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GATESHEAD METROPOLITAN BOROUGH COUNCIL

LICENSING SUB COMMITTEE MEETING

Wednesday, 4 August 2021

PRESENT: Councillor K Dodds (Chair)
Councillor(s): B Goldsworthy and M Ord

LSC4 APPLICATION FOR A REVIEW OF A PREMISES LICENCE

RESOLVED – that the decision of the committee as per the attached summary of decision be agreed.

Chair.....

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**GATESHEAD COUNCIL
LICENSING AUTHORITY****SUMMARY OF DECISION OF LICENSING SUB-COMMITTEE**

Name of Premises : Deckham Bargain Store
Address : 111 Split Crow Road Deckham Gateshead NE8
3SB
Licensee : Mr Taimour Tamkin
Date of Hearing : 4 August 2021
Type of Hearing : (1) Review of premises licence
(2) Application to vary transfer premises licence
(3) Application to vary DPS

The Sub Committee has decided as follows:

1. To approve the transfer of the premises licence to Mr Tamkin
2. To approve the variation of the premises licence such that Mr Tamkin remains the Designated Premises Supervisor; and
3. To modify the premises licence by imposing the following conditions –
 - a. The Premises Licence Holder and Designated Premises Supervisor shall ensure that at all times when the premises are open for any licensable activity, there are sufficient competent staff on duty at the premises for the purposes of fulfilling the terms and conditions of the Licence and for preventing crime and disorder
 - b. A CCTV system shall be designed, installed and maintained in proper working order, to the satisfaction of the Licensing Authority and in consultation with Northumbria Police. Such a system shall –
 - (i) be operated by properly trained staff
 - (ii) be in operation at all times that the premises are open to the public

- (iii) ensure coverage of all entrances and exits to the licensed premises internally and externally
 - (iv) ensure coverage of such other areas as maybe required by the Licensing Authority and Northumbria Police
 - (v) provide continuous recording facilities for each camera to a good standard of clarity. Such recordings shall be retained (on paper or otherwise) for a period of 28 days, and shall be supplied to the Licensing Authority, Trading Standards or Police Officer on request.
- c. There shall be suitably worded signage of sufficient size and clarity at the point of entry to the premises and in a suitable location at any points of sale advising customers that underage sales of alcohol are illegal and that they may be asked to produce evidence of age.
- d. A 'Challenge 25' policy shall be implemented and maintained, including staff training to prevent underage sales, and ensuring that 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 and who is seeking to purchase age restricted products and shall refuse to sell such products to anyone who appears to be under the age of 25 unless that person provides credible photographic proof of age evidence. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or Proof of Age card carrying a 'PASS' logo.
- e. A refusal register shall be maintained and shall be made available upon request, the refusals to be supported by CCTV cameras.
- f. Staff shall refuse to sell age restricted products to any adult who they suspect to be passing age restricted products to those underage (i.e. proxy sales). Details of these refusals shall be recorded and records kept on the premises.
- g. All staff engaged, or to be engaged, in the sale of alcohol on

the premises shall receive the following training in age restricted sales:-

(i) induction training which must be completed and documented prior to the sale of alcohol by the staff member (such training to include the prevention of underage sales, proxy purchasing, sales to drunks, conflict resolution, the Challenge 25 Policy and correct form of ID)

(ii) refresher/re-enforcement training at intervals of no more than 6 months

(iii) training manuals and all staff documented training records will be kept at the premises available for inspection by a Police Officer or any appropriate local authority officer on request.

- h. The premises licence holder and designated premises supervisor shall cooperate with any crime prevention initiatives which are promoted by the licensing authority or Northumbria Police.
- i. All sales of alcohol shall be made by a personal licence holder

Reasons

The review application was brought by Trading Standards, and supported by representations from Northumbria Police, the Director of Public Health and the Gateshead Safeguarding Children Partnership.

The applications to transfer the licence and vary the Designated Premises Supervisor were brought by Mr Tamkin and opposed by Northumbria Police.

The Sub Committee determined at the outset to hear the three applications in tandem.

