

Minutes

LICENSING SUB-COMMITTEE

10 September 2021

Meeting held at Committee Room 5 - Civic Centre, High Street,
Uxbridge



	<p>Committee Members Present: Councillors Simon Arnold (Chairman) John Morse Colleen Sullivan</p> <p>LBH Officers Present: Lois King, Licensing Officer Mark McDermott, Licensing Officer Chantelle McLeod, Legal Officer Liz Penny, Democratic Services Officer Kiran Seyan, Senior Trading Standards Officer</p> <p>Responsible Authorities: Lois King, Licensing Authority PC David Butler, Metropolitan Police Kiran Seyan, Senior Trading Standards Office</p> <p>The Licence Holder: Mrs Gurpreet Kaur Lowgani</p> <p>The Licence Holder's Representative: Mr Surendra Panchal</p> <p>The Licence Holder's Legal Representative: Mr Leo Charalambides</p>
21.	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>There were no apologies for absence.</p>
22.	<p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING (<i>Agenda Item 2</i>)</p> <p>None.</p>
23.	<p>TO CONFIRM THAT THE ITEMS OF BUSINESS MARKED PART I WILL BE CONSIDERED IN PUBLIC AND ITEMS MARKED PART II WILL BE CONSIDERED IN PRIVATE (<i>Agenda Item 3</i>)</p> <p>It was confirmed that all items of business were marked Part I and would be considered in public.</p>
24.	<p>MATTERS THAT HAVE BEEN NOTIFIED IN ADVANCE OR URGENT (<i>Agenda Item 4</i>)</p>

None.

25. **APPLICATION FOR A REVIEW OF A PREMISES LICENCE: SPEND N SAVE, HAYES** (*Agenda Item 5*)

INTRODUCTION

Mark McDermott, Licensing Officer, introduced the application for a review of a Premises Licence in respect of Spend N Save, 242 Yeading Lane, Hayes UB4 9AX. Members were informed that Spend N Save operated as a convenience store and off licence.

It was confirmed that the application to review the licence had been submitted by the London Borough of Hillingdon's Trading Standards Service on 16 July 2021 following the seizure of a quantity of illegal tobacco, Sildenafil Citrate (Viagra) and cream chargers (Nitrous Oxide) at the premises. Given the failure to uphold the Prevention of Crime and Disorder licensing objective, it was recommended that the Licensing Sub-Committee revoke the licence as requested by the Trading Standards Service.

The Licence Holder's Legal Representative, Mr Leo Charalambides of Counsel, claimed that there was an inaccuracy in the agenda pack papers as the illegal goods had not been found at the premises but had been located in a van parked to the rear of the premises.

THE APPLICANT

Kiran Seyan of Trading Standards addressed the Sub-Committee confirming that an application for the review of a Premises Licence for Spend N Save had been submitted by Trading Standards due to concerns regarding the premises' failure to uphold the Prevention of Crime and Disorder licensing objective. Members heard that following intelligence received, Trading Standards, accompanied by tobacco detection dogs, had attended the premises on 29 September 2020 to conduct an inspection visit.

At the time of the visit, Mr Gurnam Langani (Manager at the time and a former Director of the company) had been working at the till assisted by Gurpreet Kaur. Mrs Gurpreet Kaur Lowgani had not been present during the visit. The tobacco detection dogs had picked up a scent emanating from a van parked at the rear of the premises. Mr Langani had indicated that the van belonged to a charity and had nothing to do with the business. The keys to the van had subsequently been found hanging at the rear shop door. Inside the van a significant amount of tobacco and other products had been found. Mr Sarbjit Singh Lowgani had subsequently attended the premises and confirmed it was his van. Mr Lowgani had claimed that the tobacco had been given to him by an itinerant trade and was not to be sold.

Mr Lowgani had been reminded that, on a previous visit in March 2019, he had been issued a written warning following the seizure of cigarettes. He acknowledged that the warning had been issued to him.

Members heard that, on 29 September 2020, 9180 cigarettes, 3370g of hand-rolling tobacco, 2653.5g of oral tobacco, 110 tablets of Viagra and 576 cream chargers (Nitrous Oxide) had been seized. All these products had been found in the aforementioned van.

It was noted that, when conducting inspection visits, Trading Standards had found that

illicit goods were often stored elsewhere rather than on the premises themselves, for example in a flat above, in a lock up unit or, in this case, in a van. There had been a delay in sending the samples off for checking due to the Covid-19 pandemic – the checks had revealed that a number of the seized products were counterfeit or non-duty paid and the results were set out in the pack.

