

MINUTES OF LICENSING PANEL MEETING - THURSDAY, 23 MARCH 2017

Present:

Councillors

Cox

Humphreys

Hunter

In Attendance:

Lennox Beattie, Executive and Regulatory Support Manager

Sharon Davies, Head of Licensing Service

1 APPOINTMENT OF CHAIRMAN

The Licensing Panel considered the appointment of a Chairman for the meeting.

Resolved:

That Councillor Hunter be appointed Chairman for the meeting.

2 DECLARATION OF INTEREST - LICENSING

There were no declarations of interest on this occasion.

3 PROCEDURE FOR THE MEETING

The Chairman explained the procedure for the meeting including that an equal time limit of twenty minutes would be allocated for all parties.

4 APPLICATION FOR THE REVIEW OF A PREMISES LICENCE- BUCHAREST

The Licensing Panel considered an application to review the Licence in respect of Bucharest, Talbot Road, Blackpool. The application had been submitted by Health and Safety Enforcement.

Mr Mark Marshall, accompanied by Lee Petrak, presented the application on behalf of Health and Safety Enforcement and Weights and Measures. The licence holder, Ms Claudia Badea, represented herself but was supported by a friend.

Mr Marshall requested that the Panel consider the location of the shop, Bucharest, which was located in an area of sensitivity within a saturation area. He suggested that all licence applicants should be high calibre, trusted operators and should consider their location and the premises' effects on the wider area, especially when located in a saturation area. He stated that the original licence had been granted due to the shop closing at 6pm. He stated that, at the time, there had been no concerns suggesting the granting of the licence would require Panel approval.

Mr Marshall confirmed that the licence had been granted in mid-August 2016. Less than one month later the first complaint was raised by Blackpool BID (Business Improvement

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District), who suggested that the shop had been selling single, distinctive cans with 9% alcoholic content lager to street drinkers who had been causing trouble in St John's Square, Blackpool. Further concerns were raised regarding street drinkers congregating in shop doorways close to Bucharest. The distinctive cans were traced to Bucharest and the shop was confirmed as the only supplier of the cans. Ms Badea acknowledged that single cans had been sold from the premises but confirmed that the cans had been located behind the point of sale. A formal warning letter had been sent to the shop at that time.

A second complaint was raised in January 2017, that of Bucharest selling unlicensed cigarettes. Mr Marshall and Mr Petrak attended the shop to investigate and Ms Badea confirmed she had purchased £800 of cigarettes from an Asian gentleman who was unknown to her. Mr Petrak conducted a search of the property and found tobacco products, including foreign brands unlicensed for sale in the UK, along with potentially counterfeit branded products. Ms Badea showed the officers further stock stored to the rear of the premises, which amounted to a significant supply. Mr Petrak stated that the foreign brands failed to comply with the labelling requirements set out in Regulation 5 of the Tobacco and Related Products Regulations 2016, rendering their supply illegal in the UK.

Mr Petrak confirmed he had received some responses from legitimate tobacco companies confirming the stocks supplied by Ms Badea were counterfeit. Mr Petrak outlined the process for producing unregulated cigarettes in unlicensed premises and stated that it was possible that such products included noxious chemicals and posed an increased risk of carcinogens, potentially increasing the risk to the general public.

Mr Marshall stated that Ms Badea had fully cooperated with the officers and that she had confirmed she had made a profit of £1 per pack of cigarettes. She stated she had participated in the illegal trade in order to recoup some of her financial losses since the shop opened.

Mr Marshall summarised the case stating that the list of issues were viewed very seriously and that the sale and storage of smuggled tobacco could result in a fine or a prison sentence.

PC Pritchard reported that the Police had agreed to the granting of the licence on 22 July 2016 due to the hours of operation of the shop, despite it being located in a saturation area. She indicated that the main purpose of the shop was for food sales. She reported that the Police had expressed disappointment that the licence conditions had not been adhered to, which included the sale of single cans, a known cause of problems among street drinkers.

PC Pritchard further noted that children were often in the vicinity when the street drinkers congregated and noted that Home Bargains, a store located next door to Bucharest, had submitted a number of complaints. She stated that homeless people, often suffering with alcohol related problems, used nearby doorways and that the sale of single cans was considered to add to their problems. PC Pritchard stated that only robust licence holders should be operating in the town centre.

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PC Pritchard stated that Ms Badea had signed a Mediation Agreement on 5 August 2016 which incorporated conditions including “any alcohol over the ABV (alcohol by volume) of 6% is to be located behind the point of sale area”, and “no single cans of lager, cider or bitter to be sold”. The sale of single cans of 9% lager breached both of these conditions.

PC Pritchard summarised by stating that Ms Badea had not been adhering to the conditions of the licence and confirmed that the Police supported Mr Marshall in his Representation to the Panel.

Ms Badea was offered an opportunity to speak. She stated that she had made mistakes as she wanted to make back some of her financial losses. She confirmed that three homeless people who used to purchase single cans from the shop no longer frequented the premises. She further stated that she had made a mistake when purchasing the illegal cigarettes and gave assurances she would not digress again. Ms Badea stated that she intended to sell the premises but that the sale was dependent upon the retention of the licence.

The Panel questioned Ms Badea, asking

- if she believed she was no longer in contravention of her licence, in that she no longer sold single cans or counterfeit tobacco products
- if she had been aware the cigarettes were counterfeit, and
- if she employed any other staff.

Ms Badea stated that she believed she was no longer in contravention of her licence but that she had been aware the cigarettes were counterfeit. She also confirmed she did not employ any staff, operating as a sole trader, and confirmed that she would not work at the shop if it were sold.

Mr Marshall requested that the Panel considered taking a hard line in relation to saturation areas. It was important that the areas did not deteriorate.

Mr Marshall indicated that Ms Badea had been properly trained and had asked for mediation with the Police. Licence holders were expected to know about the area in which they operated and were expected to moderate their business accordingly. Mr Marshall indicated that, in the light of the breach of licensing conditions and the sale of counterfeit goods, the Panel should revoke the licence for Bucharest without reassurances from the licence holder. Mr Marshall stated that Ms Badea had been unable to give those reassurances to the Panel and that it was important to uphold licence objectives.

PC Pritchard stated that since the application had been granted there had been an increase in problems which could be attributed to Bucharest. It was her opinion that a change of licensee would not guarantee significant change. She believed that the results of agreeing the licence were that interests had worsened in the area.

The Panel considered the evidence provided. In summary, the distinctive cans were only available from Bucharest. Ms Badea had admitted to knowing the tobacco products were counterfeit and illegal. The Police had indicated problems had increased since the licence had been granted. Despite a number of conditions being agreed they had been breached almost immediately and a warning had been issued. The licence holder had then invested

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in the sale of counterfeit cigarettes, in contravention of the law. The Panel also noted that Bucharest was the only East European shop in the area and agreed that, as a food only store, problems were less likely to develop.

The Panel decided that the licence should be revoked.

Resolved:

That the licence in respect of Bucharest, Talbot Road, should be revoked.

Chairman

(The meeting ended at 10.55 am)

Any queries regarding these minutes, please contact:
Lennox Beattie Executive and Regulatory Manager
Tel: 01253 477157
E-mail: lennox.beattie@blackpool.gov.uk