

## **DURHAM COUNTY COUNCIL**

At a Meeting of **Statutory Licensing Sub-Committee** held in Committee Room 2 - County Hall, Durham on **Tuesday 1 October 2019 at 10.00 am**

**Present:**

**Councillor L Marshall (Chair)**

**Members of the Committee:**

Councillors P Atkinson and D Brown

### **1 Apologies**

Apologies for absence were received from Councillors Blakey and Maitland.

### **2 Substitute Members**

There were no substitute Members in attendance.

### **3 Declarations of Interest**

There were no declarations of interest.

### **4 Minutes**

The minutes of the meeting held on 9 April 2019 were agreed as a correct record and signed by the Chair.

### **5 Application for the Review of a Premises Licence - Happy Shopper, New Front Street, Tanfield Lea, Stanley**

The Sub-Committee considered a report of the Corporate Director of Regeneration and Local Services with regards to an application to review the premises licence in respect of Happy Shopper, New Front Street, Tanfield Lea, Stanley (for copy see file of minutes).

The Trading Standards Manager addressed the Sub-Committee and confirmed that the basis of the review were in relation to the licensing objectives;

- The protection of children from harm
- The prevention of crime and disorder

The Local Weights and Measures Authority had concerns following two failed test purchases in December 2018. Mrs Kaur, who had been responsible for both unchallenged sales to under 18's had been in business for 30 years and was the Premises Licence Holder and Designated Premises Supervisor. On further investigation of the premises, it was found to have no records of staff training and they were found to be operating Challenge 18 rather than Challenge 25. During the interview Mrs Kaur had stated the young person looked 16 and it was alleged that she was distracted at the time of the failed TP's due to concerns about her father's health. Although some time had lapsed and some steps had been taken to address various issues, the Trading Standards Manager remained concerned for the failure to uphold two of the licensing objectives.

Councillor Brown queried the reason for the test purchase taking place in December 2018 despite the fact that intelligence had been received in April that year. He also asked why the Review was being applied for ten months after a failed test purchase. The Trading Standards Manager confirmed that test purchases were required to be authorised by RIPA and therefore according to the Councils Policy, significant intelligence was required for multiple premises before applying. Due to staffing, there were some additional delays. Councillor Brown confirmed that the delay in bringing the application to the Sub-Committee was unsatisfactory. The Trading Standards Manager apologised for the delay and assured Members that the matter of timing had been addressed internally.

In response to a question from the Councils Solicitor, the Trading Standards Manager confirmed that intelligence received related specifically to the premises and no further reports had been received since the test purchase.

The Public Health Practitioner addressed the level of harm alcohol had on health and confirmed that it could affect the brain and physical development of young people, it increased risk taking behaviour, and due to inefficient metabolism, they were at greater risk of alcohol poisoning. He confirmed that County Durham had a higher than average level of hospital admissions of young people under the influence of alcohol and considering the test purchase had been failed by the PLH who also held the role as DPS, he had no confidence that this premises could be considered responsible for the sale of alcohol.

On behalf of Durham Constabulary PCSO Williamson confirmed that the police supported the application. Sergeant Adams confirmed that Stanley suffered from a lot of bad press due to antisocial behaviour and alcohol fuelled disorder. Breaches of the licensing objectives undermined the work by PACT to divert youths from this type of behaviour.

In response to a question from Councillor Bell, Sgt Adams confirmed that it was difficult to pin point a particular area in which crime related disorder had taken place, but it was centred around a geographical area which was close to the premises.

Mr M Foster, addressed the Sub-Committee on behalf of the PLH and DPS, Mrs Mehat, who did not dispute her mistake. He confirmed that at the time of the failed test purchases, Mrs Mehat's father had been given a health diagnosis which had affected her concentration. She was using an out of date policy – challenge 18, which was rarely heard of, and she had never been on a Premises Licence course.

Mr Foster explained that under the new Licensing Act 2003, Mrs Mehat had been able to convert to a Premises Licence under her previous terms and without having to hold the Personal Licence qualification. In the absence of any known issues, there was no reason to provide any further update to the Licensing Authority.

Mr Foster confirmed that formal licensing training had subsequently been delivered, the premises was operating a Challenge 25 policy and Mrs Mehat's concentration had improved since her family issues. Mrs Mehat had operated the premises for 20 years with no issues prior to the test purchase failures. If the premises had been operating at Challenge 25 it would have provided a much bigger buffer and Mrs Mehat would have been unlikely to have failed the test purchases.

