

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber - County Hall, Durham on **Tuesday 17 July 2018 at 10.00 am**

Present:

Councillor C Carr (Chairman)

Members of the Committee:

Councillors J Blakey, D Brown and J Maitland

Also Present:

Yvonne Raine – Senior Licensing Officer

Karen Robson – Senior Licensing Officer

Stephen Buston – Solicitor, DCC

Grange Villa Mini-market

Craig Hudson – Trading Standards - applicant

Graham Blount – Trading Standards – applicant

Sarah Smith – Solicitor for Premises Licence Holder

Mr M Singh – on behalf of Premises Licence Holder

PCSO Michelle Williamson – Durham Constabulary

Off-licence, 4 Victoria Terrace, Murton

John Cosgrove – Solicitor for the applicant

Neelham Randhawa - applicant

Sgt Caroline Dickenson – Durham Constabulary

Craig Hudson – Trading Standards

Graham Blount – Trading Standards

1 Apologies for Absence

Apologies for absence were received from Councillors P Atkinson and C Hampson.

2 Substitute Members

Councillor Maitland was present as substitute.

3 Declarations of Interest

Councillor Carr declared an interest in the application for the review of a Premises Licence for Grange Villa Mini Market, 19-21 Front Street, Grange Villa and took no part in the consideration of the application. The Councillor was familiar with the premises which were in his electoral division.

4 Application for the Review of a Premises Licence - Grange Villa Mini Market, 19-21 Front Street, Grange Village, Chester-le-Street

Members: Councillor J Maitland (Chair), Councillors J Blakey and D Brown.

The Committee considered a report of the Senior Licensing Officer regarding an application for the review of a Premises Licence in respect of Grange Villa Mini Market, 19-21 Front Street, Grange Villa (for copy see file of Minutes).

A copy of the application and supporting documentation had been circulated, together with additional information provided by Durham Constabulary and the Licence Holder.

Members were informed that Mr Somal was unable to attend the hearing but was represented by his son Mr M Singh.

Following a question from Mr Buston, Members were informed that other than mandatory conditions there were no other conditions attached to the existing Premises Licence. The Licence had been issued under the former Justices Act and the licensable activities converted under grandfather rights on the introduction of the new licensing regime.

Mr Hudson of Trading Standards, the applicant was invited to address the Sub-Committee. Mr Hudson provided details of the two failed test purchases on 22 and 23 September 2017, details of which were included in the Bundle of Evidence. The sales had been made by the Licence Holder's mother, and Officers had been informed that she had recently been robbed at knifepoint and was nervous of confrontation. This was why she had not challenged the youths. A visit had been made to the premises to discuss procedures in place and steps taken to prevent a recurrence. Officers had also sought an assurance that the mother was now able to challenge youths in future. In view of the steps taken by the Licence Holder, Trading Standards did not now request a suspension of the Premises Licence but asked the Sub-Committee to consider imposing robust conditions.

Following questions from Mr Buston, Mr Blount advised that intelligence received from the Neighbourhood Policing Team had advised that the area was having problems with alcohol related anti-social behaviour. Normally a Fixed Penalty Notice would be issued to a member of staff who had failed a test purchase but in this case Officers considered that conditions on the Premises Licence would be more appropriate.

Ms Smith, Solicitor on behalf of the Licence Holder addressed the Sub-Committee and advised that Mr Samal had purchased the premises over 30 years ago. The family lived above the shop which was a purpose built mini-market. The family were an integral part of the local community and 95% of their customers were local people. The premises was open between the hours of 07.30 and 21.00 hrs and was a typical mini-supermarket selling a range of age restricted products. Mr and Mrs Samal both worked in the shop and their son Mr Singh supervised staff. Mr Singh was embarrassed to be in front of the Sub-Committee and had written a letter of

apology immediately after the failed test purchases. The family had always worked hard to prevent underage sales and had not failed a test purchase before.

Mr Singh's mother had been the subject of an armed robbery by a youth demanding money with a knife. She subsequently felt vulnerable and nervous on her own when youths came into the shop, however she fully accepted that this was no excuse for the failed test purchases. They had immediately taken steps to rectify this to prevent a recurrence. A very productive meeting had taken place on 28 November 2017 and Officers accepted that systems had been put in place. There may have been a misunderstanding in that following that meeting the Licence Holder had not appreciated that Officers wished the steps taken to be formalised.

Mr Singh had assumed responsibility for staff training, using the standard no ID/no sale guide for Managers. Training had not been formally recorded previously but this had now been formalised and staff had all received refresher training. Mr Singh and his mother had passed BTEC underage sales training with a company who he had asked to set up a programme of random test purchases.

In terms of the Police evidence, and the problems in the village, the family were vigilant and tried hard not to be part of the problem. This was evidenced in March 2018 when Police seized alcohol from youths outside the premises, and on checking had found that the bar codes did not match those in their store.

The Durham Local Safeguarding Children's Board (LSCB) had submitted representations on the basis that the Licence Holder had not taken any action but this had now been resolved.

