

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Committee Room 2, County Hall, Durham on **Tuesday 4 October 2016 at 10.00 am**

Present:

Councillor C Carr (Chairman)

Members of the Committee:

Councillors B Graham and P May

Also Present:

Councillor O Gunn

Councillor C Hampson

Y Raine – Licensing Team Leader

S Grigor – Legal Officer

C Cooper – Local Weights and Measures Authority

Mrs Holmes – applicant, Crook Cricket Club

Mr G Sundaralingham – Licence Holder, Deneburn Stores

Mr M Davies – Licence Holder's Solicitor, Deneburn Stores

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 the Grant of a Premises Licence - Crook Town Cricket Club, Dawson Street, Crook

Consideration was given to the report of the Senior Licensing Officer regarding an application for the grant of a Premises Licence in respect of Crook Town Cricket Club, Dawson Street, Crook (for copy see file of Minutes).

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

In presenting the report the Senior Licensing Officer explained that 'other person' Mr Craggs who had made representation in relation to the application was not in

attendance, and no other representations had been received from any other parties.

Mrs G Holmes, the Treasurer of the Cricket Club addressed the Sub-Committee. She explained that the Club already had a Club Premises Certificate and was now applying for a Premises Licence to extend the sale of alcohol to non-members. The Cricket Club was a community organisation and wanted the opportunity to hold more functions to ensure its survival. The Club had used TENs in the past but these were no longer enough to cover the number of events the Club wished to hold. All the profit from events was used to develop the Cricket Club. The Club was managed by volunteers who did not want to run the premises as a public house.

Mrs Holmes responded to a number of questions. She explained that drinking up time was not included in the application but confirmed that she would be happy for 20 minutes to be added to the Premises Licence. With regard to New Year, Members were informed that the premises did not open on New Year's Day and the times requested mirrored the Club Premises Certificate.

With regard to live music Mrs Holmes advised that live bands usually finished by no later than 11pm, and sometimes by the earlier time of 10.30pm. The premises opened at 9am on match days.

Following a request for clarification about access Mrs Holmes explained that vehicles used an access between 31 and 32 Dawson Street and there was a car park at the front of the pavilion for around 10 cars. Members noted that a public house was located at the corner of Emerson Street nearby and asked about its opening hours. Following enquiry by the Senior Licensing Officer, Members were informed that the public house was licensed to sell alcohol until midnight Monday to Thursday, until 1.00am Friday, and until 1.30am Saturday.

The Senior Licensing Officer was asked by the Chairman to make enquiry about the DPS and whether he was fully qualified to be able to train staff. Members were informed of the name of the DPS and that he held a Personal Licence.

The Chairman emphasised to Mrs Holmes the importance of maintaining an incident/refusal register, the use of plastic glasses and the responsible disposal of glass bottles to protect local residents from noise late at night. Mrs Holmes confirmed that plastic glasses were already used and that glass bottles were disposed of the morning after an event.

Councillor May wished to establish if there would be any disturbance to residents when alcohol was consumed outside the premises on match days, particularly during the evening, and asked how close residential properties were located to the areas of the ground from which spectators would view the cricket. Mrs Holmes explained that properties in Dawson Street overlooked the cricket field. There was no seating outside and spectators tended to watch the matches from inside the clubhouse. Most cricket matches ended between 7pm and 8pm, and there had been no other functions to date where people had consumed alcohol outside. She would be happy for a condition to be placed on the Premises Licence to address this.

Councillor Gunn acknowledged that the Club wanted to be sustainable. The Member referred to the limited car parking available and asked if this was made clear when an event was advertised to prevent parking in the streets that were used by residents. Mrs Holmes confirmed that when a match or event was advertised parking in the market place was encouraged.

In response to questions from Councillor Graham, Mrs Holmes explained that according to Fire Regulations the premises could hold a maximum of 120 but the Club allowed a maximum of 80 people seated. Signs were erected asking people to leave the premises quietly. There were no windows in the function hall and live music was played at the rear of the room which was the furthest point from residential properties. Bands brought their own speakers which were positioned at the rear of the hall. The hall was separated from the outside of the premises by double fire doors, a vestibule and the entrance door. Bands were asked to turn the music down if they were playing too loud.

