

# Review of a Premises Licence in respect of King and Queen, 15 High Street, Highworth, Swindon, SN6 7AG

Licensing Panel

Date: 30 September 2016

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Author:	Kathryn Ashton – Licensing Manager
Wards:	Highworth
Locality Affected:	Highworth
Parishes Affected:	Highworth

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## 1. Purpose and Reasons

- 1.1 To consider the application for a review of a Premises Licence received from the Wiltshire Police in respect of King and Queen, 15 High Street, Highworth, Swindon, SN6 7AG

## 2. Recommendations

### That The Panel:

- 2.1 Considers the application made by the Wiltshire Police together with any supporting evidence, and determines the application for the review of the premises licence. The options available to the Panel are:
- To modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
  - To exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
  - To remove the Designated Premises Supervisor, (DPS), for example, because they consider that the problems are the result of poor management.
  - To suspend the licence for a period not exceeding three months
  - To revoke the Licence
- 2.2 At the time of preparation of the report the Premises Licence Holder is **Mr Daniel Peter Pruett**. Mr Pruett has been the Premises Licence Holder since **22<sup>nd</sup> April 2014**. The Designated Premises Supervisor (“DPS”) is **Mr Benjamin Lee Kelsey**. Mr Kelsey has been the DPS **since 22<sup>nd</sup> April 2016**. On page 4 (para 5) of the Police Application for review it states that Mr Pruett is the DPS, however, he is the Premises Licence Holder only. No action has been taken to date in respect of Mr Kelsey, as the DPS.

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## 3.0 Detail

3.1 An application for the review of a premises licence in respect of King and Queen, 15 High Street, Highworth, Swindon, SN6 7AG has been received from Wiltshire Police who consider that the licensing objectives in respect of the Prevention of Crime and Disorder and the Prevention of Public Nuisance are being undermined by the current licensable activities at the premises. A copy of the Wiltshire Police application for review is attached as **Appendix A**.

3.2 The application was advertised on the premises and also at the office of the Licensing Authority.

3.3 The grounds for the review are stated in the review application as follows:

3.3.1 On the 7<sup>th</sup> of February 2016, local police officers in plain clothes entered the King and Queen and witnessed a number of sales of alcohol beyond the time licensed for the sale of alcohol of 01:00hours.

At 01:41hours further uniformed officers entered the premises and asked Mr Pruett, the premises licence holder, to show the officer the till entries since 01:00hours which showed a number of sales made after 01:00hours. The sale of alcohol outside of the licensed hours is a breach of **section 136(1) of the licensing Act 2003**. Mr Pruett was formally cautioned by the Police on 12/02/16 for this offence.

3.3.3 In response to the breach of unauthorised licensable activities, Sian Kalyuka, (Police Licensing Officer) sent Mr Pruett a letter dated 18.2.16 advising that she considered that a variation of licence conditions were appropriate in order to reduce the likelihood of future incidents.

Although Mr Pruett sent an email to the licensing authority on the 12<sup>th</sup> of July 2016, to amend the licence with the police recommendations he failed to put it in the proper form.

Mr Pruett's failure to act swiftly to accept or negotiate on the Police conditions has brought this matter before the panel.

3.3.4 A full detailed list of these breaches is attached at Appendix 'A' of the review application pages 1-7 together with supporting documentation: Wiltshire Police Index pages 1-23

3.4 The Panel is requested to consider the application for the review of the premises licence from the Wiltshire Police and the supporting evidence, and to determine the application having regard to four licensing objectives, namely, the prevention

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of crime and disorder, prevention of public nuisance, ensuring public safety and the protection of children from harm.

## **4. Alternative Options**

- 4.1 It would be possible to defer the determination of the application to a date within five working days of the day (or the last day) on which the hearing was held, or to defer the hearing itself to a specified date (or dates) where it is considered to be necessary for the authority's consideration of any representation or notice made by a party. However, either step should be seen as an exceptional measure.

## **5. Implications, Diversity Impact Assessment and Risk Management**

### Financial and Procurement Implications

- 5.1 There are no direct financial implications arising from the report. Failure to reach a reasonable conclusion, based on the facts, could lead to crime and disorder or nuisance to the public or to unwarranted damage to the business in question. Either scenario could raise issues of compensation. In the case of an appeal, the Council could become liable for costs.

### Legal and Human Rights Implications

- 5.2 A declaration has been made by the Secretary of State, that the Licensing Act is compliant with the Human Rights Act. None of the relevant Articles of the Human Rights Act has absolute sway over the others. Article 8 deals with a right to undisturbed home life; Article 10 gives the right to free expression, including the right to entertain; Article 1 of the Protocol says that licences are 'possessions', which the holder has a right to enjoy. Common sense has to be used, in balancing each of these against the other.

- 5.3 All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

This report relates to the requirements of licensing legislation.

- 5.4 Diversity Impact Assessment

It is not considered that the preparation of a DIA is required in respect of this report.

- 5.5 **Consultees**

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The Director of Law and Democratic Services (Monitoring Officer) is consulted in respect of all reports.

## **5.6 Background Papers**

Licensing Act 2003

Secretary of State revised Section 182 Guidance

Licensing Authority Statement of Licensing Policy

## **5.7 Appendices**

Appendix A - Application from Wiltshire Police for the review of a Premises Licence, plus supporting documentation

Appendix B – Copy of the current Premises Licence