

**DECISION RELATING TO CROSS HEATH NEWS, LIVERPOOL ROAD, NEWCASTLE-
UNDER-LYME APPLICATION FOR REVIEW OF PREMISES LICENCE FROM
HEARING ON 28TH MARCH 2018 AT 10:00AM**

Having taken into account the Licensing Act 2003 and the guidance issued under Section 182 of the Act, the Council's statement of Licensing Policy and also the fact that Trading Standards have requested a review of the premises licence supported by Environmental Health due to concerns relating to the failure of the premises licence holder and designated premises supervisor to promote the licensing objectives relating to the Prevention of Crime and Disorder and the Protection of Children from Harm.

The Committee have considered those licensing objectives in the light of what has been said and have listened to the arguments and are persuaded that, in the light of the evidence before it, it is appropriate to take steps to ensure that the licensing objectives are promoted. In considering which of its powers to invoke the Committee had regard to the guidance at 11.19 and 11.20 which indicates that the Committee should seek to establish the cause of the concerns that the representations identify and that the remedial action taken should generally be directed at the causes and be no more than appropriate and proportionate. In particular, where the cause of the identified problem relates to poor managerial decision, the Committee may consider appropriate action.

Trading Standards brought the review on the basis that the Premises Licence Holder and the Designated Premises Supervisor had failed to take adequate steps at the premises to protect children from harm and prevent crime and disorder which it was alleged raised questions as to whether the business was being operated in accordance with the promotion of the licensing objectives as referred to in Section 4 of the Licensing Act 2003.

Offences under Section 146(1) of the Act, involving the sale of alcohol to an individual aged under 18 is a relevant offence when considering a personal licence and Trading Standards gave evidence that on the 21st August 2017 the premises had failed a test purchase, in that a 500ml bottle of cider was sold to a 16 year old and that the person who made the sale claimed under caution that he had not received any written staff training contrary to the conditions on the premises licence.

Trading Standards referred to the guidance at 2.23 which said that the Government believes that it was completely unacceptable to sell alcohol to children and at 2.29 where Licensing Authorities could give considerable weight to representations about Child Protection matters. Further that, 11.27 provided that certain criminal activity that arises in connection with licensed premises should be treated particularly seriously and that activity includes the illegal purchase and consumption of alcohol by minors.

Trading Standards concluded that new conditions should be attached to the operating schedule on the grounds that the Premises Licence Holder and the Designated Premises Supervisor had failed to take adequate steps at the premises to protect children from harm and prevent crime and disorder as referred to and also because their actions indicated an unequivocal disregard of the law by inter alia not providing formal training in connection with age restricted sales meaning that the seller should not have been authorised to sell alcohol during his employment with the business. Trading Standards further alleged that the DPS authorisation had not been supplied to them and that the Premises Licence Holder had failed to engage with them respond to reasonable requests to produce information and documentation.

Environmental Health, who supported Trading Standards application for review, referred to a number of visits to the premises between the 4th August 2016 and 1st February 2018 where it was ascertained that training records were not fully up to date, fire extinguishers were overdue for service and the accident book had not been completed. Although it was noted, that CCTV was functioning and Challenge 25 posters were on display. There was however, no DPS authorisation available and the refusals book was not accessible as it was locked away. Also, a premises licence fee had been outstanding. Subsequently, the fee had been paid and the refusals register produced but there was some inconsistency as to the records of exactly who was employed to work at the premises.

Having said that, following negotiation between the parties, agreement had been reached that the premises licence should be suspended for a period of 2 weeks to allow for their training to take place in view of the good track record of the premises in passing further test purchases and the fact that the Premises Licence Holder was proposing to put in place systems which would result in the mitigation of the possible further risks.

It was also agreed that the current 6 conditions under the protection of children from harm in Annex 2 on the Premises Licence should be removed and replaced by the new conditions set out on pages 23 and 24 of the report and detailed below:

Protection of Children from Harm

1. A Challenge 25 policy must be adopted and enforced at the premise where all persons who appear to be under the age of 25 must be challenged for acceptable identification to prove they are over the age of 18 prior to the purchase of alcohol.
2. The only acceptable forms of identification must be a valid photo driving licence, valid passport or a valid PASS approved proof of age card.
3. Challenge 25 posters must be displayed at all entrances to the premise, all areas where alcohol is displayed and at the cash till payment area.
4. Posters must be displayed prominently and in sight of customers and staff.
5. At each till there must be placed a date of birth check card which must be kept updated at all times with the current date at which a person must be born to be aged 18 or over.
6. A refusals register with details of all refusals must be maintained at the premise. The register must contain details of the staff member refusing the sale and must be checked on a 2 weekly basis by the Designated Premises Supervisor and signed and dated by the Designated Premises Supervisor.
7. The refusals register or, when on the till, a print out of refusals must be produced and made available for inspection at the time of the visit by any Responsible Authority.
8. Prior to selling alcohol, all persons involved in the sale of alcohol & age restricted products who are not the holder of a Personal Licence must receive initial and regular 6 monthly refresher training by the Designated Premises Supervisor or external training provider with regards to the law in relation to the sale of alcohol and age restricted products and responsible retailing. Such training must be recorded and up to date training records of all such persons must be maintained at the premise and produced and made available for

inspection at the time of the visit by any Responsible Authority. Records for each person must be retained for a minimum of 12 months.

9. Both initial and subsequent refresher training in relation to the sale of alcohol & age restricted products must contain a test to be undertaken by the staff member and this test or online certificate must be made available at the time of the visit to any Responsible Authority.

The counsel for the Licence Holder also confirmed that an agent would be employed to assist in liaising with the Licence Holder and DPS to ensure that appropriate training was carried out.

The Committee considered the agreement reached but concluded that in view of the severity of the breach but taking into account 11.22 and 11.23 of the guidance the Premises Licence should be suspended for a period of one month and the new conditions would be imposed on the licence as set out on pages 23 and 24 of the report as agreed by the parties.

In view of the assurances given by the Counsel for the Licence Holder concerning training to be given to include the licence holder's daughters who are fluent in English the Committee were minded not to remove the DPS from the licence.

Accordingly a notice will be issued to that effect.

Dated: 29th March 2018