

**MINUTES OF LICENSING SUB-COMMITTEE
(Alcohol and Regulated Entertainment)**

17 AUGUST 2016

PRESENT:

Councillors Miss Lawrence (Chairman), Cade and Mrs Roodhouse

1. DECLARATIONS OF INTEREST

There were no declarations of interest.

2. APPLICATION UNDER THE LICENSING ACT 2003 FOR THE REVIEW OF THE PREMISES LICENCE RELATING TO K2 MINI MARKET, 41 CHURCH STREET, RUGBY, CV21 3PU

The Sub-Committee considered a report (Part 1 – agenda item 2) concerning an application for the review of a premises licence for K2 Mini Market, 41 Church Street, Rugby, CV21 3PU.

RESOLVED THAT— the application referred to in the report of the Head of Environment and Public Realm be determined as set out in Annex 1 to these minutes.

CHAIRMAN

RUGBY BOROUGH COUNCIL RECORD OF HEARING

1. **APPLICANT**
Name
Rugby Borough Council as Responsible Authority
APPLICANT'S REPRESENTATIVE
Penny Clarke
Licence Holder Katherine Lekaj did not attend

2. **RESPONSIBLE AUTHORITIES**

Name	Service
Sgt Samantha Watkins	Warwickshire Police
Simon Coupe	Warwickshire County Council, Trading Standards-

3. **COMMITTEE PANEL**
Councillors Miss Lawrence, Cade and Mrs Roodhouse

Chaired by: Councillor Miss Lawrence

4. **HEARING CLERK**

Marian Allen – Senior Legal Officer

5. **NATURE OF THE APPLICATION**

Application for a review of a premises licence under Section 51 of Licensing Act 2003 in respect of K2 Mini Market, 41 Church Street, Rugby

6. **Outline of Applicants Case**

Review bought by the Council as Responsible Authority under Section 51 Licensing Act 2003 for continued breaches of the Licence Conditions at K2 Mini Market, 41 Church Street, Rugby and undermining all four Licensing Objectives. Application made on 29/10/2015 for a Premises Licence was invalid, valid application received on 17/11/2015. Representations received from Warwickshire Police and Trading Standards, meeting followed between Ms Lekaj and Penny Clarke where Ms Lekaj accepted all the suggested additional conditions to address the representations made. In light of the condition the objections were withdrawn and Premises Licence granted on 16/12/2015. As Licensing Officers they try to visit all premises within the first few months to support and guide the Licence Holder and ensure they understand and are complying with the conditions.

5/2/2016 first visit, Ms Lekaj not present but advised by her staff, found 7 breach of conditions found, advised by letter (Annex 7 to report)

22/2/2016 second visit accompanied by Police, Licence Holder present still 7 breaches. Ms Lekaj did not appear to understand what was required, Ms Clarke and Police Officer took time to full explain it to her and confirmed again in writing. She was asked to provide CCTV on a number of occasions and only once provided it and the coverage did not correspond with the records of the premises.

Review of the action plan did not to take place on 21/3/2016 as Ms Lekaj in hospital, it then took place on 22/4/2016. During this action plan review meeting, officers were concerned Ms Lekaj still did not appear to fully understand that the conditions were still outstanding, she now had sight problems. To assist they met away from the premises to take her through conditions again, her English was very good. On 22/4/2016 she was asked again for CCTV, as she was unable to provide at the time, officers had not been notified there was a problem with the system, or that she was unable to download or provide copies. Futher meeting held at Rugby police station on 9/5/2016 where Ms Lekaj signed to confirm she agreed and understood conditions. She was given to 1/6/2016 to put the corrections in place and advised there would be an unannounced visit.

Visit took place on 8/6/2016

Breaches identified undermining all four Licensing Objectives:

Prevention of Crime and Disorder – Condition 1 - in relation to CCTV

Condition 2 – Authorisation to staff

Public Safety – Condition 3 CCTV positioning

Prevention of Public Nuisance – Condition 6 –Staff training on sale of alcohol

Protection of Children from Harm – Condition 11 Sales to underage

Condition 13 Record

Conditions have never been complied with.

Conditions are reasonable, proportionate and necessary, not difficult to understand and Ms Lekaj had agreed and signed her acceptance at the application stage.

Refer to Annex 15 written authority by DPS to sell on her behalf. It appears one name has been added in a different handwriting

Refer to Annex 13 – staff could not understand how to operate the CCTV system on 8/6/2016

CCTV has never been available, various excuses given. Now 8 months into the Licence and still numerous breaches of the Conditions ask for the Premises Licence to be revoked.

Licensing Team have advised Ms Lekaj of the hearing and attempted to contact her on numerous occasions with regard to this hearing with no response.