Councillor Graham asked if the CCTV system and cameras were checked on a regular basis. Mrs Holmes confirmed that she carried out regular checks, and that cameras covered the entrances, areas of the field, the car park and the access past the Church.

In summing up Mrs Holmes advised that the Club wanted to work with the community and residents were always welcome to speak to staff if there were any concerns. The Police had not objected to the application and the Club had been granted a number of TENs without problem.

At 10.45am the Sub-Committee retired to deliberate the application in private. After re-convening at 11.05am the Chairman delivered the Sub-Committee's decision. In reaching their decision, the Sub-Committee had considered the report of the Senior Licensing Officer, the written representations of 'other person' Mr Craggs, and the verbal representations of Mrs Holmes, the Club's Treasurer. Members had also taken into account the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

Resolved:

(i) That the Premises Licence be granted as follows:-

Activities	Days and Hours
Sale of Alcohol (on sales only)	11.00-23.00 Monday to Sunday With twenty minutes added drinking up time 11.00-00.30 New Years Eve with twenty minutes drinking up time. New Years Day 11.00-23.00-with twenty minutes drinking up time
Live Music, Recorded Music, Performances of Dance, Entertainment of a Similar Description (indoors only)	09.00-22.45-Sunday to Friday 09.00-23.30 Saturday
Plays, Films, Indoor Sporting Events (indoors only)	09.00-22.45 Sunday to Friday 09.00-23.30-Saturday
Opening Hours	09.00-23.20hrs Sunday to Friday 09.00-00.05 Saturday New Years Eve 11.00-00.50 New Years Day 11.00-23.20

(ii) A further condition be imposed of a maximum of 90 persons in the cricket club with a ten vehicle capacity in the car park. There are to be no patrons of the premises congregated in the outside terraces after 9.00pm in the evening Monday to Sunday.

(iii) The following conditions to be added to the licence:-

- No serving of alcohol to any person who appears drunk.
- Full initial staff training to be carried out by DPS to ensure no alcohol is sold to anyone underage and refresher training to be carried out every six months.
- Training records to be kept/endorsed and made available to officers and responsible authorities when requested to do so.

- CCTV will be provided in the form of a recordable system capable of providing pictures/camera shall record all entrances and exits where the sale of alcohol occurs, staff will be trained in the use of CCTV including viewing and downloading of system and refresher training given, records will be kept all footage will be kept for at least 28 days.
- Fire Exits and Equipment will be clearly marked and there will be an awareness of health and safety requirements. First aid facilities will be available and an incident log will be kept at all times. Drinks to be taken outside will be in plastic glasses. Groups of people will be prevented from congregating outside the premises after 9.00pm Monday to Sunday. Signage will be displayed to encourage people to leave quietly. A rubbish bin will be placed outside of the front of the premises for use and will be emptied at the end of each shift.
- A Challenge 25 policy will operate in the premises. A refusal register will be kept and endorsed after every sale is refused. It should be produced to a relevant officer of the policy or other responsible authority upon request. This is also to include over 18's purchasing alcohol and passing it on to under 18's (proxy sale). There will be no 18-20 year old parties held on the premises whilst alcohol is available.
- Glass bottles will not be emptied into outside container until following morning.

5 Application for the Review of a Premises Licence - Deneburn Stores, 20 Deneburn Terrace, The Grove, Consett

Consideration was given to the report of the Senior Licensing Officer regarding an application for the review of a Premises Licence in respect of Deneburn Stores, 20 Deneburn Terrace, The Grove, Consett (for copy see file of Minutes).

A copy of the application and supporting documents had been circulated to the Sub-Committee, together with additional information submitted by the Licence Holder's Solicitor.

The Senior Licensing Officer informed Members that recent mediation had taken place and amendments to conditions on the Premises Licence had been suggested by the Local Weights and Measures Authority, a copy of which was circulated to Members. The Licence Holder had agreed to the proposed conditions being added to the Premises Licence.

Mr Cooper of the Local Weights and Measures Authority took Members through the grounds for review which were set out in the bundle of evidence, and were that the premises had exposed for sale vodka to which a false trademark had been applied. The applicant had originally requested that the Licence be suspended but following negotiation with the Licence Holder had decided that mediation was the most appropriate means of ensuring that this was not repeated.

