

**Minutes of the Licensing Sub-Committee 4**

**Tuesday 29<sup>th</sup> January, 2019 at 10.00 am**  
**In the Council Chamber, The Council House, Dudley**

**Present:-**

Councillor P Miller (Chair)  
Councillors C Perks and S Waltho

**Officers:-**

B Hughes – Assistant Team Manager Waste and Fleet Care (Place Directorate);  
R Clark – Solicitor and L Jury – Democratic Services Officer (Chief Executive's Directorate).

**8      Declarations of Interest**

No Member made a declaration of interest in accordance with the Members' Code of Conduct.

**9      Minutes**

**Resolved**

That the minutes of the meeting of the Sub-Committee held on 28<sup>th</sup> August, 2018, be approved as a correct record and signed.

**10     Application for a Licensed Premises Gaming Machine Permit – The Gigmill, South Road, Stourbridge**

A report of the Strategic Director Place was submitted on an application for the grant of a Licensed Premises Gaming Machine Permit for two Category C machines and one Category D machine, in respect of the premises known as The Gigmill, South Road, Stourbridge, which was considered by the Sub-Committee under the Gambling Act 2005.

The following persons were in attendance at the meeting in respect of this application:-

Mr C Grunert – John Gaunt and Partners Licensing Solicitors on behalf of the premises licence holder – Marston's PLC.  
Ms Wild - Designated Premises Supervisor

Following introductions, the Assistant Team Manager Waste and Fleet Care presented the report on behalf of the Council, and Mr Grunert responded to queries from Members. The positioning of the machines were clarified, confirming that the machines would be visible from the bar in order for the bar staff to be able to supervise the use of the machines. The type of Category D machine was clarified as a 'crane grab' machine, noting that the prizes consisted of a gift and were not cash prizes.

The parties withdrew from the meeting to enable the Sub-Committee to determine the application.

The Sub-Committee having made their decision invited the parties to return and the Chair outlined the decision.

### **Resolved**

That, following consideration of the information contained in the report submitted, a Licensed Premises Gaming Machine Permit for two Category C machines and one Category D machine, be granted, subject to the machines being positioned so they are visible from the bar to enable supervision and monitoring by staff.

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11      **Application for Review of a Premises Licence – Londis, 202 High Street, Lye, Stourbridge**

A report of the Strategic Director Place was submitted on an application for the review of the premises licence in respect of Londis, 202 High Street, Lye, Stourbridge.

The following persons were in attendance at the meeting:

R Jones – Trading Standards  
A Babbs – Licensing Enforcement Officer  
W Hilary-Patten - Public Health  
D Jenkins – West Midlands Police

Following introductions, the Assistant Manager Waste and Fleet Care presented the report on behalf of the Council.

As the applicant was not in attendance, the Sub-Committee were advised to hear representations from the officers at the meeting to establish the attempts that had been made to contact the applicant (Mr Rafi) to invite him to attend this Sub-Committee. The Sub-Committee agreed to hear the evidence to enable them to decide on whether to continue with the hearing in the absence of the applicant or to defer the hearing to a later date.

The Licensing Enforcement Officer confirmed to the Sub-Committee the numerous attempts that had been made to contact Mr Rafi including two emails that had been sent (dated 14<sup>th</sup> and 17<sup>th</sup> January 2019) that had not been replied to and a letter that had been sent to Mr Rafi's current address which had been returned and marked 'addressee gone away'. It was confirmed that notice had been served on Mr Rafi's current accountants who confirmed that they were also unable to contact him. It was noted that the premises known as Londis were no longer trading as the shutters to the premises were fully closed. Telephone calls had also been made and messages left but no return calls had been received.

The Trading Standards Officer confirmed that on 3<sup>rd</sup> January, 2019 he had spoken to a man on a mobile phone who had confirmed that he was Mr Rafi and had agreed to attend an interview under caution on 14<sup>th</sup> January, 2019. The Officer called Mr Rafi on the 13<sup>th</sup> January 2019 to confirm his attendance but Mr Rafi reported that he was unable to attend the meeting due to a family crisis so a further meeting was arranged for 22<sup>nd</sup> January, 2019. Mr Rafi was called on the morning of 22<sup>nd</sup> January and when Mr Rafi answered the call he stated that he was unable to hear the Officer and terminated the call. Mr Rafi was immediately called back on his mobile several times but it was not answered. It was noted that additional papers had been sent to Mr Rafi via recorded delivery to all three addresses that were registered to him. It was also confirmed that Mr Rafi was the Designated Premises Licence Holder (DPS) and a Director of KAS Convenience Stores Ltd, the Premises Licence Holder.

