

First Class**PRIVATE & CONFIDENTIAL****Mr M Hussain**

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Date 28 September 2017

Dear Mr Hussain,

The Licensing Act 2003 – Notification of Decision of Panel – Review Hearing – Acre Street Mini Market, 21 Acre Street, Denton

I am writing to confirm the outcome of the review hearing held under Section 51 of the Licensing Act 2003 on Wednesday 27 September 2017 in Dukinfield Town Hall, which you attended in your capacity as Premises Licence Holder. The review was to consider the premises licence relating to Acre Street Mini Market, 21 Acre Street, Denton.

Mr David Smith, Regulatory Compliance Officer, provided an overview of what the issues were in the review. He stated that on Wednesday 9 August 2017 the Licensing section received an application from Tameside MBC Trading Standards, in their capacity as a responsible authority under the Licensing Act 2003, to review the premises licence for Acre Street Mini Market.

On Thursday 15 June 2017 a Joint Enforcement Team visit was conducted at the premises. During this visit a large quantity of illicit cigarettes and tobacco was seized under the Consumer Protection from Unfair Trading Regulations 2008. The tobacco was non compliant with the new Standardised Packaging of Tobacco Products Regulations 2015. The items were in plastic bags behind the counter and on the stairway. Also discovered underneath the shop counter were 25 boxes of 24 nitrous oxide gas canisters (600), 21 canister holders and 1 cannabis/tobacco grinder, which were seized by Greater Manchester Police.

The Licensing Authority was of the view that the supply of or offering to supply nitrous oxide was prohibited by the Psychoactive Substances Act 2016 and the licensing objectives would be undermined. It was stipulated under Condition 6 on Acre Street Mini Market's Premises Licence (PL0682) that the selling, supplying or keeping as stock of any legal highs including nitrous oxide in any form was prohibited.

Also in attendance at the meeting was DS Daniel Appleby for Greater Manchester Police, Tracey Jones-Lacy for Tameside MBC Trading Standards and Michael Robinson for Tameside MBC Licensing Section.

Case for GMP

DS Appleby advised that on 5 May 2017 intelligence was shared with the Police that nitrous oxide gas canisters were being sold to children in the local area by a male called 'Duggy'. The intelligence report stated that 'Duggy' was an alias used by you. Due to the nature of this intelligence it was shared with the Child Sexual Exploitation (CSE) team for further investigation and on 15 June 2017 a Joint Enforcement Team visit was carried out at your premises where a number of items were seized – 25 boxes of 24 nitrous oxide gas canisters (600), 21 canister holders and 1 cannabis/tobacco grinder.

A joint visit had been carried out in May 2015 where hundreds of nitrous oxide canisters, and other, at the time, legal highs were found and various drug paraphernalia.

Case for Tameside MBC Trading Standards

Mrs Jones-Lacy advised that there had been various items seized from the premises over a number of years. A multi-agency visit was carried out in May 2015 at the premises where bottles of illicit alcohol and legal highs were seized. During a further visit in 2016 bottles of illicit alcohol were seized. A Joint Enforcement Team visit was undertaken at the premises on 15 June 2017 where the following items were seized:-

1. 3 x Amber Leaf Hand Rolling Tobacco - found in a bag concealed behind the counter
2. 5 x 20's Richmond Cigarettes
3. 2 x 20's Marlboro
4. 2 x 20's Royals - found in the Tobacco Shutters behind the counter
5. 1 x 20's
6. 3200 Richmond Cigarettes in 200's - found on the stairs

In addition GMP seized 25 boxes of 24 nitrous oxide gas canisters (600), 21 canister holders and 1 cannabis/tobacco grinder, which was in contravention of Condition 6 of your premises licence. There was also a display of drug paraphernalia behind the counter, which was in contravention of Condition 7 of your premises licence.

Case for Tameside MBC Licensing

Mr Robinson advised that there had been a history of non-compliance since you became Premises Licence Holder in July 2014. On 28 May 2015 a multi-agency operation was carried out by Licensing, Trading Standards, GMP and the Fire Service following intelligence that the premises was selling legal highs / psychoactive substances. During the visit a number of issues were identified as follows:-

- Cream Charges / Nitrous Oxide canisters were on sale along with other drug paraphernalia
- CCTV system only recorded for 7 days
- Refusals book was not in operation
- No Staff Training
- The age policy was 'Challenge 21' the standard considered best practice at the time was 'Challenge 25'

Following the visit, in July 2015, a Minor Variation Application was submitted to attach 13 conditions to the premises licence, which were conditions that the licensing section would expect any responsible alcohol retailer to adhere to.

