

Minutes of: LICENSING HEARING SUB COMMITTEE

Date of Meeting: 11th April 2024

Present: Councillor G McGill (in the Chair)
Councillors G Marsden and M Walsh

Also in attendance: M. Bridge (Licensing Unit Manager)
M. Cunliffe (Democratic Services)
K. Halligan (Trading Standards)
L. Jones (Licensing Unit)
C. Riley (Legal Services)
C. Smith (Public Protection)
L. Solcak (Licensing Unit)

S. Bhatia (Designated Premises Supervisor)
S. Panchal (Personal Licence Courses UK Ltd)
I. Oldman (Press)

Public Attendance: The Hearing was held virtually and interested members of the public were provided with a link to access the hearing online via Microsoft Teams or could be telephoned into the meeting via audio only. No members of the public were in virtual attendance.

1 APOLOGIES FOR ABSENCE

Apologies for absence were submitted from B. Thomson (Assistant Director of Operations Strategy at Bury Council), Mrs G. Kaur (Premises Licence holder) and PC P. Eccleston (Greater Manchester Police).

2 DECLARATIONS OF INTEREST

There were no declarations of interest made.

3 MINUTES OF THE LAST MEETING

The minutes of the last Licensing Hearing Sub Committee meeting held at 1.00pm on the 26th March 2024 were attached to the agenda.

Resolved:- That the minutes of the Licensing Hearing Sub Committee held at 10.00am on the 26th March 2024 be approved as a correct record.

4 AN APPLICATION FROM AN RESPONSIBLE AUTHORITY FOR A REVIEW OF THE PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF THE OFF LICENCE, 146 TOTTINGTON ROAD, BURY, BL8 1RU

The Executive Director for Operations had submitted a report relating to an application pursuant to section 51 of the Licensing Act 2003 from a Responsible Authority for a review of the premises licence in respect of the Off Licence, 146 Tottington Road, Bury, BL8 1RU.

The nature of the application and consideration of options was detailed in the report which was presented to the Members of the Sub-Committee by the Licensing Unit Manager, Mr M. Bridge.

The options available were:

- To revoke the licence
- To suspend the licence for a period not exceeding three months
- To remove the Designated Premises Supervisor
- To exclude a licensable activity from the scope of the licence
- To modify the conditions of the licence

The Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations are the relevant legislation.

The Panel would make a decision on the day of the hearing and the parties will be notified subsequently of the decision and the reasons for it by letter from the Licensing Office.

At the time of the submission of this review application, on the 14th February 2024, the Premises Licence in respect of the Off Licence, 146 Tottington Road, Bury, BL8 1RU is held by Ms Guljeet Kaur, 68a Commercial Road, Newport, South Wales, NP202PF. Mr Surbir Singh Bhatia 15 Gilnow Gardens, Bolton, BL1 4LG is the Designated Premises Supervisor (DPS).

The Responsible Authority has complied with all the necessary procedural requirements laid down by the Act.

As part of the statutory process the Responsible Bodies and interested parties are entitled to make representations in relation to the review of a licence. The Licensing Authority has given Notice of the application by placing a Notice on the premises, at the Council Offices and on the Council web site. Where further representations are made by either the Responsible Authorities or from local residents / businesses and not withdrawn, Members are required to determine them.

Representations must be relevant to the licensing objectives defined within the Act.

The objectives are:-

- a) the prevention of crime and disorder
- b) public safety
- c) prevention of public nuisance and
- d) protection of children from harm

The current licensable activities are as follows:

The Supply of alcohol – For consumption off the premises:

Monday to Sunday 08.00 to 22.00

Opening Hours

Monday to Sunday 07.00 to 22.00

The conditions, consistent with the premises operating schedule are attached to the current premises licence are attached at appendix 6:

The Trading Standards Service would shortly expand upon the reason(s) for their application to review the Premises Licence in relation to this premises. The representation was attached at appendix 1 which contains a further 5 Appendices. The appendices were marked 2 to 5 respectively in the agenda pack.

