

19 February 2018

TITLE OF REPORT: **Application for the transfer of a Premises Licence**
Ravensworth Foodstore, 3 Ravensworth Road, Birtley, DH3
1EE

REPORT OF: **Strategic Director, Communities & Environment:**
Licensing Officer

1. PURPOSE OF THE REPORT

The Sub-Committee is asked to consider the application from Michelle McCrory for a new Premises Licence for Ravensworth Foodstore, 3 Ravensworth Road, Birtley, DH3 1EE following receipt of representation from Northumbria Police, Licensing Authority, Local Weights and Measure Authority, Public Health and Local Safeguarding Children Board.

2. BACKGROUND

The Application

This report relates to an application by Michelle McCrory (The Applicant) for a new Premises Licence for Ravensworth Foodstore, 3 Ravensworth Road, Birtley, DH3 1EE submitted on 5 January 2018. The application is attached at Appendix 1.

The application for a new Premises Licence under s17 of the Licensing Act 2003 is for the supply of alcohol (off the premises) at the following times:

Supply of Alcohol
Monday- Sunday: 07:00-22:00

The application was advertised at the premises and in the local press.

Conditions

The Licensing Authority may attach conditions to any licence which are appropriate for the promotion of the Licensing Objectives. A copy of the Model Pool of Conditions from Gateshead Council's Statement of Licensing Policy is attached as Appendix 1.1 that relate to the application.

Licensing History of this premises

On 3 September 2005, Susan McAlear became the premises licence holder and designated premises supervisor for Ravensworth Food Market, 3 Ravensworth Road in Birtley. This was following an application she had submitted to convert the existing Justices' Licence to a premises licence under the Licensing Act 2003. The Justices' Licence (under the Licensing Act 1964) was held in the name of Mohammed Khaliq and it noted him as the owner of the licensed premises.

On 16 June 2006, the Licensing Authority received an application from the Local Weights and Measures Authority/Trading Standards to review the premises licence. The grounds for the review were 'Mohammed Shafiq, who has identified himself as a partner in the business with sole responsibility for the Ravensworth Food Store was found guilty of selling and storing counterfeit cigarettes'. This was contrary to the licensing objective of the prevention of crime and disorder.

The Licensing Sub Committee met on the 3 August 2006 and heard the review application. They made the following decision:

'That in the circumstances, on this occasion, it would not be proportionate to revoke or suspend the Premises Licence on this occasion, or to remove the Designated Premises Supervisor. That Mr Shafiq had undertaken the criminal activity for his own benefit. However, Mrs McAlear had only very recently taken steps to remove Mr Shafiq from the day to day running of the business and there was evidence that she had failed to exercise the degree of control over the premises required from a designated Premises Supervisor. That conditions of the licence could be modified to ensure that the management of the premises was improved by requiring the Designated Premises Supervisor to take over day to day control and to exclude Mr Shafiq from the management.

The Applicant and Premises Licence Holder (through her legal representative) drafted and agreed the following conditions.

The new conditions:

1. That the Designated Premises Supervisor shall immediately assume full day to day responsibility for the running of the premises and, in particular shall ensure that all staff are trained in the sale of age related products and that proper records of this are kept and made available for inspection.
2. That Mr. Mohammed Shafiq will immediately cease to have any involvement in the management of the business.

The Sub Committee believes that these conditions to be necessary for the promotion of the Licensing Objectives.

On 20 July 2015, Ward Hadaway Solicitors acting on behalf of the premises licence holder Susan McAlear submitted an application to vary the designated premises supervisor to Yassar Khaliq. Prior to this Susan McAlear had been the designated premises supervisor. Northumbria Police made no representations in relation to this application and as such it was granted on the 4 August 2015.

On 6 October 2015 the Licensing Authority received an application from the Local Weights and Measures Authority/Trading Standards to review the premises licence. The grounds for the review were that 'Mohammed Shafiq, a partner in the business, sold 4 cans of Carlsberg lager to a 15 year child volunteer' and related to the licensing objectives of prevention of crime and disorder and the protection of children from harm. A mediation meeting occurred on the day of the hearing (23 November 2015) and it was agreed that a minor variation application would be submitted to add conditions onto the premises licence. Those conditions were:

1. A CCTV system shall be designed, installed and maintained in a proper working order, to the satisfaction of the Licensing Authority and in consultation with Northumbria Police. Such a system shall:-
 - a. Ensure coverage of all entrances and exits to the licensed premises internally and externally, including the till area.
 - b. Ensure coverage of such other areas as may be required by the Licensing Authority and Northumbria Police.
 - c. Provide continuous recording facilities for each camera to a good standard of clarity. Such recordings shall be retained (on tape or otherwise) for a period of 28 days and shall be supplied to Officers of the Licensing Authority or Northumbria Police upon request.
 - d. Be in operation at all times the premises are in use, with a member of staff capable of downloading the recording for officers of the Licensing Authority or Northumbria Police upon request.

2. An age verification scheme to a minimum of 'Challenge 25' policy shall be adopted, implemented and maintained ensuring that all members of staff are trained to refuse sales to anyone who appears to be under the age of 25 and who is seeking to purchase any age restricted product 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 Proof of Age card carrying a 'PASS' logo, passport or photographic driving licence. No other evidence of age and identity may be accepted.