Mr Foster confirmed that action had been taken which included;

- Comprehensive training had been undertaken by all staff and logged and recorded
- Modern colour CCTV had been installed
- A commitment to install EPOS which scanned products and identified age restricted products
- Serve Legal - test purchases were carried out over a contracted period by young people over 18, who did not look 25
- Application for new DPS
- Revised conditions – to include CCTV, incident/refusals log, refresher training every six months for all staff, installation of EPOS, and Serve Legal test purchases for a minimum of six months

Councillor Bell asked for information with regards to the regularity of Serve Legal and Mr Foster confirmed that they would carry out as many as requested but on this occasion it had been agreed for them to do 6 over 12 months. They were random test purchases, of which three had been successfully carried out.

Mr T Robson, Licensing Consultant, agreed that the sale of alcohol to underage young people was unsatisfactory. He confirmed that he had attended the premises and carried out a full risk assessment in September and noted a new, high quality CCTV system with 10 cameras inside and 3 outside of the premises, giving a good view for proxy sales. The alcohol was placed well and the cashier had a good view. The small cans of spirits and mixer were placed in a refrigerator next to the till and spirits and cigarettes were placed behind the counter. A refusals register was produced during the visit, however the last visit was around four weeks previously, although it was explained that challenges had been made and satisfactory identification produced, this was not recorded in the register.

Mr Robson went on to confirm that at the time the premises was operating a Challenge 18 policy which was wholly unacceptable and immediately updated to Challenge 25 – posters were put up during the visit. The training delivered covered suitable identification and how to identify fake identification.

Mr Robson confirmed that there were ongoing issues in the Stanley area and he was aware that people having purchased alcohol could go on to commit an act of crime but the premises would actively deter drunkenness. There were other products in store which had been marked up with age restrictions.

Mr Robson confirmed that he believed the policies in store were concise and the proposed change in DPS would allow Mrs Mehat's son, Rishi Mehat to take responsibility of the business. Mr Mehat had passed the higher level course and was a good operator with a business background and he was intent on making the premises work better.

In relation to Serve Legal, Mr Robson explained that this was an independent body which clients, especially large retailers, used to carry out test purchases in order to monitor their internal procedures. Although they were unable to send in persons under the age of 18, they did use people who looked young in order to test the Challenge 25 policy. They were asked to buy age restricted products and if they were unchallenged they would fail the test purchase.

Mr Foster confirmed that Mr Mehat had applied to become the new DPS and gave an overview of his background in business. He was committed to the family business and planned to manage the premises. He would ensure that policies were adhered to and he was committed to maintaining a good relationship with the police.

With regards to the viability of the store, Mr Foster confirmed that 50% of the stores transactions were sales of alcohol. The business would not be sustainable without the sale of alcohol and it was envisaged that the store

would lose other sales as people tended to buy other groceries when purchasing alcohol.

Mr Mehat addressed the Sub-Committee and confirmed that he understood the seriousness of the failed test purchases, however he put this down to his Mother's state of mind at the time. He had extensive business training and experience and intended to use it to improve the business. Staff would be trained regularly – at least once per year and improvements such as the introduction of an EPOS system would be installed promptly. Mr Mehat was collecting data to determine which system would work better for the business as he wanted to ensure that he could identify and collate data, such as recording individual members of staff when asking for identification.

PCSO Williamson referred to the CCTV footage and had concerns if only limited members of staff were able to download and provide it. The police would need to be satisfied that they were able to access it in a timely manner. Mr Foster had concerns should all staff be able to access the CCTV as this also acted as a safeguarding measure with regards to staff. Mr Mehat confirmed that himself and both parents would be able to access it.

With regards to EPOS, Mr Foster confirmed that this would be installed in a matter of weeks, but he explained that it was difficult to identify which would be best suited to this business as most of the information when purchasing the system were focused on sales and the improvement of business, but this was not what Mr Mehat intended to use the system for and he was awaiting more details from providers to ensure the correct system was installed. Mr Foster confirmed that the Sub-Committee could insert a date into the suggested condition to install EPOS.

Mrs Mehat gave assurances that should the licence be retained, there would be no repeat incidents. Also should the licence be retained, Mr Mehat would apply for DPS later that day.

