



## Statutory Licensing Sub-Committee

**Date** Tuesday 4 September 2018  
**Time** 10.00 am  
**Venue** Council Chamber - County Hall, Durham

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest (if any)
4. Minutes of the Meetings held on 5 June 2018, 17 July 2018 and 2 August 2018 (Pages 3 - 24)
5. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration
6. Any resolution relating to the exclusion of the public during the discussion of items containing exempt information

#### Part B

#### **Items during which it is considered the meeting will not be open to the public (consideration of exempt or confidential information)**

7. Consideration of the ongoing suitability to continue to hold a Personal Licence (Pages 25 - 46)
8. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

**Helen Lynch**

Head of Legal and Democratic Services

County Hall  
Durham  
24 August 2018

To: **The Members of the Statutory Licensing Sub-Committee**

Councillors D Bell, P Crathorne, A Hopgood and L Kennedy

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**DURHAM COUNTY COUNCIL**

At a Meeting of **Statutory Licensing Sub-Committee** held in Committee Room 2 - County Hall, Durham on **Tuesday 5 June 2018 at 10.00 am**

**Present:**

**Councillor J Maitland (Chairman)**

**Members of the Committee:**

Councillors P Atkinson and D Brown

**Also Present:**

Councillor C Hampson

K Robson – Senior Licensing Officer

S Buston – Solicitor, DCC

Mr H Tahir – Applicant

Sgt C Dickenson – Durham Constabulary

PCSO M Williamson – Durham Constabulary

**1 Apologies for Absence**

Apologies for absence were received from Councillors J Blakey and C Carr.

**2 Substitute Members**

Councillor Maitland substituted for Councillor C Carr.

**3 Declarations of Interest**

There were no declarations of interest.

**4 Minutes**

The Minutes of the meeting held on 24 April 2018 were agreed as a correct record and were signed by the Chair.

**5 Application for the Grant of a Premises Licence - Somma Pizza, Unit 1 Hobsons Buildings, Annfield Plain, Stanley**

The Committee considered a report of the Senior Licensing Officer regarding an application for the grant of a Premises Licence in respect of Somma Pizza, Unit 1 Hobsons Buildings, Annfield Plain, Stanley (for copy see file of Minutes).

A copy of the application and supporting information had been circulated to Members, together with additional information provided by the Applicant. Members were informed of a page omitted from the Police Bundle of Evidence which had been circulated to all parties in advance of the meeting.

Sgt Dickenson was invited to address the Sub-Committee and explained that the Police had objected to the application as it was considered that the licensing objective 'crime and disorder' had been undermined. Members were informed of visits to the premises on 22 March 2018 and 26 March 2018 when on both occasions a male was found to be working there who had sought asylum in the UK but who had no right to work. Mr Tahir had not carried out the appropriate checks to ensure that the male could work on the premises. Referring to the letter supplied by Mr Tahir dated 31 March 2017 and the registration card, Sgt Dickenson advised that work in the UK was permitted but only in a job which was set out in the Shortage Occupation List in Immigration Rules, and without public funds. Work in a fast food outlet was not permitted. The date of issue on the Registration Card was 16 April 2018 and the application pre-dated this. Immigration had no record of the card being issued. Mr Tahir had been informed that the premises could not open beyond 23.00 until a Premises Licence was granted, but a visit to the premises on 18 May 2018 at 23.20 found staff taking telephone orders, and preparing and serving food. The male was present.

In addition Mr Tahir had on display a food hygiene rating of 5 when the premises had been awarded a score of 4.

Sgt Dickenson asked Members to take into account that Mr Tahir had knowingly opened on Friday 18 May 2018 when the premises should have closed, employed a person who had no right to work and displayed on the premises an incorrect food hygiene rating.

In response to a question from Mr Buston, Solicitor who asked if Mr Tahir had offered an explanation as to why he was open on 18 May 2018, Sgt Dickenson advised that Mr Tahir had said it was because he needed to and that this was the only fast food premises open in the area.

Following a question from Councillor Brown, Sgt Dickenson advised that Mr Tahir had committed a criminal offence by displaying misleading information about the hygiene rating and an offence under Sections 15-25 of the Immigration, Asylum and Nationality Act 2006 Act by employing a person who was not permitted to work. She had concerns about Mr Tahir's co-operation with and support of the Police should there be a serious incident at the premises.

