

Committee: Licensing Sub Committee
Date: Monday 16 July 2018
Time: 10.00 am
Venue: Bodicote House, Bodicote, Banbury, OX15 4AA

Membership

Councillor Richard Mould
Councillor Bryn Williams

Councillor Douglas Webb

AGENDA

1. **Appointment of Chairman of the Sub-Committee**
2. **Declarations of Interest**

Members are asked to declare any interest and the nature of that interest that they may have in any of the items under consideration at this meeting.

Note: Any Member with a disclosable pecuniary interest will not be able to participate in the hearing, and should therefore notify the Head of Law and Governance in advance so that arrangements may be made for an alternate Member to attend.

3. **Application to vary a premises licence to specify an individual as a Designated Premises Supervisor (DPS), and an application to transfer a Premises Licence** (Pages 1 - 26)

Report of Assistant Director, Environmental Health and Licensing

Purpose of report

To consider a request from Thames Valley Police to refuse applications to transfer the premises licence and to specify an individual as a designated premises supervisor for Simply Local, 35-39 Middleton Road, Banbury, OX16 3QH

Recommendations

- 1.1 There is no recommendation, but in considering the representations received and what is appropriate for the promotion of the licensing objectives, the steps the Sub-Committee can take are outlined in paragraph 6.2.

Councillors are requested to collect any post from their pigeon hole in the Members Room at the end of the meeting.

Information about this Agenda

Apologies for Absence

Apologies for absence should be notified to

democracy@cherwellandsouthnorthants.gov.uk or 01295 227956 prior to the start of the meeting.

Declarations of Interest

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item.

Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates

Members are reminded that any member who is two months in arrears with Council Tax must declare the fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

Evacuation Procedure

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the car park as directed by Democratic Services staff and await further instructions.

Access to Meetings

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named below, giving as much notice as possible before the meeting.

Mobile Phones

Please ensure that any device is switched to silent operation or switched off.

Queries Regarding this Agenda

Please contact Aaron Hetherington, Democratic and Elections
aaron.hetherington@cherwellandsouthnorthants.gov.uk, 01295 227956

Yvonne Rees
Chief Executive

Published on Friday 6 July 2018

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Cherwell District Council

Licensing Sub-Committee

16 July 2018

<p>Application to vary a premises licence to specify an individual as a Designated Premises Supervisor (DPS), and an application to transfer a Premises Licence</p>
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Report of Assistant Director, Environmental Health and Licensing

This report is public

Purpose of report

To consider a request from Thames Valley Police to refuse applications to transfer the premises licence and to specify an individual as a designated premises supervisor for Simply Local, 35-39 Middleton Road, Banbury, OX16 3QH

1.0 Recommendations

- 1.1 There is no recommendation, but in considering the representations received and what is appropriate for the promotion of the licensing objectives, the steps the Sub-Committee can take are outlined in paragraph 6.2.

2.0 Introduction

To consider a request from Thames Valley Police to refuse applications to transfer the premises licence and to specify an individual as a designated premises supervisor for Simply Local, 35-39 Middleton Road, Banbury, OX16 3QH

3.0 Report Details

- 3.1 The Simply Local store at 35-39 Middleton Road, Banbury, OX16 3QH is a convenience store in Banbury that currently benefits from a premises licence issued in accordance with the Licensing Act 2003, covering the off sale of alcohol by retail between the hours of 06.00 to 23.00 Monday to Saturday and 06.00 to 22.30 on Sunday.
- 3.2 Any sale of alcohol such as this must be authorised by a person who holds a personal licence issued under the Licensing Act, and every premises selling in these circumstances must have a designated premises supervisor (DPS) in place. This is a person holding a personal licence who is ultimately responsible for all alcohol sales.

- 3.3 From time to time the licensing authority receives applications to transfer premises licences and applications to vary a DPS. Any applications must be accompanied by a fee and the applicant must send a copy of their applications to the relevant police force.
- 3.4 The police are the only responsible authority that can make representations in relation to applications to transfer premises licences and applications to vary a DPS, and they must do so within 14 days of receiving the notification.
- 3.5 On 13th of June 2018 applications were received to transfer the premises licence from Simply Local Willenhall LLP to Grosik Sklep Ban Limited and to vary the licence to specify Mr Zyran Mohammad Sharyf, date of birth 1.1.1980 as the new DPS.
- 3.6 On 27th June 2018 Thames Valley Police notified the Licensing Authority of their objection to this application, and they will explain their reasoning to members shortly.