7. **Summary of Questions to Applicant**

Communication sent to premises and her home address
On visit on 9/5/2016 Sgt Watkins read out and discussed all the conditions to Ms Lekaj to ensure she understood what she had to put right by 1/6/2016. Ms Lekaj sister was present and took notes and Ms Lekaj was happy to sign.
Breaches have continued to 8 months
No response from Ms Lekaj over last few months
Shop was closed for a short period, now open
Notices put on premises
Annex 15 some staff same as under previous Licence Holder

Outline of Responsible Authorities' Case

Warwickshire Police – Sgt. Samantha Watkins

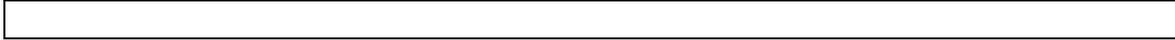
Had discussions with Ms Lekaj at the application stage and she accepted and would adhere to the conditions and stated she did not know the previous Licence holder. It was only then that the objections were withdrawn. However concerns have proved to be correct as the conditions have not been complied with.

Conditions appropriate to promote the Licensing Objectives.

History of problems previously, test purchase for under age sale, issues with CCTV and concerns who being served, problems with sales to people who went to the graveyard drinking (now addressed through Public Space Protection Order). Conditions required to address these problems so that did not reoccur. Since the granting of the Licence the Police have tried to work with Ms Lekaj and she gave assurances she accepted and would adhere to the conditions. Despite interventions over 6 months, meetings with her both at the premises and the Police Station now at a loss to see how the address the problems. There are 6 breaches and support this review. Not appropriate to remove or modify the conditions. Unlikely the conditions will be complied with and support revocation of the Licence.

10. **Summary of Questions to Responsible Authorities**

Investigation ongoing



11. **Outline of Responsible Authority –**
Warwickshire Trading Standards Simon Coupe

An overlap from previous Licence Holder referred to in report to Committee
Licence issued on 16/12/2016 allows sale of alcohol and tobacco (from
enclosed cabinet at the back of counter)

23/5/2016 following allegation sale of illegal tobacco attended the Premises with
sniffer dogs, Mr Hussein Osman was present along with Mr Tahir Mohamed and
Mr Jasim Haider. Dogs identified a concealment on fridge of small amount of
tobacco which was seized and subject to an ongoing investigation. This is not
the first issue, on 20/8/2015 following intelligence similar raid where illegal
tobacco was found in the ceiling and again Mr Osman was in charge, he
claimed on both occasions to know nothing about it.

Clearly problems with the sale of illegal tobacco.

Police had concerns in relation to the application but could not find a connection
and asked for the conditions.

Ms Lekaj as DPS appears to have little influence on how the premises are run
and do not think she is running it. Mr M Mohamed has links to other
investigations and Mr Haider is connected to other premises where illegal
tobacco is being sold.

Illicit tobacco is a crime which deprives the UK of £2 billion every year, money
which could be used to fund essential public services, including tackling the
damaging impacts of tobacco itself. The illicit trade also damages legitimate
business, undermines public health tobacco control strategies and facilitates the
supply of tobacco to young people. The price at which these tobacco product
are being sold (as little as £3.50 per packet) makes them very affordable and
encourages young people and children to smoke.

Business is not being run in a fit and proper manner and only remedy is
revocation.

12. **Summary of Questions to Interested Parties**

The previous finding of illegal tobacco in August 2015 is still under investigation
and linked to the current find

If CCTV had been in operation it would have shown who was involved.

Decision

The Sub-Committee were disappointed that Ms Lekaj did not attend and give the Committee an opportunity to hear her evidence.

The Premises Licence be revoked

Reason

In coming to this decision the Sub-Committee has carefully considered the representations of the Licensing Officer, Warwickshire Police and Trading Standards and considering the overwhelming evidence had concluded that the licence should be revoked.

Mrs Lekaj has failed to comply with the conditions of her Licence despite the continual interventions and support from the Licensing Authority and the Police and consistently failed to promote the four Licensing Objectives by failing to comply with the Conditions as detailed below:

Prevention of Crime and Disorder

CCTV to comply with BS 7958. The system should be recording at all times that the premises are open for licensable activity. The CCTV should be stored for 31 days, and there should be someone available at all times when the premises are open, who can operate the system and able to download footage instantly, so that it is available to the police or other responsible authority on request

The DPS will give written consent to all authorised persons to sell on their behalf. A copy of this written consent should be kept in the premises and made available to authorised persons from Responsible Authorities.

Under Public Safety

CCTV cameras are to be positioned in the premises to ensure that customers arriving are monitored along with the till areas in front and behind the tills.

Under the Prevention of Public Nuisance

Staff will be trained, and undergo regular 6 monthly refresher training in respect of the sale of alcohol to any person believed to be drunk. With written Instructions available to staff on duty on what to do if in this situation.

Under the Protection of Children from Harm

Anyone who appears to be under the age of 25, and who is attempting to purchase alcohol must be required to produce proof of age before such a sale is made. This proof of age should be photographic ID, such as driving licence, passport, 'Prove It' card.

Staff will be trained, and undergo regular 6 monthly refresher training in respect of the sale of all age restricted goods, including the awareness/prevention of proxy sales. The

training should also cover changes in relevant legislation, and the use and storage of CCTV.