

Public Document Pack



Meeting of the Licensing Act 2003 Sub-Committee held at the Town Hall, Peterborough on 1 AUGUST 2018

RECORD OF PROCEEDINGS

1. Election of Chairman	Following a nomination which was seconded, Councillor Hiller was appointed as the Chairman for this meeting.
1. Apologies for Absence	There were no apologies for absence received.
2. Declarations of Interest	There were no declarations of interest.
3. Application	Review of Premises Licence
3.1 Application Reference	Review: 077399 Premises Licence: 074451
3.2 Sub-Committee Members	Councillor Hiller Councillor Allen Councillor Hussain
3.3 Officers	Simon Andrews, Regulatory Officer Andrew Burton, Lawyer – Legal Advisor to the Sub-Committee Karen S Dunleavy, Democratic Services Officer – Clerk to the Sub-Committee
3.4 Applicant	Trading Standards
3.5 Nature of Application	<p><u>Application Type</u></p> <p>Application for a review of the premises licence.</p> <p><u>Summary of Premises Licence Review</u></p> <p>In accordance with the Licensing Act 2003, following the submission of an application for a review of the premises licence for Lifestyle Convenience Store, 29 London Road, Peterborough, PE2 8AN, the Licensing Authority was required to hold a hearing.</p> <p>A summary of the issues raised by the applicant were as follows:</p> <p>On 18 December 2017 Trading Standards Officers visited the Lifestyle Convenience Store following complaints of the shop selling foreign labelled cigarettes. The shopkeeper Mr Ahmed Mustafa picked up a black holdall that was behind the till and immediately walked out of the rear of the shop to his car. He returned without the holdall. The owner of the shop was telephoned and the designated premises supervisor Mr Ahmed Ghafoor arrived shortly after. Whilst waiting for Mr Ghafoor, several customers came into the shop asking for cheap cigarettes. Mr Ghafoor advised that the shop do not sell foreign labelled cigarettes and advice was given.</p> <p>Following further complaints on 19 January 2018, a test purchase exercise</p>

	<p>was carried out by Trading Standards Officers on the sale of foreign labelled cigarettes. A purchase was made of a Lithuanian packet of Marlboro Gold for £5.50 at the Lifestyle Convenience Store.</p> <p>On 29 January 2018 Trading Standards Officers visited Lifestyle Convenience Store and a seizure was made of 6000 cigarettes (300 packets) and 1600g of hand rolling tobacco (32 pouches) that were found at the rear of the shop in plastic bags, bin liners and a black holdall. The tobacco was believed to be counterfeit and the cigarettes were suspected to fail safety requirements.</p> <p>Following an interview with the owner Mr Ardalan Mahmood, handed over a letter from his friend admitting that they were his cigarettes and that he had left them in the shop.</p> <p>Following further complaints, Trading Standards Officers visited the Lifestyle Convenience Store on 9 March 2018 and spoke to the shopkeeper Mr Mustafa. Foreign cigarettes were not being stored in the shop, however, a plastic bag hanging behind the counter was full of foreign labelled Amber Leaf and Marlboro Gold sleeves and outer wrapping which could not be explained other than 'they must have been there from the night before as the employer Mr Ahmed (DPS) was working.</p> <p>Four more complaints were received regarding the sales of cheap foreign labelled cigarettes.</p> <p>On 21 May 2018 a test purchase was made of a foreign labelled packet of Marlboro Gold and £5.50 was paid. The male shopkeeper walked out of the back door and retrieved cigarettes from a white van parked outside the door.</p>
3.5.1.1 Licensing Objective(s) under which representations were made	Prevention of Crime and Disorder
3.7 Parties/Representatives and witnesses present	<p><u>The Licensing Authority</u></p> <p>The Regulatory Officer, who presented the case on behalf of the Licensing Authority.</p> <p><u>The Applicant</u></p> <p>The applicant was Trading Standards.</p> <p><u>The Licence Holder</u></p> <p>The Licence Holder Mr Ardalan Mahmood.</p> <p>The Designated Premises Supervisor, Ahmed Gafoor.</p> <p>A Member of Staff from the Lifestyle Store Miss Cherie Cornock.</p>
3.8 Pre-hearing considerations	There were no pre-hearing considerations.

<p>and any decisions taken by the Sub-Committee relating to ancillary matters</p>	
<p>3.9 Oral representations</p>	<p>The Regulatory Officer addressed the Sub-Committee and outlined the main points with regards to the application.</p> <p><u>Applicant</u></p> <p>The Regulatory Officer, Karen Woods addressed the Sub-Committee and outlined the main points with regards to the application. The key points raised in her address included:</p> <ul style="list-style-type: none"> ● Test purchasing visits had been made on 19 January 2018, then another on 29 January 2018. ● Bags containing tobacco and tobacco products were found on the premises where Mr Mahmood lived above the shop. ● Following further complaints the premises was visited again on 21 May 2018. <p><u>Responsible Authority</u></p> <p>PC Robinson, Cambridgeshire Police, addressed the Sub-Committee. The key points raised during his address, and following questions from the Sub-Committee were as follows:</p> <ul style="list-style-type: none"> ● Information was provided to the police on a number of occasions regarding the sale of illicit tobacco which was passed to Trading Standards. ● The applicant enquired as to the name of who was working in the shop at the time of the test purchases and the Committee was advised this was not known and it would have been a question for the owner. <p><u>Licence Holder</u></p> <p>The representation on behalf of the licence holder, Mr Ardalan Mahmood was made by an employee Cherie Cornock who addressed the Sub-Committee. The key points raised during the address and a summary of questions from the Sub-Committee were as follows:</p> <ul style="list-style-type: none"> ● The owner was not aware that illicit cigarettes were being sold in the shop on 21 May 2018. ● A gentleman known as Mr Mustafa, who wanted to purchase the shop had asked to work in the shop beforehand to obtain an understanding of the day to day business; and ● Mr Mustafa was working in the shop between January 2018 to June 2018. ● Cherie Cornock commenced working in the shop from 10th June 2018, although was a customer before that and had not witnessed the sale of illicit tobacco. ● A phone call had been received by the licence holder from Commercial House to state that the lease of the shop had been transferred to Mr Mustafa. The Licence holder Mr Mustafa, was unclear who the current leaseholder was. ● The licence holder had a responsibility to ensure legitimate trading took place on the premises and apologised for not understanding this.

