



Northamptonshire County Council

Licensing Department,
Kettering Borough Council,
Bowling Green Road
Kettering
Northamptonshire
NN15 7QX

Please ask for: Paul Maylunn
Tel: 01604 362433
Email: PMaylunn@northamptonshire.gov.uk
Our ref: C289782
Your ref: K/10/27611
Date: 21.10.2013

Dear Sirs

Licensing Act 2003 Section 51 Application for Review of Premises Licence
Kettering Food and Wine Centre 34, Rockingham Road Kettering NN16 8JS
Asadula Hassan ZADA Premises Licence Number K/10/27611

Responsible Authority Representation

Northamptonshire County Council Trading Standards Service is a Responsible Authority for the purposes of the above Act. I wish to lodge a representation concerning the above applicant in support of the review application by Northamptonshire Police.

The representation relates to the following licensing objective
– **Section 4(2)(a) The prevention of crime and disorder**

The above premises has been the subject of complaints concerning the sale of illicit tobacco since 2010. The complaints were substantiated by undercover test purchases and inspections where illicit tobacco products were found. The premises history in relation to the sale is given in the Annex attached to this letter. The illicit nature of the product means that product was not found on each visit yet subsequent undercover test purchases were successful.

Illicit is the term used to describe those cigarettes which may be counterfeit and/or smuggled, and so not duty paid, and which do not bear the required picture warnings and written warnings in English. They are sold cheaply 'under the counter' harming legitimate businesses selling legal cigarettes and undermine the Government strategy on reducing smoking.

It is required under the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002 that tobacco products are marked with pictures and warnings in English. It is absolutely clear and unmistakable that tobacco in packs not correctly marked with the warnings has not had the customs and excise duty paid. In addition the warnings are there intentionally to discourage smoking and alert users to the dangers of tobacco. Smuggled tobacco is marked with warnings in a foreign language or is unmarked, and that is an offence, contrary to the above regulations.

Counterfeit products are packaged to appear to be legitimate brands and illegally use registered trade marks of known brands. This practice is an offence under the Trade Marks Act 1994.

The business has been warned 3 times in that time and Mr ZADA signed a formal undertaking under the Enterprise Act in July 2013 yet it was still possible to purchase illicit product undercover after Mr ZADA gave the undertaking not to sell.

The persistent nature of the sale of illicit tobacco indicates a general disregard for the law and it is clear that Mr ZADA trading as Kettering Food & Wine has persistently disregarded the law and endeavoured to hide the contraband from enforcement officers.

It is therefore our representation that this Authority has serious concerns that the licensing objectives of the prevention of crime and disorder and protection of children from harm are not being met. In making this representation I refer you to Official Guidance:

In the Amended Guidance Issued Under Section 182 Of The Licensing Act 2003 issued by the Home Secretary it states:

11.26 There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:

- [...]
- for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- [...] and
- for the sale of smuggled tobacco and alcohol.

11.27 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. 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.

As a result of the incidents and the subsequent investigations Northamptonshire County Council Trading Standards Service considers that there are serious concerns about the proper operation of the business. It is for the licensing committee to decide whether the licence should be revoked or suspended, but having regard to the business history and above guidance we ask for revocation.

Yours faithfully,



Paul Maylunn
Section Manager, Food & Health

ANNEX

By reference to Service records I can state the following history is held concerning the business:

Incidents relating to supply of Illicit products

Date	Action	Result
02/12/2010	Complaint from Public - Counterfeit/ smuggled drink and cigarettes	Noted
16/12/2010	Routine Inspection & Complaint visit	No counterfeits found
02/03/2011	Undeclared Test Purchase Illicit tobacco	20 Polish product. Purchase £4.50 for 20
31/03/2011	Undeclared Test Purchase Illicit tobacco	L & M Link Sale 1 pack for £3.86
07/04/2011	Seized Illicit Tobacco	Foreign Labelled Cigarettes: 21 x 20 packs seized and paper from outers found behind the counter area in the front of the shop. The cigarettes were not labelled in English. A notice was given at the time of the visit signed by Naser Ali AKBARI partner on behalf of himself and Asadula Hassan ZADA.
14/07/2011	Routine Inspection & Complaint visit	No illicit found
14/10/2011	Allegation from member of the public of illicit tobacco and unfit meat sold.	Noted for intelligence
09/12/2011	Illicit Products inspection	Nothing found
05/07/2012	Undeclared Test Purchase illicit tobacco	1 packet Marlboro £4.00
07/08/2012	Undeclared Test Purchase illicit tobacco	Carton of 200 Marlboro Gold £43.00
23/08/2012	Inspection and search of premises and vehicle.	Tobacco and cigarettes seized from trader as believed to be counterfeit. 78 packs + 7 pouches HRT found in associated vehicle. Notice issued re seizure signed by Asadula Hassan ZADA.
26/10/2012	Inspection & Complaint visit	No Action nothing found
28/01/2013	Undeclared Test Purchase illicit tobacco	Sale of illicit cigarettes 2 packets L&M £4.00
24/07/2013	Visit to obtain Enterprise Act Undertaking	An Enterprise Act undertaking for Mr ZADA to complete and return was left with the male member of staff. No illicit product behind the counter, premises not searched.

24/07/2013	Visit to obtain Enterprise Act Undertaking	Formal undertaking signed by Asadula ZADA regarding Contravening the Tobacco Products Regulations 2002 and Contravening the Trademarks Act 1994.
03/0.9/2013	Undeclared Test Purchase illicit tobacco	1 packet illicit L&M sold £4.30
19/09/2013	UAS, Illicit tobacco Complaint from Public	Noted for intelligence
03/10/2013	Inspection of Premises	1 packet Illicit Marlboro Gold seized