

LICENSING SUB-COMMITTEE C

A meeting of the Licensing Sub-Committee C was held on 27 July 2015.

PRESENT: Councillors B E Taylor (Chair) and R Brady and J Goodchild.

**PRESENT AS
OBSERVERS:** Councillors T Lawton and L Lewis.
(Press)

**ALSO IN
ATTENDANCE:** On behalf of the applicant (Middlesbrough Council Trading Standards):-
J Hedgley - Trading Standards Manager.
S Upton - Principal Trading Standards Officer.
C McNamara - Senior Trading Standards Officer.
G Walters - Trading Standards Officer.
W Flowers - Principal Environmental Health Officer.
Sergeant P Higgins - Cleveland Police Licensing Unit.

On behalf of the Premises Licence Holder:-
A Mohammad - Premises Licence Holder.
A Stranex - Licence Holder's Legal Representative (Counsel).
E Watson - Licence Holder's Legal Representative (Solicitor).

OFFICERS: J Dixon, T Hodgkinson and D Joy.

DECLARATIONS OF INTERESTS

There were no Declarations of Interest made by Members at this point in the meeting.

15/1 **LICENSING ACT 2003 - APPLICATION FOR REVIEW OF PREMISES LICENCE - MULTI CULTI, 242-244 LINTHORPE ROAD, MIDDLESBROUGH, TS1 3QP.**

A report of the Assistant Director of Improving Public Health had been circulated outlining an application for review of the Premises Licence in relation to Multi Culti, 242-244 Linthorpe Road, Middlesbrough, TS1 3QP, Ref No. OL/15/9.

The premises currently operated during the following hours:-

Summary of current Licensable Activities and Hours

Sale of Alcohol (off sales) - 8.00am to 10.00pm daily.

Full details of the application to review were attached at Appendix 1 and a copy of the current premises licence and accompanying operating schedule was attached at Appendix 2 to the submitted report.

The Chair introduced those present and outlined the procedure to be followed at the meeting.

The applicant's representatives, Middlesbrough Council Trading Standards, Cleveland Police (making supporting representations) and the licence holder and his legal representatives were in attendance at the meeting and confirmed that copies of the report and Regulation 6 Notice had been received.

Details of the Application

The Principal Licensing Officer presented the report in relation to an application to review the premises licence in respect of Multi Culti, 242-244 Linthorpe Road, Middlesbrough. The application was received on 1 June 2015 and was based on the grounds of the prevention of crime and disorder, public safety and protection of children from harm.

It was noted that the premises consisted of a ground floor convenience store located within a block of retail units on Linthorpe Road in Middlesbrough. A premises licence was first granted

on 21 May 2012.

On 30 June 2015, a representation was received from Cleveland Police supporting the application on the grounds of the prevention of crime and disorder. A copy of this representation was attached at Appendix 3.

Applicant in Attendance

S Upton, Principal Trading Standards Officer, presented the case outlining the application for review of the premises and stated that Trading Standards had serious concerns about the running of the business and the licence holder's ability to uphold the licensing objectives, particularly in relation to crime and disorder.

The Committee was advised that, on 12 May 2015, Multi Culti 2014 Ltd was successfully prosecuted in relation to the supply of illicit and counterfeit tobacco by Middlesbrough Council's Trading Standards Service. The prosecution related to a visit made to the premises by Trading Standards Officers on 5 August 2014 in response to concerns regarding illicit tobacco being sold from the premises. A search of the premises, carried out as part of a multi-agency operation, resulted in the seizure of 11,000 illicit cigarettes and 500g of had rolling tobacco from a hidden compartment underneath the counter.

On 12 May 2015, Teesside Magistrates Court found Multi Culti (2014) Ltd guilty of 25 offences in relation to the illicit and counterfeit tobacco. The Company was fine £12,500 and ordered to pay £2,100 cost plus £50 victim surcharge.

Mr Mohammad was the Premises Licence Holder and the DPS of Multi Culti and was the sole director of Multi Culti (2014) Ltd. The Panel was advised that Trading Standards had concerns that the sale of illicit tobacco from the premises and the successful conviction at Teesside Magistrates Court demonstrated that Mr Mohammad was unable to uphold the licensing objectives in relation to the prevention of crime and disorder, public safety and the protection of children from harm.

