

MINUTES of the meeting of Regulatory Sub Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Monday 7 March 2011 at 1.30 pm

Present: Councillor JW Hope MBE (Chairman)

Councillors: SPA Daniels and JHR Goodwin

54. ELECTION OF CHAIRMAN

Councillor JW Hope MBE was elected as Chairman for the Regulatory Sub-Committee hearing.

55. APOLOGIES FOR ABSENCE

No apologies for absence were received.

56. NAMED SUBSTITUTES (IF ANY)

There were no substitutes present at the hearing.

57. DECLARATIONS OF INTEREST

There were no declarations of interest made.

58. APPLICATION FOR A REVIEW OF THE PREMISES LICENCE 'THE EAGLE INN, 23 BROAD STREET, ROSS-ON-WYE, HEREFORDSHIRE, HR9 7EA (Pages 1 - 6)

The Regulatory Sub-Committee was convened in order to determine an application for a review of a premises licence in accordance with Section 51 of the Licensing Act 2003. The Review had been applied for by West Mercia Police based on the licensing objectives regarding the prevention of crime and disorder.

The Chairman introduced the Members and Officers and asked any interested parties to introduce themselves. He advised them of the hearing procedures and then asked the Licensing Officer to present the report. The Licensing Officer advised the sub committee that

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr James Mooney, representing West Mercia Police who had applied for the review, addressed the sub-committee. He made a number of points, including:

- One of the Licence conditions stated that at any time licensable activities were undertaken a personal licence holder must be on the premises.
- Since early 2010, there had been a steady increase in crime and disorder issues that were attributed to the premises and the way it had been managed.
- The police had met and discussed the issues with both the premises representatives and the appointed DPS.
- A number of incidents occurred in September and October 2010, which caused the police to make an unannounced visit to the premises on 16 October 2010. At this time there was no personal licence holder present as required by the licence.

- During the evening of Friday/Saturday 22/23 October 2010, disorder occurred in and in the vicinity of the premises, this disorder was recorded on the council CCTV and was subject of a police investigation.
- A warning letter was hand delivered to the premises on 25 October 2010.
- There was clear evidence that the persons responsible for running the premises at this time were disregarding significant conditions of the premises licence.
- As a consequence to these issues on 04 November 2010, a closure notice under S19 of the Criminal Justice and Police Act was served on the premises. At the time of serving no one with a personal licence was on the premises.
- An application for a variation of the premises licence was subsequently submitted and as a result the application to review the premises licence was withdrawn on 03/12/10.
- Since the review notice was withdrawn in the region of 11 incidents have occurred, in or near the premises that gives rise for concern.
- At least 2 of these incidents involve the SIA door staff employed at the premises. There are allegations of unprofessional behaviour and use of excessive and unnecessary force.
- A number of further visits had been made to the premises - on these occasions', no one with a personal licence had been found on the premises. Additionally requests had been made to examine the incident log/book of the premises and also to obtain details of those door staff working at the premises on particular dates. None of these records were available.
- As a result of the second review notice being served, consultation had taken place with the owner's representatives. This had resulted in a voluntary agreement that the premises would close at midnight on Friday and Saturdays.
- This agreement and other positive actions undertaken by the owners and the 'new' DPS had resulted in a significant reduction in crime and disorder in or near to the premises.
- West Mercia Police were happy with the positive and professional attitude of Mr and Mrs Chick who now ran the premises.
- It was clear that the previous poor management of the premises caused concern to the local community, resulting in adverse publicity in the local media, and significant representation by the public.
- It was the view of West Mercia Police that the premises was not adhering to the conditions of its premises licence.

The Committee viewed a DVD which had been presented by the applicant for the review. The public and press were requested to leave the meeting whilst the committee viewed the footage taken from the Council's CCTV system showing an incident outside the Eagle Inn.

Chief Inspector Adam Thomas advised the sub committee that the incident shown on the CCTV cameras pre-dated the current managers of the premises.