The licence holder stated that he knew nothing about the sale of illicit tobacco and stated that it would not happen again.

- There had been a catalogue of events within a six month period surrounding the sale of illicit tobacco, however, staff and CCTV were not replaced until May 2018.
- The licence holder explained that the delay in staff replacement was due to the fact that Mr Mustafa had intended to take over the operation of the business, although it was also confirmed that the lease negotiations had failed in March 2018.
- It was confirmed that a member of staff had not been replaced following the illicit tobacco offences and had continued to be employed at the business after May 2018. The licence holder also confirmed that the member of staff, which had not been replaced in May 2018, had not been involved in the sale of illicit tobacco.
- The van parked directly outside the shop where the illicit tobacco had been stored, was registered to the shop's address. The licence holder's representative advised that the van was currently empty of stock.
- The van was also currently off the road, however, was driven usually by the licence holder to collect stock when it was on the road.
- Stock of low value, such as sweets, crisps and alcohol which could not be accommodated in the stockroom, was stored in the back of the van.
- The illicit tobacco had been discovered in the van in question.
- Mr Mustafa had commenced employment in the shop in January 2018, however the licence holder, confirmed that the Regulatory Officer had spoken to Mr Mustafa at the Lifestyle convenience premises, in December 2017.
- It was confirmed that the licence holder had received a letter on the morning of the hearing, 1 August 2018, from Commercial Office stating that Mr Mustafa was appointed as the leaseholder.

Summing Up

All parties were given the opportunity to summarise their submissions.

Applicant

Trading Standards

- A letter received from Hunt and Coombs Solicitors on behalf of the licence holder had not disputed that there had been sale of illicit tobacco on the premises known as Lifestyle convenience store.
- The review was not to establish the guilt or innocence of any individual but to ensure the crime prevention objective was being promoted.
- There were concerns of who was currently in control of the business as Mr Mustafa was involved in the illicit tobacco seizures.
- There were concerns that the licence holder had not known what events had taken place in his own business whilst residing above and working in the premises.
- The illicit tobacco that had been smuggled, were unlicensed and unregulated.

Responsible Authority

- A revocation of the premises licence was endorsed and supported.

	<p>Licence Holder</p> <p>The Sub-committee was advised that the licence holder considered Mr Mustafa to be the current owner of the Lifestyle Convenience Store.</p>
<p>3.10 Written representations and supplementary material taken into consideration</p>	<p><u>Applicant</u></p> <p>Consideration was given to the application for a Premises Licence review, attached to the Sub-Committee report.</p> <p><u>Responsible Authority</u></p> <p>Consideration was given to the representation in support of the review to the Sub-Committee report.</p>
<p>3.11 Facts/Issues in dispute</p>	<p><u>Issue 1</u></p> <p>Whether the premises licence application would further support the 'Prevention of Crime and Disorder' Licensing Objective.</p>
<p>4. Decision</p>	<p>The Sub-Committee listened to all the evidence put before it and also took into account the contents of the application and all representations and submissions made in relation to it. The Sub-Committee considered the information found as follows:-</p> <p>After receipt of a number of complaints, Trading Standards undertook several test purchases over a period of time and seized significant quantities of illicit tobacco.</p> <p>An interview was undertaken with the Licence Holder Mr Mahmood, who denied knowledge of the items being in the premises.</p> <p>The Sub-Committee were told that the tobacco had been handled by a person - a Mr Mustafa - who was working in the business in order to assess its viability with a view to purchasing it.</p> <p>The Sub-Committee were informed that the sale of the premises to Mr Mustafa had been unsuccessful in April 2018.</p> <p>The Sub-Committee were advised that, Mr Mohammed was informed on the morning of the hearing that the lease was currently owned by the same Mr Mustafa.</p> <p>The Sub-Committee noted the concerns raised by Trading Standards regarding who was in fact said to be running the business.</p> <p>The Sub-Committee were reminded of the provisions within the Government Guidance issued under the Act, at paragraphs 11.24, 11.26, 11.27 and 11.28.</p> <p>The Sub-Committee believed that criminal activity was associated with the premises and that these premises were not promoting the licence objective of crime prevention, therefore the Sub-Committee considered revocation in the first instance, in line with paragraph 11.28 of the Guidance.</p>

The Sub Committee, were concerned with the serious health and other risks associated with illegal importation and unregulated sales of such tobacco products. Such sales deprived Her Majesty's Revenue Customs, allowed an unfair business advantage, and posed a risk to unsuspecting members of the public.

The Sub-Committee considered other options available but believed that these would not promote the licensing objective of the Prevention of Crime and Disorder.

Therefore, the premises licence for the premises, known as Lifestyle Convenience Store 29 London Road Peterborough SPE2 8AN, was **REVOKED**.

Attendees were advised that if any party was in objection to the decision made, they may appeal to the Peterborough Magistrates Court within 21 days.

Chairman
Start 1:30pm – End 2:33pm