The Sub Committee had regard to the Licensing Officer's report, the supplementary documentation provided by the parties in advance of the hearing, the video recordings that had been submitted by the

parties, and the verbal representations made at the hearing.

In considering the applications, the Sub-Committee heard from Ms Johnson as follows –

- That she was seriously concerned about apparent failings in Mr Tamkin's ability to manage underage sales
- That on 24 April 2021 she and a colleague were in the vicinity of the Globe public house when they observed some young people with boxes of alcohol; that they asked them to direct them to a shop and were indicated to Split Crow Road; that they attended one shop but satisfied themselves that the young people had not been supplied with the alcohol from those premises; and then attended Deckham Bargain Store where they observed more young people outside the premises and observed a young person leaving the premises with a bottle of Hooch alcohol drink. Ms Johnson said that as the police were not present they were unable to interview the young people. Ms Johnson said that she entered the premises and spoke to Mr Tamkin, explaining what she had seen and that she believed that the young people had been supplied with alcohol from the premises. Ms Johnson said that she asked to see the relevant CCTV footage; but that Mr Tamkin said that he could not access the CCTV at that time. Ms Johnson said that Mr Tamkin informed her that he did not sell alcohol to anyone under 18 years old; and that she discussed proxy sales with him but he did not appear to understand.
- That on 7 May 2021 a test purchase exercise took place, where Mr Tamkin sold alcohol to a child. Ms Johnson said that she asked for the CCTV footage but was again informed by Mr Tamkin that he could not access the system. Ms Johnson said that she witnessed Mr Tamkin ask some customers for ID and refuse sales whilst she was in the premises. Ms Johnson said that the refusals register was however empty.
- That she is concerned that the premises appear to be a magnet for children.

At this point in the proceedings, the press and public were excluded whilst the video footage was shown.

The Sub Committee then heard from Ms Thompson for Northumbria

Police as follows -

- That Northumbria Police support the review and oppose Mr Tamkin's applications for the licence to be transferred into his name and for him to be appointed as the designated premises supervisor
- That there is evidence of persistent sales of alcohol to children; and that the CCTV footage shows at least three underage sales taking place
- That the girl in a grey jacket seen in the CCTV footage is known to Ms Norton of Longside House Children's Home to be a looked-after child
- That the CCTV and body worn camera footage shows a female customer saying, "Don't worry, you're only doing this because they're here"

The Sub Committee then heard from Inspector Grey as follows -

- That she is the current Gateshead East Neighbourhood Inspector
- That there are a number of vulnerable young people residing in and frequenting the vicinity of the premises
- That she is particularly concerned by that the CCTV footage shows evidence of wo looked-after children travelling to the premises to buy alcohol
- That she is aware of the measures that have been put in place by Mr Tamkin following the review being brought but is still concerned about his ability to comply with his obligations as a licensee
- That no incidents at the premises have been reported to Northumbria Police since Mr Tamkin took over
- That the CCTV footage shows clear evidence of children being sold alcohol
- That she is unable to confirm whether Mr Tamkin has previously provided CCTV footage to Northumbria Police to assist with their enquiries in relation to incidents outside the premises

The Sub Committee then heard from Ms Norton who stated –

- That she works at Longside House Children’s Home, which provides care to looked-after children
- That one of the children in the CCTV footage is known to her as being a looked-after child
- That the child has said to Ms Norton that she buys cigarettes and alcohol from a shop on Split Crow Road
- That having seen the CCTV footage, she believed it to be these premises
- That the consumption of alcohol has had a negative impact on the looked-after child both physically and in respect of her mental health

The Sub Committee heard from Ms Sharp on behalf of the Director of Public Health as follows –

- That the Chief Medical Officer has issued guidance in relation to the consumption of alcohol by children; and highlighting the risks of such consumption
- That the Covid pandemic has had a negative impact on children’s access to education; and that the consumption of alcohol exacerbates that impact by impairing educational attainment

The Sub Committee heard from Ms Park on behalf of the Gateshead Safeguarding Children Partnership as follows –