**Resolved:**

To impose the following conditions on the licence which shall be attached to Annex 3 of the premises licence:

- 1) A CCTV system shall be designed, installed and maintained in proper working order, to the satisfaction of the Licensing Authority and in consultation with Durham Constabulary. Such a system shall:
  - i) Be operated by property trained staff;
  - ii) Be in operation at all times that the premise is being used for a licensable activity
  - iii) Ensure coverage of public entrances and exits to the licensed

- premises, internally and externally;
  - iv) Ensure coverage of such other areas as may be required by the
  - v) Licensing Authority and Durham Constabulary;
  - vi) Provide continuous recording facilities for each camera to a good standard of clarity. Such recordings shall be retained on a hard drive for a period of 28 days and shall be supplied to a Responsible Authority or Police Officer within an agreed timescale between officers and DPS/appointed person;
  - vii) The recording equipment and discs/memory sticks shall be kept in a secure environment under the control of the DPS or another responsible named individual;
  - viii) An operational monthly log report must be maintained and endorsed by a signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.
- 2) All members of staff at the premises shall seek “accredited photographic proof of age evidence” from any person who appears to be under the age of 25 years and who is seeking to purchase an age restricted product. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence or proof of age card carrying a “PASS” logo. There will be displayed in the premises sufficient signage to ensure people are aware of the policy.
  - 3) An incident and refusals book shall be kept at the premises which is utilised and maintained at all times. This book will be available to the Police or local authority on request.
  - 4) Initial staff training to be carried out by the DPS, and approved member of staff or an external supplier. That training is to ensure no age restricted product is sold to anyone underage, to be operated in accordance with Challenge 25 and addresses proxy sales. The training is to be refreshed every 6 months. Such training is to be documented and will be available to the Police or an officer from a Responsible Authority.
  - 5) Training records to be kept for every member of staff and endorsed after every training session. The records will be available to the Police or an authorised officer from a Responsible Authority.
  - 6) The premises will install an EPOS terminal at the premises, which will include age prompts for age restricted products; the design and model

of such terminal to be provided to Durham County Council's Trading Standards Team within the next 28 days.

- 7) As part of the premises ongoing due diligence Serve Legal, or a business offering a similar service, will be employed by the premises for a period of 12 months from September 2019 to carry out 'test purchases' involving over 18's to challenge and test the premises age restricted policies in line with Challenge 25. Such tests will be carried out at least 6 times during this period. Results of those test purchases will be shared with the Licensing Authority via email and all information will be provided, within fourteen days, upon request.

## **6 Application for the Grant of a Premises Licence - Shergill Stores, 80 Front Street, Sherburn**

The Sub-Committee considered a report of the Corporate Director of Regeneration and Local Services with regards to an application for the grant of a Premises Licence at Shergill Stores, 80 Front Street, Sherburn (for copy see file of minutes).

The Senior Licensing Officer presented the report and confirmed that the Applicant had an existing PL for Shergill Stores at 24 Front Street, Sherburn, which he intended to surrender should the application be successful.

PCSO Williamson confirmed that following a mediated application with Durham Constabulary, intelligence led test purchasing was carried out at the current licenced premises which resulted in a failed test purchase. Durham Constabulary therefore had no confidence and having failed to meet the licensing objectives, they objected to the application on the grounds of the failure to protect children from harm.

PCSO Williamson confirmed that the police had received a number of calls over a three-month period alleging that the store was selling alcohol to children. On visiting the store, PCSO Williamson was assured that only Mr Singh and his wife worked at the store and both operated a Challenge 25 policy. The refusals register seemed in order, however on 30 August, a fifteen year old child volunteer purchased alcohol during the test purchase.

In response to questions from the Councils Solicitor, PCSO Williamson confirmed that she could not confirm whether there were multiple sources of intelligence. She confirmed that another call had been received within the two weeks leading up to the hearing, although she could not confirm the legitimacy. Mr Singh assumed that the call could only have been from a competitor.

Mr Singh confirmed that his wife had failed the test purchase and this was an emotional time for her, which had resulted in an error of judgement. Mrs Singh had held her hands up and admitted her mistake and he confirmed that she had worked in a store prior to this with no issue. She apologised and confirmed that she had completed training to ensure that she would not make any more mistakes.

In relation to the premises at no. 24 Front Street, Mr Singh confirmed that it would be leased out with an option to purchase, however there would be a clause included in the agreement of any sale that would ensure this would not revert to a licensed premises. The reason for the move was that there was a distinct lack of parking at the current premises and it was smaller.

**Resolved:**

The Sub-Committee considered the application and determined, having regard to the licensing objectives, that the licence application should be granted.