Councillor Atkinson asked if there had been any complaints in respect of the premises from members of the public. Sgt Dickenson advised that there had not but that the application was only recently made.

Following questions from Councillor Maitland, PCSO Williamson advised that there were other fast food outlets in Annfield Plain, and confirmed that there were issues of anti-social behaviour relating to these other premises on occasions.

Mr Tahir was invited to address the Sub-Committee. He advised that the premises had held a 5 star food hygiene rating before 19 March 2018. When this was lowered to a 4 star he had been informed that he could appeal. The Senior Licensing Officer clarified that an inspection had been carried out on 19 March 2018 which had scored the premises at 4 and Mr Tahir had been informed of this in writing the same day. Prior to that date an inspection on 25 July 2016 had awarded a rating of 3. The Officer confirmed that there was an appeal mechanism.

Mr Tahir stated that with regard to the male, he had believed that he could work in the UK and the rules referred to by Sgt Dickenson in relation to Shortage Occupation were new.

Mr Tahir went on to state that he had opened the shop because he had been informed that the Premises Licence would only take 28 days before being granted if there were no objections. He had been out of the country until 15 April 2018 and had believed the Premises Licence was in place on his return. He had held a Premises Licence in another premises, 1 Front Street, Annfield Plain and had moved from these premises in around 2013 to Hobsons Buildings but had continued to pay the licence fees for 1 Front Street which he had occupied from 2011 to 2013. The current premises had opened until 01.00 since.

The Senior Licensing Officer clarified that, according to records back to 2009, no Premises Licence had been granted for 1 Front Street and no fees had been paid. The premises at 1 Front Street was now a barber shop.

In response to a question from Mr Buston, Mr Tahir clarified that the premises remained open until 01.00 on Friday and Saturday and closed before 12 midnight Sunday to Thursday. All businesses in the area were struggling, and business was best on Fridays and Saturdays.

With regard to the male, Sgt Dickenson clarified that Mr Tahir had been informed that the male was not permitted to work by Immigration during their visit on 22 March 2018.

Mr Tahir stated that he did not run the business but owned the premises, which was run by a Manager, however had not employed the male but he was helping out because family circumstances meant that the Manager could not work at the time. When prompted by Sgt Dickenson about a further visit by Immigration on 18 May 2018, Mr Tahir advised that Immigration had said that the male was 'working in breach' but had not removed him from the premises. Members were informed by Sgt Dickenson that as he had been found working on the premises Immigration would investigate, and that Mr Tahir had been told on four separate occasions that the male could not work and that he may face a £20,000 fine.

Mr Buston, Solicitor asked if Mr Tahir accepted that he had formed his own view as to whether the male could work on the premises and had decided that he could. Mr Tahir denied that this was the case and that he was waiting for the Manager to let him go as they did not have the capacity to employ additional persons.

Sgt Dickenson noted that during the visit on 18 May 2018 the Manager was present behind the counter and made the comment that the male was also present, which implied that he was working rather than helping out.

Following questions from Councillor Maitland, Mr Tahir confirmed that he owned the property but did not run the business. He wanted the business to be a success and had therefore applied for the Premises Licence himself. He did not know if the male was paid a wage, this was a matter between the male and the Manager.

Councillor Brown noted that the premises had CCTV installed and asked if it had been used to substantiate what Mr Tahir had said about who worked in the premises. Mr Tahir advised that he had not been asked to provide CCTV by the Police but would be willing to do so if requested.

All parties were invited to sum up.

Sgt Dickenson stated that she now had further concerns, having heard from Mr Tahir that he was the owner of the premises and was not running the business. The Officer did not believe that the licensing objectives would be promoted.

Mr Tahir concluded that he owned the shop and if the Manager did not succeed he would find another person to take on the business. The hours requested for Sunday to Thursday were not needed but 01.00 hours on a Friday and Saturday would make a difference to the business. He accepted that if it was found that the male was not allowed to work he could face a fine of £20,000.