Reference was made to the report published by HMRC in March 2015, entitled 'Tackling illicit tobacco - from leaf to light', which identified that the illicit tobacco trade was dominated by internationally organised criminal groups, often involved in other crimes. It was acknowledged that the illicit tobacco trade damaged legitimate businesses and undermined public health and facilitated the supply of tobacco to young people.

The Principal Trading Standards Officer stated that Trading Standards had applied for a review of the premises licence on the basis that Multi Culti (2014) Ltd and Mr Mohammad, as sole director, failed to operate the premises in such a manner to uphold the licensing objectives of the prevention of crime and disorder, maintaining public safety and protecting children for harm. Trading Standards had concerns regarding the day to day running of the business and concerns around individuals involved in the business on a daily basis. There was evidence that Mr Mohammad was not fully in charge of the business and was unable to answer all of the questions asked of him. There was also evidence of another individual, considered by Trading Standards not to be an appropriate person to be involved in the business, having a high level of involvement in the business. The individual's conduct had been questionable and he had lied in relation to his identity and the identity of other staff members when questioned by Trading Standards Officers.

The Premises Licence Holder's legal representative sought clarification in relation to the individual referred to and to the alleged connection between this individual and the sale of alcohol.

Sergeant Higgins, Cleveland Police, referred to the paperwork and statements previously served and clarified that the concerns expressed regarding another individual's involvement in the premises related to Mr Aram Hussein. Mr Hussein had previously had a premises licence revoked and a subsequent application in respect of another premises refused by the Licensing Sub Committee A in 2012.

The premises licence holder's legal representative stated that they had not seen evidence that the Licensing Sub Committee A had dealt with that matter.

The Council's legal representative stated that information in relation to Mr Hussein's background had not been served on the Premises Licence Holder and if the responsible authorities intended to rely on that information it should have been served on the Premises Licence Holder and the Committee.

The Premises Licence Holder's legal representative requested that he be permitted to take instruction from his client and they both withdrew from the meeting. Subsequently, the Premises Licence Holder and his legal representative returned to the meeting and the legal representative stated that his client had only moved into the area a short time prior to becoming involved in the subject business (Multi Culti) and that the references to Mr Hussein's previous businesses dated back some time, therefore, the information could not be confirmed or disputed as it was not within their knowledge.

The Council's legal representative asked Trading Standards to confirm whether the information regarding Mr Hussein's background was relevant to the application (as the evidence should have been served on all parties prior to the Hearing) and whether they were relying upon the information or whether their concerns were around his involvement in the business at the subject premises (Multi Culti). The Principal Trading Standards Officer confirmed that the evidence of Trading Standards was sufficient to support the application for review without the evidence regarding Mr Hussein's background. The Council's legal representative confirmed that the Hearing could proceed as planned if Trading Standards was not sufficiently relying upon evidence regarding Mr Hussein's background.

Statement of Senior Trading Standards Officer

The Principal Trading Standards Officer made reference to the statement of C McNamara, Senior Trading Standards Officer, dated 23 July 2015. The document had been circulated to all parties prior to the meeting. The Officer confirmed the content of her statement and the content of her previous statement, dated 13 July 2015.

The Principal Trading Standards Office led the Senior Trading Standards Officer through her statements and asked her to explain the series of events in her own words.

The Senior Trading Standards Officer explained that she had taken part in a multi-agency operation, including HMRC and the Police, on 5 August 2014 which had involved taking tobacco detection dogs to the premises in question where intelligence had been received regarding the sale of illicit tobacco. Upon entering the premises, the officer had introduced herself and a male working in the shop introduced himself as Aras Karim and that his date of birth was 18 December 1988. The male stated that he worked at the premises and made a call on his mobile to the owner.

The tobacco detection dog entered the premises with his handler and indicated that it had detected something at the front of the serving area, near the till. Colleagues inspected the area and removed a screw panel which concealed illicit tobacco and a large quantity of money.

