

APPENDIX 1 - CASE SUMMARIES

1. PROSECUTION OF MR. YASEEN ASHRAF

- 1.1 Mr. Yaseen Ashraf had been licensed to store explosives at Number 18 The Burnside in Newcastle under the 2014 Explosives Regulations in 2015 and 2016. In 2017 Mr. Ashraf did not renew the licence at 18 The Burnside, applying instead to licence number 30 The Burnside. Inspections of the shop at 30 The Burnside were carried out in September 2017 prior to the issue of the licence under the 2014 Regulations.
- 1.2 The premises at 30 The Burnside is a mid-terrace shop in a row of shops with a large grassed area to the front of the shops and a rear yard with vehicle access to a back lane. Above the shops are domestic first floor flats which are not connected to the shops, the occupants of these flats have no connection with the shops below. Due to these flats being above 30 The Burnside, the Explosives Regulations licence issued by The Fire Authority on 26 September 2017 was restricted to a maximum storage of 75kg (net mass) of Hazard Type 4 fireworks.
- 1.3 Number 30 The Burnside was licensed from 26th September 2017 and the licence was in force from 1st October 2017 to 30th September 2018, specifying that the maximum quantity stored or otherwise present should be 75 Kg (NEC).
- 1.4 As a result of enquiries being made by Mr. Ashraf regarding the sale of fireworks officers attended 30 The Burnside to inspect the storage arrangements for the fireworks on 11th October 2017.
- 1.5 During the inspection a number of Hazard Type 4 fireworks were found stored in the dedicated storeroom which had been previously inspected prior to issuing the licence. Using the net explosive content the fireworks totalled approximately 91kg net mass. As this total exceeded the 75kg net mass which the premises was licenced to store, officers decided to seize the fireworks and remove them to a place of safety, this being a dedicated explosives store on the Fire Authority's premises.
- 1.6 A full inventory of the fireworks seized subsequently identified an accurate total of 93.7kg net mass of Hazard Type 4 explosives which exceeded the 75kg net mass allowed under the terms of the licence and was in breach of Regulation 7(1) Explosives Regulations 2014.
- 1.7 As a result of further information received about fireworks being set off in that area, on 16 October 2017, inspections were carried out on more of the

premises in that area. Number 18 The Burnside was one such premise inspected.

- 1.8 Number 18 The Burnside, known as Best One Convenient Store Ltd, was the premises of Mr. Ashraf, formerly licensed for the keeping of fireworks. The store was operated by the parents of Mr Yaseen Ashraf.
- 1.9 Number 18 the Burnside also had an internal adjoining door into the family home at Number 20 The Burnside. As a result this property was also inspected.
- 1.10 One opened transit box of Hazard Type 3 fireworks was found in the lounge of the first floor flat. An area of the domestic flat was undergoing building work which was on the ground floor entered through the domestic kitchen of the flat. In this area officers found a large quantity of fireworks.
- 1.11 Mr Ashraf opened a large electrically powered roller shutter at the rear of this room which opened onto the rear lane behind The Burnside. When this door was opened a large quantity of fireworks was evident, most of which appeared to be Hazard Type 3 fireworks. Officers noted that the fireworks were stored alongside large LPG cylinders, a large quantity of general builders' waste which would have been combustible along with empty and open fireworks transit packaging.
- 1.12 Mr Ashraf told officers that this was approximately £15,000 of stock totalling approximately 200 boxes.
- 1.13 There were a mixture of Hazard Type 3 and Hazard Type 4 fireworks stored together at 20 The Burnside. The total amount of Net Explosive Mass within the store was approximately 335kg of Hazard Type 3 fireworks and 38kg of Hazard Type 4. Due to the quantities stored, this figure would require a separate storage building located away from other types of buildings and public highways. Using a Google Maps satellite image as a guide it indicated that within 47m of the premises there were seven domestic dwellings, a row of shops with nine businesses and nine domestic flats, five footpaths, three of which are immediately outside the front of the row of shops, a public green, one minor road and a back lane immediately adjacent to the store giving access to a row of lock up garages. All of these would be at risk in the event of a fire affecting the explosives found at 20 The Burnside.
- 1.14 An inventory of these fireworks confirmed 376.449kg net mass of Hazard Type 3 explosives were being stored at 20 The Burnside.
- 1.15 As the fireworks were being seized officers found a 25 litre 'Jerry can' marked as flammable within the piled up fireworks in the store along with more combustible materials. No fire extinguishers were found. The fireworks were loaded into a number of police and fire service vehicles and taken to a place

of safety being a dedicated ISO container explosives store on Fire Authority premises.

