

**Minutes of the meeting of Licensing sub-committee held at
Committee Room 1, The Shire Hall, St Peter's Square, Hereford,
HR1 2HX on Thursday 7 March 2019 at 2.00 pm**

Present: Councillor DW Greenow (chairperson)

Councillors: PGH Cutter and AJW Powers

Officers: Emma Bowell, Alice McAlpine and Fred Spriggs

1. APOLOGIES FOR ABSENCE

No apologies for absence were received.

2. NAMED SUBSTITUTES (IF ANY)

There were no substitutes present at the hearing.

3. DECLARATIONS OF INTEREST

There were no declarations of interest made.

**4. APPLICATION FOR A REVIEW OF A PREMISES LICENCE IN RESPECT OF 'THE
DUCKER, 11 SOUTH STREET, LEOMINSTER. HR6 8JA- LICENSING ACT 2003**

Members of the licensing sub-committee from the council's planning and regulatory committee considered the above application, full details of which appeared before the Members in their agenda, the background papers and the supplement issued on 4 March 2019.

Prior to making their decision the members heard from Fred Spriggs, Licensing Officer, Emma Bowell, Technical Licensing Officer, and Sergeant Duncan Reynolds. The committee also heard from the premises licence holder's agent and Councillor JM Bartlett as the ward member.

The Licensing Authority explained the reasons for requesting the review of the premises licence, namely that:

- on three separate occasions the premises licence holder had failed to comply with the CCTV conditions attached to the licence;
- warning letters had been sent on the first two occasions and that the premises licence holder had been warned that formal action might follow any further breach of conditions;
- the Licensing Authority was concerned that suitable arrangements were not in place to maintain the CCTV equipment and to train staff.

The Licensing Authority had initially requested the removal of the designated premises supervisor, however upon hindsight they felt this may not necessarily remove the breach of CCTV condition, therefore asked for the conditions found at Appendix 9 of the report.

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

- support for the review application;
- concern that the premises licence holder should fully understand the conditions of the licence and fully comply with them;
- the three breaches that occurred where the Police were unable to obtain CCTV footage were shared with the Licensing Authority and showed that the premises licence holder was failing to adhere to the law, had undermined the licensing objectives and to a certain extent had inhibited a number of Police investigations;
- the Police supported the proposed amendment to the licence and also requested that a formal warning be given to the premises licence holder regarding the failures that had occurred.

The ward councillor addressed the sub committee. She noted the good work that had been done by the current premises licence holder since taking over the venue, which had resulted in reduced nuisance to local residents. The breaches identified were serious but remedial action had been taken to upgrade the CCTV system and put in place appropriate training.

The premises licence holder's agent then addressed the sub committee and highlighted the following:

- the premises licence holder was distressed by the three reported incidents as she had no intention not to comply with the conditions of the licence;
- she disputed some of the details of the reported incidents and stated that it was only on the first reported occasion that she had failed to comply;
- on the second and third occasion footage was handed over on demand;
- the new CCTV system was checked regularly to ensure that it was working correctly and a logbook had now been put in place where these checks were recorded;
- instructions on use of the system, including a list of where cameras were located and how to download footage, were kept close to the system;
- the two existing members of staff were trained and any new staff would be trained immediately and have access to the detailed instructions.

Following questions it was confirmed that:

- the premises licence holder was willing to accept the condition to have a logbook as that had already largely been put in place but felt that the requirements of the condition for staff training were excessive;
- without prejudice the Licensing Authority indicated that it would accept Mr Clinton Lee Davies, of Ludlow, Shropshire as someone suitable to provide training to staff.

DECISION

The decision of the licensing sub committee was to allow the licence to remain in place with the following additional conditions:

- The premises shall have a written log which deals purely with checks made to ensure the CCTV system is operating correctly. This log shall be completed prior to the premises opening for Licensable Activities and will have the following information written down in the log:-
 1. The date and time checked
 2. Name of person checking the system (In block capitals)
 3. The persons signature
 4. Whether the system is working correctly or not
 5. Where the system is not working correctly the details of the defect including the action taken to rectify the defect and the time frame for doing so.

