

## **DURHAM COUNTY COUNCIL**

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, County Hall, Durham on **Wednesday 25 January 2017 at 1.00 pm**

### **Present:**

**Councillor C Carr (Chairman)**

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

Councillors B Graham, C Hampson and J Maitland

### **Also Present:**

G Proud (Council's Solicitor)

H Johnson (Licensing Team Leader)

K Coulson-Patel (Observer)

Sgt C Dickenson (Durham Constabulary)

Insp R Stockdale (Durham Constabulary)

Mr J Cunningham (Senior) (Premises Licence Holder) - The Bridge Inn

Mr J Cunningham (Junior) (Designated Premises Supervisor) - The Bridge Inn

Mr B Cunningham (Son) – The Bridge Inn

L Griffiths (Representing the Applicant) – The Bridge Inn

N Smith (Solicitor – Squire Patton & Bogg) – One Stop

G Anderson (Area Manager) – One Stop

S Marklew (Trading Law Manager) – One Stop

Mr and Mrs McDermott (Other Persons) – One Stop

### **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 Application for Summary Licence Review - The Bridge Inn, Ramshaw. Bishop Auckland**

#### **Members:**

Councillor C Carr (Chair)

Councillors B Graham and J Maitland

All parties were advised that with the agreement of the parties, the Sub-Committee had met at 9.45 am on 25 January 2017 to comply with legislation as the licensing authority is required to conduct the review within 48 hours of receiving the representation by the Premises Licence Holder.

The only time the licensing authority could get all parties, members and a suitable venue to hear the application was 1.00 pm which was outside the 48 hour period. Members were assured that the delay of 3 hours should not cause the Premises Licence Holder any prejudice; the Premises Licence Holder had been advised of the meeting and had agreed to the short adjournment; therefore Members unanimously agreed to adjourn the hearing until 1.00 pm and nothing had been discussed.

The Licensing Team Leader informed Members that the Sub-Committee had met on Friday 20 January 2017 to consider a summary licence review application under Section 53A of the Licensing Act 2003 from Durham Constabulary.

A Notice and the Certificate submitted by Durham Constabulary had been served through the post box at the premises as the premises were closed, and a number of attempts had been made to contact the Premises Licence Holder without success.

The Statutory Licensing Sub-Committee went ahead on 20 January 2017 and Members agreed to put in place interim steps which were to suspend the premises licence and remove the Designated Premises Supervisor.

An application from the Premises Licence Holder had been received on Monday 23 January 2017 at 10.10 am to exercise their right to a review of the interim steps.

Members were asked to determine whether to keep the interim steps in place; to modify the conditions of the premises licence or to exclude the sale of alcohol by retail from the scope of the licence. A full hearing would be held on Tuesday 14 February 2017 and consultation with responsible authorities would end on 2 February 2017.

Sgt C Dickenson from Durham Constabulary representing the Applicant indicated that the Police had received a report concerning an incident which resulted in serious injuries. Investigations were still ongoing and they had not made the decision lightly to apply for a review of the premises licence under section 53A of the Licensing Act 2003 for interim steps.

The Chairman sought clarification on the injuries sustained.

The Police responded that the gentleman sustained a fracture to his left jaw. He attended Bishop Auckland hospital then Durham and Sunderland for which he has to return on a weekly basis to assess how the injury is healing. There is a possibility he could need a plate which would cause facial disfigurement. They had asked for medical evidence which they hoped would be available for the meeting on the 14 February 2017.

L Griffiths, speaking on behalf of the Licence Holder had no questions of the Police and stated that there was no evidence.

L Griffiths then went on to say that she had advised Mr Cunningham, the Licence Holder to contact Mr R Arnott of Ward Hadaway Solicitors for legal representation but unfortunately he was not available which was why she was representing Mr Cunningham today.

She advised Members that the advert in the Northern Echo had a damaging effect to the business. She referred to the statement by the Police where it was assumed that they were from the travelling community and associated with the travelling community from Darlington, as they were taken to Darlington police station. They are not gypsies and have lived on the site for the last 16 years.

She reassured everyone that the family had not had a single conviction and that Mr Cunningham was hoping to open up the premises at the weekend so that he could get his business back. L Griffiths was willing to place an advert in the newspaper to try and get his business back and as Mr Arnott stated you are innocent until proven guilty.

