

**LICENSING REVIEW SUB-COMMITTEE
20 MARCH 2012**

Present: Councillors Roberts, Westley and Wilson (in the Chair)
with Councillor Gurney in reserve.

20. APPOINTMENT OF CHAIR

In accordance with the terms of reference of the Licensing Committee, the Senior Solicitor invited nominations for the appointment of Chair for the duration of the meeting. Councillor Westley moved that Councillor Wilson should take the Chair. This was seconded by Councillor Roberts.

RESOLVED (unanimously) that Councillor Wilson be appointed as Chair for the duration of the meeting.

21. MINUTES

RESOLVED – That the minutes of the meeting held on 24 January 2012 be approved and signed by the Chair as a true record.

22. DECLARATIONS OF INTEREST

Councillors made no declarations of interest at this meeting.

**23. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE:
SEVENS MINI MARKET, 57 QUEENS ROAD, HASTINGS**

Councillor Wilson set out the procedure that the Sub-Committee would adopt (in accordance with Standard Practice), all parties confirmed they understood this.

The Corporate Director, Environmental Health, submitted a report on an application for the review of the premises licence for Sevens Mini Market, 57 Queens Road, Hastings as a result of representations received.

Mr Brown, Licensing Manager, presented the report.

Mr Ranjbar Ali Kako was present. He confirmed that he was happy to represent Mr Kawani the license holder who was unable to attend.

Louise Baxter, Team Manager, East Sussex County Council Trading Standards Service, who brought the review was present, she informed the Committee that an inspection of Sevens Mini Market took place on 08th December 2011, as part of Operation Mistletoe. Two Trading Standards Officers visited the shop and found twelve bottles of suspicious Vodka on display. They seized the Vodka for further examination under The Consumer Protection from Unfair Trading Regulations 2008, the Food Labelling

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Regulations 1996 and General Food Regulations 2004 which were alleged to have been breached.

Louise Baxter added that on 28th July 2010 an inspection of the premises was carried out by Mr Robert Newton, Senior Trading Standards Officer. On this occasion 9 suspicious bottles were seized and submitted for examination by the Public Analyst and the brand holders. The bottles seized were 4 bottles of Papus brand Brandy, 4 bottles of Glens brand Vodka and 1 bottle of Raymond Vadim champagne. Samples of the brandy and vodka were submitted to the producers for authentication. The brandy, vodka and champagne were also submitted to the Public Analyst for analysis. The Public Analyst reported that the sample of vodka contained 2.8% methanol which is injurious to health making the product unfit for human consumption. Also the brand holders of each of the products submitted to them for examination stated that they were not genuine products manufactured by them. Mr Robert Newton asked at the time of the initial visit as to where these products were sourced in order to provide evidence of traceability. No such information has been received to date.

Mr Kako apologised for the mistakes on the 08th December 2011. He said when he was visited by a licensing officer on 02nd November 2011 the business had changed and he had only had one month and hadn't had time to count the stock. He said he didn't have any invoices for the shop and didn't know there was anything illegal there. He said it was only the twelve bottles and he didn't know how this happened.

Louise Baxter sought clarification on when the owner changed and whether Mr Kako was given a list of stock. He said there was a list but it went to the accountant in London. Louise Baxter said the paperwork was requested several times by Mr Robert Newton, no invoices had been received to date.

Mr Brown, Licensing Manager asked Mr Kako to recall a visit by Mr Trevor Scrase, Senior Licensing Officer on 04th October 2011. The records showed that the annual fee had not been paid and that Mr Kako had said that Mr Kawani now owned the shop, it had changed some time ago.

Councillor Westley sought clarification from Mr Brown as to the current Designated Premises Supervisor of the premises. On page 24 it shows as Kardo Osman. Mr Brown confirmed that under the Licensing Act the license holder has to appoint a Designated Premises Supervisor (DPS). The premises license holder does not have to be on the premises and they can appoint a manager. Mr Kako is not the Designated Premises Supervisor or the premises license holder, Mr Osman is correctly shown as the DPS.

Mr Brown, Licensing Manager presented a timeline of events.

In his summary, Mr Kako said in October 2011 he was not responsible for the paperwork as the premises had been transferred. On 02nd November 2011 he paid Hastings Borough Council the outstanding license fee and submitted the paperwork, from this day he is responsible for the business.

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RESOLVED (unanimously) that, the licence be revoked subject to the following reason:

The Committee have listened very carefully to the evidence before it. It believes that the licensing objectives of the Prevention of Crime and Disorder and Public Safety have been seriously undermined. Given that the alcohol was not fit for human consumption, this is a serious issue. The Committee have had regard to the guidance issued by the Secretary of State in particular Sections 11.26 and 11.27.