6. Prior to the premises opening any defect shall be reported to the police via email to licensing.herefordshire@westmercia.pnn.police.uk

The CCTV log shall be kept on the premises and shall be produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) on demand.

- All staff, prior to selling alcohol at the premises, must be trained in the use of the CCTV to a standard which ensures they can comply with the CCTV condition as shown on the licence. The training must be carried out by a professional company approved by the Licensing Authority. Training records shall be kept on the premises and shall be produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) on demand.

REASONS

The committee had taken into account all the statements from the parties present. The sub committee had considered the testimony of the premises licence holder and noted the upgrades to the CCTV system and provision of training in its use. The sub committee were satisfied that the additional conditions would support the licencing objectives.

5. APPLICATION FOR A REVIEW OF A PREMISES LICENCE IN RESPECT OF THE TASTE OF RAJ, 67 ST OWEN STREET, HEREFORD. HR1 2JQ- LICENSING ACT 2003

Members of the licensing sub-committee from the council's planning and regulatory committee considered the above application, full details of which appeared before the Members in their agenda, the background papers and the supplement issued on 4 March 2019.

Prior to making their decision, the members heard from Emma Bowell, Technical Licensing Officer, Leah Wilson, Trading Standards Officer and Sergeant Duncan Reynolds of West Mercia Police. The committee also heard from the premises licence holder.

Sgt Reynolds explained that West Mercia Police were involved in the Multi Agency Targeted Enforcement (MATE) group, which was made up of a wide range of partner agencies including UK Border and Immigration Service and various departments within Herefordshire Council. On Monday 17 December 2018 an intelligence led MATE operation took place, with officers from the police and the UK Border Agency attending the Taste of Raj. The premises were a well established business which had not come to the attention of the police prior to this incident. The operation, which took place when the premises were open to the public, resulted in the following:

- Discovery of one male in the kitchen area who made as if to leave the premises by the rear exit from the kitchens when officers entered, this individual was found to be a Bangladeshi national with no right to be in the UK or to work in the UK;
- This individual had the appearance of having been involved in the preparation of food at the premises;
- Discovery of a second male, also a Bangladeshi nation, in the living accommodation, this individual was found to have overstayed his entitlement to be in the UK;
- A search of the room where the second individual was found revealed clothing used by waiting staff which he admitted was his;
- Both individuals were arrested.

Sgt Reynolds reminded the sub committee that employment of illegal immigrants was viewed as a serious matter and that guidance in Section 182 of the Licensing Act 2003

indicated that serious consideration should be given to revoking a premises licence even if the failure was the first occasion.

However, due to this being the first occasion that this premises had been found breaching immigration legislation, West Mercia Police felt that a licence suspension and application of conditions to the premises licence were proportionate. It was noted that the current premises licence had no conditions attached to it, which was felt to be inadequate with regards to promoting the licensing objectives.

West Mercia Police had provided a suggested list of conditions to the licence holder, which were listed in the supplement to the report.

The sub committee heard from Trading Standards that conditions had been requested which were of a standard nature for this type of premises and that no correspondence had been received from the premises licence holder.

It was established that the premises licence holder had not received a copy of the suggested conditions from Trading Standards. The sub committee adjourned while a copy was provided for him to read.

The sub committee then heard from the premises licence holder. He stated that:

- The individual found in the upstairs sleeping quarters was not working at the premises but was visiting a friend;
- The individual found downstairs was visiting a family member and was also not working at the premises;
- He understood and was content to accept the conditions suggested by West Mercia Police and Trading Standards.

Following questions it was confirmed that:

- The Police believed that the individuals detained were working at the premises, the individual found in the kitchen had made to run when officers entered and was found to have splashes of food on his clothing, this individual had been found to have an ongoing asylum claim and so was not allowed to take employment while this was processed;
- The individual found upstairs had no right to be in the UK at all, had admitted that the clothing found, which was typical of waiting staff, was his and did originally say that he was working but subsequently changed his mind;
- The premises licence holder did not control the upstairs area, which was rented out.