4.0 Conclusion and Reasons for Recommendations

- 4.1 There is no recommendation

5.0 Consultation

- 5.1 When applications to transfer a premises licence and to specify a DPS are received, the licensing authority must wait for any police comment before issuing a new premises licence. The police have 14 days in which to make any comment.
- 5.2 In this case, Thames Valley Police have made an objection to both the transfer and application to vary designated premises supervisor, and because of this any decision must be made by elected members sitting as a Licensing Sub-Committee.
- 5.3 The applicant and Thames Valley Police have been invited to attend.

6.0 Alternative Options and Reasons for Rejection

- 6.1 The Sub-Committee must take such steps as it considers necessary for the promotion of the licensing objectives, which are:
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm
- 6.2 The steps the Sub-Committee can take are to:
- agree to the premises licence transfer;
 - agree to the variation specifying the new designated premises supervisor;
 - reject the applications if it is considered necessary in order to promote the licensing objectives

7.0 Implications

Financial and Resource Implications

7.1 There are no financial implications arising directly from this report.

Comments checked by Kelly Wheeler, Principal Accountant for Wellbeing and Environment, 01327 322230, kelly.wheeler@cherwellandsouthnorthants.gov.uk

7.2 Legal Implications

The decision must comply with the Licensing Act 2003, the statutory guidance issued pursuant to section 182 of the Licensing Act and the council's Statement of Licensing Policy.

The applicant or 'other persons' who have submitted 'relevant representations' may appeal to the magistrates' court a decision of the Sub-Committee.

Comments checked by Matt Marsh, Solicitor, 01295 221691, matt.marsh@cherwellandsouthnorthants.gov.uk

8.0 Decision Information

Wards Affected

Banbury Grimsbury and Hightown

Links to Corporate Plan and Policy Framework

Not applicable

Lead Councillor

Not applicable

Document Information

Appendix No	Title
NS 1	Transfer Application
NS 2	Vary DPS Application
NS 3	Copy of Police Objection
Background Papers	
None	
Report Author	Nicholas Sutcliffe, Licensing Manager
Contact Information	01327 322278 / 01295 753745

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A.C. CONSULTANCY (Licensing Services)

**The Licensing Section
Cherwell District Council
Bodicote House
Bodicote, Banbury
Oxfordshire
OX15 4AA**

12th June 2018

Simply Local (to be renamed Grosik Sklep), 35-39 Middleton Road, Banbury OX16 3QH

Dear Licensing Officer

Please find enclosed application for a Transfer of Licence Holder and Variation change of DPS for the premises licence at the above outlet. I also confirm that copy of this application has been sent to the Police and Home Office this same day.

If you have any queries please contact me on the above links.

Please return the new licence when issued to me at the above address.

Kind Regards

A Close

**Enc.
Applications with consent
Cheque for £46 fee
Premises Licence
Company Certificate
Passport**

Application to transfer premises licence to be granted under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I/We Grosik Sklep Ban Limited

(Insert name of applicant)

apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

PRM0211

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description

Simply Local (to be renamed Grosik Sklep)
35-38 Middleton Road
Banbury

Post town Banbury

Post code OX16 3QH

Telephone number at premises (if any)

Please give a brief description of the premises (see note 1)

Main Road - General store with Off Licence

Name of current premises licence holder

Simply Local Willenhall LLP

Part 2 - Applicant details

In what capacity are you applying for the premises licence to be transferred to you?

Please tick yes

a) an individual or individuals*

please complete section (A)

b) a person other than an individual *

i. as a limited company

YES please complete section (B)

ii. as a partnership

please complete section (B)

iii. as an unincorporated association or

please complete section (B)

- iv. other (for example a statutory corporation) please complete section (B)
- c) a recognised club please complete section (B)
- d) a charity please complete section (B)
- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)
- g) an individual who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in respect of an independent hospital in England please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

*If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
 - statutory function or
 - a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname **First names**

Date of birth
Nationality
Current residential address if different from premises

I am 18 years old or over

Please tick yes

address

Post town

Post code

Daytime contact telephone number

**E-mail address
(optional)**

SECOND INDIVIDUAL APPLICANT (fill in as applicable)

Mr

Mrs

Miss

Ms

Other title

(for example, Rev)

Surname

First names

Date of birth

Nationality

**Current
residential
address if
different from
premises
address**

I am 18 years old or over

Please tick yes

Post town

Post code

Daytime contact telephone number

**E-mail address
(optional)**

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name Grosik Sklep Ban Limited
Address 35-39 Middleton Road Banbury
Registered number (where applicable) 10116171
Description of applicant (for example partnership, company, unincorporated association etc.) Private Limited Company
Telephone number (if any)
E-mail address (optional)

Part 3

Please tick yes

Are you the holder of the premises licence under an interim authority notice?

