

LICENSING PANEL

MONDAY, 3 APRIL 2017

PRESENT:- Councillors Alan Bishop, Derique Montaut and Vera Tomlinson

32. Appointment of Chair

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

33. 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.

34. Application to Review the Premises Licence in respect of Moredon Off Licence, 275 Whitworth Road, Swindon, SN25 3BU

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 Moredon Off Licence, 275 Whitworth Road, Swindon, SN25 3BU, (b) written representations from Wiltshire Police in support of the review, (c) written representations received in support of the review from Whitworth Road Residents Association, Rodbourne Cheney Residents Association and Ms Patricia Strange (Local Resident), (d) oral submissions in support of the application for a review received from PC Michael Diffin, M.B.E., (Police Licensing Officer) in support of the Police Objection, (e) Oral submissions received in support of the application from Councillor Peter Watts (Ward Councillor), Councillor Des Moffatt (Ward Councillor), Mr King (Whitworth Road Residents Association), Mr Lucas (Rodbourne Cheney Residents Association), and Ms Strange (Local Resident), (f) oral submissions received opposing the application for review from Ms Gonul Howell (Premises Licence Holder), (g) questions from Members to the applicants and objectors and answers received, and (h) 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 Moredon Off Licence, 275 Whitworth Road, Swindon had been made under the Prevention of Crime and Disorder Licensing Objective.
- The application for review was set out on pages 13 to 25 of the agenda papers pack.
- Representations in support of the application had been received from Whitworth Road Residents Association, Rodbourne Cheney Residents Association and Ms Patricia Strange (Local resident).
- Councillors Des Moffatt and Peter Watts (Ward Councillors) were in attendance to support the application for a review on behalf of local residents and the Whitworth Road Residents Association and Rodbourne Cheney Residents Association.
- The current Premises Licence was attached as Appendix C to the agenda

papers pack.

- The hours permitted for the sale of alcohol were Sunday 08:00 to 2:30 hours and Monday to Saturday 08:00 to 23:00 hours.
- The review arose from two visits from Wiltshire Police on 20th December and 31st December respectively.
- On the Police visit on 20th December 2016 Sari attended the premises after being telephoned by a person working at the premises and was subsequently arrested for driving whilst unfit and for being under the influence of cannabis a Class B drug.
- On the Police visit on 31st December 2016 two person selling alcohol confirmed that they had not received training from Ms Howell nor did they have any knowledge that she was either the Premises Licence Holder or Designated Premises Supervisor.
- A number of breaches to the conditions attached to the Premises Licence were also observed on the visit to the premises on 31st December 2016.
- Options available to the Panel were set out in paragraph 2.1 of the report.

PC Michael Diffin advised the Panel that he had served a revised Statement on Ms Gonul Howell on 3rd March and requested that this be tabled to support his case. This statement amended some typographical errors and would replace the statement on pages 23 to 25 of the agenda papers pack. Following confirmation from Ms Howell that she had no objection these papers were tabled for consideration.

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

- Three people were primarily involved in the premises Ms Gonul Howell, Mr Ali Sari and Mr Cem Keskin.
- The Police believed that the store, through the individuals involved, had links to organised crime.
- Ms Howell was believed to be in a relationship with Mr Sari and Mr Keskin was an associate of Mr Sari.
- Mr Sari was involved in a number of businesses around Swindon.
- It was believed that Ms Howell made the application for the Premises Licence because she had a clean criminal record. Mr Keskin would have been unlikely to obtain the Premises Licence in his name and Mr Sari had other premises under review.
- Staff at the premises named Mr Sari as the manager and Designated Premises Supervisor and had no knowledge of Ms Howell.
- Staff had not been provided with any formal training in respect of the sale of alcohol.
- Ms Howell had confirmed to the Police that the shop was owned by Mr Keskin and managed by Mr Sari and that she was not involved in running the premises.
- The shop had closed temporarily after which Mr Keskin was known to have worked at the shop and that Mr Sari had employed people to work there.
- On the Police visit on 20th December 2016 Sari attended the premises after being telephoned by a person working at the premises and was subsequently arrested for driving whilst unfit and for being under the influence of cannabis

a Class B drug which showed he was a poor choice to run the premises. He continued to run the premises after this offence.

- That conditions 5, 6 and 7 of the Premises Licence were found to have been breached. In addition no records of formal training could be provided in respect of the sale of alcohol, including Challenge 25 policies, or the operation of the CCTV equipment.

The Police answered questions in respect of:

- The current status of Ms Morrissey's personal licence.
- Whether evidence from the Police was primarily evidence based or subjective.
- Police experience in identifying Designated Premises Supervisors who had no daily management function in respect of the premises concerned.

