

Minutes of: LICENSING HEARING PANEL

Date of Meeting: 4 October 2016

Present: Councillor D Jones (in the Chair)
Councillors G Keeley and J Kelly

Also in attendance:

Public Attendance: No members of the public were present at the meeting.

Apologies for Absence:

1 DECLARATIONS OF INTEREST

No declarations of interest were made in relation to any items considered at the meeting.

2 AN APPLICATION FROM A RESPONSIBLE AUTHORITY FOR A REVIEW OF THE PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF 193 ROCHDALE ROAD BURY

Prior to the Hearing, the licensing authority received an application pursuant to section 51 of the Licensing Act 2003, from Bury Trading Standards Weights and Measures Service, for a review of the Premises Licence in respect of 193 Rochdale Road, Bury.

The application was outlined in the report presented to members of the Panel by the Licensing Manager.

The application for a review of the licence was received within the appropriate period and complied with the procedural requirements within the Licensing Act 2003.

All written representations were contained within the report to Panel.

All documentary evidence comprising the application, report provided with the agenda and representations were served on all parties in advance of the hearing.

The Panel heard oral representations from the Applicant for the Review (Miss Halligan – Bury Council Trading Standards), the Licence Holder’s representative (Mr Ahmed) and the previous licence holder and Designated Premises Supervisor (Mr Alyas). The Panel heard no other representations.

The Applicant for the Review was invited to explain the reasons for the application and the Panel asked questions of the Applicant.

All parties were offered the opportunity to question the Applicant and vice versa.

All parties were allowed the opportunity to sum up their respective cases.

The Panel then duly retired to consider the application and all of the information provided.

The Members of the Panel were advised by the Legal Officer as to their duties under Section 4 of the Licensing Act 2003 to at all times consider the promotion of the Licensing Objectives, these being:

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

The Members were also advised of their duties in carrying out those functions in relation to:

- a) the Council's published Statement of Licensing Policy
- b) the Guidance issued by the Secretary of State as contained in section 182 of the Licensing Act 2003, which was updated in June 2014

In addition Members were advised to give appropriate weight to the steps that are appropriate to promote the licensing objectives and the representations presented by all parties.

The Panel also had regard to the European Convention on Human Rights and in particular that everyone has the right to peaceful enjoyment of his possessions, respect for his private and family life, his home and his correspondence. A fair balance between competing interests must be considered.

FINDINGS

The following facts were found:

1. On 2 separate occasions, as a result of Trading Standards visits, non duty paid and counterfeit tobacco was found concealed on the premises. On balance the Panel found that despite Mr Alyas's assertion that they were for personal use, the differing brands and types of product and the proximity to the tills where they were located suggested the shop was selling counterfeit or non duty paid tobacco.
2. A test purchase of a first class stamp was carried out on 24 February 2016, which proved to be counterfeit. Despite Mr Alyas's explanation that he had purchased 400 stamps at a discounted rate from what he believed to be a Royal Mail representative, the Panel had concerns that Mr Alyas would enter into a cash transaction with no record or receipt being provided.
3. The Panel were satisfied that during a Multi Agency visit on 1 March 2016, drugs were found on the premises.
4. During a visit on 9 December 2015, Trading Standards procured 2 packets of ham with use by dates of 24/10/15 and 21/11/15. Mr Alyas claimed that the supplier had not returned to remove unsold products, which was usually

the case. The Panel found that Mr Alyas's explanation demonstrated that insufficient systems were in place to monitor sell by dates on products.

5. The Panel noted that Mr Alyas had been invited on more than one occasion to attend an interview with Trading Standards, to which he had not responded. Copies of invite letters, which had been sent to his home address and hand delivered to the shop, were submitted to the Panel at the Hearing.
6. The Panel noted that Mr Alyas acknowledged that he did not maintain a refusals book for cigarettes and alcohol, in line with the conditions set out within the current Licence.
7. An application to transfer the Premises Licence to Mrs Abru Faisal together with an application to nominate her as the Designated Premises Supervisor had been received on 5 September 2016 and subsequently granted. The Panel noted that no evidence was submitted or provided verbally from Mrs Faisal in respect of her ability and willingness to uphold and maintain the licensing objectives.
8. The Panel noted that Mr Alyas would continue to be employed within the shop and highlighted concerns that his continued involvement in the business may hinder the ability of the new Premises Licence Holder to uphold and maintain the licensing objectives

Delegated Decision:

Having heard from Mr Ahmed, Mr Alyas and Miss Halligan, the Panel considered the merits of the case and in accordance with its duties decided as follows.

All of the evidence was considered with care and it was established that having understood the request for review and equally understanding the representations made, on balance, the Panel found there were causes for concern and a lack of responsibility being taken so far as the promotion of the following Licensing Objective was concerned:

- the Prevention of Crime and Disorder

Based upon their findings of fact and in the interests of the wider community the above objectives were found to have been undermined.

The Panel therefore considered it reasonable, balanced, appropriate and proportionate, based on all of the evidence, to **Revoke the Licence.**

The Chair informed those present of their right of appeal within 21 days of receipt of the written decision to Bury and Rochdale Magistrates' Court.

COUNCILLOR D JONES
Chair

(Note: The meeting started at 2.00 pm and ended at 4.10 pm)