

LICENSING PANEL

WEDNESDAY, 28 JUNE 2017

PRESENT:- Councillors Alan Bishop, Paul Dixon and Vera Tomlinson

44. Appointment of Chair

Resolved – That Councillor Vera Tomlinson Chair this meeting of the Panel.
(Councillor Tomlinson took the Chair.)

45. Minutes

Resolved – That the minutes of the meetings held on 23rd and 29th March and 3rd, 4th 5th and 10th April 2017 be confirmed and signed.

46. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

47. Application to Review Premises Licence, AAA Shop, 30 County Road, Swindon, SN1 2EW, together with a copy of each relevant representation made and supporting documents

The Panel considered (a) a report of the Council's Licensing Manager setting out details of an application for a Review of the Premises Licence for AAA, 30 County Road, Swindon SN1 2EW, (b) written representations from Wiltshire Police in support of the review, (c) oral submissions in support of the application for a review received from PC Michael Diffin, M.B.E., (Police Licensing Officer), (d) questions from Members to the applicants and officers and answers received, and (e) the Council's procedure for licensing hearings, the Secretary of State's Guidance and the Council's Statement of Licensing Policy.

The Council's Licensing Manager advised the Panel that the Premises Licence Holder Mr Meeran Hussein had advised the Council's Licensing team that he no longer had any involvement in the premises or in running the business and would not be attending the hearing. The Council's Licensing Manager confirmed that the agenda papers had been hand delivered and Mr Hussein had been advised that the Premises Licence could be revoked. Mr Hussein had advised the Licensing team that he had sold the premises but that no documentary evidence had been provided to support this statement. The Council's Licensing Manager also confirmed that a transfer application had been received for the Premises Licence but that this application had been invalid and had been refused and that Mr Hussein therefore still held it in his name. In light of the fact that Mr Hussein had been correctly served with the papers for the hearing, knew of its date and time and had not requested a deferral but instead had indicated that he would not attend, the Panel determined that it would proceed in Mr Hussein's absence.

The Council's Licensing Manager introduced the report noting that:

- The application for review was called by Wiltshire Police under the Crime and Disorder Licensing Objective.
- The options available to the Panel were set out within paragraph 2.1 of the Licensing Manager's report.

The Police case for a review and summary of points raised can be broadly summarised as follows:

- That the premises were located within a Cumulative Impact Policy area which included problems such as street drinking and therefore the Police expected premises to be well managed.
- In the opinion of the Police the premises were poorly managed and that Mr Shagul Hameed Gulmohammed was the Designated Premises Supervisor in name only and it had proven to be difficult contacting him.
- The Police had visited the premises on 9th April and 13th May 2014 and had found a number of breaches of the Premises Licence conditions. These had been drawn to the attention of management.
- On 19th November 2014 Police visited the premises with a HM Revenue and Customs and Home Office Immigration Team and a man working at the shop illegally had been arrested and deported for working illegally in the United Kingdom.
- On 8th September a routine visit had resulted in a man working at the premises confirming that he had not received any formal training and did not know who the Designated Premises Supervisor was. The Police identified two breaches of the conditions attached to the Premises Licence.
- On 19th September 2015 Police Constable Diffin attended the premises and had spoken to Mr Hussein who agreed to the amendment of conditions attached to the Premises Licence in respect of the maintenance of training records and the operation of CCTV at the premises.
- On 11th January 2017 the Police attended the premises and found breaches in respect of the maintenance of the refusals book, staff training records and the maintenance of CCTV equipment. Mr Gulmohammed, the Designated Premises Supervisor, was out of the country during this visit.
- The Police gave evidence that despite continually working with Mr Hussein to raise the standards of management continual breaches of the Premises Licence had occurred over a three year period and they believed this proved poor management of the premises.
- The Police further gave evidence that Mr Hussein had provided no evidence of either selling the property nor of him ceasing his involvement in the management of the shop.
- The Police gave evidence that the current Designated Premises Supervisor was not engage in managing the premises on a regular basis and that Mr Hussein and his wife appeared to undertake the day to day management function and that given the continual failures in maintaining the Licensing Objectives through breaches of the Licensing Objectives this could be described as apathetic.

Resolved – That after considering: -

1. The application for a review of the Premises Licence received from Wiltshire

- Police; and
2. That having heard evidence from the Council's Licensing that:
 - (a) Mr Hussain had contacted the Council's Licensing Team to advise them that he had sold the business and no longer had any involvement in its operation. Mr Hussain confirmed to the Council's Licensing Team that he would not be attending the hearing.
 - (b) That there was no material evidence produced of any sale of the business;
 - (c) The transfer of the Premises Licence had not taken place due to an invalid application and that the Premise Licence remained in Mr Hussain's name; and
 - (d) That no representations had been received from anyone pertaining to have a business interest in the premises.

And taking into account: -

1. The Secretary of State's Guidance; and
2. The Licensing Authority Licensing Statement:

And having in mind the promotion of the Licensing Objectives in particular: -

- i. The prevention of crime and disorder;

The Panel has determined the following: -

(1) The Police had provided compelling evidence of a long history of breaches of the Premises Licence amounting to a failure to uphold the prevention of Crime and Disorder Licensing Objective.

(2) The Police had provided evidence that written warnings had been issued to the Premise Licence Holder in respect of his failure to comply with the conditions attached to the Premises Licence.

(3) The Panel having considered the Police evidence of continued breaches of the conditions of the Premises Licence over a period of three years concluded that the Premises Licence holder was unable or unwilling to manage the premises in a suitable manner and uphold the Licensing Objectives.

(4) The Panel was not satisfied that any compelling evidence was put forward that breaches of the licensing objectives would not continue.

The Panel, conscious of its duty to ensure that the licensing objectives are met, decided to revoke the premises licence.

Reasons

(1) The Panel was satisfied that there was a long history of noncompliance in maintaining the conditions attached to the Premises Licence.

(2) The Panel heard evidence that there had been a failure by management at the premises to respond to Police advice and warnings.

(3) The Panel concluded from evidence presented to it that the Designated Premises Supervisor, Mr Gulmohammed had not be involved in the management of

the premises on a regular basis.

(4) The Panel had no confidence that the Premises Licence Holder would manage the premises in a satisfactory manner or uphold existing or new conditions attached to the Premises Licence. Accordingly it did not consider that suspension of the Premises Licence was appropriate.

The Chair reminded both parties that they had the right of appeal to the Magistrates Court against this decision and that an application for any such appeal should be made within 21 days of this hearing.