

## Licensing Committee Minutes

The minutes of the Licensing Committee meeting of Wyre Borough Council held on Wednesday, 30 November 2022 at the Council Chamber - Civic Centre, Poulton-le-Fylde.

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### **Licensing Committee members present:**

Councillors Baxter, C Birch, Cartridge, P Ellison, A Turner and S Turner

### **Apologies for absence:**

Councillors Beavers, Leech, Smith, A Vincent and Matthew Vincent

### **Other councillors present:**

None.

### **Failure to attend:**

Councillors George and Williams.

### **Officers present:**

Patrick Cantley, Senior Licensing Officer  
Mary Grimshaw, Legal Services Manager (Monitoring Officer)  
Daphne Courtenage, Assistant Democratic Services Officer

No members of the public or press attended the meeting.

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## **1 Confirmation of minutes**

The minutes of the adjourned Licensing Committee meeting, held on the 22 November 2022, were **approved** as a correct record.

## **2 Exclusion of the public and press**

In accordance with Paragraph 11 of the Access to Information Rules in Part 4 of the Council's Constitution, the Chief Executive had determined that the reports submitted under item 4 of the agenda were "Not for Publication" because they contained "exempt information", as defined in Schedule 12A of the Local Government Act 1972.

The Committee passed the following resolution "That the public and press be excluded from the meeting whilst agenda item 4 was being considered, as it

referred to exempt information as defined in category 1 (information relating to any individual) of Part 1 of Schedule 12(a) of the Local Government Act 1972, as amended by the Local Government (Access to Information) Variation Order 2006 and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.”

### **3 Application for a review of a Premises Licence**

The meeting of the Licensing Committee, held on the 22 November 2022 had been adjourned to allow the Premises Licence Holder (PLH) the right to be represented at the hearing, as their representative had been unable to attend due to illness.

The PLH and their legal representative were in attendance. Representatives from Lancashire Constabulary, PC Emma Pritchard, and Lancashire County Council Trading Standards, Lauren Manning, were also in attendance.

The Chair informed the parties of the procedure for the hearing, introducing the committee and the officers to all in attendance. He also asked the parties to identify themselves.

The Senior Licensing Officer informed the committee that the representative from the Fire and Rescue Authority was unable to attend the meeting, and the committee said they were happy to continue in their absence.

The Senior Licensing Officer introduced the report. He informed the committee that the review had been requested by the Lancashire Constabulary. He drew the committee’s attention to relevant council policies, as well as relevant sections of the Licensing Act 2003.

The representative from Lancashire Constabulary addressed the committee. They explained the motives for the request for a review, which had been triggered by a failed test purchase exercise a few months prior. They highlighted their concern over the upholding of the licensing objectives, and said that a review of the premises license was the norm in this circumstance. They were content that the PLH had, in their late submission, said that they had already begun to implement the proposed conditions put forward by the police but this could not yet be verified as the police had not yet carried out a follow-up inspection. They also asked a point of clarification on the late submission by the PLH.

Councillor Baxter asked the representative about the stocking of illegal e-cigarettes and the age for sale of energy drinks. They responded that this would be covered by the Trading Standards representative’s statement.

Councillor P Ellison asked about previous failed test purchase exercises and what period within the school year and what time of day this occurred. They responded that the previous failed test purchase exercise occurred on the 1<sup>st</sup> September 2022 at 2pm.

The representative from Trading Standards addressed the committee. They

said that they had submitted supporting evidence for the review on the grounds that the licensing objectives, specifically protecting children from harm and the prevention of crime and disorder, were not being observed. They explained the dealings with the premises they had experienced since the new management took over in 2020. They discussed the visit which resulted in the seizure of incorrectly labelled e-cigarettes, some of which were also over the legal limit, and allegations of sale of alcohol to underage children and the communications they had sent to the premises. They told the committee that the allegations had led to the shop being warned that they would likely experience a test purchase exercise and explained to them where they could find resources to ensure they met the licensing objectives. They also explained to the committee that there was no legal age restriction on energy drinks but that they asked retailers to support a voluntary scheme with an age restriction of 16 and over. The representative also went into more detail about the test purchase exercise which triggered the review, which had been the only shop out of the ten tested on that day to fail the exercise.

