

LICENSING SUB-COMMITTEE – 1 JULY 2020
LICENSING ACT 200 (AS AMENDED)
APPLICATION TO REVIEW A PREMISES LICENCE
SAVE & SELECT SUPERSTORE LTD, 145-147 SOUTH EALING ROAD W5 4QP.

This meeting was a virtual meeting and therefore did not take place in a physical location pursuant to regulations made under Section 78 of the Coronavirus Act 2020.

PRESENT: Councillors Kelly (Chair), Dhindsa and Kumar.

Applicant: Ealing Council Licensing Authority

Mr Robert Dear Lead Licensing Compliance Officer

Premises:

Mr Deep Singh Chopra Director, Save & Select
Superstore Ltd.

ALSO PRESENT:

Ealing Borough Council

Alison Luff Legal Officer
Cornelia Harding Democratic Services Officer
Misha Jalil Democratic Services Officer, Observer
Lesley Campbell Democratic Services Officer, IT
producer

Preamble

The meeting time had been arranged for a 10.15am log on for a 10.30am start. All parties had been made aware of this. The meeting duly commenced at 10.30am with all parties present apart from Mr Chopra. Thus, the premises were not represented at the 10.30am meeting. After this meeting had been concluded, one of the Democratic Services Officers received an email from Mr Deep Singh Chopra to say that he had been watching the proceedings as an attendee. He had not been able to log on to Microsoft Teams Live Events as a Presenter, and so he had not been able to participate.

A fresh Microsoft Teams Live Events meeting was then convened starting shortly after 12 noon so that all parties could be present and able to participate. The sub-committee's decision was announced to all parties at 1.30pm.

Introduction

The Chair introduced the Sub Committee Members and others present and outlined the procedure that would be followed at the hearing.

The Chair invited the Lead Licensing Compliance Officer to present the application.

Presentation on behalf of the Applicant

Mr Robert Dear, Lead Licensing Compliance Officer, addressed the sub-committee. He noted that:

- Himself and officers from the Trading Standards team had visited the premises on two occasions. On the first occasion they had found illicit 'roll your own' (RYO) tobacco and on the second occasion they had found illicit cigarettes and RYO tobacco. The officers had seized these goods and had them signed over for destruction.
- On the second visit, the Trading Standards Officer had entered a storeroom where he had found 20 x 50g RYO tobacco. Among other items, this storeroom also contained a microwave and correspondence.
- There were currently no conditions on the licence.
- The Licensing Authority were seeking a revocation of the licence as they believed the conduct of the premises licence holder and DPS showed a complete dis-regard for the Licensing objectives.

The Chair invited questions from the premises' representative and from the sub-committee. The following issues were clarified:

- Mr Deep Singh Chopra said he had not been present at the time of the second visit. Mr Dear said if it had been Mr Deep Singh Chopra's brother, they look very much alike.
- The valued of un-paid duty on these products amounted to £535 and not £750 as stated in the report.
- The adjacent storeroom/kitchen was within the plan of the premises licensed area when the original licence application had been made in 2005.
- The previous hearing scheduled for 15th April 2020 had been adjourned as Mr Dear had experienced some reluctance to engage on the part of the management of the premises.

Presentation on behalf of the Premises

Mr Deep Singh Chopra made the following points:

- It was untrue that he had not wanted to engage with the Council. He had come into the Council's offices voluntarily and had been interviewed on video by a Trading Standards Officer.

- He admitted that on the occasion of the officers' first visit, they had been selling illicit tobacco in the shop and they now realised that it was wrong to do so.
- It was unfortunate that illicit cigarettes had been found in the shop on the second visit as on this occasion they had not been for sale and were in fact being held in escrow.
- He had not been in the shop himself on the officers' second visit. The CCTV would show that it was two of his brothers that had been in the shop.
- Revoking the licence would kill his business. He acknowledged they had been trialling some products, however the challenges they had encountered had showed them that this was not the route to go down. They had been enticed by nearby shops selling those type of products.
- The premises' management had been reluctant to seek legal advice as they feared they could not afford it. However Mr Deep Singh Chopra was considering getting a personal licence.
- Measures they would take to avoid the same thing happening in future would include making sure the staff know not to buy goods from the street or from 'white van men' and to report instances of such approaches to Trading Standards.
- He had received training under the personal licence of his uncle.
- He was only 23 years old and this was a new environment for him, however he did learn from his mistakes and he was planning on becoming more actively involved in running the shop.
- The shop was a family run business which had been in their family for fourteen years. He had been running it for two or three years.
- He didn't know where to begin in terms of taking preventative steps so that this does not happen again, however he had learned that doing illegal things might be enticing but it was not worth it.