They were asking to have their doors open again on Friday for the weekend before any further damage was caused to the business.

Sgt Dickenson advised that the report did not come to Darlington Police office, so there was no links at all to the Darlington travelling community.

L Griffiths responded that they had been taken to Darlington police station and that there had been recent bad publicity about gypsies in Darlington. The Chairman confirmed that they had not seen any press articles.

At this point, Members were provided with a number of documents that the Licence Holder had provided which included a copy of the recent press article about the premises. Members were given time to read the additional documentation.

The Chairman referred to the documentation and indicated that the decision to appoint a legal representative rested with the Licence Holder. Any press articles were from the media and not the Sub-Committee so the appropriate weight would be applied, this would also apply to the references which had not been verified.

L Griffiths indicated that Mr Cunningham Senior and Mr Cunningham Junior both deny all charges. It is a false allegation by an ex member of staff. The police statements indicated that they are guilty but they maintain their innocence. She stated that the statement should not be put to the Sub-Committee unless they are charged or convicted.

The Chairman asked how the injury was sustained and when Mr Cunningham Senior and Mr Cunningham Junior were made aware of the injuries.

L Griffiths responded that the first they knew of the incident was when they were arrested.

Mr Cunningham Junior read out the statement by the Chief Superintendent and stated that this should read alleged and painted them in a very bad light.

The Chairman responded that there would be a full review hearing on the 14 February 2017.

L Griffiths indicated that they were on bail until 10 March 2017 and the full review hearing would be a month before this date.

The Chairman advised that the Licensing Act 2003 stated that the hearing had to be held within 28 days.

Members and Officers discussed the possibility of adjourning the meeting on the 14 February 2017. The Solicitor expressed concerns regarding an adjournment of the review hearing as Section 53A of the Licensing Act 2003 has strict deadlines that must be adhered to. She stated it was not immediately apparent if the Licensing Act 2003 (Hearings) Regulations 2005 provided an opportunity to adjourn the hearing under section 53A of the Licensing Act 2003 but she would confirm this outside of the hearing.

All parties were asked to sum up.

The Licensing Team Leader indicated that this was an interim steps hearing and the options to Members were to maintain the interim steps; modify or add conditions to the licence; exclude a licensable activity from the licence; remove the designated premises supervisor; suspend the licence for a period not exceeding three months.

In summing up, Sgt Dickenson indicated that it was a serious allegation and there was concern for public safety as the behaviour was below what was expected. Three arrests had been made and one released without any action. The other two were on police bail while investigations were ongoing.

L Griffiths indicated that nothing would have changed before the full hearing as Mr Cunningham Senior and Mr Cunningham Junior were out on bail until 10 March 2017.

At 2.00 pm the Sub-Committee retired to deliberate the application in private. After re-convening at 2.10 pm the Chairman delivered the Sub-Committee's decision. In determining the application the Sub-Committee had considered the verbal and written representations of Durham Constabulary and the Licence Holder and Designated Premises Supervisor.

**Resolved:** That the interim steps remain in place.

L Griffiths asked if Members would consider removing the interim steps if they agreed to put in place a new Designated Premises Supervisor and agreed that the Premises Licence Holder had no involvement in the business.

The Chairman indicated that the Sub-Committee had made their decision.

The Licensing Team Leader advised that they could apply for a further review hearing against the interim steps and that would be heard within 48 hours of receipt.

**Sgt C Dickenson and Insp R Stokdale (Durham Constabulary) left the meeting**

**5 Application for the Grant of a Premises Licence - One Stop, Unit 1, North Road, Catchgate, Co Durham**

**Members:**

Councillor C Carr (Chair)

Councillors B Graham and C Hampson

Consideration was given to the report of the Corporate Director of Adults & Health Services regarding an application for the grant of a Premises Licence in respect of One Stop, Unit 1, North Road, Catchgate, Co. Durham (for copy see file of Minutes).

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

Representations from 'other persons' had been received from the McDermott family. A petition had also been received from Catchgate Residents, a copy of which had been circulated with the agenda and Members were asked to attach the appropriate weight to the petition.