The Licensing Authority would also shortly expand upon the reason(s) for their representation in relation to these premises. This representation was attached at appendix 7 in the agenda pack.

The Licensing Unit Manager informed Members that due to operational staffing issues at Greater Manchester Police, PC P. Eccleston had submitted his apologies for the meeting. His written representation statement on behalf of GMP was contained in the agenda packs at appendix 8.

Attention was also drawn to section 182 of the Licensing Act Guidance.

K. Halligan from the Trading Standards Service expanded upon the reason(s) for their representation attached at appendix 1 in the agenda pack, she reported the following:-

The store is also known as Tottington Off Licence and Convenience, Best One and Sid's. The premises licence holder is Guljeet Kaur and the DPS is Surbir Singh Bhatia. The business is actually a limited Company called Rumney Value Food & wine Ltd, company number 11412837, the directors are Guljeet Kaur, who was a director from 13/6/18 to 1/4/23, and lives in Newport in Wales, Daljeet Singh Arorra, from 1/7/19 to 1/4/23, also resides in Newport in Wales, and Surbir Singh Bhatia, director from 1/1/22 who resides in Bolton.

Rumney Value Food & Wine Ltd is liable for the business rates for the Ground Floor, 146 Tottington Road, Bury BL8 1RU from 25/04/2019 to date.

Mrs Guljeet Kaur has been the Premises Licence Holder since June 2019, and Mr Subir Bhatia has been the DPS since June 2019.

On the 2nd July 2019, as a result of a complaint received, we visited the premises known as Tottington Off Licence with GMP and Licensing, and seized 117 blunts, 40 cyclones, 460 cigarettes and 100g of hand rolling tobacco, all of which didn't comply with the relevant legislation. We also advised on underage sales whilst at the premises. As this was a new Premises Licence, and our first contact with the trader we decided to issue a warning letter and have all items signed over to this authority. On 8 July 2019 I attended a meeting with the DPS and Laura Jones from Licensing regarding the visit on 2 July. The DPS was given a warning letter by myself to give to the owner and premises licence holder, and Laura Jones provided him with Challenge 21 signage for the shop. Mrs Kaur returned the letter signing the items over on the 29th July 2019.

In December 2021 a complaint was received that Sid's was selling illicit tobacco. As a result of this complaint and as part of a day of action, Sid's 146 Tottington road was visited on the 23/3/22, also on the visit was Greater Manchester Police and we also had the assistance of the tobacco dog, provided by Wagtail. Whilst on the premises, we found illicit tobacco hidden in the printer, and more illicit tobacco and counterfeit Viagra hidden with the crisps. We seized 59 packets of cigarettes and 12 packets of hand rolling tobacco, and 42 Viagra tablets. The cigarettes and tobacco have been examined and confirmed as either counterfeit or not for the UK market. The DPS told us that he sold them, but then he quickly said that he gives them to a friend, but stated he doesn't know where they came from.

At the beginning of August 2022, a further complaint was received that the shop was selling nitrous oxide to children. On the 17th August 2022 with colleagues from Licensing and Greater Manchester Police, another visit was carried out to the premises. Found and seized was 226x 3500 puff vapes and 15 x 7000 puff vapes, and 2x 20 B&H cigarettes. The cigarettes were sent off and confirmed as being counterfeit. The vapes were examined and confirmed not to comply with the Tobacco and Related Product Regulations 2016 due to exceeding maximum capacity permitted.

On the 6th October 2022, a further complaint was received alleging the shop was selling counterfeit vapes. The person who purchased the item had been hospitalised and had confirmed with the manufacturer that it wasn't a genuine item.

On the 20th March 2023 a further complaint was made that the shop was selling illegal cigarettes, alcohol, drugs to young people, and the shop was also selling balloons (nitrous oxide).