Members heard that Mrs Gurpreet Kaur Lowgani was the Licence Holder at the premises. However, there was a limited company associated with Spend N Save called GS Spend N Save Ltd. The Director for this business was Mrs Lowgani's husband Mr Surjit Singh Lowgani who had signed the warning which accompanied the review application. He was the legal entity responsible for the business who had received and signed the original warning. It was noted that, although Mr Surjit Singh Lowgani was the current Director, previous directors had included Mr Gurnam Langani (Manager at the time of the visit) and Mrs Gurpreet Kaur Lowgani (current Licence Holder).

In conclusion, Trading Standards observed that Spend N Save had demonstrated a flagrant disregard for the law. Moreover, it appeared that the premises were not being operated in accordance with the licensing objectives. Members were informed that certain criminal activity had to be treated particularly seriously i.e. the use of licensed premises for the sale and storage of smuggled tobacco and alcohol. Trading Standards were pushing for a revocation on this occasion as the premises had been issued a warning on a previous occasion at which time Mr Lowgani had been advised that, if he failed to comply, he could be facing a licensing review or prosecution.

RESPONSIBLE AUTHORITIES

Lois King, on behalf of the Licensing Authority, addressed the Sub-Committee. Members were informed that the Licensing Authority supported the application by Trading Standards to review the licence given considerable concerns regarding the premises' apparent inability to uphold the Prevention of Crime and Disorder licensing objective. It was confirmed that Ms King had carried out a licensing inspection at the premises on 10 August 2021 at which time it had been noted that there had been some attempt to address the issues and promote the licensing objectives. However, it was recognised that there was still room for improvement. Members were advised that, should the Licensing Sub-Committee be minded not to revoke the premises licence, Ms King had set out in her representations (on page 26 of the agenda pack) some suggested appropriate conditions which could be attached to the licence if required.

Members enquired whether the counterfeit and illegal goods seized constituted a significant find. It was confirmed that the estimated value of the goods was £5,477.50. The quantity of goods seized was sizeable and the amount of illegal goods appeared to have increased since the previous visit which was a matter of concern.

PC David Butler, Police Licensing Officer for LBH, addressed the Licensing Sub-Committee. Members heard that the Police also supported the recommendation for revocation in light of the large quantity of goods seized and the premises' apparent blatant disregard of the law and inability to uphold the licensing objectives.

In response to Members' requests for clarification, it was confirmed that the police deemed the quantity of illegal goods seized to be a substantial find.

LICENCE HOLDER'S REPRESENTATIVE

The Licence Holder's Representative, Mr Leo Charalambides – Legal Officer, addressed the Licensing Sub-Committee. Mr Charalambides highlighted the fact that the decision to be made by the Licensing Sub-Committee solely concerned the Licence Holder. It was noted that the illicit goods had not been located within the premises themselves but in a van to the rear of the premises which did not belong to the Licence Holder – it was vital that the Sub-Committee focussed on the right person.

The Legal Officer observed that the information initially provided to Trading Standards had come from an anonymous source claiming that a black bag at the till was used to transport the cigarettes from behind the store. Mr Charalambides enquired why, at the time of their visit, Trading Standards had failed to examine the till area and had made no mention of finding any bags under the till. Moreover, there had apparently been no attempt to download the CCTV to check the footage.

Members heard that Mrs Gurpreet Kaur Lowgani (Licence Holder) could not be answerable for her husband's actions. She was enraged with him for putting their family and source of income in jeopardy.

It was noted that the Premises Licence had been granted in 2015. To date there had been no adverse history at the premises, with the exception of the warning letter signed by the Licence Holder's husband Mr Sarbjit Singh Lowgani. Mr Charalambides claimed that the recommended revocation of the licence was an extreme measure which constituted a punitive approach contrary to the key principles of the Licensing Act. It was essential that remedial action was proportionate and it was incumbent on the responsible authorities to withstand scrutiny. Seeking revocation appeared to be wholly inappropriate in these circumstances.

Mr Charalambides enquired why Trading Standards had waited ten months before submitting the review application. It was noted that the Licensing Authority (Ms Lois King) had carried out a compliance check visit on 10 August 2021 in preparation for the Sub-Committee hearing while the other responsible authorities had not felt it necessary to do so. Members were informed that, at the time of Ms King's recent visit, there had been 24 working cameras at the premises (hence CCTV footage would have been available at the time of the September 2020 visit by Trading Standards had it been requested). Moreover, Ms King had observed that ID checks and a Challenge 25 policy were in place, invoices were available to view and the premises were well-staffed.

