

MINUTES OF LICENSING ACT 2003 SUB-COMMITTEE

MEETING DATE Tuesday, 10 July 2018

MEMBERS PRESENT: Councillor Marion Lowe (Chair) and Councillors Doreen Dickinson and Adrian Lowe

OFFICERS: Tracy Brzozowski (Customer Services Manager (Enforcement)), Chris Carney (Licensing Enforcement Officer), Carl Gore (Enforcement Officer (Licensing and Empty Properties)), Alex Jackson (Legal Services Team Leader) and Nina Neisser (Democratic and Member Services Officer)

17.LAS.80 Declarations of Any Interests

No declarations of any interests were received.

17.LAS.81 Procedure

The Chair outlined the procedure to be used to conduct the meeting.

17.LAS.82 Review of Premises Licence under the Licensing Act 2003 in respect of Weldbank Store and Off Licence, 46 Weldbank Lane Chorley, PR7 3NQ

The Director of Customer and Digital submitted a report for Members of the Licensing Act 2003 Sub-Committee to determine the outcome of applications submitted by Lancashire Constabulary and Lancashire County Council Trading Standards.

The Premises Licence Holder, Mr Ramesh Karsan Varsani, attended the hearing alongside his solicitor to make their representations to the Sub-Committee. The police gave their apologies due to unforeseen circumstances.

On 24 and 25 May 2018, applications for a review of the premises licence under the Licensing Act 2003 were received from Lancashire Constabulary and Lancashire County Council Trading Standards acting in their capacity as Responsible Authorities. The reason for these applications was given under the licensing objective for the prevention of crime and disorder, in that the premises were found to be involved in the sale of illicit tobacco and lack of control of the premises, following the visit on 8 May 2018. In addition to the application for review submitted by Trading Standards they also submitted supporting evidence which was included in the report.

On 24 May 2018, a Notice of Review of the premises licence was posted at the site for a period of 28 days during which representations could be made. The Responsible Authorities were informed of the Review Applications as required under the Licensing

Act 2003. No other responsible authorities or any other interested parties submitted representations during the consultation period.

The Trading Standards representative informed Members that they visited Bunty's with the police on 8 May 2018 where they found counterfeit and smuggled cigarettes in a bin bag in the stock room of the premises. 78 illicit tobacco products were seized from the premises; the items did not possess the required health warnings on the packets, and no duty had been paid on them. It was understood that there was a sum of money and personal medication also found in the bag.

During the interview at the premises the employee working at the time of the visit, it was revealed that the Premises Licence Holder had rang her at the Weldbank Lane store prior to the arrival of Trading Standards and the police telling her to hide the illicit cigarettes and tobacco. This was following a visit to the Premises Licence Holder's additional shop on Moor Road minutes earlier, where there had been no issues. The Premises Licence Holder explained that these tobacco products were not for sale and he was gifting them to his staff. The Trading Standards representative also advised that out of date food had been found on sale at the premises. The Licensing Officer stated that a follow up visit by the Food Safety Team at Chorley Council had not revealed any issues. Following Legal Officer queries, it was reported that the visit took place following a complaint regarding the sale of illegal tobacco and cigarettes and had not been a routine check.

A subsequent meeting was held on 22 May 2018 between Trading Standards and the Premises Licence Holder. It was revealed that the Premises Licence Holder was only present at the premises for 2-3 hours per week which Trading Standards believe suggested an absence of management and control at the shop.

The Premises Licence Holder's solicitor requested that late evidence, in the form of a petition from residents in support of the business, be considered. Both Members and Trading Standards agreed to it being submitted and subsequently had sight of the petition.

The Premises Licence Holder's solicitor highlighted the amount of counterfeit tobacco and cigarettes found at the premises during the visit and assured members that no industrial scale of misuse had been undertaken, nor had there been any criminal gang involvement. The Premises Licence Holder's solicitor deemed revocation to be disproportionate and should only be considered when there was no other option. He suggested that additional conditions on the licence, such as CCTV being made available to the police when required, be considered. He advised that CCTV was already in place.

