

STEVENAGE BOROUGH COUNCIL

**LICENSING COMMITTEE
MINUTES**

Date: Thursday, 19 December 2024

Time: 10.00am

Place: Council Chamber, Daneshill House

Present: Councillors: Ellie Plater CC (Chair), Sandra Barr (Vice-Chair),
Peter Clark, Alistair Gordon and Tom Wren

Start / End Time: Start Time: 10.00am
End Time: 1.08pm

1 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillors Myla Arceno, Robert Boyle, Stephen Booth, Akin Elekolusi, Coleen Houlihan, Mason Humberstone, Lin Martin-Haugh, Claire Parris and Anne Wells.

There were no declarations of interest.

2 MINUTES - 28 MARCH 2024

It was **RESOLVED** that the Minutes of the meeting of the Licensing Committee held on 28 March 2024 be agreed as a correct record and signed by the Chair.

3 TERMS OF REFERENCE

It was **RESOLVED** that the Terms of Reference be noted.

4 PREMISES LICENCE REVIEW HEARINGS - PROCEDURE

All parties noted the procedure for the Hearing which had been circulated with the agenda.

5 APPLICATION TO REVIEW A PREMISES LICENCE - OVAL WINES, 9 THE OVAL, STEVENAGE, SG1 5RA

The Committee considered an application for a review of the premises licence for Oval Wines, 9 The Oval, Stevenage, SG1 5RA made by Senior Licensing Officer Gill Ackroyd of Hertfordshire Constabulary.

The Council's Licensing Officer presented a report to the Committee outlining the facts of the application. The Licensing Officer advised that the grounds for the review

brought by the Police fell under all four of the Licensing Objectives, prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and Protection of Children from Harm.

The application for review was accepted as valid and duly made by the Council on 29th October 2024.

Representations had been made by Hertfordshire Trading Standards, as a Responsible Authority, in support of the review application, based on the discovery on the premises of illegal tobacco products and a prescription-only medication.

No representations were made by other responsible authorities or by members of the public.

The Chair invited all parties to ask questions to the Licensing Officer regarding their report. There were none.

The Chair then invited the Police to state their case.

The Police representatives spoke to the basis of their application for review of the licence. They spoke of incidents connected with the premises and said that they had serious concerns about the management of the premises.

On 3 October 2024 Police had been present when illegal items had been seized. These were illegal tobacco products and cigarettes. A Viagra-type jelly was found in the shop which could only be sold with a prescription. There were items of drugs paraphernalia (a grinder and small bags). £4,000 in cash was found in a bag and was seized. No explanation had been offered for the presence of the cash.

Drugs wipes were used on the visit, which showed strong indications of cocaine use in the toilet, sink and kitchen area, as well as on both sides of the customer counter. However, no drugs were found on the premises.

The License Holder had failed to produce CCTV footage in breach of licence conditions. The request for CCTV footage was made in the light of a very serious incident on 30 August 2024 involving gang violence in the vicinity of the premises. CCTV footage was requested on a subsequent visit to the shop on 3 October 2024 but, again, was not available.

It was a licence condition that the Designated Premises Supervisor, Mr Polat, should be readily available but attempts by the Police to contact him had failed.

The Police were concerned that the "Oval Gang" was using the shop as a base and was dealing drugs either within the shop or in its close vicinity.

The Police believed that the Licence Holder supported customers against the Police and did not co-operate in supporting Police efforts to tackle crime and disorder in the area. On one occasion, gang members escaped through the shop. The Licence Holder had not contacted the Police to alert them to the incident on 30 August despite being present and did not volunteer witness information.

The Police showed CCTV footage of the incident on 30 August 2024. This showed a clash between members of rival gangs, some of whom were seen carrying machetes and knives. A group was shown congregating outside the premises in the lead-up to the incident. The Police believed that those involved had links to “County Lines” drug dealing operations.

The Chair invited the other parties to ask questions to the Police.