Mrs Munez and Mr Joyce addressed the sub committee in support of the review. They noted that there had been a significant improvement in respect of noise emanating from the premises. They did raise some concerns regarding the possibility of live music taking place every night of the week. In response to a question Mrs Munez confirmed that the noise levels had improved since the current management team had been in place and that she welcomed the opportunity to open communications with Mr and Mrs Chick.

In response to an issue raised by Mr Mooney, representing West Mercia Police, the Licensing Officer confirmed that the function room was included in the plan and was therefore part of the licensed premises.

Ms Johnson, the premises licence holder's legal representative, addressed the sub committee and made a number of comments, including:

- The new tenants of the premises had changed the atmosphere in the premises and had 'cleared out' some of the old clientele.
- The Eagle was now offering food and intended to move towards being a food led premises.
- Mr and Mrs Chick had considerable experience in the licensing trade.
- An incident book had been introduced to record any areas of concern.
- Understand that this is the second review in a short period of time but the issues raised can be addressed through conditions.

All parties were given the opportunity to sum up before the Sub-Committee retired to make their decision, the Council's Legal Advisor and the Democratic Services Officer also retired to assist them with legal and procedural matters.

RESOLVED

- 1 That the hours for licensable activity be amended as detailed in the attached decision notice.**
- 2 That additional conditions be attached to the licence.**

59. APPLICATION FOR A MOTOR SALVAGE OPERATORS LICENCE

The Licensing Officer advised the sub committee that the application would not be coming before them until a later date.

The meeting ended at 2.47 pm

CHAIRMAN

HEREFORDSHIRE COUNCIL
**REGULATORY COMMITTEE DECISION NOTICE
(THE LICENSING ACT 2003)**

PREMISES	The Eagle Inn
PREMISE LICENCE HOLDER	Enterprise Inns PLC
APPLICANT'S NAME	West Mercia Police
APPLICATION TYPE	Review of Premises Licence
PANEL MEMBERS	Councillor JW Hope MBE (Chairman) Councillor SPA Daniels Councillor JHR Goodwin
DATE OF MEETING	7 March 2011

Members of the Licensing Panel of the Council's 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 Mr Mooney, representing West Mercia Police, Ms Munoz and Mr Joyce, two local residents speaking in support of the review, and Ms Johnson, the legal advisor representing Enterprise Inns.

Having carefully considered those matters brought before them and in reaching their decision, the Members had full regard to the provisions of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006), the Council's Licensing Policy, the representation made by Enterprise Inns and the representation made by the West Mercia Police. The Members made the following decisions in order to promote the licensing objective of the prevention of crime and disorder.

- 1 That the hours for licensable activity be amended.
- 2 That additional conditions be attached to the licence.

REASONS

- 1 To promote the licensing objectives and in particular the prevention of crime and disorder and public safety.
- 2 Members felt that having regard to all of the representations made that both the imposition of these conditions and the amendments to the licensing hours were proportionate.

HEREFORDSHIRE COUNCIL

**REGULATORY COMMITTEE DECISION NOTICE
(THE LICENSING ACT 2003)**

HOURS OF LICENSABLE ACTIVITY

	Live Music,	Recorded Music	Late Night Refreshment	Sale of Alcohol	Open to the public
Monday	1000 - 2300	1000 - 2330	2300 - 2330	1000 - 2300	1000 - 2330
Tuesday	1000 - 2300	1000 - 2330	2300 - 2330	1000 - 2300	1000 - 2330
Wednesday	1000 - 2300	1000 - 2330	2300 - 2330	1000 - 2300	1000 - 2330
Thursday	1000 - 2300	1000 - 2330	2300 - 2330	1000 - 2300	1000 - 2330
Friday	1000 - 2330	1000 - 0000	2300 - 0000	1000 - 2330	1000 - 0000
Saturday	1000 - 2330	1000 - 0000	2300 - 0000	1000 - 2330	1000 - 0000
Sunday	1000 - 2230	1000 - 2330	2300 - 2330	1000 - 2300	1000 - 2330

