

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Committee Room 2, County Hall, Durham on **Tuesday 9 January 2018 at 10.00 am**

Present:

Councillor L Marshall (Chair)

Members of the Committee:

Councillors P Crathorne and C Hampson

Also Present:

Yvonne Raine – Senior Licensing Officer

Karen Robson – Senior Licensing Officer

Stephen Buston – Solicitor – DCC

Steam Machine Durham Ltd

Nicholas Smith – applicant

Tom Smith – applicant

Glenn Robson – applicant

James McLaughlin – other person

Josh Borrow – other person

Charles Elliott – other person

Elizabeth Elliott – other person

Vine Stores

Nicola Anderson – Licensing Team Leader, applicant

Andrew Cook – Trading Standards, Responsible Authority

Balraj Singh – Premises Licence Holder

Mr Lalli – Licence Holder's Solicitor

1 Apologies for Absence

Apologies were absence were received from Councillors D Bell, A Hopgood and J Maitland.

2 Substitute Members

Councillor Crathorne substituted for Councillor Bell.

3 Declarations of Interest

There were no declarations of interest.

4 Application for the Grant of a Premises Licence - Steam Machine Durham Ltd, Rear of 85 New Elvet, Durham

The Sub-Committee considered a report of the Senior Licensing Officer regarding an application for the grant of a Premises Licence in respect of Steam Machine Durham Ltd, rear of 85 New Elvet, Durham (for copy see file of Minutes).

A copy of the application and supporting documentation had been circulated to Members, together with additional information from other persons Mr and Mrs Elliott. Members were informed that the applicants had brought additional information to the hearing and it was suggested that in view of the late submission that the information be included in the verbal representations of the applicants. A plan showing the licensed area, position of the CCTV and entrance to the premises was circulated to all parties.

Yvonne Raine, Senior Licensing Officer presented the report and informed Members that the residents from Orchard House who had made representation were not in attendance. In response to questions from Stephen Buston, Solicitor, the Senior Licensing Officer informed members of the operating hours of the licensed premises adjacent to Steam Machine and that there had been no problems reported in respect of the applicants' premises in Newton Aycliffe.

Other persons Mr and Mrs Elliott were invited to address the Sub-Committee. Mr Elliott considered that the proposed use of the premises would be in conflict with the provisions of the lease, and was advised by the Solicitor that this was a private issue between the parties and was not for consideration within the licensing regime.

Mr Elliott stated that as landlords they had a duty of care to the six students who occupied the upstairs flat at no. 85. The street door was kept locked at all times with keypad access and they were concerned that it should be opened for general access.

The utility meters were located in a cupboard in the passageway and Mr and Mrs Elliott were concerned about the potential for damage if the cupboard door was left open. In addition there was only a single supply of water to the properties.

Following questions from Stephen Buston, Members were advised that there were three sensor operated lights in the passageway and the passageway was less than 100m in length.

Mr and Mrs Elliott concluded by stating that their concerns rested with the premises not the business.

Mr Tom Smith, applicant was invited to address the Sub-Committee. He stated that the business had been established a few years ago with a vision to bring premium beer to the north east, offering a calm and welcoming atmosphere. Their first premises in Newton Aycliffe had been operating successfully for over a year and Steam Machine had worked with DCC at the brass festival and the food festival, and had a pop-up bar at the Empty Shop in the City Centre for a few months. During this time they had an excellent response from the people of Durham, some

of whom had said that they had not had somewhere to visit for a drink in a long time and had welcomed the move to the new premises. Their prices per unit were higher than recommended by Durham's Licensing Framework.

Bill Free Homes had invited the company to use the property and they were liaising with them in respect of the lease.

Turning to the concerns of the objectors, Mr Smith advised that a Health and Safety Officer from DCC had said that there was no reason why the rear of 85 could not be used as a bar and that the passageway was wheelchair accessible. There was existing lighting but additional lighting would be provided as required by the Fire Authority.

With regard to access to the student accommodation, his understanding was that there was a door in the passageway with keypad access and each flat also had its own locked door.

He was working with Bill Free Homes on the location of the bin storage, and in terms of the water supply, the bill would be calculated and divided between the two floors by Bill Free Homes.

A Heritage Statement had been written as part of the planning application which had revealed the former uses of the building and they wanted to be sensitive to this in their design.

The company had held 17 temporary events on site without any complaints but they were working with Environmental Health to mitigate the potential for any noise nuisance.

Councillor Hampson sought clarification about the playing of music on the premises and was advised that recorded music was proposed, and occasionally acoustic, but there were no plans for any amplified music as this did not encourage conversation. The doors and windows would be kept closed during the playing of music.

Following a question from Councillor Crathorne about the safety of members of the public in the passageway, the Member was informed that the Alcohol Harm Reduction Unit had asked for a condition that cameras be installed in the passageway which could be monitored in the bar area. Councillor Crathorne was concerned that there may be large numbers of young people using the passageway, especially when the premises first opened. Mr Smith advised that although the maximum capacity had not been specified by the Fire Authority as yet the premises could not accommodate large numbers of people. The company had its own policies and procedures for dealing with public safety and nuisance.

