



## **BIRMINGHAM CITY COUNCIL**

### **LICENSING SUB-COMMITTEE - B**

**TUESDAY 23 JANUARY 2024**

**S & B GENERAL STORE, 1-3 COLLEGE ROAD,  
HANDSWORTH WOOD, BIRMINGHAM B20 2HU**

That, having reviewed the premises licence held under the Licensing Act 2003 by Gurdeep Singh Samrai in respect of S & B General Store, 1-3 College Road, Handsworth Wood, Birmingham B20 2HU, upon the application of the Chief Inspector of Weights and Measures, this Sub-Committee hereby determines that:

- the Licence be revoked, and that
- Gurdeep Singh Samrai be removed as designated premises supervisor

in order to promote the licensing objectives in the Act of the prevention of crime and disorder, and public safety. The Sub-Committee's reasons for revoking the licence were due to the concerns expressed by the Chief Inspector of Weights and Measures, and by West Midlands Police, as outlined fully in the Committee Report.

The licence holder attended the meeting, represented by his solicitor. The Chief Inspector of Weights and Measures was represented by a Trading Standards officer of Birmingham City Council. West Midlands Police also attended.

The Sub-Committee heard a preliminary point from the solicitor. He reminded the Members that on the 10<sup>th</sup> January 2024, a transfer application in respect of the premises licence had been considered by Licensing Sub-Committee (C), namely an application to transfer the licence into the name of one of Mr Samrai's tenants.

That application had been rejected, and the licence therefore remained in the name of Mr Samrai for the instant meeting. However, it was Mr Samrai's view that the trading style which had given rise to the Review application was entirely the responsibility of the tenants.

The solicitor observed that Mr Samrai had attended the instant meeting to defend his licence, "in a preservation capacity for the future of his building", rather than to defend the actions of his tenants; the solicitor hoped that this declaration might assist Trading Standards. The Sub-Committee noted this.

Trading Standards summarised the investigation thus far, exactly as per the documents in the Committee Report. Complaints had been made to Trading Standards by local people, and visits were carried out. Officers had found items of concern for sale at the premises. The concerns related primarily to illicit products such as vapes, and alcohol of unknown provenance bearing third party security stickers/tags and damaged caps. Officers had advised those at the premises about

selling illicit items, and had also informed them about the complaints made by members of the public.

The officer concluded by observing that the licence had been granted in 2005, and Mr Samrai was still the premises licence holder and DPS of the premises. However, during officer visits, he had been nowhere to be seen, and indeed had not even been mentioned.

Trading Standards had expected to find that a suitable, experienced and responsible DPS was in charge of the premises, and was present and in control as much as possible. Such a person would have ensured that no illicit products were stocked or supplied to the general public. The Sub-Committee agreed with this.

It was the recommendation of Trading Standards that the Sub-Committee should consider the imposition of a suspension of the licence so that all the unsatisfactory matters (outlined in the Report) could be taken in hand. Trading Standards recommended that the Sub-Committee should consider whether there was adequate supervision of the premises on a daily basis. The officer also remarked that Trading Standards would support a revocation of the licence in order that matters could be properly turned around under new management. The Sub-Committee noted this.

The Sub-Committee then heard submissions from West Midlands Police. These were also exactly as in the Committee Report. The police supported the submissions of Trading Standards, and had noted in particular that it had been worried members of the public who had originally contacted Trading Standards, after becoming concerned about the operating style of the premises. The concerns were in relation to illegal or illicit activity within the premises, or the members of staff who worked there.

The police agreed with Trading Standards that the seized illicit items, and the suspicious condition of some of the bottles of spirits, were unacceptable, but noted that photographs had been submitted by the licence holder of an accident, or ram raid, which was said to have been the cause of damage to the bottles.

West Midlands Police observed that on each occasion the premises had been visited, the premises licence holder had not been at the shop, and in fact other persons had identified themselves to officers as being in charge of the business. It appeared that those in the shop had been left to their own devices, with little or no understanding of their responsibilities under the Licensing Act 2003 – a clear risk to the promotion of the licensing objectives.

