

## LICENSING SUB COMMITTEE 1

THURSDAY 19 DECEMBER 2019 AT 2.00PM

PRESENT: Councillors Mrs Bradley, Meller and Morton

ALSO PRESENT: Councillor Dr Tickner

OFFICERS: Assistant Solicitor  
Licensing Manager  
Licensing Officer  
Regulatory Compliance Officer (Apprentice)

There were no objections to the three Members of the Licensing Sub Committee.  
Councillor Dr Tickner left the meeting.

### **LSC1.01/19 APPOINTMENT OF CHAIRMAN FOR THE MEETING**

RESOLVED – That Councillor Morton be appointed as Chairman of the Licensing Sub-Committee 1 for this meeting. Councillor Morton thereupon took the Chair.

### **LSC1.02/19 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **LSC1.03/19 DECLARATIONS OF INTEREST**

There were no declarations of interest affecting the business to be transacted at the meeting.

### **LSC1.04/19 APPLICATION FOR REVIEW OF PREMISES LICENCE BY CUMBRIA CONTSABULARY – THE PIZZA BASE, LONSDALE STREET, CARLISLE**

The Licensing Manager submitted report GD.70/19 regarding an application to review the premises licence of The Pizza Base, Lonsdale Street, Carlisle by Cumbria Constabulary.

In addition to the Council's Licensing Manager, Assistant Solicitor and Democratic Services Officer, the following people attended the meeting to take part in proceedings:

Applicant

Sergeant Blain, Cumbria Constabulary

Premises Licence Holder:

Mr N Enver

Designated Premises Supervisor:

Mr G Sevin

The Assistant Solicitor outlined the procedure for the meeting. All parties confirmed that they had received and read the Licensing Manager's report and that they were happy to represent themselves.

The Licensing Manager reported that, in accordance with Section 51 of the Licensing Act 2003, an application had been received from Cumbria Constabulary for a review of the premises licence relating to The Pizza Base, Lonsdale Street, Carlisle.

The Licensing Manager stated that the review had been requested following the sale of alcohol to children under the age of eighteen on 5 October 2019.

The Licensing Manager gave an overview of the history of the premises as detailed in section 2 of the report. She then detailed the circumstances which lead to the review. She reported that the Licensing Section had received a complaint on 7 October 2019 via Cumbria Constabulary that alcohol had been sold and delivered to a thirteen year old child by The Pizza Base. This had resulted in the young person and her friend being hospitalised for observation due to the effects of consuming alcohol.

Licensing Officers had visited the premises on 8 October 2019 and a request had been made to inspect their receipts and ascertain the name of the delivery driver. The Designated Premises Supervisor (DPS) informed officers that receipts for orders taken by telephone were thrown away on a nightly basis and that the delivery driver concerned was on holiday.

Statements were taken from the two children involved (Child A and Child B) in the presence of the parents. With the written permission of the parents, photographs had been taken of both children and had been available for the Sub Committee to view at the meeting. As a potential offence had been committed the Police Licensing Officer, PC Watson, had been requested to be involved in the PACE interviews of the DPS and the delivery driver. As a result of the interviews PC Watson, on behalf of Cumbria Constabulary, made a formal request for a review of Premises Licence PL149. Cumbria Constabulary had great concern regarding the way the business was operated in relation to the sale of alcohol and they asked the Sub-Committee to consider the removal of the sale of alcohol for on and off sales.

The Licensing Manager reported that the application to review the premises licence had been advertised in accordance with statute and no formal representations had been received by the Licensing Authority however concerns had been raised by the Health and Wellbeing Team and the Parking Services Team at Cumbria County Council and the Home Office, Immigration, Compliance and Enforcement Team.

The Health and Wellbeing Team raised concerns regarding the regular delivery of alcohol to an already intoxicated and unwell lady. The Parking Team raised concerns regarding the assault of a parking Enforcement Officer by a delivery driver from The Pizza Base which resulted in the driver receiving an Adult Caution from Cumbria Police. Officers from the Home Office, Immigration, Compliance and Enforcement Team had attended the premises in August alongside the Licensing Authority and a male had been found to be working in breach of his Visa. The man had been paid in cash and had not been asked to provide any documentation or identification.

The Licensing Manager informed the Sub-Committee that prior to the complaint being received Licensing Officers had carried out an inspection of the premises and found that the licence conditions were not reflective of the current business. The process to address this matter had been overtaken by the complaint.

The Licensing Manager outlined the relevant Legislation and the options open to the Sub-Committee.

Sergeant Blain, on behalf of the applicant, addressed the Sub-Committee. Sergeant Blain presented the report of PC Watson, Police Licensing Officer, who had been unable to attend the meeting.

