



Meeting of the Licensing Act 2003 Sub-Committee
held at the Town Hall, Peterborough on Thursday, 9 July 2015

RECORD OF DECISION

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 – Baltia Off Licence - 148/150 Huntly Grove, Peterborough, PE1 2QN
3.1 Application Reference	MAU 071435
3.2 Sub-Committee Members	Councillor Thacker MBE (Chairman) Councillor Coles Councillor Herdman
3.3 Officers	Darren Dolby , Regulatory Officer – Licensing Colin Miles, Lawyer – Legal Advisor to the Sub-Committee Karen S Dunleavy, Democratic Services Officer – Clerk to the Sub-Committee
3.4 Applicant	Cambridgeshire Constabulary
3.5 Nature of Application	<p><u>Application Type</u></p> <p>Review of Premises License.</p> <p><u>Summary of Review Application</u></p> <p>In accordance with section 51 of the Licensing Act 2003, following the submission of an application to review the premises licence from Cambridgeshire Constabulary, a Responsible Authority, the licensing authority was required to hold a hearing.</p> <p>The application to review, served by Constabulary, was received on 20 March 2015.</p> <p>A representation in support of the review and recommendations had been received from Trading Standards, as Responsible Authorities. No other representations had been received from any of the remaining Responsible Authorities.</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. • The DPS had a premises licence application for another premises refused by the Licensing Act 2003 Sub Committee in September 2013. This was after a representation from Trading Standards after seizures of illicit alcohol and cigarettes and the premises. • Section 11.28 of Guidance (issued under section 182 of the Licensing

	<p>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.</p> <ul style="list-style-type: none"> • 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 <p>Further representations from the Eastern Neighbourhood Delivery Team. A summary of the issues raised included:</p> <ul style="list-style-type: none"> • Breach of the Crime and disorder objective.
3.6 Licensing Objective(s) under which representations were made	1. The Prevention of Crime and Disorder
3.7 Parties/Representatives and witnesses present	<p><u>Applicant / Responsible Authority</u></p> <p>Grahame Robinson, who presented the case on behalf of Cambridgeshire Constabulary</p> <p><u>Responsible Authorities</u></p> <p>Karen Woods, who was present on behalf of Trading Standards.</p> <p><u>Licensee / Representative</u></p> <p>Ian Jones, the Licence Holder’s Representative was in attendance.</p>
3.8 Pre-hearing considerations and any decisions taken by the Sub-Committee relating to ancillary matters	There were no pre-hearing considerations.
3.9 Oral representations	<p>The Regulatory Officer addressed the Sub-Committee and outlined the main points with regards to the application.</p> <p><u>Applicant / Responsible Authority– Cambridgeshire Constabulary</u></p> <p>Grahame Robinson 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"> • There were suspicions that the licensee had connections with Euroshop, this could not be confirmed as there was no evidence. • Although the tobacco and molasses were a flavoured product they were still required to be duty paid, this was the reason for confiscation. • The issue was with the counterfeit illicit items and suspicions that the Designated Premises Supervisor (DPS) was not fit and proper to sell alcohol at the premises in question. • Depending on the outcome of the review, there would be a pending application made to transfer the license in to the sole name of the DPS with some safeguards attached to reassure the police of proper

conduct.

- The police would make suitable representation against any further application made by the DPS.

Licensee

Ian Jones, addressed the Sub-Committee. The key points raised during his address, and following questions from the Sub-Committee, were as follows:

- The items found inside the premises were for personal use not sale.
- The bottles of alcohol found in the freezer were for the use at Mr Jabar's birthday party, which was going to take place on the evening of the raid. This was evidenced with a copy of Mr Jabar's driving license.
- The DPS had no involvement in the possession of the illicit goods and felt that this was a matter of great concern as she made a living from the premises.
- The DPS was prepared to ban Mr Jabar from having access to the premises during and outside of operational hours and understood that if items were to come on to the premises without her knowledge or involvement there would be harsh consequences. She was also aware that responsible authorities would be keeping a close eye on the premises if she was allowed to retain her license.
- The quantities of illicit goods found on the property were relatively small and consistent with personal use.
- The DPS was no longer emotionally associated with Mr Jabar.
- Could the Sub-Committee consider that as there was no evidence that the DPS was not involved directly with the presence of contraband items in the premises and be invited to listen what the DPS was now prepared to action to ensure that the license did not have to be revoked, including extra conditions imposed on the license or to suspend the license for a period of time.
- The DPS would be able to take on the premises license, without any involvement of Mr Jabar and be personally responsible to ensure there was no involvement with contraband goods in future.
- A copy of Mr Jabar's driving license and an authority document was circulated round the Sub-Committee.
- Grahame Robinson addressed the Committee and advised that the premises was located in the Can Do area.
- Mr Jabar and Mr Jabari were brothers.
- Mrs Siatkiene had previously applied for a premises license for the Euroshop, which was strongly objected.
- There had not been any requests made by any person connected to the premises for the seized goods to be returned by HMRC.
- The DPS was not responsible for the conduct of alcohol on the first occasion when the license was reviewed, as she was the owner of the premises and not the premises license holder. She was in a joint venture at the time with Mr Jabar. Now that she was no longer associated with Mr Jabar, it would be desirable for Mrs Siatkiene to take over the running of the premises and remove Mr Jabar from having any involvement with the premises, as she had a personal license.

