

<b>Minutes of</b>	<b>Licensing Panel</b>
<b>Meeting date</b>	<b>Tuesday, 25 July 2023</b>
<b>Committee members present:</b>	Councillors Jane Bell, Paul Wharton-Hardman and Harry Hancock
<b>Officers present:</b>	Stephanie Newby (Licensing Officer), Tasneem Safdar (Shared Legal Services Team Leader) and Clare Gornall (Democratic and Member Services Officer)
<b>Other attendees:</b>	PC Stephen Connolly – Applicant, Lancashire Constabulary PS John Lovick – Applicant, Lancashire Constabulary  Jason Middleton – Trading Standards, Lancashire County Council Chris Ward – Licensing Manager, South Ribble Borough Council  Gill Sherratt- Head of Licensing, Napthens Solicitors Nuwan Bamuno Mudiyansele - Premises Licence Holder and Designated Premises Supervisor

A video recording of the public session of this meeting is available to view on [YouTube here](#)

## **20 Apologies for absence**

None.

## **21 Declarations of Interests**

There were none.

## **22 Review of a Premises Licence - School Lane Super Saver Ltd, Bamber Bridge**

Ms Stephanie Newby, Licensing Officer presented a report of the Chief Executive to determine an application for review of a premises licence in respect of Super Saver Ltd, 42 School Lane, Bamber Bridge PR5 6QD.

The report indicated that an application for a premises licence review was received from Lancashire Constabulary regarding a failure to uphold the following licensing objectives:

- The prevention of crime and disorder
- The protection of children from harm

The grounds for the review could be found in more detail in the review application, attached to the report as Background Documents 1, 2 and 3.

The report informed members that following the application to review the premises licence by Lancashire Constabulary, representations had been received from responsible authorities, Trading Standards and the Licensing Authority.

A copy of the representation from Trading Standards was attached to the report at Appendix 1. A copy of the representation from the Licensing Authority was attached to the report at Appendix 2.

The report also indicated that five representations were received from members of the public, in support of the Licence Holder. These were attached at Appendix 3, 4, 5, 6, and 7. These summarised that the licence holder was a responsible, pleasing, and welcoming individual.

Ms Newby also indicated that written representations had been received from the licence holder on 21 July 2023 and 24 July 2023 respectively. She confirmed that these had been circulated to all parties.

The committee report requested that members determine the application taking into account the Council's Licensing Policy, and the Secretary of State Guidance (section 182 of the Licensing Act 2023). The report also outlined the options available to the Panel as stipulated by section 52 of the Licensing Act 2003, these being;

- make no changes to the premises licence
- to modify the conditions of the licence;
- exclude a licensable activity from the scope of the licence;
- remove the designated premises supervisor;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

### Presentation of the Applicant's Case

PC Stephen Connolly, Lancashire Constabulary presented the case for the applicant. He stated that on Friday 19th May 2023 the premises was subjected to a joint Police and Trading Standards test purchase operation to purchase a knife as part of a dedicated operation to tackle knife crime; the premises failed and sold a trimming knife to a child on this occasion. He indicated that there was no challenge made by the staff member and a fixed penalty notice was issued.

On Friday 2nd June 2023, following the previous failure the premises was again subjected to another test purchase by the Police and Trading Standards, on this occasion the premises sold alcohol to two children. Following this, an inspection was completed where there were non-compliance of the Premises Licence Conditions noted including no documented staff training or refusals register. No access to CCTV was provided despite this being a condition of the licence. The staff member was unclear about when his training had taken place, initially stating every two months, then 2 – 3 months. There was no documentation provided regarding their training. The individual was the same member of staff who had failed a test purchase operation 2 weeks previously and admitted that he had been warned about selling age related products on the previous occasion. The staff member also appeared to be unaware of what the refusals register was and had little understanding of his responsibilities.

On Wednesday 7th June 2023, the premises was once again visited for an inspection by the Police and Mr Ward from South Ribble Borough Council Licensing where the premises were found to continue showing non-compliance of the Premises Licence conditions. The same member of staff from the previous visits was present, along with a second member of staff. Again no access to CCTV was provided, and nor was the training records or refusals register. The police were advised that the documentation was located on the premises

licence holder's second premises on Moss Lane, Leyland. As a result, it was decided to visit the Moss Lane premises where a poor level of compliance with premises licence conditions was found, with staff unaware of their obligations regarding the refusals register which was incomplete. Having spoken to the licence holder on the telephone, the police were then advised that all the documentation were at the premises on School Lane.

