

DURHAM COUNTY COUNCIL

At a meeting of the **Statutory Licensing Sub-Committee** held in the **Council Chamber, County Hall, Durham** on **Tuesday 17 October 2023** at **9.30 am**

Present:

Councillor L Mavin (Chair)

Members of the Sub-Committee:

Councillors C Bihari and L Brown

Also Present:

H Johnson – Licensing Team Leader

S Grigor – Council's Solicitor

T Johnson – Local Weights & Measures Authority - Applicant

S Ravichandran – Premises Licence Holder

M Foster, Mincoffs Solicitors – Solicitor for the Premises Licence Holder

D Craig, St Philip's Chambers – Barrister for the Premises Licence Holder

T Robson – Licensing Consultant

D Welsh – Fire Safety Officer, Fire Safety Authority

F Mawson – Public Health Practitioner, Public Health Authority

I Dargue – Senior Licensing Enforcement Officer, Licensing Enforcement

Councillor A Reed (Other Person)

A Ravi (Other Person)

U Arumugam (Other Person)

D Hull - Local Weights & Measures Authority (Observer)

K Crane - Local Weights & Measures Authority (Observer)

1 Apologies

Apologies for absence were received from Councillor E Waldock.

2 Substitute Members

There were no substitute members.

3 Declarations of Interest

There were no declarations of interest.

4 Minutes

The minutes of the meeting held on 4 July 2023 were agreed as a correct record and signed by the Chair.

Prior to the consideration of the reports, the Chair informed the parties that as the Premises Licence Holder, Mr Ravichandran, was the licence holder for all three premises under consideration, agenda items 5, 6 and 7 would be considered together.

5 Applications for the Review of a Premises Licences at: Local Store, 1-3 East Bridge Street, Crook, Premier Store, 122 Cockton Hill Road, Bishop Auckland, Your Local Store, 81A High Street, Tow Law

The Sub-Committee considered the reports of the Corporate Director of Neighbourhoods and Climate Change regarding applications for the review of Premises Licences in respect of Local Store, 1-3 East Bridge Street Crook; Premier Store, 122 Cockton Hill Road, Bishop Auckland and Your Local Store, 81A High Street, Tow Law (for copies of reports see file of minutes).

The Licensing Team Leader, Ms H Johnson, explained that the applications for the reviews were received from the Local Weights and Measures Authority on 27 July 2023, to address issues relating to the protection of children from harm in respect of Local Store and the prevention of crime and disorder and the protection of children from harm in respect of Premier Store and Your Local Store. The reviews had been scheduled for hearing on 19 September 2023, however the hearing was adjourned in order for the Licence Holder to appoint a legal representative.

During the consultation, a number of representations were received in support of the reviews. These included representations from Durham Safeguarding Children Partnership in support of all three review applications and representations from Durham Public Health Authority in support of the reviews in respect of Local Store and Your Local Store. Licensing Enforcement submitted a representation in support of the review of Your Local Store and Fire Safety submitted a representation in support of the review of Premier Store. Councillor A Reed, Local Member for the Crook division, submitted a representation in support of the Licence Holder.

The Licensing Team Leader highlighted additional documents submitted, in particular the bundle of supplementary information on behalf of the Licence Holder, which included proposed conditions. Supplementary information had also been received from the Fire Authority in respect of Premier Store and Licensing Enforcement in respect of Your Local Store.

Updating the Sub-Committee, the Licensing Team Leader stated that the Licence Holder had removed himself as the Designated Premises Supervisor at all five of his premises and new Designated Premises Supervisors were now in place.

Concluding her presentation, the Licensing Team Leader outlined the options available to the Sub-Committee.

The Chair invited questions.

In response to a question from S Grigor, the Council's Solicitor, the Licensing Team Leader clarified that, on 16 October, several emails were received from Other Persons, who were not in attendance at the hearing, in respect of the Premier Store, in which they disputed information contained in the Licence Holder's statement within the supplemental bundle. In addition, a further email had been received from an Other Person, in relation to Premier Store, who clarified that she disagreed with the Licence Holder's statement and she reiterated that her main concerns were anti-social behaviour and how that was being managed.

In response to a question from Councillor Brown, the Licensing Team Leader confirmed that no representations had been received from the Police or Environmental Health with regard to the review applications.

On behalf of the Applicant, Ms T Johnson of the Local Weights & Measures Authority, referred to the review of the Local Store at Crook and explained the review application was submitted on the grounds of the protection of children from harm. Several intelligence logs had been received relating to alleged underage sales of illegal vapes from the premises. A test purchase carried out in March 2023 saw a part time sales assistant sell an electronic cigarette, which should not have been supplied to a person under the age of 18, to a 15 year old volunteer. The service had concerns that the employee who made the sale had worked at the premises for approximately 1 year and, whilst they claimed to have been trained, there was little evidence produced by the employee or the Licence Holder in relation to training in respect of age restricted products. An interview with the Licence Holder found that he was working long hours and there was a lack of management due to the fact that he was managing multiple premises. Therefore, the service had concerns regarding the Licence Holder's ability to run and manage the premises and positively promote the licensing objectives.

