

SPEAKERS PANEL (LIQUOR LICENSING)

19 December 2023

Commenced: 1.30 pm

Terminated: 2:45pm

Present: Councillors Drennan (Chair), Bowden (Vice-Chair) and Quinn

In Attendance:

Mike Robinson	Regulatory Services Manager (Licensing)
Sharon Campbell	Regulatory Compliance Officer
Dave Ringer	Regulatory Compliance Officer
Tracy Jones-Lacy	Trading Standards Officer
Ashleigh Melia	Legal Representative, TMBC

9. 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.

10. MINUTES

RESOLVED

That the Minutes of the meetings of the Speakers' Panel (Liquor Licensing) held on 7 November 2023 were approved as a correct record.

11. REVIEW OF A PREMISES LICENCE FOR SAVE MORE CONVENIENCE STORE, DROYLSDEN

Mr Reza Enayati, the Premises Licence Holder and Designed Premises Supervisor, was not in attendance at the Hearing. He was granted a 15-minute grace period and was contacted via telephone to ascertain his whereabouts. He advised that he would not be attending the Hearing, that he had sold the business and that he was no longer the Premises Licence Holder and Designed Premises Supervisor. The Panel were informed that Mr Enayati had been told that he was required to provide evidence of this and had been reminded to provide this evidence on multiple occasions but had failed to do so.

In the absence of Mr Enayati and given his notification that he did not intend to attend the hearing, the Panel exercised their power under Section 20 of The Licensing Act 2003 (Hearings) Regulations 2005 to proceed in Mr Enayati's absence.

Mr Robinson, Regulatory Services Manager, presented the report and identified the steps available to the Panel in determining the Review, under Section 52 (4) of the Licensing Act 2003. He informed the Panel that Save More Convenience Store, 75-77 Market Street, Droyslden, M34 6DD was a licensed premises and Mr Enayati has held the positions of Premises Licence Holder and Designed Premises Supervisor since 3 February 2023.

Mr Robinson informed the Panel that the Premises Licence was previously subject to a Premises Licence Review on 6 December 2022 following concerns regarding the sale of illicit tobacco. The Panel determined at that Hearing, to suspend the licence for a period of 3 months and modified the conditions on the licence. The suspension took effect following the appeal period and the licence remained suspended until 2 April 2023.

It was reported that on 3 April 2023, a compliance visit was carried out at the premises and it was found that nine conditions were being breached and no Personal Licence Holder was present at the premises. On 18 April 2023, a further compliance visit was carried out and a number of breaches were identified, including no licence summary on display, no Personal Licence Holder on site, no authorisations list, no staff training records and the member of the staff at the premises was unable to use the CCTV system. A letter was sent to Mr Enayati outlining the breach of conditions.

It was further reported that on 26 April 2023, another visit was conducted at the premises and it was noted that the breaches previously identified on 18 April 2023 had not been addressed. On 31 August 2023, the Licensing Department were made aware that Greater Manchester Police had received two intelligence reports stating that illegal cigarettes were being sold from the premises and that the cigarettes were being stored in a vehicle at the rear of the shop.

The Panel were told that on 7 September 2023, Licensing, Trading Standards and Greater Manchester Police visited the shop and at the time of the visit a male went to the back of the shop to use the bathroom. This man was searched and Police Officers found car keys, belonging to a black Audi, in his possession. The car was parked in the car park at the rear of the premises and when unlocked, over 800 illicit and non-compliant tobacco items were found. An empty box of non-compliant vapes was also found behind the counter. The vehicle was seized by police. The premises was also found to be non-compliant with the following licencing conditions:

- No Personal Licence Holder on the premises
- Refusals book not up to date
- No staff training record
- No CCTV checks being made
- No staff able to use CCTV
- List of authorised persons up to date
- CCTV not storing footage for 28 days
- No waste contract in place

On 8 September 2023, a letter was hand delivered to the Premises Licence Holder by a Regulatory Compliance Officer outlining the breaches found from the previous visit on 7 September 2023.