A further visit by the police and Mr Ward was then conducted at the School Lane premises later that evening. The staff member who had been present on previous test purchase visits was on the premises alone. Again no access to CCTV was provided despite having spoken to the licence holder. Mr Ward then spotted a folder which on inspection contained out of date training records. The condition of the licence states that training must be carried out every six months. The staff member was unaware of the location of the refusals register and licence holder had to direct them to where it was. Upon inspection there were a number of refusal entries of concern, where no year had been included. In addition, in the opinion of PC Connolly it appeared that the same pen had been used for all the said entries, the handwriting appeared to be by the same person and it appeared they had been written at the same time, however the signatures were different. The licence holder was unable to account for this. At was at this point the licence holder was advised that the police intended to submit an application for a review of the premises licence.

Further to this, and after a premises licence review had been applied for, a visit was undertaken with Trading Standards on 19 June 2023. Again the same member of staff encountered on previous visits who had failed the test purchases was present. There was a refusals register, however there were no training records.

PC Connolly referred to the CCTV footage of the test purchases referred to which had been submitted as part of the review application. The links to the video footage, had been included in the Panel's committee report.

In light of all the evidence presented, PC Connolly recommended that the Licensing Panel revoke the premises licence.

The applicant was questioned by the Licence Holder's representative, Gill Sherratt on the point of PC Connolly's belief that the refusals register was not a genuine record. She asked PC Connolly if he was an expert in the field of handwriting to which PC Connolly replied he was not.

#### Presentation by Responsible Authorities

Chris Ward, Licensing Manager at South Ribble Borough Council, outlined his representations which supported the application for review by Lancashire Constabulary. He described a visit where he was invited to accompany PC Connolly together with Trading Standards on 2 June 2023. He witnessed the child leaving the premises with the alcohol following the test purchase, then proceeded to enter the premises. Inside the premises Mr Ward said he witnessed the staff member unable to use CCTV, and appeared to be unaware of the refusal log.

He then described the visit with PC Connolly on 7 June 2023. Again it was the same staff member from the previous visit on 2 June 2023, he appeared unable to use CCTV, was unaware of the refusal log, and unable to provide proof of training records. He accompanied PC Connolly to the Moss Lane, Leyland, whereupon they were advised by the licence holder that the documents had been located at 42 School Lane, Bamber Bridge. Mr Ward and PC Connolly then returned to School Lane, Bamber Bridge and encountered the same staff member as on previous occasions, who seemed unable to locate the refusal register or training records. Mr Ward then spotted a folder which on inspection contained out of date training records which had last been dated on March 2022. The refusal register was subsequently located, showing the last entry in the register was April 2022.

Mr Ward informed the hearing that he was then contacted by PC Connolly to advise him of the outcome of a further visit with Trading Standards on 19 June 2023, which again showed that the premises was not compliant with the licence as regards CCTV, staff training records and the refusal log. In conclusion, Mr Ward indicated that on the visits he attended the premises was in clear breach of multiple conditions on the premises licence, relating to:

- No age verification policy in place
- Refusal logs not in use at the premises
- staff not being trained in relation to underage products and the use of the CCTV system.

Jason Middleton from Lancashire County Council Trading Standards -Alcohol and Tobacco Team made representations to the Panel as regards the test purchases on 19 May 2023 and 2 June 2023. He confirmed that the volunteers taking part in the test purchases would wear clothing they would normally wear and would not attempt to dress older than their actual age. They did not carry fake ID, and if challenged, would have told the truth about their age. He explained that the test purchasing on 19 May 2023 was part of "Operation Sceptre" led by the police which was focussed on knife crime. Mr Middleton also said that he personally witnessed the sale of alcohol to an underage test purchaser on 2 June 2023.

### Presentation of the Licence Holder's Case

Gill Sherrat presented the case on behalf of the licence holder. She said that the licence holder accepted the failures and reasons for the application to review the licence. However, the licence holder had never had a premises licence reviewed before, and had been both the premises licence holder and designated premises supervisor since September 2021. The licence holder had several responsibilities, including being a semi-professional cricketer, in addition to being the owner at two licensed premises.

Ms Sherrat argued that the history of the School Lane premises prior to being transferred to the current licence holder was not relevant, nor was any representations in relation to the second premises at Moss Side, Leyland.

As regards the police representations suggesting that the refusal logs may have been falsified, there was no concrete evidence of this, only the belief of PC Connolly. Ms Sherrat suggested for example, that due to time pressures behind the till when the premises was busy, it may have been that one member of staff made the entry regarding a sale, and another staff member signed it.

Ms Sherrat indicated that there was an age verification policy in place; it was not followed by the staff member that failed the test purchases, however, posters were displayed in the premises at the time and these are included in the applicant's written representations.

Regarding the CCTV system, she explained that there was limited access by staff and was accessible only by prior arrangement with the licence holder. This was due to reasons such as possible staff theft and data protection issues, and was therefore a reasonable security measure.

