

**Minutes of the meeting of Licensing sub-committee held at
Committee Room 1, The Shire Hall, St Peter's Square, Hereford,
HR1 2HX on Monday 11 September 2017 at 10.00 am**

Present: Councillors: J Hardwick (Chairman), TM James and A Seldon

Officers: Louise Portman, Fred Spriggs

61. APOLOGIES FOR ABSENCE

Apologies were received from Councillor DW Greenow.

62. NAMED SUBSTITUTES (IF ANY)

Councillor J Hardwick attended in place of Councillor DW Greenow.

63. DECLARATIONS OF INTEREST

There were no declarations of interest made.

**64. REVIEW OF A PREMISES LICENCE IN RESPECT OF: 'THE HORSE & JOCKEY, 9-10
NEW STREET, ROSS ON WYE, HR9 7DA' MADE BY HEREFORDSHIRE COUNCIL:
ENVIRONMENTAL HEALTH - LICENSING ACT 2003**

Members of the licensing subcommittee of the council's planning and regulatory committee considered the above application, full details of which appeared before the Members in their agenda and the background papers.

The licensing officer reported that the premises licence holder had requested an adjournment. The committee unanimously agreed for the application to be adjourned to be heard on 25 September 2017 at 10:00am.

DECISION

The committee decided that this item would be adjourned until 10.00 am on 25 September 2017.

**65. REVIEW OF A PREMISES LICENCE IN RESPECT OF: SWEET CHILLI, 16/17
BRIDGE STREET, HEREFORD, HR4 9DF MADE BY WEST MERCIA POLICE -
LICENSING ACT 2003**

Members of the licensing subcommittee of the council's planning and regulatory committee considered the above application, full details of which appeared before the Members in their agenda and the background papers.

Prior to making their decision the members heard from Fred Spriggs, licensing officer and Jim Mooney, West Mercia Police.

The premises licence holder was not represented at the hearing. The committee heard that no contact had been made during the review period by the premises licence holder with West Mercia Police or the Licensing Authority. Copies of the papers for the hearing had been hand delivered to the premises both by post and hand to ensure that the premises licence holder was aware of the hearing.

Having taken advice, the committee decided to continue with the hearing in the absence of the premises licence holder.

Background

The committee heard from Jim Mooney on behalf of West Mercia Police that the review application had come about as a result of a joint enforcement agency operation that took place on Friday 14 July 2017. At that time officers from the UK Border and Immigration Agency supported by West Mercia Police visited the premises as a result of information that that individuals were working at the premises and were not entitled to enter or remain in the country.

One male from Bangladesh was found working at the premises as a waiter, subsequent enquiries established he overstayed his entitlement to remain in the UK. He was arrested.

The employment of illegal immigrants is defined as serious in the guidance issued under Section 182 of the Licensing Act 2003. The guidance indicates that serious consideration should be taken to revoke the premises license even if it was the first occasion.

In addition it is the law that employers undertake necessary checks to ensure that individuals are entitled to be in the country and have a right to work. This is contained in the Immigration Act 2016 and is further repeated as a result of changes to the Licensing Act 2003 introduced in April 2017.

There had been no contact from the premises licence holder during the consultation period in order to address the concerns of West Mercia Police to prevent this type of incident happening again. The police approach towards immigration failures of this nature and the requirements of the Licensing Act are on the first occasion to educate but this could only happen if the premises licence holder cooperated. On this occasion this was not the case.

The view of West Mercia Police was that the premises licence holder had failed to promote the licensing objectives by not undertaking the necessary checks prior to employing individuals. The police view was that the premises licence for Sweet Chilli should be revoked.

In response to questions from the committee members it was confirmed that the premises concerned operated on the ground floor and that the premises in the upper floors were unrelated.

DECISION

This is the decision of the licensing sub-committee in respect of a premises review of Sweet Chilli, 16/17 Bridge Street, Hereford, HR4 9DF.

It is the committee's decision that the following condition should be added to the licence for the premises:

The premises licence holder shall engage the services of an immigration advisor, as agreed in writing with the licensing authority, who shall undertake a review of all existing employees at the premises to check entitlement to live and work in the UK and thereafter

independently verify prospective employees' right to live and work in the UK prior to the employee being engaged to work at the premises.

REASONS

The committee in coming to its decision carefully considered all the representations both written and oral that it had heard, the statutory guidance, the Council's statement of licensing policy and the provisions of Act. They were mindful that this was the first known offence of this type for the premises licence holder and that only one individual had been found to have overstayed their right to remain and work in the UK. The committee acknowledged that employing an illegal worker was serious but notwithstanding the S182 statutory guidance (para 11.27) they considered that to revoke on this occasion would not be proportionate. They considered the imposition of the additional condition would promote the licensing objectives, particularly the prevention of crime and disorder, and it was considered by the committee that this would be an appropriate and proportionate response to the circumstances of the review.

