



West Midlands Police Evidence Bundle for the premises licence application for Walmley Local 243-245 Eachelhurst Road. B76 1DT.

PAGE(S)	DOCUMENT(S)
1 to 3	Statement of licensing officer Chris Jones
4 to 6	KVK Supermarket decision notice
7	First email to agent for documentation
8	Second email to agent for documentation

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

Crime No. URN

Statement of Christopher Jones

Age if under 18 Over 18 (if over 18 insert "over 18")

Occupation Licensing Officer

This statement (consisting of 3 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature:  (witness)

Date 22.03.24

Tick if witness evidence is visually recorded (supply witness details on rear)

I am Police Licensing Officer Christopher Jones 55410 of the West Midlands Police currently based at Lloyd House Police Station. I am part of a team of officers that deal with all matters in relation to the Licensing Act 2003 in the Birmingham City Council administrative area.

Part of this role involves the scrutiny of all new applications for premises licenses.

One such application was received on 9th February 2024 applying for a premises licence at Walmley Local, 243-245 Eachelhurst Road, Walmley. B76 1DT.

The applicant submitted the application through a licensing agent.

I instantly recognised the address as I had previous dealings with the premises when it was trading as KVK Supermarket.

KVK Supermarket's premises licence was revoked on 6th February 2021 after Trading Standards has submitted a premises licence review application (supported by West Midlands Police) after they had found a number of counterfeit bottles of alcohol on sale at the premises.

An aggravating factor in this, was that the premises licence holder attempted to deceive trading standards officers that the counterfeit alcohol had been purchased legitimately and provided officers with a false receipt of sale from a legitimate wholesale company.

The Licensing Subcommittee noted on their decision notice that the way the premises was operated was not merely irresponsible, but also illegal. They also commented that the premises licence holder's explanations did not inspire any confidence whatsoever that she understood the licensing objectives.

Decision notice are at pages 4 to 6 of WMP evidence bundle.

Signature



Signature witnessed by

03/2016

OFFICIAL – (when complete)

Crime No.

URN

Statement of Christopher Jones

The decision of the Licensing Sub-Committee was appealed by the premises licence holder of KVK Supermarket and it was eventually listed for a final hearing at Birmingham Magistrates Court on 1st February 2024. Just prior to this date the premises licence of KVK Supermarket withdrew the appeal.

The premises licence holder attended court, as the District Judge wanted to ensure that premises licence holder understood the consequences of what withdrawing the appeal would have.

He was satisfied that the premises licence was aware. One of the consequences, was that the revocation of the premises licence became effective from this time, meaning that the shop no longer had a licence to sell alcohol.

Only 8 days after the premises licence holder for KVK Supermarket had confirmed the withdrawal of the appeal, this current application was lodged.

Concerned by the short period of time between the court appearance and this application West Midlands Police required proof that this is a new owner of the premises and is separated from the previous licence holder. Ensuring this was not an attempt to subvert the process and licensing act.

On 12th February 2024 West Midlands Police emailed the agent for the applicant and requested documentation to prove the applicant was the legitimate owner of the business and was separated from the previous premises licence holder of KVK Supermarket.

Email is at page 7 of WMP evidence bundle.

There was no reply to this email, although the below documents requested should be easily available to prove the sale or ownership of the business to this applicant from the previous premises licence holder:

- Contract between the two parties for the sale of the business / legal documentation for the ownership and control of the business.
- Any record of payment for control of the business.
- Utility bills in the applicants name
- Telephone bill in the applicants name
- Copy of the business rates in the applicants name
- Copy of the waste collection contract in the applicants name
- Lease / rent agreements in the applicants name.

Signature *C Jones*

Signature witnessed by

Crime No.

URN

Statement of Christopher Jones

The agent was emailed again on 5th March 2024, asking for an update from the applicant regarding the documentation requested. Again there was no reply to this email.

Email at page 8 of WMP evidence bundle.

As the documentation requested has not been forthcoming, West Midlands Police are concerned that this application / applicant is not separated from the premises licence holder of KVK Supermarket and indeed does appear to be an attempt to subvert the process and licensing act.

Without the proof of separation from the previous licence holder of KVK Supermarket, West Midlands Police are concerned for the promotion of the licensing objectives, especially the prevention of crime & disorder and public safety.