The police remarked that Mr Samrai, as the person responsible for authorising the sale of alcohol, and the person with ultimate control of the business, had been completely absent from the business, which was a further risk to the upholding of the licensing objectives. The Sub-Committee noted this.

The police expressed surprise that no legal paperwork had been submitted to prove that Mr Samrai had sold or leased the premises, whether a contractual document, utility bill in someone's name, proof of rent payments, or payment of business rates in someone's name. The police observed that the only legal paperwork seen was the premises licence itself, on which Mr Samrai was both the DPS and the premises licence holder. The Sub-Committee noted this.

The police confirmed that they had no confidence in the premises licence holder to promote the licensing objectives, especially relating to the prevention of crime and disorder and public safety, and asked the Sub-Committee to “consider all options up to and including revocation” when making its final decision.

The Sub-Committee then heard from the licence holder’s solicitor, who stated that it had been made very clear throughout the history of the matter, including at the meeting of 10<sup>th</sup> January 2024 to consider the transfer application, that the actual operators of the business (and the owner of the alcohol and the stock in the store) were the tenants of the building.

Mr Samrai had been granted the premises licence in 2005 and originally had run the business himself. The licensed premises had had no issues for around 15 years whilst he was the day to day operator. The solicitor stressed that although Mr Samrai was the current premises licence holder, he had “sold the business and the goodwill of the business” to the tenants a while ago; they were operating the shop. Mr Samrai was the building owner together with his father, and was the landlord in the arrangement.

The solicitor confirmed that it was accepted that the licence should have been transferred to the tenants. The solicitor directed the Members’ attention to the submissions from Trading Standards that the tenants had identified themselves as the people in charge during officer visits. They had not mentioned Mr Samrai as he was the landlord. It was the tenants who owned the stock, and they were the persons in charge of operating.

The solicitor explained that after the rejection of the transfer application, there was no future for the tenants at the site, but they were currently still the tenants of Mr Samrai, who was the licence holder. It had been incumbent on the tenants to arrange the licence transfer, with the consent of the licence holder. Mr Samrai had confirmed at the transfer meeting that he had tried to help them with that aspect. However, he was not at all involved in the operation, or the ownership of the stock, or any of the issues around the Review application.

The solicitor confirmed that Mr Samrai’s only involvement was through ownership of the freehold of the building, and the collection of the rent. Whilst it might have been thought that he was perhaps some type of silent partner, or involved in the background, this was not the case, and anything sold in the premises was not something from which Mr Samrai was making money (beyond collecting the rent).

The solicitor remarked that after the meeting of 10<sup>th</sup> January 2024 it had become clear that there was no confidence in the tenants to continue at the premises, and Mr Samrai expected to have a new tenant in due course to operate the business. The licence holder’s hope for the instant meeting was to protect the licence. The lease could then be assigned to new tenants. The licence was an asset for the building.

The solicitor introduced the photographs of the ram raid, which he described as a big incident in which the police had been called by the tenants, who were the persons in charge. Officers from the Fire Service were shown in the background of the photographs, and it appeared that all the shelving had been smashed down during the incident. He said that it was this that had damaged the bottles of alcohol. However, the Members noted that he then confirmed that the incident had been one and a half years ago. Regarding the illicit vapes, the solicitor observed that the boxes said the products contained zero nicotine, and remarked that the tenants had been “duped”.

The licence holder's position was that he would be looking for a new operator. The premises required a licence, in order to be sustainable as a business. The licence holder Mr Samrai addressed the Sub-Committee directly to confirm that he had no role at all within the business, beyond being the landlord of the building. He had attended the meeting to protect his business interests; he needed a new tenant in the building. He had no intention of taking over the shop himself, because he "worked full time now" and would "not be going back to running a shop at all".

He had tried to assist the tenants to submit a transfer application about two years ago, but it had been rejected because it was filled in incorrectly; it then "fell by the wayside". He was keen to preserve the licence, in order to be able to transfer the business over to a new tenant. He was happy to accept conditions preventing the current tenants from working in the premises. The solicitor observed that this showed the clear intention that new tenants would be sought.

