

PETERBOROUGH

Meeting of the Licensing Act 2003 Sub-Committee
held at the Town Hall, Peterborough on Monday, 11 December 2014

RECORD OF PROCEEDINGS

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 Licenses, 653 Lincoln Road
3.1 Application Reference	070306
3.2 Sub-Committee Members	Councillor Thacker (Chairman) Councillor Hiller Councillor Saltmarsh
3.3 Officers	Terri Martin, Regulatory Officer – Licensing Colin Miles, Lawyer – Legal Advisor to the Sub-Committee Pippa Turvey, Senior Democratic Services Officer – Sub-Committee Clerk
3.4 Applicant	Trading Standards
3.5 Nature of Application	<p><u>Application Type</u></p> <p>Review of Premises Licence</p> <p><u>Summary of Application</u></p> <p>To consider and determine an application for the review of a Premises Licence under Section 51 of the Licensing Act 2003 for 653 Lincoln Road, taking into account the representation made by Trading Standards in their capacity as a Responsible Authority and the representations in support of the review by Cambridgeshire Constabulary and Public Health, also Responsible Authorities. The review was brought under the Prevention of Crime and Disorder and Public Safety objectives.</p> <p>A summary of the issues raised within the representations included:</p> <ul style="list-style-type: none"> • Illicit tobacco and cigarettes found hidden in the premises and van. • The premises licence holder has pled guilty to 5 offences in relation to illicit tobacco products at Peterborough Magistrates Court on 15 October 2014. • Section 11.28 of Guidance (issued under section 182 of the Licensing Act 2003) recommends that revocation of the licence even in the first instance, should be seriously considered where reviews arise and the licensing authority determines, that the crime prevention objective is being undermined through the premises being used to further crimes. • Impact on Public Safety as the illicit cigarettes breach EU Standards which is an offence under UK regulations requiring traders to supply safe goods. • The distribution and sale of illicit goods is linked to serious and organised crime.
3.6 Licensing Objective(s) under which representations were	1. Prevention of Crime and Disorder

made	
3.7 Parties/Representatives and Witnesses present	<p><u>Responsible Authorities</u></p> <p>Karen Woods, Trading Standards PC Grahame Robinson, Cambridgeshire Constabulary</p> <p><u>Licence Holder and Representative</u></p> <p>Mr Ghulam Jaferi, Licence Holder Mr Jamal Khalil, Licence Holder Representative</p>
3.8 Written Representations	<p><u>Responsible Authorities</u></p> <p>Consideration was given to the written representation from Public Health, attached to the report at Appendix D.</p>
3.9 Facts/Issues in Dispute	<p><u>Issue 1</u></p> <p>Whether the update of the premises license conditions would further support the 'Prevention of Crime and Disorder' Licensing Objective.</p>
3.10 Oral Representations	<p>The Regulator Officer addressed the Sub-Committee and outlined the main points with regards to the application. The key points raised in the address included the administrative error raised in paragraph 2.2 and 2.3 of the report, in relation to a minor variation of conditions the licensing objection of 'Prevention of Crime and Disorder'.</p> <p><u>Responsible Authority – Trading Standards</u></p> <p>Karen Woods, Trading Standards, addressed the Sub-Committee. The key points raised during her address, and following questions from the Sub-Committee were as follows:</p> <ul style="list-style-type: none"> • The application for review had resulted from the seizure of illicit tobacco. • The tobacco had been discovered by a search dog in concealed in bin liners underneath the counter. • Further illicit tobacco was discovered in a van parked outside the shop. • The tobacco was easily accessible at the counter. A test purchase had previously been carried out and illicit tobacco was able to be purchased. <p><u>Licence Holder & Licence Holder Representative</u></p> <p>Mr Jaferi, the Licence Holder, and Mr Khalil, the Licence Holder representative, 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"> • It was confirmed that the Sub-Committee and those present had received the newspaper extracts provided by the Licence Holder Representative. • The offences referenced in the report had occurred within a two week time frame in March 2014. During the failed test purchase of illicit tobacco, Mr Jaferi was in London. At the time of the seizure, Mr Jaferi was out of the country. • Extra staff had been hired in the staff for the time Mr Jaferi was

elsewhere. Mr Jaferi was not aware of their actions, however had accepted responsibility of the shop.