Sergeant Blain highlighted the main points of the application as follows:

- On 7 October 2019 a complaint was received from a parent of a thirteen-year-old female who had been sold alcohol via home delivery from The Pizza Base on 5 October 2019.
- The delivery consisted of a 70cl bottle of vodka and a bottle of Apple Sourz (15% alcohol).
- No age verification had been requested by the delivery driver.
- The driver was paid £30 for the alcohol from persons aged between thirteen and fifteen years old.
- As a result of the alcohol being consumed the parent stated that her daughter became intoxicated and was taken to the Cumberland Infirmary where she remained for observation for three hours.
- Statements had been taken from the two thirteen-year olds which stated:
  - that the order for alcohol had been made at the start of the birthday party.
  - when the order was delivered there had been no request for identification by the driver.
  - the payment to the driver had been made by the thirteen-year-old girls and a boy aged fifteen at the front door.
  - the driver spoke very limited English.
  - there were other under eighteens at the location.
- On 31 October 2019 two taped interviews had taken place with the DPS and the delivery driver where a Turkish interpreter was used.
- No age verification document was requested by the delivery driver.
- No age checks had been made by The Pizza Base at any stage during the transaction even when they adopted a Challenge 21 or 25.
- During the interview the delivery driver stated:
  - He did not ask for any age identification.
  - He had based the decision to hand over the alcohol on the fact that the females were wearing makeup and the male had just exited a parked car as he had arrived at the house.
- The delivery driver spoke virtually no English which was a problem when speaking to the public whilst carrying out delivery duties especially when determining the age of a person for the sale of alcohol.
- During the interview the DPS stated:
  - He carried out the training to his deliver drivers.
  - The training consisted of the DPS informing staff not to sell alcohol to people under age
  - He provided a signed document to show that the delivery driver had received training.
- There was no training for The Pizza Base staff to assist in identifying persons under the legal age who were persistent in trying to purchase alcohol.
- It was clear to Cumbria Constabulary that no adequate training had taken place.
- It had been apparent from the interviews that training and a system to identify age verification documents when taking orders or when delivering at the point of sale was lacking.
- It was the opinion of PC Watson that the DPS did not have sufficient understanding of his alcohol licence and the sale of alcohol as he did not know the four licensing objectives.
- Cumbria Constabulary worked to reduce anti-social behaviour and alcohol was a key part of the issue. It was in the interests of the City to keep alcohol away from children and Cumbria Constabulary asked the Licensing Authority to support this.

In response to a question Sergeant Blain confirmed that there had been no specific incident of anti-social behaviour as a result of this incident.

The Chairman asked the DPS if he knew what the four Licensing Objectives were and if he understood his responsibility in ensuring those Objectives were met.

The Designated Premises Supervisor responded that he had not been expecting to answer such questions during his PACE interview and had been unprepared. He set out the four Licensing Objectives and confirmed that he understood his responsibilities.

Mr G Sevin, the Designated Premises Supervisor, then addressed the Sub-Committee highlighting the following:

- All delivery drivers and staff had been trained.
- The Pizza Base were very sorry, they had not wanted this to happen.
- The Pizza Base had made 10,000 alcohol deliveries a year for seven years and this had been the only incident.
- If a person looked under 25 staff had been instructed to ask for identification.
- The delivery driver still worked for The Pizza Base but no longer delivered alcohol.
- It was very difficult for takeaway businesses to retain delivery drivers.
- The delivery driver did not speak good English but this was not an issue for the delivery of food.
- The delivery driver had been trained but he had not used the training.
- Although the delivery driver could not speak good English it did not prevent him from seeing that a child was under the age of eighteen, he did not do his duty.
- He had not been at the house to intervene.

In responding to questions, the DPS clarified the following:

- He understood that the driver had a responsibility to meet the four Licensing Objectives as well as himself.
- He was satisfied that the delivery driver was capable of continuing in his role and delivering food only.
- A challenge 25 policy had been introduced at the premises
- He felt that a good system was in place to inform staff of the challenge 25 policy.
- He could not justify the sale of the alcohol to the children, drivers understood to bring the alcohol back to the shop if there was no identification.
- All drivers had been trained and had signed documentation to confirm this.  
*These documents were circulated to the Sub-Committee to view.*
- There had been no other issues in seven years.
- The training took approximately 15 minutes and the forms circulated were used as a guide to the training.
- He understood that there were safeguarding issues and asked for more support in the provision of training.
- The training document, which was in English, had been translated verbally to the delivery driver.
- During training the delivery driver had been told that females may look different to his home country and may wear makeup.
- The Pizza Base deliver 120,000 orders a year which generated a considerable amount of paperwork which could not all be retained.
- The online ordering system retained the receipts of orders for financial purposes.
- He understood that it was in contravention of section 141 of the Licensing Act to serve alcohol to intoxicated persons and drivers had been trained in this.
- The Pizza Base kept a list of properties which they would not deliver alcohol to to protect vulnerable people.
- With regard to the reports of delivering to an intoxicated lady he questioned how it was known that The Pizza Base delivered the alcohol. He stated that only one vehicle advertised The Pizza Base all other drivers used their own vehicles.
- He questioned the details of the incident with the enforcement officer.

