



**DETERMINATION OF A REVIEW OF A  
PREMISES LICENCE**

**Meeting:** LICENSING ACT 2003 SUB-COMMITTEE HEARING at Melton  
Borough Council on Wednesday 30<sup>th</sup> October 2019 at 10:00hrs.

**Applicant:** Trading Standards – Leicestershire County Council

**Premises:** European Market Melton Limited  
36-42 Thorpe Road  
Melton Mowbray  
LE13 1RB

**Summary of Decision:**

The decision of the Licensing Sub-Committee (in exercise of the powers delegated by Melton Borough Council as Licensing Authority) was to revoke the premises licence.

**Facts and Reasons:**

The Sub-Committee carefully considered all the information provided at the hearing.

In making their decision the four licensing objectives, namely,

- The Prevention of Crime and Disorder;
- Public Safety;
- The Prevention of Public Nuisance
- The Protection of Children from Harm

With each objective being of paramount importance, the Sub-Committee made the following findings of fact:

1. This was the second review of the premises licence and the Sub-Committee found there was evidence of further breaches of the licence and failures to uphold the licensing objectives;
2. Tobacco is not a licensable activity and the Sub-Committee found no evidence that the Premises were selling illegal tobacco;
3. The Licensee was unable to confirm whether the goods seized by HMRC had been inherited or purchased subsequent to the sale.
4. The Licensee was unprepared for the hearing and demonstrated a continued inability to file manage and keep accurate records despite a condition being added by a Licensing Sub-Committee at the previous review hearing;
5. In accordance with the guidance at paragraphs 11.27 and 11.28 the Sub-Committee found the activities at the Premises to be particularly serious and did not promote the prevention of crime and public safety licensing objectives;
6. The Licensee had failed to actively engage with Relevant Authorities to secure compliance with the licence conditions and the law;
7. The Licensee accepted that the recent actions taken were in direct response to the application for a second review of the Premises Licence;
8. The submissions of the Licensing Authority were accepted and the Sub-Committee did not accept the Licensee's submissions that training would resolve the issues identified at the Premises;
9. The submissions made, and concerns raised, by the Relevant Authorities were accepted by the Sub-Committee and they were not satisfied that the proposals from the Licensee would address these issues going forward.
10. Public Safety is paramount and this objective and the prevention of crime and disorder had been undermined.
11. The Sub-Committee felt that the decision to revoke the premises licence is reasonable and proportionate in the circumstances.

The Sub-Committee gave the following reasons for their decision:

- 1 The first review hearing took place on 21<sup>st</sup> August 2018 and found there had been a history of illicit tobacco and non duty paid alcohol at the premises since it opened for trading in 2015. This hearing was convened to consider the same issues. The Sub-Committee found the following breaches of licence and/or failures to uphold the Licensing Objectives:
  - a. 29<sup>th</sup> May 2019:
    - i. illegal alcohol – 70 cases of 500ml bottles or cans of beer; 1 case of 24 beers, 5 cases of 500ml bottled beers and 30 bottles of mixed wine – a total of 1834 items seized;
    - ii. failing to display ownership details;
    - iii. no personal licence holder on the premises;
    - iv. failing to have an up-to-date refusals log (last entry Sept 2018);
    - v. no training records available for the 2 people on the Premises;
    - vi. staff being unable to use the CCTV;
    - vii. CCTV being live but unable to record.
  - b. 09<sup>th</sup> September 2019:
    - i. No personal licence holder on the premises when alcohol was sold;
    - ii. Failing to prominently display the Premises Licence;
    - iii. Failure to produce the incident / refusals log;
  - c. 11<sup>th</sup> September 2019;
    - i. Failing to prominently display the Premises Licence;
    - ii. Failing to affix a blue notice as requested by a Authorised Officer;
  - d. 12<sup>th</sup> September 2019:
    - i. Failure to produce the incident / refusals log;
- 2 HMRC did not find any illegal tobacco during their visit on 29<sup>th</sup> May 2019 and no further submissions were made on this point.
- 3 The Sub-Committee found that the lack of paperwork and clear explanations as to where the goods, seized by HMRC, originated from made their decision-making difficult and as a result they were unable to accept the Licensee's submissions on this point. The invoices provided by the Licensee did not indicate whether the goods seized by HMRC had been inherited or purchased by the Licensee and as a result the Sub-Committee were not confident in the Licensee's ability to effectively manage the Premises;

