

## **Minutes of the meeting of Licensing sub-committee held at Online Meeting Only on Monday 12 July 2021 at 4.30 pm**

**Present:** Councillor Alan Seldon (chairperson)  
Councillors: Paul Andrews and Tony Johnson

**Officers:** Principal licensing officer and legal adviser to the sub-committee

### **121. APOLOGIES FOR ABSENCE**

No apologies for absence were received.

### **122. NAMED SUBSTITUTES (IF ANY)**

There were no substitutes present at the meeting.

### **123. DECLARATIONS OF INTEREST**

There were no declarations of interest made.

### **124. APPLICATION FOR A GRANT OF A PREMISES LICENCE IN RESPECT OF DOM'S BIKE STOP, WESTEATON NURSERIES, STOKE PRIOR LANE, LEOMINSTER. HR6 0NA - LICENSING ACT 2003**

This application was heard in part on 8 June 2021 to allow for a site visit on 18 June 2021 at 3.00 pm

At the re-commenced sub-committee, the principal licensing officer outlined the report.

The sub-committee heard from public representations who:

- Reiterated the points made at the sub-committee meeting on 8 June 2021.
- The venue was for bikers who would drive away after consuming alcohol.
- The location of the premises was directly onto the A44 with poor visibility at the road junction.
- The site did not have planning application [which is not a relevant consideration for applications under the Licensing Act 2003]
- No attenuation of sound and no sound barriers were proposed
- On previous occasions when music had been played it could be heard indoors.
- The application was out of keeping with the rural location of the premises
- 500 people attending events would cause a lot a noise.

The chairperson of the sub-committee noted that unfortunately road safety and planning issues were not covered by the Licensing Act 2003 and the sub-committee could only take into account matters which related to the licensing objectives.

Following a query from a member of the sub-committee, it was confirmed that regulated entertainment (live & recorded music) had been withdrawn from the application.

The sub-committee then heard from the applicant who:

- Stated that he had withdrawn the request for regulated entertainment
- He had been running the business for 12 years and was trying to make a living
- No complaints had been received and that they were all neighbours and there was a need to get on.
- Covid-19 had made business difficulty.

The committee carefully considered all the representations, reports and evidence before them today. They have had regard to their duties under S4 of the Licensing Act and considered guidance issued under s182 of the Licensing Act 2003 and Herefordshire Council's Statement of Licensing Policy 2020 - 2025.

## **DECISION**

The sub committee's decision was to grant the licence as amended.

## **REASONS**

The licensing sub committee had heard from the applicant, the public representations and had carefully considered the written representations contained within the agenda packs for the meeting on 8 June and today's meeting, together with the site visit on 18 June 2021.

The sub-committee wished to stress that highway and planning issues were not considerations which they could take into account in reaching a decision and any considerations were confined to the remit of the Licensing Act 2003.

On site visit, it had been noted that there was an earth bund between the premises and the residential properties

As decisions of the sub-committee have to be evidence based and no evidence had been provided to show that the licensing objectives would not be promoted, the sub-committee granted the licence, as amended between meetings.

### **125. APPLICATION FOR A GRANT OF A PREMISES LICENCE IN RESPECT OF LEDBURY TOWN FOOTBALL CLUB, NEW STREET, LEDBURY. HR8 2EL- LICENSING ACT 2003**

This application was heard in part on 8 June 2021 and was adjourned to allow communication between the applicant and residents.

At the re-commenced sub-committee, the principal licensing officer outlined the report.

The sub-committee heard from public representations who confirmed that they had spoken to the applicant and good and positive meetings had taken place and they now felt more comfortable with the application. The public representatives would like written confirmation from the applicant as to the activity and mitigation measures that the club had committed to in written form and a commitment to quarterly meetings.

The applicant confirmed positive meetings had been held and were aware of the concerns of neighbours in connection with car parking and anti-social behaviour. The club was a voluntary football club and the bar helped to raise funds. They would be happy to put in writing the hours the club will be operating and happy to arrange quarterly meetings. Details of the chairperson of the club had been provided who could be contacted when issues arose so that they could be appropriately dealt with.

The committee carefully considered all the representations, reports and evidence before them today. They have had regard to their duties under S4 of the Licensing Act and considered guidance issued under s182 of the Licensing Act 2003 and Herefordshire Council's statement of licensing policy.

## **DECISION**

The sub committee's decision was to grant the licence as amended and set out in the report to the sub-committee on 12 July 2021.

## **REASONS**

The licensing sub committee had heard from the applicant, the public representations and had carefully considered the written representations contained within the agenda packs for the meeting on 8 June 2021 and today's meeting.

The sub-committee welcomed the positive communication between the applicant and the residents as it represented good community relations. The sub committee had noted that the public representations were now more comfortable with the application and the actions and mitigations proposed by the applicant, together with quarterly meetings. For these reasons, the sub-committee decided to grant the application.

### **126. REVIEW OF A PREMISES LICENCE IN RESPECT OF: THE LIVE INN, WHITBOURNE, WORCESTERSHIRE. WR6 5SP CALLED BY WEST MERCIA POLICE - 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 and the background papers.

