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Date 20 July 2018

First Class

PRIVATE & CONFIDENTIAL

Mrs S Kousar

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Dear Mrs Kousar,

The Licensing Act 2003 – Notification of Decision of Panel – Application for a Premises Licence for Acre Street Mini Market, 21 Acre Street, Denton

I am writing to confirm the outcome of the hearing to determine an application for a premises licence for Acre Street Mini Market, 21 Acre Street, Denton.

The hearing was held under Section 18(3) of the Licensing Act 2003 on Tuesday 17 July 2018 in Dukinfield Town Hall. Section 18(3) says that where relevant representations are made, the authority must, (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and (b) having regard to the representations, take such of the steps mentioned in Section 18(4) as it considers appropriate for the promotion of the licensing objectives.

The licensing objectives, which the Licensing Authority are required to promote are the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.

You were in attendance at the hearing and were represented by June Clarke, JMC Licensing Consultants. Mr Mike Robinson, Regulatory Compliance Officer, Tameside MBC's Licensing Authority, Mr Carl Jones, Business Compliance Officer, Tameside MBC's Trading Standards and PC Mark Casey, Licensing Officer, Greater Manchester Police, attended to make representations following written submissions in their capacity as responsible authorities.

The Panel was informed that on 16 May 2018 the Licensing Authority received a premises licence application for Acre Street Mini Market seeking authorisation for the sale of alcohol for consumption off the premises from 11:00 – 22:00 Sunday to Thursday and 11:00 – 22:30 on Friday and Saturday. Acre Street Mini Market was a former licensed premises and the licence had been held by the husband of Mrs Kousar, Mr Murtza Hussain. Following a history of non-compliance the licence had been revoked by the Speaker's Panel (Liquor Licensing) on 27 September 2017.

Case for the Applicant

Ms Clarke addressed the Panel on your behalf and stressed that you were applying for a premises licence within your own right and were the sole applicant. You were of good character and had no criminal offences. Two retired Police Officers had supplied character references for you that supported your application and your trustworthiness. She specifically referred to Section 17 and

Section 18 of the Licensing Act 2003, which she said meant that the Licensing Authority must accept your application.

She told the Panel that you had separated from your husband and he had left the family home on 26 June 2018 and the business and had moved to a new town. You were now left as a single Mother with a 3 year old little girl. In addition, she explained that you had been through a lot of trauma recently with the tragic murder of your sister at the same time your husband suffered from a stroke, as a result he struggled to work and had to attend a lot of hospital appointments. Despite these hardships you had invested in the premises, which had undergone a full refurbishment, and were successfully running the shop without your husband.

She outlined your suitability to hold a licence and the fact that you fulfilled all of the necessary requirements that were detailed in the Licensing Act 2003. She queried the submitted representations especially the focus on the premises operating in a way that undermined the licensing objectives as the premises did not currently have a licence. Although the shop was formerly licensed she stressed that this was under Mr Hussain, who was no longer involved with the business, and Mrs Kousar had no involvement at that time. It was accepted that the shop had a history of problems whilst under Mr Hussain's management but Mrs Kousar was unaware of these issues at the time and when they came to light she acted.

Ms Clarke made reference to an email exchange between Mr Robinson and Mr Semper in which Mr Robinson stated that he observed Mr Hussain outside the shop on 30 June 2018. Ms Clarke refuted this claim and explained that the man Mr Robinson observed was in fact Mr Hussain's brother. She reiterated that Mr Hussain was no longer involved with the business and had split up from Mrs Kousar.

Ms Clarke circulated a number of documents for the Panel's consideration including "Investigatory Powers of Consumer Law Enforcers Guidance 2015", "Identification Evidence", Section 18 of the Licensing Act 2003 and a list of proposed conditions for the shop. She stated that you were willing to accept some additional conditions but the ones proposed by the Licensing Officer were onerous and unnecessary.

She also referred to a number of documents she had with her, which she would train you to use on the premises should you be granted the licence, as your consultant, with which you were not yet familiar as you had not yet got the licence.

Following Ms Clarke's address, you and Ms Clarke answered questions from the Panel and representatives from Tameside MBC's Licensing Authority, Trading Standards and GMP.

Case for Tameside MBC Licensing

Mr Robinson, Tameside MBC's Licensing Authority, then addressed the Panel and explained that he had made a representation in relation to this application as he believed that lessons had not been learnt and nothing had changed at the premises since the revocation of the licence on 27 September 2018.

He told the Panel that Acre Street Mini Market had a history of non-compliance since the granting of a premises licence for the sale of alcohol for consumption off the premises on 17 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. The premises did not have any enforceable conditions and a number of other issues were identified, including the premises having cream charges / nitrous oxide canisters on sale with other drug paraphernalia.

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.

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. The premises were next visited on 15 June 2017 and a large quantity of illegal tobacco was found to be on sale. Over 600 nitrous oxide canisters were also found at the premises. A review application was submitted following this visit and the premises were required to correctly display a public notice, which they failed to do. During a visit on 25 August 2017, to check the Public Notice was displayed correctly, the premises were again found to be in breach of a number of licence conditions.

A review application was subsequently submitted and the Speakers Panel (Liquor Licensing) determined at a hearing held on 27 September 2017 to revoke the premises licence. Mr Hussain intended to appeal the decision and therefore continued trading and the premises licence remained in force until the appeal was heard. A compliance visit was carried out on 29 January 2018 and the premises were found to be in breach of a number of conditions, Mr Hussain was advised to suspend the sale of alcohol until the issues had been rectified.

