the agent representing Mr Hersh Mohammad

West Mercia Police outlined their representation in connection with the review which included:

- Mila is a small Polish convenience store situated on Belmont Road.
- The premises had a history of criminal activity and breaching the conditions of the premises licence which had resulted in previous reviews of the licence.
- It was recognised that the current operator at the premises was not connected to the previous reviews of these premises.
- On 12 December 2018 at 1245 hours an intelligence led search of the premises was undertaken by HMRC.
- As a result of this search, 32 bottles of non duty paid bottles of vodka were seized and this is subject to a separate investigation.
- Under the Licensing Act 2003 and the statutory Section 182 Guidance, this is a serious matter and revocation even at the first instance should be considered by the sub-committee.
- Mr Hersh Mohammad was not the premises licence holder at the time of the search but the police have been informed that he was the manager of the premises. As such Mr Hersh Mohammad should have or would have knowledge of the alcohol on the premises.
- It was noted that Mr Hersh Mohammad purchased the premises on 23 November 2018.

It was clarified that the premises licence had been surrendered on 5 February 2019 and on 6 February 2019, a request to transfer the premises licence to Mr Hersh Mohammad. On the transfer form, the box that the transfer take place with immediate effect had been ticked and therefore Mr Hersh Mohammad was the current premises licence holder.

The sub committee then heard from Ms June Clarke, the agent for the applicant who explained:

- Mr Hersh Mohammad had been in the United Kingdom for the last 17 years. He had worked for 16 years in the same factory in Blackburn. Mr Mohammad had an impeccable record.
- Mr Mohammad had worked in the Mila store for the last eight months and had no managerial duties and was not responsible for purchasing stock.
- Mr Hardi Mohammad had asked Mr Hersh Mohammad whether he wished to purchase the shop.
- Mr Hersh Mohammad had purchased the premises for £10k on 23 November 2018.
- Three weeks after purchasing the premises, HMRC had searched the premises and had found the 32 bottles of non duty paid vodka. Mr Hersh Mohammad had no knowledge that this alcohol was non duty paid.
- All of the stock in the premises is now purchased online so there is now a clear record of where it had been purchased from.
- Mr Hersh Mohammad fully understands his responsibilities under the licensing objectives and he is fully compliant with the conditions on the licence
- It would be unfair to penalise Mr Hersh Mohammad for the alleged activities of the previous premises licence holder.

Following questions, it was confirmed:

- On 20 October 2018, Mr Hersh Mohammad was just working at Mila and was not the manager.

- Mr Hersh Mohammad did not know that the vodka was illicit. He was aware that the vodka was in the shop.
- Mr Hersh Mohammad had been legally represented when he had purchased the property.
- Mr Hersh Mohammad had purchased the premises on good faith and had not checked the stock prior to the completion of the purchase.
- The HMRC had explained to Mr Hersh Mohammad that the alcohol labelling needed to state that UK duty had been paid.
- 23 November 2018 was the last date that Mr Hardi Mohammad had been involved with the premises.
- Mr Hersh Mohammad disputed that he had told the police that he was the manager of Mila in October 2018.
- Mr Hersh Mohammad had held a personal licence since approximately August 2018.
- The search on 12 December 2018 had consisted of six officers from HMRC and the police were not involved.
- The details of the police statement provided as part of the agenda papers had come from the Innkeeper system and would have been inputted by the police officer based on the information provided the person who had been spoken to at the time of their visit.

The committee have 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's statement of licensing policy.

DECISION

The sub committee's decision following a review of premises licence was to revoke the licence.

REASONS

The sub-committee had taken into account all the statements from the parties present. The sub committee had taken into account the history of the premises and the failure to promote the licensing objectives particularly the crime and disorder objective. There were discrepancies between the accounts of police and the premises licence holder but the sub committee found the police statement to be detailed and credible, The sub-committee had regard to Sections 11.27 and 11.28 of the S182 guidance which stated that revocation should be considered at the first instance in these circumstances and in light of the fact that this was not the first instance for these premises considered that revocation was appropriate and proportionate.

48. REVIEW OF A PREMISES LICENCE IN RESPECT OF: S&S NEWS, 55 BROAD STREET, HEREFORD. HR4 9AB CALLED BY WEST MERCIA POLICE - LICENSING ACT 2003

This item had been withdrawn from the agenda prior to the meeting.