



**WEST NORTHAMPTONSHIRE COUNCIL
ALCOHOL AND GAMBLING LICENSING SUB-COMMITTEE
25th JANUARY 2022**

NOTIFICATION OF DETERMINATION

Application for the review of a premises licence made by Northamptonshire Police (“the Application”) in respect of International Superstore at 199B Kettering, Northampton, NN1 4BP (“the Premises”), in accordance with section 51 of the Licensing Act 2003 (“the Act”).

Applicant: Northamptonshire Police (“the Applicant”).

Premises License holder: Miss Alicja Bialobrzews (Did not attend).

Hearing date: 25th January 2022 at 10am - held remotely via Zoom and streamed live via West Northamptonshire Council’s YouTube channel.

The Alcohol and Gambling Licensing Sub-Committee (“the Sub-Committee”) carefully considered the following:

- The written report (“the Report”) prepared by Martin O’Connell, Senior Licensing Enforcement Officer for West Northamptonshire Council (“the Council”),
- Oral update regarding the current status of the Premises License and his discussions with both the Premises License Holder and the person currently operating the Premises.
- A copy of the Application appended to the Report at Appendix A and further material,
- A copy of a witness statement dated 2nd December 2021 made by PC Tracey and exhibit photographs appended to the Report at Appendix D.
- Oral submissions made by PC Tracey during the hearing in support of the review application.
- The statutory guidance issued under section 182 of the Licensing Act 2003.

The Hearing

Mr O’Connell advised the hearing by way of update that he had spoken to the current Premises License Holder and she had informed him that she was no longer involved with the Premises in any capacity and would be surrendering the Premises License by way of written notice in due course in accordance with section 28 of the Act. Mr O’Connell received that notice on 24th January 2022.

Mr O’Connell informed the Members that the Premises License Holder had told him that she would not be attending the hearing. He also informed them that he had spoken to the current owner/operator of the Premises in relation to the Application and had been told that the operator was not carrying out any licensable activities, i.e. selling alcohol, nor did he have any intention of doing so in the future. As a result, he also had no intention of attending the hearing.

Neither the Premises License Holder nor the current owner/operator of the Premises attended the hearing or submitted any written representations for the attention of the Members.

PC Tracy and PC David Bryan attended the hearing as representatives of Northamptonshire Police. The former summarised the Application and her witness statement of 2nd December

2021, which concerned an unannounced inspection of the Premises by various statutory agencies, including Northants Police, on 17th November 2021. During this visit, a large quantity of foreign branded cigarettes, in respect of which import tax had not been paid, and £2,000 in cash were found stored behind the main counter. The Police believed the cigarettes to be available for “under the counter” sale and the cash found to be the proceeds of similar sales carried out at the Premises prior to the inspection.

Legal Advice

The Sub-committee received legal advice as follows:

1. The only questions of fact to be determined in relation to this matter were:
 - a) Whether the cigarettes found on the Premises were available for “under the counter” sale, notwithstanding that they were not on open display and that they had not been subject to the payment of import tax and
 - b) Whether the cash also found was likely to be the proceeds of similar sales carried out at the Premises prior to the inspection on 17th November 2021

both as asserted by Northamptonshire Police.

2. A Premises License may be surrendered by the holder at any time by giving a written notice to the Licensing Authority to that effect in accordance with section 28 of the Act. The License lapses on receipt of the written notice but, in accordance with section 50 of the Act, another person may apply for the transfer of the License to him/her within 28 days of that lapse.
3. The relevant licensing objective in relation to the review was the prevention of crime and disorder, as set out in the Report.
4. The relevant Statement of Licensing Policy, namely the Northampton Borough Council Statement of Licensing Policy 2020, contained no specific provisions in relation to the issues raised in the relevant representation made by the Police. Advice was provided in relation to relevant paragraphs of the section 182 Licensing Act 2003 statutory guidance relating to premises reviews, particularly in connection with crime.
5. The options legally available to the Sub-Committee were set out in the Report.
6. Any action taken should be appropriate and proportionate and should be the minimum necessary in promote the licensing objectives, considering the evidence before the hearing.

Decision and Reasons

The Hearing Members unanimously decided to revoke the Premises Licence.

Their reasons for this decisions were;

1. They found, on the balance of probabilities, that the cigarettes found on the Premises on 17th November 2021 had been available for “under the counter” sale and that the cash also found was likely to have been the proceeds of previous “under the counter” sales of similar products.



2. The current owner/operator of the Premises was, on the balance of probabilities, likely to have been solely responsible for the sale of these cigarettes, rather than the current Premises License holder. As a result, the current owner/operator was solely responsible for the fail to promote the licensing objective of preventing crime and disorder.
3. Although the current Premises License holder had no involvement with the Premises and had recently submitted written notice to surrender the Premises License, the current owner/operator would potentially be able to apply for the transfer of the existing License to him up until 28 days after it had lapsed on 17th November 2021.
4. This was not an acceptable situation for the Members. In order to prevent any potential transfer of the Premises License to the current owner/occupier of the Premises, the only reasonable and proportionate decision in the circumstances was to revoke that License.

The Premises Licence Holder or Police may appeal this decision to a Magistrates' Court within 21 days of receipt of a written copy of this decision.

Councillor Mike Warren

Chair of the West Northamptonshire Council Alcohol and Gambling Licensing Sub-Committee
held on 25th January 2022

Dated: 25th January 2022