Referring to the additional information provided, Members were advised of the steps taken to show that they had recorded refusals historically, and had introduced a new register to record challenges made under Challenge 25. If the customer was 18 they were asked for their name for the purpose of the register and if they refused, the sale would be denied.

Following a question from Councillor Maitland, the Member was informed that more than one member of staff would be present when Mr Singh's mother was working.

Councillor Brown asked what proportion of shop sales was alcohol and was informed that alcohol sales represented around 25-30%. Following a further question from the Member Ms Smith advised that it was not possible to state if there had been previous inadvertent sales to under 18s but that they had never failed any test purchases previously.

Councillor Blakey referred to the bar codes and was advised that this had been recorded in the refusals register included with the additional information. Mr Blount added that bar codes were checked as an emergency cross-check when there were incidents reported.

All parties were invited to sum up. Ms Smith concluded that the family had an exemplary trading record and reiterated that they had never failed a test purchase previously. It seemed that the problems had arisen because Mr Singh's mother had

been overwhelmed in the aftermath of a robbery. There had been some confusion following the meeting on 28 November 2017 but notwithstanding this the family had put in place what had been asked.

Ms Smith asked the Sub-Committee to have regard to paragraphs 11.10, 11.17, 11.20 and 11.29 of Section 182 Guidance.

A short suspension of the Premises Licence would be catastrophic on the business; if alcohol could not be sold other sales would be affected as well. She urged Members to accept the recommendations of Officers.

At 10.45am the Sub-Committee **Resolved** to retire to deliberate the application in private. After re-convening at 11.00am, the Chair delivered the Sub-Committee's decision.

In reaching their decision, Members had taken into account the report of the Senior Licensing Officer and additional information, the verbal and written representations of the applicant, the Licence Holder's representatives, and the written representations of the LSCB. The Sub-Committee had also taken into account the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

Resolved:

That the following additional conditions be imposed upon the Premises Licence at Annex 3:-

- i. Any CCTV that is installed to be maintained and working at all times covering both inside and the immediate vicinity of the outside of the shop. Recordings must be stored for a minimum of 28 days.
- ii. CCTV footage must be available and downloaded upon request from an Authorised Officer from a Responsible Authority.
- iii. Notices will be clearly displayed at the entrance and around the premises stating CCTV is in operation.
- iv. All incidents occurring at the premises will be recorded in an Incident Book maintained by the Premises Licence holder or a nominated member of staff. The details which will be recorded in the Incident Book are: the time and date of the incident; the name or full description of any person(s) involved (including staff members), whether the incident was recorded on CCTV, and the signature of the person making the entry. This book will be available at all times for inspection by the Police and other Responsible Authorities upon request.
- v. Persons known to be, or suspected to be, buying alcohol or tobacco on behalf of children will be refused and reported to the Police.

- vi. The operation of a documented Age Certification Policy (Challenge 25) where all patrons believed to be under the age of 25 who seek to purchase age restricted goods will be asked to provide proof of age in the form of a UK Driving Licence, Passport, Military ID card or photo identification which is endorsed with the government PASS holographic logo.
- vii. A refusals register must be in place at the premises and used to keep a record of all attempted test purchases of alcohol and tobacco where a person believed to be under 25 is challenged and no identification is provided and the sale is therefore refused.
- viii. The refusals register should record: the date and time of the refusal, a description of the young person refused, the goods asked for, any significant comments made or behaviours exhibited by the person and the signature of the person making the entry.
- ix. The register should be checked for completion and signed off on a regular basis by the DPS or Premise Licence Holder. The refusal register must be kept available at all times for inspection by the Police and other Responsible Authorities upon request.
- x. Notices to be displayed concerning the law surrounding the ban on the sale of alcohol to children and explaining the Challenge 25 scheme.
- xi. All staff to receive full training on the law surrounding the sale of age restricted products and the operation of the Challenge 25 scheme. Refresher training will be carried out on an annual basis and regular reminders given to staff as to their obligations with respect to the above.
- xii. The results of any privately-arranged test purchase exercises shall be provided to the licensing authority, if so requested

Councillor J Maitland left the meeting.

5 Application to Transfer a Premises Licence - Off Licence, 4 Victoria Terrace, Murton, Seaham

Members: Councillor C Carr (Chair), Councillors J Blakey and D Brown.

The Committee considered a report of the Senior Licensing Officer regarding an application for the transfer of a Premises Licence in respect of the Off-licence, 4 Victoria Terrace, Murton (for copy see file of Minutes).

A copy of the application and supporting documentation had been circulated together with additional information from Durham Constabulary.

Sgt Dickenson was invited to address the Sub-Committee and advised that the Police had objected to the application because they considered that the licensing objective 'crime and disorder' would be undermined. The applicant was the DPS at the time the underage sales were made during a test purchase operation last year. Trading Standards had submitted an application to review the Premises Licence and at that time the Licence was surrendered. Sgt Dickenson believed that this was an attempt to circumvent the review process. On 21 August 2015 Mrs Randhawa had applied to be the Premises Licence Holder but no payment had been made. The Senior Licensing Officer later clarified that application had been made for a transfer of the Premises Licence on 20 August 2015 and to vary the DPS on 21 August 2015 but had been rejected as payment was not received.