- That in support of the representations already set out, she is concerned about the exploitation of children in the area, and in particular the use of alcohol as part of that exploitation

In response to questions from Mr Tamkin’s legal representative Ms Smith, Ms Johnson stated –

- The reason she was in the vicinity of the premises on 24 April 2021 was in relation to Covid compliance
- That on that day the only other premises that were visited was

JM Stores, the reason being that having attended Deckham Bargain Stores Ms Johnson was satisfied that that was where the young people had obtained the alcohol she had seen them carrying

- That she has not witnessed any proxy sales at the premises
- That the alcohol she had seen the young people carrying was in blue carrier bags which she confirmed were used at Deckham Bargain Stores; and that the carrier bags used at JM Stores were white
- That she did not check the colour of carrier bags used by the other licensed premises in the vicinity of Deckham Bargain Stores
- That she was not aware if any of the young people had used false identification when purchasing alcohol
- That Ms Johnson did not provide Mr Tamkins with a refusals register on 24 April 2021; and that it was sent at a later date
- That no CCTV from 24 April 2021 had been provided as part of Ms Johnson's representation because it had not been made available
- That on 24 April 2021 Mr Tamkin had not appeared to understand what proxy sales are
- That Ms Johnson had no record of having discussed Challenge 25 policies with Mr Tamkin on 24 April 2021, but that it would have been standard practice to have done so
- That her discussion with Mr Tamkin on 24 April 2021 took between 5 and 10 minutes; and that there were no customers present throughout that time
- That Ms Johnson did not follow up her visit on 24 April 2021 in writing, but instead requested that her colleague Mr Lines attend the premises the following week
- That there was no written record of the discussion Mr Lines had with Mr Tamkin on his follow-up visit
- That there was only one test purchase attempt at the premises on 7 May 2021

- That test purchases were also attempted at other premises that day, with one other premises making the sale and one refusing the sale
- That Ms Johnson accepted that the child involved in the test purchase exercise stood out as she was wearing a face covering (as required by law at that time)
- That Ms Johnson would have expected premises operating a challenge policy to have requested proof of age from the child
- That when Mr Tamkin was asked to provide the CCTV footage he did not refuse, but rather he said he could not operate the system at that time
- That Ms Johnson was concerned by Mr Tamkin's apparent lack of understanding regarding proxy sales as he had only completed his personal licence holder qualification in August 2020
- That the CCTV and body camera footage shows customers saying that they have provided Mr Tamkin with proof of age identification previously; and that one customer who was unable to provide such identification later returned to the premises with appropriate identification
- That the refusals register initially provided to Mr Tamkin was inappropriate as it was in effect an incident register designed for use at on-licensed premises and as such would have been confusing to Mr Tamkin given his level of understanding; and that an appropriate refusals register was later provided to Mr Tamkin
- That further visits to the premises were made by licensing officers Mr Harman and Ms Sparrow as recorded in the refusals register; and that Ms Johnson also attended the premises again on 1 August 2021
- That the training provided by Mr Robson is appropriate for the promotion of the Licensing Objectives
- That the conditions proposed would be appropriate for the promotion of the Licensing Objectives if they were upheld
- That the CCTV system is now in operation and can be accessed

- That the premises appear now to be well-run

When questioned by Ms Smith, Inspector Grey stated that –

- Intelligence of underage sales in the Deckham area led to the test purchase exercise that was carried out on 7 May 2021
- That Northumbria Police officers had not had cause to visit the premises again since 7 May 2021
- That although the body camera footage showed Mr Tamkin asking customers to provide proof of age identification, she was concerned this may have been happening because officers were present rather than it being standard practice
- That whilst some customers said they had been challenged previously, there was no evidence that this had actually happened
- That Ms Draper was not in attendance to speak in support of her statement as she was on annual leave
- That if the licence were to remain in place, Inspector Grey would expect regular monitoring visits to be carried out to check compliance with the licence requirements