A compliance visit was undertaken on 5 August 2015 where it was discovered that the premises was not compliant with the conditions of the licence (no incident book, no record of staff training and no purchasing policy in place for alcohol and tobacco).

The premises were visited on 28 July 2016 as part of a multi-agency operation with Trading Standards and GMP. The premises were found to be in breach of several conditions of the licence as follows:-

- Alcohol marking – the alcohol on sale at the premises was not marked with a UV pen
- Purchasing records – no receipts were kept to prove that alcohol was purchased from reputable wholesalers
- CCTV – the system was not recording for the required 28 days and checks of the system were not being carried out
- Staff Training – no training was being recorded
- Incident Book – no incident book present

A Regulatory Compliance Officer worked with you in order to remedy the matters and a number of follow-up visits were carried out.

A Joint Enforcement Team visited the premises on 15 June 2017 where Trading Standards seized a large quantity of illicit cigarettes and tobacco and the Police seized 600 nitrous oxide canisters, 21 canister holders and 1 cannabis/tobacco grinder. A review application was submitted following this visit and the premises were required to correctly display a public notice.

During a visit on 25 August 2017 it was discovered that the public notice was not on display and the premises were in breach of a number of licence conditions as follows:-

- CCTV – no record of CCTV checks were kept at the premises
- Staff Training – no evidence of staff training was recorded
- Incidents – no incidents recorded in incident book
- UV Marking – You had a UV pen and light however, this was not being used and you were unable to demonstrate that alcohol was being correctly marked
- Authorisations – no list of authorised persons kept on premises

Case for Acre Street Mini Market

You told the Panel that the shop was a family run business where you, your wife and daughter lived. The shop was open from 8:00 am until 10:00pm seven days a week and you worked long, hard hours. The shop was your main source of income and you could not get another job. You said that your sister in law was the Designated Premises Supervisor who had unfortunately not been present at the premises during any of the visits.

You advised that you had been complaint with all of the conditions that had been placed on the premises licence and had purchased a new CCTV system in order to meet the 28 day requirement. There were Challenge 25 posters and CCTV notices on display in the shop. You had an incident book, a refusals book and a staff training book, which were shown during the hearing.

You further advised that you were prepared to work with the Council and Police and were aware of who was supplying what in the area. You had tried to share this information with the different authorities but they would not listen to you. You had attended a voluntary interview at Ashton Police Station on 16 August 2017 with your solicitor.

You had unfortunately recently suffered a stroke and would be on daily medication for the rest for your life. You had to attend hospital appointments and were due to have a heart monitor fitted. This event had given you a new outlook on life and meant that you could not work as much as you used to. You accepted that you had made mistakes but they were in the past and you were a law abiding citizen.

You provided explanations for the items seized and explained that in relation to the recent seizure of 25 boxes of 24 nitrous oxide gas canisters on 15 June 2017 you had purchased these for a friend who owned a restaurant from an individual who had visited your shop. You had purchased the canister holders a long time ago and had forgotten that they were in your shop. The items that had been on sale in 2015 were not illegal items at the time (nitrous oxide gas canisters). You said that every shop in Denton sold grinders and you felt that you were being targeted and victimised and other shops in the area were being ignored as all of the attention was on you.

With regard to the illicit tobacco and cigarettes that were found and seized, you said that you held your hands up to these.

You stated that you had displayed the public notice but someone had taken it down. Due to the public notice containing one of the four licensing objectives "Protection of Children from Harm" you and your family had been victims of abuse, which was often racist.

Panel Decision

The Panel listened carefully to all of the representations, questions and answers and the case put forward by you as the Premises Licence Holder.

The Panel were seriously concerned about the items that were seized by trading standards and GMP, including a large quantity of nitrous oxide canisters, canister holders, illicit cigarettes and tobacco. The Panel noted that the licence specifically prohibits the selling, supplying or keeping as stock any legal highs including nitrous oxide. In addition, they were further concerned by the compliance issues over several years including a number of breaches.

The Panel determined that it was appropriate for the promotion of the licensing objectives of the protection of children from harm and public safety that the licence be revoked.

You have the right to appeal the decision of the Panel pursuant to the Licensing Act 2003, Schedule 5, against the conditions imposed to the Tameside Magistrates Court, Henry Square, Ashton-under-Lyne, within 21 days of the date of this notice.

Yours sincerely,

Charlotte Forrest
Senior Democratic Services Officer

cc: **David Smith, Regulatory Compliance Officer (Licensing)**
Mike Robinson, Regulatory Compliance Officer (Licensing)
Tracy Jones-Lacy, Business Compliance Officer (Trading Standards)
DS Appleby, GMP