

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Committee Room 2 - County Hall, Durham on **Tuesday 2 April 2019 at 10.00 am**

Present:

Councillor P Crathorne (Chair)

Members of the Committee:

Councillors L Brown and L Kennedy

Also Present:

Councillor D Bell

Karen Robson – Senior Licensing Officer

Gill Proud – Solicitor, DCC

Nicola Anderson – Licensing Authority

Laura Cloney – Licensing Authority

Graham Blount – Trading Standards

PCSO Michelle Williamson – Durham Constabulary

Shadab Azam – Premises Licence Holder

1 Apology for Absence

An apology for absence was received from Councillor A Hopgood.

2 Substitute Members

Councillor L Brown substituted for Councillor Hopgood.

3 Declarations of Interest

There were no declarations of interest.

4 Application for the Review of a Premises Licence - News and Booze, 1 Catherine Terrace, New Kyo, Stanley, Co Durham

The Committee considered a report of the Senior Licensing Officer regarding an application for the review of a Premises Licence in respect of News and Booze, 1 Catherine Terrace, New Kyo, Stanley (for copy see file of Minutes).

A copy of the application and supporting documentation had been circulated to Members.

In presenting the report Karen Robson, Senior Licensing Officer advised that Responsible Authorities Environmental Health and the Home Office Immigration Team were not in attendance but written representations were included in the report bundle at Appendix 5.

Following a question from Gill Proud, Solicitor the Senior Licensing Officer confirmed that the Premises Licence had been transferred to Mr Azam on 28 March 2013.

In response to being asked if he had any questions of the Licence Holder, Mr Azam began to present his case. The Chair asked Mr Azam if he understood everything that had been said and he confirmed that he did. It was then explained to the Licence Holder that he would be given an opportunity to present his case later in the hearing and that this was simply to clarify any points put forward by the Officer. He confirmed that he understood and had no questions at this stage.

Nicola Anderson, Durham County Council Licensing Authority was invited to address the Sub-Committee as Applicant. The Officer stated that the Licensing Authority as a Responsible Authority had deemed it necessary to bring an application for the review of the Premises Licence due to an accumulation of issues at the premises.

Referring to the grounds for review within the report bundle the Officer highlighted the key points.

On 5 December 2018 as part of a joint enforcement operation with Immigration and Environmental Health, a visit was made to the premises where it was found that the named DPS was no longer involved with the premises, a person was found working in the shop who did not have the necessary status to do so, and the premises was in a run-down state. The premises had also failed a number of test purchases.

During the visit Mr Azam confirmed that he was no longer the DPS and was given advice about making application to vary the DPS and contact details for the Licensing Authority. Mr Azam had advised that he was a Personal Licence Holder and therefore the process for transferring the DPS should have been straightforward.

Other fundamental failings included that the Premises Licence was not on display and that there was only one fire extinguisher on the premises when there should be several in accordance with conditions on the Premises Licence.

These failings showed non-compliance with the Licensing Act 2003 and the Council's Statement of Licensing Policy.

A further visit was made to the premises on 3 January 2019 when Mr Azam stated that he had not received the application form to vary the DPS. The application was then submitted by Mr Azam that day but was returned to him as it was incorrect. A correctly completed application was submitted on 21 January 2019 and Mr Azam was now both Premises Licence Holder and DPS.

Nicola Anderson then referred to the male found working illegally in the shop. Employing illegal workers encouraged people to take risks to enter the UK dangerously and left them vulnerable to exploitative employers. It also had an impact on the wages of legal workers and led to exploitation of working conditions. This showed a clear disregard by Mr Asam of the licensing objective 'prevention of crime and disorder'.

The premises had failed test purchases on 22 January 2016 and 14 July 2016, and more recently on 14 December 2018. Mr Azam was notified after each test purchase but had made no effort to ensure that staff were trained. This showed a blatant disregard for the licensing objective 'protection of children from harm'.

The number of defects found on the premises which were included in the report bundle also showed a disregard for the licensing objective 'public safety'.