ADDITIONAL CONDITIONS

- Any musical amplification system/equipment located at the premises, prior to use, shall be wired through a sound limiting device located in a separate and remote lockable cabinet. The level shall be pre-set by a responsible person in charge of the premises to ensure that no noise nuisance is caused to local residents. The operational panel of the noise limiter shall then be secured. The keys securing the noise limiter cabinet shall be held by the licence holder or authorised manager only, and shall not be accessed by any other person.
- The following conditions were also agreed:

Prevention of Crime and Disorder

1. On Fridays and Saturdays, Two (2) SIA Licensed Door staff shall be employed at the premises from 2100 hrs until the termination of licensable activities. When employed externally Door staff shall wear hi-viz reflective jackets. When employed internally they shall be readily identifiable as door staff.
2. The DPS will employ SIA doorstaff at other times when risk assessment dictates door supervision to be necessary.
3. The Premises Licence Holder or DPS or a person nominated by them in writing for the purpose, shall maintain a register of door supervisors which shall be kept on the premises showing the names and addresses of the door supervisors, their badge numbers and shall be signed by the door supervisors as they commence and conclude duty. The register shall be made available on demand for inspection by Officers of the Fire Authority, Police or Licensing Authority.

HEREFORDSHIRE COUNCIL**REGULATORY COMMITTEE DECISION NOTICE
(THE LICENSING ACT 2003)**

4. An incident log must be kept at the premises, and made immediately available on request to an authorised officer of the Council or the Police, which must record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received
 - (d) any incidents of disorder
 - (e) seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system or searching equipment or scanning equipment
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service

5. CCTV will be provided in the form of a recordable system, capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial recognition.

Cameras shall encompass all ingress and egress to the premises, fire exits, outside areas, and all areas where the sale/ supply of alcohol occurs. Equipment MUST be maintained in good working order , be correctly time and date stamped, recordings MUST be kept in date order, numbered sequentially and kept for a period of 31 days and handed to Police on demand. The Premises Licence Holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format EITHER DISC or VHS to the Police/Local Authority on demand.

The Recording equipment and tapes/discs shall be kept in a secure environment under the control of the DPS or other responsible named individual. An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.

In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS MUST report the failure to the Police on contact number 0300 333 3000 immediately.

6. All staff shall be trained within 2 weeks of taking up employed and six monthly thereafter. The training shall included:
 - Drugs Awareness
 - Conflict resolution
 - Selling to under age person
 - Selling to drunks

Such training will be recorded and records shall be kept at the premises which will be produced to an authorised officer the licensing authority or the police on demand.

7. A Personal licence Holder shall be on duty at all times when the premises operate for licensable activities.

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8. The DPS and all other staff shall ensure that no vessels are taken off the premises by customers.
9. All staff shall wear a clothing which identifies them as members of staff of the premises.
10. The capacity limit for the premises shall be in accordance with that set within the Fire Risk assessment.
11. A system shall be place which is capable of showing the number of persons on the premises at any one time. This number shall be given immediately on demand to an officer from the Licensing Authority or police.
12. Cylinders or containers of gas under pressure, other than Cellar Gases¹, shall not be used on the premises except with the prior consent of the Licensing Authority.

First aid

13. A HSE Compliant Industrial High Response First Aid Kit for 21-50 people shall be kept fully stocked at the premises and kept behind the bar.