The solicitor also suggested that the Sub-Committee could remove the DPS, namely Mr Samrai, in order that operation could not resume until a new DPS had been approved by the police and appointed.

Members observed that the licence holder had made efforts to transfer the licence (but had failed) two years ago; therefore Mr Samrai knew that he was still the licence holder and was responsible for activities at the premises. They asked why he had not been looking at the operation to check whether the tenants were adhering to the licence conditions. The solicitor replied that the onus was on the new operator to apply for a licence transfer in their name, with the consent of the of the old operator, but this had not happened.

He confirmed that the shop was currently operating, and that one of the tenants was a personal licence holder. The Committee Lawyer asked who would be in day to day control of the shop whilst Mr Samrai made the arrangements for a new tenant. The solicitor confirmed that the tenants had a legal right to be in the premises, but Mr Samrai would not be permitting them to trade under the premises licence.

Mr Samrai wished to keep the licence alive for a future tenant. The timeframe for this was not known, but it would be quicker with a licence in place and ready to be transferred. It was likely that the existing lease could be assigned by the tenants if the licence remained in place. It would be longer period of time if a new tenant had to apply for a new licence when considering taking on the S & B Stores premises.

An alternative would be forfeiture of the lease if the rent were to be unpaid; in the event of that, Mr Samrai would be seeking a new tenant himself. The licence holder was also aware of the provisions under s178 of the 203 Act relating to the right of a freeholder to be notified of licensing matters.

The Sub-Committee then heard closing submissions. When summing up, Trading Standards noted that the solicitor had made lengthy submissions about protecting the licence; the view of Trading Standards was that it was far more important to protect local residents who lived in the area. The discussion in the meeting around protecting the licence had seemed to Trading Standards to be "some sort of business proposition that the licence holder was keen to bolster".

Trading Standards felt that the tenants were clearly unable to operate safely. The recommendation to the Sub-Committee was to revoke the licence; if anybody new took the premises on, they could apply for a licence in their own name. The officer remarked that Mr Samrai should have transferred his licence when he sold the business, and the style of operation seen during the visits did not inspire confidence in the licence holder, who was the person with ultimate responsibility.

The officer reminded the Members that the Review had arisen because members of the public had reported their concerns about the activities of the shop. Trading Standards' priority was to protect the public, not protect a licence or business interests. The Sub-Committee agreed that public protection was of the utmost importance.

The officer did not accept that Mr Samrai was only a landlord, noting that the licence itself showed that he was the licence holder and the DPS - the person with responsibility for the premises, and for the day to day running and selling of alcohol in the shop. Trading Standards therefore saw no alternative but the revocation of the licence. West Midlands Police confirmed that they supported Trading Standards and asked the Members to consider all options.

In response to these closing submissions, the solicitor reminded the Sub-Committee that it was well established that a licence is a property right; the licence holder was simply seeking to protect his property rights. The Sub-Committee accepted this. The solicitor observed that the licence holder had been completely open all the way through both hearings. His desire was simply to preserve the licence to transfer it to a new tenant in the future. He had not been the operator, and he had not been the person in charge of the shop at the time of the unsatisfactory trading which had given rise to the Review.

When deliberating, the Sub-Committee agreed with both of the responsible authorities that for any licensed premises to be involved in illicit products, and/or goods of unknown provenance, put the licensing objectives at very grave risk; as such, the Sub-Committee took a very dim view of it.

The explanation given for the illegal vapes was that the tenants had perhaps been duped, but it was the responsibility of the licence holder/DPS to ensure that illicit products did not find their way into licensed premises. The ram raid photographs were of some age (they had been taken one and a half years ago), and did not provide a satisfactory explanation for the damaged alcohol bottles which had been found on the dates given in the documents in the Committee Report.