Do you wish the transfer to have immediate effect?

If not when would you like the transfer to take effect?

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

Please tick yes

I have enclosed the consent form signed by the existing premises licence holder

If you have not enclosed the consent form referred to above please give the reasons why not. What steps have you taken to try and obtain the consent?

Please tick yes

If this application is granted I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003)



Please tick yes

I have enclosed the premises licence



If you have not enclosed premises licence referred to above please give the reasons why not.

- I have made or enclosed payment of the fee
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed
- I have enclosed the premises licence or relevant part of it or explanation
- I have sent a copy of this application to the chief officer of police today
- I have sent a copy of this form to Home Office Immigration Enforcement today

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 2)

Part 4 – Signatures (please read guidance note 3)

Signature of applicant or applicant’s solicitor or other duly authorised agent (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature
.....

Date 12-06-2018
.....

Capacity Agent for applicant
.....

For joint applicants signature of second applicant, second applicant’s solicitor or other authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature
.....

Date 12-06-2018
.....

Capacity Agent for applicant
.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Tony Close - AC Consultancy

Post town

Loughborough

Post Code

LE12 6LL

Telephone number (if any)

If you would prefer us to correspond with you by e-mail your e-mail address (optional)

Notes for Guidance

1. Describe the premises. For example the type of premises it is, its general situation and layout and any other information which would be relevant to the licensing objectives.
2. **Right to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:**

A licence may not be held by an individual or an individual in a partnership which is not a limited liability partnership who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the

Consent of premises licence holder to transfer

I/we SUKHRAJ SINGH CHATTA
[full name of premises licence holder(s)]

the premises licence holder of premises licence number _____
[insert premises licence number]

relating to

SIMPLY LOCAL 35-39 MANLITON ROAD OXFORD
[name and address of premises to which the application relates]

hereby give my consent for the transfer of premises licence number

ARMOZII
[insert premises licence number]

to

GROSIK SKLOP BAN LTD
[full name of transferee]

signed

name

(please print)

SUKHRAJ SINGH CHATTA - PROPRIETOR SIMPLY LOCAL WILLSHALL LLP

dated

24th MAY 2018

Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I / we Grosik Sklep Ban Limited

(full name(s) of premises licence holder)

being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

Premises licence number

PRM 0211

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description (To be renamed) - Grosik Sklep
35-39 Middleton Road
Banbury

Post town

Banbury

Post code (if known)

OX16 3QH

Telephone number (if any)

Description of premises (please read guidance note 1)

Convenience Store - Off Licence

Part 2

Full name of proposed designated premises supervisor Zryan Mohammad Sharyf Nationality British Place of birth Date of birth
--

Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any) LEIPRS 2301 - Leicester City Council
--

Full name of existing designated premises supervisor (if any) Sukhraj Singh Chatha
--

Please tick yes

I would like this application to have immediate effect under section 38 of the Licensing Act 2003 yes

I have enclosed the premises licence or relevant part of it

(If you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

Reasons why I have failed to enclose the premises licence or relevant part of it

Please tick yes

- I have made or enclosed payment of the fee
- I will give a copy of this application to the chief officer of police
- I have enclosed the consent form completed by the proposed premises supervisor
- I have enclosed the premises licence, or relevant part of it or explanation
- I will give a copy of this form to the existing premises supervisor, if any
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971] FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

Part 3 – Signatures (please read guidance note 2)

Signature of applicant or applicant’s solicitor or other duly authorised agent (See guidance note 3). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date 12-06-2018

.....

Capacity Agent for applicant

.....

For joint applicants signature of 2nd applicant 2nd applicant’s solicitor or other authorised agent (please read guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date 12-06-2018

.....

Capacity Agent for applicant

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

Tony Close - AC Consultancy

.....

Post town
Loughborough

Post Code
LE12 6LL

Telephone number (if any)

If you would prefer us to correspond with you by e-mail your e-mail address (optional)

Guidance notes

1. Describe the premises. For example the type of premises it is.
2. The application form must be signed.
3. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
4. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
5. This is the address which we shall use to correspond with you about this application.

