

**Minutes of the meeting of Licensing sub-committee held at
Committee Room 1, The Shire Hall, St Peter's Square, Hereford,
HR1 2HX on Wednesday 30 May 2018 at 10.00 am**

Present: Councillor DW Greenow (Chairman)
Councillors: BA Baker and J Hardwick

Officers: Emma Bowell and Richard Alsop

9. APOLOGIES FOR ABSENCE

No apologies for absence were received.

10. NAMED SUBSTITUTES (IF ANY)

There were no substitutes present at the meeting.

11. DECLARATIONS OF INTEREST

There were no declarations of interest made.

12. REVIEW OF A PREMISE LICENCE IN RESPECT OF SWEET CHILLI, 16-17 BRIDGE STREET, HEREFORD. HR4 9DF - 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.

Prior to making their decision the members heard from Emma Bowell, Licensing Technical Officer, Richard Alsop, Principal Trading Standards Officer, and Sergeant Duncan Reynolds and Jim Mooney, West Mercia Police.

Following a query from the committee, the Licensing Technical Officer outlined the steps taken to contact the premises licence holder which included sending papers to the premises in Hereford and also to a personal address in Birmingham. However no contact had been received. The committee agreed to hear the review in the absence of the premises licence holder.

West Mercia Police outlined their representation in connection with the review which included:

- That the licensing authority had been in contact with the premises licence holder advising them of the need to transfer the licence and to vary the designated premises supervisor.
- The premises had not completed the transfer or variation but continued to sell alcohol without a designated premises supervisor
- They had visited the premises on 18 February 2018 and had issued a Section 19 Closure Notice because alcohol was visible and customers were drinking what appeared to be alcohol

- On 23 March 2018, an email had been sent to the premises to inform them that they continued to be in breach of the legislation and that further intervention visits would be made.
- On 24 March, they had visited the premises again and had issued a Section 19 Closure Notice because alcohol was visible and customers were drinking what appeared to be alcohol
- The police had not seen or spoken to the named designated premises supervisor, Abtal Hussain but had spoken to a Mr Johirul Ahmed who they believed was the new owner of the premises.
- The premises had been subject to a joint police and UK Border Agency visit in July 2017. At this visit one male worker had been detained as it had been established that he was an illegal worker with no right to stay or work in the country.

The committee then heard from Richard Alsop, Principal Trading Standards Officer Food who outlined that their representation was based on the protection of children from harm licensing objective because there was no designated premises supervisor present at the moment. If a named designated premises supervisor was forthcoming, then the usual conditions with regard to training would be put on the licence.

Following queries from members of the committee, it was confirmed that:

- On the balance of probabilities, the customers present at the premises on 18 February and 24 March were consuming alcohol.
- That the premises appeared to be closed and had not operated over the last few weeks.

The committee have carefully considered all the representations, reports and evidence before them today and have also had regard to their duties under S4 of the Licensing Act and have considered S182 guidance and Herefordshire's statement of licensing policy. They also had regard to the relevant sections of the Licensing Act.

DECISION

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

The decision of the committee is that the licence shall be revoked.

REASONS

The reasons for the decision were that it was apparent that neither the named licence holder or designated premises supervisor were still involved in the management of the premises. The police had visited on 3 occasions 18 February 2018, 24 March 2018 and 30 March 2018 to find no designated premises supervisor had been present but that alcohol had apparently been on sale. This had resulted in two closure notices being served. In addition Members had considered and agreed with the comments of Trading Standards regarding their concerns that the failure to have an appropriately trained designated supervisor and personal licence holder could lead to sales of alcohol to children. They noted that there had been a failure of the existing premises licence holder to engage with the licensing authority and therefore they had no confidence that alcohol would not continue to be sold without a designated premises supervisor in contravention of the law. They therefore considered it was both appropriate and proportionate to revoke the premises licence to prevent the further undermining of the prevention of crime and disorder licensing objective and the protection of children from harm.

13. REVIEW OF A PREMISE LICENCE IN RESPECT OF RUBY CHINESE TAKEAWAY, 23 UNION STREET, HEREFORD. HR1 2BT- LICENSING ACT 2003.

With the agreement of the members of the committee and premises licence holder, this item was deferred to the meeting to be held on 25 June 2018 at 10.00 am.

14. REVIEW OF A PREMISE LICENCE IN RESPECT OF 9+9 CANTONESE TAKEAWAY (ALSO KNOWN AS SPICE MINSTER), 102 WIDEMARSH STREET, HEREFORD. HR4 9HG- 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.

Prior to making their decision the members heard from Emma Bowell, Licensing Technical Officer and Sergeant Duncan Reynolds and Jim Mooney, West Mercia Police.

Following a query from the committee, the Licensing Technical Officer outlined the steps taken to contact the premises licence holder which included hand delivering papers to the premises. However no contact had been received. The committee agreed to hear the review in the absence of the premises licence holder.

West Mercia Police outlined their representation in connection with the review which included:

- That whilst the premises were licenced for late night refreshment, the licence had been suspended since 2014 as the annual licensing fees had not been paid.
- The police were involved in a Multi-Agency Targeted Enforcement (MATE) group which was comprised of a number of agencies including the fire service, UK Border and Immigration Service, HMRC and various departments within Herefordshire Council. The purpose of the group was to ensure legal compliance and to target premises where there was intelligence to suggest that there was significant risk of harm to anyone who works or uses the premises.
- A MATE operation had taken place at the premises on 7 April 2018. The intelligence received was that there were potentially illegal immigrants employed at the premises.
- As part of the visit on 7 April, one male had been arrested as they were found to be in the country illegally with no right to stay or work in the UK. This male had also been detained as part of a similar enforcement visit on 27 October 2017.
- The manager of the premises had been issued with a civil enforcement penalty of £10,000 as a result of the enforcement visit in October 2017 by the UK Border and Immigration Agency. A further civil enforcement penalty had been issued as a result of the April visit
- The S182 guidance indicates that serious consideration be given to revocation as the employment of illegal immigrants is considered to be a serious matter.

The committee have carefully considered all the representations, reports and evidence before them today and have also had regard to their duties under S4 of the Licensing Act and have considered S182 guidance and Herefordshire's statement of licensing policy. They also had regard to the relevant sections of the Licensing Act.

DECISION

This is the decision of the licensing sub-committee in respect of a review of premises licence following the licence review of a premises licence concerning 9+9 Cantonese Takeaway (also known as Spice Minster), 102 Widemarsh Street, Hereford.

The decision of the committee is that the licence shall be revoked.

REASONS

The reasons for the decision were that the premises had continued to operate despite the fact that the licence had been suspended since 2014 due to the non-payment of the annual licensing fee and further there had been 2 multi-agency enforcement visits within the last 12 months which had discovered an illegal worker at the premises. It was noted the same illegal worker was detained at the premises on both the first and second enforcement visit. It is the case that Sections 11.27 and 11.28 of the April 2018 S182 statutory guidance state that the employment of illegal workers should be treated particularly seriously and it is expected that revocation of the licence – even in the first instance – should be seriously considered.

The premises were clearly operating in a way to undermine the prevention of crime and disorder licensing objective. On this basis, the committee considered that it was appropriate and proportionate to revoke the licence.