**24. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE:
ARARAT SUPERMARKET, 43 ROBERTSON STREET, HASTINGS**

Councillor Wilson set out the procedure that the Sub-Committee would adopt (in accordance with Standard Practice), all parties confirmed they understood this.

The Corporate Director, Environmental Health, submitted a report on an application for the review of the premise licence for Ararat Supermarket, 43 Robertson Street, Hastings as a result of representations received.

Mr Brown, Licensing Manager, presented the report.

The license holder Mr Levent Belinov was present and accompanied by his business partner Sifko Topalov.

Louise Baxter, Team Manager, East Sussex County Council Trading Standards Service, who brought the review was present, she informed the Committee that an inspection of Ararat Supermarket took place on 08th December 2011, as part of Operation Mistletoe. At the time of the visit the officers noticed five bottles of Dexters Whisky for sale in the shop. The five bottles were seized for further examination. The Dexter brand has been tested by the Public Analyst and was found not to be scotch whisky. This information had also been received from the Scotch Whisky Association. The legislation that was alleged to have been breached is The Consumer Protection from Unfair Trading Regulations 2008 and General Food Regulations 2004.

Louise Baxter added that on 08th April 2011 Mr T Cook, trading standards officer and R Baldwin fair trading officer visited Ararat Supermarket. Thirteen suspicious bottles of wine were seized bearing the 'Jacobs Creek' trademark. The bottles were suspected as being counterfeit due to spelling errors on the labels of the bottles. The wine was confirmed as being counterfeit by representatives of the trade mark holder. The legislation alleged to have been breached is The General Food Regulations 2004, the Trade Marks Act 1994

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and Consumer Protection from Unfair Trading Regulations 2008. On 18th July 2011 a warning letter was sent to Mr Levent Belinov.

Councillor Westley sought clarification on whether the Scotch Whisky Association have confirmed their results.

Louise Baxter, Team Manager, East Sussex County Council Trading Standards Service confirmed that they had and produced the report which was copied and circulated to all present.

Councillor Westley asked if the traceability documents had been requested. Louise Baxter confirmed that they had been on several occasions but nothing has been received to date.

Mr Belinov stated that he remembered the bottles were marked Spanish & Scottish Whisky. The label said 95% grain Spanish & 5% Scotch malt. So he believed it was not proper Scotch, but 95% Spanish.

Louise Baxter confirmed it does not matter whether it is Spanish or Scottish it is not Whisky as defined by EU requirements. She went on to say that it was tested by the Scotch Whisky Association who are considered experts in whisky. The test/analyst report shows what constituted the whisky.

Mr Belinov confirmed that he is responsible for all bills. The stock taking is his partners responsibility.

Mr Topalov the business partner of Mr Belinov, stated he didn't speak good English, he bought the box of whisky from cash & carry about two years ago. He always kept invoices but could not find this one. He and another partner drank one bottle and put the other five bottles on the shelf to sell for £20. He did not remember which cash & carry, but he thought it had been in London.

Louise Baxter asked Mr Topalov whether he kept all his invoices. He confirmed he does but could not find this one.

Councillor Westley sought clarification as to the total amount of bottles bought, this was confirmed as six. She asked if he bought them with the intention to sell to the public. Mr Topalov said he bought them to drink but only drunk one and then put the remaining bottles on the shelf to sell.

Councillor Westley asked who was the manager or person in charge in April 2011.

Mr Belinov said he was responsible for the running of the business as license holder. If there were any problems he should deal with them as his English was better.

Councillor Westley sought clarification that Mr Topalov is responsible for the shop including ordering. Mr Belinov confirmed this was correct and that the same person went to cash & carry in April 2011 and Dec 2011.

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Mr Belinov confirmed he had received a warning letter. He had then met with all three partners and warned them that the matter was serious to avoid any further problems. He produced some refusal registers and three/four years of paperwork and pictures from Barwatch which are used in running the shop. He stated he was complying with Barwatch and also the CCTV requirements of his license.

Councillor Wilson confirmed the papers should have been submitted earlier but as Mr Belinov was not aware of the procedure he would allow it to be produced.

RESOLVED (unanimously) that, the licence be revoked subject to the following reason:

We have listened very carefully to all the evidence before it. The committee are pleased to note that the licensee follows Barwatch advice and other conditions of his license. However, the licensee had not given due regard to the warning letter sent by Trading Standards in July 2011 and thus had seriously undermined the Licensing Objective of the Prevention of Crime and Disorder. The committee have had regard to the guidance issued by the Secretary of State in particular sections 11.26 and 11.27.

