

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Committee Room 2 - County Hall, Durham on **Tuesday 14 May 2019 at 10.00 am**

Present:

Councillor P Crathorne (Chair)

Members of the Committee:

Councillors D Brown, C Hampson and D Hicks

Also Present:

Yvonne Raine – Senior Licensing Officer

Catherine Hazell – Solicitor, DCC

88 Front Street, Chester-le-Street

Lindsay Morton – Applicant

Clive Morton – Applicant's husband

Councillor Beatty Bainbridge – local Member and other person

Derek Briggs – other person

PCSO Michelle Williamson – Durham Constabulary

PC Iain Robertson – Durham Constabulary

Khan's Foodstore

Laura Brooks – Team Leader, DCC Trading Standards

Mohammed Imtiaz Khan – Licence Holder

Tim Robson – TJR Licensing Consultants on behalf of Licence Holder

PCSO Michelle Williamson – Durham Constabulary

Sean Barry – Public Health

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 meetings held on 6 February 2019 and 19 March 2019 were agreed as a correct record and were signed by the Chair.

6 Consideration of the Ongoing Suitability to Continue to Hold a Personal Licence

This item was withdrawn.

7 Application for the Grant of a Premises Licence - 88 Front Street, Chester-le-Street

Members: Councillor P Crathorne (Chair), D Brown and D Hicks.

The Committee considered a report of the Senior Licensing Officer regarding an application for the grant of a Premises Licence in respect of 88 Front Street, Chester-le-Street (for copy see file of Minutes).

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

Mr Clive Morton referred to the letters of objection which had all been sent together in one envelope. This was confirmed by the Senior Licensing Officer who advised that all individuals had been written to in order to validate the letters, as explained in the report.

PCSO Williamson was invited to address the Sub-Committee. The Officer, in accordance with Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, requested that the public be excluded from the hearing to make representations in private. With the agreement of the Chair all parties left the hearing with the exception of Members, Police Officers, the Legal Adviser, and the Applicant and her husband.

Following the Police representations all parties returned.

Councillor Bainbridge was invited to address the Sub-Committee. The Councillor stated that her objections were on the grounds of the licensing objective 'protection of children from harm.' The shop was used by lots of young people from the Academy as they sold a wide range of snack foods. Referring to the plan of the layout she wished to draw the Sub-Committee's attention to the central display which made it more difficult for Mrs and Mrs Morton to observe the children at lunchtimes. Mr and Mrs Morton observed the children from outside the premises. However she was aware that Mrs Morton was working with the Police to improve the layout.

Mr and Mrs Morton clarified that they observed the children outside because they also had stock on display to the outside of the premises. The alcohol would be kept

behind the counter which would be manned at all times. There would be three members of staff in the shop with one behind the till at all times.

Mr Briggs was invited to address the Sub-Committee. He had been made aware that alcohol was on the premises before Mrs Morton had made application for a Premises Licence. He advised that there had just been one person in the shop when he had visited. A lot of schoolchildren were in the street at lunchtime for around an hour and a half. He was concerned that older children would buy alcohol for younger children. There was another shop 5 doors down which sold alcohol and he had objected to their application at the time on the same grounds. It was easy for one person to be distracted and for alcohol to be stolen. This was an issue in Chester-le-Street. He had seen Mr and Mrs Morton outside the store observing the children.

Mr Briggs was also concerned about night sales which may attract the wrong type of person and could result in disorder and public offences, another concern in Chester-le-Street.

There was a café/ice cream parlour through the back of the shop which led onto the street. Residents did not want anymore alcohol on the street.

Councillor Hampson asked Mr Briggs if he was aware of any reports of children with alcohol on a lunchtime. Mr Briggs confirmed that there had been reports of children going to the Riverside Park to drink alcohol and was a regular place for them to go to.

Following questions from Members, Mr Briggs confirmed that there was alcohol in the shop before the submission of the application. PCSO Williamson clarified that Mr Briggs had contacted the Licensing Authority and that on investigation had found that alcohol was kept behind a curtain but that none was available for sale.

Mrs Morton confirmed that alcohol was on the premises but was covered up and not sold. The shop was only open between 8.30am and 5.00pm Monday to Saturday and they were always gone after 5.00pm. The café and shop were entirely separate. In her experience if children wanted to buy alcohol they would go to the larger stores.

The Applicant was then invited to address the Sub-Committee. She asked that they be given a chance, she had held a licence in the past without problem. The opening hours had been revised so no-one would be able to purchase alcohol on an evening as they closed before 5.00pm.