Councillor Baxter asked about the level of complaints received regarding the premises and whether it had been high for the area. The representative responded that it was not a high level of complaints.

He also asked whether there was a rule in place for the sale of alcohol until a member of staff was trained; the representative said that it was part of the due diligence expected of retailers.

Councillor A Turner asked whether the training was an ongoing process or whether it was to be completed before the staff member was allowed to sell any form of alcohol. The representative replied that the implementation of training was recommended to retailers, with owners and DPSs expected to take responsibility if proof of training could not be provided. The representative suggested that the resources provided by Trading Standards could be used on a regular basis.

Councillor C Birch asked whether the representative agreed that if somebody was appointed to a staff post, they should not be left alone to serve anything, especially alcohol. The representative agreed with this statement.

Councillor Baxter asked about test purchase exercises for other age-restricted products. The representative responded that checks were done on all age-restricted products including e-cigarettes.

The PLH's representative asked the Trading Standards representative to explain how small businesses were meant to identify which products were legal or illegal to sell. They explained that they offered advice to businesses and offered resources, though they didn't think this had been given to the new management of the PLH's business. They explained the maximum capacity for e-cigarettes, and that those seized from the property had a 'not for sale in the UK' warning with either Chinese or American company addresses. The PLH's representative asked how local businesses were meant to get to know the legality of the issues surrounding e-cigarettes. The representative from Trading Standards explained that they understood this was a new market, with ongoing issues, but they still expected business owners to do

research on their products and to not sell products which explicitly state they are illegal in the UK.

The PLH's representative, a licensing consultant, addressed the committee on his behalf. They questioned the motives and need for the review, and argued that the previous failed test purchases before the PLH took over the business were irrelevant. They also said that the PLH had passed an initial test purchase exercise. They pointed out that the language barrier between the PLH and the two representatives had caused some issues in his understanding of the requirements for his business, and also questioned the strong language used by Lancashire Constabulary in their report.

The Chair asked whether the PLH and his representative were happy with the proposed conditions 1-9 from Lancashire Constabulary. The PLH's representative responded that they accepted the proposed conditions 1-9; they were more focused on upholding the licensing objectives and they would deal with any implication to the PLH's finances. He however responded to the Chair that they were unhappy with proposed conditions 10-12, finding the wording unreasonable and that the issues raised had not been mentioned previously.

The Chair asked the same question of the representatives from Lancashire Constabulary and LCC Trading Standards. They explained the reasoning for the proposed conditions and agreed with the comments made on the proposed conditions 11 and 12.

Following questions and summaries by all three parties, the PLH and their representative, the representatives from Lancashire Constabulary and LCC Trading Standards, and the Senior Licensing Officer left the room whilst the committee members considered the decision.

In reaching its decision, the committee had regard to:

1. Sections 52(11) and Schedule 5 part 8-9 of the Licensing Act 2003
2. The Council's own Statement of Licensing Policy 2016-2021, in particular sections 4,6,13-13.4.2, 16.1-16.2, 20
3. The Human Rights Act 1998
4. Guidance published by the Secretary of State
5. All representations

The Licensing Committee then reconvened and the Chair announced the decision.

### **Decision**

The Committee accepted the proposed conditions 1-10 from Lancashire Constabulary, and also accepted conditions 10 and 11 proposed by the appellant (set out in the below schedule). However, in ensuring the promotion of the licensing objectives, **agreed** to suspend the licence for three months to ensure that the premises could implement the agreed conditions.

### **Reasons for the decision**

The committee agreed with the police that they had little confidence in the ability of the management to uphold the licensing objectives, particularly those around the protection of children from harm and the prevention of crime and disorder. They were also concerned about growing antisocial behaviour issues in the local area, relating to alcohol consumption.