The applicant's agent entered into discussions with Durham Constabulary within the consultation period which had resulted in the applicant amending their original application to change the commencement of the sale of alcohol from 06:00 am to 07:00 am Monday to Sunday and include the additional proposed conditions, a copy of which had been circulated with the agenda.

Additional information had been provided by the Applicant's Agent, a copy of which had been circulated to Members and all parties prior to the meeting.

The Chairman sought clarification if the premises intended to open on Christmas Day. The Licensing Team Leader advised Members that they did not intend to open on Christmas Day.

Mr B McDermott, an objector indicated that the premises were located in a residential area and he lived opposite. The liquor licence to 11.00 pm would be detrimental to their lives. There would be headlights shining into their property, noise and problems with youths in the area which had just got under control. Their son currently lived with them who was on call and had to get up early on a morning. Delivery vans would be in and out of the premises all day and evening. They had a caravan that they had to put on the road when hitching up and there was a bus stop just down from the car park entrance and 11.00 pm was too late. The Esso station was away from residential properties and other shops in the area closed at 9.00 pm or 10.00 pm.

Councillor Maitland sought clarification if Mr and Mrs McDermott were concerned about the premises opening until 11.00 pm or the selling of alcohol to this time.

Mr McDermott responded that they were concerned about both, but mostly the alcohol which should be limited to 9.00 pm.

Councillor Graham sought clarification on the location of Mr and Mrs McDermott's property in relation to the premises. Members were advised of the location of their home.

N Smith, the Applicant's Solicitor stated that the application was for the grant of an alcohol licence only. The premises are a retail store and not an off licence and are located in the former R.A.O.B club which had a club certificate for alcohol until 11.30 pm and 12.00 midnight on a Friday and Saturday.

They had agreed to change the start time of the licence to promote the licensing objectives. One Stop are an experienced operator and there was no evidence that the granting of the licence would cause crime and disorder or a public nuisance. There were no representations from the Police who have access to crime statistics. They propose to open 07.00 am to 11.00 pm daily and they were happy for Christmas Day to be excluded. There were a number of additional conditions that had been mediated with the Police and a summary of these could be seen at page 32 of the report.

One Stop was a general store and not an off licence and nine out of ten transactions would not include the sale of alcohol. One Stop Shop operates over 700 stores nationally with robust procedures and measures in place for proxy sales and how they would deal with the congregation of youths was summarised in the circulated statements.

Hartfordshire Council had reviewed the company's policies and had confirmed that they met the licencing objectives.

She referred to the circulated photographs of the premises and indicated that there would be a car park to the front of the premises and deliveries would be to the side of the premises and this was where the bins would also be stored.

She then referred to the plan of the internal layout of the premises showing Members the location of the CCTV cameras which would also be located outside the premises and would be of high definition with a monitor at the door so customers could see that CCTV was in operation. The Manager would also have a monitoring desk for the CCTV cameras.

Planning had granted permission for the retail shop from 7.00 am to 11.00 pm 7 days a week.

The company would be spending £220,000 to fit out the shop and the landlord would also be investing additional money. The lease would be for a 15 year period so it was a long term investment. They were looking to recruit local staff with the

exception of an experienced manager and shift supervisor, there would be 13 staff employed in total from the local area.

Members had been provided with a map which showed the location of other stores in the area which operated from 7.00 am until 11.00 pm and Tesco was open until 12.30 am so alcohol was already available in the area at times in the council's framework policy.

She then referred to the area and that there were 1500 homes and the only representation had been received from the McDermott family. The company participate in the local community where they have stores and have recently made donations and painted a fence in the community.

She referred to the letter from Mr and Mrs McDermott. She stated that the company worked hard to prevent representations and the concerns regarding deliveries and traffic had been considered as part of the planning process. With regards to anti-social behaviour the company would have CCTV installed and the conditions of the licence would include that images be provided on request, staff would monitor the CCTV and proxy sales was part of the written policy.

The Store Manager would work with the police and community support officers and they would ensure that the store looked attractive both internally and externally. They wanted a store that people wanted to come to and was why they had robust measures in place.