Consent of individual to being specified as premises supervisor

Zryan Mohammad Sharyf

I

[full name of prospective premises supervisor]

of

Banbury

[home address of prospective premises supervisor]

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for

Change of DPS at Grosik Sklep
35-39 Middleton Road
Banbury
OX16 3QH

[type of application]

by

Grosik Sklep Ban Limited

[name of applicant]

PRM 0211

relating to a premises licence

[number of existing licence, if any]

for Grosik Sklep
35-39 Middleton Road
BANbury
OX16 3QH

[name and address of premises to which the application relates]

and any premises licence to be granted or varied in respect of this application made by

Grosik Sklep Ban Limited

[name of applicant]

concerning the supply of alcohol at

Grosik Sklep
35-39 Middleton Road
Banbury
OX16 3QH

[name and address of premises to which application relates]

I also confirm that I am entitled to work in the United Kingdom and am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

Personal licence number

LE1PRS 2301

[insert personal licence number, if any]

Personal licence issuing authority

Leicester City Council. 115 Charles St, Leicester Le1 1FZ 0116 4543040

[insert name and address and telephone number of personal licence issuing authority, if any]

Signed

Zryan Mohammad Sharyf

Name (please print)

12-06-2018

Date

THAMES VALLEY POLICE

Division/Station : HQ South

From : Charlotte Norman
TVP Licensing Officer

To : Cherwell District Council
Licensing Department

Ref : Grosik

Date : 27 June 2018

Tel.No. 07917503081

Subject :

Thames Valley Police Objection to Transfer and DPS Variation Application

I am writing to formally present Thames Valley Police's objection against the application to transfer the premises licence of 35-38 Middleton Road, Banbury OX16 3QH from Simply Local Willenhall LLP to Grosik Sklep Ban Ltd; and the proposed DPS variation from Sukhraj CHATHA to Zryan Mohammad SHARYF.

The sole director of Grosik Sklep Ban Ltd, Zryan Mohammad SHARYF, is the current premises licence holder and designated premises supervisor of the premises trading at 40 High Street, Banbury OX16 5ET, Grosik Supermarket.

Grosik Supermarket has been subject to two seizures of illegal tobacco from the premises in 2012 and 2014, as well as persistent incidences of intelligence and complaints alleging to the sale of illegal tobacco. On 20th May 2018, the Trading Standards Service conducted a test purchase operation, in which two packets of smuggled Polish Marlboro were purchased from Grosik Supermarket. The transaction of this test purchase indicated that future sales of the illegal tobacco could be conducted with a "password or codeword". Alluding to the organised nature of their illegal tobacco sales; and giving further credibility to the intelligence and complaints received.

I have attached in my objection a letter from Oxfordshire County Council Trading Standards Service. This goes into further detail on evidence against Grosik Supermarket, and the law and seriousness of the sale and possession of illegal tobacco.

Thames Valley Police have no option but to object to the transfer and DPS variation applications; as the connection between Grosik Sklep Ban Ltd and Grosik Supermarket undermines the licensing objective; the prevention of crime and disorder.



**OXFORDSHIRE
COUNTY COUNCIL**

**Trading Standards Service
Graham Hill House
Electric Avenue
Ferry Hinksey Road
Oxford OX2 0BY**

**Richard Webb
Head of Community Protection Services**

26th June 2018

The Licensing Department
Cherwell District Council
Bodicote House
Bodicote
Banbury
OX15 4AA

Dear Sir / Madam

Licensing Act 2003: Application to transfer premises licence

I write in reference to the licensed premises at 35-38 Middleton Road, Banbury OX16 3QH and the proposed transfer of the premises licence from Simply Local Willenhall LLP to Grosik Sklep Ban Ltd.

As I understand it, although the Trading Standards Service is a designated Responsible Authority under the Licensing Act 2003, it is not possible for the Service to object directly to this transfer.

However, the Service would like to formally bring to your attention the attached information in order that it can be considered by the local Licensing Authority should you be minded to raise your own objection.

Yours faithfully

Russell Sharland
Tobacco Control Officer

Russell.Sharland@oxfordshire.gov.uk
[www.oxfordshire.gov.uk /tradingstandards](http://www.oxfordshire.gov.uk/tradingstandards)

Enc.

cc. Thames Valley Police Licensing



Information:

The applicant, Grosik Sklep Ban Ltd, has a sole director namely Zryan Mohammad Sharyf. Mr Sharyf is the current premises licence holder and designated premises supervisor for the premises trading as Grosik Supermarket, 40 High Street, Banbury OX16 5ET.

