

## HGS-UK Ltd Case Summary - Licensing Act 2003 - Review

### Maxi Foods, 270 Harehills Lane, Harehills, Leeds, LS9 7BD

#### Operator Background

1. [REDACTED] is the sole director of HGS-UK limited, the premises licence holder of Maxi Foods, 268-270 Harehills Lane, Leeds, LS97BD. He has his personal licence and has a hands on approach to management of all three of the stores he operates in the Harehills area. The other two stores being Maxi Foods at 22 Harehills Road, Leeds and Maxi Foods and Wine at 309 Harehills Lane, Leeds. Of these, Maxi Foods and Wine also has a Licensing Act premises licence.
2. He has operated in the Harehills area since 2016 and knows the area extremely well. No stores have ever failed a test-purchase for illicit goods, or ever sold illicit goods. All goods are provided by legal suppliers and invoices retained.

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3. The grounds of the review do not state that any illicit cigarettes or alcohol were found in the premises. This is supported by the Trading Standards witness statement that states the following "No illegal items were found inside the store" (Page 57, Main Agenda Pack).
4. The grounds for review are not clear. In the fact that the door to the rear of the premises was not open at the time of the visit. In addition, when it states that the door of the van was open, this means unlocked and not physically open. This is reinforced by the supporting witness statement of [REDACTED] who was present at the store for the inspection ([REDACTED] WS - Para 5 - Page 33).
5. The photographs supporting the review showing a view from inside the store of the side door of the vehicle being open was not as the Police/Trading Standards found it. The side door of the van and the back door were only opened when photographs were taken by the authorities. This is reinforced by the supporting witness statements of [REDACTED] and [REDACTED] who were present at the store for the inspection ([REDACTED] WS - Para 7, 8 - Page 33 & [REDACTED] WS - Para 3 - Page 42).
6. Neither the Police nor Trading Standards provide any evidence to confirm that any illegal products are linked to the premises in any way. A 60 to 90 minutes search/inspection of the premises was undertaken and no illicit items, either alcohol or tobacco were found. There was no 'seizure notice' served on the business or any individual, as there were no illegal products in the store. No 'seizure notice' has been served on [REDACTED] in relation to the illegal cigarettes in the van either.
7. To the contrary invoices were shown for the alcohol sold at the premises at the time. An example of an invoice for the purchase of alcohol for the shop can be seen at Exhibit DS1 page 28 Supplementary Information Pack.
8. The police have sought to launch a review on the basis that a white van containing illicit cigarettes was parked in a public street near to the rear of Maxi Foods. No members of staff recognise the white van in question, as contained in their witness statements. Instead [REDACTED] and [REDACTED] believe that the van could be linked to [REDACTED] that the police are fully aware of and that was served with a Closure Notice (Please see DS 4, Page 31). In addition, all staff cars were also searched and indeed no illicit goods were found in those vehicles.

9. None of the stores run by ██████████ sell cigarettes. This is reinforced by ██████████ (expert witness) who confirmed this in his report page 52 Supplementary Information Pack, him having carried out visits previously to the stores earlier in the year.

10. The inspection was not believed to be intelligence led, no premises operated by ██████████ has ever had illicit goods found at it. No store has never failed a test-purchase in relation to the sale of illicit cigarettes or alcohol.

11. This is in contrast to other premises in Harehills that have been reviewed in relation to the operation, where illicit goods have been removed from the premises. For example, the review of Baba Jaga 2 (please see page 55 Supplementary Information Pack).

12. It is on this basis that there is simply no evidence to link illicit goods to Maxi Foods that we wrote to the council to have the review application “Rejected without Determination”. Unfortunately, the Council decided not to reject the application and the review has gone ahead. Please see Letter and Council Response, pages 19 -21 Supplementary Information Pack.

13. The inspection and operation took place on 16 June 2023. The review was not launched until some three months later. If the premises was linked with illicit goods, this could be a link to serious crime and disorder and indeed it would be hoped that action would have been taken in a more timely fashion, if these severe allegations were indeed correct. This sentiment is also re-enforced by ██████████ in his expert report that states: *“Given the seriousness of the offences as outlined in the review application and the statement of West Yorkshire trading standards I am bemused why it has taken almost 4 months for enforcement action to be taken. This delay has led to the CCTV evidence to support Maxi Foods being over written”* (Page 53 Supplementary Information Pack).

14. In the trading standards officer’s witness statement it states that a person was seen fleeing the scene, there is no mention of this person, where they detained? Could they be linked to the premises? There is again no evidence linking this person or the van to the premises.