Mr Hudson of Trading Standards stated that the test purchases had been carried out following the receipt of complaints. At the time of the test purchase on 24 August 2017 Mrs Randhawa claimed not to know who the DPS was yet it was later established that she had been granted a Personal Licence by Wolverhampton County Council. Upon interview of the Licence Holder it was apparent that inadequate procedures were in place and Trading Standards had concerns about the implementation of effective controls.

Mr Blount stated that original intelligence had been received from the Parish Council regarding issues of anti-social behaviour. Test purchases were subsequently carried out on all premises in the Murton area. Together with PCSO Williamson he had spoken to Mrs Randhawa following the failed test purchase and he confirmed that there appeared to be some confusion as to who was the DPS. As it later transpired that Mrs Randhawa held a Personal Licence and was the DPS, a Fixed Penalty Notice was not an option.

Following questions from Councillor Carr, Mr Blount confirmed that the premises had not been singled out and the exercise had taken place in all licensed premises in the Murton area. The Off-licence was the last premises to be tested and the only one to have failed. The shop was small and from the counter every part of the store was visible. During the CCTV footage Mrs Randhawa had not looked up at the youth but he conceded that she may have done so before the sale.

Mr Cosgrove asked if the review application had been made on the basis that more robust conditions should be imposed upon the Premises Licence. This was confirmed by Mr Hudson.

Sgt Dickenson responded to a further question from Mr Cosgrove regarding the inference that the review process had been circumvented. The Officer advised that the surrender of the Premises Licence negated the need for a review yet an application for the transfer of the Premises Licence was applied for within seven days of the surrender.

Mr Cosgrove was invited to address the Sub-Committee. He commenced by providing background to the premises and Mrs Randhawa. Mrs Randhawa and her husband lived above the premises and the business was their sole form of income. Mrs Randhawa was experienced having managed two other premises in South Shields and Sunderland. The Sunderland business had not been a success and

with family help she had purchased stock for the Murton store. The Personal Licence had been issued in Wolverhampton where her family lived. In relation to the test purchases Mr Cosgrove advised that Mrs Randhawa was not present on the second occasion.

Councillor Carr asked about the provision of training and was informed that this was undertaken verbally by her husband.

Mr Cosgrove asked a number of questions of Mrs Randhawa. At the time of the surrender alcohol had been removed from the shelves. Mrs Randhawa and her husband had undertaken refresher training with consultants and records were provided. She now knew how to train new members of staff in future and how to record this in the training manual. Challenge 25 had been implemented with posters erected around the shop.

There was no separate incident book but these were also recorded in the refusals register. CCTV was installed both inside and outside the premises and recordings held for four weeks. Mrs Randhawa's husband was taking steps to obtain a Personal Licence and would apply to be the DPS in future.

Mrs Randhawa confirmed that she would be willing to accept more stringent conditions. If the application was refused she would have to leave the premises and she had realised her errors, and would take steps to become a fit and proper person to hold a Premises Licence.

Following a question from Councillor Carr, Mrs Randhawa advised that she did not intend to employ any more staff at present and that she would aim to work eight hours a day in the store as DPS. At present she worked between six and seven hours per day and her husband worked the remaining opening hours.

Sgt Dickenson referred to the training carried out and was advised that this took place on 6 July 2018.

Mr Buston noted that at the time of the test purchase Mrs Randhawa had not said that she was the DPS and was informed by Mrs Randhawa that she had thought this position was held by the landlady.

All parties were invited to sum up.

Sgt Dickenson stated that the Police concerns remained. She was also concerned that the training had only been undertaken very recently and steps had not been taken immediately after the failed test purchases.

Mr Cosgrove stated that Mrs Randhawa had accepted that she was the DPS and was present at one test purchase. She was not denying culpability but had tried to take steps to tighten up processes and was taking steps for her husband to obtain a Personal Licence. Mrs Randhawa would voluntarily apply more stringent conditions, as suggested as part of the review application. She had already seen the effect of not being able to sell alcohol when the Premises Licence had been surrendered by the landlady, and she would not be able to continue the business without this. She

asked the Sub-Committee to find that she had taken sufficient steps to ensure that the licensing objectives would be upheld. Mrs Randhawa would continually review procedures in place.

At 12.05pm the Sub-Committee **Resolved** to retire to deliberate the application in private. After re-convening at 12.25pm the Chairman delivered the Sub-Committee's decision.

In reaching their decision the Sub-Committee considered the report of the Senior Licensing Officer and additional information, together with the verbal and written representations of the applicant and her representative, and Durham Constabulary and their witnesses from Trading Standards. Members had also taken into account the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

Resolved:

That the application to transfer the Premises Licence be refused.