Grosik Supermarket is currently subject to consideration for the institution of a review of its premises licence due to persistent levels of intelligence / complaints alleging the sale of illegal tobacco. Given there have been seizures of illegal tobacco from this premises in 2012 and 2014, the intelligence / complaints are regarded as credible.

The seizure in 2014 involved illegal tobacco stored in secret compartments built into the till point area (see photographs below). Mr Sharyf, who was out of the UK at the time of the seizure, blamed the actions of a rogue employee.

However, on 20th May 2018 a test purchase of two packets of smuggled Polish Marlboro were made from the premises by a covert surveillance operative on behalf of the Trading Standards Service. The test purchase was recorded and would be available for the Licensing Committee to view upon request. The transaction was inputted into the till and the money for the sale put into the till. Further, the member of the staff indicated the use of a "password or codeword" for future sales and stated that sales would not be made if "English people are in the queue behind". This, again, gives credence to earlier intelligence / complaints.

Chronology:

15.06.2011	Intelligence received suggesting the shop is selling Polish cigarettes from underneath the counter
13.09.2012	Joint enforcement visit (HMRC and Trading Standards). 600 items of illegal tobacco seized from shop
08.10.2013	Derbyshire County Council Trading Standards seized illegal cigarettes from one of their local shops. When the phone records of their suspect were examined they revealed that the name and number of Zryan Mohammad Sharyf was a very frequent contact
14.10.2014	Trading Standards enforcement visit with a tobacco detection dog resulted in 1040 illegal cigarettes being detected in two of three drawers built into the shop counter at floor level behind the plinth fascia. Present at the time of the visit was Dilear Mohammed. Mr Mohammed is now the sole director of Grosik Euro Supermarket Ltd t/a Grosik Euro Supermarket, 40 High Street, Banbury
11.02.2016	Complaint received alleging that the shop is selling counterfeit Marlboro cigarettes for £5 per packet and has done for some time
03.08.2016	Complaint received alleging Grosik Euro Supermarket operate a password system selling foreign-labelled L&M cigarettes and Marlboro cigarettes for £5.50 per packet
13.10.2016	Joint enforcement visit (HMRC and Trading Standards). No illegal tobacco found however only one member of staff willing to give their name to officers
24.02.2017	Complaint received alleging that the shop is selling illegal cigarettes

05.04.2017	Complaint received alleging that the shop is selling cheap Polish cigarettes
19.04.2017	Complaint received alleging that the shop is selling Polish cigarettes from under the counter
21.06.2017	Complaint received alleging that the shop is selling Polish cigarettes
26.06.2017	Complaint received alleging that the shop sells Polish cigarettes to Poles only
30.08.2017	During a Food Inspection visit, when officers announced themselves two customers who were stood at the till point waiting to be served, immediately left the shop without making a purchase. Dilear Mohammed was present and stated that he was the manager and that Zryan Sharyf was the owner. When it was pointed out that Mr Mohammed was the sole director of the limited company he appeared to be unaware of this and subsequently phoned Mr Sharyf to seek confirmation.
May 2018	A covert Trading Standards test purchase resulted in 40 Polish Marlboro cigarettes being purchased for £6 each. The person behind the counter inputted the transaction into the till and placed the money for the sale into the till. The cigarettes were retrieved from under the counter. The salesperson also said that he doesn't make sales if there are English people in the queue behind



The Law

The sale and possession of illegal tobacco gives rise to a variety of serious criminal offences enforced by Trading Standards, namely:

- Regulation 48 of the Tobacco and Related Products Regulations 2016 creates a criminal offence if any person supplies, offers to supply or exposes or possesses for supply a tobacco product, in the course of a business, which does not comply with the labelling requirements of the regulations, ie the combined health warnings, general warnings and information, in English etc. The maximum sentence for any offence under these regulations is up to 2 years imprisonment and/or an unlimited fine.
- Regulation 15 of the the Standardised Packaging of Tobacco Products Regulations 2015 creates a criminal offence if any person supplies, offers to supply or exposes or possesses for supply a tobacco product, in the course of a business, which does not comply with the permitted colour or shade requirements, namely Pantone 448 C with a matt finish. The maximum sentence for any offence under these regulations is up to 2 years imprisonment and/or an unlimited fine.
- Section 8G of the Tobacco Products Duty Act 1979 creates a criminal offence if any person sells, offers for sale or otherwise deals in, or is in possession of, transports or displays any unmarked tobacco products ie not marked with UK Duty paid. The maximum sentence for this offence is an unlimited fine.
- Section 92 of the Trade Marks Act 1994 creates a criminal offence if any person who with a view to gain for himself or another and without the consent of the proprietor, sells, offers or exposes for sale goods which bear, or the packaging of which bears, a sign identical to or likely to be mistake for, a registered trade mark or has in his possession, custody or control in the course of a business any such goods with a view to selling, offering or exposing them for sale. The maximum sentence for this offence is up to 10 years imprisonment and/or unlimited fine.

