

## NOTICE OF DECISION

### LICENSING SUB-COMMITTEE - REVIEW HEARING 1<sup>st</sup> July 2020

### LICENSING ACT 2003 (AS AMENDED)

### 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.

#### **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 5<sup>th</sup> November 2019 and the second on 12<sup>th</sup> 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 12<sup>th</sup> 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.**