During the visit, a male and female entered the premises. The male claimed he was the owner of the premises and was named Ali Mohammad. The female introduced herself as his wife. The Officer cautioned the Premises licence Holder, Mr Mohammad who explained that he had taken over the business on 20 May 2014 and was the Director of Multi Culti 2014 Ltd. He showed the relevant paperwork from Companies House to the officer and stated he knew nothing about the cigarettes concealed under the counter as he had only recently taken over the premises.

The Officer stated that the seized items were recorded in a seizure log and a copy was given to the Premises Licence Holder, however, he refused to sign it.

Whilst visiting the premises, a cash and carry card was found in respect of a premises called

European Foods. This premise had once been situated on Borough Road and the name on the card was 'Aram Hussein'. Having previous knowledge of intelligence received concerning Multi Culti and European Foods, the officer stated she was suspicious about the true identity of the male who had introduced himself as Aras Karim. The Officer stated that she had also noticed a vehicle parked outside of the premises and believed the private registration plate to be associated with Aram Hussein. The Officer stated that it was recorded on the system that Mr Hussein had previously been involved with illicit tobacco and alcohol.

The Officer established that the male was Aram Hussein and not Aras Karim and requested that he hand over the keys to the vehicle parked outside. He refused to do so, stating that it was not his vehicle.

The Officer then asked the Premises Licence Holder, Mr Mohammad, where the hard drive for the CCTV system was located but he was unable to answer. He indicated to Mr Hussein who explained that the hard drive was not connected as it had been seized by the Police and returned but was not connected and had not worked for around six months.

When the Premises Licence Holder was asked about the large sum of money that had been found, he responded that he had planned to bank the money later that day as he had a business appointment at the bank. The Officer stated that whenever she asked a question of the Premises Licence Holder, he was unable to answer and Mr Hussein responded. In addition, the postman visited the premises and Mr Hussein signed for one of the items being delivered. The Officer expressed concern that Mr Mohammad appeared not to be familiar with the day to day running of the premises.

The Council's legal representative requested that the second statement from C McNamara, Senior Trading Standards Officer, be dealt with next. He stated that it had technically been served late, however, it had been circulated to all parties on 24 July 2015 and it was queried whether there was any issue with this. The Premises Licence Holder's legal representative responded that he was more concerned with the evidence that had not been served. The Council's legal representative stated that it was a matter for the Committee to determine how much relevance it placed on that. The Premises Licence Holder's legal representative confirmed that he was happy for the second statement to be considered.

The Senior Trading Standards Officer stated that she had visited the premises on 13 July 2015 with her colleague. She stated that she, again, noticed the vehicle that had been parked outside the premises at the previous visit, which she knew to belong to Aram Hussein. Upon entering the premises, Mr Hussein was standing behind the counter and was instructing a female shop assistant where to vacuum. The Officer handed an envelope containing paperwork to Mr Hussein and asked him to pass it on to Mr Mohammad. At this point Mr Hussein began to open the envelope and the Officer asked him not to as it was addressed to Mr Mohammad. Later that day the Officer posted documents to the licence holder at his home address.

Questions from Members/Premises Licence Holder

All parties were afforded the opportunity to ask questions of the Officer and the following issues were raised:-

- In response to a question from a Member, the Officer confirmed that the money discovered at the premises was in an envelope marked '£5,500'.
- The Premises Licence Holder's legal representative highlighted that when Trading Standards had spoken to the licence holder he had stated that he had only recently become involved in the business and it was queried whether this had been checked out. The Trading Standards Officer confirmed that she had viewed the appropriate paperwork from Companies House which was consistent with his statement.

Statement of Trading Standards Tobacco and Underage Sales Enforcement Officer

G Walters, Trading Standards Tobacco and Underage Sales Enforcement Officer, confirmed the contents of his statement dated 10 July 2015. The document had been circulated to all

parties prior to the meeting.

