

SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 1 September 2016

PRESENT: Councillors David Barker (Chair), Jack Clarkson and Anne Murphy

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1. APOLOGIES FOR ABSENCE

1.1 No apologies for absence were received.

2. EXCLUSION OF PUBLIC AND PRESS

2.1 No items were identified where resolutions may be moved to exclude the public and press.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. LICENSING ACT 2003 - ABBEY STOP SHOP, 243-245 ABBEYDALE ROAD, SHEFFIELD, S7 1FJ

4.1 The Chief Licensing Officer submitted a report to consider an application made by Sheffield City Council Trading Standards, under Section 51 of the Licensing Act 2003, for a review of the Premises Licence in respect of the premises known as Abbey Stop Shop, 243-245 Abbeydale Road, Sheffield, S7 1FJ.

4.2 Present at the meeting were David Palmer and Ken Webb (Trading Standards, Applicants), Osman Kadir (Premises Licence Holder), Amanj Manmi (Designated Premises Supervisor), Emma Rhodes (Licensing Enforcement and Technical Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

4.3 Marie-Claire Frankie outlined the procedure which would be followed during the hearing.

4.4 Emma Rhodes presented the report to the Sub-Committee, and it was noted that representations had been received from the Sheffield Safeguarding Children Board, and were attached at Appendix 'B' to the report.

4.5 David Palmer referred to his statement, dated 18th July 2016, indicating that the application for the review had been made on the grounds of the prevention of crime and disorder, public safety and the protection of children from harm. Mr Palmer stated that, on 9th March 2016, Trading Standards Officers carried out an inspection at the premises, in order to check the authenticity of the alcohol and tobacco products in stock. They were assisted by a specially trained search dog and handler, and police officers, and during the inspection of a storeroom at the

rear of the premises, they found a chest of drawers which had been carefully modified, with the addition of a hidden catch. The catch released the top surface of the chest, allowing it to be easily moved to reveal a concealment behind the drawers, comprising 3,560 cigarettes and 5 x 50 gram packets of hand rolled tobacco. All the tobacco products were illicit, some being counterfeit copies of genuine brands, and some produced wholly for the global trade in illicit tobacco. Statutory health warnings were missing and all were non-duty paid. Such actions represented criminal offences, and the keeping of smuggled products, which had been imported without payment of duty or otherwise unlawfully ported, on licensed premises, was an offence under Section 144 of the Licensing Act 2003. Mr Palmer stated that, whilst smoking was known to be hazardous to health, the public's safety was put at greater risk with illicit tobacco products, mainly as they were unlikely to have been produced with the strict quality controls employed by the legitimate manufacturers. Cheap cigarettes also made them more affordable to children, who would be put at increased risk from the uncontrolled levels of harmful chemicals that were often present in counterfeit and illicit tobacco products.

- 4.6 On 6th June 2016, Mr Osman Kadir (Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS)), was interviewed by Trading Standards Officers and admitted building the concealment himself in an effort to avoid detection. He also admitted buying the counterfeit illicit tobacco products from a Polish male, who had visited the shop, for £400. Mr Kadir stated that he sold such products because his customers wanted cheap cigarettes, and also admitted that the proceeds from this criminal activity did not go into the shop till, but into his pocket. Mr Palmer stated that Mr Kadir had been prosecuted previously for the possession for sale of counterfeit and illicit tobacco found in the same shop, on 14th May 2015, and, on that occasion, he had concealed the goods in his car, which was parked outside the shop. After failing to co-operate, police officers broke into the car to reveal over 6,000 cigarettes and 58 packets of hand rolled tobacco, all of which were counterfeit and illicit. On 28th January 2016, Mr Kadir was subsequently found guilty of offences under the Trade Marks Act 1994, which was only six weeks before the most recent seizure. Mr Palmer stated that the premises had a history in relation to the sale of cheap and illicit tobacco, with the previous proprietor having been prosecuted twice by Sheffield Trading Standards for similar offences. Mr Palmer concluded by referring to the adverse effects of illicit tobacco, specifically how it undermined work to reduce smoking prevalence and the impact on Government revenue in terms of the lack of duty paid.
- 4.7 In response to questions from the Members of, and the Solicitor to, the Sub-Committee, Mr Palmer stated that it was not uncommon for shopkeepers to have concealed cupboards/drawers, as well as having smaller amounts of stock in case they were visited by Trading Standards Officers, to remove stock, which they would then top up again. Mr Palmer was not able to confirm whether those previous proprietors of the premises, who had been prosecuted by Trading Standards for similar offences in the past, were known or linked to Mr Kadir, or a relative or friend of Mr Kadir. It was known, however, that Mr Hassan Ali Mohammed, who was named as a Personal Licence Holder under a previous Premises Licence at the premises, was still working at the shop. Trading Standards Officers were not convinced that Mr Kadir purchased the cigarettes and tobacco from a Polish man, as he indicated he had done, as this was a common response received as part of

investigations into similar offences. Purchasing the cigarettes and tobacco without the relevant duty would result in the shopkeeper making a large profit. Mr Palmer confirmed that there was no history of cheap or illicit alcohol being sold from the premises. Trading Standards Officers believed that, due to the history of illicit cigarettes and tobacco being sold from the premises, the shop would build up a customer base as it would be known as the place to buy such products cheaply. Whilst Mr Kadir was found guilty of the offences, there was no evidence to suggest he was solely responsible, and Trading Standards Officers, as part of their investigations, had found it very difficult to ascertain who owned the business. In terms of the history of offences in relation to the sale of cheap and illicit tobacco at the premises, Mr Palmer stated that, in May 2012, officers found illicit tobacco, with Mohammed Zadar being DPS, in July 2013 and November 2014, officers found 3,000 and 4,000 illicit cigarettes, respectively, when Hassan Ali Mohammed was DPS, and in May 2015 and March 2016, 6,000 cigarettes and 58 packets of tobacco and 3,500 illicit cigarettes and packets of hand rolled tobacco, respectively, were found, when Osman Kadir was DPS.