The Panel were made aware that on 21 September 2023, Mr Enayati was invited into Council offices to discuss the visit on 7 September 2023. Mr Enayati was asked to bring CCTV footage from that day however, he could not produce this. Mr Enayati stated that he would be sorting all the issues raised on 7 September 2023 and he was informed that he would have to obtain the CCTV footage at a visit 2 weeks after the meeting. This CCTV footage could not be produced as he said the system had not been recording since 8 August 2023, which constituted a breach to the licence conditions.

The Panel were notified that on 4 October 2023, a visit was made to the premises by Regulatory Compliance Officers and PC Foley from Greater Manchester Police. The premises were found to be non-compliant and a number of issues were still not addressed, these being:

- No Personal Licence Holder on the premises
- Refusals book not up to date
- No staff training record
- No CCTV checks being made
- No staff able to use CCTV
- List of authorised persons up to date
- No waste contract in place

Mr Robinson informed the Panel that representations had been received from:

- Greater Manchester Police
- Trading Standards
- Public Health

Mr Robinson made the Panel aware that James Mallion from Public Health and PC Foley from Greater Manchester Police were unable to attend the meeting.

It was highlighted that Mr Enayati would have had the opportunity to ask Mr Robinson questions about the report if he was in attendance.

As PC Foley was not in attendance at the Hearing, the Panel considered his written representation, as detailed at Appendix 12 of the report, summarised as follows:

- Grounds of the representation were Prevention of Crime and Disorder and the Protection of Children from Harm.
- Concerns over the running of Save More, which has not changed since the change in ownership since the last review.
- The same issues have been consistent with the current owner Mr Enayati.
- The licensing objectives of prevention of crime and disorder and protection of children from harm were not being adhered to despite being given plenty advice.
- During PC Foley's visit with Trading Standards on 11 April 2023, Mr Enayati was present and illicit e-cigarettes were seized from the kitchen at the rear of the shop and from behind the counter.
- Illicit tobacco was seized from behind the counter.
- Alcohol, with the content over the allowed strength as set out in the licence conditions, was found for sale and were seized.
- On 7 September 2023, PC Foley visited the premises with Licensing and Trading Standards officers; keys were seized from a man working in the premises to a black Audi that was parked at the rear of the premises and contained over 800 packets of illicit tobacco products and the vehicle was not registered or taxed.
- The man working behind the counter, Mr Mohammadammini, stated that he was training but also stated that there was no one at the shop to train him.
- No Personal Licence Holder was present at the premises.
- GMP had received intelligence of the shop selling vapes and e-cigarettes to underage children in June, July and September 2023, thus undermining the licensing objectives around protecting children from harm.

Ms Jones-Lacy, Trading Standards, addressed the Panel and made the following representations on behalf of Tameside Council Trading Standards:

- The premises had a history of non-compliance and in recent years had consistently undermined the licensing objectives, namely the protection of children from harm, the prevention of crime and disorder and public safety.
- Ms Jones-Lacy stated that she had previously submitted a representation on 6 December 2022, due to the same issues, which resulted in the licence being suspended for a period of 3 months, and set out the background pertaining to this review application, as set out in her representation at Appendix 13 to the report.
- A visit on 26 April 2023 resulted in non-compliant e-cigarettes being seized together with illicit tobacco and alcohol over the permitted strength, which was being sold at the premises, was also seized.
- On 25 April 2023, tobacco products were found concealed at the premises.
- On 31 August 2023, Ms Jones-Lacy was informed of two reports to GMP that illegal cigarettes were being sold from the store and were being sold to children.
- Ms Jones-Lacy informed the Panel of the seizure on 7 September 2023, where over 800 packets of illicit tobacco were seized from a vehicle parked at the rear of the premises, the keys of which were seized from a man working at the premises at the time.
- The man working behind the counter on this day refused to sign the receipt of the items seized stating that he had nothing to do with the premises.
- On 21 September 2023, Mr Enayati attended a meeting at Tameside Council Offices and stated he knew nothing about the illegal cigarettes as he was in Birmingham on 7 September 2023 and was unable to provide CCTV footage as requested.