The Trading Standards Officer explained that he had also taken part in the regional multi-agency operation on 5 August 2014 which had involved taking tobacco detection dogs to the premises in question where intelligence had been received regarding the sale of illicit tobacco. The detection dog indicated that there was tobacco hidden in the counter at the side of the till. Upon examination it became apparent that there was a hidden compartment which could be accessed via a screw. The Officer stated that he opened the panel using a screwdriver. The panel opened easily, revealing a quantity of tobacco. No further illicit tobacco products were found during the inspection.

A Trading Standards Enforcement Officer discovered a large sum of money in a bag next to the hidden compartment. The bag also contained receipts and a hardback book. There were also three diaries under the shop counter. Mr Hussein had stated that one of the diaries belonged to him. The Officer confirmed that having examined the tobacco, none of it complied with the Tobacco Products (Manufacture, Presentation and Sale)(Safety) Regulations 2002.

Full details of the tobacco items seized from the hidden compartment were provided in the Officer's statement. Upon further inspection of the premises, the Officer stated that he discovered a screwdriver behind a stereo on a shelf behind the counter in close proximity to the hidden compartment.

The Officer stated that on 10 December 2014 he conducted an interview with the Premises Licence Holder and the Senior Trading Standards Officer. The Premises Licence Holder stated during the interview that he had sacked Mr Hussein on the advice of D&B Licensing Consultants and claimed that he was not aware that there had been illicit tobacco on the premises, although he admitted he had been asked for it. The licence holder gave no indication as to who was responsible for the tobacco other than stating it may have been left there by the previous owner.

On 1 June 2015, the Officer, together with the Principal Trading Standards Officer, served notice of a licensing review of the premises. Upon entering the premises, two males were standing behind the counter - one being the premises licence holder and the other being Mr Hussein.

Questions from Members/Premises Licence Holder

All parties were afforded the opportunity to ask questions of the Officer and the following issues were raised:-

- The licence holder's legal representative sought clarification that the Officer's involvement in the inspection on 4 August was in relation to concerns regarding illicit tobacco. The Officer confirmed that this was the case.
- A Member queried whether there was any significance to the diaries that were recovered from the premises. It was confirmed that the diaries appeared to have been used as a banking book and that there was nothing of great significance contained within them.

Statement of Principal Environmental Health Officer

W Flowers, Principal Environmental Health Officer, confirmed the contents of his statement, dated 23 July 2015. The Officer stated that he had visited the premises on 23 July 2015 to assess compliance with a statutory notice served on the food business operator Multi Culti (2014) Ltd, under the provisions of the Food Information Regulations 2014.

The Officer stated that upon entering the premises, a male was behind the counter whom he recognised from previous visits to the premises when it had been under different ownership. The Officer knew the male to be Mr Hussein and asked him to confirm his name. The male provided a different name and the Officer asked him if he was Aram Hussein to which he replied 'yes'.

Mr Hussein was the only person in the shop at the time, however, two staff members entered the premises around 10 minutes later and the premises licence holder also arrived.

Principal Trading Standards Officer

The Principal Trading Standards Officer stated that all of the evidence submitted by Trading Standards pointed to the business breaching the licensing objectives of the prevention of crime and disorder, protection of children from harm and public safety due to the criminal nature of the tobacco found at the premises. In addition, the premises licence holder knew very little about the day to day running of the business and was unable to answer questions that the DPS/licence holder would be expected to answer.

Trading Standards had concerns in relation to the conduct of staff at the premises that had given false information and false names. The licence holder had informed Trading Standards that Mr Hussein had been sacked, however, he still appeared to be working at the premises following the prosecution in May - he had been present behind the counter at the premises in June and July, as recently as last week and appeared to be the sole person in charge at that time.

There were concerns regarding the criminal activity at the premises which made it likely that the premises licence holder was not complying with the law.

Cleveland Police

Sergeant Higgins presented the case on behalf of Cleveland Police and stated the Police's involvement in the application for review was to support Trading Standards. Members had already heard evidence in relation to the seizure of illicit tobacco and cigarettes in August 2014.

Sergeant Higgins stated that he had also been involved with the premises this year in relation to super-strength alcohol that was being sold from the premises. There had been a problem with street drinkers in the area following discussion with the licence holder, he had made a change to the conditions on his licence to agree not to sell beer, perry or cider above 6.5%. However, the Police had serious concerns regarding the tobacco recovered from the premises.