When questioned by Ms Smith, Ms Norton said –

- The looked-after child has not specifically said it is these premises she buys alcohol from; but that the CCTV footage shows her doing so
- That the looked-after child could potentially buy alcohol from more than one shop on Split Crow Road
- That Ms Norton does not believe that the looked-after child has false identification

When questioned by Ms Thompson, Ms Johnson said –

- It would be unusual to see comparable licensed premises recording as many refusals as Mr Tamkin has since he began using a refusals register

- That Ms Johnson does not yet have confidence in Mr Tamkin being able and willing to uphold his obligations as a licensee as there has been insufficient time to see him consistently put his training into practice
- That the visit to the premises in April was not planned, but was in response to seeing children with large quantities of alcohol
- That Ms Johnson has recommended to Mr Tamkin that he alter the layout of the premises, but that this had not been put in place by the time of her visit on 1 August 2021
- That Ms Johnson believes there is more than 15% of shelf space dedicated to alcohol sales, contrary to Mr Tamkin's written representation
- That the alcohol stocked includes those that can be categorised as cheap strong drinks such as Frosty Jacks
- That Ms Johnson is particularly concerned about the body camera footage of a customer purchasing miniature spirits and pouring them into a soft drinks can to conceal his alcohol consumption; and that in her opinion Mr Tamkin had appeared jovial whilst this was taking place on the shop counter
- That the suggestion that the looked-after child also buys cigarettes from the premises she purchases alcohol from is concerning as it would indicate a failure to adhere to age restrictions on product sales more generally

The Sub Committee heard from Ms Smith as follows –

- That Mr Tamkin came to the United Kingdom in 2001
- That Mr Tamkin is married with children
- That Mr Tamkin has had various jobs whilst he has lived in the country
- That Mr Tamkin had an opportunity to take on the premises, but at the time had no experience of running a shop or selling alcohol; and had received no training

- That Mr Tamkin believed that he could sell under the premises licence that was on display when he took over the premises
- That when it was brought to his attention that he needed to obtain a personal licence, so did an online course
- That he has worked with Mr Lines to understand what is required of him
- That English is not his first language; and so his understanding can take a little longer
- That on 24 April 2021 when Ms Johnson attended the premises, Mr Tamkin explained why he could not provide access to the CCTV system; and that he was unable to produce a refusals register as he had never heard of them
- That following Ms Johnson's visit, Mr Tamkin contacted a CCTV engineer
- That Mr Tamkin says Northumbria Police have previously been able to view CCTV footage from the system
- That on 7 May 2021 Mr Tamkin was operating a Challenge 18 policy; and that he believed the test purchaser to be 18 years old
- That Mr Tamkin is the sole worker in shop
- That following the test purchase Mr Tamkin –
 - sought specialist support
 - has received training
 - has had his CCTV system fixed,
 - is keeping a refusals register, and
 - has changed the colour of his carrier bags to distinguish himself from nearby premises
- That Mr Tamkin refutes any allegation that he gave vodka to someone

- That whilst the CCTV footage shows Mr Tamkin giving someone chewing gum, this was not in any way sinister
- That Mr Tamkin acknowledges his mistakes and has sought to address them
- That Mr Tamkin has changed his CCTV engineer to a more reliable provider

The Sub Committee heard from Mr Robson that –

- That Mr Robson is a former police officer who now provides licensing advice and training
- That when he was engaged by Mr Tamkin to provide such services, he made three visits to the premises
- That on the first occasion he visited he was not satisfied that Mr Tamkin could demonstrate an in-depth knowledge of the licensing objectives; and that in Mr Robson's opinion this was due to Mr Tamkins having completed an online personal licence holder course rather than face to face training
- That it was apparent that Mr Tamkin was not operating a Challenge 25 policy, and that he was challenging customers based on the age restriction of the individual products they sought to purchase; which in Mr Robson's opinion is a flawed approach
- That Mr Robson explained to Mr Tamkin why he should implement a Challenge 215 policy, and that he is satisfied that Mr Tamkin understands why he should do this and how to
- That the refusals register Mr Tamkin was attempting to use was confusing and unclear
- That it is to be expected that there will be a substantial number of refusals at the premises as there is a lot of young people in the vicinity of the premises who may try to conceal their age; and also that there will inevitable by a lot of refusals when a new policy is introduced as it will take customers some time to alter their behaviour accordingly
- That Mr Robson has provided Mr Tamkin with a positive challenge

sheet which will enable him to record when he has asked for proof of age identification and it has been provided so he has been able to make the sale

