



BURNLEY BOROUGH COUNCIL LICENSING ACT 2003 SUB COMMITTEE

BURNLEY TOWN HALL

Wednesday, 11th July, 2018

PRESENT

MEMBERS

Councillors A Kelly, A Royle and B Brindle

OFFICERS

Peter Henderson	– Principal Licensing Officer
David Talbot	– Senior Solicitor
Eric Dickinson	– Democracy Officer
Claudia Wilcock	– Business Administration Apprentice

12 Appointment of Chair

Councillor Anne Kelly was appointed as Chair for this meeting.

13 Exclusion of the Public

That the determination of a review of a premises licence under the Licensing Act 2003 relating to M & M Food Store, 67-69 Athol Street South, Burnley be held in public.

14 Determination of a Review of a Premises Licence for M&M Food Store, 67-69 Athol Street South, Burnley, BB11 4PA.

The applicant and representatives of M & M Food Store were absent.

Peter Henderson confirmed that that the notices of the hearing had been sent to the applicant and the applicant's legal representative.

Rick Wilson on behalf of Lancashire County Council Trading Standards Service, and John Clucas on behalf of Lancashire Constabulary, presented their cases for the hearing to proceed in the absence of the applicant.

The Committee decided to proceed in the absence of the applicant as it did not consider it necessary in the public interest to adjourn the hearing to a new date.

Peter Henderson reported on a review of a premises licence at M&M Food Store, 67-69 Athol Street South, Burnley, BB11 4PA and presented the case on behalf of the Licensing Authority.

Rick Wilson, accompanied by Lauren Manning and Dawn Robinson and Suzanne Parkinson, presented the case on behalf of Lancashire County Council Trading Standards Service.

John Clucas presented the case on behalf of Lancashire Constabulary.

Members and the relevant parties set out above asked questions regarding the review.

DECISION AND REASONS FOR DECISION

Decision

That the Premises Licence for M&M Food Store, 67-69 Athol Street South, Burnley, BB11 4PA be revoked.

Reasons for Decision

1. There have been 12 separate occasions since September 2008 when illicit tobacco products have been purchased or seized by Trading Standards officers of Lancashire County Council;
2. The licence holder was convicted on 15th January 2015 of two offences under section 40(2) of the Consumer Protection Act 1987 in relation to the sale of cigarettes in packaging which did not comply with relevant tobacco safety regulations;
3. Tobacco was seized from the premises in circumstances where there had clearly been a deliberate attempt to conceal them from the authorities;
4. Paragraph 11.27 of the government guidance issued under section 182 of the Licensing Act 2003, which has been considered in accordance with the licensing authority's duty under section 4(3) of the Licensing Act 2003, advises that there are certain criminal activities that may arise in connection with licensed premises which should be treated particularly seriously. These include "the sale or storage of smuggled tobacco and alcohol". In respect of such offences, the guidance (paragraph 11.28) envisages that licensing authorities will use review procedures effectively in order to deter such activities and crime and that revocation, even in the first instance, should be seriously considered;
5. Burnley Borough Council's Statement of Licensing Policy (2016-2021) states, at paragraph 3.7 that the authority must do "... all it can to prevent crime and disorder";
6. Paragraph 3.8 of the Statement of Licensing Policy goes on to state that the Council will consider whether it is necessary to impose conditions to regulate behavior on the premises. The committee have accordingly considered whether it would be

appropriate to impose further conditions in this case but have concluded that the flagrant disregard of the law by the licence holder despite substantial enforcement activity is of such a degree that additional conditions would not be an effective measure in this case;

7. In light of the above-mentioned circumstances, it is considered that revocation of the premises licence is a proportionate measure and serves to promote the crime prevention objective