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Meeting of the Licensing Act 2003 Sub-Committee held at the Town Hall, Peterborough on 23 January 2018

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	Premises Licence Review
3.1 Application Reference	075045
3.2 Sub-Committee Members	Councillor Ayres (Chairman) Councillor Hiller Councillor Saltmarsh
3.3 Officers	Simon Andrews, Regulatory Officer – Colin Miles, 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 premises licence review.</p> <p><u>Summary of Premises Licence Review 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 London Road Late Night Store, 64 London Road, Peterborough, PE2 9BA</p> <p>A summary of the issues raised by persons objecting to application included:</p> <ul style="list-style-type: none"> ● On the 21st of August 2017 a seizure of 560 foreign labelled cigarettes was made by Cambridgeshire Constabulary from Mr Azad Mohammed that were found under the counter. ● On the 28th September 2017 a joint initiative by Trading Standards, HMRC and Cambridgeshire Police was carried out to clamp down on the illicit tobacco and alcohol trade. ● A seizure of 2200 cigarettes and 400g of hand rolling tobacco and 1200 litres of Polish beer was made. Mr Mohammed had 30 days to provide HM Revenue & Customs documentation to establish the duty liability of the alcohol and evidence of the alcohol and evidence of duty payment. This time scale has passed since the seizure and the alcohol was therefore deemed as condemned as forfeit to the crown.

3.6 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>Applicant</u></p> <p>The Regulatory Officer, Trading Standards, who presented the case on behalf of the Licensing Authority.</p> <p>Police Constable Grahame Robinson, who presented the case on behalf of Cambridgeshire Constabulary.</p> <p><u>The Premises Licence Holder</u></p> <p>Mr Mohammed the premises licence holder who presented his case.</p> <p><u>Other Persons</u></p> <p>Ms Gutane Simkeviciute and George Adrian who presented their cases.</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 local residents.</p> <p><u>Applicant - Trading Standards</u></p> <p>The Regulatory Officer, 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 key reasons for review had been outlined within the report. ● There had been two seizures of alcohol and tobacco in the shop. The illicit tobacco seized was found under the counter. <p><u>Responsible Authority - Cambridgeshire Constabulary</u></p> <p>PC 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"> ● Cambridgeshire Constabulary supported Trading Standards in relation to the review due to the seizure of tobacco and alcohol and for all points raised within the report. ● The premises holder had been in attendance at one of the seizures. <p><u>Premises Licence Holder</u></p>

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

- The premises licence holder for London Road Late Store, had been in Hillingdon hospital with his wife when the inspection was carried out, but in attendance on one of the occasions when the inspection had taken place.
- The premises licence holder confirmed that he knew he was ultimately responsible for the business conducted in the shop.
- The premises licence holder claimed to hold no knowledge of where the cigarettes seized in the shop had come from.
- The employee that had been involved in the sale of the illicit goods was no longer employed at the shop.

Other Persons – Gutane Simkevicuite

Gutane Simkevicuite addressed the Sub-Committee. The key points raised during her address, and following questions from the Sub-Committee were as follows:

- The Licence should not be revoked due to one mistake in her opinion.
- Local residents views should be listened to.
- Ms Simkevicuite had lived in the area for three years and had not liked the previous shop owner.
- Previously children were not permitted to enter the shop when it had been in control of the previous shop owner.
- The premises licence holder for London Road Late Shop had operated a good shop and if he was to lose his licence, there were fears that the shop would close. However, Members of the panel confirmed to Ms Simkevicuite that the shop would still operate even if the premises licence was revoked.
- The premises licence holder sold a good range of continental products and it had been convenient in the mornings to buy non-alcoholic drinks for children before school.
- It was surprising that there had not been a larger number of representations made against the licence review from neighbours of the London Road Late Stores. Members advised that there were other premises in the area that provided alcohol sales.

Other Persons - George Adrian

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

- Mr Adrian had purchased goods from the London Road Late store a few times a week and alcohol once or twice a year.
- The premises licence holder always appeared to be good humoured and had stocked good quality products.
- PC Robinson confirmed that removal of the premises licence for the London Road Late store would not close the shop and that it would remain as a convenience store, without being able to sell alcohol.

