

Licensing Sub-Committee

20 January 2016

Present: Councillor M A Green (Chair)
Councillors L Darke and T Mulvenna

LSQ22/01/16 Appointment of Chair

Resolved that Councillor M A Green be appointed Chair for this meeting.

LSQ23/01/16 Declarations of Interest and Dispensations

There were no Declarations of Interest or Dispensations reported.

LSQ24/01/16 Review of a Premises Licence – Monkseaton News Food and Wine, 70 Earsdon Road, Whitley Bay (Monkseaton North Ward)

The Sub-Committee met to review a Premises Licence held in relation to Monkseaton News, Food and Wine, 70 Earsdon Road, Whitley Bay. The review had been brought by Northumbria Police because there had been sales of alcohol to persons under the age of 18 years. The application to review the licence had therefore been submitted in relation to the prevention of crime and disorder, public safety and the protection of children from harm. Further representations had been received from the Local Weights and Measures Authority (Trading Standards), the Acting Director of Public Health and the Manager of the Local Safeguarding Children's Board.

Following introductions, the Sub-Committee's legal advisor, set out the procedure to be followed during the course of the hearing.

The Council's Licensing Officer then presented details of Northumbria Police's application for a review of the licence, the representations received, the terms of the licence and the options available to the Sub-Committee.

Northumbria Police were represented by Sergeant Lisa Henderson, Sergeant Dave Foy and Neil Kirkpatrick, Licensing Officer. The licence holder and Designated Premises Supervisor, Tejwinder Kaur Matto, was present at the hearing accompanied by her friend Madelena Dinis. Alan Burnett from the Local Weights and Measures Authority, Wendy Burke, the Acting Director of Public Health and Sue Burns, Local Safeguarding Children's Board Manager, were also present.

Sergeant Henderson outlined details of three separate reports received by the Police in March 2014, May 2015 and August 2015, from parents of children who had obtained alcohol from Monkseaton News Food and Wine. On two of these occasions the children involved had been admitted to hospital due to the effects of alcohol consumption. As a result of this intelligence a test purchase exercise had been carried out on 6 November 2015 when a 15 year old child had purchased 4 cans of lager. He had been served by Mrs Matto without being challenged as to his age or requested to produce identification. The Police sought revocation of the licence or, if the Sub-Committee were not minded to agree to this, the removal of Mrs Matto as the Designated Premises Supervisor, the suspension of the licence for 4 weeks and the addition of a number of conditions to the licence.

Alan Burnett reported that Trading Standards officers had visited the shop on 26 March 2014 after receiving a complaint from Northumbria Police about underage sales. Mrs Matto had been given advice and supporting material in relation to the sale of age restricted goods. Mr Burnett confirmed that a test purchase exercise had taken place on 6 November 2015 when a 15 year old volunteer had purchased 4 cans of lager. Mrs Matto had been issued with a £90 fixed penalty notice. At this time Mr Burnett had examined the refusals register which contained numerous entries. Other test purchase exercises had been undertaken at the shop on 2 October 2012 and 15 July 2015 when the test purchase volunteer had been refused cigarettes. Mr Burnett concluded by stating that given the history of underage sales of alcohol from the Premises he had concerns about the ability of Mrs Matto to prevent crime and to protect children from harm.

Sue Burns highlighted the seriousness of sales of alcohol to young people and outlined the known effects that alcohol can have on young people and their welfare. The Local Safeguarding Children's Board's role was to work with parties to reduce the harm caused by alcohol and the Board therefore supported the work of partner agencies to protect children and young people and it supported the application being made by the Police for the review of the licence.

Wendy Burke reiterated the seriousness of underage sales of alcohol. North Tyneside was one of the worst performing areas in terms of alcohol related admission to hospital by young persons. In her view, individuals selling alcohol needed a clear understanding of the impact that alcohol can have on children. In this case there had been two incidences where alcohol had been sold to young people who had been placed at risk of serious harm and requiring admission to hospital.

In response Mrs Dinis and Mrs Matto accepted and understood the seriousness of the situation. As parents themselves they both did everything that they could to prevent underage sales but it was difficult to prevent sales to adults who had been asked by children to purchase alcohol for them. When Mrs Matto had sold alcohol to a young person during the test purchase, she had been very ill with considerable back pain. She accepted that she had failed to challenge the child but since then everyone had been challenged as to their age if they looked under 25 years old. Mrs Dinis denied selling alcohol to a child in March 2014 and she recalled the incident in August 2015 when she had argued with a child who she had refused to serve but then the young person had asked an adult to come into the shop and purchase alcohol for her. At that time Mrs Dinis believed that she could not refuse such a sale.

Mrs Matto operated the shop alone, with the occasional help of Mrs Dinis, who was not an employee but lived above the shop. Mrs Dinis had not received any training in relation to the Licensing Act and neither she nor Mrs Matto had undergone any training since the test purchase in November 2015. Both Mrs Dinis and Mrs Matto indicated that they would be willing if requested to undertake such training. During questioning Mrs Matto indicated that she felt confident in challenging young people as to their age. When asked Mrs Matto was unable to provide the Sub-Committee with a clear description of the hours during which the shop was authorised to sell alcohol.