In response to questions from the Licence Holder and his representative, the Police confirmed that no drugs or weapons had been found on the premises and that they had not seen drug dealing taking place on the premises. The Police mentioned the absence of CCTV footage from the premises. The Licence Holder’s representative asked the Police why they had not arrested Mr Oruc. The Police said that they did not have evidence to support arrest and clarified that they were not suggesting that Mr Oruc was drug dealing.

The Chair then invited Trading Standards to state their case.

Hertfordshire County Council’s Trading Standards representative said that one of the Department’s roles was to deal with the sale of illegal tobacco. She had attended Oval Wines on two occasions and had seized illegal tobacco on both. She said that it was clear that the tobacco did not comply with packaging regulations which were compulsory for tobacco sold in the UK. It was illegal to sell tobacco which was non-compliant and duty would not have been paid on such tobacco.

It was possible that the tobacco was counterfeit and had been sent for tests. However, the results were not yet available. The representative said that the storage of the tobacco was suspicious, as it was concealed in drink pallets from which cans had been removed and was kept separate from legitimate tobacco which was on sale.

They explained the problems caused by illegal tobacco sales. Counterfeit tobacco infringed intellectual property rights and was often linked to other sorts of criminality such as money laundering and modern slavery. Not complying with packaging requirements undermined the health approach to the sale of tobacco, avoiding the health messages required by law. The non-payment of duty was also serious, as it deprived the Exchequer of revenue and allowed tobacco to be sold more cheaply, making it more attractive to children.

In addition to illegal tobacco, the inspections uncovered the concealed presence of five packets of “Kamagra Oral Jelly” which was believed to contain the same active ingredient as Viagra, which was a prescription-only medicine, and which could not lawfully be sold from the shop.

The Chair invited the other parties to ask questions of Trading Standards. There were none.

The Chair then invited the Licence Holder to state their case.

The Licence Holder, Mr Oruc, and his representative, Mr Hopkins, addressed the Committee. They had submitted a list of additional licence conditions which Mr Oruc would be happy to accept to address the issues raised by the review.

They placed much of the responsibility for issues with the premises on the failings of the Designated Premises Supervisor, Mr Polat. Mr Polat had recently been dismissed and Mr Oruc would personally take on the responsibilities of the DPS.

They stated that Mr Oruc had not worked for the previous owner and had no contact with him and had come to the premises with a clean record.

Mr Oruc's representative criticised the existing licence conditions, saying that they were out of date and the CCTV conditions were "sparse".

The Committee heard that the CCTV was now working satisfactorily. Initially, the hard disk for the system was too small to store CCTV images for the time period required by the licence. This was why the images were not available on the first visit by the Police. Mr Oruc was not aware of the small size of the hard drive and had subsequently replaced it. A failure by his CCTV provider in setting the system was responsible for the absence of images on the second visit.

The presence of illegal products was not disputed but Mr Oruc was unaware of this. The sales had been the responsibility of two members of staff who had been making sales "under the counter". They had since been dismissed. A proposed condition requiring the retention of receipts for tobacco and alcohol products would address the problem.

The £4,000 cash found on the premises had belonged to another member of staff, who had stored it there as it was a safer place to store the cash than the member of staff's shared accommodation.

Mr Oruc was as surprised as the Police about the positive results when the premises were swabbed for drug residue. He thought it was possible that staff may have used drugs in the toilets but he did not understand the results for the shop counter.

Mr Oruc, for the future, was happy not to sell drugs paraphernalia but pointed out that their sale was not unlawful and that the items found were sold in lots of shops. He stated this did not make him a drug dealer.

There was no evidence of weapons on the premises and it was not illegal for young people to visit the premises. However, Mr Oruc was happy for a condition to limit the number of under-18s in the shop to two at a time.

