

**Minutes of the meeting of Licensing sub-committee held at  
Committee Room 1, The Shire Hall, St Peter's Square, Hereford,  
HR1 2HX on Friday 2 August 2019 at 10.30 am**

**Present:** Councillor Alan Seldon (chairperson)  
Councillors: Paul Andrews and Jeremy Milln

**Officers:** Fred Springs and Leah Wilson

**37. APOLOGIES FOR ABSENCE**

No apologies for absence were received.

**38. NAMED SUBSTITUTES (IF ANY)**

There were no substitutes present at the meeting.

**39. DECLARATIONS OF INTEREST**

There were no declarations of interest made.

**40. GRANT OF A PREMISES LICENCE IN RESPECT OF: MILA, 102-104 BELMONT  
ROAD, HEREFORD, HR2 7JS - LICENSING ACT 2003**

Members of the licensing sub committee 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 principal licensing officer presented the report.

Trading Standards outlined their objective to the grant of a premises licence to Mr Hersh Mohammad for Mila. The premises had previously been subjected to Trading Standards investigations in relation to persistent breaches of the Licensing Act 2003 including the selling of illegal tobacco, alcohol and the employment of illegal workers. Trading Standards believes that the evidence shows that Hersh Mohammad is not a fit and proper person to hold a premises licence as he was on the premises when illegal alcohol was found. The applicant had previously had a premises licence application refused. Mr Hersh Mohammad has not been able to provide or offer conditions to show that he can run the premises in order to uphold the four licensing objectives.

The representative from West Mercia Police confirmed that he had authority to represent the police.

The police then outlined their objection to the grant of a premises licence and outlined the following:

- The police and HMRC have visited the premises in December 2018 and found 32 bottles of non-duty paid vodka.

- A police review of the premises licence had been launched and the premises licence had been revoked by the sub committee in March 2019. Mr Mohammad had not appealed the sub committee's decision.
- The Alcohol Wholesaler Registration Scheme which in place since 2015 was relevant. This was HMRC legislation which in place to ensure that any alcohol purchased to be sold comes from an approved wholesaler approved by HMRC.
- There was no indication that Mr Mohammad was aware of this scheme or had ensured that the alcohol stock had been obtained legally.
- It was the view of the police that Mr Mohammad should have known where the alcohol stock had come from.
- If the sub committee were minded to grant the premises licence, then modified conditions had been sent to the principal licensing officer.

The sub committee then heard from the applicant's solicitor who highlighted the following

- It was disappointing that he had not been instructed earlier as the matter had been dealt with differently.
- There was no evidence to tie any wrong doing at the premises to Mr Mohammad.
- Anything prior to the latter part of last year was unrelated to his client as he was not living in Hereford at the time.
- Mr Mohammad had been living in Blackburn and had been told through a contact about the premises and he wanted to see them.
- The history of the premises was in relation to the bricks and mortar and not Mr Mohammad
- Mr Mohammad was a personal licence holder and was assessed by Blackburn Council as a being fit and proper person and this allows him to be a designated premises supervisor (DPS ) for the sale of alcohol.
- The lease had been signed in November and Mr Mohammad had bought the premises with the stock.
- The raid then took place and found a small amount of non-duty paid vodka with a value of just over £300. It was acknowledge that Mr Mohammad had not carried sufficient due diligence when he purchased the premises.
- The sub committee were reminded that their decision should be evidence based and any decision was justified as appropriate.
- Since Mr Mohammad had purchased the premises, there had been sales of tobacco but there was no evidence of illegal tobacco or the selling of tobacco to the underaged. He had traded responsibly.
- Mr Mohammad was happy to accept West Mercia's amended conditions which were circulated at the sub committee meeting.
- Mr Mohammad would also be happy to add a new condition which required him to appoint an independent auditor to come in twice year unannounced to ensure that condition 10 was being complied and a report prepared which would be sent to the police and trading standards.

