

Licensing Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 13 June 2022

Present: Councillor Grimshaw – in the Chair

Councillors: Andrews and Flanagan

LACHP/21/48. Application for a New Premises Licence - Euro Market, 402 Cheetham Hill Road, Manchester, M8 9LE

Consideration was given to a report of the Director of Planning, Building Control and Licensing regarding a new Premises Licence application.

The Hearing Panel considered the written papers and oral representations made by the Applicant as well as the relevant legislation and guidance.

The applicant addressed the Hearing Panel, informing them of a visit by Trading Standards on May 23 2022. They were carrying out a search warrant on the premises following a test purchase exercise on May 1 2022 that found illicit tobacco products being sold. During the search warrant, no illicit tobacco products were found. The applicant claimed that it was not themselves who had sold anything illegal as they have family to look after.

During questioning, Trading Standards sought to establish further information on the sale of illicit tobacco product, and CCTV issues, particularly the failure to provide on request CCTV footage. The applicant stated that they were unaware of illicit tobacco being sold on the premises. They informed the Panel that it was another member of staff who did it whilst they were not at the premises. That member of staff had only been employed for 3 weeks and was left unsupervised that day. In terms of CCTV, the applicant informed the panel that the cameras covering the shop floor and till are not on the main CCTV system but are on the applicant's phone. When questioned about why they had not kept CCTV footage for at least 28 days, as per the Licensing condition, the applicant stated that the footage had been removed by the staff member who had sold the illicit tobacco, who is no longer employed by the business. The applicant had provided an assurance to Trading Standards that CCTV footage would be provided, but that has yet to materialise.

LOOH sought to establish why the CCTV was on two separate systems. The applicant stated that the CCTV on his phone is also a security alarm. LOOH then asked if, following a previous visit where 3 Licensing conditions were failed, anything had been done to rectify that. The applicant stated that staff had received extra training.

GMP then questioned who was training the staff member the day they sold illicit tobacco and if they had received training on CCTV. The applicant stated that their training period was complete, but they had not been trained on the use of the CCTV. GMP then asked how the employee could delete the footage without training. The applicant stated that they had removed the memory card.

The Panel then sought clarity on how long the staff member had been employed, what areas of the shop the CCTV covers and how the footage was removed. The applicant stated the employee had worked there for around 3 weeks to a month. The CCTV covers the till and the aisle to the back room. The footage was removed via the removal of a memory card.

Trading Standards then addressed the Hearing Panel, informing them that the premises had been brought before the Sub-Committee for a review in 2021. On two visits, one in November 2021 and one in December 2021, Shisha was seized, and illicit tobacco was seized. When the illicit tobacco was seized, the applicant was caught with a packet in his pocket. The Licence was revoked following the review, however this has been appealed, which allows the premises to continue to trade. Trading Standards informed the Hearing Panel that the illicit tobacco sold was non-compliant in its packaging and failed to meet labelling laws. When selling the illicit tobacco, they were retrieved from the back room of the shop. Following their visit on the 1 May 2022, Trading Standards requested CCTV footage. The footage received was late and only covered half of the shop. Trading Standards had still not received the full footage at the time of the hearing. Trading Standards felt that, whether or not the applicant was involved, they had shown negligence in allowing it to happen.

The Panel asked Trading Standards when the Licence was revoked. They informed the panel that this was on December 6 2021.

LOOH then addressed the Hearing Panel, stating that following a review, they would expect a new DPS to have no connection to the previous. However, in this case, the applicant used to work under the former DPS and had been caught with illicit tobacco in their possession. LOOH felt that it was evident the procedures put forward by the applicant were not enough to prevent criminal activity continuing on the premises.

GMP addressed the Hearing Panel and stated that it was clear the Premises continued to undermine the Licensing Objectives, and that the applicant could only offer excuses, not acceptance.

The Panel sought clarity on how the premises is operating following the revocation of the Licence and if illicit tobacco had been found on the applicant. GMP stated that whilst the revocation is under appeal, the premises can still operate. GMP also informed the Panel that the applicant had been caught in the process of a sale of illicit tobacco on a joint visit between GMP and Trading Standards.

In summing up, LOOH stated it was clear the applicant could not uphold the Licensing objectives.

In their deliberations, the Panel felt that the responsible authorities had proven beyond doubt that the applicant was not a fit and proper person to hold a Licence. The Panel had no confidence that the applicant could uphold the Licensing objectives, particularly the prevention of crime. The Panel were not convinced that the applicant had learnt from the mistakes that had led to the revocation of the Licence in December 2021. The Panel had concerns that the applicant had previously been caught selling illicit tobacco themselves.

Decision

To refuse the application.

LACHP/21/49. Application for a New Premises Licence - Beechley Off Licence, 2 St Oswald's Road, Manchester, M19 3DR - WITHDRAWN

The Hearing Panel were informed that all objections had been withdrawn and therefore no decision was necessary.