Mr Oruc had no links to the gang. He had no power to stop them congregating outside his shop. He was not acquainted with the alleged gang members. He did not know names but recognised some faces. He said that local traders had massive problems and had complained many times. They didn't call police to incidents as they were fearful. Mr Oruc did not want to be perceived as a "snitch". The Police suggestion that he was linked to drug dealing put him at risk as drug dealers might mistakenly think he was a rival. He said that there was no CCTV evidence of drug

sales to 11-year-olds. Tackling criminality by gangs was the responsibility of the Police, not him. Mr Oruc would welcome a much greater Police presence, including immediately outside his premises.

The Chair invited other parties to ask questions of the Licence Holder.

Mr Oruc was questioned by Police representatives at the hearing regarding CCTV footage of the incident on 30 August 2024. It had become apparent shortly before the hearing that Mr Oruc was visible in the CCTV footage obtained from other sources. He was asked why he had not identified himself as a witness when the Police had requested CCTV footage from him. Mr Oruc said that he had not been asked to make a statement. The Police said that, as Mr Oruc had not said that he was present, they had not known that he was a witness. Mr Oruc said that he didn't want to get involved with Police or gang matters.

Further questions sought to clarify issues around CCTV, the drugs residue found and whether Mr Oruc felt intimidated by the gang presence. Mr Oruc was afraid of being "labelled" by the gang but would welcome uniformed Police presence.

Councillor Barr asked Mr Oruc why he had not called the Police when he became aware of unlawful activities by members of staff. Mr Oruc's representative said that he had not wished to involve the Police.

Cllr Wren asked about the CCTV incident involving the machetes. Mr Oruc said that he had seen a machete and that his main objective was to get everyone away from his business. This explained the apparent gesturing to gang members. People had run into his shop and he had opened the rear door as he wanted to get them out. He did not want a physical confrontation. Mr Hopkins said that the installation of an electronic lock on the front door, along with a "two at a time" rule would tackle issues in the future. Mr Oruc said that he was completely happy to work with the Police.

Cllr Clark clarified how long Mr Oruc had been responsible for the premises and asked whether there had been other incidents. Mr Oruc said that there had been only minor incidents and confirmed that these had been recorded in the incident book.

The Chair invited all parties to sum up.

The Police referred to a meeting with Mr Oruc on 19 April 2023, notes of which were appended to the Licensing Committee report at page 39. (Item B1.) At the meeting Mr Oruc had seemed knowledgeable about licensing issues. At the meeting, the Police had offered help with issues of anti-social behaviour.

Mr Hopkins, for Mr Oruc, stated that they had said what they wanted to say. Mr Oruc deplored the sale of illegal tobacco and other unlawful activities. He had proposed an extensive list of additional conditions and asked that Mr Oruc be given another chance.

It was **RESOLVED** that the premises licence in respect of the premises should be revoked.

REASON FOR DECISION

The Committee took careful account of all the material before it, including representations made by the Licensee.

The Committee also took account of the statutory guidance published under section 182 of the Licensing Act 2003. Of particular relevance was the guidance from paragraph 11.24 on “reviews arising in connection with crime.

The Committee was guided by paragraph 11.26, which stated: Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority’s duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.

Mr Oruc had not disputed incidents of illegality on the premises but denied personal responsibility. Whilst the Committee’s view was that Mr Oruc had done little, if anything, to tackle illegality, the guidance makes it clear that personal culpability is not the issue.

Paragraph 11.27 said that there is “certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously”. These included the use of licences premises “for the sale or storage of smuggled tobacco and alcohol”. It was not clear whether the illegal tobacco found at the premises was smuggled or counterfeit but in either case the Committee decided to treat this particularly seriously.

Paragraph 11.27 also referred to the use of licensed premises “as the base for the organisation of criminal activity, particularly by gangs”. The Committee accepted that the premises were a focus for gangs meeting in the vicinity, it did not find that the premises were used by gangs for the organisation of criminal activity. However, there was evidence of the premises being used for criminal activity, including the seizure of illicit tobacco and prescription-only medication, the significant amount of cash and the extensive cocaine residues found.