Following members' questions, it was confirmed that the raid on the premises had taken place on 12 December 2018 and the premises had been purchased on 23 November 2018.

## **DECISION**

The sub committee's decision is to grant the premises with the offered conditions as modified by West Mercia's conditions which are attached to this decision notice and a new condition as follows:

The management of Mila will arrange an independent audit of licensed stock, no less than twice a year. Such independent audit to be unannounced and the results to be

reported back to the West Mercia Police, Trading Standards and Licensing Authority. The results to be provided within four weeks of the audit taking place.

## **REASONS**

The sub committee had carefully considered the representations from the principal licensing officer, trading standards, West Mercia Police and the applicant's solicitors. The sub committee decided that the grant of the premises with the replacement conditions proposed by the police, an amendment to condition 10 and a new condition regarding an independent audit of licensable stock twice a year which promote and uphold the licensing objectives. On the basis of the evidence presented to the sub committee and the new conditions, it was believed that the applicant will promote & uphold the licensing objectives.

### **41. APPLICATION FOR A GRANT OF AN OCCASIONAL PREMISES LICENCE IN RESPECT OF SUNRISE FESTIVAL, ROCKYFOLD, KENTCHURCH, HEREFORDSHIRE, HR2 0BL- LICENSING ACT 2003**

Members of the licensing sub committee 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 principal licensing officer presented the report.

It was noted that the applicant had previously applied for temporary event notices (TENS) but those only authorise events involving up to 499 people but it was likely the numbers this year would exceed 499 so the applicant had applied for an occasional premises licence. The Safety Advisory Group had been involved and an event management plan had been presented and would be finalised prior to the event.

The sub committee heard from the member of the public who had submitted a relevant public representation and outlined the following:

- They had previously lived slightly further away from the festival but had now moved into a cottage which adjoined the festival site.
- They were closer to the main stage than the campers.
- There was awareness that there will be people trying to access the festival without paying.
- No complaints had been made as it was felt to be a waste of time.
- Previously there had been festival goers in the toilet, decking etc who refused to move.
- Telephone calls had been made to the festival security who had done nothing.
- They wanted to know the name of the security company employed to satisfy themselves that there will be good security in place.

The sub committee then heard from the applicant who outlined:

- He had worked on over 300 festival as a contractor.
- This was a family event and tickets for 406 adults and 276 children had already been sold. It was expected that there would be over 300 children and 500 adult ticket sales.
- It was acknowledged that it would be a noisy event but there will be sound checks and also sound barriers.
- There would be 3 times the number of security staff compared to previous events.

- There would be a 24 hr control telephone number which had been given to all direct locals. The local shop had also been given the number to pass to interested people and the parish council had also been supplied with the number.
- A meeting with local people was also being organised.

Following questions from members of the sub-committee, it was clarified that:

- The event would be operating Challenge 25
- Professional staff would be employed and well trained to prevent sales to under age persons.
- The security teams would also monitor proxy sales.

### **DECISION**

The sub committee's decision is to grant the licence with an amendment to the sign off from SAG being reduced from 30 days prior to the event to 10 days prior to the event due to the date of the festival.

### **REASONS**

The sub committee had carefully considered the representations from the principal licensing officer, member of the public and the applicant. The sub committee were content that all reasonable steps had been taken to promote and uphold the licensing objectives, which included the employment of more security staff, a 24 hour control telephone number, sound checks and sound barriers as well as the model licensing conditions.

#### **42. APPLICATION FOR A VARIATION OF A PREMISES LICENCE IN RESPECT OF: MACE CITY SERVICES, COMMERCIAL ROAD, HEREFORD. HR1 2BG - LICENSING ACT 2003**

Members of the licensing sub committee 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 principal licensing officer presented the report.