Points and issues raised by Ward Councillors included, but were not limited to:

- Representations on behalf of the Rodbourne Cheney Residents Association.
- The grounds for their initial objection to the grant of a Premises Licence for Moredon Off Licence.
- Police evidence which showed a number of breaches of the conditions in force on the current Premises Licence.
- The continual failure of management to have regard to managing the premises in a suitable manner.
- The failure of management to rectify issues raised by the Police during their initial visit on 20th December 2016.
- The lack of control and even involvement in the management of the premises by the Premises Licence holder.
- Clear evidence that the owner (Mr Keskin) and manager (Mr Sari) were subverting the Designated Premises Supervisor.
- Serious worries held locally regarding the inability of the premises to uphold the prevention of Crime and Disorder and Protection of Children from harm Licensing Objectives.
- The view of the Rodbourne Cheney Residents Association and Ward Councillors that the prudent course of action was the removal of the Premises Licence.

Points and issues raised by Mr Lucas and Ms Strange included, but were not limited to:

- There had been an increase in anti-social behaviour in the locality since the opening of the Moredon Off Licence which local people believed was linked to the opening of the store.
- Management generally, and specifically as evidenced by Mr Sari's arrest for a cannabis offence, was inadequate and undermined the Licensing Objectives.
- There had been a number of breaches of the conditions of the Premises Licence over the short period that the store had been operational.
- The customer base of the store given the stock and limited number of people seen using the store.

There were no questions put to the Ward Councillors or other persons present supporting the review.

Points and issues raised by Ms Gonul Howell opposing the application for review included, but were not limited to:

- She had closed the shop after she had spoken with Wiltshire Police in order to find trained staff. When she had been unable to find such staff Mr Keskin had helped out at the shop.
- She did not sell alcohol to people who were under 25 and accepted that trained staff were needed to undertake such sales.
- The operation of the shop which had nothing to do with her and she wanted to install new management to run the premises.
- She had been in discussion with Mr Keskin regarding ending his role in the operation of the shop.
- Since the store had been opened there had not been any noise complaints or complaints about under age sales of alcohol.
- She had now found a trained person with a personal licence and they would run the shop for half the day and she would work the other half of the day.

Ms Howell answered questions noting:

- That she recognised that things had gone awry and she planned to put these right, including the provision of staff training and management.
- That until the Police contacted her she was unaware of the extent of the issues at the premises.
- That she didn't want to lose the shop and wanted to work there.
- That Mr Sari did not sell cannabis, although he had previously, and that he had been clean since December.
- That Mr Sari previously employed people to work in the shop and that when she applied for the licence she didn't intend to run the premises or own it.
- That she didn't accept the premises hadn't been operated properly and she thought Mr Sari was running the store and had used her licence for that purpose.
- That she recognised the seriousness of the current situation and that she was aware the premises could sell other goods if it didn't have a valid Premises Licence.
- That Mr Keskin owned the premises; he put the money forward and she was to run it as she was a close friend.
- That she and Mr Keskin worked together.
- That she had trusted Mr Keskin although she accepted that he didn't involve her in the day to day management.
- That Mr Sari and Mr Keskin did not yet know that she wanted to take the shop over and that she would need to ask Mr Keskin prior to this happening.
- That there was no business plan in place to take over either the management or ownership of the premises.
- The shop's stock was owned by Mr Keskin.

Resolved - After considering: -

1. A review of the Premises Licence in respect of Moredon Off Licence, 275

Whitworth Road, Swindon relating to the Prevention of Crime and Disorder Licensing Objective.

2. Representations and material put forward on behalf of the Police, other interested person and the Designated Premises Supervisor;

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;

And that, having listened to and carefully considered all of the evidence and submissions put forward by the police, objectors and management of Moredon Off Licence, 275 Whitworth Road, Swindon the Panel reached the following conclusions:

The Police provided compelling evidence of a number of breaches of the Premises Licence leading to a failure to uphold the prevention of Crime and Disorder Licensing Objective.

The Panel noted its duty under paragraph 11.28 of the guidance of the Licensing Act in dealing with the undermining of the Crime and Disorder Licensing Objective and the expectation, that even in the first instance, that revocation of the licence should be considered.

Having considered the evidence given by the Premises Licence Holder and Designated Premises Supervisor of Moredon Off Licence, 275 Whitworth Road, Swindon 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 that the appropriate decision is to revoke the premises licence.

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

Reasons

1. The Panel was satisfied that the Mrs Gonul Howell the current Premises Licence Holder and Designated Premises Supervisor did not have day to day control over the sale of alcohol.
2. The Panel heard evidence that there were sales of alcohol at the premises without a personal licence holder being present on the premises.
3. The Panel determined that there was a systematic failure of management resulting in breaches of conditions 5, 6 and 7 of the Premises Licence and was not satisfied that any compelling evidence was put forward that breaches

of the licensing conditions would not continue.

4. The Panel determined appropriate training in the sale of alcohol had not been provided to persons selling alcohol at the premises and that this undermined the Crime and Disorder Licensing Objective and was in breach of the premises licence conditions.
5. The Panel heard evidence that the premises were owned and controlled by a third party.
6. The Panel heard evidence from the premises licence holder that in future she would manage the premises day to day and that she would ensure the premises were properly managed. However, the Panel heard evidence that she had yet to seek agreement from the third party owner and had no confidence given the past issues, that she would be able to manage the premises in accordance with the licence.
7. The Panel heard evidence that further breaches of the premises licence were found on a second visit from Wiltshire police indicating that no effective action had been taken to address the concerns.