- That fake driving licences are easily obtainable
- That Mr Robson would not like to be in Mr Tamkin's shoes, particularly attempting to run premises such as this on his own
- That Mr Robson has trained Mr Tamkin in respect of proxy sales
- That Mr Robson has advised Mr Tamkin to move his non-alcoholic beer stock away from the alcoholic drinks
- That Mr Robson was horrified to see the CCTV footage of Mr Tamkin providing customers with plastic glasses to enable them to consume the alcohol they were purchasing; and has advised him not to do this
- That Mr Robson was also horrified by the body camera footage showing Mr Tamkin selling a customer miniature spirits bottles which he then decanted into a soft drink can to conceal his alcohol consumption; and has advised Mr Tamkins that he should warn customers not to drink the alcohol they purchase from the shop in its vicinity
- That Mr Robson has trained Mr Tamkin in respect of safeguarding and vulnerability and in particular the need to understand his demeanour
- That Mr Robson has trained Mr Tamkin in relation to the signs of drug use
- That by his third visit to the premises, Mr Robson was satisfied that Mr Tamkin had a better understanding of the licensing objectives and what is required of him for them to be promoted, and that the premises are now well run
- That Mr Tamkin has now moved the position of the alcohol stock in the shop so that he can see the display from behind the counter
- That in Mr Robson's opinion these are difficult premises to operate, but that he is confident that the training he has delivered will enable Mr Tamkin to do so in accordance with the licensing

objectives

In response to questions from Ms Johnson, Ms Smith and Mr Robson stated –

- Challenge 25 had been covered by the online licensing training Mr Tamkin had received
- Mr Tamkin began using the positive challenge check sheets on 13 July 2021; and that whilst he was initially recording positive challenges from multiple days on one sheet he now understands that he should use a separate sheet for each day
- That the 10 day and 5 day periods when Mr Tamkin recorded no refusals in his refusals register were a consequence of Mr Tamkin working short days so he could obtain advice and training rather than that he neglected to record refusals unless and until prompted to do so
- That the training provided by Mr Robson took place in the premises whilst they were open for business; and that after each customer had been served Mr Robson would then use it as a case study to reinforce the training
- That Mr Tamkin had no experience of retail or alcohol sales when he took over the shop; but that he spoke to another shopkeeper to ask if he was authorised to sell alcohol and was told that he was not
- That Mr Tamkin is hoping to employ someone with experience of working in similar premises to assist him
- That training for new staff members would be provided by Mr Robson
- That if a customer was trying to purchase alcohol and Mr Tamkin was not able to confirm their age because they were wearing a face covering, hood, scarf, etc he would ask the customer to remove it so that he would verify their age
- That the 'YOTI Age Check' sticker on the front door to the premises was there when Mr Tamkin took over the premises and that whilst he does not accept such proof of age he has not removed the sticker

- That the letters of support from customers were obtained when customers noticed that Mr Tamkin was sad and stressed and they asked what they could do to help him. It was also acknowledged that each of these people had the opportunity to make a representation in the formal manner set out by the Act but had not done so
- That Mr Tamkin had never contacted the police about any issues he had had at the premises, but that he has a linked alarm system so if a serious issue arose then he would do so
- That Mr Tamkin accepts that he should not have allowed the customer seen in the body camera footage purchasing miniature bottles of spirits to pour them into a soft drink can on the shop counter
- That Mr Tamkin denies placing gum into a customer's mouth, but understands following the training delivered by Mr Robson that such behaviour would be inappropriate
- That Mr Tamkin has been trained on how to spot fake identification
- That in Mr Robson's opinion, prior to the training he delivered Mr Tamkin had a poor understanding of what is required to promote the licensing objectives but that he has since progressed well
- That in Mr Robson's opinion an additional member of staff is necessary
- That Mr Tamkin has volunteered a number of conditions to be placed on his licence; and is happy to further offer a condition that only persons who hold a personal licence shall sell alcohol at the premises
- That in the event that Mr Tamkin had a safeguarding concern, he would make a written record of it and contact the police