The Chairman asked if the vodka contained traces of other substances and was informed that it was a genuine product which had been illegally sourced.

Following a further question from the Chairman Mr Cooper advised that it had not been possible to establish where the vodka had been sourced.

Mr Davies, the Licence Holder's Solicitor addressed the Sub-Committee stating that the premises had been purchased in 2015 with a list of the stock remaining in the store. As could be seen from the bundle of evidence there was a considerable amount of stock at the time of purchase, and also that the Licence Holder replenished stock regularly from a Cash and Carry.

Of the bottles that were seized from the total quantity in the shop, Mr Sundaralingham could not say whether they were bought by him or were part of the stock purchased with the premises. The stock was stored in the back room and the Licence Holder would from time to time move more stock into the store for sale. He had not purchased alcohol from a hawker.

Members may take the view that looking at the amount purchased legitimately from a cash and carry that there would be little point in the Licence Holder buying 9 bottles of illegal vodka.

With regard to the 3 month period when no alcohol had been purchased Mr Sundaralingham had said in interview that the invoices were with his accountant, but these had now been supplied to Members.

Mr Davies agreed that the Sub-Committee would now want to ensure that whatever had occurred did not happen again. The Licence Holder was happy to accept the proposed conditions, bearing in mind that there was no evidence to show where the alcohol had come from, and given the short time he had owned the shop it would be reasonable to assume that the alcohol was already on the premises. He asked Members to give Mr Sundaralingham the benefit of the doubt.

Councillor May pointed out that the plan provided of the layout of the store was poor and Mr Sundaralingham was asked to point out where the night hatch was located. The Chairman also asked if the night hatch was illuminated. Members were shown the position of the hatch and were informed that there was an illuminated light in the main shop window but this was covered when the shutters were closed at night.

The Chairman asked if Mr Sundaralingham had checked the stock when he purchased the premises. Mr Sundaralingham advised that he had trusted the seller and as there was a lot of stock he did not think to check. His stock-taker had made checks but had not mentioned any illegal vodka. He advised that as Licence holder he would carry out the checks in future.

The Licence Holder was also asked why he had not needed to purchase alcohol in the period between 28 October and 16 December 2015, which would normally be a busy time of year. Mr Davies interjected and stated that his understanding was that this had been resolved by the submission of the additional information.

The Sub-Committee adjourned at 11.45am to allow the Licence Holder's Solicitor to examine the invoices and re-convened at 12 noon.

Having examined the invoices Mr Davies referred Members to page 80 of the bundle. The purchases made on 8 June and 27 July were 7 weeks apart, then there was a 3 week period between sales from 9 September to 1 October. Thereafter purchases had been made every 2 weeks, and therefore Mr Sundaralingham had not needed to replenish until 16 December because of a build-up of stock. He had purchased alcohol from a Cash and Carry in Croyden during a visit to his wife.

The Chairman asked if Mr Sundaralingham had attempted to contact the seller of the premises when he became aware that the Glens Vodka was contraband. Mr Sundaralingham confirmed that he had and the seller had advised that she was not aware that any of the alcohol was illegal.

Mr Davies reiterated that Mr Sundaralingham had said that he did not buy alcohol from a hawker and if he did mistakenly buy the contraband alcohol he could not say where from as he always used a Cash and Carry, as did the previous owner.

In summing up Mr Davies reiterated that Mr Sundaralingham had bought the store last year and had not made checks on the stock that he had purchased with the premises. A stock-taker had verified what was there and Mr Sundaralingham had accepted that. Even now he was not in a position to say how he had illegal vodka in the store. He had made contact with the previous owner who did not know anything about it. This was a relatively small quantity when considered against the total stock in the premises. The proposed conditions would eliminate a repetition and should address concerns.

