

MEETING:	REGULATORY – SUB-COMMITTEE
DATE:	17TH OCTOBER 2011
TITLE OF REPORT:	REPRESENTATION AGAINST THE INTERIM STEPS IMPOSED ON 29 SEPTEMBER 2011 FOLLOWING THE EXPEDITED/SUMMARY LICENCE REVIEW OF PREMISES LICENCE: NATALKA POLSKIE DELIKSTSEY, 22 EIGN STREET, HEREFORD, HR4 0AB
PORTFOLIO AREA:	ASSISTANT DIRECTOR (EHTS) PUBLIC HEALTH DIRECTORATE

CLASSIFICATION: Open

Wards Affected

Hereford

Purpose

To consider representation received from Dadds Solicitors on behalf of the Premise Licence Holder' Kazimierz Dubinski against the interim steps imposed on 29th September 2011 following the expedited licence review of the premises licence to Natalka Polskie, 22 Eign Street, Hereford, HR4 0AB.

Key Decision

This is not a Key Decision.

Recommendation

At the hearing the licensing authority must:

- Consider whether the interim steps are necessary for the promotion of the licensing objectives; and
- Determine whether to withdraw or modify the steps taken.

When considering the matter the licensing authority must take into account:

- The senior officer's certificate that accompanied the application;
- The chief officer's representations (if any); and
- Any representations made by the premise licence holder.

Further information on the subject of this report is available from
Fred Spriggs – Licensing Officer 01432 383542

They should give appropriate weight to:

- The steps that are necessary to assist with the prevention of serious crime and disorder,
- The representations (including supporting information) presented by all parties,
- The Guidance issued to local authorities under Section 53A of the Licensing Act 2003 by the Violent Crime Reduction Act 2006, and
- The Herefordshire Council Licensing Policy.

Key Points Summary

- Expedited review held on 29th September 2011.
- Application received to make representation against the interim steps 13th October 2011
- Hearing arranged for 17th October 2011 within the required 48 hours.
- 13th October 2011 – Advanced notice of hearing sent to the premise licence holder and chief officer of police.

Options

The options that the licensing authority can consider taking are:

- 1 Uphold the interim steps taken on 29th September 2011.
- 2 Withdraw or modify interim steps taken.

Reasons for Recommendations

- 3 Ensures compliance with the Licensing Act 2003 and the Crime & Disorder Act 2006.

Background Information

- 4 The premises was originally licensed by the Licensing Authority on 11th January 2007. At that time the premises licence holder and designated premises supervisor (DPS) was Robert Stuliglowa.
- 5 On 31st October 2007 the licence was transferred into the name Kazimierz Dubinski. Robert Stuliglowa remained as the DPS.
- 6 Prior to the transfer Mr Dubinski was written to and asked to attend the Licensing Office to discuss the transfer.
- 7 Mr Dubinski failed to attend and at no time has the licensing authority seen or been able to

8 speak to Mr Dubinski.

- 8 On 28th September 2011 an application for an Expedited Review was made by the Chief Constable for West Mercia Police in respect of the Nataalka Polskie, 22 Eign Street, Hereford, HR4 0AB.
- 9 This matter appeared before the committee on 29th September 2011 and at that time it was decided to suspend the licence pending the full review, which is arranged for Wednesday 19th October 2011. (A copy of the decision notice is attached).
- 10 The premise licence holder may make representations against the interim steps taken by the licensing authority up to the time of the full review. Dadd's Solicitors who are acting for Kazimierz Dubinski, the premise licence holder, has made such application.

11 **Pre expedited Licence**

The previous licence authorised the following licensable activities during the hours shown: -

Sale by retail of alcohol

Monday - Sunday: 06:00 - 23:00

Key Considerations

- 12 To consider what action should be taken, if any, to review the decision made following the expedited review hearing.

Guidance issued by the DCMS in respect of Expedited Reviews states at paragraphs 3.5 – 3.7: -

- 3.5 If the licensing authority decides to take steps at the interim stage then:
The decision takes effect immediately, or as soon after then as the licensing authority directs; but

The licensing authority must give immediate notice of its decision and its reasons for doing so to the holder of the premises licence and the chief officer of police who make the application.

- 3.6 The licensing authority in deciding when its decision on interim steps should take effect should consider the practical implication of compliance in relation to the premises. For example to comply with a modification of the conditions of a licence that requires employment of door supervisors, those running the premises may need some time to recruit appropriately qualified and accredited staff.

- 3.7 In addition, very careful consideration needs to be given to interim steps which would require significant cost or permanent or semi-permanent adjustments to a premises which would be difficult to remove if the outcome of the subsequent full review was to withdraw or modify those steps. The focus for interim steps should be on the immediate measures that are necessary to prevent serious crime or serious disorder occurring. In some circumstances, it might be better to seek suspension of the licence pending the full review, rather than imposing a range of costly conditions or permanent adjustments.

Community Impact

- 13 It is felt that any action taken will have little adverse effect on the local community.

Legal Implications

- 14 There is no right of appeal against the decision of the Licensing Authority at this stage.
- 15 The premises licence could have made representation in respect of the review up until 12th October and no representation was received.
- 16 Follow the review hearing there is a right of appeal to the Magistrates Court.

Consultees

- 17 Responsible authorities and the premise licence holder.
- 18 A copy of the application has been served on the responsible authorities.

Appendices

- 19
 - a. Application form for expedited review
 - b. Certificate
 - c. Decision notice – expedited review
 - d. Representation from Dadds Solicitors acting on behalf of the Premise Licence Holder.

Background Papers

Background papers are available for inspection in the Council Chamber, Brockington, 35 Hafod Road, Hereford 30 minutes before the start of the hearing.