At 10.50am the Sub-Committee **Resolved** to retire to deliberate the application in private. After re-convening at 11.05am the Chair delivered the Sub-Committee's decision. In reaching the decision the Sub-Committee had considered the report of the Senior Licensing Officer and the additional information provided by the Applicant, together with the verbal and written representations of the Applicant and the Police. 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 for a Premises Licence be refused.

## **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.

## DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber - County Hall, Durham on **Thursday 2 August 2018 at 10.00 am**

### **Present:**

**Councillor L Marshall (Chairman)**

### **Members of the Committee:**

Councillors L Brown and C Hampson

### **Also Present:**

Councillor G Darkes

Councillor M Wilson

K Robson – Senior Licensing Officer

S Buston – Legal Adviser, DCC

Mr J Smith - applicant

Ms Suceveanu - applicant

Mr C Holland – legal representative of the Licence Holder

Mr M Walsh – representative of the Licence Holder

Mrs A Walsh – representative of the Licence Holder

Mr I Wilson – other person

Mr P Knox – other person

Mr Brightwell – other person

Mrs P Keegan – other person

Mr J Walker – legal representative of Durham Constabulary

Sgt C Dickenson – Durham Constabulary

PC D Haythornthwaite – Durham Constabulary

### **1 Apologies for Absence**

There were no apologies for absence.

### **2 Substitute Members**

There were no substitute Members.

### **3 Declarations of Interest**

There were no declarations of interest.

#### **4 Minutes**

The Minutes of the meeting held on 19 June 2018 were agreed as a correct record and were signed by the Chair.

#### **5 Application for the Review of a Club Premises Certificate - The Leather Cap Sports and Social Club, 1-2 Browning Street, Easington Colliery**

Prior to the commencement of proceedings Mr Holland, Barrister for the Licence Holders asked to address the Sub-Committee. He explained that the Police concerns focused on the incident of 3 March 2018 and the actions of the DPS. The removal of the DPS was an option that the Police wished to be considered and Mrs Walsh wished to step down from this position. The situation was unusual in that the Leather Cap Sports and Social Club held both a Club Premises Certificate and Premises Licence. Mr Walsh had made application for both licences at the time of purchase to ensure a wider pool of customers to help the premises when it first re-opened. The Club did not now need a Premises Licence and Mr Walsh was willing to surrender it.

This would regularise an unusual situation and mean that the supervisory role would be the responsibility of the members of the Club's Committee. As a club the premises would be able identify its pool of customers; ie members and their invited guests.

If Members were minded to allow the Club Premises Certificate with additional conditions the Premises Licence would be surrendered forthwith.

Mr Holland continued that the conditions for both the Club Premises Certificate and the Premises Licence were aspirational rather than legally enforceable. In consultation with the Police, additional conditions were offered relating to the CCTV arrangements, the provision of an incident book, and that the Club 'will' report any incidents of violence immediately to the Police. The applicant had complained about horses tethered outside his house and although it was difficult to appreciate how this related to his clients' premises, this practice would be discouraged by way of signage and gentle reminders from the Club.

Mr J Walker, the Barrister for Durham Constabulary confirmed the agreement of the Police to the measures offered by Mr Holland.

Questions were invited of Mr Holland. Mr Smith the applicant queried how the tethered horses, which were owned by Club members, could not be connected with the premises. The Licence Holders had refused to take any action regarding this matter.

Following a further query from the applicant, Mr Smith was advised of the distinctions between the Club Premises Certificate and the Premises Licence.

Mr Smith was invited to address the Sub-Committee and prior to stating his case explained that he wished members to disregard a number of pages from his submissions, in view of the content which he did not want to be in the public domain

(pages 40, 41, 44, 45, 46, 47, 48, 101, 109, 110, 111, 115, 116, 118-122). Mr Smith was informed that in accordance with the provisions of the Licensing Act 2003 the documentation formed part of his review application and had therefore been published, but had been redacted to remove any reference to personal information.

At 11.10am the Sub-Committee **Resolved** to retire in private to discuss Mr Smith's request.

After re-convening at 11.20am the Chair advised that the Committee had determined that the documents were in the public domain and therefore could not be disregarded, but she asked Mr Smith to focus his representations on the matters he wished the Sub-Committee to take into account.