- 1.16 A sample of the explosives seized from Numbers 20 and 30 The Burnside were set off following the instructions on the packaging. All items discharged correctly and were confirmed as live fireworks.
- 1.17 Enquiries were made by the Fire Authority with Powder Keg Ltd. who were the sole supplier of Klasek Fireworks regarding the deliveries made to Numbers 18 and 20 The Burnside. These enquiries have revealed that Mr. Ashraf placed the order with Powder Keg for the fireworks to be delivered to Number 18 The Burnside and this delivery took place on the 12th October 2017. Powder Keg also confirm that they were expecting the customer to provide a copy of his latest storage licence on the delivery day and when it was not received they e-mailed the customer the next day requesting a copy. Further enquiries with Powder Keg confirmed that Mr. Ashraf initially placed the order on 24th September 2017 for 97 cases of fireworks which was reduced to 41 at Mr. Ashraf's request. Powder Keg have confirmed that at no point has Mr. Ashraf indicated that the delivery of the fireworks was a mistaken delivery and that they had not received any verbal or written correspondence from the customer, Mr Ashraf, that the delivery was a mistaken delivery. Further they confirmed that the fireworks order remained unpaid by Mr. Ashraf.
- 1.18 In summary:
- Mr Ashraf stored explosives at 30 The Burnside which were beyond the permitted quantities as a condition of his licence to store explosives at 30 The Burnside;
 - Mr Ashraf stored 376KG net mass of Hazard Type 3 explosives at 20 The Burnside without a licence to store these explosives and without regard to the separation distances between the store and other buildings which are prescribed by the Explosives Regulations; and
 - Mr Ashraf stored these explosives without appropriate measures to prevent fire or explosion with fireworks stored alongside Liquid Petroleum Gas cylinders and combustible materials.
- 1.19 Mr. Ashraf was charged with four offences under the Health and Safety at Work etc. Act 1974 in relation to premises situated at Numbers 30 and 20 The Burnside. All of the charges related to breaches of the Explosives Regulations 2014.
- 1.20 This matter first came before Newcastle Magistrates Court on 27th September 2019, where the Defendant pleaded guilty to all four charges. However this case was adjourned to allow for probation reports to be prepared.
- 1.21 This case was heard next on 18th October 2019 when this matter came before District Judge Begley sitting at North Tyneside Magistrates Court. After considering the case summary, outline of sentencing guidelines and the mitigation presented on behalf of the Defendant by his Solicitor, the District

Judge decided to commit this matter to the Crown Court for sentence as he could see no good reason why he should depart from the sentencing guidelines.

- 1.22 This matter then came before Recorder Gordon sitting at Newcastle Crown Court on 15th November 2019 for sentence. After reading and listening to the facts of the case and mitigation, the Judge confirmed that he had “just” been persuaded by the Defence that this matter fell within the high rather than the very high culpability band. After taking into account those matters highlighted in the pre-sentence report, i.e. low risk of reoffending, compliance with probably, low risk to others and the fact that he pleaded guilty at the earliest opportunity, although this case had passed the custody threshold, the Judge was persuaded that he could suspend sentence. As such he ordered that in respect of each of the 3 offences where no licence the sentence would be 8 months custody suspended for 18 months with 150 hours unpaid work to be completed within 12 months. There was no separate penalty for the offence relating to storing more than the licence permitted. Regarding costs the Judge ordered legal costs be paid in the sum of £850 (to be paid at a rate of £100 per month). Forfeiture of the seized fireworks was also granted to the Fire Authority and the Judge had been made aware that the intention was for the fireworks to be destroyed.
- 1.23 On 15th January 2020, the Fire Authority received notice of an application made by Powder Keg Firework Company Ltd to vary the Forfeiture Order made to allow the fireworks to be returned to them. The Fire Authority strongly objected to this application. On 25th February 2020, Recorder Gordon who had dealt with the sentencing of this case in November, made a final order that the Forfeiture Order made on 15th November 2019 would stand unvaried.

2. **PROSECUTIONS OF MR. ABDULLAHTEEF MAHDI, MR. MOHAMMADSALEM MAHDI AND MR. AHMED KHATTAB**

- 2.1 On 18th December 2018, officers attended 12 ½ (known locally as 12a) to 13 and 14 North Bridge Street, Sunderland, Tyne and Wear, SR5 1AB. On inspection of these it was identified they were put to use as houses in multiple occupation and a number of fire safety deficiencies were identified representing a risk so serious that in the event of a fire there was a serious imminent risk to life or serious injury. These deficiencies included a lack of fire resisting construction, exposed wiring and the absence of a working fire alarm which would prevent a timely warning of fire for the residents, potentially resulting in escapees being overcome by smoke and flames before they arrived at a place of safety. As the premises provided sleeping accommodation, residents were especially at serious risk of death or serious injury.