In reference to the test purchase failure on 19 May 2023, the staff member rang the premises licence holder straight away. However, on 2 June 2023, that staff member lied and failed to inform the licence holder about it. The individual in question has now been sacked from employment at the premises.

The licence holder has been criticised for lack of action, however following the 2 June 2023 visit the police applied for a review of the premises only a few days later on 8 June 2023. She stressed that the Licensing Act 2003 emphasised partnership working and a stepped approach. This has not happened here. The police had only spoken to the licence holder

approximately 3 or 4 times on the telephone before advising him of an application to review the licence.

The police are recommending a revocation of the licence, this is not a proportional measure given the circumstances.

Ms Sherratt referred to the written representations submitted by the licence holder on 21 July and 24 July. They provided evidence of staff of training records – not the best admittedly, however it showed that the licence holder had made some attempt to fulfil his obligations. Further, the staff had been re-trained on 12 June 2023. The licence holder had been taking guidance from Napthens Solicitors regarding the implementation of more robust procedures. This included signing up to online training provided by Licensing Matters, which allowed for staff to refresh their training every three, six or twelve months.

Ms Sherratt also referred to the written representations providing evidence of the purchase of a new CCTV system.

It was also offered that one of the current members of staff with up to date training become the new Designated Premises Supervisor, with evidence of a qualification included with the written representations. However, it was noted by the Licensing Panel that the current Premises Licence Holder would remain the same.

During questions by the applicant, it was suggested by the licence holder that the twelve month refresher training was standard practice and also related to there being an annual subscription to the provider. The licence holder was however willing to accept refresher training every six months as a condition of the licence. With regard to compliance with the licence condition requiring access to CCTV footage, the licence holder was willing to ask the system provider for permissions for staff on site to be able to access relevant footage, but not download or delete footage.

When questioned by the applicant, the licence holder accepted that had the training been kept up to date, the staff member may not have sold age related products resulting in the failed test purchases.

When questioned by Jason Middleton, Trading Standards the licence holder confirmed that the individual sacked for test purchase failures would not be re-employed and had no connection with the premises. Mr Middleton also queried why the licence holder had not been in contact with Trading Standards following receipt of its warning letter which included a telephone number and an email. Ms Sherratt responded that it was for responsible authorities to contact the licence holder.

When questioned by Mr Chris Ward Licensing Manager, regarding his lack of due diligence as regards record keeping, e.g. failure to complete the refusal log for over a year, despite having claimed to be in day to day control of the premises, the licence holder was unable to clearly explain this.

Mr Ward referred to the fact that the licence holder had employed the use of a licensing consultant to ensure compliance in the past, which had since fallen.

Ms Sherratt stressed that procedures were now in place which included an EPOS system till prompt for age related products. The licence holder was also willing to discuss individual logins for each staff member which would assist the licence holder/ designated premises supervisor with compliance monitoring.

During questions by the Licensing Panel, it was established that the premises licence holder has been managing licensed premises since 2019, i.e. four and a half years. The number of entries in the refusals log was also queried, i.e. only 13 in one year. The licence holder replied that refusals were typically only on occasion, not every week.

When questioned about the training records as part of the licence holder's written representations, pages 5 and 6 and 7 and 8, the licence holder indicated that the same staff member had completed both training logs.

The applicant did not wish to amend the application.

The Chair then invited the applicant, responsible authorities and the licence holder to sum up. All parties summarised the main points they had made in the hearing.

The licence holder made submissions to the Panel that the options to revoke the licence nor suspend the licence were proportionate in this case, and that under the circumstances, the imposition of the proposed conditions was the proportionate response to promote the licensing objectives.

The licence holder proposed a set of additional conditions to modify the premises licence conditions, which had been provided to the applicant and responsible authorities and were circulated to the Licensing Panel at the hearing, as follows:

1. On the first appointment, all staff employed at the premises will receive training on the Licensing Act 2003 including input on preventing underage sales, preventing sales of alcohol to people who are drunk and any other relevant matters. Training shall be regularly refreshed at no less than six month intervals. The training must be recorded and accessible on the premises and made available for inspection upon request of a police officer or an authorised officer of the Licensing Authority or (in the case of online training) within 48 hours.
2. An incident register will be maintained at the premises and made available to the authorities on request.
3. The premises will adopt a "Challenge 25" policy. This means that if a customer purchasing alcohol appears to be under the age of 25, they will be asked for proof of their age, to prove that they are 18 years or over.
4. Posters will be on display advising customers of the "Challenge 25" policy.
5. The only forms of identification that will be accepted will bear their photograph, date of birth and a holographic mark and / or ultraviolet feature. Examples of appropriate identification include a passport, photocard driving licence, military ID, and Home Office approved proof of age ID card bearing the PASS hologram.