Ms D Jenkins, West Midlands Police, confirmed that they had also tried to contact Mr Rafi, in relation to the crime of illegally abstracting electricity, on the telephone number they held for Mr Rafi, but it was no longer connected and the case had now been submitted to the Crown Prosecution Service (CPS).

Arising from the information that had been presented, the Sub-Committee were satisfied that all reasonable efforts had been made to contact Mr Rafi to invite him to attend the meeting and agreed to proceed in his absence.

The Trading Standards Officer presented the facts of the case relating to the prevention of crime and disorder and the protection of children from harm under the Licensing Act 2003, and outlined the reasons that had resulted in the application being made for a review of the premises licence.

It was reported that on 25<sup>th</sup> October, 2018, during a series of underage 'test purchase' exercises that were being carried out across the Borough, a 16 year old test purchaser was sold alcohol, namely a 75cl bottle of Echo Falls California (Red Berries & Plum) Wine with an ABV of 12.5%, contrary to Section 146(1) of the Licensing Act 2003 and in direct contravention of the licensing objectives.

The Sub-Committee heard evidence relating to the selling of alcohol by an employee of the store to an under-aged person. The employee was subsequently issued with a fixed penalty notice.

On examination of the store by a Trading Standards Officer who had witnessed the sale of alcohol, it was confirmed that although 'Challenge 25' and 'Statutory Tobacco' notices were displayed at the store, the employee was unable to locate a current Refusals Register. A copy of the Premises Licence was also not on display.

In continuing, the Trading Standards Officer referred to the evidence in relation to the attempts made by them to contact Mr Rafi with a view to interviewing him under caution and his refusal to attend. Having regards to the evidence presented by colleagues and the history related to the premises, as set out in the report, Trading Standards recommended that the Sub-Committee consider revoking the licence or suspending the licence for 3 months with a view to securing an action plan, as set out in the additional documentation. The action plan related to the reinstallation of Closed Circuit Television (CCTV), the refusal register policy to be put in place and appropriate training to be provided to all staff in relation to the selling of alcohol. It was noted that these were existing conditions of the licence that were not being complied with.

The West Midlands Police representative then presented representations on behalf of the Police and in doing so confirmed that the sale of alcohol to a child was in direct contravention of the Licensing Objectives and the fact that the recent failed test purchase was to a 16 year old was of great concern. Furthermore, they were contacted by British Gas Revenue Protection Officers on 3<sup>rd</sup> December, 2018 who reported that an abstraction of electricity had taken place after the supply to the premises had been disconnected for non-payment of a bill in September 2018 amounting to £6995.87 together with an unpaid bill prior to the disconnection, totalling £93,944.80. This offence had been submitted to the Crown Prosecution Service for their decision. It was commented that should the Sub-Committee be minded not to suspend or revoke the premises licence, West Midlands Police fully supported the proposal from Trading Standards for additional robust conditions to be placed on the premises.

The representative for Public Health reported on the impacts of the health of adolescents as a consequence of alcohol consumption. It was noted that the sale of alcohol to a young person was very serious and Public Health supported the proposal to revoke, suspend or impose additional conditions on the licence on the grounds of protecting children from harm.

The Licensing Enforcement Officer then presented the representations on behalf of the Council, and in doing so, reported that an enquiry with Companies House had confirmed that Mr Rafi had been an active Director of KAS Convenience Stores since 22<sup>nd</sup> December, 2008.

On 29<sup>th</sup> November, 2013 Trading Standards conducted a test purchase at the premises known as Londis, High Street, Lye and during this exercise, a 15 year old male child purchased a bottle of cider where no age or identification was asked for by the seller to the child resulting in a sale being made. As a result of this, a review of the Premises Licence was conducted where it had been established that two of the licensing objectives were not being complied with.

On 6<sup>th</sup> December 2013, a variation of DPS was confirmed on the Premises Licence in the name of Mr Kasif Rafi, the present DPS, and the licence was issued by Wolverhampton City Council.

The subsequent Sub-Committee hearing/decision took place on 11<sup>th</sup> March, 2014 and nine separate licence conditions were imposed on the licence, a copy of which was attached to the report together with a copy of the minutes of the Sub-Committee.

On 28<sup>th</sup> November, 2018, the Licensing Department and Trading Standards conducted an un-announced compliance visit on the premises and during this visit, it was discovered that none of the nine licence conditions were being adhered to. The Store Manager, the sole member of staff on the premises at the time of the compliance visit, confirmed that the owner of the business was Mr Rafi who had owned it for the past five years. The Store Manager confirmed that she had not received any training concerning under age sales during this time. It was also reported that a make shift refusals register was produced and it was noted that the last entry had been September 2016.

