

SPEAKERS PANEL (LIQUOR LICENSING)

4 April 2023

Commenced: 10.15am

Terminated: 11.55am

Present: Councillors Drennan (Chair), Bowden and Quinn

In Attendance:

Mike Robinson	Regulatory Services Manager, TMBC
Rebecca Birch	Regulatory Compliance Officer, TMBC
Ashleigh Melia	Solicitor, TMBC
Nicola Briers	Trading Standards Officer
PC Foley	Greater Manchester Police
Erika Demeterova	Premises Licence Holder
Zishan Ali Shaikh	Designated Premises Supervisor

16. DECLARATIONS OF INTEREST

Councillor Bowden declared, on the grounds of public interest, that she was acquainted with PC Foley through a mutual family acquaintance. She further declared that this did not prejudice her professional integrity in hearing the Review and reaching a decision with panel members.

17. MINUTES

RESOLVED

That the Minutes of the meetings of the Speakers' Panel (Liquor Licensing) held on 17 January 2023 be approved as a correct record.

18. REVIEW OF A PREMISES LICENCE – MARIA AND PHILLIP OFF LICENCE, 7 STOCKPORT ROAD, HYDE. SK14 1RH

Mr Robinson, Regulatory Services Manager, presented the report to the Panel and outlined the procedure whereby a responsible authority may apply to the Licensing Authority for a review of a premises licence under Section 51 (1) of the Licensing Act 2003

Mr Robinson presented the report to the Panel and identified the steps available to the Panel in determining the application.

Mr Robinson informed the Panel of the brief background to the application as set out in the report and summarised the representations received from:

- Trading Standards, Tameside MBC
- Licensing, Tameside MBC
- Greater Manchester Police

Maria and Phillip, 7 Stockport Road, Hyde, SK14 1RH had been a licensed premises since 24 November 2005. Ms Erika Demeterova had been the Premises Licence Holder since 14 April 2020. Thomas Joy was the Premises Licence Holder at Maria and Phillip from 6 January 2015 to 13 April 2020. Mr Joy was the Designated Premises Supervisor from 10 February 2015 to 15 February 2023. Mr Joy was the owner of property; 7 Stockport Road, Hyde.

Mr Robinson set out the chronology of the Council's involvement with the Premises:

On 28 June 2021, Tameside Trading Standards received a complaint stating that the premises was selling illicit tobacco, selling tobacco to children and selling single cigarettes.

On 8 July 2021, a visit was conducted to the premises by Ms Briers, Trading Standards Officer where six pouches of foreign labelled Amber Leaf hand rolling tobacco found in the back store room were seized.

On 13 July 2021, Rebecca Birch, Licensing Officer conducted a visit to the premises and spoke with Andrew Bridge, store assistant. Mr Bridge informed Ms Birch that he did not know of a Mr Thomas Joy, Designated Premises Supervisor. He was advised to stop the sale of alcohol during the visit. Mr Bridge informed the officer that 'Shaun' was Zishan Shaikh, the owner of the business and the husband of Ms Erika Demeterova.

Ms Birch attended the premises on 16 July 2021 to meet with the Ms Erika Demeterova, Mr Thomas Joy and Mr Zishan Shaikh to confirm that Mr Joy was the Designated Premises Supervisor. Ms Birch proposed that a minor variation be to add conditions to the Premises Licence to ensure the promotion of the licensing objectives.

A test purchase operation was carried out on 14 February 2022 at Maria and Phillip where one packet of illicit Richmond Superking was purchased. The test purchaser observed that the cigarettes were obtained from a jacket hanging up in the back stock room.

On 17 February 2022, Trading Standards visited the premises with Officers from Greater Manchester Police. During this visit, one packet of Amber Leaf hand rolling tobacco was found in the pocket of a jacket hung behind the counter.

On 27 June 2022, Ms Briers contacted the Premises Licence Holder and Designated Premises Supervisor detailing the issues found at the premises and requesting they attend a meeting on 7 July 2022 at the Council Offices with the view to discuss amendments to the conditions on the Premises Licence.

Mr Joy rearranged this meeting on three occasions over two months due to the Premises Licence Holder being out of the country. The final meeting was arranged for 30 August 2022; Ms Briers advised Mr Joy that this meeting would not be rearranged again.

On 30 August 2022, Mr Joy attended the meeting with Nicola Briers, Trading Standards Officer and Rebecca Birch, Licensing Officer. The Premises Licence Holder was unable to attend due to being out of the country. During this meeting, Mr Thomas Joy indicated that he no longer wanted to be the DPS for the premises and that Zishan Shaikh (Shaun) was looking to become the DPS of the premises.

On 4 September 2022 a test purchase exercise was carried out and a packet of illicit Richmond Superking size was purchased.

On 13 September 2022, Mr Zishan Shaikh submitted a Personal Alcohol Licence application to the Licensing Authority. This application was granted.

A visit was conducted on the 13 October 2022 with officers from Trading Standards, Greater Manchester Police, Licensing and a tobacco detection dog. An entry warrant was executed for the flat above Maria and Phillip. The following products were seized from the premises:

The following products were found and seized within the flat above Maria and Phillip:

- 8x packets of Richmond Super King
- 19 packets of Marlboro
- 10x packets of Gold Leaf
- 37x packets of illicit tobacco were found and seized.