3. There shall be displayed 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 display and sale advising customers that underage sales of alcohol are illegal and that they may be asked to produce evidence of age.

4. A refusals ledger (or electronic equivalent) shall be maintained on the premises to record refusals of all age restricted products and shall be made available to Officers of the Licensing Authority or Northumbria Police upon request.

5. 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 should also be kept in the ledger.

6. All staff shall be trained to prevent underage sales of all age restricted products. Training records are to be kept for all staff involved in sales of age restricted products and shall be made available to Officers of the Licensing Authority or Northumbria Police upon request.

7. Prior to being allowed to sell alcohol, staff training must be carried out and properly documented in relation to the prevention of crime and disorder and the protection of children from harm, including;

- a. Sales of alcohol and other age restricted products to those underage, and
- b. Sales of alcohol and other age restricted products to persons over 18 purchasing for those underage (proxy sales).
- c. Sales of alcohol to drunks etc.

8. The premises licence holder and designated premises supervisor shall co-operate with any reasonable crime prevention initiatives which are promoted by the Licensing Authority or Northumbria Police.

9. The premises licence holder and designated premises supervisor shall comply with any reasonable measures required by the Licensing Authority or Northumbria Police from time to time relating to preventing the sale of alcohol to children.

A minor variation application was submitted on 26 November 2015 to add the agreed conditions. No objections were received.

On 2 November 2017 the Licensing Authority received an application from the Local Weights and Measures Authority/Trading Standards to review the premises licence. The grounds of review were that on 24 October 2017 Mrs Linda Holt sold four cans of Fosters lager to a 15 year old volunteer.

On 17 November 2017 the Licensing Authority received completed applications to transfer the premises licence to Ishfaq Hussain and to vary the premises licence to nominate Ishfaq Hussain as the designated premises supervisor.

On 19 December 2017 the Licensing Sub-Committee heard all three applications, namely the review, the transfer and the application to vary the premises licence to nominate a new designated premises supervisor. The Licensing Sub-Committee decided to revoke the premises licence, to refuse the variation of the Designated Premises Supervisor and to refuse the transfer of the premises licence to Mr Hussain. The summary of decision for the Licensing Sub-Committee hearing is attached at appendix 1.2.

An appeal of the Licensing Sub-Committee's decision has been made to Gateshead Magistrates Court. At the time of writing this report a court date has not been listed yet.

On 2 January 2018 the Licensing Authority received an application to transfer the premises licence from Susan McAlear to Gulnisa Hussain with immediate effect. At the same time an application was also submitted from Gulnisa Hussain to nominate Ishfaq Hussain as the Designated Premises Supervisor. Northumbria Police objected to both applications. On 29 January 2018 both applications were withdrawn.

3. REPRESENTATIONS

The following representations were received:

- Northumbria Police (Appendix 2)
- Licensing Authority (Appendix 2.1)

- Local Weights and Measure Authority (Appendix 2.2)
- Public Health (Appendix 2.3)
- Local Safeguarding Children Board (Appendix 2.4)

Additional information has been provided by the Local Safeguarding Children Board and Northumbria Police and these are attached to the report as Appendix 2.5 and Appendix 2.6.

Parties

The Parties to the hearing will be:

- a) The Applicant, Michelle McCrory
- b) Northumbria Police
- c) Licensing Authority
- d) Local Weights and Measure Authority
- e) Public Health
- f) Local Safeguarding Children Board

3. FOR CONSIDERATION

The areas for consideration by the Sub-Committee are:

- The application for a Premises Licence;
- The representations;
- Whether or not the application should be granted; and
- The conditions to be attached to the Premises Licence (if granted).

4. THE POLICY

When carrying out its functions the Sub-Committee must have regard to:

- (a) the Statement of Gateshead Council's Licensing Policy,
- (b) the Licensing Act 2003
- (c) the Amended Guidance (April 2017) issued under Section 182 of the Licensing Act 2003 by the Secretary of State.

Some parts of the Policy and Amended Guidance are reproduced in Appendices 3 and 4. The parties may refer to the policy and guidance during the hearing.

An area plan is attached at Appendix 5.

5. FOR DECISION

The Sub-Committee is asked to consider the application, decide whether or not it should be granted, and if relevant, attach such conditions as it deems appropriate for the promotion of the Licensing Objectives.

APPENDICES

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| Appendix | 1 | Application to transfer the Premises Licence |
| | 1.1 | Model Pool Conditions from Gateshead Council's Licensing Policy |
| | 1.2 | Summary of decision from Licensing Sub-Committee hearing on 19 December 2017 |
| Appendix | 2 | Representation from Northumbria Police |
| | 2.1 | Representation from Licensing Authority |
| | 2.2 | Representation from Local Weights and Measure Authority |
| | 2.3 | Representation from Public Health |
| | 2.4 | Representation from Local Safeguarding Children Board |
| | 2.5 | Additional information from Local Safeguarding Children Board |
| | 2.6 | Additional information from Northumbria Police |
| Appendix | 3 | Relevant Extracts from Gateshead Council's Licensing Policy |
| Appendix | 4 | Relevant Extracts from the Guidance issued under Section 182 of the Licensing Act 2003 |
| Appendix | 5 | Area Plan |