Ms Suceveanu, the applicant's mother addressed the Sub-Committee with the aid of an interpreter. She stated that she was the owner and occupier of the property. Her son worked away but came home once every two weeks or once a month, and at weekends. She liked Easington Colliery as it was a quiet area, and it was an unpleasant surprise on her first night in the property to find that a person had written on the walls that they should leave as they were not welcome. She did not take this warning into consideration as every time she went shopping she was smiled at on the street. This was why the incident on 3 March 2018 was very troubling. Her son had witnessed the assault as he was at home. The DPS did not intervene at all and after 20 minutes her son called an ambulance. She was then on her own until 8 May 2018 and with empty properties on either side. Her only neighbours were the Club's owners. She welcomed the Barrister's comments as he had tried to offer a solution. She had also experienced very loud music. Customers were outside the premises until 11pm because of the hot weather as the room in the Club was small; this meant it was very noisy. Her son had tried to knock on the owners' door three times to discuss issues but no-one answered. They did not complain until 10 May 2018 as they wanted to try to communicate with the owners but they did not want to speak with her and her son. This was the first time she had met them.

She was sorry that she had to involve her son but she wanted peace of mind. She often saw young people consuming alcohol, when there was usually trouble.

Mr Smith then addressed the Sub-Committee. He stated that he was at home on 3 March 2018 when Club members were aggressively harassing a person in the street. Other Club members tried to hide any trace of the assault and did not call the Police. He had handed over his CCTV recording. 15 customers had been arrested. On 8 May 2018 he had tried to speak with the owner of the Club but he refused to answer the door. In letters Mr Walsh had threatened to take him to court and had confirmed that he was able to manage his Club members.

On 10 May 2018 around 15 people were outside his house shouting racist and harassing words for around three hours when on the phone to his mother. They also tethered a horse in front of their house. Mrs Walsh was shown the CCTV footage which clearly showed this and took no action. When the Police attended they intimated that Mr Walsh was behind the attacks. The situation became worse and Mr Smith gave details of a further incident on 3 July 2018 at around midnight

when a person with an axe smashed their front door. He suspected that the attacks were from members of the Club.

Referring to a posting at page 39 in the Bundle, he advised that this abuse had been written by a friend of Mr Walsh.

Mr Smith continued that there was a lot of noise emanating from the premises and drunk people from the Club used the park. He had witnessed a group of children drinking alcohol close to the premises; he recognised that the glasses were those used by the Club.

Members were provided with copies of photographs of the CCTV footage from Mr Smith's property.

Questions were invited of the applicant. Mr Smith was asked if he had evidence that linked the people from the Club to the premises. Mr Smith referred to DVD footage from 10 May 2018. Consideration was given to whether this should be shown and it was determined that the photographs could be relied upon.

Upon questioning by Mr Holland, Mr Smith advised that during the incident of 3 March he understood that the person outside the premises who he referred to as the owner of the Club was Mr Walsh. Mr Holland clarified that Mr Walsh was not in the country at the time the assault took place.

Mr Holland asked Mr Smith about Facebook postings he had made against the Club and Mr Walsh. The Sub-Committee noted that these had not been included in the evidence submitted. Mr Holland advised that he had raised the matter as Mr Smith had referred to Facebook within his submissions, and that he claimed that he was a victim, yet his client had been the subject of a repeated barrage of allegations from Mr Smith.

Reference was made to the ongoing criminal investigation following the incident on 3 March by Mr Holland who relied upon the Police to make application to consider the information in private under Regulation 14 of Hearings Regulations 2015. Mr Walker advised that he could not see how discussion about the incident of 3 March 2018 in public would prejudice any investigation at this stage.

Mr Holland continued by asking Mr Smith to clarify who he thought the owner was as there was some confusion as to whether it was Mr or Mrs Walsh in his grounds for review. Mr Smith responded that it was either Anne Walsh or Michael Walsh but when he made application he had believed it be Mrs Walsh in ground 1.

Mr Holland noted that Mr Smith had complained about noise but that he had not provided any audio of this.

