

Minutes of: LICENSING HEARING SUB COMMITTEE

Date of Meeting: 15 November 2023

Present: Councillor G McGill (in the Chair)
Councillors G Marsden and M Walsh

Also in attendance: M. Bridge (Licensing Unit Manager)
M. Cunliffe (Democratic Services)
J. Garland (Trading Standards)
K. Halligan (Trading Standards)
L. Jones (Licensing Unit)
O. Osinuga (Legal Services)
L. Solcak (Licensing Unit)

Public Attendance: The Hearing was held virtually and interested members of the public were provided with a link to access the hearing online via Microsoft Teams or could be telephoned into the meeting via audio only. No members of the public or press were in virtual attendance.

1 APOLOGIES FOR ABSENCE

Apologies for absence were submitted from B. Thomson, Head of Public Protection at Bury Council.

2 DECLARATIONS OF INTEREST

There were no declarations of interest made.

3 MINUTES OF THE LAST MEETING

The minutes of the last Licensing Hearing Sub Committee meeting held at 10.00am on the 11th October 2023 were attached to the agenda.

Resolved:- That the minutes of the Licensing Hearing Sub Committee held at 10.00am on the 11th October 2023 be approved as a correct record.

4 AN APPLICATION FROM AN RESPONSIBLE AUTHORITY FOR A REVIEW OF THE PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF KILLON STREET OFF LICENCE, 26 PRICE STREET, BURY, BL9 7EB

The Executive Director for Operations had submitted a report relating to an application pursuant to section 51 of the Licensing Act 2003 from a Responsible Authority for a review of the premises licence in respect of Killon Street Off Licence, 26 Price Street, Bury, BL9 7EB.

The nature of the application and consideration of options was detailed in the report which was presented to the Members of the Sub-Committee by the Licensing Unit Manager, Mr M. Bridge.

The options available were:

- To revoke the licence
- To suspend the licence for a period not exceeding three months
- To remove the Designated Premises Supervisor
- To exclude a licensable activity from the scope of the licence
- To modify the conditions of the licence

The Licensing Act 2003 and the Licensing Act 2003 (Hearings)

Regulations

are the relevant legislation.

The Licensing Unit Manager reminded Members about an application to review relating to this premise had previously been considered by the Licensing Hearings Panel on the 28th February 2019, Members resolved that due to the Premises Licence holder not being able to furnish the Panel with the further documentation, it was agreed unanimously, that to ensure a fair hearing and to enable the Premises Licence Holder to fully explain and provide evidence as to his current position and in addition enable this to be fully considered by the Responsible Authorities, that in the public interest, the hearing be adjourned to a future date.

Following this adjournment, a further report was considered on the 25th April 2019, Members resolved:-

All of the evidence was considered with care and it was established that having understood the request for review and equally understanding the representations made, including the agreement reached by the Premises Licence Holder, the Applicant and the Responsible Authorities as to the concerns regarding promotion of the licensing objectives associated with the premises and in addition there being agreement as to proposed additional licence conditions, the Panel was satisfied that there were causes for concern so far as the promotion of the following Licensing Objectives were concerned:

- The Prevention of Public Nuisance
- the Prevention of Crime and Disorder
- the Protection of Children from Harm

The Panel was further satisfied that in all of the circumstances, in order to deal with those concerns it considered it reasonable, balanced, appropriate and proportionate, based on all of the evidence and the agreement reached, to modify the conditions attached to the licence, with the additions contained within the report attached to the agenda pack.

At the time of the submission of this review application on the 2nd October 2023, the Premises Licence in respect of Killon Street Off Licence, 26 Price Street, Bury, BL9 7EB is held by Mr Syed Khurshid Hassain Shah, 13 Andrew Street, Bury, BL9 7HD. Mr Shah is also the Designated Premises Supervisor (DPS). The application for review was attached at Appendix 1 of the agenda pack along with appendices 2 to 8

The premises licence was transferred to Mr Shah on the 20th August 2020.

The Licensing Unit Manager placed on record dates when correspondence had been sent to Mr Shah (Who was not in attendance) on numerous occasions to confirm his attendance at the Sub Committee meeting and no communications had been received to confirm or decline the invitation to attend.

The Responsible Authority has complied with all the necessary procedural requirements laid down by the Act.

As part of the statutory process the Responsible Bodies and interested parties are entitled to make representations in relation to the review of a licence. The Licensing Authority has given Notice of the application by placing a Notice on the premises, at the Council Offices and on the Council website. Where further representations are made by either the Responsible Authorities or from local residents / businesses and not withdrawn, Members are required to determine them.

The conditions, consistent with the premises operating schedule were attached to the current premises licence and was included at appendix 9 of the agenda pack.

The Trading Standards Service would shortly expand upon the reason(s) for their representation in relation to this application. The representation was attached at appendix 10 in the agenda pack which contained two witness statements and photographs.