All parties were given the opportunity to sum up their respective submissions.

The Sub-Committee withdrew from the meeting to make its decision in private. The Sub-Committee returned and the Chair announced its decision.

Resolved that (1) the Premises Licence held by Mrs Matto in relation to Monkseaton News Food and Wine be suspended for a period of 3 months;

(2) the conditions attached to the Premises Licence be modified so that the following conditions are added:-

1. A CCTV system will be designed, installed and maintained in proper working order to the satisfaction of, and in consultation with, Northumbria Police and the Licensing Authority. Such system shall:
 - (i) Be operated by properly trained staff.
 - (ii) Provide continuous recording for each camera to a good standard of clarity
 - (iii) Ensure coverage of the entrances to the Premises both internally and externally.
 - (iv) Ensure coverage of such other areas as may be required by Northumbria Police and/or the Licensing Authority.
 - (v) Record the CCTV images on a hard drive and be retained on disc or other storage device for a period of 30 days and will be supplied to representatives of the Licensing Authority or Northumbria Police immediately on request.
 - (vi) Be in operation whenever the Premises are open to the public.
2. Sign will be displayed at the Premises both internally and externally indicating to customers that a CCTV system is in operation at the Premises. The signs will be a minimum of A5 in size.
3. There will be sufficient persons present at the Premises who will be trained to download images from the CCTV system immediately and for those images to be supplied in a removable format to representatives of the Licensing Authority or Northumbria Police immediately on request.
4. A refusals register will be maintained by all persons responsible for the sale of alcohol at the Premises and will be kept up to date. The register will be kept at the Premises at all times. The register will be made available for inspection by representatives of the Licensing Authority (including Trading Standards Officers) and/or representatives of Northumbria Police immediately on request.
5. All persons responsible for the sale of alcohol at the Premises will seek credible photographic proof of age evidence from any person who appears to be under the age of 25 years and is seeking to purchase or obtain alcohol from the Premises. Such credible photographic proof of age evidence will be a passport, photographic driving licence, proof of age card carrying a "PASS" logo and hologram or a military identity card.
6. The Designated Premises Supervisor will provide written authorisation to all persons responsible for the sale of alcohol at the Premises. Such authorisation will be retained as part of the training records of those persons responsible for the sale of alcohol at the Premises.
7. All persons responsible for the sale of alcohol at the Premises will undertake training in relation to their duties and responsibilities under the Licensing Act 2003 and will only be permitted to serve alcohol at the Premises after such training has been completed and only after such persons are deemed competent to carry out such sales. Such training must be provided by an external trainer with an accredited training qualification in relation to the Licensing Act 2003. This training will be documented and all training records must be kept at the Premises at all times and be made available for inspection by representatives of Northumbria Police and/or the Licensing Authority (including Trading Standards) immediately on request.
8. All persons responsible for sale of alcohol at the Premises will receive refresher training every 3 months in relation to their duties and responsibilities under the

Licensing Act 2003. Such refresher training will be provided by the Designated Premises Supervisor and duly recorded in the training records.

9. The Premises Licence holder will provide written evidence to the satisfaction of a Senior Licensing Officer at North Tyneside Council within the 3 month period of suspension of the Premises Licence that all persons responsible for the sale of alcohol at the Premises have received training in relation to their duties and responsibilities under the Licensing Act 2003 and have been deemed competent to supply alcohol. Such training must be provided by an external trainer with an accredited training qualification in relation to the Licensing Act 2003. Such training must include prevention of underage sales and prevention of proxy sales.

Reasons for Decision:

Having heard the oral representations, having taken into account the written representations, and having had regard to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003, North Tyneside Council's Statement of Licensing Policy and the licensing objectives which underpin the Licensing Act 2003, the Sub-Committee concluded that:-

- a) there was evidence of criminal activity having taken place at the shop and the licensing objective concerned with the prevention of crime had clearly been undermined by the way in which the shop had been operated;
- b) the revocation of the licence was not appropriate;
- c) it was not appropriate to remove Mrs Matto as Designated Premises Supervisor because in these circumstances it was likely another person would be designated but Mrs Matto would continue to manage the shop and sell alcohol;
- d) Mrs Matto was not able to properly manage the shop in relation to the sale of alcohol and the clear shortcomings identified in the way in which the shop had been operated could not be allowed to continue;
- e) there was a desperate need for Mrs Matto and Mrs Dinis to receive training on their duties and responsibilities under the Licensing Act 2003;
- f) it was appropriate to suspend the licence for a period of 3 months to enable Mrs Matto, and possibly Mrs Dinis, to undertake meaningful training from an accredited external trainer with the aim of improving the standard of management at the shop;
- g) the period of suspension was also likely to result in any children congregating outside the shop to possibly move elsewhere when it became clear to them that the shop would not be selling alcohol for a 3 month period; and
- h) it was appropriate to modify the conditions of the licence by adding the new conditions set out above to promote the protection of young people. It is only with the imposition of these conditions that Mrs Matto can be given a further opportunity to demonstrate that she can sell alcohol in a responsible manner.