Summing up

The parties reiterated their main arguments in the summing up with Mr Dear saying revocation of the licence was the most suitable outcome. For his part, when the possibility of suitable additional conditions was put to him, Mr Deep Singh Chopra said he would be happy to keep receipts and invoices from cash and carries for 3 months and make them available to licensing and trading standards officers. He was confident that there would be no further illicit cigarettes at the premises. However, Mr Deep Singh Chopra said that he would need to speak to his Dad before agreeing to a condition to stop selling high strength alcohol.

DECISION

At the hearing the Sub Committee carefully considered the papers before it including, the written representations from the Licensing Regulatory Authority and verbal representations made by Mr Robert Dear, acting on behalf of the Licensing Regulatory Authority; as well as verbal submissions made by Mr Deep Singh Chopra, a director in the company that owns and runs Save & Select Superstore. The Sub-Committee considered the Home Office (April 2018) Revised Guidance issued under S182 of the Licensing Act 2003 and, in particular, the Steps to Promote the Licensing Objectives (Paragraphs 8.41 – 8.49) and Reviews Arising in Connection with Crime (Paragraph 11.27). The Sub-Committee also considered the Ealing Council Statement of Licensing Policy.

The decision of the sub-committee was to revoke the premises licence.

REASONS FOR THE DECISION

In reaching its decision, the sub-committee considered the range of powers available to it, namely to: -

- a. modify the conditions of the licence (including altering or omitting an existing condition or adding a new condition;
- b. exclude a licensable activity from the scope of the licence;
- c. suspend the licence for a period not exceeding three months;
- d. remove the Designated Premises Supervisor;
- e. revoke the licence; or
- f. leave the licence as it is.

The sub-committee noted that there had been two visits to the premises by members of the Ealing Council Licensing Enforcement and Trading Standards teams. The first on 5th November 2019 and the second on 12th February 2020. Mr Robert Dear informed the sub-committee that at the first visit there had been two shop assistants present. 8 x 50g pouches of RYO tobacco, none in plain packaging, had been found. These goods had been signed over for destruction and a final warning had been given.

On recounting the second visit, Mr Robert Dear said that the same two shop workers who had been present on the previous visit, had also been in the shop on this second occasion, one of whom the officers believed was Mr Deep Singh Chopra. Mr Dear went on to say that on this second visit, 42 x 20 packets of non-duty paid cigarettes had been found behind the shop counter. The officers had gone through an open door into an adjacent storeroom where the Trading Standards Officer had found 20 x 50g of RYO tobacco, all non-duty paid.

On this second visit, the Trading Standards Officer had issued a Consumer Rights Act Notice and a Police and Criminal Evidence Act Notice to both males, both of which had been counter-signed.

At the hearing, Mr Robert Dear stated that an error had been made in the report and that the correct figure for the unpaid duty on the products seized over the two visits was £535.00 not £750.00.

The Licensing Regulatory Officer (Mr Robert Dear) and the Trading Standards Officers had produced their identification and stated the purpose of their visit on both occasions.

At the hearing, Mr Deep Singh Chopra told the committee that he had not in fact been in the shop on the second visit by the officers and that the CCTV would bear this out.

Mr Deep Singh Chopra explained that on the first occasion that illicit tobacco had been found, it was because they had been trialling the products. He now appreciated that this had been a mistake.

Mr Chopra said it was very unfortunate that more illicit tobacco had been found in the shop on the second visit. He said the shop was run as a family business and the illicit goods had been left there by someone unconnected to the business. Mr Chopra said he had been aware that the illicit goods had been there, however he was not making a profit from them and in fact, they had not been for sale, they were being held in escrow.

The two shop assistants had made the argument that the adjacent storeroom entered by Mr Dear and the Trading Standards Officer on the 12th February 2020 visit, was controlled by other people not connected with Save & Select Superstore. Mr Dear informed the sub-committee that the plans of the licenced area of the premises included this storeroom. Mr Dear when summing up reiterated his view that revocation would be an appropriate decision.

The sub-committee having heard all representations, and having regard in particular to paragraph 11.27 of the Guidance, decided to revoke the licence. The sub-committee noted the repeated nature of the breaches of the licensing legislation and of the licensing objectives and the sub-committee were not satisfied with the

explanations given by Mr Deep Singh Chopra of why the breaches had taken place or of what the shop owners or management would do to avoid further breaches taking place. The sub-committee were satisfied with Mr Dear's account of the visits and of the contact he had had with the premises. They had no confidence in the management of the premises and found that no steps short of revocation would be sufficient to allay their concerns.

RIGHT OF APPEAL

The applicant, licence holder or any person who made relevant representations may appeal against the Sub-Committee's decision, or against the conditions imposed, or that different or additional conditions ought to have been imposed, or that a licensable activity applied for should have been excluded, or that the Sub Committee should have refused to specify a person in the licence as the premises supervisor.

Any appeal must be made to the Magistrates' Court for the area in which the premises are situated within 21 days of the receipt of this notice of decision.

Date: 6 July 2020.