After hearing the representations made and the evidence presented, Members were obliged to determine the application with a view to promoting the licensing objectives and having regard to the Authority's Licensing Policy and National Guidance.

The Licensing Unit Manager also reported that extra information had been circulated to Members for the Hearing following a visit that had taken place since the review application was made. The Deputy Licensing Officer, L. Jones had visited the premises alongside Greater Manchester Police and Trading Standards Officers on the 12th October 2023 as part of GMPs Operation Revoke. The Premises Licence Summary was not on display as is required under the Act. A member of staff was present who is a Bury Personal Licence Holder. He was unable to produce a refusals book other than the one that has been produced before with the last entry being 2021. Most of the alcohol was marked with a K as required.

The Deputy Licensing Officer reported extra conditions were added to the licence following a review a few years ago. Visits had been undertaken and it was expected the licence holder would be on the premises on a weekend evening. Following 4 visits the Deputy Licensing Officer visited again in April with GMP and K. Halligan from Trading Standards. Mr Shah's son seemed to run the business and there were an empty spirit bottles found in the store, single cigarettes, illegal vapes, alcohol not marked and a refusal registered not completed since 2021. It was noted that Mr Shah's other premises was Top Shop which has its licence revoked following drugs found on the premises.

Another visit occurred one evening in July and the wife of Mr Shah's son was working along with an unknown male member of staff. They were not personal licence holders,

could not produce the refusals book and loose cigarettes and open alcohol was again found on site.

A request for CCTV from the premises was made on the 28th July and asked again on 2 other dates. On all occasions the footage could not be produced upon request.

On the 14th August Mr Shah and his son attended an interview and an explanation provided included a customer who had purchased alcohol in soft drink containers over a 2-week period and as a result the customer had been barred from the store and member of staff sacked.

Another visit on the 12th October revealed that no licence was on display and no refusal book was found. Given the amount of officer time allocated to this premises which had resulted in warning letters and interviews, there had been no sign of improvements and the premises were not complying with the conditions of the licence nor were the licensing objectives being met.

In relation to a Member question surrounding grooming, the Licensing Unit Manager confirmed that no evidence had been submitted by GMP. The information contained within the agenda packs and presented by officers at the hearing was for determination.

K. Halligan from Trading Standards reported that a drug warrant was issued on the 18th April and searches behind the counter uncovered illegal cigarettes and vapes not from the UK. This tobacco was cheaper to import containing foreign labels and single products were generally linked to the sale of children due to the high cost of purchasing a full pack. It was also explained why alcohol containers were marked so authorities could identify which store it had been purchased from, especially when involving children under the age of 18.

J. Garland from Trading Standards confirmed on the 4th July she was asked to investigate the category and compliance of the e-cigarettes and tobacco related products seized from the premises. None complied with regulations which included the display of classification and chemical information, batch codes, danger warnings and place of origin should there be a problem requiring traceability.

The Sub-Committee then duly retired to consider the matter and all of the information provided.

The Members of the Sub-Committee were advised by the Legal Officer as to their duties under Section 4 of the Licensing Act 2003 to at all times consider the promotion of the Licensing Objectives, these being:

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

The Members were also advised of their duties in carrying out those functions in relation to:

- a) the Council's published Statement of Licensing Policy
- b) the Guidance issued by the Secretary of State as contained in section 182 of the Licensing Act 2003.

In addition, Members were advised to give appropriate weight to the steps that are appropriate to promote the licensing objectives and the representations presented at the meeting.

DELEGATED DECISION

The Sub-Committee carefully considered the representations and evidence provided and therefore unanimously **resolved to revoke the licence and to remove the Designated Premises Supervisor** in order to promote the licensing objectives.

The Sub-Committee was therefore satisfied that there was sufficient evidence to mean interim steps were necessary.

The evidence presented had demonstrated the following licensing objectives had not been met and failed the:-

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

The reasons by the sub-committee, included:-

- Evidence of previously imposed extra conditions being breached and not promoting the Licensing Objectives.
- The Licensing Objective of Public Safety was not being promoted at the premises by the Designated Premises Supervisor with failure to produce CCTV Footage.
- The Designated Premises Supervisor was breaching conditions of the licence in relation to a breach of Licensing conditions with the requirement to maintain a refusals book for the challenge 25 scheme to record incidents/descriptions of individuals whenever a member of staff has refused to sell alcohol to a person suspected of being under the age of 18. This book must be made available to the police / authorised officers of the Council upon request.
- The Sub-Committee found credible evidence of the failure to protect children from harm with open alcohol containers and single/illegal cigarettes and vapes being found under the counter of the store.
- Some alcohol products were not marked making them untraceable and not promoting the prevention of crime and disorder.

The Sub-Committee found the situation very serious and concerning with the premises operating in such a way to undermine the licensing objectives. The evidence and supporting documents presented were sufficient evidence to revoke the licence and remove the Designated Premises Supervisor.

COUNCILLOR G MCGILL
Chair

(Note: The meeting started at 10.00am and ended at 10.38am)