In relation to the Premier Store, Bishop Auckland, Ms T Johnson explained the Weights and Measures Authority submitted the review application on the grounds of the prevention of crime and disorder and the protection of children from harm. On two occasions the authority seized non-compliant electronic cigarettes from the premises.

Advice had been provided to the Licence Holder in 2022 and again in July 2023. The Licence Holder was Designated Premises Supervisor at all five of his premises and it was considered that he was not able to effectively manage and run the premises and, positively promote the licensing objectives. In addition, staff training appeared to be lacking and the Licence Holder was unable to provide evidence that training had been carried out effectively.

Ms T Johnson stated that in relation to Your Local Store, Tow Law, the Weights and Measures Authority submitted the review application on the grounds of the prevention of crime and disorder and the protection of children from harm. Illegal vapes had been found on the premises on 10 February 2023 and in light of the fact that the Licence Holder had previously been given advice by the service in relation to those products, it was felt that he should have been aware that those products were illegal. In addition, the last entry in the refusals register was dated 30 August 2016 and no training records were available for inspection. Therefore, the service had concerns regarding the Licence Holder's ability to manage and run the premises and promote the licensing objectives.

The Chair thanked the Applicant for the information and invited questions.

Councillor Brown referred to the intelligence logs received relating to alleged underage sales of illegal vapes and she asked if details were available as to when those sales occurred. Ms Johnson was unable to provide precise dates however she estimated they would have occurred between 2021 and 2023 and she confirmed that the test purchase occurred in March 2023.

Mr D Welsh, Business Fire Safety Officer, then provided representations on behalf of Fire Safety in respect of the Premier Store. He explained that investigations identified deficiencies in the building and a visit was undertaken to the premises in August 2023 to discuss the letters sent to the Licence Holder from the Fire Safety Section. The Licence Holder was asked to take a full review of the fire risk assessment. Mr Welsh commented on the Licence Holder's willingness to work with the authority to complete all the actions required of him. Mr Welsh also confirmed that the Premier Store had reached an acceptable standard and that only two minor issues remained outstanding. He was pleased to report that the Licence Holder now fully understood the importance of having an up-to-date fire risk assessment.

Senior Licensing Enforcement Officer, I Dargue, outlined that an initial inspection of Your Local Store was undertaken on 19 May 2023 which found several breaches of the licence including that no training records were available, fire exits were not clearly marked and first aid equipment was inadequate.

There was no evidence that members of staff had been trained to operate the CCTV system and the member of staff present, when the visit took place, was unable to access the CCTV. The Licence Holder was therefore sent a letter on 31 May 2023 highlighting the issues and a follow-up visit made in August found that none of the issues had been addressed. The Licence Holder stated he had not received the letter which was sent to his address at 1-3 East Bridge Street.

A further visit on 13 October found most of the issues had been addressed with the majority of staff being trained in the use of the CCTV equipment. However, the licence conditions state that all members of staff should be trained and the member of staff present at that visit was, again, unable to access the CCTV.

Ms Mawson, Public Health Practitioner, outlined the Public Health Authority's support for the reviews as the evidence raised concerns regarding the protection of children from harm with the sale of vapes to children. Ms Mawson highlighted that vaping carries risks therefore underage sales were in place to protect under 18s from using nicotine products, including vapes and tobacco and licensees were therefore recommended to implement Challenge 25 policies for age restricted products.

Councillor A Reed, Local Member for Crook division spoke in support of the Licence Holder, known locally as Ravi, whom she had known for a number of years. Councillor Reed paid testament to the Licence Holder's good character and stated that he was a valued member of the community. She informed the Sub-Committee that the Licence Holder had gone above and beyond when he had been asked to assist the community during the pandemic, donating ingredients and supplying meals. When he was asked if he could donate some Easter eggs to the local primary school, he ensured he donated enough eggs for every child. Furthermore, when the local post office was threatened with closure, he took over the franchise and plans to move the post office to a more accessible location. He also provides a mobile post office to serve the surrounding villages. Councillor Reed concluded by commenting on how proud the local community is of the Licence Holder.

No questions were raised in respect of the representations.

Representing the Licence Holder, Barrister, Mr D Craig, then provided submissions. The Barrister explained that he had travelled to the county the previous evening and he had visited four of the premises held by the Licence Holder, including the two premises in Crook and the premises in Bishop Auckland and Tow Law, finding them all to be well run, clean and well maintained, with good staff.

Observing the Licence Holder's interactions with his staff and customers, the Barrister echoed Councillor Reed's comments, that the Licence Holder is clearly very much a part of the community and he is well regarded by staff and customers, being on first-name terms with many of his customers.

The Barrister pointed out that the sale of vapes had become an increasingly common problem within the trade which was leading many Licence Holders to review their practices.

He requested the Sub-Committee to note that the Licence Holder had successfully grown his business, however, he now recognised that with five premises, it was time for him to hand over the reins and delegate some of the day-to-day responsibility for running the premises. As such, he had removed himself as Designated Premises Supervisor and new supervisors were now in place in all five of the premises.