- 2.2 The inspections were jointly carried out with Sunderland City Council's Environmental Health team, who had their own concerns over the condition of the premises.
- 2.3 Because of the risk to life, a prohibition notice was served, preventing both premises from being used for residential purposes. Because the responsible person for the premises could not be identified before the Prohibition Notice had to be urgently served, service was effected by addressing the notice generically to the "Responsible Person", and a copy of the notice was fixed to the entrance door and respective copies hand delivered to residents who were present, posted through the doors of flats, or fixed to flats' doors.
- 2.4 As the Prohibition Notice had been generically served on the "Responsible Person", it was necessary for officers to identify the specific responsible person.
- 2.5 Article 27 of The Regulatory Reform (Fire Safety) Order 2005 ("the Order") provides inspectors with powers to obtain information in relation to premises. Paragraph 27(1)(d) empowers fire safety inspectors "to require any person having responsibilities in relation to any premises (whether or not the responsible person (emphasis added)) to give him such facilities and assistance with respect to any matters or things to which the responsibilities of that person extend as are necessary for the purpose of enabling the inspector to exercise any of the powers conferred on him by this article." Among the powers conferred on an inspector are, under Article 27(1)(a) "to ascertain, as regards any premises, whether the provisions of this Order or any regulations made under it apply or have been complied with"; and, under Article 27(1)(b)(ii), "to identify the responsible person in relation to the premises".
- 2.6 Information had already been received that a Mr. Ahmed Khattab was the managing agent of both premises but to progress identification of the specific responsible person and ascertain the state of fire precautions' measures in the premises – such as whether a fire risk assessment existed and the testing of the emergency lighting system – the Authority carried out Land Registry searches on each property. These searches identified Abdullahteef Sabbar Mahdi as the registered owner of number 14 and Mohammedsalem Sabbar Mahdi as the registered owner of number 12 ½ to 13.
- 2.7 Using Article 27 powers, officers wrote to Mr. A. Mahdi and Mr. M. Mahdi on the 10th January 2019 giving each of them 14 days to provide the information requested in the letter. No reply to these letters were received. Follow up Article 27 letters were sent on 25th January 2019 again requesting the information. No responses to any of the Article 27 letters were received to

date and the Authority's enquiries were hampered by the failure to furnish the necessary information.

- 2.8 The Fire Authority received information from Environmental Health Officers at Sunderland City Council that information had been provided to them from Mr. Khattab in relation to his connection with the premises. In his response to the Council, Mr. Khattab confirmed that he was a company director of AK Property Services and Management Ltd. and that he had an interest in the premises as a "Person who in pursuance of an agreement between himself and a person interested in the land, is authorised to manage the land or to arrange for the letting of it."
- 2.9 After establishing the correct spelling of Mr. Khattab's surname, an Article 27 letter was sent to him on 8th March 2019 and when no response was received follow up letters were sent dated 2nd April 2019.
- 2.10 No responses to any of the Article 27 letters were received and the Authority's enquiries were hampered by the failure to furnish the necessary information.
- 2.11 As such Mr. A. Mahdi and Mr. M. Mahdi were each charged with two offences of failing to provide information contrary to Article 27(1)(d) of the Regulatory Reform (Fire Safety) Order 2005 which are offences by virtue of Article 32(2)(e) of the Order. Mr. Khattab was charged with four offences under the same legislation.
- 2.12 These matters first came before Sunderland Magistrates Court on 7th August 2019. Mr. Khattab had indicated that he was unable to attend on this date and asked for the case to be adjourned to allow him to take legal advice. Mr. Khattab also indicated he was acting as an 'agent' for the Mr. A. Mahdi and Mr. M. Mahdi. The Magistrates agreed to adjourn this matter until 18th September 2019.
- 2.13 On 18th September 2019, again it was Mr. Khattab's application to adjourn this matter. Mr. Khattab indicated that he had struggled to find a Solicitor to provide him with legal advice in connection with this matter and he still had to speak to the Mahdi brothers. The Magistrates were not keen on granting such a long adjournment however taking into account the fact that Mr. Khattab had a flight booked to visit the Mahdis at the end of October and is not due to return until mid-November, the earliest date Mr. Khattab could return with instructions from the Mahdis was at the next private prosecutions listing after this which is 27th November 2019. The Magistrates stressed to Mr. Khattab that he must take legal advice before he left to visit the Mahdis so that progress could be made on the next occasion.

- 2.14 On 27th November 2019 this matter once again came before Sunderland Magistrates Court. However there was no attendance at Court by any of the Defendants. As such these matters were proved in their absence.
- 2.15 In respect of the Mahdi brothers, the Magistrates fined them £500 for each offence (therefore making a total of a £1000 fine for each of them), they also ordered them to pay a £50 victim surcharge each and awarded full costs of £1563.19 in each case (£1363.19 of this were the Fire Authority's investigation costs).
- 2.16 In respect of Mr. Khattab they decided to hear the Environmental Health prosecution case before proceeding to sentence. So in respect of the Fire Authority charges, they fined him £150 for each of the 4 offences and ordered full costs of £1563.18 be paid (£1363.19 of which were the Fire Authority's investigation costs).

