

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, County Hall, Durham on **Tuesday 2 July 2024 at 1.30 pm**

Present:

Councillor C Hampson (Chair)

Members of the Committee:

Councillors J Blakey and J Griffiths

Also Present:

H Johnson – Licensing Team Leader

G Proud - Lawyer (Litigation)

T Johnson – Community Safety Manager, Local Weights and Measures Authority

PC A Newcombe – Durham Constabulary

PCSO B Donnelley – Durham Constabulary

F Mawson – Public Health Practitioner, Durham Public Health Authority

L Bywater – Partnership Improving Practice Manager, Durham Safeguarding Children Partnership

N Anderson – Senior Licensing Enforcement Officer

P Walker – Senior Consumer Safety Officer

C Gibson – Consumer Protection Officer

T Maratty – Administrative Officer

Mr G Gopalakirushnan – Premises Licence Holder

Ms V Gopalakirushnan – Daughter of the Premises Licence Holder

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 2 May 2024 and 21 May 2024 were agreed as correct records and signed by the Chair.

5 Application for the Review of a Premises Licence - Jamuna Convenience Store, 28 Fines Road, Consett

The Sub-Committee received a report of the Corporate Director of Neighbourhoods and Climate Change which requested the consideration of an application to review the premises licence in respect of Jamuna Convenience Store, 28 Fines Road, Consett, County Durham, DH8 6QS (for copy of report, see file of minutes).

The Licensing Team Leader informed the Committee that the application for the review of the premises licence had been submitted by T Johnson from the Local Weights and Measures Authority on 9 May 2024 as an underage sale of alcohol had been made. Additional information was submitted on 14 June 2024 from the Local Weights and Measures Authority to support the application and further information was submitted on 17 June 2024 by Mr G Gopalakirushnan in response to the review application. Within the report there were plans that showed the location of the premises and good images of the shop. The premises had a licence to sell alcohol from 6am until 11.30pm. During the consultation period, the Licensing Authority received four responses in support of the review application from Durham Public Health, Durham Safeguarding Children Partnership, Durham Licensing Enforcement Team and Durham Constabulary. No responses were received from The Home Office Immigration Enforcement Team, the Fire Safety Authority and the Planning Department. She explained the options available to the Sub-Committee that were detailed in the report. No questions were raised in relation to the Licensing Team Leader report.

The Community Safety Manager (Applicant) addressed the Sub-Committee stating that she had applied for a review of the premises licence following a report from an irate parent that the shop had sold alcohol to her underage daughter who was only 13 years old, who had become extremely ill and required hospital treatment. A statement had been received from the parent stating that this had not been the first time that the shop had sold alcohol to her daughter who had travelled from Consett to Medomsley to do it. She stated that there was CCTV footage from which the child was formerly identified by her parent buying 4 cans of dragon soop and 4 cans of vodka that had cost approximately £20. The Sub-Committee were given an example can of dragon soop and can of vodka to illustrate what the child had bought. The products contained 7.5% alcohol by volume (ABV), caffeine and carried a warning that it was not suitable for children, pregnant women or persons sensitive to caffeine. The child stated that the shop assistant had asked for ID but even though she had none to show he still made the underage sale. There were concerns that the Licence Holder and Designated Premises Supervisor did not know that they were responsible for every sale of alcohol in the shop as per the licensing conditions.

There were also concerns over the management of the premises and the protection of children from harm. The Sub-Committee were shown CCTV footage taken from the shop that showed the child in question accompanied by two other children of a similar age enter the shop, purchase alcohol then leave the shop with the items. The footage presented the shop assistant accepting the sale and not challenging any of the three girls or if they were challenged there was no footage of ID being shown through the hatch for the cashier to confirm they were of age. No questions were raised in relation to the Community Safety Manager's report.

PC A Newcombe addressed the Sub-Committee in support of the review. Durham Constabulary had no confidence in the Designated Premises Supervisor who should have day to day control of the premises which did not appear to be the case as he had rarely been at the premises. This was evident as there were no staff training records and it appeared no training had been performed for a long time. It was unclear what training had been given as there was no record of it. He found it hard to believe that there were no entries recorded on the refusal register which should have regular entries. The Designated Premises Supervisor was the first line of defence in the sale of alcohol. It emerged that profit came before the licensing objectives and it seemed the shop was known as a place for young people to be served with alcohol without ID. Failing to adhere to the licencing objectives was all down to the Designated Premises Supervisor as he had not provided the shop assistant with the relevant training in the prevention of underage sales of alcohol. No questions were raised in relation to the report.