The breaches of the licence conditions relating to CCTV and the availability of the Designated Premises Supervisor were the personal responsibility of the licence holder, who could not avoid responsibility merely by saying that they were caused by members of staff. Similarly, the Licensee was responsible for ensuring that the premises were not used for unlawful purposes.

The Committee concluded that the incidents referred to above meant that the operation of the premises did not promote, and were to the detriment, of the

licensing objectives:

The prevention of crime and disorder

The premises failed to promote this objective as a result of the incidents of breaches of licence including the failure to record CCTV properly and to ensure that the Designated Premises Supervisor was available.

The premises also failed to promote this objective as a result of multiple instances of illegality in the use of the premises, including the discovery of cocaine residue, and the finding of illegal tobacco products and prescription-only medication.

The licence holder failed to engage proactively with the Police in tackling issues of illegality and anti-social behaviour.

Whilst not in itself unlawful, the sale of drugs paraphernalia from the shop was not helpful in promoting this objective in a location which had clear problems with drug use and drug dealing.

Public Safety

The premises failed to promote this objective by acting as a base for a local gang to congregate. The gang was associated with illegal activities and anti-social behaviour. The incident of 30 August 2024 involving the use of machetes, and the use of the premises as an escape route, was particularly serious.

The storage of illicit tobacco and prescription-only medication also posed a risk to public safety as did the use of the premises for the consumption of illegal drugs.

Prevention of Public Nuisance

The focus of the premises as an area for congregation by a local gang contributed to public nuisance in the area, as illustrated by the CCTV footage from 30 August 2024.

The Committee also decided that the absence of pro-active engagement by the Licence Holder with the Police in tackling anti-social behaviour and illegality – in fact his admitted avoidance of engagement – was detrimental to the promotion of this activity.

Protection of Children from Harm

The premises were accessible to children and the use of the premises for illegal drug use could place children at risk.

The premises acted as a focus for the congregation of gang members in the vicinity. Some, if not all, of the gang members were young persons. The focus given by the premises to gang congregation was detrimental to this objective.

The Committee decided that action beyond words of advice or a warning was called for. The premises were linked to serious illegality, breach of licence conditions and anti-social behaviour. The Committee therefore considered the other options available to it. These were:

- To modify the conditions of the licence.
The Committee considered carefully the additional conditions proposed on behalf of Mr Oruc. However, it was clear that Mr Oruc was in significant breach of licence conditions and had, by his own account, exercised little effective management of the premises since becoming the licence holder. The Committee therefore had no confidence that the imposition of additional licence conditions would be an effective step in ensuring the proper promotion of the licensing objectives.
- To exclude a licensable activity from the licence.
The Committee did not consider that this was a relevant option, given the limited scope of licensable activities covered by the licence.
- To remove the designated premises supervisor.
The Committee concluded that this would not address the issues that had given rise to the review. In any case, the licence holder was proposing to become the designated premises supervisor and the Committee had little confidence in him exercising a satisfactory supervisory role.
- To suspend the licence for a period not exceeding three months.
The Committee concluded that suspension would not adequately address the issues leading to the request for a review. There was nothing to suggest that suspension would be adequate in ensuring that the licensing objectives were met.
- To revoke the licence.
The Committee concluded that this was the appropriate option, given the severity of the issues raised in this review, and taking account of the statutory guidance.

The Premises Licence Holder would be reminded in the decision letter sent to them that there was a right of appeal to the Magistrates Court against the above decision. Such an appeal would need to be submitted to the Magistrates Court within 21 days of receipt of the Committee's decision letter.

6 **URGENT PART I BUSINESS**

There was no Urgent Part I Business.

7 **EXCLUSION OF PUBLIC AND PRESS**

Not required.

8 **URGENT PART II BUSINESS**

There was no Urgent Part II Business.

CHAIR