- Due to the pattern of non-compliance with Trading Standards legislation since the revocation of the premises licence and evidence of the sale of illicit tobacco, Trading Standards had lost faith in the ability of the management of the premises to promote the licensing objectives and concluded that the licence should be revoked.

Meeting attendees were provided with the opportunity to ask questions. The Panel asked Ms Jones-Lacy if it was the strength of the e-cigarettes that made them illicit and Ms Jones-Lacy confirmed that it was the tank size that made them illicit.

Mr Mallion, Public Health, was not in attendance therefore the Panel considered his written representation, as detailed at Appendix 14 to the report, summarised as follows:

- Concerns regarding the prevention of crime and disorder, public safety and protection of children from harm.
- The Panel considered the statistics as set out in the representation relating to alcohol and smoking.

Mr Enayati was not in attendance and did not provide any information that he would liked to have been considered at the hearing. If Mr Enayati was present, Mr Robinson stated he would have asked him who was in day-to-day control of the premises.

The Panel would like to have asked Mr Enayati if he had any previous experience with this line of work and they wanted to ascertain if the person who he had bought the business from was any relation to him.

The Panel heard brief closing submissions from those present.

On behalf of the Licensing Authority, Mr Robinson summarised the steps that could be taken by the Panel as detailed on the front of the report.

On behalf of the Trading Standards, Ms Jones-Lacy stated that the premises flaunted all legislation and undermined other businesses in the area. She confirmed she had no faith that the premises could promote the licensing objectives.

Members of the Panel retired to deliberate and were accompanied by the Legal Representative and the Senior 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 Review 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. The Premises Licence was previously suspended on 6/12/22 as a result of the large quantities of illicit tobacco being sold and seized from the premises.
2. The suspension ended on 02/04/23 and on 03/04/23, a compliance visit identified 9 breaches to the premises licence.

3. Further breaches have been identified on subsequent visits on 18/04/23, 26/04/23, 07/09/23 and 04/10/23.
4. The Panel were concerned that on 31/08/23, GMP received two reports that the premises was selling illicit tobacco to children, which was being stored in a vehicle to the rear of the premises.
5. Following these reports, a visit was carried out on 07/09/23, which resulted in 879 packets of illicit tobacco being seized from a vehicle to the rear of the premises, the keys of which were seized from a person working at the premises.
6. The premises have had multiple opportunities to change how they run the business and to address the breaches that were identified on various visits to premises.
7. The premises has consistently ignored advice from Professional Bodies on how to promote the licensing objectives and to adhere to the law.
8. There have been persistent breaches of tobacco-related legislation and the same problems identified are the same issues that were identified in 2022, which resulted in the licence being suspended for a period of 3 months.
9. The Panel were of the view that the previous 3 month suspension has not been effective and illegal activity has continued to take place at the premises.
10. The Panel were concerned that this business has not and cannot be run efficiently or promote the licensing objectives.
11. The Panel also noted that Mr Reza Enayati informed Mr Robinson that he had sold the business and was no longer the Premises Licence Holder and Designated Premises Supervisor, however no evidence of this has been provided to the Licensing Authority despite this previously being requested.

The Panel were extremely concerned that previously the premises licence had been suspended for a period of 3 months and that the premises was before the Panel again 12 months later, despite new ownership. The Panel were concerned about the flagrant disregard to the licensing objectives and legislation despite numerous compliance visits and advice provided to the premises.

The Panel called all parties back into the room to read out the decision.

STEPS TAKEN PURSUANT TO S34 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's disregard to the licensing objectives, legislation and advice from professionals and evidence of the sale of illicit tobacco from the premises and breaches to the licence conditions, the Panel unanimously agreed that the only step available to promote the licensing objectives was to revoke the licence.

RESOLVED

That the premises licence be revoked.

CHAIR