



**MINUTES OF LICENSING ACT 2003 SUB-COMMITTEE**

**MEETING DATE Tuesday, 28 June 2016**

**MEMBERS PRESENT:** Councillor Marion Lowe (Chair), and Councillors Mark Jarnell and Sheila Long

**OFFICERS:** Elizabeth Walsh (Solicitor), Lesley Miller (Regulatory Services Manager) and Nina Neisser (Democratic and Member Services Officer)

**16.LAS.57 Declarations of Any Interests**

No declarations of any interests were received.

**16.LAS.58 Procedure**

The Chair outlined the procedure to be used to conduct the meeting.

**16.LAS.59 Application for a Review of a Premises Licence Under Section 52 of the Licensing Act 2003, in respect of the Euro Star, 90 Market Street, Chorley**

The Sub-Committee considered a report from the Director of Early Intervention of an application for a review of a Premises Licence submitted under Section 51 of the Licensing Act 2003 by Lancashire Constabulary acting as a Responsible Authority, representation from Lancashire County Council's Trading Standards Department also acting as a Responsible Authority, and the Premises Licence Holder.

The application of the review of the Euro Star, 90 Market Street Chorley was submitted on 17 May 2016. The reasons for this application were given under the licencing objectives for; The Prevention for Crime and Disorder and The Protection of Children from Harm.

The premises have been subject to a number of failed test purchases by both Lancashire Constabulary and Lancashire County Council Trading Standards in relation to the Sale of Alcohol and Tobacco products. On 5 January 2016 the Police and Lancashire Trading standards searched the premises and a hidden compartment built into the display counter containing counterfeit/illicit tobacco was found.

Subsequently, on 2 February 2016, the premises failed a test purchase in relation to the sale of counterfeit tobacco. The premises was searched and a quantity of counterfeit/illegal tobacco was seized.

On 10 March 2016 the Council received an application to transfer the premises licence and Designated Premises Supervisor position into the name of the now current premises licence holder. The application received representation from Lancashire Constabulary but was withdrawn as the Police were not in a position to provide sufficient information at the time.

Following this, on 5 April 2016 the premises failed a test purchase in relation to the sale of alcohol; the 17 year old shop assistant, who was alone in the shop at the time, permitted the sale of alcohol to a 15 year old female. The premises licence holder ensured the Sub-Committee that he had left the shop for 25 minutes and instructed the shop assistant to not permit the sale of alcohol during this time.

Members expressed concerns over the lack of training with regards to this and questioned whether the Challenge 25 Policy was in place at the premises. The premises licence holder assured Members that this policy did apply, however when questioned indicated uncertainty in affirming the provisions of the Challenge 25 Policy and was unable to provide any evidence that employees had been formally trained.

Members were reminded that although he had been the business owner since November 2015, the current licence holder had only held the premises licence for the shop since March 2016 when the licence transfer was confirmed. Therefore, several of the products seized and failed test purchases were carried out under the previous licence owner, who it was expressed, was never a business partner with the current premises licence holder. The premises licence holder presented numerous conditions that he was willing to implement going forward which included; at least two members of staff to be present in the shop at busy times (4-6pm), no person under the age of 18 to be working alone at any time, all staff to be trained to at least level one of the BIIAB Award in Alcohol Awareness, and to ensure that any refusal to serve alcohol always be logged in the refusal register.

The Sub-Committee had carefully considered the officer report, appendices and representations made by Lancashire Constabulary, Lancashire County Council Trading Standards, the Premises Licence Holder and his representative, the guidance issued under Section 4 of the Licensing Act 2003, its Statement of Policy and the amended guidance issued by the Secretary of State under Section 182 of the Act, together with the Council's Licensing Policy, in particular those paragraphs referred to in the report. The Sub-Committee had also considered the Human Rights Act implications and in particular Article 8 and Article 1 of the First Protocol.