(The Chair adjourned the meeting until 1.15pm for refreshments)

**25. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE:
PLEASANT OFF LICENSE, 72 MOUNT PLEASANT ROAD,
HASTINGS**

Councillor Wilson set out the procedure that the Sub-Committee would adopt (in accordance with Standard Practice), all parties confirmed they understood this.

The Corporate Director, Environmental Health, submitted a report on an application for the review of Pleasant Off License, 72 Mount Pleasant Road, Hastings as a result of representations received.

Mr Brown, Licensing Manager, presented the report.

Mr Cumar Yalcin, the premises license holder was present and accompanied by his designated premises supervisor (DPS) MR Mohammed Hassan

Louise Baxter, Team Manager, East Sussex County Council Trading Standards Service, who brought the review was present, she informed the committee that on 15th December 2011 as part of Operation Mistletoe an

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inspection visit was carried out. At the time of the visit 21 bottles of vodka were suspected of being duty evaded and not genuine vodka (based on information from the Food Standards Agency). Three of the "DD" vodka were sampled for further examination and the additional 18 bottles were seized for further examination. The legislation alleged to have been breached is the Consumer Protection from Unfair Trading Regulations 2008, Food Labelling Regulations 1996, General Food Regulations 2004 and Spirit Drink Regulations 2008.

Louise Baxter added that between 17th March 2010 and 12th July 2010 Trading Standards officers undertook test purchases from the trader. This resulted in illegal tobacco products being sold to them on four different dates and more illegal tobacco being seized by officers on another three occasions. On 12th July 2010 the premises was inspected by Trading Standards and HMRC officers. During the inspection foreign labelled and counterfeit tobacco products were found. Also seized were seven cases of duty evaded alcohol, including Priskia & Glens Vodka. No formal action was taken in relation to these offences.

Mr Hassan stated that he has been told by the person running the shop that 7 bottles were seized not 21. Louise Baxter confirmed Trading Standards have 21 seized bottles in their evidence store.

Christine Barkshire-Jones, Senior Solicitor asked Louise Baxter if they have been asked for their traceability documents and whether they had been produced.

Louise Baxter confirmed they had been asked on 15th December 2011 and 12th January 2012 but nothing had been produced to date.

Councillor Westley sought clarification as to why in the report for the vodka seized it did not say it was unfit for human consumption.

Louise Baxter went on to explain that it does not always show in the report and asked Mr Robert Newton, Senior Trading Standards Officer to clarify as it was his area of expertise.

Robert Newton confirmed the analyst says it contains industrial alcohol and the level is known to cause health problems.

Councillor Westley sought clarification as to why no action was taken on the previous seizures. Were there evidential issues?

Louise Baxter confirmed that there had been problems but it was mostly due to time issues.

Mr Hassan says he asked for the invoices from the previous manager. At the time Mr Hassan's partner was heavily pregnant and four days after the visit from Trading Standards she gave birth. He says he is not saying they were not responsible as they were but he was just not around. Mr Adil was running

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the shop, he was responsible for ordering stock and checking invoices. He said he should have checked, but was not aware stock was seized until February.

Mr Brown, Licensing Manager asked Mr Hassan to clarify when Mr Adil became manager. Mr Hassan thought it was about four years ago. Mr Brown asked if Mr Adil would have been manager when the tobacco was found. Mr Hassan confirmed Mr Adil was and they went to Eastbourne for a taped interview. Mr Brown asked Mr Hassan when he became the Designated Premises Supervisor, Mr Hassan wasn't sure but thought it may have been about 15 months.

Councillor Westley sought clarification that at the time of the second incident Mr Adil was no longer a party to the shop. Mr Hassan said that Mr Adil was still at the shop at the time.

Councillor Westley sought clarification as to what measures were put in place following the first investigation.

Mr Yalcin commented that he rents the shop to someone else, he doesn't know what they are doing he only takes his rent.

Councillor Westley sought clarification from Mr Hassan that in fact Mr Adil now runs the shop but Mr Hassan is the Designated Premises Supervisor, Mr Hassan confirmed this to be correct.

Paul Taylor, East Sussex County Council Fair Trade Officer then said that whenever he has been into the shop Mr Hassan is always present. Mr Hassan says there is a young boy in there with spiky hair who looks like him.

RESOLVED (unanimously) that, the licence be revoked subject to the following reason:

The Committee has listened very carefully to the evidence. The owner of the property is also the license holder. He should have been upholding the Licensing Objectives. There has been a previous incident of counterfeit alcohol and illegal tobacco. This should have alerted the license holder to ensure that evidence was available to provide traceability of supplies of alcohol and tobacco. The Licensing Objective of Crime and Disorder has been seriously undermined.

The committee have had regards to the guidance issued by the Secretary of State in particular sections 11.26 and 11.27.

(The Chair declared the meeting closed at 2.15pm)