- Under section 182 of the Licensing Act 2003, the Sub-Committee could issue an informal warning.
- The Licence Holder paid business rates and tax. He had invested his life savings into the shop. Revoking the alcohol licence would remove 85% of his earnings and he would have to close down.
- It was submitted that there was little chance of further crimes being committed at the premises as the Licence Holder was aware of the close scrutiny he would be under.
- The conditions proposed by Trading Standards were accepted by the Licence Holder and would be adhered to.
- The Licence Holder Representative highlighted several comparable cases in other local authority areas that had received suspension of their licence instead of revocation. It was submitted that these instances were of a more serious nature than the one before the Sub-Committee today.
- It was not known if these examples were within a cumulative impact area, such as the 'Operation Can Do' area.
- It was clarified that the van in which illicit tobacco was discovered was the property of the shop.
- The Designated Premise Supervisor was present at the time of the seizure. It was stated that the DPS knew nothing of the sale of illicit tobacco.

It was clarified by Karen Woods, Trading Standards, that there had been previous prosecutions against the premise regarding out of date food. Mr Jaferi had been the Licence Holder, however sufficient time had passed for this not to be relevant to the review.

The Regulatory Officer explained that extra conditions had been added to the premise licence after a failed test purchase for underage sales. No prosecution had arisen as the failure was part of a 'three strikes' policy, and was the 'first strike'. The Licence Holder had then submitted further conditions, however an administrative error meant that these had not been added to the premise licence.

Responsible Authority – Cambridgeshire Constabulary

PC Grahame Robinson, Cambridgeshire Constabulary, addressed the Sub-Committee. The key points raised during his address, and following questions from the Sub-Committee, were as follows:

- The Police had attempted to work with and educate premise licence holder's in the 'Operation Can Do' area not to sell illicit products.
- It was not considered that Mr Jaferi was a fit and proper person to hold a licence.
- Licences had been previously revoked following such behaviour.
- Authorities should not spend time working with premises that had been previously educated and had disregarded that information.
- A clear message needed to be sent.

Summing up

Parties were given the opportunity to summarise their submissions.

Licensing Authority

The Regulatory Officer reiterated that the Sub-Committee needed to consider the issues relevant to the Licensing Objective. It was also noted that although the Licence Holder was not present in the shop on the occasions in question, he had employed those individuals that were present.

Licence Holder & Licence Holder Representative

The Licence Holder Representative restated that the Licence Holder was not present during the incidents referred to in the review. He had accepted responsibility. It was suggested that the licensing objectives would not be put at risk if the premises licence was maintained, as the Licence Holder would work more closely with the Licensing Authority. A revocation of the licence would result in the loss of the Licence Holder's livelihood.

The Licence Holder Representative urged the Sub-Committee to either add further conditions to the premises licence or impose a temporary suspension of the premises licence, rather than revocation.

3.11 Decision

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 found as follows:-

In their deliberations, the Sub-Committee considered:

- The Government Guidance and the Council's own statement of Licensing Policy which reflected the Government Guidance;
- Representations in writing and those made to the Sub-Committee at the hearing from all parties;
- The letter from the licence holder dated October;
- The newspaper reports kindly submitted by the licence holder's representative; and
- The proposed conditions as an alternative to revocation.

The licence holder's representative had informed the Sub-Committee that Mr Jaferi was out of the country from 11 March so was not able to monitor what was happening in the shop during his absence, and that it was the responsibility of the designated premises supervisor. However, Mr Jaferi was in the country on the 5 March.

The tobacco products were being sold by a member of staff without his knowledge.

The Sub-Committee disregarded the previous issues of the out of date food prosecution and failed test purchase, given the time that had elapsed.

The options available to the Sub-Committee were:

- (a) to modify the conditions of the premises licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor from the licence;
- (d) to suspend the licence for a period not exceeding three months, or
- (e) to revoke the licence.

It was the Sub-Committee's decision to exclude from the licence, the licensable activity of the retail sale of alcohol as the Sub-Committee did not believe that any conditions would prevent further sales of such products.

Chairman
1:30pm – 3:05pm