On the 23rd March 2023, the DPS, PL holder and Directors of the business were interviewed under caution at the Trading Standards Offices. Mrs Guljeet Kaur was interviewed first, she confirmed she was a director of the business as well as the Premises Licence holder, she also confirmed she lived in Newport and doesn't visit the shop very often she left the day to day running to her brother who was also a director Surbir Bhatia. She had no idea what the registered office address was or where it was, she said all director issues are dealt with by her husband. She had no idea about the stock, where it came from or who it was sold to, she knew nothing of the employees, and didn't visit the shop or have anything to do with the day to day running of the business. We suggested that she transferred the premises licence to her brother which she said she would do, but stated that it hadn't happened as he hadn't finished paying for the purchase of the business, to date that hasn't happened.

Next, we interviewed Mr Daljeet Arorra, husband of Guljeet Kaur, also a director of the business. He admitted to being a director and stated that the lease for the premises was in his personal name. Again, he lives in Newport, so has no day today running of the business and leaves it all to Mr Bhatia, as he runs his own shop in Newport. He is not involved with the staff, the buying of stock, and is not involved with the books, his accountant does them. Neither he or his wife had any idea or knew of the items we had seized, where they had come from and or who bought them, as they do not visit the premises.

Finally, we interviewed Mr Bhatia, who is the DPS and has been a director since the 1/1/22 (so a directing mind for all 3 seizures). He gave a completely different address in interview to the one on the licence, so he was advised to get that changed. He stated he bought the infringing products off a man who came into the shop, who he has not got any details of. He said he was responsible for the day to day running, but he didn't know why the tobacco was hidden. He was asked about the licensing objectives, but he didn't know what they were.

On the 20th April 2023 as part of Operation Avro, the premises was visited again, with colleagues from GMP, Licensing, immigration, and Wagtail. Seized were 5 illicit vapes, 50g of hand rolling tobacco and 80 cigarettes, and a stripe of blue tablets (Viagra). The vapes exceeded maximum capacity and therefore didn't comply with the Tobacco and Related Product Regulations, the cigarettes and tobacco have been confirmed as either counterfeit or not for the UK market.

In conclusion, there was serious concerns on who had control for the store and responsibility for the premises.

K. Halligan stated it had been a long and complex investigation by Trading Standards and apologised for the timescale it had took to come to committee. Some of the delays had been out of their control in relation to evidence being sent off for examination and the delays in returning the items.

A Member questioned the selling of Nitrous Oxide and it was stated that no gas canisters or balloons had been found on the premises.

The Deputy Licensing Officer, L. Jones reported the representation from the Licensing Authority attached at appendix 7 in the agenda pack.

She had been at the premises on a number of occasions as part of a multi-agency visit. Details of which were contained within the report and attention was drawn to the CCTV request.

She attended the shop on the 25th April to collect the CCTV. The DPS was present and told her that he was unable to produce the CCTV as no one knew the password, but he said that he would call a company and would be able to produce it in 2 or 3 days. He was informed this was a breach of the condition on the premises licence, and gave him an enforcement notice to this effect, which was detailed in Appendix 3 of the agenda pack.

Mr Bhatia, when asked what the 4 objectives of the Licensing Act were, was unable to answer but he did talk about Challenge 21, having a refusals book and CCTV recording for 28 days. These were all conditions on the licence. He was reminded of his role as the DPS with regards to the crime and disorder objective which cannot be met if illicit cigarettes are sold on the premises.

On the 20th April 2023 a further multi agency visit took place as part of Op Avro and 2 empty bottles of vodka were found in the bin of the storeroom. When questioned as to why they were there, Mr Bhatia answered that he had tidied outside the shop and picked them up and put them in the bin. Viagra was found under the counter and illicit cigarettes and tobacco and illegal vapes were seized.

The PLH had no control of the shop by their own admittance. The DPS had ignored previous warnings from Trading Standards and carried on with the sale of illicit cigarettes and illegal vapes showing disregard for the licensing objectives. The breach of condition relating to the CCTV showed that the premises is not being run in accordance with the licence and conditions. All of the above issues have taken place whilst the DPS has been in charge of the premises.