Additional conditions to modify the licence were also proposed by the licence holder:

- To remove the current designated premises supervisor
- No sales of knives
- The refusals register will be checked by the Designated Premises Supervisor on a monthly basis. These checks will be documented.

The legal officer advised the Panel that with regard to sale of knives, this was not a licensable activity and as such would be difficult for the Licensing Authority to enforce. Also, with regard to a new designated premises supervisor, this would be subject to background history checks and subject to appeal within fourteen days by the police.

The Chair thanked everyone for attending and explained a decision notice would be issued to all the parties within 5 working days and advised of the right of appeal to the decision to the Magistrates' Court within 21 days.

The Panel then went into private deliberations to consider its decision.

## Decision

In reaching its decision the Panel carefully considered the following:

1. Both Written and Oral Evidence presented in connection with the hearing from all parties
2. The Licensing Act 2003
3. S182 Revised Guidance of the Licensing Act 2003
4. South Ribble Borough Council – Licensing Policy

The Panel were of the view that the licensing objectives – particularly the Prevention of Crime and Disorder and the Protection of Children from Harm have been seriously undermined. In that regard, the Panel felt that the following steps would have to be taken to promote the Licensing Objectives and as a deterrent:

1. Suspension of the premises licence for a period of three months; and
2. The imposition of the following conditions:

1. On the first appointment, all staff employed at the premises will receive training on the Licensing Act 2003 including input on preventing underage sales, preventing sales of alcohol to people who are drunk and any other relevant matters. Training shall be regularly refreshed at no less than six month intervals. The training must be recorded and accessible on the premises and made available for inspection upon request of a police officer or an authorised officer of the Licensing Authority or (in the case of online training) within 48 hours.
2. An incident register will be maintained at the premises and made available to the authorities on request.
3. The premises will adopt a “Challenge 25” policy. This means that if a customer purchasing alcohol appears to be under the age of 25, they will be asked for proof of their age, to prove that they are 18 years or over.
4. Posters will be on display advising customers of the “Challenge 25” policy.
5. The only forms of identification that will be accepted will bear their photograph, date of birth and a holographic mark and / or ultraviolet feature. Examples of appropriate identification include a passport, photocard driving licence, military ID, and Home Office approved proof of age ID card bearing the PASS hologram.
6. The refusals register will be checked by the Designated Premises Supervisor on a monthly basis. These checks will be documented and available on the premises.

The above decision was made for the following reasons:

1. All the Responsible Authorities – Police, Trading Standards and the Licensing Authority all supported the review of the premises licence. The sale of age-related products – a knife on 19.5.23 and alcohol to children on 2.6.23, within quick succession, demonstrated that there is an issue at the premises which requires addressing. The responsible authorities asserted that the Panel revoke the premises licence on the first instance, however the Panel having taken into account all the evidence, felt that this was a disproportionate measure in the circumstances. However, the Panel recognised the seriousness of the criminal activity, and lack of management and breach of licensing conditions by the Designated Premises Supervisor / Premises Licence Holder and therefore felt it necessary to suspend the licence.
2. The insufficient training documentation and refusal logs, specifically the failure to complete the refusal register for approximately a year showed a lack of

understanding of the responsibilities of a Premises Licence Holder / Designated Premises Supervisor.

3. Non-compliance with the licence conditions, such as the CCTV condition, i.e. accessibility of CCTV footage as required as a condition of the licence – again shows a lack of responsibility.
4. The Panel took into account the lack of due diligence from the Premises Licence Holder / Designated Premises Supervisor and the lack of training after the first test purchase failure of age related sales – the Designated Premises Supervisor did not take any swift action in this regard.
5. The Panel note there has been a new training programme, signage at the premises and new CCTV installation (48 hours prior to the hearing) at the premises, however this was only put in place recently, after the application for review, and after the commissioning of a consultant.
6. The Premises Licence Holder / Designated Premises Supervisor has been a Licence Holder for the last 4 and a half years and therefore should be fully aware of his responsibilities. The breach of the licensing conditions demonstrates that the Premises Licence Holder / Designated Premises Supervisor has been remiss of his responsibilities and has only taken action once the review has been instigated.
7. It was brought to the Panel's attention that the Premises licence holder took over the licence in September 2021 and a consultant was instructed at that point. During checks by the police in October 2021 it was recorded that the Premises Licence Holder was compliant with the licensing conditions. However, the insufficient keeping of accurate records in respect of training and refusal logs for over a year showed there had been significant slippage of monitoring responsibilities as a licence holder. The Panel were concerned that this would be repeated, even though the licence holder has put in place measures at this late stage.
8. The steps taken by the Panel are a proportionate, reasonable and fair response to the undermining of the licensing objectives, and the suspension of the licence is a deterrent under the circumstances.

Chair

Date