West Midlands Police have no confidence in this applicant without the proof of separation form the previous premises licence holder and documentation requested.



Signature  Signature witnessed by



BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE - A

MONDAY 8 FEBRUARY 2021

**KVK SUPERMARKET, 243-245 EACHELHURST ROAD, WALMLEY,
BIRMINGHAM B76 1DT**

That, having reviewed the premises licence held under the Licensing Act 2003 by KVK Supermarket Ltd (sole director: Mrs [REDACTED]), in respect of **KVK Supermarket, 243-245 Eachelhurst Road, Walmley, Birmingham B76 1DT**, upon the application of the Chief Officer of Weights and Measures, this Sub-Committee hereby determines that:

- the Licence be revoked, and that
- Mrs [REDACTED] be removed as Designated Premises Supervisor

in order to promote the prevention of crime and disorder, public safety and protection of children from harm objectives in the Act.

The Sub-Committee's reasons for revoking the licence are due to concerns expressed on behalf of the Chief Inspector of Weights and Measures, as outlined fully in the Report. A Trading Standards officer also attended the meeting and told the Sub-Committee about the bottles of counterfeit alcohol which had been discovered during an inspection of the premises carried out by Trading Standards officers.

The need for an inspection arose after a member of the public, who had purchased alcohol from KVK Supermarket, contacted Trading Standards to report his concerns that the alcohol, namely [REDACTED] branded wine, was not the genuine product. In due course, an investigation confirmed that the branded wine was indeed counterfeit, yet had been sold by KVK Supermarket as the legitimate product.

41 counterfeit bottles were seized from the shop; this was in addition to the 3 counterfeit bottles already sold to the customer who had reported it, and a further 5 sold to another member of the public who made a similar report. During one visit to seize the stock, the company director produced an invoice from a local cash & carry to account for the purchase of the bottles of wine. Trading Standards informed the Sub-Committee that this invoice was later proven to be 'false' after direct investigation with the wholesaler. Furthermore, the wholesaler had carried out a national audit of their stock of [REDACTED] branded wine, and had not found any bottles within their organisation with the same batch codes as the counterfeit stock seized from KVK Supermarket. The explanation given by the company director to Trading Standards was that staff employed by her in the shop had purchased the counterfeit alcohol, without her knowledge, from somebody whom she described as 'a delivery man'.

Trading Standards advised the Sub-Committee that counterfeit alcohol subverts the normal supply chains of legitimate trade, as it is controlled by criminal organisations who seek to maximise profit by avoiding legitimate controls and systems. It is worse than "non-duty paid" alcohol, as it is specifically manufactured to look like genuine brands, and therefore to mislead consumers into making purchases of substandard products. (It should of course be noted that no duty will have been paid on the products either).

It was the recommendation of Trading Standards that the Sub-Committee should look at all options when making their decision, and in particular that the Sub-Committee should ensure that there was confidence that the management of the shop would not engage in, and encourage, criminal activity; criminal activity affected not only the citizens of Birmingham, but also respectable businesses and companies.

The application for review was fully endorsed by West Midlands Police. The Police advised the Sub-Committee that usually the purchase and sale of counterfeit alcohol is made via cash transactions - therefore with no traceability, and of course no UK duty being paid. Traders acting unscrupulously in purchasing counterfeit alcohol cannot have any idea of the provenance of such alcohol, or even if it is fit for human consumption. The Sub-Committee considered that the only intention behind such practices was to maximise profit by tricking consumers.

The Police also observed that the victim in the sale of counterfeit alcohol is not only the consumer, but the brand itself. These underground activities cause damage to the '██████████ Wine Company' brand, destroying consumer confidence in their products and putting their business at risk in these uncertain times. The Sub-Committee agreed that counterfeit products damaged the reputation of successful businesses; as such they took a very dim view of it.

West Midlands Police made representations advising that the licence should be revoked as the licence holder company had demonstrated that it, via its director, was completely incapable of upholding the licensing objectives.

The Sub-Committee was perturbed to note the statement from an enforcement officer at the Home Office (included in the Report), advising that in 2018 an illegal worker had been found in the premises. This person was an "overstayer" who had failed to secure asylum and was arrested. The Home Office advised that at the time of the arrest the person in charge, Mrs ██████████, would have been fully aware and would have had full knowledge of the staff employed in the shop.