Reference was made to Section 182, paragraph 11.27 of the Government Guidance which identified certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. One of those was the sale or storage of smuggled tobacco and alcohol and the premises licence holder was in charge of the premises when the tobacco was found and his Company was prosecuted. Cleveland Police did not believe that the licence holder was capable of upholding the prevention of crime and disorder objective and was engaging in crime.

Questions from the Premises Licence Holder

The premises licence holder was afforded the opportunity to ask questions of the applicants and the following issues were raised:-

- The licence holder's legal representative highlighted that the licence holder had taken over the business in May 2014 and asked Sergeant Higgins to confirm whether the licence holder had been co-operative and engaged positively with the Police in relation to the issue of alcohol and links to street drinking in the area. Sergeant Higgins confirmed that there had been a positive outcome in that the licence holder had agreed to stop the sale of super strength lagers and beers being sold from his premises. The licence holder voluntarily agreed to amend the conditions on his premises licence to state that he would not sell strong lager, beers, ciders or perry.

Licence Holder in Attendance

The licence holder's legal representative, presented the case in support of the licence holder

and asked the licence holder to respond to a series of questions.

The licence holder confirmed that his involvement with the business started on 14 May 2014. He stated that he had been living in Manchester and had been made aware, through a friend, of a shop for sale. He had subsequently bought the premises in question and moved to Middlesbrough. The licence holder confirmed that the business was registered with Companies House. When asked about his previous experience, the licence holder stated that he had no previous experience in this type of business.

Reference was made to Mr Hussein and the licence holder was asked how he knew him. The licence holder responded that Mr Hussein had been the only person he had known in Middlesbrough. The licence holder stated that Mr Hussein had worked at the shop prior to him taking over and had known things about the shop.

The licence holder's legal representative referred to the illicit cigarettes and tobacco discovered at the premises by Trading Standards in August 2014 and asked whether the licence holder had stated, during interview, that he had sacked Mr Hussein. The licence holder confirmed that this was correct. It was queried whether Mr Hussein was involved with the shop at the moment. The licence holder stated that Mr Hussein was his friend and that his girlfriend worked at the shop.

It was queried why Mr Hussein had been present at the premises when Trading Standards had visited. The licence holder stated that Mr Hussein was simply his friend and that he had control of the business not Mr Hussein.

The licence holder was asked how much of the business he actually understood at the point when Trading Standards had visited the premises in August 2014. The licence holder stated that he had not understood much at that time and that Mr Hussein had been helping him but now understood 100%. In response to a further query regarding who had responsibility for the business, the licence holder stated that he and one other member of staff had responsibility for the business.

Questions from the Applicant

The applicants, Trading Standards and Cleveland Police, were afforded the opportunity to ask questions of the licence holder and the following issues were raised:-

- At this point in the meeting, the Principal Trading Standards Officer referred information that was contained within the licence holder's defence statement during his prosecution in May, and began to circulate the document to all parties. The Council's legal representative advised that the information should have been served on the licence holder prior to the hearing as well as all other interested parties. The licence holder's legal representative highlighted that the prosecution was against Mr Mohammed and the limited company but the element regarding Mr Mohammed was withdrawn. To assist, the legal representative stated that the licence holder was not disputing that Mr Hussein had been on the premises and that it was the Company that had pleaded guilty but advice had been provided in relation to the information already served.
- A Member of the Panel queried whether the fines and costs in relation to the prosecution had been paid. The licence holder's legal representative stated that a review of this was ongoing but as the Company accounts were not available for a 12 month period before the sentencing hearing, no fines had been paid yet. The Court had imposed a fine without the ability to refer to the trading accounts, therefore, the matter would be reviewed once the 12 months accounts were available. It had been agreed that £100 per month would be paid but the licence holder was still waiting to be issued with a payment card.
- The Principal Trading Standards Officer queried why, when Trading Standards had visited the premises following the prosecution, to serve the review papers, Mr Hussein had been working behind the counter. The licence holder stated that the papers had been handed to him and that Mr Hussein was behind the till. The Officer stated that when the Trading Standards Officer had visited the premises, Mr Hussein had been present at the premises and was telling someone in the shop where to