The Council's Statement of Licensing Policy stated that 'Once licensed, it is essential that premises are managed, maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the Act'.

Following a question from Councillor L Brown, Mrs Anderson stated that the premises had operated without a DPS since Mr Azam took over in 2013. Mr Azam stated that his Uncle who lived above the shop was the DPS. When he had taken over the premises in 2013 he had thought everything was in his own name. Between 2013 and 2018 his Uncle lived upstairs and was still responsible.

The Sub-Committee then heard the representations of PCSO Michelle Williamson. PCSO Williamson gave details of the test purchase made on 14 December 2018. The employee was issued with a Fixed Penalty Notice and Mr Azam was notified. A couple of further visits had been made since that test purchase. The Police supported the review application.

Following a question from Councillor L Brown, PCSO Williamson advised that the Premises Licence would normally stipulate how long CCTV recordings must be retained. The Senior Licensing Officer clarified that the Premises Licence specified that CCTV must be in operation but did not state how long it must be kept.

Following a further question of the Officer, Members were informed that the employee who sold the alcohol had said that she was working there to cover the Christmas holidays, possibly for a few weeks. The only training she had received was on the use of the till, the lottery and to stack shelves. The employee was not aware of Challenge 25 or the refusals register.

Graham Blount of Trading Standards was then invited to address the Sub-Committee. The Officer stated that the premises had come to the attention of Trading Standards more than once through intelligence. There had been issues relating to underage sales and youth anti-social behaviour in Annfield Plain for a few years.

Following the failed test purchases in 2016 Mr Azam had been offered training. A further test purchase was carried out in September 2016 when the sale was refused.

The offer of free training was not taken up following the failed test purchases but it had been stated that one member of staff had attended training in 2011. Trading Standards always recommended training as it was unfair on the member of staff who received the Fixed Penalty Notice.

Graham Blount explained that Trading Standards were concerned about the management of staff at the premises and it was critical that this was addressed. There were issues in the Stanley area and this was why test purchases had been carried out at this licensed premise and others in the area.

Following questions, Graham Blount stated that the shop was 3 – 4 miles from Stanley but closer if using the railway lines, where the anti-social behaviour was taking place.

At this point Mr Azam was invited to address the Sub-Committee. He stated that the building works inside the property had been completed and Health and Safety had visited and confirmed that all the works had been done. He now had an accident book and first aid kit. CCTV could now show footage beyond 20 days. A discussion ensued about the quality of the footage. Mr Azam advised that the shop was burgled on 16 or 17 December 2018 and the police had said that the footage from the incident was not clear. One week's footage was clear but beyond that was very poor. Mr Azam offered to extend the length of time CCTV footage was retained beyond one month if requested.

Mr Azam was asked by the Chair what he intended to put in place to prevent underage sales. He stated that in December 2018 he had been experiencing family problems. He managed a fish shop and the lady working there suggested that her daughter, who already worked at two other licensed premises, could work at News and Booze.

Mr Azam referred to the two incidents from 2016 and asked for confirmation whether the sales were made by him or his employees. Graham Blount confirmed the sales were made by his employees.

Mr Azam then referred to an incident involving three girls who tried to purchase alcohol without ID. When Mr Azam refused, the father of one of the girls entered the shop asking why he had refused to serve his daughter and subjected him to verbal abuse.

The refusals register had not been available at the time of the visit as it had been taken by the police. He then received a new book.

Following a further question from the Chair about Challenge 25, Mr Azam stated that his wife had attended training and he had asked for information about training but it was not received. He would attend any training available to him. Graham Blount clarified that an offer of training was included in a letter from Trading

Standards in 2016, and was included in the report bundle. Mr Azam replied that he only had one member of staff now and he had attended training in 2011 with his wife.

Mr Azam apologised for the underage sales. The lady already worked at licensed premises and accepted that he had not checked with her what experience she had, however he would send her on any training offered.

