

MINUTES

ALCOHOL AND ENTERTAINMENT
LICENSING COMMITTEE
FRIDAY, 22 JUNE 2012



COMMITTEE MEMBERS PRESENT

Councillor Mark Ashberry
Councillor Pam Bosworth (Chairman)
Councillor George Chivers
Councillor Breda Griffin
Councillor Reginald Howard

Councillor Vic Kerr
Councillor Graddon Rowlands
Councillor Bob Russell (Vice-Chairman)
Councillor Mrs Jean Taylor
Councillor Frank Turner

OFFICERS

Solicitor to the Committee (Paul Rushworth)
Licensing Officers (Peter Harrison, Pam Robinson)
Democratic Officer (Lucy Bonshor)

55. APOLOGIES

An apology for absence was received from Councillor Broughton.

56. DECLARATIONS OF INTEREST

None declared.

57. MINUTES OF MEETING HELD ON 18TH MAY 2012

Minutes of the meeting held on 18th May were agreed as a correct record of the decisions taken.

58. LICENSING ACT 2003: REVIEW OF A PREMISES LICENCE - EUROPEAN MINI MARKET - 9 WHARF ROAD, GRANTHAM

Decision:

That the premises licence for the premises known as European Mini Market, 9 Wharf Road, Grantham be revoked.

The Solicitor to the Committee introduced those people present: Inspector Rod Rose, Licensing Inspector for Lincolnshire Police who had requested the review, Mr Hamasala the owner of the premises subject to the review and Mr Carter, of Counsel who had been retained to represent Mr Hamasala.

Inspector Rod Rose wished to show the Committee an excerpt from a DVD which was filmed during a recent search at the premises. The search was conducted by HMRC, trading standards and Lincolnshire Police. The applicant and his representative had not seen the footage and requested an adjournment to be able to view the footage.

The meeting was adjourned between 10.08am and 10.14am and Committee Members left the meeting to enable the footage to be viewed by the applicant and his representative before being seen by the Committee. Mr Carter confirmed that he had viewed the footage and had been able to take instruction from his client.

Meeting reconvened at 10.14am

The Licensing Officer presented report CSL012 which concerned the review of the premises licence for the European Mini Market, 9 Wharf Road, Grantham, the review had been requested by Lincolnshire Police. Law enforcement agencies had identified through intelligence, the possibility that alcohol and other goods were being made available for retail sale in contravention of the Customs and Excise Management Act 1979 and the Tobacco Products Duty Act 1979.

On 8th February 2012 a joint visit consisting of officers from Lincolnshire Police, Trading Standards and Her Majesty's Revenue and Customs (HMRC) entered the premises and seized a total of 3280 cigarettes, 2.42 Kilos of tobacco and 24.8 litres of non duty paid vodka. The cigarettes and tobacco were hidden behind a purpose built compartment concealed underneath the counter and accessed by pulling on "false power sockets" to reveal a sliding door with the cigarettes hidden behind. The cigarettes were only discovered after an indication by a dog trained in the detection of cigarettes/tobacco. All the cigarettes found were foreign brands which had not had any UK duty paid on them and should not have been for sale in this country. The Premises Licence Holder was present at the time of the visit.

Three days later on 11th February 2012 a serious incident of violence and disorder occurred at the premises which required police attention. Six people were arrested for affray. All six people have been uncooperative with the police and the police strongly believe that the cause of the incident was caused by an argument over payment of the seized goods although there is no evidence to support this. The incident on the 11th February involved employees of the premises.

On 8th March 2012 another incident happened at the premises to which the

police attended and made arrests. The police say that the incidents show inefficient management of the premises, which was failing to promote the licensing objective of the Prevention of Crime and Disorder. They were unable to offer any conditions that could prevent a reoccurrence and were asking the Committee to revoke the premise licence.

Most recently on the 12th May 2012 Trading Standards had made test purchases at the premise which had resulted in further illicit cigarettes being sold.

The solicitors for the applicant had submitted a statement on behalf of the Premises Licence Holder in which he admits the offences relating to the tobacco and cigarettes but disputes the offences in relation to the alcohol. The Premises Holder insists that the compartments were constructed to store cash and other valuables.

Mr Hamasala's representative clarified that only one of the fights happened inside the premises.

It was further confirmed that of the six people arrested for the first fight four had pleaded guilty and had been charged but the two, employees of the premises had pleaded not guilty based on self defence and were waiting to appear in court in July.

Inspector Rod Rose then presented the case for Lincolnshire Police; he gave a brief overview and highlighted various points. Section 144 of the Licensing Act 2003 referred to the keeping of smuggled goods and part 11.26 of Section 182 of the Act refers to certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously and this included the sale of smuggled tobacco or alcohol. Inspector Rose considered that the management of the premises had abused his licence by selling non paid duty goods which was a serious offence.