The Public Health Practitioner addressed the Sub-Committee also in support of the review as she was concerned regarding the protection of children from harm. She advised that young people's brains were still developing and did not fully develop until they were in their mid-twenties. Children were smaller than adults and therefore alcohol affected them more quickly. Alcohol poisoned the system causing risky and impulsive behaviour. The licensing objectives had been compromised around the use of age policies and challenge 25 had not been implemented. Information and advice was available on 'What's the Harm' campaign that was aimed at parents and families that focused on the risks of alcohol during childhood. There was no indication on information held on the refusal register and it was down to the Designated Premises Supervisor to ensure that he trained staff to know the evidence of that. No questions were raised in relation to the report.

The Partnership Improving Practice Manager concurred with everything that had been said. There were significant concerns regarding child safety as it appeared challenge 25 was not being followed and this had an impact on children. No questions were raised.

The Senior Licensing Enforcement Officer supported the review due to concerns with the licensing objectives not being upheld. An inspection had been carried out following the submission of the review and it was found that there was a lack of understanding of the licence and what was required from it. The summary of the licence was not on display. The Manager did not understand what a proxy sale was and had stated that if parents bought alcohol for their children it was their fault. The refusal register was blank and there were no training records and those in the shop had not been completed correctly nor signed. Upon a follow up inspection a new shop assistant had been left on his own, his English was not good and he was unaware if he had received any training and just pointed to the challenge 25 sign. He stated that his boss would return any moment. The following day the Licensing Enforcement Team had received a phone call from a man claiming to be the manager who claimed he had been in the process of training the new shop assistant and he was only there to stock shelves but this had raised concerns as the shop assistant had been the only one in the shop during the inspection. There were concerns that the licensing objectives were not being adhered to. There appeared to be issues between the manager and the employers which was detrimental to the running of the shop. There were no questions raised to the Senior Licensing Enforcement Officer's report.

Ms V Gopalakirushnan, daughter of the Premises Licence Holder spoke on behalf of her father. She stated that her father gave thanks for the opportunity to address the Sub-Committee and acknowledged the gravity of the seriousness of the underage sale that had breached the licence condition, the failure to follow challenge 25 and actively update the refusal register. Following the incident Ms V Gopalakirushnan verified that her father had implemented several steps to avoid the incident from happening again.

- Staff Training – Her father had ensured that all staff were fully trained to carry out ID checks and to follow challenge 25. He had installed software onto the till to provide a reminder to staff to check ID when customers bought age related items. A date also came up on the system to alert staff as to the latest date a person was born to be 18 years old.
- Training Records - All training records were now up to date and staff were fully aware of their responsibilities to complete the refusal register and ensure it was updated regularly.
- Staff Change – Her father had implemented a staff change and the member of staff that had made the underage sale was no longer working at the premises. All new members of staff had been trained and reminded of challenge 25.

Ms V Gopalakirushnan acknowledged that Officers had a lack of confidence in her father as the Designated Premises Supervisor he was aware that he had not been around much due to a knee injury that had taken place in 2022 that had left him bed bound.

Ms V Gopalakirushnan confirmed that her father's brother-in-law had taken over the responsibility of the premises in his absence but her father was now in the shop more often. He understood the issues and had put measures in place for the incident never to happen again. He regretted that it had happened as it had breached the trust of the community. He would take safety to the highest regard moving forward.

The Community Safety Manager queried if Mr G Gopalakirushnan recorded any challenges in the sale of alcohol in any other way besides the refusal register. She enquired if the till produced a report that showed how many times staff said yes or no to ID being checked.

Ms V Gopalakirushnan responded on behalf of her father that the shop only recorded challenges with ID on the refusals register to prevent underage sales and that the till did not produce any reports.

The Community Safety Manager questioned who hired staff and had the responsibility for them, as the shop assistant who had initiated the underage sale had not met her father as the Licence Holder/Designated Premises Supervisor.

Ms V Gopalakirushnan replied that the brother-in-law who was the manager had the responsibility of hiring staff.

The Community Safety Manager asked if the brother-in-law still had the responsibility of hiring staff to which Ms V Gopalakirushnan replied that he did.

The Community Safety Manager referred to staff training and queried who had carried out training and when had the training taken place.

Ms V Gopalakirushnan answered that before the incident the brother-in-law had carried out all staff training however following the incident her father now had that responsibility to train all new staff. He provided training before new staff started and then checked to see if they were still comprehensible on what had been taught.

The Community Safety Manager stated that if sufficient staff training had taken place, it was important that staff understood what they had done in the training. She asked how the licence holder knew if staff had understood everything.

Ms V Gopalakirushnan indicated that her father carried out the training in the language that the staff spoke to enforce their understanding of things.

The Community Safety Manager referred to the Licence Holder/Designated Premises Supervisor not attending the premises much between 2022 and 2024 due to the knee injury. She asked how often he visited the premises now and how long did he spend whilst in attendance.

Ms V Gopalakirushnan confirmed that her father attended the premises every few days, two to three times per week for a few hours.

The Community Safety Manager asked if the brother-in-law had or held a licence.

