

DURHAM COUNTY COUNCIL

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

Present:

Councillor C Carr (Chairman)

Members of the Committee:

Councillors P Atkinson and D Brown

Also Present:

Councillor J Maitland

K Robson – Senior Licensing Officer

S Grigor Solicitor, DCC

Mrs J Sivasathiyaselan – applicant and proposed DPS

Ms K Coles – Store Manager

Sgt C Dickenson – Durham Constabulary

PCSO H Robson – Durham Constabulary

1 Apologies for Absence

An apology for absence was received from Councillor J Blakey.

2 Substitute Members

There were no substitute Members.

3 Declarations of Interest

There were no substitute Members.

4 Application to Vary a Premises Licence to Specify an Individual as Designated Premises Supervisor - 69 Church Street, Shildon

The Committee considered an application to vary a Premises Licence to specify an individual as Designated Premises Supervisor in respect of 69 Church Street, Shildon (for copy see file of Minutes).

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

Sgt Dickenson, Durham Constabulary advised that a number of complaints had been received regarding Mrs Sivasathiyaselan's husband in January 2018, who was the Premises Licence Holder at the time. The Police had found that Mrs Sivasathiyaselan lived in Great Yarmouth and held a full time job, and therefore had no day to day involvement with the operation of the premises. In view of this Mrs Sivasathiyaselan had removed herself from the position of DPS and due to the serious allegations against her husband an additional condition had been included on the Premises Licence which prevented him from working in the premises during opening hours, unless supervised by staff over the age of 18.

Durham Constabulary remained concerned about the management of the shop as the position remained unchanged; the applicant was DPS at the time of the allegations against her husband and she would be unable to meet her obligations due to the distance of the premises from her home address.

Following Member questions, the Sub-Committee was informed that the case against Mrs Sivasathiyaselan's husband was ongoing and that on a visit to the shop PCSO Robson had been informed by another female present that he had returned to Great Yarmouth. Mrs Sivasathiyaselan could not be contacted during her working hours; Officers had to contact Mrs Sivasathiyaselan using Whatsapp and wait for her to get in touch.

Mrs Sivasathiyaselan was invited to address the Sub-Committee and advised that she would struggle to manage the business without alcohol sales and had put herself forward to be DPS. She would aim to attend the premises 2 or 3 times a week.

Following questions, Members were informed that there was now only one member of staff, Ms K Coles, Store Manager who was to attend a course on Thursday 4 October 2018 to obtain the necessary qualifications to be a Personal Licence Holder. Ms Coles advised that she had managed the premises on her own for one week and confirmed that Mrs Sivasathiyaselan's husband did not work in the shop at all. She worked around 8 and a half hours a day seven days a week; the busiest time for the store was an evening and she therefore closed for a couple of hours during the day when business was quiet.

Following a request for clarification from the Chairman with regard to the hours she had worked in one week, Ms Coles advised that on her own she had worked between 49 and 50 hours' and between 38 and 40 hours when there were other employees. She had been employed at the premises for between four and five weeks.

In response to a question from Councillor Maitland about her safety in the store, Ms Coles advised that Mr Sivasathiyaselan was upstairs and could be called upon, having recently returned from Great Yarmouth. The premises also had a CCTV system.

Sgt Dickenson referred to an alleged assault on Mrs Sivasathiyaselan's husband on 13 September 2018 when he was on the shop floor, and Mrs Sivasathiyaselan confirmed that he was working but that he was being supervised at the time.

All parties were invited to sum up. Sgt Dickenson stated that Mrs Sivasathiyaselan only visited the shop twice per week, and whilst the DPS did not have to be present at all times, the DPS and the Licence Holder had to be responsible for the operation of the premises. The Police should be able to contact them when the need arose.

Through the interpreter Mrs Sivasathiyaselan reiterated that the business would struggle if the application was not granted and she believed it would be possible to carry out the role of DPS for 2-3 days per week. She was unable to attend for more than this at present. Members were asked if the application could be granted today and transferred to Ms Coles as soon as possible.

Mrs Sivasathiyaselan felt that the complaints against her husband were race-related. Councillor Carr assured the applicant that the application before the Sub-Committee would be determined having heard the representations from all parties and in accordance with the Council's Statement of Licensing Policy and Section 182 Guidance.

At the close of representations the Chairman asked if Mrs Sivasathiyaselan felt that the hearing had been conducted fairly. Mrs Sivasathiyaselan confirmed this to be the case.

At 10.45am the Sub-Committee **Resolved** to retire to deliberate the application in private.

After re-convening at 10.50am 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 representations of Durham Constabulary and those of the applicant Mrs Sivasathiyaselan and Store Manager Ms Coles. 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 refused.