15. There was no CCTV footage requested in relation to the white van or the person seen fleeing from it. An inspection was done of the CCTV during the inspection on 16 June 2023, however at no time was it requested in order to view whether persons linked to the white van ever entered Maxi Foods. Given the length of time before the review was launched and that on finalising the inspection on 16 June 2023 staff were told that “everything was okay” CCTV at the time was not saved.

16. In addition, if the Police or Trading Standards believed the premises sold illicit goods, surely, they would request CCTV footage from the store to prove that this was the case. It is the case that no CCTV has ever been requested from the store, of either the till area or any other area, in relation to the illicit sale of goods.

#### **Failed Test Purchase**

17. There was a failed test purchase on 13 September 2023. It can be confirmed that this is the first time any store run by ██████████ has failed a test purchase. He having operated within the Harehills area for seven years. It should be noted that a further test purchase took place on 25 September 2023 which was passed. (Confirmed in Correspondence with enforcement, page 43 Supplementary Information Pack)

18. ██████████ taking the promotion of the licensing objectives seriously decided to undertake external training with his staff in relation to underage sales. This training took place on 25 October

2023 as is confirmed in [REDACTED] report. All store members that sell alcohol, including [REDACTED] that failed the test purchase were trained (Page 54 Supplementary Information Pack).

19. As per the paragraph 11.10 of the S182 Guidance, one would expect licensing authorities to have a stepped approach to enforcement. It is the case that one failed test purchase would not be grounds for review of a premises licence. However, being a proactive operator, not only have independent third-party training being undertaken but also that [REDACTED] has applied to become the DPS at the premises. The current position is that the DPS variation has been objected to by the Police at present.

#### **CCTV Recording Number of Days**

20. In the review it states there was a breach of licensing condition relating to the number of days of CCTV footage held. The CCTV on 16 June 2023 was recording for 28 days, instead of 31 days. As is set out in [REDACTED] witness statement at Page 26 and Page 29 Supplementary Information Pack, this was amended in two days when the CCTV engineer could get out to fix it. Again, reinforcing the professional approach taken by the operator.

#### **Past Waste Enforcement**

21. We received on 31 October 2023 (some 7 days before the hearing, when the review was launched on 11 September 2023), information about a previous prosecution in relation to waste almost 3 years ago (Jan 2021). In January 2021 no action was taken against the premises licence in relation to waste, it therefore seems perverse that it is brought up now at this review hearing. There have been no issues since this prosecution in relation to waste.

22. This waste enforcement action has no connection with the grounds of the review and indeed it should be disregarded as it not linked directly to the sale of alcohol, the licensable activity for the store. Indeed, this information was not raised when an application for a new premises licence was submitted earlier this year for the new Maxi Food on Harehills Road.

#### **Steps Taken by the Operator in Relation to the Review.**

23. The operator is not linked with illicit goods and so no measures have been taken in relation to this. The premises will continue to sell vapes and will not sell cigarettes. All alcohol will continue to be purchased from legal suppliers.

24. In relation to the CCTV and this was dealt with two days after the issue had been flagged by licensing.

25. Both Enforcement and Police have been liaised with to see if they wanted to meet and what additional steps they would recommend. Please see pages 43-49 Supplementary Information Pack. This being in line with the cooperative approach set out in the Sect 182 Guidance. Enforcement confirmed that they would *"advise him would be to ensure compliance with his Premises Licence and the Licensing Act 2003 as a whole"*.

26. Specific to the failed test purchase, all staff have undertaken training from an independent third party, as mentioned above.

#### **Proposed Conditions allowed under S54 (4) LA 2003**

-The following further conditions are also offered to ensure that the CCTV issue and the failed test purchase issue does not happen again:

*“The PLH/DPS will ensure a weekly check on the CCTV to ensure that it is operating correctly and that images are held for a minimum of 31 days. This check will be recorded in a register and signed by the PLH/DPS or senior member of management staff. The register will be shown on request to an authorised officer of the Police or Licensing Authority”.*

*“All staff deployed in the serving of alcohol and for managing admission to age restricted premises shall be trained on the correct procedures for age verification, the prevention of proxy sales, the prevention of sales to those who appear intoxicated and for dealing with false and any surrendered identification documents. This training is to be given to all new staff who sell alcohol and is to be repeated on a six-monthly basis with training records available for inspection on request to an authorised officer of the Police or Licensing Authority”.*

*“Challenge 25 Age Verification Signage will be displayed prominently at the premises.”*

### **Removal of Unclear and Unenforceable Conditions**

In addition, under the powers available to the committee the following conditions should be removed as they are unclear and unenforceable.

5. Staff training on all issues.
6. Promoting ‘no sale of alcohol’ and CCTV signage.
16. Refusal to serve drunk, disorderly and underage.