



Meeting of the Licensing Act 2003 Sub-Committee
held at the Town Hall, Peterborough on 11 August 2022

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 Licence
3.1 Application Reference	MAU : 117990
3.2 Sub-Committee Members	Councillor Wiggin (Chair) Councillor S Bond (Vice Chair) Councillor Moyo
3.3 Officers	Darren Dolby, Regulatory Officer Colin Miles, Lawyer – Legal Advisor to the Sub-Committee Pippa Turvey, 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 a premises licence.</p> <p><u>Summary of Premises Licence Review Application</u></p> <p>In accordance with the Licensing Act 2003, following the submission of an application for a premises licence review for Lara (International Drinks) – 415 Lincoln Road, Peterborough, PE1 2PF, the Licensing Authority was required to hold a hearing.</p> <p>A summary of the issues raised within the application included:</p> <ul style="list-style-type: none"> • Illicit cigarettes were found hidden in 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

	<p>goods.</p> <ul style="list-style-type: none"> The distribution and sale of illicit goods is linked to serious and organised crime
3.6 Licensing Objective(s) under which representations were made	<ol style="list-style-type: none"> The Prevention of Crime and Disorder The Prevention of Public Nuisance The Protection of Children from Harm Public Safety
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>Applicant</u></p> <p>The applicant Cambridgeshire Police represented by PC Chris Arnold.</p> <p><u>Licence Holder</u></p> <p>Mr Hevar Zrari</p>
3.8 Pre-hearing considerations and any decisions taken by the Sub-Committee relating to ancillary matters	<p>There were no pre-hearing considerations.</p>
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</u></p> <p>PC Arnold 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 no questions from the Committee. <p><u>Licence Holder – Mr Hevar Zrari</u></p> <p>Mr Zrari 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"> The Licence Holder was on holiday during the seizure of the tobacco. He said he was unaware of illicit tobacco on his premises and was aware of the regulations. He believed that the seized tobacco belonged to someone working with his father. He pointed to his lack of criminal record and efforts to adhere to the rules, emphasising that he would not want to jeopardise his career over a small amount of tobacco. Members were advised by Mr Zrari, the Licence Holder, that the person in question was not

	<p>currently employed by him.</p> <ul style="list-style-type: none"> • Mr Zrari confirmed that staffing checks included asking about criminal records. He also had CCTV on his phone and visited the shop to ensure everything was order. • Mr Zrari confirmed that he was not aware that the unknown person was on the premises while he was away and that his father had not understood the regulations. • Mr Zrari confirmed that he had reviewed CCTV footage of the shop after being made aware of the raid. He said he was devastated that this event had happened on his premises. • Mr Zrari confirmed that the CCTV footage would be retained for several days and that he would not have the footage from the days before the incident took place. Mr Zrari was also unsure how the cigarettes entered the premises. • Mr Zrari confirmed that he was away for two days before the raid took place. He was on a camping holiday in Wales. He had not produced any evidence of the holiday, however, he confirmed that he was willing to invite friends as witnesses to a future hearing. • The applicant could not confirm if he had notified the authorities that the store had no DPS after the departure of Mr Salih and whether he was registered as the designated premises supervisor. • Members were advised that Mr Salih had left the shop's employment in July, though he could not be sure. • Members were advised that there had been no formal notification received from the licence holder that the Designated Premises Supervisor had been removed. <p><u>Summing Up</u></p> <p>All parties were given the opportunity to summarise their submissions.</p> <p><u>Licence Holder</u></p> <p>Had not had the time to change over the DPS details.</p> <p><u>Applicant</u></p> <p>PCC Arnold reiterated that the premises had been used for a crime.</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>

3.11 Facts/Issues in dispute	<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><u>Issue 2</u></p> <p>Whether the premises licence application would further support the 'Prevention of Public Nuisance' Licensing Objective.</p> <p><u>Issue 3</u></p> <p>Whether the premises licence application would further support the 'Protection of Children from Harm' Licensing Objective.</p> <p><u>Issue 4</u></p> <p>Whether the premises licence application would further support the 'Public Safety' Licensing Objective.</p>
4. Decision	<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 Sub-Committee considered the representations made and in writing from:</p> <ul style="list-style-type: none"> • PC Arnold of Cambridge Constabulary • Mr Zrari – Premises Licence Holder <p>The Sub-Committee considered:</p> <p>The business operated as an off licence and was licensed to sell alcohol Monday through to Sunday from 10am to 11pm.</p> <p>The Premises Licence Holder was Mr Hevar Zrari who had held the licence since December 2017; and the Designated Premises Supervisor was Mr Dildar Salih.</p> <p>The premises was visited on 28 April 2022, by HMRC officers. The officers found some 4,540 mixed branded cigarettes which were non UK duty paid.</p> <p>This meant that it was unlawful to sell these cigarettes in the UK as they were illicit tobacco products.</p> <p>These cigarettes would not have been lawfully imported into the UK so it was more likely than not that the cigarettes were smuggled into the UK.</p>

The Sub-Committee heard and read that the packets had not had the legally required warnings in English.