Inspector Rose then referred to the joint operation that had taken place with the police, Trading Standards and Her Majesty's Revenue and Customs (HMRC) and the goods that had been found and the hidden compartments that had been discovered. He referred to the Premises Holders Statement that the compartments were for cash and international calling cards and that the counter had been modified for this purpose as he did not wish to have a safe. Inspector Rose indicated that it had been purpose built for cigarettes as in a burglary or a fire the cash and cards would not be protected. He then spoke about the operations that had taken place with test purchases of cigarettes from the premises. A statement had been circulated to Members made by a member of the public following a recent purchase of cigarettes which were non duty paid. Members were then shown a short extract from a DVD which had been filmed on the premises by the police during the joint operation and which showed the hidden compartments underneath the counter which contained counterfeit cigarettes. Inspector Rose informed the Committee that since the

search on the 8th February when the hidden compartments had been found there had been further test purchases when counterfeit cigarettes had been sold to undercover HMRC officers from employees who had kept the cigarettes on their person. He concluded that the police were aware and alert to counterfeit products and he believed that the compartments had been made specifically for the cigarettes and that the Premise licence should be revoked.

Questions were then asked of Inspector Rose about the test purchases and the incidents that had taken place at the premises to which he replied. A further question was asked about the alcohol, to which Inspector Rose referred to HMRC's policy and procedures. Comments were made about the receipts that had been provided and whether the bar codes or alcohol had been checked. Inspector Rose replied that they hadn't. HMRC's policy was for the premises holder to supply the information; it was their responsibility to show that the products were originals.

The Solicitor to the Committee then asked for clarification on whether or not a prosecution had been brought against the premise for the counterfeit goods. Inspector Rose replied that as far as he was aware neither HMRC nor Lincolnshire Police were intending to prosecute the licence holder but instead they had requested a review of the premises licence.

Mr Hamasala's representative, Mr Carter then presented his client's case. Mr Carter referred to Mr Hamasala's detailed statement and highlighted points within in it. He referred to the size of the hidden compartments and the reason for the compartments. He states that they were for cash and international calling cards to keep them out of public view, not for cigarettes. His client admits to buying illicit cigarettes to keep specific customers happy. It was indicated that unless he sold cheap counterfeit cigarettes, customers would shop elsewhere as it was common knowledge that other similar premises in Grantham sold cheap counterfeit goods. His client now understands that what he did was wrong. His client denies that that Glen Vodka was not the original and said that he had handed over the proof that he had paid duty on the alcohol. He then referred to the incidents that had happened at the premises involving violence and disorder. His client was unhappy at the time it had taken for the police to respond to the incident. The police had explained that there was a delayed response because they had notice that there was a gun involved but his client absolutely refutes that any gun was used or found and is perplexed at how that information came about. He indicated that his employees had acted in self defense during the first fight and had nothing to do with the second fight. Reference was also made about the test purchases that Trading Standards had undertaken.

Mr Carter then concluded his presentation asking the Committee not to revoke the licence but to perhaps think of alternatives such as suspension for three months with a requirement for the licence holder to take further training. Mr Carter reminded the Committee that no criminal prosecution had been brought against the premise licence holder.

Questions were then put to Mr Carter and Inspector Rose. Inspector Rose referred to the incidents that had taken place and the call log which indicated that the police response had not been delayed as had been suggested.

The Licensing Officer then gave his closing statement, reminding Members to have regard to the information before them and the representations they had received and the options available to them. He reminded them of the guidance issued under Section 182 of the Licensing Act.

Inspector Rose in his brief closing statement asked the Committee to revoke the Premise Licence.

(11.22am the Applicant, Licensing Officers and Police left the meeting)

Members discussed the information they been given and the representations made during the meeting from both parties. Members were concerned about the size of the hidden compartments and the fact that counterfeit or illicit cigarettes had been found on the premises during a search of the premises on the 8th February 2012. Members were particularly concerned that despite that raid, further counterfeit cigarettes had been sold to an undercover test purchaser in May 2012. The Committee received advice from the solicitor who summarized paragraphs 11.25-11.31 of the amended guidance issued under section 182 of the Licensing Act 2003 in particular reminding the Committee that they should not make judgment on the outcome of the criminal proceedings involving the member of staff but instead they should exercise their judgment based on the evidence before them and the requirement to promote the licensing objective of the prevention of crime and disorder. . It was proposed, seconded and unanimously agreed to revoke the premises licence because the evidence taken together showed that the licensing objective of prevention of crime and disorder was being seriously undermined.

(11. 35 am the Applicant, Licensing Officers and Police return to the meeting)

The Solicitor to the Committee then read out the Committee's decision. The Committee had considered the representations of all the parties and had decided to revoke the premises licence because in the Committees opinion the licensing objectives of the prevention of crime and disorder were being seriously undermined at the premises. The reason for the decision was because counterfeit cigarettes were found during a raid on 8th February 2012 and despite that incident further counterfeit cigarettes or illicit cigarettes were found to be sold on the premises in May 2012. In addition the committee had considered but given less weight to the incidents of violence associated with the premises, on the 11th February and 2nd March 2012 and taken together, the evidence from HMRC, Trading Standards and Lincolnshire police conclusively indicated that revocation of the licence was the most appropriate action to promote the licensing objective of the prevention of crime and disorder.. The premises licence holder was reminded that the full written decision would be communicated to the parties and once written notification

had been received by the parties they had 21 days to appeal to the Magistrates Court.

59. CLOSE OF MEETING

The meeting closed at 11.38am.