- 4 The paperwork provided by the Licensee at the hearing compared to the paperwork provided to the Relevant Authorities during their visits was confusing and contradictory in terms of dates and actions taken. The Sub-Committee were not re-assured that the Licensee was in control of the Premises and/or could effectively manage it in line with the Licensing Objectives;
- 5 Having considered the Revised Guidance issued under the Licensing Act 2003 dated April 2018 the submissions of the Applicant in terms of the seriousness of the issues were accepted over the submissions of the Licensee who alleged the issues raised were minor in nature.
- 6 The Licensees failure to engage with Relevant Authorities despite opportunities to do so showed a total disregard for the licence conditions, objectives and the law;
- 7 The actions taken by the Licensee to pay the HMRC fine and the production of a training record were not sufficient enough to provide the Sub-Committee with the confidence that the Licensee was in control of the premises and was seeking to uphold the Licensing Objectives going forward.
- 8 The Licensee made submissions that training was not delivered prior to the review hearing because they did not want to expend the money if the Licence was to be revoked. The Sub-Committee were not satisfied that training would resolve all issues at the Premises and were concerned that finances seemed to take precedence over public safety.
- 9 The Sub-Committee did not accept the Licensees submissions that a short suspension, removal of the DPS and/or further conditioning of the Licence would resolve the issues at the premises. In light of the fact that this was the second review hearing, the Applicant had failed to comply with the previous conditions added to the Licence and was unable to evidence proper and effective management at the premises, revocation was deemed a reasonable and proportionate response in the circumstances.
- 10 The Sub-Committee took the view that the Licensee showed a total disregard to the licensing regime which has resulted in the Licensee failing the people they are there to serve and the Council as a whole.
- 11 The Sub-Committee found that the Licensee had failed to take heed of the previous Sub-Committee's findings and conditions, failed to adhere to licence conditions, failed to uphold the law and licensing objectives. The Licensee did not seem to be deterred by the review procedures and as such in accordance with the guidance revocation of the premises licence was considered and deemed proportionate in the circumstances.

Having considered all the evidence presented at the hearing, the Sub-Committee determined that the applicant would not promote the Licensing objectives if the premises licence remained in place.

In reaching this decision, the Sub-Committee took into consideration the following factors:-

- (i) The report presented by Ms Sarah Flower, Licensing & Compliance Officer for Melton Borough Council;
- (ii) Trading Standards, the Applicant's submissions;
- (iii) The submission of Simon Greensmith as a Responsible Authority;
- (iv) The Licensee's submissions;
- (v) The additional information provided at the hearing with the consent of all parties:
  - a. Photographs from Mr Simon Greensmith;
  - b. Invoices (x2) from the Licensee;
  - c. Staff training log from the Licensee ;
- (ii) The provisions of the Licensing Act 2003 and the four licensing objectives;
- (iii) The Human Rights Act 1998;
- (iv) Relevant case law;
- (v) Melton Borough Council's Statement of Licensing Policy ["the Policy"]
- (vi) The guidance issued by the Secretary of State under s.182 of the Licensing Act 2003 (April 2018) in particular parts 2 (The Licensing Objectives), part 11 (Reviews), part 13 (Appeals) and part 14 (Statements of Licensing Policy).

**Decision:**

On consideration of all the information detailed above, the Sub-Committee took the decision to revoke the Premises Licence which was deemed reasonable and proportionate in the circumstances.

**Right to Appeal**

The parties were notified of the Sub-Committee's decision and informed of their right to appeal this decision at the hearing.

Any appeal of the Sub-Committee's decision must be lodged at the Magistrates' Court within 21 days of notification of the Licensing Authority's decision.

Any other queries should be directed to:

Licensing Department  
Melton Borough Council  
Parkside, Station Approach  
Burton Road  
Melton Mowbray  
LE13 1GH

Tel: 01664 502502

Date: 30<sup>th</sup> October 2019

Signature  .....

Councillor Pru Chandler - Chair of the Licensing Sub-Committee