Such illicit tobacco products deprived HMRC of lawful revenue; conferred an unfair advantage on retailers who stocked them due to the lower cost; and fell outside of the health and safety consumer framework.

Such smuggling also funded other more serious crime such as people trafficking and the unlawful drugs trade.

In support of retaining the licence, Mr Zrari stated:

- He was away on holiday camping at the time of the visit and had left two days before.
- His Father was in charge of the shop with an unnamed individual in his absence.
- It had been the unnamed individual who was responsible for the cigarettes.
- He kept CCTV footage for a few days only.
- There was no DPS currently for the premises. The DPS left in July.
- He was fully aware of his responsibilities and had not been in trouble before.

Mr Zrari had not brought with him any evidence that he was away on holiday at that time. He had not retained the CCTV footage for April, and had not evidenced when Dildar Salih (the former DPS) left his employment.

The Sub-Committee had not attached much credibility to Mr Zrari's version of events.

In its deliberations, the Sub-Committee were referred to paragraphs 11.26, 11.27 and 11.28 of the Statutory Government Guidance.

In brief:

Para 11.26 - Where the licensing authority is conducting a review on the grounds of that the premises have been used for criminal purposes, its role is to determine what action should be taken in connection with the premises licence, for the promotion of the crime prevention objective.

Para 11.27 - There was certain criminal activity that may arise in connection with the licensed premises which should be treated particularly seriously. These were the use of licensed premises amongst other things, for the sale or storage of smuggled tobacco.

Para 11.28 - Where reviews arose and the licensing authority determined that the crime prevention objective was being undermined through the premises being used to

	<p>further crimes - ie the selling of illicit tobacco products –it was expected that revocation of the licence – even in the first instance – should be seriously considered.</p> <p>The Sub-Committee considered what steps, if any, could be taken to promote the objectives in question. The Sub-Committee took a dim view of such criminal activity for the reasons stated above.</p> <p>The Sub-Committee considered revocation. They were unable to remove the Designated Premises Supervisor from the premises licence, as there was no DPS, a breach of the Act in itself. The Sub-Committee considered attaching additional conditions to the premises licence. The Sub-Committee was of the opinion that this was a serious matter; there was a significant amount of cigarettes seized; and such activity was undertaken purely for monetary gain. There were inherent risks attached to such tobacco products that fell outside of the UK regulatory provisions.</p> <p>It was the Sub-Committee’s decision therefore to REVOKE the Premises Licence, as this had been appropriate in the Sub-Committee’s view, in order to promote the licensing objectives in question.</p>
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Chairman
Start 1.30pm – End 2.25pm

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	Transfer of Premises Licence
3.1 Application Reference	MAU: 118164
3.2 Sub-Committee Members	Councillor Wiggin (Chair) Councillor S Bond (Vice Chair) Councillor Moyo
3.3 Officers	Darren Dolby, Regulatory Officer – Colin Miles, Lawyer – Legal Advisor to the Sub-Committee Pippa Turvey, Democratic and Constitutional Services Manager – Clerk to the Sub-Committee
3.4 Applicant	Ali's Kebab, 3 Fitzwilliam Street, PE1 2RU - Mr Okyahail
3.5 Nature of Application	<p><u>Application Type</u></p> <p>Application for a premises licence transfer.</p> <p><u>Summary of Premises Licence Review Application</u></p> <p>In accordance with the Licensing Act 2003, following the submission of an application for a premises licence transfer for Ali's Kebab, 3 Fitzwilliam Street, PE1 2RU, which had attracted representations in objection to the application, the Licensing Authority was required to hold a hearing.</p> <p>A summary of the issues raised by persons objecting to application included:</p> <ul style="list-style-type: none"> • Following a visit by Home Office Immigration Officers, a total of two persons at the premises were found to be working illegally. • Section 11.28 of Guidance (issued under section 182 of the Licensing Act 2003) recommended that revocation of the licence even in the first instance, should be seriously considered where representations had arisen and the licensing authority determined, that the crime prevention objective was being undermined through the premises being used to further crimes. • At the time of the Home Office Immigration Team visit, Mr Mashroh Oryakhail identified himself as the owner and business operator. However, AL1 Kebab Ltd were still the premises licence holders. • Due to the issue of illegal working highlighted by