The following products found and seized from the shop:

- 1x opened packet of Benson and Hedges
- 66x Elux 3550

On 14 February 2023, following submission of the review application, Ms Briers contacted Mr Joy to inform him of the application. Mr Joy stated that as far as he was aware he was no longer the DPS of the premises.

A visit was conducted to the premises on 14 February 2023 by Ms Briers and Ms Birch to meet with Mr Joy. During this visit, Mr Joy stated that he presumed Mr Shaikh was the DPS but he would remain the DPS due to his current involvement in the premises.

On 15 February 2023, the Licensing Authority received an application to vary the Designated Premises Supervisor from Erika Demeterova to specify Mr Zishan Shaikh as the Designated Premises Supervisor of Maria and Phillip.

At this stage Mr Robinson asked Ms Demeterova and Mr Shaikh if they understood and were happy to continue to which they confirmed they were.

Nicola Briers, Trading Standards Officer, Tameside MBC then presented her statement. Reading out the statement, Ms Briers informed the Panel:

- The premises was not promoting the following licensing objectives:
 - Product safety – due to the sale/supply of illicit tobacco and non-compliant e-cigarettes;
 - Protection of children from harm – due to the cheaper pricing of illicit tobacco products being more affordable and appealing/available to children;
 - Prevent of crime and disorder – the sale of non-compliant e-cigarettes is an offence under the Tobacco and Related Product Regulations 2016 and the sale/supply of illicit tobacco is an offence under the Tobacco and Related Product Regulations and the Standardised Packaging of Tobacco Products Regulations 2015.
- On 28 June 2021, Trading Standards received complaints about the premises selling illicit tobacco, selling tobacco to children and selling cigarettes.
- On 8 July 2021 Ms Briers visited the premises and seized six pouches of foreign labelled Amber Leaf hand rolling tobacco found in the back store room.
- Other issues were also identified:
 - No tobacco notice was on display contrary to Children and Young Persons (Protection from Tobacco) Act 1991;
 - No refusals book was in place;
 - Many items were not priced contrary to The Price Marking Order 2004.
- On 13 July 2021 a warning letter was sent regarding the sale/supply of illicit tobacco to Ms Demeterova.
- On 9 November 2021 Ms Briers received an email from Greater Manchester Police stating that the premises was selling high strength vapes to school children.
- In December 2021 letters were sent to over 200 retailers advising them of the law relating to the sale of e-cigarettes and the requirement of the tank size; a copy of this letter was sent to Maria and Phillip.
- On 14 February 2022 a test purchase was carried out at the premises and a packet of illicit Richmond Superking was purchased for £5 which was obtained from a jacket hanging up in the back stock room.
- On 17 February 2022 Trading Standards and Greater Manchester Police visited the property and one packet of Amber Leaf hand rolling tobacco was seized from a jacket pocket hung behind the counter.
- On 27 June 2022 Ms Briers sent a letter to Ms Demeterova and Mr Joy detailing the issues at the premises and concerns that the premises was not promoting the licensing objectives. A meeting was requested on 7 July 2022.

- On 5 July 2022 Mr Joy advised that Ms Demeterova was unable to attend the meeting as she was out of the country. A further meeting was arranged on 27 July 2022 and on 26 July Mr Joy advised Ms Demeterova was still out of the country.
- Another meeting was arranged on 23 August 2022 and on 11 August Mr Joy advised that Ms Demeterova was unable to attend.
- A final meeting was arranged on 30 August 2022, which Ms Demeterova did not attend. Mr Joy indicated that he no longer wanted to be the DPS and that Mr Shaikh wanted to be the DPS.
- On 4 September 2022 a test purchase was carried out and a packet of illicit Richmond Superking was purchased for £5.
- On 5 September 2022 Mr Shaikh advised he had completed his training to become a personal licence holder.
- On 20 September 2022 a warrant was obtained to enter and search the flat above the premises and a visit was carried out on 13 October 2022 where the following illicit tobacco items were seized from the flat:
 - 8x packets of Richmond Superking
 - 19 packets of Marlboro
 - 10x packets of Gold Leaf
 - Total 37x packets of illicit tobacco found and seized from flat
- The following illicit tobacco items were seized from the shop:
 - 1 x opened packet of B&H
 - 66x Elux 3550

Ms Briers then answered questions, in relation to her submission.

PC Foley, Greater Manchester Police then presented his statement and made the following submissions:

- PC Foley became aware of the issue around illicit tobacco and illegal vapes when he started his current role in May 2022.
- PC Foley's predecessor PC Thorley emailed Ms Briers on 9 November 2021 reporting that the premises was selling high strength vapes to children.
- On 17 February 2022 Greater Manchester Police visited the premises with Trading Standards and found a packet of amber leaf rolling tobacco in the pocket of a jacket hanging up behind the counter.
- On 13 October 2022 Greater Manchester Police visited the premises with Trading Standards where 37 packets of illicit tobacco found and seized from flat above the premises and 66 illegal vapes and a packet of opened B&H cigarettes from the premises.
- The importation of illicit tobacco and vapes in the UK has strong links to organised crime groups.
- There was no confidence the current owners and workers in promoting any of the licensing objectives and particularly crime and disorder which they have total disregard for.
- Recommended a revocation of the premises licence.