Electrical & Gas Installations

14. All electrical wiring and distribution systems shall be tested at least once a year and signed off by a competent person whose name is shown within the Local Authority Building Control Part P Competent Persons Register (<http://www.competentperson.co.uk/search.asp>). The sign off certificate shall be produced to an authorised Licensing Authority officer or Police on demand.
15. All portable electrical equipment shall be powered through a sensitive earth leakage protection system (residual current device) having a rated residual operating current not exceeding 30 milliamps and a maximum operating limit of 30 milliseconds.
16. The residual circuit device shall be tested at lease once a week and a record of this check shall be kept at the premises.
17. Any and all gas appliances (except cellar gas) used in the premises must be tested at least once a year and signed off by a competent person whose name appears within the current Gas Safety register (GSR). The sign off certificate shall be produced to an authorised Licensing Authority officer or Police on demand.

Hypnotism

18. The Licensed premises shall not be used for any exhibition, demonstration or performance of hypnotism without the express written consent of the Licensing Authority and in accordance with any conditions attached to such consent. The

¹ Cellar Gases are those gases that are used in connection with beers, lagers and the like.

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special conditions relating to the regulation of exhibitions, demonstrations or performances of hypnotism are available on request.

Maintenance, Repair and Cleanliness

19. All parts of the premises and all fixtures and fittings therein including seating, door fastenings, notices, floors, carpets and furniture shall be kept clean and maintained in good order.

Special Effects

20. The installation and use of laser beams, pyrotechnics or real flames, explosive or highly flammable or smoke producing agent, for any purpose shall not be permitted without specific written consent of the Licensing Authority. Application for consent, together with a detailed description of the method of use, should be made to the Licensing Authority not less than 14 days prior to the day on which the laser equipment is to be used.

21. Strobe lights shall be operated on a fixed rate of not more than four flashes per second. Where more than one strobe light is used, the flashes shall be synchronised. In any case, such lights shall not be installed without the prior written approval of the Licensing Authority.

22. The use of foam shall not be permitted unless with the prior written approval of the Licensing Authority.

Disabled people

23. When disabled people are present, arrangements must exist to enable their safe evacuation in the event of an emergency. Details of the arrangements shall be recorded in writing and shall be made immediately available to the Licensing Authority or Police on demand.

24. Disabled people on the premises must be made aware of the evacuation procedure.

Prevention of Public Nuisance

25. All windows will be kept shut after 23:00.

26. Recorded music volume will be reduced to background levels during the wind down period.

27. Prominent, clear and legible signage (in not less than 32 bold font) shall be displayed at all exits to the premises requesting the public to respect the needs of local residents and to leave the premises and the area quietly.

28. The courtyard garden shall not be used after 23:00 hours.

29. The premises licence holder or DPS or nominated responsible person (in writing) shall ensure that noise and vibration does not emanate from the

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premises so as to cause a nuisance to any person residing in any noise sensitive dwelling.

30. Where regulated entertainment is provided, a responsible person will monitor noise emanating from the premises at least once a hour to ensure that no noise nuisance is being caused and where there is shall cause the noise to be reduced. A written record shall be kept on the premises detailing the name of the person carrying out the monitoring the monitoring locations, the date and time and the result obtained. Such record shall be made available on demand of the local authority or police.

Protection of Children

31. No person under the age of 18 shall be permitted on the premises unless dining and accompanied by an adult aged 21 or over.
32. The premises shall operate a Challenge 25 Policy. Such policy shall be written down and kept at the premises. The policy shall be produced on demand of the Licensing Authority or Police. Prominent, clear and legible signage (in not less than 32 font bold) shall also be displayed at all entrances to the premises as well as at, at least one location behind any bar advertising the scheme operated.
33. No adult entertainment or services or activities must take place at the premises (Adult Entertainment includes, but is not restricted to, such entertainment or services which would generally include topless bar staff, striptease, lap-table, or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language).

** Subject to Section 52(11) which states that a determination under this section does not have effect:
(a) until the end of the period given for appealing against the decision, or
(b) if the decision is appealed against, until the appeal is disposed of.*

There is a right of appeal under Schedule 5 Paragraph 8a, which must be made to a magistrates court within 21 days of this decision. It is recommended that you obtain your own legal advise or contact the Magistrates Court at Bath Street, Hereford, if you do wish to appeal this decision.