On the 4<sup>th</sup> December, 2018, a letter was sent to Mr Rafi and all the Directors of KAS Convenience Stores at the address held by the authority, which outlined the compliance visit on 28<sup>th</sup> November, 2018 and the breach of all the licence conditions. Mr Rafi was invited to contact the Licensing Department but the letter was returned to sender marked 'Addressee gone away'. On 18<sup>th</sup> December, 2018 a further letter was sent to Mr Rafi, posted through the letter box at the Londis Store. To date, a reply had not been received.

As a result of both visits, the underage sale and non-compliance with the Licensing Conditions, a review of the licence was requested by Trading Standards. The Licensing Authority was also aware that there is an on-going criminal investigation being conducted as reported by the West Midlands Police representative.

In concluding, it was noted that the premises were no longer trading and it was requested that consideration be given to revoke the Premises Licence or suspend it for up to three months together with the removal of Mr Rafi as the DPS.

In addressing concerns raised by members with regards to CCTV coverage in the store, Trading Standards confirmed that CCTV should be installed, working and retained. However, during the visit on 25<sup>th</sup> October, 2018, when asked to see the CCTV footage, the employee took the officers to the back of the store where the CCTV was kept but the metal case that housed the hard-drive was empty with wires protruding where the hard-drive should be. The employee confirmed that Mr Rafi had taken the hard-drive away a few weeks previously. When Mr Rafi was contacted about the CCTV, he stated that the CCTV was working and he was unable to confirm that he was the DPS when questioned. There were still cameras in the store but no hard-drive which breaches the licencing conditions.

In responding to the question relating to the illegal extraction of electricity referred to in the report, the Police reported that British Gas had confirmed that they had disconnected the electricity supply in September 2018. Having been notified that the supply had been reconnected, they visited the premises in December 2018 and disconnected the supply again and noted that nearly £7000 electricity had been used in two months. Mr Rafi had stated that British Gas were not his suppliers but British Gas had confirmed that they were the only electricity supplier to the premises. British Gas had confirmed that there was some suggestion of fraud relating to the bill but no further information had been disclosed.

Referring to the test purchase exercise that had taken place on 25<sup>th</sup> October, 2018, the Principal Solicitor sought clarification on the procedure relating to test purchases given the purchaser had lied about his age when challenged by the employee. The Sub-Committee understood that young people when primed and trained to take part in the exercise were told to be truthful when challenged about their age. In responding, the Trading Standards Officer stated that it was accepted as practice around local authorities for the test purchaser to be untruthful about their age when questioned. The brief given to the volunteers was then explained in detail and it was pointed out when purchasers were challenged about their date of birth or asked for identification, they must give their real date of birth and not use false identification. The rationale behind this process was referred to in that the Attorney General stated that in reality anyone underage going into a licenced premises, would not give their real date of birth, therefore, the Attorney General's view was that it was acceptable that Trading Standards and volunteers follow suit.

The Principal Solicitor commented that if this was a change in policy, Sub-Committee Members should be informed and trained accordingly.

The parties withdrew from the meeting to enable the Sub-Committee to determine the application.

The Sub-Committee having made their decision, invited the parties to return and the Chair outlined the decision.

### **Resolved**

That, the Premises Licence in respect of Londis, 202 High Street, Lye, Stourbridge, be revoked for the following reasons:

In the light of the recent test purchase exercise:

- Condition 3 regarding the maintenance and weekly review of the refusals register has been breached, as has condition 4 relating to CCTV.
- Condition 6 appears to have been breached in that the Store Manager has admitted that she had had no relevant training in the last five years, and therefore condition 7 has also been breached.
- It is of huge concern that Mr. Rafi was not able to confirm that he was the DPS for the premises and that he did not tell the truth to the Council Officer about the CCTV being in place as at 25<sup>th</sup> October 2018.
- The Sub-Committee finds that the safety of children has not been safeguarded by this underage sale, and that it is highly likely that electricity has been extracted unlawfully and therefore the licensing objectives have not been upheld.
- The Sub-Committee has considered imposing further conditions on the license and removing the DPS, but in the light of the significant breaches of the current conditions, and in the light of the actions of the DPS including his dishonesty, the Sub-Committee considers that these steps are insufficient to address the concerns. The premises licence holder has not attended or even communicated with the Sub-Committee or relevant agencies about the hearing today.

The Sub-Committee therefore revokes the premises license.

Mr Rafi will be informed of his right of appeal.

The meeting ended at 11.30 am.

CHAIR