4.8 The Sub-Committee gave consideration to the written representations made by Julie Hague (Sheffield Safeguarding Children Board), which had been submitted on the basis that the premises had been evidenced to operate in a way that undermined the core objective for the protection of children from harm. Ms Hague indicated that the evidence submitted by Trading Standards had demonstrated that illegal counterfeit tobacco products, which did not meet regulatory quality control standards, or carry the necessary health warnings, had been available to purchase at this premises. The Sheffield Safeguarding Children Board (SSCB) took a serious view of premises that were evidenced to sell illegal and high risk products because such products may be consumed by children, either legally, having been purchased by an adult, or illegally, if the age verification scheme at the premises was not rigorously enforced, resulting in underage sales. In response to the review application, and following a complaint made to the police, by a parent, on 26th July 2016, whose child had purchased cigarettes from the shop, Ms Hague, accompanied by Cheryl Topham, South Yorkshire Police, visited the premises on 9th August 2016. The main purpose of the visit was to establish what safeguarding systems were in place to prevent the sale of age restricted goods to children, and whether any assistance was required. During the visit, the officers had a discussion with Hassan Ali Mohammed, the Personal Licence Holder and part-time member of staff, who was in charge of the premises at the time. Mr Mohammed contacted Mr Amanj Manmi (DPS) by telephone, who appeared to authorise Mr Mohammed to speak on his behalf. During the visit, Ms Hague was concerned to note that there was no age verification scheme in place, no signage in the expected places (on the door, at the point of sale or on the display units), nor was there a refusals register. Mr Mohammed was advised of the importance of an age verification scheme in order to protect children from harm and Ms Topham provided the premises management with a multi-agency information pack, containing all of the required materials and information to operate a recognised age scheme. Ms Hague has subsequently written to the DPS to offer free multi-agency training to improve compliance with the Licensing Act 2003.

4.9 In response to questions raised by the Members of, and the Solicitor to, the Sub-Committee, directed to Mr Osman Kadir and Mr Amanj Manmi, it was stated that

the management had not been given any opportunity to attend the multi-agency safeguarding training. Mr Manmi stated that he had seen the premises advertised online, and that he had only met Mr Kadir twice before. Mr Kadir indicated that he had reached a desperate point in his life, when he was in debt, and about to be made bankrupt, and had fallen out with family members. He was not pressurised in any way by anyone else, and it was entirely his own decision to sell the illicit cigarettes and tobacco in order to try and make some money. Mr Manmi confirmed that he ran a shop in Derby, with a business partner, and that he was not familiar with the other people named in the report, who had been responsible for, or linked to, the operation of the premise in the past. He confirmed that he had purchased the premises on 27th July 2016, for £10,000. As well as a man called Ptuan, Mr Hassan Ali Mohammed was also helping out in the shop, as he had experience of working in shops previously, and Mr Manmi confirmed that he had spoken to him on 9th August 2016, when Julie Hague and Cheryl Topham had visited the premises. Mr Manmi paid Mr Mohammed, and a man called Ptuan, who also helped out in the shop, £7.20 an hour. Mr Manmi stated that he did not have any links to Sheffield, and had simply viewed the shop as a good business opportunity. He would generally be present at the premises on delivery days, which varied during the week, as well as attending on Fridays and Saturdays, with Ptuan and Mr Mohammed being in charge on the other days. Mr Manmi confirmed that he was responsible for ordering stock, which he did so by ticking items in a catalogue, and forwarding the order to Booker Cash and Carry. He confirmed that customers were asked to prove they were over 18 when wishing to purchase age-restricted goods, although the operation of Challenge 21 was a condition on the Premises Licence. He confirmed there were posters regarding proof of age behind the counter and near where cigarettes and alcohol were on sale. He stated that if staff did not consider customers to be old enough, they would refuse to sell age-restricted goods, and the ID they would request included a driving licence or passport. Mr Manmi stated that the shop would not serve tobacco or alcohol to underage or drunk customers and that whilst he was not sure whether other members of staff in the shop held Personal Licences, he planned to send Hassan Ali Mohammed on any relevant training courses. There was nothing in writing in terms of authorising other members of staff to sell age-restricted products, nor was there any written documentation in terms of underage sales. Osman Kadir confirmed that he did not employ Hassan Ali Mohammed to work in the shop.

- 4.10 David Palmer summarised the case on behalf of Sheffield Trading Standards.
- 4.11 Emma Rhodes provided the options available to the Sub-Committee.
- 4.12 RESOLVED: That the public and press and attendees involved in the application be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 4.13 Marie-Claire Frankie reported orally, giving legal advice on various aspects of the application.
- 4.14 At this stage in the proceedings, the meeting was re-opened to the public and

press and attendees.

- 4.15 RESOLVED: That, in the light of the information contained in the report now submitted and the representations now made, the Sub-Committee determines to revoke the Premises Licence in respect of the premises known as Abbey Stop Shop, 243-245 Abbeydale Road, Sheffield, S7 1FJ on the grounds that the operation of the premises is undermining the licensing objectives.

(The full reasons for the Sub-Committee's decision will be included in the written Notice of Determination.)

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