In summing up -

- Ms Johnson stated that she remained concerned about the effective management of the premises; and that she would not

have expected Mr Tamkin to have made an underage sale on 7 May 2021 having been warned a fortnight earlier. Ms Johnson also stated that she had concerns whether Mr Tamkin would be able to comply with conditions imposed on his licence; and that she had not seen premises so badly managed in Gateshead previously

- Ms Thompson reminded the Sub Committee of the steps open to them to take in respect of the review and the applications to transfer the licence and to vary the designated premises supervisor; and directed the Sub-Committee to relevant extracts from the Council's statement of licensing policy including paragraphs 5.1 and 7.12. Ms Thompson submitted that the premises have a reputation for underage sales; and noted that the Home Office guidance issued under section 182 of the Act states that it is completely unacceptable to sell alcohol to children. Ms Thompson referred to the statement of Mr Norton setting out the direct impact such sales have had in this instance. Ms Thompson referred to the fact that Mr Tamkin had been given an informal warning prior to enforcement action being taken; which had resulted in limited improvement. Ms Thompson further referred to paragraphs 11.27-29 of the Home Office guidance, and stated that Northumbria Police lack faith that Mr Tamkin can or will uphold the licensing objectives. Ms Thompson said that Mr Tamkin's inability to operate the CCTV system at the premises was particularly concerning as it is a safety measure for himself yet he was slow to take action when he knew that it was inoperable. Ms Thompson questioned the appropriateness of Mr Tamkin's relationship with some of his customers based on what had been evident from the CCTV and body camera footage. Ms Thompson said that there has been an increase in anti-social behaviour in the vicinity of the premises since Mr Tamkin took over. Ms Thompson also said that the letters of support from customers are of little evidential value. Ms Thompson emphasises the serious concern regarding Mr Tamkin's ability to understand and implement controls necessary to uphold the licensing objectives.
- Ms Smith said that there was no evidence of any issues with Mr Tamkin's management of the premises prior to 24 April 2021, and that Mr Tamkin had in fact stated that he has worked with both police and licensing officers. Ms Smith said that the first negative engagement with the premises on 24 April 2021 was the result of a random visit, and it is accepted that the premises were not being operated as well as they could have been. Ms Smith said

that it is accepted that underage sales have taken place; but submitted that there is also evidence that Mr Tamkin has attempted to challenge customers for proof of age which suggests he is trying to implement best practice. Ms Smith said that Mr Tamkin has engaged a different contractor to ensure that his CCTV system is more reliable. Ms Smith said that the refusals register he was sent by the Council was incorrect and confusing; and led Mr Tamkin to believe it was an incident register. Ms Smith said that Mr Tamkin now understands what is expected of him and is doing it. Ms Smith said that Mr Tamkin now understands that he should ask for proof of age identification every time he serves someone who appears to be underage, not just once. Ms Smith said that Mr Tamkin strongly refutes any allegation of untoward conduct. Ms Smooth said that Mr Tamkin has sought professional support and received in depth bespoke training. Ms Smith said that Mr Tamkin has offered conditions to be imposed on his licence which should ensure that the licensing objectives are promoted; and that he has learned lessons through the review process and now has a better understanding of the potential consequences of alcohol sales.

The Sub-Committee received legal advice in open session so that all parties were aware of the advice given.

The Sub-Committee were advised that in choosing which course of action to take, they should have regard to the Act, the Home Office Guidance, the Licensing Authority's own Statement of Licensing Policy and the individual facts.

The Sub-Committee were reminded of their duty under the Act is to carry out the Licensing Authority's functions with a view to promoting the Licensing Objectives; and that the Home Office Guidance states that they should do so with regard to the overall interests of the local community.

