



## **LICENSING SUB-COMMITTEE**

**MEETING** : Thursday, 17th August 2017

**PRESENT** : Cllrs. H. Norman and Brazil

### **Officers**

Vikki Fennell, Solicitor from One Legal

Darren Brice, Planning Enforcement, City Centre Improvement Officer

Darren Mountford, Planning Enforcement City Centre Improvement Officer

Tony Wisdom, Democratic Services and Elections Officer

### **Also in Attendance**

Robert Cardew, County Council Trading Standards

Sarah Frickley, County Council Solicitor

Saman Kakalai, Licence Holder

Barbara Krasuska, accompanying Mr Kakalai

**APOLOGIES** : Cllrs. Gravells

### **1. PRIOR TO THE MEETING**

Prior to the formal opening of the meeting all parties agreed to proceed with a Sub-Committee comprised of two Councillors as Councillor Gravells had been prevented from attending by an unforeseen emergency.

### **2. ELECTION OF CHAIR**

Councillor Hannah Norman was appointed Chair of the meeting.

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**3. INTRODUCTIONS AND PROCEDURES**

Those present introduced themselves and the Chair outlined the procedure to be followed for the meeting.

**4. DECLARATIONS OF INTEREST**

No declarations were made on this occasion.

**5. LICENSING ACT 2003 -REVIEW OF PREMISES LICENCE - ONE STOP SHOP, 107, SOUTHGATE STREET- SAMAN KAKALAI**

**Report of the Licensing Officer**

The City Centre Improvement Officer presented his report which detailed an application by Gloucestershire County Council Trading Standards to review an existing Premises Licence in respect of One Stop Shop, 107 Southgate Street. He outlined the application which was detailed in Section 4 of the report and the application for the review which was attached as Appendix 3 to the report.

He noted that Mr Saied Osanlou was the holder of the premises licence when the request for a review was received on 18<sup>th</sup> July 2017. The Premises Licence was transferred to Mr Saman Kakalai, who is also the designated Premises Supervisor on 27<sup>th</sup> July 2017.

There were no questions of the Officer.

**Responsible Authority (Glos CC Trading Standards)**

Ms Farooq stated that Trading Standards had requested the review of the licence due to continuing serious concerns regarding crime and disorder. She stated that illegal tobacco and psycho-active substances such as nitrous oxide were causing serious concerns in the County.

She noted that illegal tobacco had been seized in 2014 when Mr Kakalai was employed at the premises. In June 2017 further illegal tobacco had been found and a test purchase had resulted in the officer being supplied with illegal cigarettes. The CCTV on the premises, required by condition, was not working at the time. Mr Kakalai had received an advisory visit but a further test purchase and seizure had occurred in July 2017.

She advised Members of the following concerns regarding illegal tobacco:

- Packaging was not compliant with current law requiring standard packaging.
- No health warnings were displayed in English as required by law.
- No excise duty had been paid resulting in a loss of revenue.
- Cheaper product was more attractive particularly to younger people.
- Unfair pressure on compliant traders.

She noted that the sale of tobacco was not a licensable activity but government guidance called for a serious view to be taken of the sale of illegal tobacco and

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psycho-active substances. She noted that nitrous oxide capsules had been on display in the premises together with 'crackers' which were devices to release the contents. There was no indication that these items were being sold for any lawful purpose.

Mr Cardew demonstrated the use of the devices for the benefit of the Sub-Committee.

The Chair asked where the items were displayed and she was advised that they were under the counter near the till.

Councillor Brazil asked when the nitrous oxide was seized and was advised that Mr Kakalai appeared to have control of the premises at that time. She asked if the CCTV was working at the present time and Mr Cardew advised that the premises had not been visited since July.

The Chair asked about the previous prosecutions referred to in Appendix 4, the witness statement. She was advised that Mr Kakalai had not been prosecuted due to uncertainty regarding the ownership of the premises as he had not paid in full for the business. The prosecution had been brought against Mr Ishmael. She asked if any prosecutions were pending in respect of the recent seizures. She was advised that no decision had been made but Trading Standards believed that there was sufficient evidence to prove a case. She asked why it had been decided to seek a review of the licence rather prosecute and she was advised that it could take up to ten months to bring the matter to court.

The Chair referred to the test purchases and was advised that no attempts had been made to go to the tobacco gantry or to offer duty paid cigarettes.

**Statement by the Licence Holder**

Mr Kakalai was accompanied by Barbara Krasuska.

Mr Kakalai's legal representative, Paul Jennings of One Licensing, had sent a written representation on his behalf and all parties confirmed that they had received copies and had read and noted the contents.