The Licence Holder's legal representative requested that, in preference to the proposed revocation of the licence, remedial action be recommended by the Sub-Committee. In addition to the seven conditions set out by the Licensing Authority Representative on pages 26-27 of the pack, an eighth condition was proposed in relation to the Licence Holder's husband. Said condition would set out a requirement for the Licence Holder's husband Mr Sarbjit Singh Lowgani to be barred from the premises and have no responsibility for managing the premises; this would create a clear separation between Mr and Mrs Lowgani's business/personal lives.

Further to Mr Charalambides' submission, Trading Standards were asked whether a thorough inspection of the premises had been carried out at the time of their visit in September 2020 and whether CCTV footage had been requested. It was confirmed that the premises, including the area around the till, had been thoroughly inspected and nothing had been found.

However, it was again noted that it was common for illicit products to be stored away from the premises. Members were informed that Trading Standards did not routinely request CCTV footage – this was generally a matter for the Police.

In response to further requests for clarification from the Sub-Committee, it was confirmed that Trading Standards had not visited the premises again since September 2020. Members heard that, in normal circumstances, Trading Standards were required to give two days' notice of a visit which would have given the Licence Holder time to prepare. It was noted that Trading Standards' recommendation of revocation was based on what had happened at the time of their September 2020 visit; it was recognised that it was possible that the business had since been brought into compliance.

DISCUSSION

The Licence Holder's legal representative expressed concern that no further visits to the premises had been carried out by Trading Standards since the September 2020 visit. It was claimed that there was an assumption of guilt on the part of Trading Standards and the information presented to the Sub-Committee was biased and painted an unfair picture. Members were informed that the premises were now being operated very differently and their position had changed dramatically.

Members recognised that revocation of a licence was the last resort but observed that the prevention of criminality was of paramount importance when reaching a decision.

CLOSING REMARKS

There were no further submissions or remarks from any of the parties present.

The Decision:

The Sub-Committee listened to all representations and have considered all the relevant evidence made available to it and in doing so has taken into account the:

- **Licensing Objectives, Licensing Act 2003;**
- **Hillingdon's Licensing Policy and;**
- **Guidance issued by the Secretary of State and in particular paragraphs 9.42 to 9.44 and 11.24-11.27.**

The sub-committee's decision is to REVOKE the premises licence.

Reasons

Whilst all licencing objectives are regarded as of equal importance, the nature of this application directly relates to upholding the crime and disorder objective.

The sub-committee have carefully considered the representations made by:

- The applicant (Trading standards)
- The Metropolitan Police (as responsible authority) who support the applicant
- The Licensing Authority (as responsible authority) who support the applicant
- The Legal Representative (on behalf of the licensee)

In line with the Licensing Act and prescribed guidance the sub-committee note that

matters relating to illicit goods should be treated very seriously by Licensing Authorities.

In light of all representations the sub-committee feel that revocation of the premises licence is a proportionate response to the Licensee's repeated failure to uphold the crime and disorder Licensing Objective.

1. The Sub-Committee had material concerns about the discovery of a substantial amount of illicit goods including counterfeit tobacco, non-duty paid tobacco, Viagra and cream chargers (containing Nitrous Oxide) found in a van belonging to the licence holder's husband at the rear of the property. The premises were warned in March 2019 following the discovery of a small quantity of illicit goods and despite those warnings have continued to infringe the law. The committee is particularly concerned about the illicit goods, medicinal products and Nitrous Oxide being available within the Borough and has therefore lost all confidence in the licence holder's ability to uphold the licensing objectives.
2. The Sub-Committee were not persuaded by the applicant's assertion that there would be a sufficient separation between herself and her husband, and therefore did not feel a condition excluding him from the premises would be a feasible or practical condition to add to the licence;
3. Consideration was given to the conditions suggested by the Licensing Authority however, due to the nature and escalation of infringement, the committee felt that the most proportionate response was to revoke the licence;

Right of Appeal:

The relevant applicant for the premises licence or any other person who made relevant representations to the application may appeal against the Council's decision to the Justices Clerk at the Uxbridge Magistrates Court. Such an appeal may be brought within 21 days of receipt of this Notice of Decision.

No decision made by the Council will have effect during the time period within which an appeal may be brought and until such time that any appeal has been determined or abandoned.

You will be deemed to have received this decision letter, two days after the date on the accompanying letter, which will be posted by 1st class mail.

The meeting, which commenced at 10.00 am, closed at 11.55 am.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Liz Penny on 01895 250185. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

The public part of this meeting was filmed live on the Council's YouTube Channel to increase transparency in decision-making; however, these minutes remain the official and definitive record of proceedings.