Councillor Hampson asked if the door to the passageway would only be open during opening hours and Mr Smith confirmed that this was the case.

Mr James McLaughlin spoke in support of the application stating that there were always concerns about young people in City Centres where there were lots of larger premises selling cheaper alcohol. There had been no problems in the premises in Newton Aycliffe because there were other venues that were more attractive to younger people.

Mr Josh Borrow who was also in support of the application advised that during the temporary events when the pop-up bar was open the passageway had not caused any problems, and three people were able to walk along it side-by-side.

At 11.05am the Sub-Committee **Resolved** to adjourn the hearing to allow Members to deliberate the application in private. After re-convening at 11.25am the Chair delivered the Sub-Committee's decision.

The Sub-Committee in reaching its decision had considered the report of the Senior Licensing Officer and additional information, and the verbal and written representations of the applicant, supporters 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 a follows:-

Activity	Days and Hours
Opening hours	Monday to Sunday 12.00 to 00.00 hours Bank Holidays 12.00 to 01.00 hours
Sale of Alcohol (consumption on and off the premises)	Monday to Sunday 12.00 to 23.30 hours Bank Holidays 12.00 to 00.45 hours
Recorded music (indoors)	Monday to Sunday 12.00 to 00.00 hours Bank Holidays 12.00 to 01.00 hours

That the following conditions be imposed upon the licence:-

General

- a) We will hold the four objectives in high regard, and will strive to keep staff fully trained on all of our policies and procedures, all training records will be made available to officers on request.

- b) Authorised staff employed by Durham Police shall have free access to all parts of the licensed premises, at all reasonable times, for the purpose of inspection to ensure compliance with the terms and conditions of the premises licence and to ensure the promotion of the licensing objectives. All staff training records will be signed, held 'on-site' and made available to Responsible Authorities on request.
- c) Written protocols will be in place detailing Policies, Procedures, Roles and Responsibilities in the effective implementation and management of the licensing objectives. This documentation will be held 'on-site' and made available to Responsible Authorities on request.
- d) The premises will provide written evidence of the maximum capacity for the premises and this will be displayed at all entrances and exits. This capacity will be confirmed and set by County Durham and Darlington Fire and Rescue Authority.

The Prevention of Crime and Disorder

- a) The area in which the public will be permitted access will be constantly manned whilst the premises is open to the public.
- b) There is CCTV in operation outside the premises.
- c) Full initial staff training to be carried out by the DPS to ensure no alcohol is sold to anyone underage, and refresher training to be carried out every six months.
- d) Training records to be kept for every member of staff and endorsed after every training session. The records will be made available to officers and responsible authorities when requested to do so.
- e) Cameras shall encompass the inside and outside of all entrances and exits to the premises, smoking area, beer gardens and all areas inside the premises where the sale/supply of alcohol occurs.
- f) Notices will be clearly displayed at the entrance and around the premises stating that CCTV is in operation.
- g) All footage will be kept on the system for at least 28 days and made available to officers and responsible authorities when requested to do so via USB or disk.
- h) All staff will be trained to operate the CCTV system, this is to include viewing and downloading of the system. Regular refresher training will also be undertaken. Training records can be made available for inspection upon reasonable request from police or other relevant officers of a responsible authority.

- i) In addition there will be no silly drinks promotions, as these promote irresponsible drinking.

Public Safety

- a) The premises will maintain an incident book and record/report all instances of disorder both inside and directly outside the premises. This documentation will be held 'on-site' and made available to responsible authorities on reasonable request.
- b) Good housekeeping procedures will be implemented and will include keeping the outside of the premises clean and free from rubbish including the premises frontage and any designated smoking area.
- c) Staff training of fire safety equipment and fire extinguishers to be serviced annually.
- d) Zero tolerance to drugs.

The Prevention of Public Nuisance

- a) The DPS will actively work with local Beat Officers/PCSO's in the reporting of any ASB connected to the premises.
- b) The licensee shall display prominent notices in appropriate positions within the premises reminding customers to leave quietly.
- c) Doors and windows will be kept closed whilst live music is being played.
- d) Glass will be allowed outside with signs and notices displayed to inform customers not to leave the premises with glassware and will be monitored by staff.

The Protection of Children from Harm

- a) The premises will operate a Challenge 25 Scheme – notices setting out this policy will be displayed at all points of sale and within the premises.
- b) No person under the age of 18 years old will be permitted to consume alcohol on the premises.
- c) All staff involved in the sale of alcohol shall be properly trained in accordance with the Premises Licence Holder's own training programme and staff will complete refresher training every 12 months. The programme must include Child Sexual Exploitation training. These training records will be made available for inspection by police or an authorised officer on reasonable request.
- d) A 'Refusals Register' will be held within the premises and all refusals will be logged along with any behaviour associated with the refusal. All staff will be

trained in its use. The Refusals Register will be made available to relevant authorities on request.

