

## Licensing Sub Committee Hearing Panel

### Minutes of the meeting held on Monday, 6 December 2021

**Present:** Councillor Jeavons – in the Chair

**Councillors:** Andrews, Evans and Jeavons

**LACHP/21/176. Urgent Business - Temporary Event Notice - Mr Thomas's Chop House, 52 Cross Street, Manchester, M2 7AR - WITHDRAWN AS GRANTED**

This item was withdrawn as the application was agreed by all parties prior to the meeting.

**LACHP/21/177. Review of a Premises Licence - Euro Market , 402 Cheetham Hill Road, Manchester M8 9LE**

The Hearing Panel considered a report of the Head of Planning, Building Control and Licensing regarding a review of the Premises License for Euro Market , 402 Cheetham Hill Road, Manchester M8 9LE as a result of concerns that had been raised by Trading Standards and GMP regarding sales of illegal tobacco and breaches of the premises' licence.

The Panel considered the written papers, oral representations of all parties as well as the relevant legislation.

The Panel were informed that the premises had been subject to a 10 month investigation with several incidents of possession and sales of illegal tobacco from the premises between March 2021 and December 2021. This had occurred under both the former Premise Licence Holder (PLH) and the new PLH to whom the licence had been transferred in October 2021, after the application for review had been submitted. The Panel was also invited to note that a further application to transfer the DPS had been submitted at the end of November, however this had been rejected. Trading Standards outlined a number of breaches in connection with the possession and sales of illegal tobacco at the premises that had taken place between March 2021 and December 2021. Particular reference was given to a visit to the premises and the adjoining flat above the premises in August 2021. During this inspection Trading Standards found a large quantity of cigarettes and hand rolling tobacco that was being supplied in breach of various pieces of legislation including being counterfeit and failing to have the correct labelling and warnings on the packaging as required in the UK. The Hearing Panel was also informed of a chute between the flat and the shop allowing supply from the flat above to conceal the number of illegal cigarettes in the premise's possession. Documents found in the flat above the premises related to Euro Markets and the DPS. The Panel was also asked to note that a visit had been conducted in November 2021 following the transfer of the licence where further illegal tobacco had been found and seized in the presence of the former PLH and DPS and the new proposed DPS. Further breaches in connection with the possession and sale of illegal tobacco had been found during a

visit which took place on 1 December 2021, again in the presence of the proposed new DPS.

With regard to breaches of the premises licence conditions, the Panel was informed that several were uncovered in visits which had taken place during August 2021 and that those breaches had remained despite return visits in both October and November. Trading Standards and GMP had also raised concerns about the attitude of the managers at the premises in respect of the effort to comply with the licence conditions. In light of the numerous breaches at the premises, Trading Standards asked that the licence be revoked.

GMP supported the representations made by Trading Standards and had been present on a visit in August 2021 when a number of conditions of the licence were not being complied with. Those breaches had not been resolved in follow up visits with the attitude of the management described as falling well short of expectations. GMP were also present on the visit on 1 December when further illicit cigarettes were found and there remained two conditions still not being complied with on the licence. GMP stated there had been issues on every visit they had conducted and also requested that licence be revoked.

The PLHs representative asked the Panel to note that the PLH had changed since the previous breach and stated that there was no link with the former PLH. An application to vary the DPS had been submitted however due to a technical error this had been rejected and would be resubmitted after the hearing. She stated that it was accepted by the PLH that during the officer's visits there had been some issues with the conditions, however those matters were now being addressed. Further training would be delivered immediately after the hearing, irrespective of the outcome and would comprise of comprehensive training specific to the premises and that those training records would be retained for future inspection. In addition, any staff whose conduct did not support the promotion of the licensing objectives would need to find alternative employment. She also stated that the possession of illicit tobacco was related to the previous PLH and that anything found on the visit in November 2021 had been left by the former PLH. She added that the illegal tobacco found in the visit on 1 December 2021 was for the personal use of the proposed DPS. A new tobacco policy had subsequently been introduced at the premises such that all staff including the manger / DPS were no longer allowed to possess or smoke foreign cigarettes at the store even for personal use. The Hearing Panel was informed that there were no sales of illegal cigarettes by the new PLH and that CCTV could be viewed to support this, however Trading Standards had not undertaken to do so. The Representative indicated that the manager and proposed DPS was a fit and proper person who could uphold the licensing objectives, having previously worked at the premises between 2014 and 2018.

The Panel sought to establish who was responsible for the operation of the premises, noting that the proposed DPS had informed the Trading Standards officer that he was simply a worker on a previous visit. The Panel was informed that the premises was a joint venture between the PLH and the proposed DPS and that the proposed DPS was responsible for the running the store. The PLH, who was new to the business, was also Director of the company that owned the business; he had a full time job and visited the shop once or twice a week. It was confirmed that since the PLH had taken

over in October 2021 no training had been delivered to staff. It was also confirmed that there was currently no active DPS at the premises as the listed DPS and former PLH was no longer involved. The application to transfer DPS was to be resubmitted with immediate effect.

