

## **Record of a Hearing of the Bradford District Licensing Panel adjourned on Friday 2 March 2018 and reconvened on Tuesday, 13 March 2018 in Committee Room 5 - City Hall, Bradford**

### **Procedural Items**

#### **DISCLOSURES OF INTEREST**

No disclosures of interest in matters under consideration were received.

#### **INSPECTION OF REPORTS AND BACKGROUND PAPERS**

There were no appeals submitted by the public to review decisions to restrict documents

### **Hearings**

Application for a Review of a Premises Licence for Moor Stores, 90 Leeds Old Road, Bradford (**Document “N”**)

**MOOR STORES, 90 LEEDS OLD ROAD, BRADFORD**

**RECORD OF A HEARING FOR A REVIEW OF A PREMISES LICENCE FOR MOOR STORES, 90 LEEDS OLD ROAD, BRADFORD (DOCUMENT "N")**

Commenced: 1130 on 2 March  
Adjourned: 1135 on 2 March  
Reconvened: 1130 on 13 March  
Adjourned: 1300  
Reconvened: 1315  
Concluded: 1320

**Present:**

**Members of the Panel:**

Bradford District Licensing Panel: Councillors M Slater (Chair), Jamil and Morris

**Parties to the Hearing:**

**Representing the Responsible Authorities Applicant for Review:**

Mr Clutterbrook, West Yorkshire Trading Standards Service  
Mr Bethell, West Yorkshire Trading Standards Service

**Representing the Licensee:**

Mr Cordingley, Representing the Licensee  
Mr Kang, Licensee and Designated Premises Supervisor

**Representations:**

The licensing officer in attendance summarised the background to the application and valid representations received as set out in the report. It was explained that a request for a review had been received from West Yorkshire Trading Standards Service in light of illegal tobacco and age restricted products to minors' sales that had taken place at the premises. Members were informed of the relevant Statutory Guidance in relation to reviews arising from the connection with crime and the various options they could consider.

The West Yorkshire Trading Standards Service (WYTSS) representative explained that during a test purchase operation in December 2015 the sale of cigarettes to a minor had occurred on the premises, which had been dealt with by a caution. Illicit tobacco had also been found on a number of occasions in 2016 and 2017. In total six incidents of illegal trading and breaches of Trading Standards legislation had taken place. The WYTSS representative stated that these serious offences were a blatant disregard of the law and detrimental to businesses that operated legally, therefore, the revocation of the premises licence was requested.

In response to questions, the WYTSS representative confirmed that:

- The underage sale had been dealt with at the time of the offence, however, the incidents of illegal sales were a different matter and no action had been taken at that time.
- The owner of the business had not changed.
- An infringement report was a warning letter.
- No action had been taken in respect of the incidents in 2016 as the issues had progressed.
- Statements from officers were relied upon.
- A copy of the infringement report was not available, however, it was a standard letter and would have been sent to the business premises.
- A caution would have been issued in respect of the underage sale that occurred in 2015. It was acknowledged that mistakes could be made, however, three test purchases had been undertaken and illicit tobacco had been seized, which was a crime, and this could not be classed as an error of judgement.

The Licensee stated that he had not received a letter or been contacted regarding the visits undertaken at his premises. He confirmed that he had been informed of the underage sale and had taken robust action at that time.

The Licensee's representative addressed the Panel and explained that the business was long established and operated by the Licensee who was of good character with no convictions. With regard to the caution in 2015 regarding the underage sale of tobacco, it was reported that the Licensee had not been present when the incident had occurred and he had not been found guilty of an offence by a Court of Law, however, he had accepted the caution as the Designated Premises Supervisor (DPS) and had completed a PACE questionnaire in detail sent by WYTSS in January 2016. Previous test purchases undertaken at the premises had been negative and an independent visit by 'Serve Legal' had been carried out in April 2015. The Licensee's representative accepted that experienced staff had sold illegal tobacco on a number of occasions at the premises and items had been confiscated by WYTSS officers. These infringements of the law had taken place when the Licensee had been absent and he had not been made aware of any of the visits. There had been a period of 12 months where issues had occurred in the premises, however, this was no longer the case. Members noted that the Licensee had submitted a statement which covered a number of points, which included, amongst others, that the visit made by WYTSS on 24 August 2017 had not been mentioned in the report and he had not received an infringement report. The Licensee had only been made aware of the issues on 2 January 2018 when he had been informed of the WYTSS request for a review of the licence. The premises licence related to the sale of alcohol, no underage sales had taken place and the Ward Councillor would not have supported the Licensee if there had been any problems.