The principal licensing officer presented the report.

At the request of West Mercia Police and under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, the sub-committee moved into closed session to consider CCTV footage.

The CCTV footage was reviewed. Following a query from a member of the sub-committee, it was confirmed by the police that they were unaware of anything prior to the incident occurring. There may have been conversations with the premises licence holder / designated premises supervisor (DPS) in connection with the non-payment of a bar tab. It was noted that the gentleman was sat with friends and issues with a bar tab was a civil matter. The police considered the use of the baseball bat was a disproportionate response. The use of the baseball bat had also put the premises licence holder / DPS and others at risk.

West Mercia Police outlined that they had no confidence in the premises licence holder as the DPS and that they considered he would not uphold the four licensing objectives. The police expressed concern over potential future action and were not satisfied that the behaviour would not be repeated. The police were requesting that the DPS be removed and be barred from the premises licensable area during licensing hours.

The sub-committee then heard from the solicitor representing the premises licence holder / DPS who highlighted the following:

- The police had gone straight to requesting removal of the DPS without considering the options outlined in the S182 guidance.

- It was accepted that the CCTV footage was unattractive but there was no evidence of what had been said and the reality was that there had been an exchange of words.
- Reference was made to the submissions which the solicitor acting for the premises licence holder / DPS which were included as a part of the agenda pack and supplement for this agenda item.
- It was clear that there was a conversation with Male 1 who was sitting towards the door was having a conversation
- It was extraordinary that no statements had been taken by the police as this was about 2 customers who had not simply enjoyed a drink, they had enjoyed hospitality and food on the promise to discharge their bar tab. This bar tab had still not been paid.
- The police officer had gone to see the DPS about the kick and the DPS had received a caution in respect of the kick. No complaint had been received in respect of the baseball bat incident.
- Under common law, a licence holder was entitled to use reasonable force to eject customers and in some circumstances could use excessive force.
- As part of the interview with the police, the DPS had outlined how many times he had requested help from the police but had not received it.
- The DPS was frustrated as there were two customers enjoying hospitality without paying for it.
- When the DPS challenges the customer and ask if they are going to pay and if they are not, then they need to leave, the customer takes a sip of his drink.
- The DPS had exercised poor judgement and had made a poor decision
- The hospitality sector had had a dreadful year and this was a fledging business which had only just re-opened.
- The DPS was worried about the consequence of what might happen for the period of time between the incident and today's hearing.
- The incident had happened six months ago and no further incidents had occurred.
- If the sub-committee do as the police requested, then by removing the premises licence holder as the DPS, the premises would need to close.
- A pub is the centre of village community life and this pub was no exception.
- The licence was referred immediately for review with no warning by the licensing officer and this goes completely at odds with the S182 Statutory Guidance at paragraph 11.17 which states:
- *"The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder."*
- There had been no visits from the licensing department since the incident
- It was due to the DPS' inexperience that the issue with bar tabs had arisen.
- The communication between the police the premises licence holder had not been what it ought to have been.
- There are not mandatory requirements set out in the S182 statutory guidance, but the sub-committee must consider what is appropriate and proportionate and treat each matter on its merits.
- There was no evidence to show a propensity of the DPS toward criminal behaviour, there had been no further incidents since December 2020 and there was no pattern of behaviour. The premises licence holder / DPS was a law abiding citizen who was not known to the police and was part of the badly affected hospitality industry.

- It was suggested that the police and the premises licence holder / DPS needed to work together and there could be closer liaison.

In response to queries from the sub-committee, it was confirmed:

That the premises licence holder / DPS was relatively new to the industry and not experienced with dealing with reluctant payers. He could have taken alternative steps, e.g. ban the individuals, instructed his bar staff not to serve the individual or taken them to small claims court.

The committee carefully considered all the oral and written representations, reports and CCTV evidence before them today. They have had regard to their duties under S4 of the Licensing Act and considered guidance issued under s182 of the Licensing Act 2003 and Herefordshire Council's Statement of Licensing Policy 2020 - 2025.

## **DECISION**

The sub committee's decision was to remove the designated premises supervisor (DPS) and to prohibit him from entering the premises licensable area during licensing hours

## **REASONS**

The licensing sub committee had heard from the police, the solicitor acting for the premises licence holder / designated premises supervisor and carefully considered the information provided in the agenda pack, the two supplements which had been published and the CCTV footage.

The sub-committee commented that this was an unfortunate case and that West Mercia Police had not communicated well in this particular instance with the designated premises supervisor which had been taken into consideration. The sub-committee had taken into account the effect of their decision on the premises licence holder / designated premises supervisor. However, there was no excuse for the behaviour exhibited on the CCTV footage and the sub-committee were not prepared to take the risk that this type of incident could occur in the future.

The sub-committee felt that on this occasion having regard to the details of incident as shown on the CCTV footage and detailed in the evidence before the sub-committee, the removal of the designated premises supervisor was an appropriate and proportionate step in order to promote the four licensing objectives, in particular the prevention of crime and disorder.

The meeting ended at 7.37 pm

**Chairperson**