- vacuum. The licence holder stated he was not aware of this.
- It was highlighted that Mr Hussein had been the only person at the premises when it was visited on 23 July by the Principal Environmental Health Officer. The licence holder stated that he had arrived five minutes later and that Mr Hussein was not alone. The Principal Environmental Health Officer confirmed that Mr Hussein had been the only person present at the premises at that time. The Officer had asked him if he was the only person in the shop and he had stated that he was. The licence holder explained that there had been a delivery at the premises at 9.00am and that two members of staff would have been present at that time, and that it was possible that the other member of staff was in the toilet or storage area when the officer had visited.
 - It was queried why Mr Hussein had been behind the counter when the licence holder had stated that he had been sacked. The licence holder confirmed that he no longer employed him.
 - When asked why Mr Hussein had been working at the premises, the licence holder stated that he was his friend and sometimes came into the shop. He added that, personally, he had never witnessed any wrong-doing by Mr Hussein.
 - The Principal Trading Standards Officer asked whether it was correct that the licence holder had taken over the business in May and had then become the Premises Licence Holder and Designated Premises Supervisor for the business, Multi Culti 2014 Ltd. The licence holder confirmed that this was correct. He agreed that, in that role, he was responsible for the running of the business and everything going on at the premises. The Officer stated that an important part of running the business was to ensure that he knew how to operate the CCTV system and to ensure it was working correctly. When the Senior Trading Standards Officer had visited the premises and asked the licence holder for access to the hard drive, he was unable to answer and Mr Hussein had explained that the hard drive was in a box. The licence holder stated at this point that the CCTV was working and that the box from the hard drive was still there.
 - When asked if he understood the importance of maintaining the CCTV hard-drive, the licence holder stated that he did not remember being asked about the CCTV but stated that the Officer may have asked Mr Hussein about it. He stated that following the visit from Licensing Officers, he was informed that the hard-drive was not recording for 30 days and was only recording for 21 or 22 days. He subsequently had the system looked at and rectified and forwarded the relevant paperwork to the Police. The Senior Trading Standards Officer stated that this had not been explained to her on the day of her visit.
 - The licence holder's legal representative asked the Police whether they were able to confirm this. Sergeant Higgins stated that they were notified that there was a problem with the CCTV system and the issue that was identified was that the system was not recording for 31 days but that this had been rectified, however, this did not explain why Trading Standards had not been informed of this on the day in question.
 - The Principal Trading Standards Officer stated that the licence holder was in charge of the premises and that he and his staff were responsible for upholding the licensing objectives. The licence holder stated that he had 100% control of the business. He was asked why Mr Hussein kept appearing behind the counter of the shop and had provided false information and whether this concerned him. The licence holder replied that this was nothing to do with him and was not his responsibility. He stated that there had been a mistake with his Company and the Company had been fined, but the shop was now 100% under his control.
 - Sergeant Higgins highlighted that the licence holder had advised that he had sacked Mr Hussein in December on the advice of D and B Licensing Consultants who had advised that Mr Hussein should not be involved in the business. The licence holder responded that he did not know who D and B Licensing were. Sergeant Higgins clarified that they had provided him with advice in relation to his business. The licence holder stated that he was not aware of them. Sergeant Higgins felt that the licence holder was being evasive and asked whether he had paid D and B Licensing for advice. The licence holder stated that he had not but that D and B Licensing provided his staff with training every six months.
 - Sergeant Higgins asked the licence holder why he had been leaving Mr Hussein in charge of the premises. The licence holder stated that he was his friend and that he

would mind the shop for him if he needed to pop out for a few minutes and that he saw no harm in doing this.

- Sergeant Higgins asked whether the licence holder was in charge of the shop and the business when the illicit cigarettes were recovered and he confirmed that he was.
- The Panel asked the licence holder to clarify whether this was the first time he had operated this type of business - selling alcohol, etc. The licence holder stated that he was previously in the car valeting business.

