

LICENSING PANEL

FRIDAY, 30 SEPTEMBER 2016

PRESENT:- Councillors Carol Shelley, Vera Tomlinson and Nadine Watts.

11. Appointment of Chair

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

12. 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.

13. Application to Review the Premises Licence in respect of King and Queen, 15 High Street, Highworth, Swindon

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 the King and Queen Public House, 15 High Street, Highworth, Swindon, SN1 2JH, (b) written representations from Wiltshire Police in support of the review, (c) oral submissions in support of the application for a review received from Sian Kalyinka (Police Licensing Officer) in support of the Police Objection, (d) oral submissions received opposing the application for review from Mr Daniel Pruett (Landlord), (e) questions from Members to the applicants and objectors and answers received, and (f) 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 Officer introduced the report noting that:

- The review of the premises licence for the King and Queen Public House, 15 High Street, Highworth, Swindon had been made under the Crime and Disorder and Prevention of Public Nuisance Licensing Objectives.
- The request for the review had been received by the Licensing Authority in February 2016 and had been advertised in accordance with the statutory regulations.
- The delay in the hearing was partly due to a family bereavement.
- The Landlord accepted a caution offered by the Police for the breach of the licensing conditions set out in the Licensing Manager's report.
- That on 7th February 2016 police officers in plain clothes entered the premises and witnessed a number of sales of alcohol beyond the permitted licensing hours of 01:00.
- The landlord had sent an email to the Licensing Authority on 12th June 2016 but no formal application to revise his premises licence had been received.
- Since 16th April 2016 the Designated Premises Supervisor had been Mr Benjamin Kelsey.
- Mr Pruett had requested premises licence variation forms immediately prior to the hearing.

The Police case for a review and summary of raised points can be broadly

summarised as follows that:

- The Police submitted the application to review the premises licence on 15th April 2016.
- The permitted hours for the sale of alcohol at the premises were 10:00 to 01:00 daily.
- The Police had received intelligence that sales of alcohol were being made after permitted hours prior to their visit on 7th February 2016.
- On 7th February 2016 Police Officers in plain clothes entered the premises and witnessed the sale of alcohol after 01:00, the permitted time for sales.
- The Police Officers in plain clothes remained on the premises until 01:30 and during this period further sales of alcohol took place.
- At the time of this visit Mr Pruett was the Designated Premises Supervisor.
- When approached Mr Pruett appeared drunk and explained that he was not working at that time.
- Police Officers checked till readings which confirmed sales of alcohol had been made after the permitted hours.
- A copy of the till receipts were attached as pages 24 -26 of the agenda papers.
- The Police Licensing Officer and PC Michael Diffin met with Mr Pruett following the after-hours sales and wrote to him on 18th February 2016 setting out some proposed minor variations to the premises licence.
- The Police believe that the inclusion of the amended conditions on the premises licence would reduce similar incidents and prevent anti-social behaviour.
- Mr Pruett had been given ample opportunity to respond to and agree the inclusion of the amended conditions and to vary the premises licence but no application for variation of the premises licence had been submitted to the Licensing Authority.
- The Police, in the first instance, had tried to work with premises to remedy issues, but, in this case felt that they had no option but to progress to a review hearing with a view to seeking the inclusion of the amended conditions.

The Police answered questions in respect of:

- Further minor incidents at the premises following the review application.
- Police intelligence that there had been a number of occasions where after hours sales of alcohol had occurred.
- The number of after-hours sales witnessed by police officers on 7th February 2016.
- Checks to ensure the accuracy of information set out on the till receipts appended to the agenda papers.

Points and issues raised by the Respondent included, but were not limited to:

- That he was not opposed to the additional conditions proposed by the Police.
- That he accepted that he had not completed the necessary work to amend his premises licence.
- Some of the delay in amending his premises licence was a result of his wife's terminal illness and looking after his teenage daughters.

- He had tried and failed on a number of occasions to get a copy of the premises licence from both the former premises licence holder Enterprise Inns, and the Council's Licensing Team and felt disappointed that this had not made available to him sooner.
- When he took over the running of the premises it had been closed and he had sought, without success, a copy of the premises licence at this time.
- He thought the terminal hour for the sale of alcohol was 02:00 hours.
- Since taking over the premises, the number of complaints from neighbours had significantly reduced.
- Since taking over the premises he had tried to change its reputation through measures such as providing food; the premises still had a clientele that liked to drink late but he was trying to move away from this.
- He and his family lived on the premises.
- He had met all of the additional conditions requested by the Police who had used his CCTV footage to view an incident outside of, and not related to, the premises.

Questions to the Respondents and responses received in respect of:

- The reasons behind Mr Pruett being unable to obtain a copy of the premises licence despite him seeking this on several occasions.
- Mr Pruett's experience as a licensee prior to him becoming landlord three years ago.
- His customers informing him that the terminal hour for the sale of alcohol was 01:30 hours.
- Sales of alcohol on 7th February at 01:40 hours.
- The failure to respond to Police correspondence over a five month period.
- That the premises was now operating within the conditions (including the additional conditions requested by the Police) of the premises licence conditions.
- Staff training.
- That the licensing hours were now prominently displayed on the premises.

Clarification by the Council's Licensing Manager and Wiltshire Police as to:

- Regular changes of landlords at the premises prior to Mr Pruett taking over the premises.
- That the premises licence had been suspended for a period prior to Mr Pruett taking over as a result of the non-payment of fees by Enterprise Inns.
- That following the incident on 7th February 2016 the licensable hours had been confirmed with Mr Pruett.
- That the failure to vary his licence was serious as the Licensing Authority didn't have recourse to the amended conditions if there were an incident at the premises.
- That a variation cost £87 and involved the completion of a simple form.

Resolved - After considering: -

1. A review of the Premises Licence in respect of the King and Queen Public House, 15 High Street, Highworth, Swindon relating to the Prevention of Crime and Disorder and the Prevention of Public Nuisance Licensing

Objectives.

2. Representations and material put forward on behalf of the Police, and the licensee;

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 and in particular: -

- i. The prevention of crime and disorder;
- ii. The prevention of public nuisance;

the Panel noted (i) that the Premises Licence holder had informally implemented the terms of three conditions requested by the Police in their correspondence dated 18th February 2016, (ii) that there had been no similar incidents at the premises since the review had been called, and (iii) that the licensee had not formally submitted paperwork to the Licensing Authority to amend the premise licence by the addition of the proposed conditions as requested by the Police.

The Panel determined that the premises licence held by the licensee in respect of the King and Queen Public House, 15 High Street, Highworth, Swindon, be amended to include the three additional conditions requested by the Police in their correspondence dated 18th February 2016, and set out on page 28 of the hearing papers.

Reasons

1. The Panel was satisfied that the conditions proposed by the Wiltshire Police, and agreed by the applicant (confirmed by the applicant at the hearing) would uphold the Licensing Objectives.
2. The Panel noted that since the review of the premises licence had been commenced in April 2016, no further substantive breaches of the Licensing Objectives or further breaches of the licensing conditions had been reported by the Police or Licensing Authority.
3. That the Panel was satisfied that the conditions proposed by the Police and agreed by the respondents offered oversight of the licensable activities at the premises.
4. That given the comments of the Police to the hearing that, with the attachment of the additional conditions to the premises licence, that they felt no additional action was required at this time the Panel determined that the decision was fair and proportionate.

The Chair advised both parties that they had a right of appeal to the Magistrates' Court against the panel's determination and that any such an appeal must be commenced within 21 days of this determination.