The Sub-Committee noted that paragraph 6.2 of Gateshead Council's Statement of Licensing Policy states that –

“The Licensing Authority considers:

- the effective and responsible management of premises
- instruction, training and supervision of staff; and
- the adoption of best practice

to be amongst the most important control measures for the achievement of all the licensing objectives”.

The Sub-Committee were reminded of the Judgment in the case of R (on the application of Hope & Glory Public House Ltd) v (1) City of Westminster Magistrates’ Court & Ors [2011] EWCA Civ 31 in which Lord Toulson stated, “Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on... They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location.”

The Sub-Committee were reminded of the Judgment in the case of R (on application of Daniel Thwaites plc) v Wirral Magistrates’ Court and Others (2008) EWHC 838 (Admin), in which the Honourable Mrs Justice Black said:

“[D]rawing on local knowledge, at least the local knowledge of local licensing authorities, is an important feature of the Act’s approach. There can be little doubt that local magistrates are also entitled to take into account their own knowledge but, in my judgment, they must measure their own views against the evidence presented to them. In some cases, the evidence presented will require them to adjust their own impression. This is particularly likely to be so where it is given by a Responsible Authority such as the police.”

The Sub-Committee were reminded of the Judgment of Mr Justice Jay in the case of East Lindsey District Council v Hanif (t/a Zara’s) (2016) EWHC 1265 (Admin) with regard to the approach to be taken to determining the appropriate and proportionate action in light of the salient Licensing Objectives; and in particular their approach should involve –

- consideration of the antecedent facts; and
- a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence.

The Sub-Committee were reminded that any conditions or restrictions they sought to place on the licence must be appropriate for the promotion of the Licensing Objectives; and that they should consider –

- the harm they were seeking to prevent
- what weight to attach to the concerns they had, and
- what would be a proportionate measure to prevent that harm.

The Sub Committee were advised that if they considered that the variation could be granted if certain conditions were imposed, they should ensure that such conditions are sufficiently clear that they can be understood and enforced.

The Sub Committee noted that the CCTV and body camera footage showed very poor management and understanding of what is expected of a responsible licensee; in particular the apparent underage sales, allowing a customer to decant spirits into a soft drink can on the counter to conceal consumption, and the provision of plastic glasses and gum to customers.

The Sub Committee accepted that Mr Tamkin had responded positively once the review application had been brought, and that he had taken appropriate steps to improve his understanding and practice.

The Sub Committee noted that no further problems had been identified following the failed fest purchase on 7 May 2021.

The Sub Committee were satisfied that if the conditions proposed by Mr Tamkin were adhered to, the licensing objectives should be adequately promoted and there should be no further underage sales; and that proxy sales should be avoided.

The Sub Committee were satisfied that the premises will be known as a source of underage alcohol at present, and that Mr Tamkin will need to be vigilant in his checks and refusals to ensure that young people stop attempting to purchase alcohol from the premises.

The Sub Committee were also satisfied that Mr Tamkin had been given appropriate training for him to understand his obligations as a licensee and designated premises supervisor.

In those circumstances, the Sub-Committee determined to approve the transfer of the licence and the appointment of Mr Tamkin as the designated premises supervisor; and to attach conditions to the licence as set out above.

The Sub Committee emphasised however that they would expect regular and stringent check to be carried out and that if the licensing

objectives are found not be adequately upheld in the future, that Mr Tamkin should expect a further review and potential prosecution to follow.

Rights of appeal

Northumbria Police has the right to appeal the Sub Committee's decisions to approve the transfer of the licence and the approval of Mr Tamkin as designated premises supervisor.

Each of the parties have a right to appeal the Sub Committee's decision to attach conditions to the licence in response to the review application.

Pursuant to section 181 and Schedule 5 of the Licensing Act 2003, any such appeal is to be made to the Gateshead Magistrates' Court and within 21 days of the date of service of this notice of decision.

In reaching these decisions the Sub Committee has been persuaded by the individual circumstances of this Application and does not intend to create a general exception to its Policy or to create a precedent.

Dated : 9 August 2021