Mr Kakalai stated that he had been in the process of buying the shop and as he had not paid the full amount Mr Osanlou was still on the premises. On the occasion of the visit by Trading Standards he had just returned from the wholesalers.

He stated that there was no illegal tobacco on the premises at the current time.

He stated that he had been on holiday six - seven weeks previously and he suffered from sciatica so although he did not work for six or seven weeks he had to do the purchasing of stock.

In answer to questions from the Chair, Mr Kakalai stated that he had been trying to buy the business since 2014 and he estimated that he now owned between fifty and sixty per cent of the business as he was paying by instalments. He confirmed

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that he was part-owner when the seizures were made in June 2017. He stated that he served in the shop occasionally but his main function was to obtain supplies.

The Chair asked why the server had produced tobacco from under the counter during the test purchase and Mr Kakalai stated that only Mr Osanlou and the girl sold illegal tobacco. He confirmed that he had seen illegal tobacco on the premises and he had told Mr Osanlou that he did not want to sell it.

Councillor Brazil asked if the CCTV was working. Mr Kakalai stated that he had tried to replace the hard drive but could not repair the equipment. She noted that Mr Kakalai's representative in his letter had specifically stated that the CCTV system had been replaced at a cost to Mr Kakalai.

The Chair noted that there was no hard drive and Mr Kakalai stated that he was not aware that the equipment was not recording.

He confirmed that the only CCTV operating since the Trading Standards visit was on his mobile phone which he confirmed could store two weeks' images.

The Chair noted that the licence required a minimum of four colour cameras. Mr Kakalai stated that his phone system relied on two cameras and he confirmed that this did not comply with the conditions of his licence.

Mr Cardew stated that he had spoken to the freeholder of 107, Southgate Street who had confirmed that Mr Kakalai was the leaseholder and he asked how long Mr Kakalai had held the lease. Mr Kakalai stated since 21<sup>st</sup> July 2016.

Mr Cardew stated that the freeholder was not aware of any subletting. Mr Kakalai stated that he had been the owner since July 2016.

Mr Cardew asked if Mr Kakalai was the business rate payer and Mr Kakalai stated that a Mr Farage paid the business rates and he had known Mr Farage who came from the same country before he met Mr Osanlou.

**Summing Up by Trading Standards**

Mr Cardew stated that he had nothing to satisfy Trading Standards that the licensing objective to prevent crime and disorder was being met. He expressed concern that the CCTV was not recording live feed which made it difficult to produce evidence of illegal activity. He stated that the sale of illegal tobacco was prolific in Gloucestershire and the ownership of such premises tended to be fluid.

He reiterated concerns regarding health and crime and disorder and asked the sub-Committee to revoke the premises licence.

**Summing Up by the Licensing Officer**

The City Centre Improvement Officer outlined the options available to the Sub-Committee detailed in Section 7 of his report.

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**Summing Up by the Licence Holder**

Mr Kakalai stated that he wished to bring the business up to compliance but if he was unable to sell alcohol he would have to close the shop. He asked the Sub-Committee to give him another chance.

**The Decision**

The Chair, Councillor Brazil and the Solicitor withdrew to consider their decision. Upon their return, the Chair read the following statement:-

The Sub-Committee has considered the request for a review of the premises licence held by Mr Saman Kakalai for the One Stop Shop, 107, Southgate Street under Section 51 of the Licensing Act 2003 and having had regard to the report of the Licensing Officer, representations made by the Responsible Authority (Gloucestershire County Council – Trading Standards Service, evidence from Mr Saman Kakalai the Home Secretary's guidance, the Council's own statement of licensing policy, and the legal implications as set out in the report.

In particular, the Sub-Committee has sought to promote the four licensing objectives when determining the review, in particular the prevention of crime and disorder. The decision of the Sub-Committee is **to revoke the licence**.

The reasons for this decision are as follows:

1. There has been a blatant disregard of the licensing conditions.
2. Mr Kakalai is in breach of the licence by failure to comply with the condition in relation to CCTV.
3. This was not an isolated incident.
4. Mr Kakalai has had ownership/responsibility for the premises since July 2016 so therefore is legally responsible and accountable under law.
5. The Sub-Committee has serious concerns over the management of the premises and the ability of the management to promote the licensing objectives.

All parties are reminded that there is a right of appeal to the local Magistrates' Court within 21 days of formal notification of this decision.

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**Time of commencement: 6.15 pm hours  
Time of conclusion: 7.47 pm hours**

**Chair**