Members asked questions of the Applicant. Mrs Morton confirmed that Challenge 25 would be implemented and they were already experienced in the sale of age restricted products. The café was separate to the shop and could not be accessed by customers. She had owned the shop since January 2019 and had a wide range of customers, not just children. Mrs Morton confirmed that the store was viable now but people had asked to buy alcohol, for example on their way home from work. The store would close at 5.00pm but would attract customers from local businesses who closed earlier than that.

Following questions from PCSO Williamson, Mrs Morton confirmed that the application for the sale of alcohol was amended to be in line with the hours the shop was open ie 8.00am to 5.00pm Monday to Saturday. There were three full time members of staff present in the shop now and it would not be a problem if this was added as a condition.

Councillor Bainbridge clarified that the café and shop were linked, but only the staff could walk between the two. Mr Morton stated that he and his son could not work in the café as they did not have a hygiene certificate and would therefore always be in the shop. Mr Morton stated that she did sometimes work in the café but this was not very often.

All parties were then invited to sum up. None had anything further to add.

At 11.10am the Sub-Committee **Resolved** to retire to deliberate the application in private. After re-convening at 12.05pm the Chair delivered the Sub-Committee's decision.

In reaching their decision the Sub-Committee had considered the report of the Senior Licensing Officer, and the verbal and written representations of Responsible Authorities, other persons, local Councillor and the Applicant and her husband. 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 Premises Licence be granted with the condition agreed with the Local Safeguarding Children's Board and with the following conditions to be attached to the licence. In addition to this the Sub-Committee refused to specify on the licence the Applicant as Designated Premises Supervisor. The Sub-Committee confirmed that the licensable hours for the sale of alcohol for consumption off the premises should be brought in line with the hours the shop is open, therefore being 8am to 5pm Monday to Saturday.

The additional conditions to be added to the licence in addition to the condition mediated with the Local Safeguarding Children Board:

Prevent of Crime and Disorder:

- CCTV system to be installed in the premises, including camera at the entrance to the shop and above the sales counter, to the satisfaction of Durham Constabulary, to be operating during licensable activities, and footage must be available and downloaded upon request by a Responsible Authority. Staff must be trained on operating and downloading the CCTV footage. CCTV footage to be kept for 28 days.

Protection of children from harm:

- All incidents at the premises will be recorded in an incident book maintained by the premises licence holder. Details to be recorded in the book include: time and date of incident, name or full description of any person involved, whether the incident was recorded on CCTV and signature of person making the entry. The book to be made available to a Responsible Authority upon request.
- Operation of a Challenge 25 policy where all patrons believed to be under the age of 25 who seek to purchase alcohol will be asked to provide proof of age identification which is endorsed with the government PASS holographic logo.
- A refusals register must be in place in the premises and used to keep a record of all attempted purchases of alcohol where a person believed to be under 25 is challenged and no identification is provided and the sale is therefore refused.
- The refusals register should confirm the date and time of the refusal, a description of the person refused, the goods asked for, any significant comments made or behaviour of the person refused and the signature of the person making the entry.
- The refusals register should be checked for completion and signed off on a regular basis by the DPS or premises licence holder. The refusals register must be available at all times for inspection by the police or other Responsible Authority.
- Persons known to be or suspected of buying alcohol on behalf of children will be refused and reported to the police.
- Notices are to be displayed concerning the Challenge 25 policy.
- 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 to be provided ever year. Written Training records to be made and to be available for inspection on request of a Responsible Authority.
- At least two staff to be on the premises at all times licensable activities are taking place.

8 Application for the Review of a Premises Licence - Khan's Foodstore, 25-27 West Road, Annfield Plain, Stanley

Members: Councillor P Crathorne (Chair), D Brown and C Hampson.

The Committee considered a report of the Senior Licensing Officer regarding an application for the review of a Premises Licence in respect of Khan's Foodstore, 25-27 West Road, Annfield Plain (for copy see file of Minutes).

A copy of the application and supporting documentation had been circulated to Members, together with additional information received from the Licence Holder's Licensing Consultant.

Laura Brooks of DCC Trading Standards, the Applicant was invited to address the Sub-Committee. Ms Brookes advised that in March 2018 Trading Standards had received intelligence from Durham Constabulary that the premises was possibly selling alcohol to young people under the age of eighteen, and were increasingly concerned about anti-social behaviour in the area

As part of an Operation with the Police, two test purchases had been carried out at the premises on 13 December 2018 and 21 December 2018, details of which were included in the report bundle. The premises failed both test purchases. A visit was made to the premises on 15 January 2019 to discuss the circumstances of the two underage test purchases with Mr Khan, and it was noted that there was no refusals register or any training records. At that time the business did not present steps that would promote the licensing objective 'protection of children from harm'.