Mr Smith advised that he had submitted audio and relied upon this evidence. Therefore after a short adjournment all parties heard the audio recorded from upstairs in Mr Smith's property. Mr Smith advised that the house was double-glazed and had 100mm insulation in the walls. The recording was of music playing.

Councillor Hampson asked if Mr Smith had ever complained to Environmental Health about noise levels. Mr Smith confirmed that he had but he had not pursued his complaint further because he considered that it could be dealt with as part of his review application. Mr Holland disputed this stating that the complaint had been closed on 9 July 2018 by an Environmental Health Officer. Mr Smith advised that he had written to Mrs Walsh to advise that he did not intend to proceed with his complaint.

Ms Suceveanu added that they often experienced noise between 5pm and 11pm. The door was always open in the afternoon when customers were outside drinking. The music was played at a maximum level and customers spoke loudly above it.

Mr Holland continued his questioning of Mr Smith and referred to the CCTV photographs and made the point that none of the images shown were outside the licensed hours of the premises. Mr Smith clarified that the time displayed on the photographs was one hour behind. Mr Holland also considered that the sample produced by Mr Smith, being at 18.30hrs on a Monday and on a day when the weather was very hot, was totally unrepresentative of a normal evening at the Club.

Referring to the incident on 10 May 2018 when Mr Smith had been subjected to a campaign of harassment for 3 hours by 15-20 people, Mr Holland noted that the CCTV ran for less than 30 seconds and that there were only 2-3 people in the photographs at any one time. Mr Smith advised that the photographs should be examined together which would provide an overall picture of the incident.

Following a further question about Mr Smith's reference to children consuming alcohol from glasses which he had said were from the premises, Mr Smith advised that he could not confirm if the Club had sold the alcohol.

When asked by Mr Holland what he wished the Sub-Committee to consider, Mr Smith asked that the Members appreciate the area and the level of horror experienced. Mr Smith wished for the area to become peaceful again without worrying about being harassed or that something would happen if they went out into the street. This was a Club in a residential area. To suppose that he had particular issues with this business was untrue. He did not want his family to come to harm because of the Club which had tried to destroy the area. He wanted a safe place where normal families could live normal lives.

At this point Mr Walker stated that the Police took any allegations that were made seriously, either by perception or fact, but whether those made were linked to the premises was not confirmed at this time. Referring to the incident of 3 March 2018, the manner in which the night was managed had been assuaged by steps the premises were proposing to take, and these were welcomed by the Police. In view of this the representations made within the submissions of Sgt Dickenson were withdrawn.

Mr Holland was invited to address the Sub-Committee on behalf of the Licence Holders. Mr Holland asked questions of Mr Walsh who responded that he had been in the armed forces for 10 years, and was an engineering consultant for oil companies around the world. Mr Walsh was now retired and had purchased the

premises in 2015 at which time it was not trading. He had no former experience of working in pubs, apart from squadron bars. The premises had been fully refurbished from the ground up and had re-opened in May 2015. He had also made application at the time for a Premises Licence because Easington Colliery was a very depressed area and the premises would not succeed purely as a Club; passing trade was necessary. He had always intended to surrender the Premises Licence once the Club was up and running. He now had 183 members which was enough for the premises to survive solely as a Club. The average age of members was around 61-62 and the members were multi-national. He refuted the allegations of racism – he had worked all over the world and had friends from different countries; he just saw the good in people. The hours for the sale of alcohol in respect of the Club Premises Certificate were less than the Premises Licence. In reality the Club did not trade the hours specified, closing around 11.30pm on Saturdays and between 9.30 and 10pm during the week. The music ceased at 9.00pm. The windows were fixed and the fire door was acoustic with automatic closing to mitigate against noise. He accepted that there had been an issue during the hot weather when customers had wedged the door open. He proposed to install air conditioning in the future. Customers entered the property through the external door into a corridor before entering the lounge through a further acoustic fire door. There was a small function room upstairs, which operationally was occupied by fewer people than the permitted fire capacity.

The premises engaged with the community and had fit in very well since opening. It had an adult and junior football team, and he had formed the Easington and District Branch of the Royal British Legion. He was Chairman of the Branch and of the Club, which had 10 Committee members.

Karaoke was held on a Monday afternoon and the Royal British Legion met each Friday between 7 and 10pm. There were three Clubs in Easington Colliery but no public houses.