The Sub-Committee were of the view that two of the licensing objectives had been undermined and the management of the premises had not achieved the safety of the town centre and the residential communities. The Sub-Committee concluded that there was a history of the premises selling counterfeit/illegal tobacco and the failure of the current premises licence holder to discharge his responsibilities under the Licensing Act and under the current licence had failed to promote the licensing objectives.

The Sub-Committee were minded that it had to achieve a balanced approach to the difficult issues it had heard throughout the hearing.

**On this basis after careful consideration of all the relevant information, the Sub-Committee RESOLVED – to fully revoke the premises licence of The Euro Star for the following reasons:**

- **It is necessary for the promotion of the licensing objectives as the evidence before the Committee proves that the licensing objectives are being undermined significantly;**
- **Prevention of Crime and Disorder**
  - **The premises was managed in an irresponsible manner as to amount to crime and disorder by storing counterfeit tobacco in a secret compartment under the counter and goes against the guidance – this was confirmed by the guidance.**
  - **The selling of counterfeit/illegal tobacco is a criminal offence and the funds from the buying of the counterfeit/illegal tobacco could be used to potentially fund organised crime and terrorist activity. The counterfeit/illegal tobacco which was found. This goes against the promotion of this licensing objective.**
  - **The selling and permitting the sale of alcohol to under 18's is a criminal offence and evidence from Trading Standards and Police highlighted failed test purchases**
  - **The guidance confirms: for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity of crime of young people caused by; the License-holder allowing the sale of alcohol to children which results in the delivering of alcohol on to the street.**
- **Protection of Children from Harm**
  - **This refers to underage sales and proxy sales, whereby in this instance a 17 year old was left working in the shop unattended. The same 17 year old then sold alcohol to a 15 year old female.**
  - **Unacceptable record-keeping of the Challenge 25 Policy – Members were not satisfied with the fact that the premises licence holder was unable to present training records or any authority to show that the staff were legally able to sell alcohol. Members were able to view the refusal register brought in by the DPS and noted the entries but were not satisfied by the non-descript entries e.g. 'Name/Description of Persons' as 'no idea'.**
  - **Unacceptable training for staff who were involved in the supply of alcohol to be made aware of the existence and content of the age verification policy which applies to the premises – Members were not satisfied that this had occurred, especially in relation to the sale of alcohol to under 18's. Additional evidence of Trading Standards and Police failed test purchases indicated that staff did not know they operated a Challenge 25 Policy – this was confirmed by the guidance.**

**Members were concerned that the DPS was unclear about his own policy.**

- Members felt that any additional conditions that the DPS had put forward would not satisfy the prevention of crime and disorder concerns and the protection of harm to children**
- The selling and permitting sale of alcohol to under 18's – criminal offence-evidence of Trading Standards and Police Test purchases**
- The Trading Standards Officer advised that they had attended the premises a number of times and every time there had been issues with the premises.**
- Members considered the representations made by the DPS in relation to the financial effects the removal of the Licence would have on the premises licence holder but this did not outweigh the need to safeguard children and for prevention of crime and disorder and it was in the public interest to resolve the existing problems with the premises licence so Licensing objectives are met.**

**The premises licence holder was unable to state what the four licensing objectives were which concerned Members.**

**The Committee also gave due regard to the draft Conditions proposed by the licence holder's legal representative. The Police confirmed that by putting conditions on the Licence this would not be effective. The Committee determined the revocation of the licence was necessary and proportionate in light of all the evidence as the premises had not operated with the existing licence.**

**The Sub-Committee was also made aware that the Premises License Holder had pleaded guilty to four offences, two offences of selling alcohol on 5 January and 1 February and two offences of possession with intent to supply on both dates. Members were aware that the premises licence holder did not notify the Court that he held a personal license at the time of his conviction.**

**The Sub-Committee concluded that the revocation of the licence was the course necessary to promote the Licensing Objectives.**

**There is a right of appeal to the Magistrates Court within 21 days from the date of receipt on the notification of the decision.**

Chair

Date