West Mercia Police outlined their representation to the request for a variation of the premises licence as follows:

- The premises were a medium sized convenience store attached to a garage within Hereford City Centre.
- The premises was within the special cumulative impact zone which forms part of the Herefordshire Council Licensing Policy 2015-2020.
- The policy provides for controls on licensed premises within the zone due to the number of premises and a disproportionate level of crime, disorder and nuisance.
- The policy provides for a rebuttable presumption that applications should be refused if objections are made against new or variations to premises licences. This is obviously not a blanket ban and would need to be considered on a case by case basis. It was for the applicant to set out why granting a licence or a variation to a licence would further promote the licensing objectives. The applicant had not mentioned the cumulative impact zone as part of their application.
- There was limited history with regard to the premises. However there were still a significant number of issues raised on the police systems within the cumulative impact zone.

- The number of incidents recorded by the police within the cumulative impact zone between 2016 to the current date had been published as a supplement to the papers.
- The garage already opened 24 hrs and is single staffed late at night through a window hatch. This would make it difficult for a member of staff to identify whether customers were fit to purchase alcohol or if they were purchasing it for others who may be drunk or under age.
- There is CCTV but no security staff at the premises during late hours, especially when customers were exiting pubs and clubs.
- The garage was on a main route in / out of the city.
- There was a possibility that queues could form and this could lead to flash points of disorder and there are no control measures on the licence to prevent or reduce this possibility.
- The police objection to the application was based on the belief that to grant the variation to the licence would undermine the licensing objectives and in particular the prevention of crime and disorder.

The representative from West Mercia Police confirmed that he did have the authority to speak on behalf of the police.

The sub-committee then heard from the applicant's barrister who outlined:

- The applicant had run premises for 48 years.
- It was not agreed that the premises were within the cumulative impact zone.
- It was disappointing that the police's supplement had only been provided to them the previous day. It was confirmed that no adjournment was being requested.
- The business was a family run business with experience of running garage forecourts.
- The business had at least five premises in different counties and all had a 24 hour licence so were well aware of the requirements of the Licensing Act 2013 and the need to uphold the licensing objectives.
- The operating schedule was replicated across all the businesses.
- Staff were retained for long periods of time and were experienced, well trained staff. The manager of the premises in Hereford had been employed for 19 years.
- Four members of staff held personal licences.
- No evidence had been provided to show that there had been issues with the current licence.
- With regard to the cumulative impact zone policy which was contained within the Licensing Policy 2015-2020, this policy would need to be reviewed next year.
- The council had adopted the zone based on the problems arising and had set a boundary. There was text within the policy which set out the boundary of the zone but the accompanying map was woolly and it was claimed that the premises were outside the zone. There was a legal requirement to have a map as applicants needed to know whether or not they were in or outside of the boundary.
- The age of the data contained within the policy was from 2010 to 2013 so there would need to be an assessment as to the quality of the evidence.
- Even with the rebuttal presumption, the sub committee should only refuse if the applicant would add to the cumulative effect and the only evidence provided was from 2010 to 2013.
- With regard to the supplemental information provided by the police, limited weight should be given to it as there was no detail provided and it did not prove the point that the applicant would add to the cumulative effect. The statistics were wide ranging and may have nothing to do with alcohol or licensable activities.
- The police's data did not show evidence that the premises had drawn on police resources.

- The business operated a manned premises rather than a night hatch.

## **DECISION**

The sub committee's decision is to grant the licence, subject to a modification to the condition that the refusal register should be available for inspection within 5 working days upon request from a responsible authority.

## **REASONS**

The sub committee had carefully considered the evidence presented by the police and the applicant. The sub committee considered that the evidence provided by the police was insufficient to show that there would be an undermining of the licensing objectives. The applicant's barrister had provided evidence that the applicant was an experienced operator who had provided assurance that the premises would be manned during the late night opening hours and the staff would be suitably trained. Based on this evidence, the sub committee felt that the granting of the variation to the premises licence would not undermine the licensing objective, in particular the prevention of crime and disorder.