

Environmental Health & Licensing

Graham Kane - Executive Director for Environmental Health



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Mr

Please ask for:

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**Premises Licence Review Application: International Supermarket, Banbury, OX16 5ER
Cherwell District Council
24 August 2018**

I write to confirm the outcome of the above hearing.

The licensing sub-committee has carefully listened to and considered the representations submitted by the applicant, Oxfordshire County Council Trading Standards, and the representations submitted by Thames Valley Police in support of the application for a review of the premises licence pertaining to International Supermarket, 33-34 High Street, Banbury, OX16 5ER.

The licensing sub-committee notes particularly that this application has been brought following a number of instances between 2016 and 2018 whereby investigations undertaken by Trading Standards found smuggled tobacco to be being sold from the premises. The licensing sub-committee further notes in the representations submitted by Thames Valley Police that in August 2016 the premises failed a test purchase whereby alcohol was sold to a person under the age of 18 and a number of breaches of the premises licence conditions were also identified. The sub-committee also notes that upon a visit to the premises in April 2018 raised questions as to the adequacy of the CCTV system being used in the premises.

The sub-committee notes that in accordance with the statutory s182 guidance to the Licensing Act 2003, underage sales of alcohol and the sale or storage of smuggled tobacco are criminal activities which in connection with a licensed premises should be treated particularly seriously and where reviews arise as a result of such activity and it is determined that the crime prevention objective is being undermined by such activities, serious consideration should be given to the revocation or a premises licence regardless of any criminal proceedings which may or may not be in progress or contemplation. Furthermore, that in respect of upholding the licensing objective of preventing crime and disorder, action may be taken against a premises licence in the interests of the wider community and for the purpose of deterrence, not just for remedying the causes of activities which may be undermining the licensing objectives.

The sub-committee does however note that save for two instances involving the sale of smuggled tobacco in 2018, such activity and that of the underage alcohol sale occurred prior to the transfer of the premises licence from Mr Alan Mohammed to Mr Rafik Tofiq and the appointment of Mr Tofiq as the Designated Premises Supervisor in February 2018. Having listened carefully to representations submitted on behalf of Mr Tofiq, the sub-committee notes that the sale of the business to which the premises licence relates from Mr Mohammed to Mr Tofiq has been completed and that Mr Mohammed no longer has any interest or involvement in the business.

The transfer of the business and the further volunteered condition that Mr Mohammed be prohibited from being employed by, or having any involvement in, the running of the business have allayed the very considerable concerns of the sub-committee that Mr Mohammed would effectively remain the controlling mind of the business and premises despite the previous transfer of the premises licence and the change in designated premises supervisor. Additionally, the sub-committee notes the previously volunteered condition whereby no tobacco sales at all will take place at the premises and the assurances given regarding Mr Tofiq's increased presence and involvement in the business and the steps he has taken to implement improved CCTV and SWERCOTS.

Having considered the representations submitted by Trading Standards, Thames Valley Police and on behalf of Mr Tofiq, the licensing sub-committee is satisfied that on this occasion upholding the objective of preventing crime and disorder does not require the revocation or suspension of the premises licence and that to do so would have a disproportionately adverse effect on the new business owner and licence holder whose culpability in the activities which had led to this review is considered by the sub-committee to be far lesser than that of the previous owner and licence holder. The sub-committee is satisfied that the prevention of crime and disorder objective can be upheld by the addition to the premises licence of the following conditions:

1. That Mr Alan Ali Mohammed is neither employed by, nor has any involvement, in any capacity, in the running or management of the business or the premises.
2. That by 12 October 2018 Mr Tofiq and all members of staff working at the premises complete and pass the SWERCOTS Age Restricted Products Training programme and that training records for Mr Tofiq and each member of staff be retained and available for inspection by authorised persons of a responsible authority as defined respectively in section 13 (2) and (4) of the Licensing Act 2003. New members of staff will complete and pass the training within two months of commencing employment at the premises.
3. That a CCTV system be installed and operate as follows:
 - 3.1 CCTV shall be provided in the form of a recordable system, capable of providing pictures of evidential quality in ambient light during business hours.
 - 3.2 CCTV cameras shall cover all ingress and egress to the premises, including fire exits, and all areas where the sale of alcohol, tobacco and any other restricted products occurs.
 - 3.3 The CCTV equipment shall be maintained in good working order with correct time and date stamping and the recordings kept in date order, sequentially numbered and available for download/ inspection for a period of 31 days.
 - 3.4 The Premises Licence Holder must ensure that at all times the Designated Premises Supervisor or appointed member of staff is capable and competent to download CCTV recordings in a recordable media format.

- 3.5 The CCTV recording equipment and any associated tapes/ disks or recordable media shall be kept in a secure environment under the control of the Designated Premises Supervisors or appointed member of staff.
- 3.6 The Designated Premises Supervisor or appointed member of staff must maintain and endorse a weekly log confirming that the CCTV equipment has been checked; is in working order and operates in compliance with the CCTV conditions attached to the Premises Licence.
- 3.7 Upon discovery of an operating or technical fault with the CCTV equipment, the Designated Premises Supervisor or appointed member of staff shall report the fault to Thames Valley Police via the '101' number as soon as reasonably practicable.
- 3.8 The Designated Premises Supervisor or appointed member of staff shall take as soon as reasonably practicable such remedial steps as are necessary to rectify any operating or technical fault with the CCTV equipment.
- 3.9 The Designated Premises Supervisor or appointed member of staff shall record in the weekly log any operating or technical fault with the CCTV equipment; the date and time such a fault is reported to Thames Valley Police and the remedial action taken to rectify the fault.
- 3.10 The CCTV recordings shall be capable of being download to removable media device available to authorised persons of a responsible authority as defined respectively in section 13 (2) and (4) of the Licensing Act 2003, subject to the provisions of the Data Protection Act 2018.

Appeal

Either party has the right to appeal this decision by giving notice to the magistrates' court within a period of 21 days beginning with the day upon which notification of the determination was given.

Any appeal should be made to Oxford Magistrates' Court, Speedwell Street, Oxford,OX1 1RZ

Yours sincerely,

Richard Webb
Assistant Director Environmental Health & Licensing