

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held remotely via Microsoft Teams on **Thursday 25 June 2020 at 9.30 am**

Present:

Councillor L Marshall (Chair)

Members of the Committee:

Councillors C Carr, P Crathorne, A Hopgood and J Maitland

Also Present:

Ms S Grigor (Council's Solicitor)

Ms H Johnson (Licensing Team Leader)

Mrs N Anderson (Licensing Enforcement Officer)

Mr G Blount (Senior Trading Standards Officer)

1 Apologies for Absence

There were no apologies for absence.

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 meetings held on 17 December 2019, 21 January 2020, 24 January 2020 and 20 February 2020 were agreed as a correct record and would be signed by the Chair.

5 Application for the Review of a Premises Licence - News & Booze, 1 Catherine Terrace, New Kyo, Stanley, County Durham

The Chair advised the Sub-Committee that herself and Councillors C Carr and A Hopgood would be the members who would be deliberating the application today.

Members were advised that the Premises Licence Holder was unable to attend the meeting and his Solicitor had requested an adjournment based on the medical evidence provided.

Mrs Anderson, Licensing Enforcement Officer on behalf of the Applicant provided members with background information stating that the premises were reviewed in April 2019 for non-compliance of licensing conditions and immigration issues. Following that review on appeal it was agreed that the licence should be transferred to Mr Izzal Mehdi a relative who had a shop in Whealthey Hill. It was agreed that the premises would voluntarily close for 6 weeks while Mr Mehdi assisted the previous licence holder's wife to get the premises in order and ensure when the premises reopened they were compliant with the additional licensing conditions that were put forward on appeal by the previous licence holder's wife and Mr Izzal Mehdi.

The appeal hearing was held on the 6 November 2019 and an inspection took place on 31 January 2020, that was 12 weeks following the appeal hearing.

When they visited the shop to carry out the inspections in 2020, staff had always contacted the previous licence holder's wife to come to the premises to deal with the inspection as she had the day to day running of the premises and had indicated that the premises were gifted to her by her father.

As stated in the review papers, there was still an ongoing prosecution against the previous licence holder's wife who sold alcohol in July 2019 outside of the licensing hours.

Papers were served on the Licence Holder for this review on 9 March 2020, the previous licence holder's wife would have been aware of the review as the blue notice had to be displayed on the premises advising of the review.

The consultation period ended on the 9 April 2020 and no representation had been received from the Mr Mehdi or the previous licence holder's wife. Mr Medhi was served with a notice on the 14 April 2020 advising that the hearing would be delayed. Mr Medhi was advised on the 5 June 2020 of the new hearing date but not until the 22 June 2020 was a solicitor appointed with the review scheduled to take place on the 25 June 2020, the solicitor representing Mr Medhi was the same solicitor for the previous review hearing.

Mr Medhi through his solicitor had indicated that the premises were to be sold, however back in January 2019, council officers were advised that the licence holder at the time expected to vacate the premises early in the new

year, re-establishing the business in a neighbouring property, but there was no indication that the premises was for sale.

The Licensing authority asked that the hearing go ahead given the number of issues at the premises and the long delay already incurred.

The Licensing Team Leader advised Members that this hearing should have been heard by 6 May 2020.

Mr Blount, Trading Standards Officer echoed what had been said by Mrs Anderson and that the Licence Holder had plenty of opportunities to put things in hand and to leave it until two days before the hearing was not satisfactory.

Councillors C Carr, A Hoggood and L Marshall retired to deliberate in private whether to adjourn the review hearing in the absence of the Licence Holder.

After re-convening, the Chair delivered the Sub-Committee's decision that they would hear the review case in the absence of the Licence Holder.

The Council's Solicitor outlined the procedure for the hearing.

The Sub-Committee considered the report of the Corporate Director of Neighbourhoods and Climate Change regarding an application for the Review of a Premises Licence in respect of News and Booze, 1 Catherine Terrace, New Kyo, Stanley (for copy of report, see file of minutes).

A copy of the application and location plan had been circulated together with details of representations received.

The Licensing Team Leader was in attendance to present the report and outlined the recommendations contained in the report. Members were advised that the hearing could not be scheduled within the required 20 working days due to the Covid 19 crisis.

Councillor Carr sought clarification if the current Designated Premises Supervisor (DPS) was the same person who was in temporary charge.

The Licensing Team Leader responded that Mr Medhi was the current Licence Holder and DPS.

Mrs Anderson on behalf of the Applicant was invited to present her report and indicated that as outlined earlier the premises had previously being reviewed and additional conditions were added to the licence following an appeal hearing in November 2019.

At that time it was determined that the Licence should be transferred to Mr Medhi as the Premises Licence Holder and DPS and that he oversaw the running of the premises, so that the previous licence holder's wife could be compliant with the licence conditions, but the previous licence holder's wife would have the day to day running of the premises.

An inspection of the premises was carried out on 31 January 2020 by licensing and trading standards. Initially staff telephoned for the previous licence holder's wife to attend the premises to assist with the inspection who they referred to as 'Boss'. They found that the previous licence summary was still on display along with authorisation by the former Licence Holder and DPS. When the previous licence holder's wife was advised that the new Licence was not displayed on the premises she said that she would go home to get the new licence that had arrived that day from the solicitors, this was 12 weeks after the initial hearing and the licence had been sent out shortly after the appeal hearing.

It was unclear why the licence holder had not been sent the licence and the fact that if had been sent to the previous licence holder's wife home address suggested that she was the person with overall charge of the premises. Issues were raised whether the Licence Holder and DPS had any control of the business on a day to day basis, the previous licence holder's wife had stated that he did attend the premises two to three times a week.