Rebecca Birch, Regulatory Compliance Officer, Tameside MBC, presented her statement and made the following submissions:

- The premises was seriously undermining the licensing objectives
 - Public safety
 - Protection of children from harm
 - Prevention of crime and disorder
- Numerous attempts had been made by Licensing and Trading Standards to work with the DPS and Premises Licence Holder and there was a clear pattern of non-compliance with relevant legislation.
- Trading Standards informed the Licensing Authority of the seizure of foreign-labelled Amber Leaf rolling tobacco on 28 June 2021.

- On 13 July 2021 Ms Birch visited the premises and spoke with Andrew Bridge who stated he did not know a Thomas Joy (DPS) and that 'Shaun' (Mr Shaikh) was the owner of the business.
- A meeting was arranged on 16 July 2021 with Mr Shaikh and Mr Joy to discuss and confirm Mr Joy's involvement at the premises.
- Ms Birch suggested the premises submit a minor variation application to add conditions to the licence to better promote the licensing objectives.
- Mr Shaikh confirmed he was happy to submit a minor variation application then later stated he did not understand the minor variation or the reason for the application.
- On 14 February 2022 a positive test purchase was carried out where illicit Richmond Superking cigarettes were seized.
- Ms Birch was present at the visit on 13 October 2022 where large quantities of illicit tobacco and illegal e-cigarettes were seized.
- On 14 February 2023 Ms Birch visited the premises with Trading Standards to meet with Mr Joy who confirmed that he presumed Mr Shaikh was the DPS.
- On 15 February 2023 Ms Demeterova submitted an application to vary the DPS specifying Mr Shaikh as the DPS.
- Ms Birch questioned how Ms Demeterova and Mr Shaikh could effectively manage a business when they were out of the country for long periods of time to which Mr Shaikh said his daughter was very ill and they had to go to sort her out.

Ms Demeterova, Premises Licence Holder and Mr Shaikh, Designated Premises Supervisor then made the following submissions:

- Although it had happened so many times, the premises were not selling vapes to underage children as it was mostly the parents who bought the vapes for their children
- He assured that he was the DPS and lived upstairs and this wouldn't happen again and they would stick to the rules.

Ms Demeterova and Mr Shaikh then answered questions from Mr Robinson, Regulatory Services Manager, PC Foley and Panel members.

The Panel then heard brief closing submissions from all parties.

Members of the Panel then retired to carefully consider the written submissions, representations and questions and answers during the hearing in addition to all the information provided. The Panel were accompanied by the Legal Representative and the Principal Democratic Services Officer, who provided legal and procedural advice only and took no part in the decision making process.

DECISION/REASONS

In determining the matter, the Panel had due regard to:

- the report to Panel
- the application and representations received
- all oral and written evidence and submissions
- the Council's Statement of Licensing Policy
- the relevant sections of the Licensing Act 2003 and Regulations made thereunder
- the Guidance issued by the Secretary of State under section 182 of that Act.

The Panel determined the application pursuant to section 52(3) of the Act having regard to the relevant representations and the requirement to take such steps as it considered appropriate to promote the licensing objectives.

The key points identified by the Panel were as follows:

1. It was admitted by both the Premises Licence Holder and the Designated Premises Supervisor that neither knew what the licensing objectives were.

2. When informed what the Licensing Objectives were, the Premises Licence Holder and DPS were unable to say what they would do to promote the licensing objectives going forward.
3. The DPS admitted that he was aware that parents were buying illegal vapes for their children and continue to sell the vapes to the parents regardless.
4. The premises had multiple opportunities to change how they ran the business.
5. The premises had consistently ignored advice from Professional Bodies on how to promote to the licensing objectives and to adhere to the law.
6. There had been persistent breaches of tobacco-related legislation.
7. The Panel were not satisfied that the Premises Licence Holder or DPS had an understanding of what they had done wrong.
8. The Panel were concerned that the business had not and could not be run efficiently or promote the licensing objectives.

STEPS TAKEN PURSUANT TO S52(4) LICENSING ACT 2003

The Panel considered all available options.

On balance, having carefully considered all of the available information and having regard for the premises licence holder and the DPS's lack of knowledge of the licensing objectives and sale of illicit tobacco and illegal vapes, the Panel concluded that the licence should be revoked.

The Panel felt that the premises had flagrantly disregarded the law and advice provided by professional bodies on numerous occasions and that they had chosen to ignore this advice and continued to knowingly breach tobacco regulations. The Panel were not satisfied the Premises Licence Holder or the DPS understood what they had done wrong and were of the view that the business couldn't be run to efficiently promote the licensing objectives.

The Panel thanked those attending the hearing for their contribution and assisting the Panel in reaching its decision.

RESOLVED

That the premises licence be revoked.

CHAIR