The Hearing Panel then heard from the proposed DPS who asserted that he did not sell illegal tobacco. In respect of the events which took place on the visit conducted on 1 December 2021 he denied all allegations made by Trading Standards and GMP. In considering all the written and oral representations the Hearing Panel concluded they had no confidence in either the new PLH or the proposed DPS to uphold the licensing objectives, in particular the crime prevention objective.

The Panel also took into consideration the distinct lack of clarity with regard to who was responsible for the operation of the premises, noting that several attempts had been required to establish this. They also took into consideration, the proposed DPS having previously stated that he was simply a worker when challenged by Trading Standards when illegal goods were found. Despite having subsequently confirmed his role at the premises in the hearing, the Panel had serious concerns about his ability to manage the premises and uphold the licensing objectives.

The Hearing Panel also agreed that the PLH appeared to have very limited involvement in the premises noting that no training had been provided to staff since taking over the premises in October 2021. In addition, the Panel did not accept the assertion that the illegal tobacco seized in November 2021 had simply been left over from the previous inspection in August. The Panel also accepted the version of events outlined by Trading Standards and GMP in respect of the visit which took place on 1 December 2021.

The Panel expressed concern that the premises had been operating in the absence of a DPS for a number of weeks and were therefore selling alcohol without authority. They accepted that an application to vary DPS had been submitted, and had been rejected on a technicality, however several weeks had lapsed since the premises licence transfer. The Panel resolved that this emphasised the lack of understanding of how to operate the premises correctly, how to uphold the licensing objectives and how to comply with licensing legislation.

Whilst it was evident that there had been a change of PLH during Trading Standards' investigation into the premises, the possession of illegal cigarettes had continued after this change. The Hearing Panel considered Para 11.27 of the Section 182 guidance, referred to in the written papers, which states there is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These include the use of the licensed premises for the sale or storage of smuggled tobacco and alcohol.

The Hearing Panel expressed concerned that the breaches of the premises licence had continued despite discussions with various officers noting that at several weeks after the change of PLH some breaches remained. They also agreed that the attitude of the proposed DPS with regard to those breaches was not in line with expected conduct of a responsible operator.

The Hearing Panel considered the options open to them under the provisions of s52 of the Licensing Act 2003 and were of the opinion that no modification, exclusion or suspension could address the issues that formed the basis of the review and the continued likelihood of the Licensing Objectives being undermined.

The Hearing Panel had no confidence in the PLH or the manager / proposed DPS to uphold the licensing objectives in particularly the prevention of crime and disorder.

The Hearing Panel therefore revoked the premises licence.

### **Decision**

To revoke the premises licence.

### **LACHP/21/178. Application for a New Premises Licence - Frurt, Unit 2, 63 Peter Street, Manchester, M2 5PB - WITHDRAWN AS NOW GRANTED**

This item was withdrawn as the application was agreed by all parties prior to the meeting.

### **LACHP/21/179. Exclusion of the Public**

A recommendation was made that the public be excluded during consideration of the following items of business.

### **Decision**

To exclude the public during consideration of the following items which involved consideration of exempt information relating to the financial or business affairs of particular persons, and public interest in maintaining the exemption outweighed the public interest in disclosing the information.

### **LACHP/21/180. Review of a Personal Licence following notice of relevant conviction - D.B.**

The Hearing Panel considered a report of the Director of Planning, Building Control & Licensing in respect of the review of a Personal Licence following notice of a relevant conviction

The Personal Licence holder addressed the Panel and spoke about his remorse over the conviction of theft. He explained his circumstances at the time of the incident; the cause was linked to being unable to secure work during the restrictions on the hospitality sector during the COVID19 pandemic. He stated that he had subsequently secured bar work, works well with the police and other authorities and that there had been no further issues or concerns in this capacity. He acknowledged the seriousness of the matter and urged to the Panel not to remove his personal licence.

The Panel carefully considered the oral and written representations from the premises licence holder. They subsequently resolved not to take any action his personal licence on this occasion.

The Personal Licence holder was then asked to the note the process in terms of next steps. Where the Panel proposed not to revoke the licence it must give notice to the Chief Officer of police in the Licensing Authority's area, and invite the Chief Officer to make representations about whether the licence should be suspended or revoked, having regard to the prevention of crime. The Chief Officer may make representations within the period of 14 days from the day they receive the notice from the Licensing Authority. Any representations made by the Chief Officer of police must be taken into account by the Licensing Authority in deciding whether to suspend or revoke the licence.

### **Decision**

To propose that no action is taken and that notice is to be given to the chief officer to make representations about whether the licence should be suspended or revoked.