Summing Up

All parties were given the opportunity to summarise their submissions and

	<p>there were no further comments made by any party.</p>
<p>3.10 Written representations and supplementary material taken into consideration</p>	<p><u>Applicant / Responsible Authority – Cambridgeshire Constabulary</u></p> <p>Consideration was given to the application submitted by Cambridgeshire Constabulary and attached to the Sub-Committee report.</p> <p><u>Responsible Authorities</u></p> <p>Consideration was given to the written submissions attached to the Sub-Committee report from Trading Standards a Responsible Authority.</p> <p><u>Other Persons</u></p> <p>Consideration was given to the written submissions attached to the Sub-Committee report from Eastern Neighbourhood Delivery Team.</p>
<p>3.11 Facts/Issues in dispute</p>	<p><u>Issue 1</u></p> <p>Whether the review 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 found as follows:-</p> <p>The Committee considered the representations made today in relation to the application. A summary of the issues raised included:</p> <ul style="list-style-type: none"> • Illicit tobacco and cigarettes found hidden in the premises; • The DPS had a Premises Licence application for another premises refused by the Licensing Act 2003 Sub-Committee in September 2013. This was after a representation from Trading Standards after seizures of illicit alcohol and cigarettes on the premises; • 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; and

- The distribution and sale of illicit goods is linked to serious and organised crime.

The Sub-Committee considered such steps as appropriate to promote the licensing objective, of the prevention of crime and disorder. The steps were:

- to modify the conditions of the Premises Licence;
- to exclude a licensable activity from the scope of the licence;
- to remove the designated premises supervisor from the licence;
- to suspend the licence for a period not exceeding three months; or
- to revoke the licence.

The Sub-Committee acknowledged that this review was for a different premises and that Mr Saade Jalal Jabar was not the Premises Licence holder or the designated premises supervisor, but the Sub Committee did believe that he was a controlling influence on the business and took into account his association with the premises.

The Sub-Committee cast doubt on the true motives behind the licence transfer in March of this year and believed that it was not for legitimate business reasons.

The Sub-Committee believed that the business was being operated by the DPS and Mr Saade Jalal Jabar without any responsibilities under the Licensing Act resting on Mr Marwan Jalal Jabari

The transfer of the licence and the lack of accountability demonstrated that these premises went against the spirit of the Licensing Act and was a manipulation designed to promote dishonesty and criminal activity.

The Government guidance stated that 11.26 *Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.*

11.27 *There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. This includes: for the sale or storage of smuggled tobacco*

11.28 *It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.*

The Sub-Committee attached little credibility to the submissions made by Counsel on behalf of his client.

The Sub-Committee believed that the DPS should have acted with greater responsibility given her previous history associated with illicit goods. The Sub-Committee believed that the controlling mind behind the business was in fact Mr Saade Jalal Jabar and that Mr Marwan Jalal Jabari, brother to Mr Saade Jalal Jabar, had no control or influence whatsoever in the running of the business.

The Sub-Committee considered removing the DPS from the premises, to suspend the licence for a period not exceeding three months and to amend the conditions.

The Sub-Committee did not believe that any step other than revocation would be sufficient to promote the licensing objective of the prevention of crime and disorder.

The Sub-Committee therefore revoked the licence for the premises, known as Baltia Off Licence - 148/150 Huntly Grove, Peterborough, PE1 2QN, in its entirety.

The Sub-Committee advised that any party in objection to the decision could appeal to the Peterborough Magistrates Court within 21 days of receiving the formal decision notice.

Chairman
Start 1.30pm – Finish 3.11pm