The Premises Licence Holder accepted responsibility and recognised his failure to manage the premises. In order to address this, it was advised that the Premises Licence Holder would be focusing solely on his premises at Weldbank Lane with his premises at Moor Road undergoing the transfer of licence. Reassurances were given that all illicit tobacco had subsequently been seized to ensure that no further incidents would occur.

Members were reminded that the Premises Licence Holder had been in the licensing trade for many years and had no previous problems, including no complaints on the sale of alcohol. The Premises Licence Holder's staff had permission to sell alcohol at the premises but this had not been recorded in writing; the Premises Licence Holder assured that this would be rectified. The solicitor stated that the Premises Licence Holder was a law abiding citizen who had learnt from his mistakes during this

experience and would be taking measures to prevent any future incidents. Members were advised that the Premises Licence Holder and his employee would be attending a Licensing refresher course to ensure that he and his employees were fully compliant.

Following queries, it was understood that the Premises Licence Holder employed one member of staff. She had been employed for seven years and had always smoked during this time; however she switched from tobacco to cigarettes in the last year.

It was highlighted that there had been discrepancies within the interviews and representations regarding who had provided the illicit cigarettes and tobacco and clarification was sought on whether this was the Premises Licence Holder, his family and friends or employee's sister-in-law. The Premises Licence Holder's solicitor advised that various people had provided him with the cigarettes after travelling abroad and it was equally lawful for them to do so. However, it was reiterated that this was not part of an orchestrated campaign.

There were also inconsistencies regarding the Premises Licence Holder's instruction on removing out of date produce from sale at the premises. The Premises Licence Holder stated that he instructed his employee every day to remove out of date products from sale, however it had previously been stated that the Premises Licence Holder was only at the premises a few hours a week. Trading Standards confirmed that the longest out of date product at the time of the visit was three weeks old.

After careful consideration of the representations from Lancashire County Council Trading Standards, the Premises Licence Holder and his representative, and having regard to the prevention of crime and disorder licensing objective, the national guidance issued by the Secretary of State under Section 182 of the Act, and the Council's Statement of Licensing Policy. Members **RESOLVED to revoke the premises licence for the following reasons:**

- 1. Counterfeit tobacco had been on sale at the premises which did not promote the prevention of crime and disorder objective.**
- 2. Food beyond its use by date by up to three weeks had been offered for sale which also did not promote the prevention of crime and disorder objective.**
- 3. Tobacco without the required health warnings put public health at risk.**
- 4. Cheaper counterfeit tobacco was more affordable to children and therefore did not promote the objective of protection of children from harm.**
- 5. Counterfeit tobacco deprived Her Majesty's Revenue & Customs of excise duty.**
- 6. There was a significant lack of control at the premises by the Premises Licence Holder.**
- 7. the Premises Licence Holder blamed staff during his interview under caution but management of the responses was his responsibility.**
- 8. the Premises Licence Holder had tried to obstruct Trading Standards Officers on the day of the visit by instructing his staff to conceal the counterfeit tobacco.**
- 9. The Premises Licence Holder had given contradictory answers in his interview under caution about the training and instructions to staff to check use by dates on food products. The Sub-Committee could not therefore**

have faith in the Premises Licence Holder in being open and honest with the authorities about breaches at the premises.

- 10. Members had regard to paragraph 11.27 of the Section 182 guidance issued by the Home Office which stated that the sale or storage of smuggled tobacco should be treated particularly seriously and revocation of the licence, even in the first instance, should be seriously considered. Whilst the supply route of the tobacco was obscure, it was common ground that the required duty had not been paid on the tobacco which is the case with smuggled tobacco.**

The Premises Licence Holder has 21 days from receipt of the notice of the decision to appeal to the local magistrates' court in respect of the revocation of the premises licence.

Chair

Date