66. APPLICATION FOR A VARIATION OF A PREMISES LICENCE IN RESPECT OF: ST OWENS NEWS, 53A ST OWEN STREET, HEREFORD, HR1 2QW - LICENSING ACT 2003

Members of the licensing subcommittee of the council's planning and regulatory committee considered the above application, full details of which appeared before the Members in their agenda and the background papers.

Prior to making their decision the members heard from Fred Spriggs, licensing officer and Sergeant Duncan Reynolds, West Mercia Police. Members also heard from the agent for the premises licence holder.

Background

The committee heard from Fred Spriggs that an application had been received for a variation of the current premises licence conditions as set out in the papers before them. West Mercia Police had made a representation objecting outright to the licence being granted. Mr Spriggs reported that the police had since withdrawn their objection. This application had been before the committee of 15 August 2017 and was adjourned on the request of the applicant.

The committee heard from Sgt Duncan Reynolds that the original police objection was based on the belief that there was lack of understanding by the applicant to identify the need to promote the licensing objectives and to prevent a return to a situation of alcohol related anti-social behaviour near to the premises due to the sale of super strength alcohol, single cans etc.

There were two other similar sized premises in the same area, and when the issues of 2014 (as set out in the papers before the committee) were at their height, the police engaged with them and St Owens News and other licensed convenience stores in the city to get a voluntary agreement to manage and control the sale of these items to known street drinkers. All but St Owens News listened and did what was requested.

The police launched a subsequent review against St Owens News, which was withdrawn when the shop agreed to add conditions that prevented the sale of such items. Since then the level of alcohol related anti-social behaviour in this particular area of the city had dramatically reduced.

There was no contact from the applicant during the consultation period, but there had been significant contact since from his agent, Mr Semper, who was engaged when this

matter was listed for a hearing. It was accepted that the licensing process could be daunting for some – in particular those whose first language was not English.

The agent for St Owens News was the Inspector in charge of the problem back in 2014/15, he therefore had a good working knowledge of the control measures that needed to be applied to remove/reduce the problem.

The agent had spent time educating the applicant and his staff to address the police concerns and to ensure they were able to deal with the sale of all types of alcohol in a responsible way.

The applicant had agreed to amend the starting hour requested from 0700hrs to 0800hrs.

There were no further requests for additional conditions to be added to the premises licence.

Sgt Reynolds noted that there was very little evidence to support and maintain a police objection and it was felt that by reducing the hours requested and the work undertaken by Mr Semper with the applicant, the licensing objectives could be correctly and effectively promoted even with the removal of the three conditions restricting the sale of single cans (less than 500ml), alcoholic drinks above 6.5ABV of alcohol in containers of 3 litres or more (as set out more particularly on the licence). The police did not consider they needed to seek the imposition of any further conditions to promote the licensing objectives. West Mercia Police therefore withdrew their objection to the variation application – as amended.

Under questioning the agent for the applicant confirmed that CCTV was in operation at the premises and that recordings were of good quality. He also stated that he believed the controls to be put in place were adequate and enforceable.

It was queried whether members of the public would have understood what the applicant was asking for, given that the application was somewhat confused in the way it had been submitted. It was confirmed that the published notice did set out the intended hours of operation and the types of sales sought.

DECISION

This is the decision of the licensing sub-committee in respect of an application to vary a premises licence in respect of St Owens News, 53a St Owen Street, Hereford, HR1 2QW.

It is the committee's decision that the application to vary the licence be granted in the terms sought but, including the amended start time of 0800hrs 7 days per week. The three conditions respectively restricting the sale of single cans (less than 500ml), alcoholic drinks above 6.5ABV and the sale of containers of alcoholic drink in containers of 3 litres or more (as set out more particularly on the licence) would be removed from the licence.

REASONS

The committee in coming to its decision carefully considered all the representations both written and oral that it had heard, the statutory guidance, the Council's statement of licensing policy and the provisions of Act. In particular the committee noted that the police were no longer objecting to the application as they were satisfied that to grant the application in the terms sought (as amended) would not undermine the promotion of the licensing objectives having regard to the reduction in the incidence of alcohol related anti-social behaviour in the locality and the steps the applicant had taken to understand his responsibilities under the Licensing Act through the engagement of a licensing

consultant. The police had concluded therefore that they had little evidence to support and maintain their objection to the application.

The meeting ended at 10.52 am

Chairman