In addition, Section 144 of the Licensing Act 2003 creates a criminal offence enforced by Police Licensing or the Local Licensing Authority if any person who works in a licensed premises in a capacity, whether paid or unpaid, which gives that person the authority to prevent the keeping of smuggled goods, such as illegal tobacco, on the premises if he or she knowingly keeps or allows to be kept any such goods which have been imported without payment of duty or which have otherwise been unlawfully imported.

Seriousness

The revised guidance issued under section 182 of the Licensing Act 2003 provides some assistance in determining the seriousness of such activity in relation to licensed premises. At para 11.27 it states that:

“There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;

- for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
 - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs; 92 | Revised Guidance issued under section 182 of the Licensing Act 2003
 - for the organisation of racist activity or the promotion of racist attacks;
 - for employing a person who is disqualified from that work by reason of their immigration status in the UK;
 - for unlawful gambling;
- and
- **for the sale or storage of smuggled tobacco and alcohol.**

Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

The Trading Standards Service feels this is persuasive guidance which supports our view that an objection to the premises licence transfer should be strongly considered.

Sentencing

A very recent example of sentencing in the criminal courts in respect of similar-sized seizure at a shop in a neighbouring Authority:

- i. 20th June 2018; 218 illegal packs of 20 cigarettes and 19 illegal 50 gram pouches of tobacco worth around £2,500 were found at a shop in High Wycombe. The owner pleaded guilty to seven charges relating to possessing cigarettes and tobacco. He was given an eight-week jail sentence, reduced from 12 weeks for his early guilty pleas, and suspended for a year. He was also ordered to pay £1,500 prosecution costs and a £150 victim surcharge. Magistrates told him the sentence sent a clear message that behaviour of this kind would be dealt with to the full extent allowed by the courts

Conclusion & Recommendations

Whether illegal tobacco is sold or stored in Grosik Supermarket with the consent or connivance of Mr Sharyf is not known. However, it is the Trading Standards Services' position that Mr Sharyf has been ineffective in his role as premises licence holder and designated premises supervisor in that these issues have occurred under his stewardship.

The Trading Standards Service do not believe it is in the public interest to allow the transfer of the premises licence. Given the history at Grosik Supermarket, the Service is concerned that, should the transfer go ahead, the premises will be used in a way that undermines the objective of preventing crime and disorder.

However, if the transfer is granted, the Service suggests that the following conditions are considered appropriate to be added to the licence:

1. CCTV

1.1 CCTV shall be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition.

1.2 CCTV cameras shall cover all ingress and egress to the premises, fire exits, outside areas, and all areas where the sale/ supply of tobacco products occurs.

1.3 The CCTV Equipment shall be maintained in good working order, be correctly time and date stamped with the CCTV recordings be kept in date order, sequentially numbered and kept for a period of 31 days.

1.4 The Premises Licence Holder must ensure at all times that a DPS or appointed member of staff is capable and competent to download CCTV recordings in a recordable media format.

1.5 The CCTV recording equipment and tapes/discs shall be kept in a secure environment under the control of the DPS or appointed member of staff. An operational weekly log report must be maintained and endorsed by the signature of the DPS or the appointed member of staff indicating the CCTV system has been checked, is in working order and compliant, and in the event of any failings remedial actions taken are also to be recorded.

1.6 In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS shall report the failure to the Police on contact number '101' immediately.

1.7 The CCTV recordings must be provided upon demand by the Police, an authorised officer, as defined by Section 13 of the Licensing Act 2003, or an authorised officer of Trading Standards.

2 Tobacco Products

2.1 Non-duty tobacco products, including for personal use, must not be stored on the premises (public or private areas included) or in or on any vehicle connected with the business.

2.2 Relevant receipts regarding any tobacco products offered for sale or stored on the premises shall be retained for a period of 12 calendar months, and such receipts shall produced upon demand by the Police or an authorised officer as defined by Section 13 of the Licensing Act 2003, or an authorised officer of Trading Standards.