

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.