



BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE - B

13 October 2015

Smaczek – 306 Slade Road, Erdington B23 7LU

That, having reviewed the premises licence held under the Licensing Act 2003 by Kamil Sobocinski, in respect of Smaczek, 306 Slade Road, Erdington B23 7LU upon the application by The Chief Inspector of Weights and Measures, this Sub-Committee hereby determines that the licence be revoked in order to promote the prevention of crime and disorder objective in the Act:

The Sub-Committee's reasons for revoking the licence are due to concerns by Trading Standards in relation to a quantity of illicit tobacco found concealed in a purpose built drawer under the floor behind the counter in the shop, and in a plastic carrier bag located in the refrigerated outdoor store room.

The Sub-Committee were concerned to note that this was not the first time the Premises Licence Holder had used licensed premises for criminal purposes, and that two members of his staff were aware of the storage and involved in the sale of smuggled tobacco with regular customers.

In considering the evidence and representations submitted by Trading Standards, the Sub Committee concluded that the premises licence holder knew what he was doing was wrong - despite having previously received a caution in a similar matter last year, and gave considerable weight to Section 182 Guidance concerning reviews arising in connection with crime particularly at paragraphs 11.26 – 11.28 in that such activities and crime should be treated particularly seriously, and deterred by way of a revocation in the interests of the wider community.

The Sub-Committee were not persuaded by the explanations offered by the Premises Licence Holder for storing illicit tobacco on the licensed premises and found no convincing reasons to depart from the Section 182 Guidance.

The Sub-Committee gave consideration as to whether it could modify the conditions of the licence, remove the Designated Premises Supervisor or suspend the licence for a specified period of not more than 3 months, but was not satisfied given the evidence submitted that the licensing objectives would be properly promoted following any such determination.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under Section 182 of

the Licensing Act 2003 by the Secretary of State, the application for review, the additional documents (photographs) received and the submissions made at the hearing by the trading standards officer, premises licence holder and their legal advisor.

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 appeal is disposed of.