DECISION

The decision of the licensing sub committee was to allow the licence to remain in place with the following conditions:

- CCTV (IF FITTED) 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 recordable media

format, an authorised Herefordshire Trading Standards Officer or the 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 '101' immediately.

- The Premises Licence Holder or DPS or a person nominated by them in writing for the purpose will employ SIA door staff on a risk assessed basis. The risk assessment shall be in writing and shall be made immediately available on request to an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or the Police
- All existing staff shall be trained on appropriate steps to promote the Licensing Objectives within three months of the date this condition appears on this licence. All new staff shall be similarly trained within one month of taking up employment. All staff shall be re-trained twelve monthly thereafter.
The training shall included:
Drugs Awareness
Conflict resolution
Selling to under age person
Selling to drunks
- Training records shall be kept on the premises which shall show the area of training covered, the date of the training, the name of the person and shall be signed by the trainer and trainee. This shall be produced to the police, an authorised Herefordshire Trading Standards Officer or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) on demand.
- The premises shall operate a Challenge 25 Policy. Such policy shall written down and kept at the premises. The policy shall be produced on demand of an authorised person' (as defined by Section 13 of the Licensing Act 2003), an authorised Herefordshire Trading Standards Officer or the 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.
- A written or electronic register of refusals will be kept including a description of the people who have been unable to provide required identification to prove their age. Such records shall be kept for a period of 12 months. It will be collected and reviewed on a weekly basis by the Designated Premises Supervisor and produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.
- The premises licence holder shall permanently 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 and 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.
The premises licence holder will ensure that each employee will be subject to the same checks every 12 months from the date of the previous check.
- All staff engaged in the sale of alcohol to be trained in responsible alcohol retailing to the minimum standard of BIIAB level 1 or any equivalent training course within 1 month of commencing employment at the premises. Where there are existing staff this training shall be completed within 3 months of the date that this condition first appears on the

licence. No person shall be authorised to sell or supply alcohol until this training is completed. Refresher training will be conducted at 12 monthly intervals. Training records shall be kept on the premises and produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.

- A written or electronic register of refusals will be kept including a description of the people who have been unable to provide required identification to prove their age. Such records shall be kept for a period of 12 months. It will be collected and reviewed on a weekly basis by the Designated Premises Supervisor and produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.
- 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 Police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council. 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 sale area advertising the scheme operated.

REASONS

The committee had taken into account all the statements from the parties present. The sub committee noted that this was the first occasion that the premises had been alleged to have employed illegal immigrants and felt that a suspension of the licence would be inconsistent with previous decisions. The addition of conditions to the licence, which the premises licence holder had agreed to, would promote the licencing objectives.

6. APPLICATION FOR AN OCCASIONAL PREMISES LICENCE IN RESPECT OF HOW THE LIGHT GETS IN FESTIVAL 2019, WYE MEADOW, NEWPORT STREET, HAY-ON-WYE. HR3 5BZ - LICENSING ACT 2003

Members of the licensing sub-committee from the council's planning and regulatory committee considered the above application, full details of which appeared before the Members in their agenda, the background papers and the supplement issued on 4 March 2019.

Prior to making their decision, the members heard from the applicant and the applicant's finance director, Fred Spriggs, Licensing Officer, Aris Trezins, Environmental Health Officer and two local residents.

The Licensing Authority summarised the application and noted that no objections had been received from West Mercia Police or the Licensing Authority. Trading Standards and Environmental Health had made representations, which had been agreed with the applicant. Three representations had been accepted from members of the public.

Environmental Health stated that due to public concerns about noise from the site, monitoring had taken place during the event in 2018 including equipment sited in a neighbouring property and officer site visits. No problems had been identified. There had been very few complaints received by Herefordshire Council and a week after the event Powys County Council confirmed they had not received any complaints at that time. A draft noise management plan had been submitted and would be accepted with some minor amendments. It was noted that the condition should be amended to require production of the draft noise management plan 2 months prior to the first day of the festival rather than 3 months as originally stated.