- He would implement any changes required to retain his alcohol licence.
- Thirty two people worked for The Pizza Base and the loss of the alcohol licence would impact this.

Mr N Enver, the Premises Licence Holder asked if it would be possible for the Council to assist them and suggested that the delivery driver received a penalty, so all delivery drivers in the City took their responsibility more seriously.

Mr Enver was reminded that it was the responsibility of the Designated Premises Supervisor to ensure that all staff were aware of their duties and the serious nature of those duties under the Licensing Act.

The Sub-Committee noted that the signed training documentation for the delivery driver did not have the four Licensing Objectives ticked.

The Sub-Committee agreed that only the evidence that was directly relevant to The Pizza Base would be considered when making their decision and evidence of opinion would be discounted.

At 2.48pm, all parties, with the exception of the Sub-Committee Members, Assistant Solicitor and the Democratic Services Officer withdrew from the meeting whilst the Sub-Committee gave detailed consideration to the matter.

The parties returned at 3.10pm to hear the Sub-Committee's decision.

Before reading the decision, the Chairman expressed his disappointment in the recent inaccurate press coverage of the matter. The inaccuracies had caused distress for the parties involved and the Sub-Committee did not want the inaccuracies to prevent other similar incidents in being reported to the Licensing Authority.

The Sub-Committee's decision was:

**Application to review a premises licence by Cumbria Constabulary  
The Pizza Base, Lonsdale Street, Carlisle, (PL149)**

The application was determined in accordance with Section 52 of the Licensing Act 2003, the statement of licensing policy and paragraph 11.19 of the section 182 guidance issued by the Secretary of State. In reaching its decision the Sub-Committee has had regard to the Licensing Policy, as well as the s182 Guidance and has considered the options available namely:

- a. to modify the conditions of the licence;
- b. to exclude a licensable activity from the scope of the licence;
- c. to remove the designated premises supervisor;
- d. to suspend the licence for a period not exceeding 3 months;
- e. to revoke the licence.

The matter concerned alcohol being sold to children under the age of eighteen old which subsequently resulted in two thirteen year old children being admitted to hospital due to their alcohol consumption.

No formal representations were received but the Council received concerns from Cumbria County Council regarding the sale and delivery of alcohol to a regularly intoxicated lady and concerns over a delivery driver from the premises assaulting a County Council officer who was placing a fixed penalty notice on his vehicle.

The Sub Committee carefully considered Report GD.70/19 and the evidence contained in it and viewed photographs of the children who purchased the alcohol leading to the above application. The Panel have today heard from the Council's Licensing Manager and Sergeant Blain representing Cumbria Constabulary, Mr Sevin the Designated Premises Supervisor and Mr Enver the Premises Licence Holder.

The Panel has had regard to the 4 Licensing objectives.

After careful consideration the Sub Committee unanimously decided to remove activity J for the supply of alcohol on and off the premises from the licence for The Pizza Base, Lonsdale Street (PL149).

The Sub Committee gave the following reasons for the decision, the Sub Committee have concerns that:

1. The Licensing Objectives of the protection of children from harm or prevention of crime and disorder have not been met.
2. The Sub Committee was concerned that a crime had been committed in the selling of alcohol to minors, and that
3. Alcohol had been sold and delivered to thirteen year old children who had ended up in hospital due to its consumption.
4. There was no age verification policy in place despite this being a mandatory condition on the Licence for The Pizza Base number PL149.
5. The Designated Premises Supervisor had not ensured that the supply of alcohol at the premises was carried out in accordance with an age verification policy, in contravention of a mandatory condition of the premises licence.
6. Information had been received that alcohol had been sold to a regularly intoxicated women in contravention of section 141 of the Licensing Act 2003.
7. The Sub Committee had concerns over the inadequate record keeping at the premises in particular the destroying of receipts on a nightly basis
8. The Sub Committee had concerns over the nature of persons being employed by The Pizza Base and had received evidence of a driver assaulting an enforcement officer from Cumbria County Council and evidence of an employee working in contravention of his work visa.

The decision would be confirmed in writing along with information regarding any rights of appeal.

(The meeting ended at 3.15pm)