Additional Evidence

At this point in the meeting, copies of the evidence previously referred to by the Principal Trading Standards Officer, namely the defence statement provided in Court by the licence holder, were made available to the Sub Committee. The Council's legal representative advised Members to consider whether they felt that the evidence was relevant to the Hearing and whether they should take it into account.

The Chair subsequently announced that the Committee considered the document to be relevant and accepted it as evidence.

The licence holder's legal representative agreed to deal with the submission and advised that this was Mr Mohammed's defence case statement in the prosecution against the two parties, however, it was subsequently withdrawn. The licence holder's legal representative stated that there had been a good deal of emphasis on Mr Hussein's character but felt that this had not been properly evidenced and felt that the statement should not be relied upon as it was withdrawn. The legal representative expressed concern that the document was being accepted as evidence when it was not properly supported.

The Principal Trading Standards Officer stated that it was her contention that the document was submitted when the prosecution was brought and in relation to the business offences and Mr Mohammed was responsible for running that business and was blaming Mr Hussein he was still involved with the premises.

Summing Up

Applicant - Trading Standards

The Principal Trading Standards Officer summed up by stating that Multi Culit 2014 Ltd was prosecuted on 4 May 2015 for a total of 25 offences including illicit tobacco. The Committee had heard, and seen photographs, of the illicit tobacco being hidden at the premises. Illicit tobacco was linked to organised crime and the HMRC report 2015 'Tackling Illicit Tobacco: From Leaf to Light' highlighted the links illicit tobacco had to organised criminals, the damage that illicit trade had on legitimate business, how it undermined public health and facilitated the supply of tobacco to young people. The criminality involved, including the use of the proceeds to fund other crimes, had a devastating effect on individuals and communities.

The licence holder had accepted that he was the premises licence holder and designated premises supervisor and was responsible for the premises but had not known what was going on on the day of the visit from Trading Standards and had given varying accounts of that day at the Hearing. The conduct of staff at the premises, providing false names and information as recently as last week, was also of concern.

Despite the licence holder advising that he had no longer employed Mr Hussein, he had been seen to be working in the shop when visited on several occasions by Trading Standards, Police and Licensing officers. The licence owner had blamed Mr Hussein in his own defence submission. The licence holder had been warned against employing Mr Hussein by his licensing consultants. The business had breached the consumer protection and trademarks Act and Trading Standards had great concerns that the business was not being run properly and that the licensing objectives were not being upheld and that the licence holder was not an appropriate responsible person to be involved in alcohol licensing and that the licence should be revoked.

Cleveland Police

On behalf of Cleveland Police, Sergeant Higgins summed up by stating that paragraph 11.27 of the guidance identified certain criminal activity that might arise in connection with licensed premises which should be treated seriously. This included the sale or storage of smuggled tobacco and alcohol. 11.28 of the guidance stated that licensing authorities, the Police and other law enforcement agencies would use the review procedures effectively to deter such activities and crime. Sergeant Higgins, therefore, felt that revocation of the licence should be seriously considered.

Licence Holder

The licence holder's legal representative summed up by stating that the Committee had been asked to look at a snapshot of the business on 4 August 2014. This had been accepted by the Company in Court. The legal representative submitted that the Committee should not look at that day alone but to look at the time that had elapsed since that date. The licence holder had helped the Police in a positive way in relation to street drinking in the area and there had been no further issues with the licence holder.

The licence holder's legal representative considered that the licence holder should be rewarded for building up a successful business which was properly regulated through Companies House.

The licence holder's legal representative urged caution when considering the references to links between illegal tobacco and organised crime as this implied that the licence holder was involved in organised crime and this was not the case. Trading Standards had suggested that a lack of compliance in one area led to lack of compliance in other areas. The legal representative did not consider it necessary to revoke the licence in the circumstances of this particular case and felt that the Committee was being asked to do so based on one event. The evidence since then was that the licence holder was complying with regulations and had voluntarily amended the conditions on his licence in April 2015 to assist Police. The legal representative highlighted the alternative sanctions the Committee might wish to consider before considering revocation.