Referring to the grounds for review, Mr Walsh advised that he was out of the country on 3 March 2018 when the assault took place. He and his wife had learnt from the incident and accepted that the Police must be called immediately if there were any incidents. An incident book would be provided and he had recently joined the Pubwatch Scheme.

He was willing to surrender the Premises Licence and understood that the Club Premises Certificate was for members and guests only.

In terms of the allegations of noise after midnight he advised that these were completely untrue; he did not stay open after the licensing hours or have 'lock-ins'. People did use the benches on the tarmacked area outside to the right of the premises and there was a smoking shelter to the left.

With regard to the allegations that intimidation, harassment or abuse was not discouraged, Mr Walsh demonstrated that this was not the case by stating that he had worked closely with the Police on two occasions. On an occasion when the windows of Mr Smith's property had been broken, the Club had volunteered the

CCTV evidence to the Police. Mr Smith had not tried to communicate with Mr Walsh about issues regarding the Club.

With regard to the posting of an electronic communication by a customer (page 39 in the Bundle), Mr Walsh confirmed that the person was a friend and it was posted on an open Facebook page in reply to the comments made by Mr Smith about the Club. His friend had admitted that he had 'lost it' and had apologised to the Police.

Mr Smith had tried to provoke him on Facebook and he had reacted because the abuse was constant, however he understood that he should not have responded to the posts and had apologised.

In respect of horses being tethered outside Mr Smith's house, Mr Walsh advised that this was part of the culture of the area. A lot of customers owned horses and traps who shopped in Easington Colliery and then visited the premises with their families. When the car park was full they tethered their horses on Council owned land near to Mr Smith's home. Whilst he could not see anything wrong with this practice, he advised that he would erect a notice to discourage this and would try to enforce it. He was also trying to raise money to install horse ties on their own land.

In conclusion there was no truth to the ground for review that he supported racism and that the premises did not respect their hours of trading. Some members had been loud outside but he had asked them to be quiet. The witnesses present at the hearing were representative of the people who frequented the premises.

Mr Holland then asked questions of Mrs Walsh who advised that since the 1990s she had worked in premises in Kent, two clubs in Easington and a club in Horden.

They lived next to the premises which was accessed by a communicating door. The premises employed four bar staff, one of which was her daughter who worked full time and who was also a Personal Licence Holder. She and her husband both acted as relief bar staff. The youngest club member was in their late 30s and customers were always the same, visiting the Club every day at different times.

Mrs Walsh was asked to recount in detail the incident that occurred on 3 March 2018 and her own actions during this. Mrs Walsh had not seen the assault and had helped the injured person when she had found him outside, at which time she had called the Police. Mrs Walsh appreciated that she should have called the Police as soon as the incident inside the premises had occurred which was following the meeting of the Royal British Legion.

Mrs Walsh advised that she would be pleased to be relinquished of her position as DPS.

Mr Holland then asked questions of witness Mr Knox, who advised that he was a member of both the Club and was Vice-Chairman of the Royal British Legion Branch. He had known Mr and Mrs Walsh for three years and had found them to be very kind and considerate. It was the best Club he had been to in the Easington District and he visited practically every day. He advised that he was one of the organisers of the Branch meeting on 3 March 2018. Mr Knox provided details of the

incident from his own perspective, agreeing with Mrs Walsh's recollection of the events. He recalled Mrs Walsh coming into the Club and asking for help outside.

Questions were invited of the Licence Holders.

In response Mr Walsh advised that the persons involved in the incident on 3 March 2018 no longer frequented the premises. Members were barred for a minimum of 6 months for inciting violence and were reported to Pubwatch. Minor matters usually resulted in a customer being barred for a month. This had been effective and a number of people were expelled from the Club when it first opened. Any new applications for club membership required two references from existing members.

Mr Smith asked Mrs Walsh if she had witnessed the person who was assaulted in the street crying, and if she was aware that he was disabled with special needs. Mrs Walsh advised that she had never met him before and in response to further questions reiterated that she could not see what had occurred as she was behind a number of people. She had called the Police when she had found the injured man on the ground outside. She disputed Mr Smith's statement that she had said that the injured man had just fallen in the street, and that club members had covered traces of the assault.