The licence was held by a company; the sole director of that company was Mrs ██████████. She attended the meeting and addressed the Sub-Committee. Her explanation was as per the email she had sent to Trading Standards (included in the Report). The Sub-Committee looked askance at her suggestion that it was her staff who had taken it upon themselves to purchase alcohol from 'a delivery man' in her absence; this showed a lack of professional supervision and control by the director. Whilst Mrs ██████████ was very apologetic, she had made no attempt to get to the bottom of what had happened, which was surprising given that she had said that her staff had acted without her knowledge. It was further noted that the designated premises supervisor was somebody who appeared to have no involvement whatsoever in the current operation. That person did not attend the meeting.

After hearing all the evidence, the Sub-Committee determined that the purchase and sale of counterfeit alcohol was indeed so serious that it could not be tolerated, and therefore resolved to revoke the licence as recommended by the Chief Officer of Weights & Measures, and by West Midlands Police. The Sub-Committee had grave concerns about the manner in which this premises had been operating, and agreed with Trading Standards that the operation had been managed in a way that was not merely irresponsible, but also illegal. The Police had endorsed all the submissions made by Trading Standards. A determination to revoke would follow the Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. There were no compelling reasons to depart from the Guidance on this occasion.

Mrs ██████████ explanations did not inspire any confidence whatsoever that she understood the licensing objectives; moreover the designated premises supervisor was somebody who appeared to have no involvement in the shop. This warranted the removal of that person as designated premises supervisor. The Sub-Committee had no confidence that either person was capable of upholding the licensing objectives.

The Members of the Sub-Committee gave consideration as to whether they could modify the conditions of the licence, or suspend the licence for a specified period, but were not satisfied, given the evidence submitted, that the licensing objectives would be properly promoted following any such determination, for the reasons set out above.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under s182 of the Licensing Act 2003 by the Secretary of State, the application for review, the written representations received and the submissions made at the hearing by those representing the Chief Inspector of Weights & Measures and West Midlands Police, and by the company director.

All parties are reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.

The determination of the Sub-Committee does not have effect until the end of the twenty-one day period for appealing against the decision or, if the decision is appealed against, until the determination of the appeal.

Christopher Jones

From: bw licensing
Sent: 12 February 2024 09:44
To: [REDACTED]
Subject: FW: [External]: FW: Grant App - Walmley Local - 243-245 Eachelhurst Road – 1474868
Attachments: DPS CONSENT.pdf; GRANT APPN.pdf; PREMISES PLAN.pdf; RTW - PASSPORT.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

Good Morning,

As per previous email and telephone conversations.

The previous premises licence was revoked by a Licensing Committee after serious failings at the premises.

West Midlands Police need proof of separation between the previous business and this applicant to ensure promotion of the licensing objectives.

West Midlands Police request the below paperwork to prove a separation from the previous business and this application.

- Contract between the two parties for the sale of the business / legal documentation for the ownership and control of the business.
- Any record of payment for control of the business.
- Utility bills in the applicants name
- Telephone bill in the applicants name
- Copy of the business rates in the applicants name
- Copy of the waste collection contract in the applicants name
- Lease / rent agreements in the applicants name.

Awaiting your reply.

Regards

Chris Jones 55410

Central Licensing Team West Midlands Police
T: 0121 626 6099 or 101 (ext. 8011628)

Preventing crime, protecting the public and helping those in need.

If it's not 999, search WMP Online



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From: [REDACTED] Behalf Of Licensing
Sent: 09 February 2024 17:20
To: bw licensing <bw_licensing@westmidlands.police.uk>

Christopher Jones

From: bw licensing
Sent: 05 March 2024 10:25
To: [REDACTED]
Subject: Walmley Local - 243-245 Eachelhurst Road – 1474868
Attachments: DPS CONSENT.pdf; GRANT APPN.pdf; PREMISES PLAN.pdf; RTW - PASSPORT.pdf

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Good Morning,

Have you an update from your client regarding the requested information in the below email?

The representation date is 8th March 2024 and West Midlands Police will require the documentation no later than 2pm on 7th March 2024 to ensure a separation from the previous business.

Many thanks.

Regards



Chris Jones 55410
Birmingham Licensing Team
West Midlands Police

TDD: 0121 626 6099 - T: 101 8011628
Working in partnership, making communities safer



8

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