Premises Licence Holder

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

- All customers were upset to learn that the London Road Late Store licence was being reviewed and had expressed concerns about it being revoked.
- There were not many shops in the area that had sold alcohol.
- The premises licence holder, London Road Late Store was aware that there had been other shops that could sell alcohol within one hundred mile radius. However, stated that 60% of customers purchased alcohol in the London Road Late Store.
- There were customers that had returned to the London Road Late Store after a 12 year period.
- The Regulatory Officer confirmed that there were a number of shops selling alcohol within a one mile radius of the London Road Late Store.
- The premises licence holder confirmed that he had not seen the illegal cigarettes under the counter when the inspection was taking place and would have removed them if he had known they were illegal.
- The premises licence holder confirmed that he was experiencing lot of personal issues which were ongoing, such as family member commitments, illnesses and deaths to cope with.
- The premises licence holder had tried to find invoices for the 400g tobacco, 2200 cigarettes and 1200 litres of beer seized. He had not known about the stock and asked the staff for the information.
- The premises licence holder confirmed that he had a further 20 cases of beer including all the beer from the freezer that had been seized despite being in possession of the invoice.
- The premises licence holder confirmed that he was trying to sell the shop due to his residence in London and difficulty in commitment to manage the operation of the shop.
- The premises licence holder confirmed that he had a couple of members of staff running the shop with one of the members holding a personal licence.
- The premises licence holder confirmed that he was ultimately responsible for the day to day operation of the shop.
- The premises licence holder confirmed to the Regulatory Officer Trading Standards that he was not aware of the illicit goods that were on display under the counter despite being present at the first inspection. The second time he was not in attendance and would have taken responsibility for what was found.
- Rizgar Ahmed, an employee at the London Road Late Store had been working in the shop for two months.
- The Regulatory Officer, Trading Standards confirmed that Mr Ahmed had been interviewed under caution and had confirmed that he had been employed at the London Road Late Store, since 11 September 2017 as the Personal Licence Holder, including before and during the seizures made. It had appeared that Mr Mohammed, the premises licence holder and Mr Ahmed had been working in work split shifts at the London Road Late Store.
- The premises licence holder confirmed that he had provided the Police with the full name and address of the member of staff that had placed the illicit cigarettes in the shop.
- The premises licence holder confirmed that he had rectified the issues raised following a Police compliance inspection such the

	<p>insufficient CCTV, incomplete fire assessments and insufficient staff training on file.</p> <p><u>Summing Up</u></p> <p>All parties were given the opportunity to summarise their submissions.</p> <p><u>Premises Licence Holder</u></p> <p>The premises licence holder addressed the Sub-Committee and a summary of the key points raised included:</p> <ul style="list-style-type: none"> ● Every single person made mistakes and was, in his opinion, entitled to a second chance. ● That he was responsible as the premises licence holder for London Road Late Store. ● That he was sorry about the illicit goods found in his shop, the London Road Late Store. <p><u>Applicant</u></p> <p>The Regulatory Officer Trading Standards addressed the Sub-Committee and a summary of the key points raised included:</p> <ul style="list-style-type: none"> ● The premises licence holder was interviewed under caution and that at the time of the inspection the illicit polish beer had been on display in the fridge at the London Road Late Store plus an extra 80 cases stored at the back of the premises. ● There were concerns about the day to day running of the business and a gentleman present in the shop at the time of inspection was not employed by the Premises Licence Holder. It had transpired that the gentleman was just helping out for a few hours and had not been trained to sell alcohol.
<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>Consideration was given to the Responsible Authorities written submission 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 21 local residents.</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 found as follows:-</p>

The Sub-Committee considered the representations made at this hearing and in writing from:

- Trading Standards;
- Cambridgeshire Constabulary; and
- Twenty one letters in support of the premises and licence holder.

The Sub-Committee considered:

- On the 21st of August 2017 a seizure of 560 foreign labelled cigarettes was made by Cambridgeshire Constabulary from Mr Azad Mohammed that were found under the counter.
- On the 28th September 2017 a joint initiative by Trading Standards, HMRC and Cambridgeshire Police was carried out to clamp down on the illicit tobacco and alcohol trade.
- A seizure of 2200 cigarettes and 400g of hand rolling tobacco and 1200 litres of Polish beer was made. Mr Mohammed had 30 days to provide HM Revenue & Customs documentation to establish the duty liability of the alcohol and evidence of the alcohol and evidence of duty payment. This timescale had passed since the seizure and alcohol was therefore deemed as condemned as forfeit to the Crown.

The Sub-Committee heard from the licence holder who denied any knowledge of the illicit items. He stated that he was not always in the shop and other persons were selling the items without his knowledge. He accepted that he was responsible for the business.

Two other persons, who made valid representations, spoke in support of the premises licence holder.

The Licensing Authority considered that such sales of illicit tobacco and alcohol a serious breach of the promotion of the licensing objective of prevention of crime and disorder.

The original seizure of 21st August 2017 was further aggravated by a second seizure which took place on 28th September 2017. This second seizure was for more illicit goods than the first.

Such sales undermined legitimate shopkeepers, deprived Her Majesty's Customs and Exercise of legitimate revenue and may pose a risk to the public.

The Sub-Committee therefore **REVOKED** the licence for the premises, known as London Road Late Night Store, 64 London Road, Peterborough, PE2 9BA.

Any party in objection to the decision may appeal to the Peterborough Magistrates Court within 21 days.

Chairman
Start 1:30pm – End 2:48 pm