The responsible authorities had observed that they had no confidence whatsoever in the licence holder to uphold the licensing objectives. After scrutinising the evidence carefully, and hearing the submissions in the meeting, the Members shared these concerns. The initial reports to Trading Standards had come from members of the public who had become concerned at the style of trading. Officers who attended gave advice to those at the shop, to no avail. The evidence was more than sufficient to confirm that the premises was operating in a manner which undermined the licensing objectives.

The Sub-Committee looked at all options when making its decision, and placed particular emphasis on the need to ensure that it had confidence that the premises would not engage in, and encourage, criminal activity; criminal activity affected not only consumers, but also respectable local businesses in Birmingham.

The Members were also aware of the need to consider whether they had confidence that the premises could uphold not only the licensing objectives generally, but also its own licence conditions, as nothing in the operating style described in the meeting had inspired confidence.

The Members gave consideration to the solicitor's suggestion that they could modify the conditions to ensure that the current tenants were not permitted to trade, and furthermore that they could remove the DPS. However, the Members were not satisfied, given the evidence submitted, that the licensing objectives would be properly promoted following any such determination, or that the premises would operate within the law if the determination was simply to modify the conditions to exclude the existing tenants from the operation.

The evidence had shown a complete disregard for the law by the licence holder. The operation had been managed in a way that was not merely irresponsible, but also illegal. The findings had shown a lack of professional supervision and control by Mr Samrai as the licence holder, and in short he had demonstrated that he was incapable of upholding the licensing objectives.

The Sub-Committee found it unpersuasive that Mr Samrai had felt that the licence should be protected for him, given that he had amply demonstrated that he did not take his duties seriously. The view of the Members was that it had been entirely Mr Samrai's own responsibility to ensure that the licence was protected, namely by checking that activities were being conducted in accordance with the licensing objectives. Instead, the premises had become associated with illicit and illegal products. This was a danger to the public; the Sub-Committee noted that local residents had been sufficiently worried to report the shop to Trading Standards.

The Members accepted the solicitor's comment that premises licences were a legitimate property right. However, the issue was whether the licence holder had prioritised the prevention of crime and disorder, and public safety, as he was required to do. Overwhelmingly, the Sub-Committee considered that it was only prepared to support the rights of a local businessman where that businessman was upholding the licensing objectives. This was abundantly not the case with the instant licence holder.

Mr Samrai confirmed that the attempt two years ago to transfer the licence had failed. Mr Samrai had therefore been aware that he remained the licence holder and the DPS – yet he had not taken responsibility for the premises. The Members noted that no paperwork whatsoever had been put before the Sub-Committee to confirm that the tenants were in charge of the business, or were responsible for trading. This was quite unsatisfactory, as such paperwork would presumably have been readily available.

Mr Samrai had told the Sub-Committee that he had no intention of trading under the licence himself, and instead would seek new tenants. However, there was something of a question mark over whether he would make the arrangements properly to ensure that there would be no risks to the upholding of the licensing objectives.

All in all, the Members had no confidence in Mr Samrai to meet the standard expected of licence holders in Birmingham. The Members also noted that it had been local people who had initially raised their concerns with Trading Standards. The Members felt it was important for the Sub-Committee to reassure the local community that there

would be consequences for licence holders whose premises were found to be trading in illicit goods.

After scrutinising all the evidence, the Sub-Committee determined that involvement with illicit goods was indeed so serious that it could not be tolerated. A determination to revoke and to remove the designated premises supervisor would follow the Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003, and was an entirely proportionate sanction given that the premises' style of operation seriously undermined the prevention of crime and disorder, and public safety, objectives in Birmingham.

There were no compelling reasons to depart from the Guidance on this occasion. To take some other course (other than revocation and removal of the designated premises supervisor) ran the risk of sending a message that trading in illicit goods was not a serious matter, or that there would be no consequences for illegal activities, which the Sub-Committee was not prepared to do. The Sub-Committee therefore resolved to revoke the licence and to remove Mr Samrai as designated premises supervisor.

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 written representations received and the submissions made at the hearing by Trading Standards, by West Midlands Police, by the solicitor for the licence holder and the licence holder himself.

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 determined.