Officers then started to go through the conditions on the licence and checked the weekly CCTV log, but this appeared to be the refusal register and the previous licence holder's wife had no idea what the CCTV log was supposed to record. When asked about the refusal register, she indicated that if you look at the CCTV footage you could see the refusals. This indicated that the system had not been checked on a weekly basis as required by the condition of the licence. The incident book was not completed, the previous licence holder's wife had indicated during the inspection that she kept some training records at home, due to a break in at the premises in January 2020, however this was not recorded in the incident log and when asked about this she indicated that it had slipped her mind.

The training records were incomplete and one of the conditions of the licence was that training records were kept. There was no record of any training or proxy sales or sales to intoxicated people, there was one training certificate for the previous licence holder's wife dated 10 April 2019, but this was not signed by her and other records were not signed by the DPS or the Licence Holder.

The right to work documentation was incomplete and this was a condition included in the licence due to previous immigration issues. There was no documentation for one of the members of staff that was at the premises,

there was just a typed sheet with her name and national insurance number, and they were advised that she did not have a passport or National Insurance card. There was also no right to work documentation for the previous licence holder's wife who was working at the shop.

There was no fire risk assessment and no poster displayed which again was part of the licensing conditions. The electronic point of sales was checked and a number of bottles of alcohol did not bring up a prompt about the age limit sale, the conditions on the licence stated that this had to work for all age restricted sales and the prompt did not work at all for cigarettes and scratch cards. The manual refusal register was not signed by a member of staff and the DPS or Licence Holder on a monthly basis in compliance with the licensing condition.

Following the inspection, a letter was sent to the previous licence holder's wife and the Licence Holder detailing their findings. A further visit was made to the premises on the 17 February 2020 where the previous licence holder's wife was telephoned by the staff at the premises, but she had indicated that she was unable to attend as she was at Hospital with her child.

Despite advising the previous licence holder's wife on the last inspection of what needed to be displayed the licence was still displayed incorrectly, the CCTV was displaying the wrong time, the CCTV log had been signed on the 5 and 10 February 2020 but no mention was made of the time been incorrect. The incident book was produced but there were no entries, but they did find a form in a separate file which did log an incident but staff were unaware of the incident logging procedure.

Training had been undertaken on the 5 February 2020, but no training records could be found for one of the members of staff who they were advised had attended the training. The right to work documentation had still not been updated and the fire risk assessment had been carried out and was in the training file.

A poster was displayed at the back of the till advising that alcohol would not be sold to someone who appeared under the influence of alcohol but there was no poster displayed in relation to under the influence of drugs.

The electronic point of sale system was still not working for all alcohol products and all age-related products. The refusals register was being used more frequently but was not signed off monthly by the DPS or Licence Holder but was signed off by the previous licence holder's wife. When staff were asked how often Mr Medhi attended the premises, one member of staff asked who he was, bearing in mind that they had been advised that he attended the premises two to three times a week.

Trading standards carried out a test purchase on the 27 February 2020, but this refusal had not been logged into the refusals register.

The Licensing Authority had concerns about the premises and how they were being run, bearing in mind they had already been through a review process. They appealed that decision and were granted the licence with additional conditions but they didn't appear to be compliant with those conditions and there appeared to be a great lack of understanding about the conditions and the licence and as such the Licensing Authority had great concerns about the management of the premises.

Councillor Carr asked if the previous licence holder's wife had been advised to apply for a DPS for herself or advised to undertake some training to assist her running the premises.

The Licensing Enforcement officer responded that she holds a personal licence but there was an ongoing prosecution for selling alcohol outside of the licencing hours in July 2019.

Councillor Maitland asked if the members of staff who had no right to work documentation at the first visit, if they were still working at the premises at the second visit.

The Licensing Enforcement Officer responded that this was part of the previous review. The member of staff with no national insurance or passport the documentation had still not being produced but they believed that she did have the right to work in the premises.

Mr Blount on behalf of Trading Standards was then invited to address the Sub-Committee and indicated that he had gone through the policy documents that had been provided and there were a number of errors in the documents. He suspected that the previous licence holder's wife and the current Licence Holder had not read the documents as they would have picked up the errors such as reference to Cleveland Constabulary rather than Durham Constabulary.

The documents also did not refer to electronic cigarettes which had been a legislative product for well over 18 months and should have been picked up when the policy was put in place following the last review. The photo ID scheme was also out of date, again in place for nearly two years. Some of the policies had not been signed by the current premises licence holder.

The lack of following anything requested despite it been laid out for them gave him great concerns and they were not paying attention to what was being required.

Trading Standards had carried out a test purchase and nothing had been recorded in the register or the previous or following week, so if they were refusing, they were not recording this in the register. They had indicated that staff were trained or reminded every week about underage sales, but they were not following it.

He had great concerns, despite that they had been through the review process less than six months ago and were back to what they were doing before the previous review and it seemed to be a recurring problem.

Councillor Carr asked who was providing the training and were there Solicitors for the previous review involved in this review.

The Trading Standards Officer advised that he had no contact with their solicitors and that TJR Consulting produced the original policies and the training records suggested that TJR Consulting had carried out the initial training but all other training had been carried out by the previous licence holder's wife, which again indicated that she was running the premises as opposed to the premises licence holder.

The Licensing Team Leader confirmed that the premises licence was sent to their solicitors on the 7 November 2019, who were the correspondence address.

The Chair thanked everyone for their attendance and that herself and Councillors Carr and Hopgood would retire to deliberate the application in private and all parties would be notified of their decision later today.

At 10.25 am the Sub-Committee **Resolved** to retire to deliberate the application in Private.

In reaching their decision the Sub-Committee considered the report of the Senior Licensing Officer, the verbal and written representations of 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 Premises Licence be revoked.