Councillor L Brown asked about the presence of an illegal worker in the premises. Mr Azam stated that his Uncle lived upstairs before he moved to Scotland but did not work in the shop. He had given him permission to carry out mobile phone repairs.

Nicola Anderson stated that at the visit when Immigration Officers were present they had asked about the mobile phone repairs and Mr Azam had denied that there was anyone living upstairs and that the phones were sent to Newcastle for repair. Mr Azam said that he did not say this and that his cousin lived in Newcastle. He did not know why the male had said he was working in the shop; he had given him permission to live there but not to work. He confirmed that he was paying the fine issued by the Home Office.

Following a further question Mr Azam confirmed the name of his Uncle who had sold the premises to him. His Uncle moved to Scotland in October/November 2018.

Following a further discussion about the CCTV footage Mr Azam confirmed that he understood how important it was to have good quality CCTV at the premises. A new box had been fitted and the footage was now clear.

With regard to the training provided in 2011 Graham Blount confirmed that it was arranged in conjunction with all licensed premises in the Stanley area. He also confirmed that Mr Azam's wife had attended and that Mr Ahmed was the licence holder at the time. Mr Azam said that he had worked in the premises since 2007 with his Uncle. Graham Blount advised that Mr Azam attended training in December 2012 and his wife in November 2011.

Mrs Anderson asked Mr Azam what 'right to work' checks he carried out. Mr Azam replied that he or his wife asked for ID, passport, National Insurance number before an employee started work. The Senior Licensing Officer confirmed that Immigration could provide a list of checks that needed to be carried out when employing persons.

The Licensing Enforcement Team Leader asked how training was now carried out in relation to underage sales. Mr Azam replied that he provided the training but if there was somewhere that provided training he would send his employees. He told his staff 'no ID no sale'. For the first month of their employment they worked on the shop floor, and after one month when they were aware of the whole system, they worked on the till.

The point was made that the person who had failed the test purchase in December 2018 had not been working in the premises for one month. Mr Azam accepted this

and reiterated that at the time he was having family problems and this was the reason for her employment. He had three or four staff missing in the fish shop, and two in News and Booze. He now only had one employee, the same person who was working in the shop in December 2018.

Nicola Anderson stated that the employee had said that she had not been working there very long but Mr Azam advised that she had started work in September/October last year.

The Chair asked Mr Azam if he was aware of, and had read, the Council's Statement of Licensing Policy. Mr Azam confirmed that he had.

All parties were invited to sum up.

Mrs Anderson stated that there had been a fundamental failing by the Licence Holder to manage the premises, and breaches of licensing conditions had occurred over a sustained period. The Licence Holder had not demonstrated an ability to manage the premises to adhere to the licensing objectives at any stage. Section 182 Guidance prescribed certain criminal activity which should be treated particularly seriously, including the employment of a person disqualified from working by reason of their immigration status in the UK and the sale of alcohol to children, which the Guidance expected that revocation should be seriously considered.

PCSO Williamson stated that having heard the representations she did not feel that Mr Azam had put any training in place to support staff.

Mr Blount stated that underage sales and alcohol related problems continued in the area. The training Mr Azam received was a very long time ago and he did not consider that staff, who ultimately 'carried the can', had not received the correct training.

Mr Azam apologised for the underage sales in 2016, and in December 2018 which was due to family problems. He had now sorted everything out and asked for ID before selling alcohol. He knew everybody in the area but if there was anyone new in the shop he asked for ID and refused the sale if it could not be produced.

At 11.15am the Sub-Committee **Resolved** to deliberate the application in private.

After re-convening at 11.45am the Chair delivered the Sub-Committee's decision. In reaching their decision the Sub-Committee considered the report of the Senior Licensing Officer, the verbal and written representations of the Applicant, the Police and Trading Standards, the written representations of Environmental Health, Durham Local Safeguarding Children's Board and the Home Office Immigration Enforcement Team, and the verbal representations of the Licence Holder. Member 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 Premises Licence be revoked.