	the Immigration Officers, it was felt that Mr Oryakhail was not a fit and proper person to uphold the licensing objectives.
3.6 Licensing Objective(s) under which representations were made	<ol style="list-style-type: none"> 1. The Prevention of Crime and Disorder 2. The Prevention of Public Nuisance 3. The Protection of Children from Harm 4. Public Safety
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>Applicant</u></p> <p>The applicant/representative</p> <p><u>Licence Holder</u></p> <p>PC Chris Arnold</p> <p><u>Other Persons</u></p> <p>Laura Kelsey, Senior Problem Solving Officer, Prevention and Enforcement Service</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. The key points raised in his address included the representation submitted against the application by Cambridgeshire Constabulary and the Authority's Prevention and Enforcement Service (PES).</p> <p><u>Applicant</u></p> <p>Mr Oryakhail 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"> • A visit from the immigration services had been undertaken whilst the applicant was in London. He confirmed that his brother was in the shop while paying a visit, emphasising that his brother was having a meal and not working on the premises. His brother had no personal identification when asked by the Immigration officials. • The applicant listed some of his monthly expenses, including rent of around £1,000 for the shop. • Members were advised that the other person

eating on the premises at the time of the Immigration visit was a homeless person and not a friend or member of the family.

- The applicant was questioned by Members about his movements at the time of the Immigration visit, including the date of his trip to London.
- It was noted that the applicant recently received a fine for £7,000 from Immigration, which he intended to challenge as he felt that it should not have been issued.

Responsible Authority

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

PC Arnold confirmed that there had been no further information that could be provided in relation to the review of the licence, and it was factual based on information gathered by the Immigration Compliance & Enforcement team.

Other Persons

Laura Kelsey, PES Senior Officer, People and Communities, addressed the Sub-Committee. The key points raised during her address, and following questions from the Sub-Committee were as follows:

- Ms Kelsey had no further information to add other than the issues raised in the letter of objection regarding the transfer of the licence.
- Members were advised that in circumstances where an immigration penalty notice or fine imposed was in dispute, an objection to a licence application would need to be taken into consideration by the Sub-Committee

Summing Up

All parties were given the opportunity to summarise their submissions.

Applicant

The applicant reiterated the impact of not having a licence would have on his working life, including the possible loss of his shop.

Responsible Authority

PC Chris Arnold reiterated that contravention to the Immigration laws demonstrated the applicant's disregard for the rules.

	<p><u>Other Persons</u></p> <p>The PES Senior Officer concurred with PCC Arnold's view.</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, attached to the Sub-Committee report.</p> <p><u>Responsible Authority</u></p> <p>Consideration was given to the application for a Premises Licence, attached to the Sub-Committee report.</p> <p><u>Other Persons</u></p> <p>Consideration was given to the written submission attached to the Sub-Committee report from Peterborough Enforcement Services.</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><u>Issue 2</u></p> <p>Whether the premises licence application would further support the 'Prevention of Public Nuisance' Licensing Objective.</p> <p><u>Issue 3</u></p> <p>Whether the premises licence application would further support the 'Protection of Children from Harm' Licensing Objective.</p> <p><u>Issue 4</u></p> <p>Whether the premises licence application would further support the 'Public Safety' 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 Sub-Committee considered the representations made today and in writing from:</p> <p>The premises in question was Ali's Kebab House, 3 Fitzwilliam Street, Peterborough. The licence was for Late Night Refreshment, permitting the sale of hot food and hot drink between the hours of 11pm and 5am the following day.</p>

The representation was submitted by Cambridgeshire Constabulary and supported by Peterborough City Council's Prevention and Enforcement Service acting in the capacity of a Responsible Authority.

The current licence holder was AL1 Kebab Ltd. They wished to transfer the licence to Mashroh Oryakhail.

Section 42.6 of the Licensing Act permits the Chief Officer of Police to object to the transfer if *exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective.*

The Sub-Committee had read the papers before them.

The Sub-Committee heard in person from:

- Mr Oryakhail, Business Operator and Transferee
- PC Arnold of Cambridge Constabulary
- Peterborough City Council's Prevention and Enforcement Service

The short facts were:

On 18th May this year, immigration officers attended the premises and found two persons working there illegally. These persons did not have a right to work in the UK under the Immigration, Asylum and Nationality Act 2006; and their employment was unlawful.

During the visit Mr Oryakhail identified himself as the manager and business operator.

In support of the transfer, Mr Oryakhail stated:

- His brother was preparing food for himself and an unnamed homeless person.
- He was in London at the time of the raid.
- A fine has been issued which may or may not be contested.

The Sub-Committee had not attached much credibility to the business operator's version of events.

The Sub-Committee believed having heard facts, that there had existed exceptional circumstances. The Sub-Committee took a very dim view of those who employ workers not entitled to work in the UK. Often such workers were exploited, HMRC was deprived of legitimate taxes, and such workers were denied their employment rights. It was employment on the cheap.

The Sub-Committee had not believed that transfer of the licence to the transferee would promote the licensing objective of Prevention of Crime and Disorder.

	Therefore, the Sub-Committee REFUSED the transfer as applied for.
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Chairman
Start 2.25pm – End 3.26pm