However, since the visit Mr Khan had demonstrated a commitment to uphold the licensing objectives and the proposed additional conditions would achieve this. Mr Khan had been working with Mr Robson, Licensing Consultant and all staff had received training. Trading Standards had conducted a further visit to the premises the day before the hearing and now had confidence that the business would have no difficulty in promoting the licensing objectives.

The person who made the sales on both test purchases was no longer working in the premises. It had also come to light that Mr Khan intended to spend time out of the country over the next few months and had indicated that application would be made for a member of staff to take over as DPS.

In conclusion Ms Brooks asked the Sub-Committee to consider the proposed additional conditions as an appropriate means of dealing with the application.

PCSO Michelle Williamson of Durham Constabulary was invited to address the Sub-Committee. The Officer stated that she supported the review application and had been part of the Operation, attending the premises on 21 December 2018 with a colleague. She confirmed that a Fixed Penalty Notice had been issued to the member of staff.

Mr Sean Barry of Public Health referred to the letter of representation in the report bundle and had nothing further to add other than to emphasise the health risks to children when alcohol was available to them, both in terms of their physical development and behaviour. He supported the proposed additional conditions.

Mr Tim Robson addressed the Sub-Committee on behalf of the Licence Holder. He advised that Mr Khan did a lot of charity work and had been unable to attend the original hearing date as he had been out of the country.

Mr Khan acknowledged that the sale of alcohol to underage people was totally unacceptable and would not be tolerated. Mr Robson assured Members that he had done his utmost to ensure that all persons working in the premises would not undermine the licensing objectives. All members of staff had been trained, including in the sale of age restricted products, dealing with intoxicated customers, Challenge 25 (which had been implemented) and identifying fake ID. A strict and solid underage sales policy had been implemented to ensure that refusals and challenges were recorded in a register. All staff had passed the accredited examination.

In view of Mr Khan's charity work out of the country he had agreed to amend the DPS. The proposed DPS had spent five hours in a training environment to assess her suitability, and would be taking the DPS course this week, after which she would apply for her Personal Licence. An application would then be submitted to vary the DPS.

With the premises he had done everything possible to ensure that alcohol sales were carried out in a responsible manner and training would continue. A policy and procedure manual had been included in the additional bundle. Mr Khan was willing to accept the additional conditions proposed.

Mr Khan stated that he had held a licence for 36 years and in that time there had been no issues. The member of staff who made the underage sales had made a mistake and there had been no underage sales prior to that.

All parties were invited to sum up. None had anything further to add.

Councillor Hicks stated that he was pleased to see the steps taken by the premises as this was a very serious matter.

At 12.55pm the Sub-Committee **Resolved** to retire to deliberate the application in private. After re-convening at 13.05pm the Chair delivered the Sub-Committee's decision.

In reaching their decision the Sub-Committee had considered the report of the Senior Licensing Officer and additional information from the Licence Holder, and the verbal and written representations of the Licence Holder and his representative, the Applicant and Responsible Authorities. 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 conditions be added to the Premises Licence:

The Prevention of Crime and Disorder

- CCTV footage must be available and downloaded upon request by a Responsible Authority.
- 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.
- Persons known to be, or suspected to be, buying alcohol or tobacco on behalf of children will be refused and reported to the Police.

The Protection of Children from Harm

- Adherence to the law surrounding the ban on the sale of alcohol and tobacco to those under 18.
- 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.
- 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.
- 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.
- The register should be checked for completion and signed off on a regular basis by the DPS or Premises Licence Holder. The refusal register must be kept available at all times for inspection by the Police and other Responsible Authorities upon request.
- Persons known to be or suspected of buying on behalf of children will be refused and reported to the Police.
- Notices to be displayed concerning the law surrounding the ban on the sale of alcohol to children and explaining the Challenge 25 scheme.

- All staff to receive full training on the law surrounding the sale of age restricted products and the operation of the Challenge 25 scheme. Regular reminders to staff as to their obligations with respect to the above.
- All staff training records and reminders to be put in writing and kept as a record of training which must be kept on the premises and be available at all times for inspection by the Police and other Responsible Authorities on request.