5 Application for the Review of a Premises Licence - Vine Stores, 42 Middle Street, Blackhall

The Sub-Committee considered a report of the Senior Licensing Officer regarding an application for the review of a Premises Licence in respect of Vine Stores, 42 Middle Street, Blackhall (for copy see file of Minutes).

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

In presenting the report Karen Robson, Senior Licensing Officer advised that Mr Barry of the Local Safeguarding Children's Board was unable to attend the hearing but a representative was available should Members have any questions of the written submissions.

Nicola Anderson, Licensing Team Leader addressed the Sub-Committee as applicant, and took Members through the grounds for the review application which were set out in pages 80-81 of the Bundle of Evidence.

Mr Andrew Cook from Trading Standards Officer was invited to speak to his statement and evidence in connection with illicit tobacco found on the premises, details of which were given in pages 91-93 of the Bundle.

In response to a question from Mr Lalli, the Licence Holder's Solicitor, Mr Cook confirmed that the Inspecting Officer had been shown a copy of invoices for the period June to October but he could not personally confirm that these reflected the sale of cigarettes.

Mr Lalli asked if there were any reports from the Police in relation to criminal activity at 42 Middle Street, Blackhall and Mr Cook advised that he was not aware of any but that the possession of illicit tobacco was an offence.

The Solicitor also asked if there were any concerns reported about the sale of age related products to children and was informed by Mr Cook that he was not aware of any and that no test purchases had been carried out.

At the request of Stephen Buston, Legal Adviser to the hearing, confirmation was given that Mr Singh's wife had never been the DPS. Mr Lalli asked if there was any documentary evidence that Mr Singh had told the Inspecting Officer that his wife was the DPS as it was not recorded in the Officer's notebook entry at page 89. Nicola Anderson clarified that the notebook entry was from the further inspection on 30 October when the Officer sought clarification of the different names given on the Licences.

Mr Lalli referred to the Licensing Team Leader's representations which stated that there was no incident book. By way of clarification Mr Lalli explained that a refusals book had been maintained since 2004 which had been produced during the

inspection in August 2017 and had been signed and checked by an Officer. There had been some refusals since then which had been checked and signed by a PCSO. The book was shown to Members.

At this point Mr Lalli addressed the Sub-Committee on behalf of Mr Singh. He advised that it was always Mr Singh's intention to return to 44 Middle Street. An application had been made on 6 July 2015 for a Premises Licence for 42 Middle Street by his agent John Ives which included a consent for him being specified as DPS. The subsequent letter referred to in the Bundle of Evidence which was sent to his agent was never passed to Mr Singh. As soon as Mr Singh became aware he made application and displayed the summary sheet. 44 Middle Street was undergoing a full re-fit and he had hoped that the works would be completed before the hearing but there had been some slippage. Mr Singh had borrowed money to complete the works which included fittings, signage, lighting and CCTV.

Because of the cost of the works he had not been able to install CCTV at 42 Middle Street and as soon as the works were completed he would surrender his tenancy. Rather than take no action or revoke the Licence, Mr Lalli urged Members to give him the opportunity to complete the works and then re-assess the position when he was in occupation of 44 Middle Street.

A floorplan was provided for information and Mr Lalli explained the shop layout which would ensure that confectionary was not located in close proximity to alcohol. On completion of works to the joists in the premises, CCTV would be installed in the stock room, the loading area to the rear and to the front of the premises. Mr Lalli offered a site visit if Members wished to view the extent of the works.

Mr Singh was taking his responsibilities seriously. There had been no direct reports of anti-social behaviour in respect of 42 Middle Street, a refusals register was maintained and there had been no concerns raised about under-age sales or public safety. Residents had submitted a petition in support of the premises staying open.

Mr Singh hoped that he could retain his licence and the Sub-Committee was asked to adjourn the hearing and review the position in 12 weeks. He was willing to undergo a further inspection now, or following the works.

Councillor Crathorne asked why Mr Singh had not implemented the procedures detailed in the review application, given that the Premises Licence had been granted in 2015 and a visit in August 2017 had identified these failings. Mr Lalli explained that he had asked that of the licence holder who had advised that it was because he had spent all his money on the re-fit of 44 Middle Street and had hoped to move as quickly as possible. He appreciated that some of the procedures could have been implemented at little or no cost, and he would arrange for these to be put in place for Mr Singh.

In response to a query from Councillor Marshall Mr Singh advised that he had managed a shop for around 16 years and that he now understood about licensing procedures.

Mr Lalli responded to a question from Nicola Anderson about the letter sent to John Elves which clearly stated that alcohol should not be sold until an application nominating a person as DPS was processed.

At 12.15pm the Sub-Committee **Resolved** to adjourn the hearing to allow Members to deliberate the application in private. After re-convening at 12.30pm the Chair delivered the Sub-Committee's decision.

In reaching their decision the Sub-Committee had considered the report of the Senior Licensing Officer, together with the verbal and written representations of the licence holder's Solicitor, the applicant and Trading Standards and the written representations of the Local Safeguarding Children's Board. 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.