

Review of a Premises Licence in respect of Havelock News 49 Havelock Street, Swindon, SN1 1SD

Licensing Panel

Date: 7th July 2017

Author: Kathryn Ashton – Licensing Manager
Wards: Central
Parishes Affected: Swindon Central South

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 Havelock News, 49 Havelock Street, Swindon, SN1 1SD.

2. Recommendations

It is recommended 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;
 - To exclude a licensable activity from the scope of the licence;
 - To remove the designated premises supervisor, 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

3.0 Detail

- 2.2 An application for the review of a premises licence in respect of Havelock News, 49 Havelock Street, Swindon, SN1 1SD has been received from Wiltshire Police who consider that the licensing objectives in respect of crime and disorder are being undermined by current licensable activities at the premises. A copy of the Wiltshire Police's application is attached as Appendix A.
- 3.2 Havelock News is a licensed premises, operating under a premises licence (ref: 881140231LAPRE), attached as Appendix . The licence was issued on 10th April 2014, and permits the sale of alcohol on Monday to Wednesday 0800 - 2300hrs, Thursday to Saturday 0800 - 2000hrs and Sunday 1000 - 2200hrs. The premises opening hours are Monday to Saturday 0800 - 2300hrs and Sunday 1000 - 2230hrs Monday to Saturday from 08.00hrs to 23.00hrs and on Sunday from 08.00hrs to 22.30hrs. The Designated Premises Supervisor and premises licence

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holder is Kayathri RAMESHKUMAR. Havelock News trades under this name and the address on the door reads "49 Havelock Street".

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

3.3.1 On 31st January 2017, Wiltshire Police officers conducted a routine licensing check at the premises. At the time of the visit there was confusion as to who the current premise owner was and there was no evidence to show that there was a Designated Premise Supervisor in place at the location who was involved in the day to day running of the shop.

The Witness Statement of PC Diffin, attached as part of Appendix A, explains that at the time of his visit the male at the location was unclear as to who owned the shop and enquires at the time revealed that the shop had been purchased two years earlier by the now named designated Premise Supervisor and Premise Licence holder who had failed to transfer the Premise Licence.

3.3.2 Whilst at the premises on 31st January, PC Diffin also noted that a number of licensing conditions were being breached, namely conditions 5, 6, 7, 8 and 9. For clarification;

Condition 5 states

"A "Challenge 25" scheme shall be implemented and all customers who appear to be under the age of 25 shall be challenged to prove that they are over 18 when attempting to purchase alcohol. The only acceptable forms of ID for proof of age shall be a photo driving licence, passport, or home office approved identity card bearing the holographic "PASS" mark and if no ID is provided or that supplied is unacceptable the sale of alcohol will be refused and a record made of the refusal in a refusals book. The refusals book shall be kept on the premises and made available for inspection by a police constable or authorised officer on request."

Condition 6 states

"All staff working at the premises shall be fully trained so that they are aware of the Challenge 25 scheme and all staff shall receive refresher training at 3 monthly intervals. This training shall be logged and these training records shall be made available for inspection by a police constable or authorised officer on request."

Condition 7 states

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“CCTV equipment which is fit for purpose and which covers all trading areas and entrance areas shall be provided and maintained in working condition when the premises are open for business. All CCTV recordings shall be retained for a minimum of 28 days and made available to a police constable or authorised officer on request. At any time when a licensable activity is being carried on, there must be a person on the premises who is able to both operate the CCTV system and to download the footage on request.”

Condition 8 states

“All staff shall receive suitable training on the prevention of the sale of alcohol to intoxicated customers prior to their first shift and at 3 monthly intervals. This training shall be logged and these training records shall be made available for inspection by a police constable or authorised officer on request.”

Condition 9 states

“An incident book shall be kept on the premises and used to record any accidents or incidents of disorder in the premises as soon as reasonably practicable. The entries shall include the time, date and brief details of what has happened and the names of the persons involved where known.”

3.3.4 On the 4th February 2017 Wiltshire Police Officers conducted a follow up licensing check at the location PC Diffin spoke with the Premises Licence holder and the Designated Premises Supervisor and it was noted licensing conditions were still being breached, namely conditions 5, 6, 7, 8 and 9. The Witness Statement of PC Diffin, attached as part of Appendix A details these breaches.

3.3.5 On the 5th April 2017 Wiltshire Police Officers conducted a follow up licensing check at the location PC Diffin spoke with the member of staff present and it was noted licensing conditions were still being breached, namely conditions 5, 6, 7, and 8. The Witness Statement of PC Diffin, attached as part of Appendix A details these breaches.

3.4 The Panel is requested to consider the application for the review of the premises licence from the Wiltshire Police and supporting evidence, having regard to

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Swindon Borough Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.

4. Alternative Options

- 4.1 It would be possible to defer the determination of the review 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 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**

The Director of Finance (Section 151 Officer) and the Director of Law and Democratic Services (Monitoring Officer) is consulted in respect of all reports.

- 5.6 **Background Papers**

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Licensing Act, 2003

Secretary of State revised Section 182 Guidance

Swindon Borough Council's Statement of Licensing Policy, (2016)

5.7 Appendices

Appendix A - Application from Wiltshire Police for the review of a Premises Licence, (dated April 2017), incorporating the Witness Statement of PC Diffin, (dated April 2017), the Witness Statement of Vince Ayriss (dated April 2017), the witness Statement of Jane Jennings (dated April 2017)

Appendix B – Copy of extant Premises Licence, 49 Havelock Street Swindon SN1 1SD

Appendix C – Copy of public notice