The Licensee then added that he was a law abiding citizen who had been operating for 45 years and supported the work of the WYTSS. His business provided a service for the local community and did not make a profit. In July 2017 he had been given a warning by a WYTSS officer and told that he would be prosecuted next time. The visit undertaken in August 2017 had not found any issues and he stated that the matter would not have escalated if he had been informed of the illegal sales in July 2016. He had taken robust action against the underage sale and would have done the same for the illegal transactions.

The Chair acknowledged that the Licensee had been trading for many years, however, it appeared that from December 2015 to July 2017 less commitment had been shown to ensure that the staff were adhering to the law and robust action had not been undertaken. He stated that the Licensee must take the required action and make sure that staff were following the correct operating procedures. In response the Licensee accepted responsibility, however, he indicated that the incidents would not have occurred if he had been informed by WYTSS. He trusted his staff and had not been aware of the illegal sales, however, they would now be monitored.

In response to queries the Licensee clarified that:

- He was not disputing that stock had been taken from the shop by WYTSS.
- The number of illegal tobacco products removed from the premises was being disputed, however, the stock did not belong to the shop.
- He had not received correspondence from WYTSS relating to the illegal sales.
- He had accepted the caution for the underage sale that had occurred.
- His daughter had worked in the business for 22 years and should not have sold the illegal products. He had discussed the matter with her and the issue would not occur again.
- He was present in the shop approximately 30 hours per week, however, the premises operated an additional 25 to 30 hours per week when he was absent.
- He employed two members of staff.
- A member of staff had bought the illegal tobacco and traded it from under the counter.
- Tobacco sales had decreased nationally, so he had not noticed that less stock had been sold.
- He believed that his daughter had purchased the illegal products and she was still an employee.

In conclusion the WYTSS representative acknowledged that mistakes could occur in relation to underage sales, though the main concern was the number of illegal tobacco sales that had take place which were an act of blatant dishonesty. He reported that the products seized had been verified and his daughter had been given a warning and informed that the next stage would be prosecution. The infringement report had been signed by the Licensee's daughter and a copy sent to the premises. A visit had taken place at the premises in August 2017, however, it had been in relation to food standards and not illicit tobacco sales. The WYTSS representative confirmed that the questionnaire completed by the Licensee was a PACE interview and copies of the paperwork detailing the seizures made at the shop had been left with staff. He accepted the support submitted from the Ward Councillors and local residents, but indicated that people would not complain if they were receiving cheap tobacco products. It was then requested that the licence be revoked due to the serious issues involved.

The Licensee's representative reiterated that the Licensee had responded comprehensively to the WYTSS via the questionnaire and queried why they had not continued to communicate with him. Members had been informed that the Licensee had received an infringement report, but it had actually been sent to the member of staff involved in the incident. The Licensee had previously taken robust action in relation to an underage sale at the premises, however, no reference had been made to the positive visit undertaken in August 2017 by a WYTSS officer. It was noted that the Government Guidance indicated that the Local Authority could give a warning and the Licensee's representative requested that this course of action was undertaken, as he did not believe

that WYTSS had provided sufficient evidence to seek a revocation.

**Decision –**

**That having considered all valid representations made by the parties to the hearing; valid written representations received during the statutory period, the published statement of licensing policy and relevant statutory guidance; the panel finds as follows:**

**That the Licensee be warned that the Licensing Authority have serious concerns in relation to the activities that have undermined the prevention of crime and disorder objective that occurred at the premises and the Licensee is therefore put on notice that if similar incidents are brought to the attention of the Licensing Authority by way of a review of the licence, that the Licensing Authority will seriously consider the need to revoke the licence taking into account the weight of the evidence presented.**

**Reason: It is considered that the warning is necessary in order to ensure proper supervision of the premises and ensure compliance with the prevention of crime and disorder objective.**

**Chair**

**Note: This record is subject to approval as a correct record at the next meeting of the Licensing Committee.**