At 12.15pm the Sub-Committee retired to deliberate the application in private. After re-convening at 12.25pm the Chairman delivered the Sub-Committee's decision. In determining the application the Sub-Committee had considered the report of the Senior Licensing Officer and the verbal and written representations of the applicant and the Licence Holder. 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 following conditions be imposed on the Premises Licence:

- The doors will be locked and the night hatch used between the hours of 23.00 and 06.00.
- The Licence holder shall ensure that at all times when the premises are open for licensable activity, there are sufficient competent and suitably trained staff on duty at the premises for the purpose of fulfilling the terms and conditions of the licence.
- All incidents occurring at the premises will be recorded in an incident book maintained by the premises licence holder or a nominated member

of staff. The details which will be recorded in the Incident Book are, the time and date of the incident, the name or full description of any person(s) involved (including staff members), whether the incident was recorded on CCTV and the signature of the person making the entry. This book will be available at all times for inspection by the Police, Trading Standards or the Licensing Authority upon request.

- Where any incident involves persons known to be, or suspected to be buying alcohol or tobacco on behalf of children they will be refused and reported to the Police.
- A CCTV system is installed and maintained in proper working order and such a system shall:-
 - Be operated by properly trained staff
 - Be in operation at all times that the premises are being used for a licensable activity.
 - Ensure coverage of all entrances and exits to the licensed premises internally and externally
 - Ensure coverage of such other area as may be required by the Licensing Authority, Trading Standards or the Police.
 - Provide continuous recording facilities for each camera to a good standard of clarity. Such recordings shall be retained digitally for a period of 28 days and shall be supplied to the Licensing Authority, Trading Standards or the Police on request and no later than 24 hours, following that request
 - Notices will be clearly displayed at the entrance and around the premises stating CCTV is in operation
- Between the hours of 22.00 and 06.00 there shall be no illuminated signage advertising the premises open.
- The premises will display clear and legible notices, requesting patrons to have regard to local residents and to keep the noise to a minimum when leaving the premises.
- The Premise Licence Holder and any other persons responsible for the purchase of stock shall ensure that all alcohol is purchased from established trade premises that are capable of being verified as a supplier of genuine product
- Full stock control records shall be kept for all alcohol stored on the premises including receipts for all goods purchased that must include:-
 - Sellers name and address.
 - Sellers company details, if applicable.
 - Sellers VAT details, if applicable.
 - Date of transaction.
 - Date of delivery (if different).
 - Description, price and quantities of goods purchased/delivered.

- Original or copy receipts for all alcohol stored on the premises shall be made available for inspection upon request by the Police, Trading Standards and the Licensing Authority within 72 hours of that request.
- The Premises Licence Holder and any other persons responsible for the purchase of stock shall take all reasonable steps to ascertain that stock bought is genuine and shall keep written records of such checks. These shall include checks to ensure that all duty stamps on alcohol stock on the premises fluoresce under an ultraviolet light source.
- Where the trader becomes aware that any alcohol may be not duty paid, or could be counterfeit or stolen they shall inform the Police or Trading Standards of this immediately
- The premises are fitted with a burglar alarm system.

The Protection of Children from Harm

- A documented 'Challenge 25' policy shall be in operation at all times, whereby all members of staff at the premises shall seek 'credible photographic proof of age evidence' from any person who appears to be under the age of 25 years and who is seeking to purchase alcohol in order to prove that they are over the age of 18. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, Military ID card or a Proof of Age card carrying a 'PASS' holographic logo.
- Notices to be displayed concerning the law surrounding the ban on the sale of alcohol to children and explaining the Challenge 25 scheme.
- A refusals register must be in place at the premises and used to keep a record of all attempted test purchases of alcohol and tobacco where a person believed to be under 25 is challenged and no identification is provided and the sale is therefore refused.
- The refusals register should record the date and time of the refusal, a description of the young person refused, the goods asked for, any significant comments made or behaviours exhibited by the person and the signature of the person making the entry.
- The register should be checked for completion and signed off on a regular basis by the DPS or Premise Licence Holder. The refusal register must be kept available at all times for inspection by the Police, Trading Standards and the Licensing Authority upon request.
- A written record of all staff training shall be maintained at the premises as follows:-

- All members of staff shall receive training on their responsibilities, with a particular focus on issues surrounding under age sales of alcohol. Training will be given to all new staff before they are permitted to serve alcohol, then refreshed a month later.
- Training will focus upon age restricted products, policies and procedures, proxy sales, Challenge 25 and responsibilities with regard to working with and alongside enforcement agencies.
- All staff training records and reminders to be put in writing and kept as a record of training which must be kept on the premises and be available at all times for inspection by the Police, Trading Standards or the Licensing Authority on request.