It was confirmed that there were no further questions and all interested parties other than the Officers of Legal Services and the Members Office, withdrew whilst the Committee determined the application.

Subsequently all the parties returned and the Chair announced the Committee's decision.

DECISION

ORDERED that the Premises Licence in respect of Multi Culti, 244 Linthorpe Road, Middlesbrough, Ref No: MBRO/PRO256/075543, be revoked, for the following reasons:-

1. Mr Mohammad had been the Premises Licence Holder of Multi Culti since May 2014, however, the Committee noted the details of the conviction against Multi Culti (2014) Ltd in May 2015 in respect of illicit and counterfeit cigarettes found on the premises in August 2014. A search of the premises found 11,000 cigarettes/500g hand rolling tobacco that were illicit/counterfeit. Mr Mohammad was the sole director of Multi Culti (2014) Ltd.
2. The Committee also noted the involvement of Mr Hussein in the day to day running of the business at the time of the offences.
3. Mr Mohammad stated that he had sacked Mr Hussein in 2014 and, from the evidence presented at Committee, it appeared that this had been on the advice of his licensing consultant. However, the Committee had heard evidence that, on a number of occasions up to July 2015, Mr Hussein had been present on the premises and appeared to be working or in control of the premises.
4. Mr Mohammad had stated that Mr Hussein was his friend and sometimes visited the premises, however, taking that into consideration, the Committee felt that Mr Mohammad could have taken steps to ensure that Mr Hussein had no contact or

- involvement with the premises. The Committee also considered Mr Mohammad's evidence regarding his relationship with Mr Hussein and Mr Mohammad's control of the premises not to be credible and that he had responded evasively to questions.
5. It was noted that Mr Hussein had provided a false name on a number of occasions, when present on the premises, and the Committee considered the likely reason for this was to hide his involvement in the business.
 6. The Committee considered that if Mr Mohammad was serious about meeting the licensing objective of preventing crime and disorder he would have broken all business contact with Mr Hussein and taken all reasonable steps to prevent Mr Hussein entering the premises.
 7. The Committee noted the period of time where there had been no reported concerns about the premises and that Mr Mohammad had responded positively to Police concerns about anti-social behaviour arising as a result of the sale of alcohol above 6.5% alcohol content. Mr Mohammad had voluntarily agreed to a variation of conditions to address this concern.
 8. The Committee considered that the 2015 conviction of Mr Mohammad's company was so serious that when considered with the fact that Mr Hussein was involved with the business at the time of the offences, and his continued presence on the premises, there was a serious risk that the licensing objective of preventing crime and disorder would not be met.
 9. The Committee considered paragraphs 11.24 to 11.28 of the statutory guidance. Paragraph 11.27 identified that the sale/storage of illicit tobacco should be treated particularly seriously. Paragraph 11.28 stated that the review procedure should be used to deter such criminal activity and that revocation, even in the first instance, should be considered.
 10. The Committee considered whether options short of revocation would meet the licensing objectives. The Committee considered that taking no steps or issuing a formal warning was an inadequate response to the application and that modifying the conditions or removing the DPS would not be effective in the circumstances of the case. Members also considered that the temporary exclusion of a licensable activity or suspension was not an adequate response given the serious nature of the offences and continued presence of Mr Hussein in the premises.
 11. The Committee concluded that, having regard for the above, it was appropriate and proportionate in the circumstances to revoke the premises licence.

In reaching the above decision Members had considered the following:-

1. The case was considered on its own merits taking into account the four licensing objectives of The Licensing Act 2003.
2. The Licensing Act 2003 (and Amended Government Guidance issued under Section 182 of the Act).
3. Middlesbrough Council's Licensing Policy.
4. The representation presented by the applicant, Middlesbrough Council Trading Standards, in writing and verbally at the meeting.
5. The supporting representation presented by Cleveland Police, in writing and verbally at the meeting.
6. The case presented by the licence holder and his legal representative.

The Chair advised all parties of the Right of Appeal to the Magistrates Court within 21 days of the decision.