The committee considered that a revocation of the licence was not an appropriate action, but that the failed test purchase exercises and additional allegations of the sale of alcohol to children were serious enough to warrant a strong response. They wanted the PLH to be able to implement the proposed conditions which would address these failings, which could be applied within the suspension period of three months. They agreed to the proposed conditions 1-10 by Lancashire Constabulary, disagreeing with the proposed condition 12 by the appellant as it had been covered by one of the proposed conditions. They did however agree to replace conditions 11 and 12 with conditions 10 and 11 proposed by the PLH as they believed conditions 11 and 12 proposed by the police were not appropriate to promote the Licensing objectives and conditions 10 and 11 proposed by the PLH were.

Schedule of conditions:

1. CCTV will be installed at the premises and will comply with the following:
  - a. The CCTV system shall be installed, maintained and operated to the reasonable satisfaction of Lancashire Constabulary. The coverage should include the entrance/exit, checkout and main alcohol displays. The system will be capable of providing an image which is regarded as identification standard.
  - b. The system will display on any recording the correct time and date of the recording.
  - c. The system will make recordings during all hours the premises are open to the public.
  - d. The system will, as a minimum, record images of the head and shoulders of all persons entering the premises.
  - e. Digital recording shall be held for a minimum of 21 days after the recording is made and will be made available to the Police for inspection upon request.
2. A staff member who is conversant with the operation of the CCTV system will be available to attend the premises within an hour if requested by Police. This staff member will be able to show police recent data or footage with the absolute minimum of delay when requested. This data or footage reproduction should be almost instantaneous.

3. If the CCTV is not correctly working the Licence Holder shall take immediate steps to rectify the fault. A log of the steps shall be kept and be made available for inspection Police Officer or to a Local Authority Enforcement Officer.

4. Appropriate signage alerting customers to CCTV recording shall be displayed in conspicuous positions on the premises.

5. An authorisation of sales, signed and dated by the DPS, shall be kept at the premises showing all persons authorised by them to make sales of alcohol at the premises.

6. A Challenge 25 proof of age policy shall be implemented and adhered to. Any person who looks or appears to be under the age of 25 shall be asked to provide identification that they are over the age of 18. The following are the only forms of identification acceptable:

- o A recognised proof of age scheme accredited under the British Retail Consortiums Proof of Age Standards Scheme (PASS).

- o Photo driving licence.

- o Passport.

- o Official ID card issued by HM Forces or European Union bearing a photograph and date of birth of the holder.

If no suitable identification is provided the sale of alcohol will be refused.

7. All staff will successfully complete training in age related products prior to operating a till on the sales floor. Refresher training will also be successfully completed not more than every 3 months, this will be fully documented and available to police officers or other authorised persons. This training should be kept on the premises at all times.

8. All refusals of sales of alcohol will be recorded and such record will be available for inspection by a Police Officer or authorised person on request.

9. "Challenge 25" posters shall be displayed in prominent positions at the premises.

10. A personal licence holder will be contactable at any time when alcohol is

being sold. The personal licence holder shall be in a position to attend the premises within 1 hour of request from an authorised officer or police constable.

11. Incident Book: a) The Premises Licence Holder shall ensure that an "Incident report register" is kept in a bound book or electronic format, in which full details of all incidents are recorded. b) This shall be completed as soon as possible and in any case no later than the close of business on the day of the incident. The time and date when the report was completed, and by whom, is to form part of the entry. The register shall be kept on the premises at all times and shall be produced to an authorised officer of the Licensing Authority or the Police on request.

12. Controls of alcohol:

a) A till prompt system shall be installed to assist staff by reminding them to challenge for ID when a sale is made.

b) There shall be no supply of alcohol for consumption off the premises except in sealed containers.

c) The Premises Licence holder, the DPS or a nominated person shall be present at the premises at all times during licensing hours.

d) Documented delegation of authorisations to sell alcohol shall be maintained at the premises and shall be available on request by an authorised officer of the Licensing Authority or the Police.

The meeting started at 6.00 pm and finished at 7.37 pm.

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