Ms V Gopalakirushnan verified that the brother-in-law had held a licence but it was unclear if it was still valid.

The Community Safety Manager verified that the member of staff who had made the underage sale had now left the premises. There was a reliance on two training records within the report to convince the Sub-Committee that training had taken place but the documentation had not been completed correctly therefore it was doubtful that any training had taken place before or after the incident.

Ms V Gopalakirushnan explained that her father had went to the training however the standard may not have been great.

The Community Safety Manager referred to the refusal register from 2007 within the report that had no entries and asked why that was.

Ms V Gopalakirushnan clarified that her father had only held the licence since 2019. He had a refusal register in place that would be kept up to date.

The Community Safety Manager consulted the uncompleted training records again as it appeared that Mr G Gopalakirushnan had signed the documentation on 3 August 2023 and queried how that was possible if he had been bed ridden since 2022 and not been present at the premises.

Ms V Gopalakirushnan confirmed that her father had visited the premises on occasion but not as regularly as he should.

PCSO B Donnelly asked what ID was accepted at the premises to show proof of age and queried if the Licence Holder knew how to check if an ID was fake and if he had received training on how to check.

Ms V Gopalakirushnan stated that driving licences and passports were accepted as forms of ID. She noted that her father had not received any training on how to spot fake ID and he checked the reflection in the light which he thought was an indication as to whether an ID was fake or real.

PCSO B Donnelly declared that reflections showed in the light on fake IDs as well as real ones. He informed the Sub-Committee that training was available on how to spot fake ID. He gave some tips on how to check that included checking the top line, information near the photograph and the licence category that would be raised on a genuine driving licence and smooth on a fake. Fake driving licences had fake holograms, incorrect flag images and DLA as opposed to DVLA on the real licence. He mentioned that some siblings used driving licences that did not belong to them so by asking questions in relation to when they passed their tests could be made as this information was listed as item 10 on the licence. He asked how many entries had been recorded on the refusal list since the incident.

Ms V Gopalakirushnan replied that she was unsure but she thought it was empty.

The Public Health Practitioner noted that there was a requirement for a competent person to carry out training to give the right information that was available in different languages if language was a barrier.

Councillor J Blakey verified that the child was 13 years old and had no ID.

PCSO B Donnelly declared that children could obtain fake IDs that were readily available from unsuitable websites at a cost of £30 or £70 for a good one. He advised that in two years there had been 70 to 80 fake licences seized with only two to three being returned as genuine.

Councillor J Griffiths requested clarification if the manager had a licence and if there was a mile radius as to where a licence holder could be.

Ms V Gopalakirushnan answered that he used to have a licence.

The Licensing Team Leader confirmed that the Manager had not had a premises licence but held a personal licence that had not expired. Revised guidance under Section 182 of the Licensing Act 2003 stated that a Designated Premises Supervisor must hold a personal licence and should have the day to day control of the premises.

She advised that if Mr G Gopalakirushnan had been injured and required time off to recover he should have requested that the licence be taken from him and have the Manager apply for the licence. If this had been determined to be long term then advice would have been offered to also change the Designated Premises Supervisor.

The Senior Licensing Enforcement Officer stated that upon the inspection visit the Manager who was on the premises had not known what a proxy sale was.

Ms V Gopalakirushnan confirmed that the signature on the training record was that of her fathers but they were for two separate members of staff.

Upon summing up the Community Safety Manager expressed concerns regarding the clear failure of management that had not adhered to the conditions of the licence. She added that there could be no additional conditions added to the licence to be robust enough to prevent underage sales and considered Mr G Gopalakirushnan in fact responsible for the sale as he held the role of Licence Holder and Designated Premises Supervisor.

Ms V Gopalakirushnan summed up on behalf of her father that he was well aware of the seriousness of the incident. He had since trained all staff, updated staff training records, pushed the refusal register to be completed and had a change of staff. She reassured the Sub-Committee that it would not happen again and her father agreed to be more present in the premises as the Designated Premises Supervisor.

At 2.28 pm the Sub-Committee **Resolved** to retire to deliberate the application in private. After re-convening at 2.55 pm the Chair delivered the Sub-Committee's decision.

In reaching their decision the Sub-Committee had considered the summary review application by Durham Local Weights and Measures Authority (Responsible Authority), verbal representations from Durham Public Health Authority, Durham Safeguarding Children Partnership, the Senior Licensing Enforcement Officer and Ms V Gopalakirushnan on behalf of the Premises Licence Holder and viewed CCTV footage. Members also considered Durham County Council's Statement of Licensing Policy, the Revised Guidance issued under Section 182 of the Licensing Act 2003 (as amended August 2023) and the interim steps available to them.

Resolved:

- i) That the licence be revoked.
- ii) That the Designated Premises Supervisor be removed.