The sub committee then heard from two local residents who lived in and just off Newport Street. The sub committee heard that:

- There remained some goodwill towards the festival;
- The proposed finish time of 2am was not reasonable and was considerably later than the main Hay literary festival;
- Noise from the event site itself was not the issue, there had been a number of instances of nuisance behaviour in the early hours during the 2018 festival;
- Marshalling had been insufficient; adequate numbers of properly trained marshals should be available if the event was to be repeated.

The applicant and her finance director then addressed the sub committee, stating that:

- They had run the festival for 10 years, starting in The Globe arts venue in the town and then extending to the current site approximately four years ago;
- The Globe had a premises licence with the same hours and conditions as those applied for in this occasional licence application;
- For 2019 the event would be consolidated onto a single site, and the accommodation would also be consolidated to a single camp site opposite the event site, this would reduce the movement of event goers during the festival;
- There would be SIA security staff on duty alongside the stewards and contact details would be provided to neighbours so that they could report any issues immediately they occurred;
- The finish time of 2am was important for the success of the festival and mirrored the hours at the Globe.

Following questions it was confirmed that:

- The number of festival goers who also attended the Hay literary festival had not been measured but as those attending generally came early on in the evening;
- Security staff would be on the site, at the entrance and exit points and would monitor festival goers returning to the camp site, now that the accommodation was in one place it would be easier to manage this;
- Security staff would not be able to deal with police matters on the public highway but would be a presence to deter nuisance behaviour, guidance was clear that behaviour beyond the immediate area of the licenced premises was the personal responsibility of the individuals concerned;
- The music type and mix would be the same as previous years and volume levels would also be the same as previous years;
- The disturbances reported from the previous year could not be attributed with certainty to attendees of the "Let the Light in" festival as there were other licensed premises in the area;
- The event typically attracted 500 to 600 people each night.

DECISION

The decision of the licensing sub committee was to grant the licence subject to the following conditions:

- Noise or vibration shall not emanate from the festival site so as to cause a nuisance.
- A draft Noise Management Plan will be produced 2 months prior to the first day of the Festival and will be submitted to the Herefordshire Council - Environmental Health (EH) who shall notify the premises licence holder (within one calendar month of receipt) in writing whether it is acceptable or unacceptable. The final plan shall be submitted to EH at least 14 days prior to the event for approval. The event shall not take place until EH has agreed the plan. Once agreed no change shall be made to

the plan without the agreement of EH and the event must comply with the agreed plan.

- Irrespective of noise levels prescribed in the Noise Management Strategy, The Premises Licence Holder or DPS or any person who has been nominated as their deputy must immediately comply with any request to adjust noise levels/ frequency spectra made by an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) .
- All staff engaged in the sale of alcohol to be trained in responsible alcohol retailing to the minimum standard of BIIAB level 1 or any equivalent training course within 1 month of commencing employment at the premises. No person shall be authorised to sell or supply alcohol until this training is completed. Refresher training will be conducted at 12 monthly intervals. Training records shall be kept on the premises and produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.
- A written or electronic register of refusals will be kept including a description of the people who have been unable to provide required identification to prove their age. Such records shall be kept for a period of 12 months. It will be collected and reviewed on a daily basis by the Designated Premises Supervisor and produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.
- 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 Police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council. 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 sale area advertising the scheme operated.

REASONS

The committee had taken into account all the statements from the parties present. The sub committee noted there had been a very small number of objections to the application and that the disturbances reported the previous year could not be directly attributed to the festival site with any certainty. The changes to the layout of the festival and consolidation of the accommodation to a single campsite was recognised. While the behaviour of individuals once they had left the licenced area was their own personal responsibility, the applicant's intention to provide additional trained security staff was noted. The application related to the 2019 event only so there would be an opportunity to review the effectiveness of the changes for any future application. With regard to the finishing time, the sub committee considered the fact that there were other licensed premises in the area that operated the same hours and that curtailing the operating hours of the festival could lead to more disruption if festival goes then moved on to other premises in the town. In granting the application, the sub committee encouraged the applicant to show respect to neighbouring residents.

The meeting ended at 5.10 pm

Chairperson