The Licensing Office, having contacted the Magistrates Court's at both Tameside and Stockport, discovered that an appeal had not been validly lodged. An email of intent to submit an application had been incorrectly sent to Stockport Magistrates Court but this was never followed up with a formal application. As a result the premises should have ceased selling alcohol on the date that the revocation came into effect (19 October 2017) and all alcohol needed to be removed from the premises. This information was delivered to Mr Hussain in person and confirmed in a letter dated 23 February 2018, although Mr Hussain should have been aware of this in any event. The applicant was and still is married to Mr Hussain, and had been involved with the business for a number of years.

Intelligence was received that the premises continued to sell alcohol therefore a test purchase was carried out by a Regulatory Support Officer on 9 March 2018, who was sold a bottle of wine by Mrs Kousar. Two Licensing Officers, accompanied by PC Casey, visited the premises on 13 March 2018 and discovered alcohol for sale. Mrs Kousar was alone in the shop and informed the officers that alcohol was being sold and that she would be submitting an application for a premises licence.

Following receipt of the premises licence application, that was submitted on 16 May 2018, the shop was visited on 4 June 2018. Mr Hussain was present and large quantities of alcoholic products were found in the fridge with a sign "No alcohol sale". A large amount of alcohol was also discovered in the stock room, which Mr Hussain stated was for his own personal use, and invoices detailing alcohol sales between 18 May and 1 June 2018 were produced.

Following Mr Robinson's representation, the Panel members and you and your representative were provided with the opportunity to ask questions.

Case for GMP

PC Mark Casey, Greater Manchester Police, then addressed the Panel and reiterated the findings of the joint visit that had been carried out at the premises on 13 March 2015. He added that following the discovery of 600 nitrous oxide canisters at the premises on 15 June 2017 Mr Hussain had been charged with "Possession with intent to supply a Psycho-active substance" to appear at Tameside Magistrate's Court on 19 July 2018. He further added that there were clear safeguarding issues for young people in the area.

PC Casey asked the Chair's permission to circulate a table of evidence that had been gathered against Mr Hussain, which related to the charge of "Possession with intent to supply a Psycho-active substance". You, Ms Clarke and the Panel were given the opportunity to consider and comment upon the document.

Following PC Casey's representation, the Panel members and you and your representative were provided with the opportunity to ask questions.

Case for Tameside MBC Trading Standards

Mr Jones, Tameside MBC's Trading Standards, then addressed the Panel and explained he was representing his colleague, Tracy Jones-Lacy, who had made a representation in relation to this application due to a history of dealings with the premises since the granting of a premises licence on 17 July 2014.

A multi-agency visit was carried out in May 2015 at the premises where bottles of illicit alcohol, legal highs and 2 BB Guns 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:-

- 3 x Amber Leaf Hand Rolling Tobacco
- 5 x 20's Richmond Cigarettes
- 2 x 20's Marlboro
- 2 x 20's Royals
- 1 x 20's Bright Leaf
- 3200 Richmond Cigarettes in 200's

In addition 25 boxes of 24 nitrous oxide gas canisters (600), 21 canister inhalers, small plastic bags, 1 cannabis / tobacco grinder and a display of drug paraphernalia behind the counter were found at the premises. Photographs of the items, as detailed within the evidence pack, were circulated.

Following Mr Jones's representation, the Panel members and you and your representative were provided with the opportunity to ask questions.

There was a discussion with regard to whether it was no longer lawful to possess for sale and supply nitrous oxide canisters as your representative raised that some cases had been abandoned, but legal advice was given that Home Office guidance appears to be that the Psychotic Substances Act 2016 remains good law which prosecutors must apply on a case by case basis.

Panel Decision

The Panel considered the evidence that had been submitted by all parties, your case, the representations, questions and answers. They noted your difficult circumstances and were fully aware that the application was in your name and you were the sole applicant.

In determining the application the Panel had to, having had regard to the representations, take such steps in accordance with Section 18 of the Licensing Act 2003 as it considered appropriate for the promotion of the licensing objectives. This includes in Section 18(4) the option, having listened to representations made, to reject the application.

The Panel did not have sufficient confidence from what they had heard that you had demonstrated the ability at this moment in time to meet the licensing objectives required under the Licensing Act 2003. The Panel understood you were a new applicant but noted that you had previously been involved in the business for a number of years including when it had a licence. They also noted that you had sold alcohol on 9 March 2018, and confirmed it was still for sale on 13 March when the premises no longer had a licence, which in their view demonstrated a lack of understanding of

the licensing requirements and objectives. Therefore they determined that the application for a premises licence in respect of Acre Street Mini Market, 21 Acre Street, Denton be refused.

You have the right to appeal the decision of the Panel. Any Notice of Appeal should be sent to Tameside Magistrates Court, Henry Square, Ashton-under-Lyne, within the period of 21 days beginning with the day on which you were notified of this decision, which was 17 July 2018.

Yours sincerely,

Charlotte Forrest
Senior Democratic Services Officer

cc: John Gregory, TMBC Licensing
Mike Robinson, TMBC Licensing
Carl Jones, TMBC Trading Standards
PC Mark Casey, GMP