The Licensing Unit Manager reminded Members about the representation statement on behalf of GMP which was contained in the agenda packs and drew attention to the last 2 paragraphs of the statement, which stated:-

Following this intelligence report a further visit was conducted on the 20th April 2023 as part of Operation Avro with GMP officers, along with colleagues from Trading Standards, Licensing, Immigration and Wagtails. Again, quantities of illicit vapes and tobacco was seized along with a strip of blue tablets believed to be Viagra.

It is quite clear that the Premises License Holder has no control over the operation of this licensed premises. The premises has been visited on multiple occasions and illicit items have been seized on every occasion. You would think that the first visit, was sufficient warning with regards what is illicit and what isn't. Unfortunately, this has not been the case and the DPS, who has overseen the operation of the premises during the incidents listed above, has continued to ignore the warnings and advice provided by those responsible authorities in attendance. This just demonstrates that there is no regard whatsoever for the four licensing objectives.

Mr S. Panchal from Personal Licence Courses UK Ltd, asked for the licence to not be revoked and that the suggestions in the report be applied. The Designated Premises Supervisor, Mr S. Bhatia was present virtually with Mr Panchal but would not be providing any comments at the hearing. The Premises Licence holder, Mrs G. Kaur was out of the country and could therefore not attend the hearing.

Mr Panchal accepted the suggested conditions be placed on the licence which were detailed within the report. He was also in agreement with the suggestion for the removal of the Designated Premises Supervisor with immediate effect. A new DPS would be appointed and qualified to a level 2 training course for the role. He provided information that the Premises Supervisor had put the business up for sale and an agent had approached a potential buyer for the business, who would agree with all the suggested conditions. New staff would be trained with a manual at hand for reference along with a refusal and incident book. Alcohol would not be served if the CCTV system was not in operation. Mr Panchal claimed all these implementations were appropriate to promote the licensing objectives. He was also willing to accept a shorter suspension of 2 weeks to a month whilst changes to the business takes place.

Upon questioning of how long the changes would take, Mr Panchal stated these would be administered right away.

It was reported by the Deputy Licensing Officer that there was no guarantee that a sale of the business could be made and this would pose problems of who was in control.

The Licensing Unit Manager stressed that the decision would be taken on the existing licence and not any new licences to be issued. Questions were also raised as to why Mr Panchal had only been appointed to represent the business only a few days ago given the advanced notice period of the hearing.

The Sub-Committee then duly retired to consider the matter and all of the information provided.

The Members of the Sub-Committee 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.

In addition, Members were advised to give appropriate weight to the steps that are appropriate to promote the licensing objectives and the representations presented at the meeting.

DELEGATED DECISION

The Sub-Committee carefully considered the representations and evidence provided and therefore unanimously **resolved to revoke the licence and to remove the Designated Premises Supervisor** in order to promote the licensing objectives.

The Sub-Committee was therefore satisfied that there was sufficient evidence from Trading Standards, Greater Manchester Police and the Licensing Authority to mean these steps were necessary.

The evidence presented had demonstrated the following licensing objectives had not been met and failed the:-

- The prevention of crime and disorder

The reasons by the sub-committee, included:-

- Clear evidence found at the premises on multiple search occasions of illicit cigarettes, vapes and other associated items that don't comply with the relevant legislation.
- The illicit cigarettes found hidden within a computer printer demonstrated the intention to sell the product on site, but the concealment led to knowing this was illegal to do so.
- There had been a number of previous opportunities to resolve the issues and these had been ignored.
- The Sub-Committee had no confidence that any changes would protect public safety or aid the prevention of crime and disorder.

The Sub-Committee found the situation very serious and concerning with the premises operating in such a way to undermine the licensing objectives. The evidence and supporting documents presented were sufficient evidence to revoke the licence and remove the Designated Premises Supervisor.

COUNCILLOR G MCGILL
Chair

(Note: The meeting started at 10.00am and ended at 11.40am)