With regard to under-age drinking, they would have challenge 25 as a condition of the licence and staff would be trained on induction, and refresher training would be provided as well as signage throughout the store. There would also be a prompt on the electronic tills which would be interactive, rather than just a flash up on the screen. This system would also record challenges and refusals, which would be reviewed by the manager and regional manager.

Mr Anderson, Area Manager for One Stop Stores Limited indicated that he was responsible for two other stores and there had been no problems with these stores.

N Smith referred to the petition on page 26 of the pack and indicated that the DH1 address was some distance from the store and there were numerous names which were similar handwriting from the same address which could be double or triple counting. Their (the company) position was that that there were robust measures in place which would address the concerns, no other representations had been received which would suggest that the store was appropriate for the sale of alcohol and she asked that the licence be granted subject to the agreed conditions.

The Chairman referred to the problems with the tills in Tesco which Durham County Council had raised with Tesco.

N Smith responded that One Stop was separate to Tesco so had different style tills.

The Chairman responded that they had taken on board what the authority required i.e. an incident record and a number of CCTV cameras especially outside the store.

He was not sure about the hours of deliveries and the bottle bins at the side of the premises especially being used after 9.00 pm.

N Smith responded that the bins would not be bottle bins as they were not an off-licence and the bins would solely be used for packaging. With regard to deliveries these would be various times but they would complete a risk assessment to establish the best time for deliveries. Alcohol would be delivered as part of the general delivery which would be 2 or 3 times a week, the only early morning delivery would be the newspapers.

The Chairman asked if deliveries could be between 9.00 am and 9.00 pm if possible.

N Smith responded that their normal practise was not to have deliveries outside the opening hours of the store; it was a store so was different to a public house. The only exception would be the delivery of newspapers and they wouldn't normally have any deliveries after 5.00 pm.

In Summing up, Mr McDermott indicated that he had done the petition himself and nobody signed for anyone else with the exception of 2 elderly people and there were no duplicates in the petition. They had lived in their property for 7 years and there had been no issues with traffic from the club as the car park was only used on a Sunday morning.

N Smith indicated that she had nothing further to add except that no representations had been received from responsible authorities.

At 2.55 pm the Sub-Committee retired to deliberate the application in private. After re-convening at 3.05 pm the Chairman delivered the Sub-Committee's decision. In determining the application the Sub-Committee had considered the report of the Corporate Director of Adults and Health Services and the verbal and written representations of the applicant and other persons. 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 be granted as follows:-

<b>Activities</b>	<b>Days &amp; Hours Requested</b>
Sale of Alcohol (off sales)	07.00 – 23.00 hrs Monday to Sunday

It is noted that the operating schedule refers to the premises opening hours as 06.00 hours. The Applicant is reminded that should the premises open at this time, they will be operating outside of the planning permission.

The conditions agreed between the Applicant and Durham Constabulary and approved by the Sub-Committee are outlined below:-



## **The Prevention of Crime and Disorder**

- I. All Staff shall be trained in the sale of alcohol. Training shall take place twice annually. Records of this training shall be maintained. The records will be made available to officers and responsible authorities when requested.
- II. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions.
- III. Cameras shall encompass the inside and outside of all entrances and exits to the premises and rear yards, fire exits and all areas where the sale/supply of alcohol occurs.
- IV. Equipment must be maintained in good working order, be correctly times and date stamped and kept for a period of 28 days.
- V. The Premises Licence Holder must ensure at all times the Designated Premises Supervisor or appointed member of staff is capable and competent at viewing the CCTV and downloading the footage onto a disc, hard drive or memory stick when requested to do so by the police/local authority within a time scale agreed to by officers and appointed staff.
- VI. The recording equipment and discs/memory sticks shall be kept in a secure environment under the control of the Designated Premises Supervisor or other responsible named individual.

## **Public Safety**

- VII. An electronic incident log will be maintained. The log will be made available to officers and responsible authorities when requested.

## **The Protection of Children from Harm**

- VIII. A proof of age policy in place for people under 25 years of age via the Challenge 25 scheme.
- IX. The only forms of identification we will accept are a passport, a photo driving licence and 'PASS' hologram I.D.
- X. An electronic refusal register will record all refused sales of alcohol, including attempted proxy sales.
- XI. Spirits will be shelved behind the counter.