Mrs Walsh was asked what she recalled seeing on 10 May 2018 at 16.01 when the applicants were subjected to harassment and a horse had been tethered outside their property. Mr Holland advised that the DVD evidence had not been presented in this regard.

Through Mr Holland, Mr Smith asked Mr Walsh if he recalled telling him that the incident on 3 March 2018 did not happen and had posted a comment on Facebook to that effect. Mr Holland advised that this was not disputed by Mr Walsh.

Following a further question from Mr Smith, Mr Walsh replied that Mr Smith had not tried to communicate with him about issues with the Club, and that there was no letter in the Bundle of Evidence to confirm that he had.

All parties were invited to sum up.

Mr Smith stated that having a members club in the area would never solve issues with criminal groups and they would never have peace. He was concerned that a person could be treated in this way and that the Club and members were protecting themselves.

Mr Holland advised that he would not call his three other witnesses and asked for their written representations in support of the premises to be taken into account. He referred the Sub-Committee to the agreement that his clients had reached with the Police. In accordance with Paragraph 9.2 of Section 182 Guidance the Police had a key role and should be the main source of advice. The Police had rightly made representation and it was to Mr Smith's credit that he had submitted the review application; it was accepted that an assault was an issue that should be examined. Alcohol may have played a part but there may also have been deeper more serious issues with the protagonists. With the benefit of hindsight Mrs Walsh could see how

she could have behaved differently. They did not have an incident book as they did not have incidents but she accepted that there should have been one in place at the time. Mrs Walsh was relieved to relinquish the role of DPS. He asked the Sub-Committee to bear in mind the 'lighter touch' approach for Clubs as they were self-regulatory.

Whilst the review had been properly brought about, there was some personal animosity between Mr Smith and the Club. The response of Mrs Walsh to the incident of 3 March 2018 had been explained. There were no complaints about noise under investigation by Environmental Health, and Mr Smith's other allegations were devoid of evidence. He requested the Sub-Committee to dispose of the review application by the measures agreed between his clients and the Police. This would be an appropriate and proportionate approach. The Club offered a wide community benefit in an area that had really suffered in recent decades, and the application had been a huge personal embarrassment to Mr and Mrs Walsh.

At 2.30pm the Sub-Committee **Resolved** to retire to deliberate the application in private. After re-convening at 3.20pm the Chair delivered the Sub-Committee's decision.

In reaching their decision the Sub-Committee had taken into account the report of the Senior Licensing Officer, the written and verbal representations of the applicants together with CCTV images and an audio recording, the written and verbal representations of the Licence Holders' Barrister, Licence Holders and witnesses, and the written and verbal representations of the Police and their Barrister. 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 following additional conditions be imposed upon the Club Premises Certificate at Annex 3:-

- i. A CCTV system shall be installed and maintained in proper working order, to the satisfaction of the licensing authority and in conjunction with the local police. Such system shall:
  - a) be operated by properly trained staff
  - b) be in operation at all times that the premises are being used for a licensable activity
  - c) ensure coverage to the licensed premises internally and externally
  - d) provide continuous recording facilities for each camera to a good standard of clarity, such recordings shall be retained for a period of 28 days and shall be supplied to the licensing authority or police on receipt of a request from the authority for

disclosure demonstrating an exemption to the first data protection principle as per the Data Protection Act 1998

- ii. All incidents occurring at the premises will be recorded in an Incident Book maintained by the club. 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.
- iii. Management will deal with any disorder at the very earliest time after seeing the customers getting rowdy and will involve the police for assistance should they fear the situation is going to escalate.
- iv. Notices will be clearly displayed requesting all patrons respect neighbouring residents upon entry and exit to the premises and that patrons shall refrain from tethering horses etc on adjacent public land. Signage wording to be agreed with the licensing authority.

## **6 Application for the Review of a Premises Licence - The Leather Cap Sports and Social Club - 1-2 Browning Street, Easington Colliery**

The Premises Licence was surrendered by the Licence Holders.

By virtue of paragraph(s) 1, 2, 3, 5 of Part 1 of Schedule 12A of the Local Government Act 1972.

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