The Barrister referred to the licensing conditions which were somewhat outdated and he pointed out that the review provided the opportunity to bring the licences up-to-date.

The Barrister drew attention to the apology letter from the member of staff who had made the underage sale during the test purchase at the Local Store. He commented that, having met the member of staff, he was heartened that the Licence Holder had not dismissed him as it was clear that he was a good member of staff who had made a genuine mistake. Instead the Licence Holder worked with the employee to ensure the mistake would not happen again.

The Barrister requested the Sub-Committee to consider the removal of the non-mandatory conditions on the existing licences and replace the conditions with the proposed, agreed conditions, as set out at page 78 of the supplemental bundle, thereby providing consistency of conditions across all the premises.

Referring to the Premier Store, the Licence Holder's Barrister referred to representations made by the Other Persons who were not in attendance at the meeting and he stated that it was inappropriate for him to expand on the matters in their absence. Referring to page 75 of the agenda pack, he acknowledged that school children congregated at the front of the premises, however, there were other stores in the vicinity which may contribute to the issues.

The Barrister commented that the core issues were the issues that led to the review applications and he requested the Sub-Committee to note that the Licence Holder accepted responsibility and he had taken positive steps to address the issues, which included removing himself as the Designated Premises Supervisor and working with the responsible authorities.

As an agreed position on the conditions had been reached, the Barrister for the Licence Holder invited the Sub-Committee to add the proposed conditions to the licences, which would then come into effect in 21 days, providing the Licence Holder with sufficient time to ensure all the premises were compliant.

Mr Robson, Licensing Consultant, explained the training he had undertaken with the Licence Holder's employees. This comprised of implementing a Challenge 25 policy across the five premises.

The Licensing Consultant referred to the refusals register which had not been completed since 2016 and commented that as it was unlikely that there had been no refusals within that period, a challenge sheet had been implemented, to be completed when a challenge took place. With regard to the sale of vapes, there was an expectation that in the future, any individual appearing under 25 would be tested and asked for identification, even if the vape did not contain nicotine. The Licensing Consultant confirmed that he had trained the staff on the signs of fake identification; how to identify proxy sales and safeguarding, including the police definition of drunkenness. He concluded by confirming that he was satisfied that all staff were competent to a required standard to understand the age verification policy which included, for public perception purposes, zero-alcohol products. He added that he had been surprised that the staff member at the Local Store had made the underage sale and he confirmed the employee displayed a high level of competence at the training and that he was confident the employee had learnt from the mistake.

Questions were then invited.

Councillor Brown asked what CCTV training had been undertaken by staff. The Licensing Consultant explained that CCTV training was outside of his remit and that it was the responsibility of the Licence Holder and installer to ensure training was carried out.

In response to a question from the Sub-Committee regarding refresher training, the Licensing Consultant confirmed that he would be happy to undertake refresher training with the team as and when required.

Councillor Brown referred to the hearing for the granting of the premises licence in relation to the Premier Store which had been contentious and it had resulted in additional conditions being imposed. She recalled one of the additional conditions was for a litter bin to be provided outside the premises and she added that it was not clear from the photographs provided in the papers, whether a litter bin was in place. The Licence Holder confirmed that a litter bin was in place. Councillor Brown also observed from the photographs that those congregating outside the premises were not school children, they were teenagers.

The Barrister pointed out that whilst a number of persons made representations at the original hearing for the granting of the premises licence at the Premier Store, it should be noted that many of those had chosen not to make representations at the review hearing.

In response to a question from Councillor Brown as to how the vapes from the Local Store at Crook came to be at Your Local Store at Tow Law, as referred to in page 5 of the supplemental bundle, the Licence Holder explained that the vapes had been taken to Tow Law, for storage.

For clarification, the Licencing Team Leader explained that the conditions for Premier Store were contained in Annex 3 and the proposal was to replace the conditions at Annex 2 with the proposed conditions therefore the conditions at Annex 3 would remain in place.

In response to a question from the Chair as to whether all employees had been trained, including the new Designated Premises Supervisors, the Licensing Consultant responded five members of staff remained to be trained, four of whom were employed in the post office and one member of staff with a personal licence also remained to be trained.

There were no further submissions from the parties.

After all parties were given the opportunity to sum up, at approximately 10.30am the Sub-Committee resolved to retire in private to deliberate.

The Sub-Committee reconvened at approximately 10.50am. In reaching their decision, the Sub-Committee took into account the report of the Licensing Team Leader, the supplementary information provided on behalf of the Licence Holder, the additional email representations from the responsible authorities, the emails from the Other Persons and the representations made at the hearing. Members also other considered Durham County Council's Statement of Licensing Policy and Guidance issued Under Section 182 of the Licensing Act 2003.

The Sub-Committee **RESOLVED**, to add the ten conditions set out in Appendix 2 at page 78 of the supplemental bundle and two further conditions as below, to all three premises licences:

- Persons who may gather outside the premises and cause any nuisance will be asked to move away from the premises immediately.
- Litter bins will be provided outside the premises and the Licence Holder will be required to keep the immediate vicinity of the premises free from any litter.