

<b>MEETING:</b>	<b>REGULATORY SUB-COMMITTEE</b>
<b>DATE:</b>	<b>27 MARCH 2012</b>
<b>TITLE OF REPORT:</b>	<b>REPRESENTATION AGAINST THE INTERIM STEPS IMPOSED ON 1 MARCH 2012 FOLLOWING THE EXPEDITED/SUMMARY LICENCE REVIEW OF PREMISES LICENCE:  THE NAGS HEAD, CANON PYON, HEREFORD, HR4 8NY</b>
<b>PORTFOLIO AREA:</b>	<b>ASSISTANT DIRECTOR (EHTS) PEOPLE'S SERVICES DIRECTORATE</b>

**CLASSIFICATION:** Open

### **Wards Affected**

Wormsley Ridge

### **Purpose**

To consider a representation made by MFG Solicitors on behalf of 'Stephen Bengree, The Nags Head, Canon Pyon, Hereford, HR4 8NY, the premises licence holder, against the interim steps imposed on 1 March 2012 following the expedited licence review of the premises licence.

### **Key Decision**

This is not a Key Decision.

### **Recommendation**

THAT the Sub-Committee, when determining this representation against the interim steps, must take into account:

- The senior police officer's certificate that accompanied the application
- The chief officer's representation and
- Any representation made by the premises licence holder

### **Key Points Summary**

- Application received for an expedited review on 28 February 2012.
- Hearing held on 1 March 2012 within the required 48 hours.
- 28 February 2012 - Copies of application and certificate sent to the premise licence holder and responsible authorities.

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

- Application against interim steps received on 26 March 2012.

## Options

1 The committee must:

- Consider whether the interim steps are necessary for the promotion of the 'Licensing Objectives' and
- Determine whether or not to withdraw or modify the steps taken.

The following are options in respect of modification

Take no action or

Take any of the following steps: -

- (a) to modify the conditions of the licence;
- (b) the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence;

Where the authority takes a step mentioned in subsection (a) or (b), it may provide that the modification or exclusion is to have effect until the full review hearing.

## Reasons for Recommendations

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

## Background Information

The powers to call for an expedited review are contained in Section 53A of the Licensing Act as amended by the Violent Crime Reduction Act 2006. The powers allow:-

- The police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with serious crime or serious disorder (or both); and
- The licensing authority to respond by taking interim steps quickly, where appropriate, pending a full review.

The requirements of the legislation are that the application must be accompanied by a Certificate signed by a Superintendent. Where that has happened, as in this case, the requirements for launching an expedited review has been met and the Licensing Authority do not have power to question whether such certificate should have been issued by a Superintendent.

The expedited review hearing was held on 1 March 2012 where the committee considered an application made by the Chief Constable of the West Mercia Police. . At that hearing the applicants' solicitor offered the following condition which was endorsed by the committee:

- That the present Designated Premises Supervisor, Joanna West, be replaced by Melody Barton.
- That the Committee accepts the offer of the Solicitor for the Premises Licence Holder that Mr. Stephen Bengree will be excluded from the curtilage of the said licensed premises through all hours when they are open to the public. The curtilage shall be as described in the plan previously submitted and approved and Designated 08.096 Drawing 250 namely, the Nags Head Public House (as outlined in blue on the attached plan).

On 26 March 2012 an application was received by the Licensing Authority from MFG Solicitors on behalf of the premises licence holder to make representation against the interim steps.

The full review hearing has been arranged for today.

### 3 **Current Licence**

The current licence authorises the following licensable activities during the hours shown: -

Provision of live music; A performance of dance; Other regulated entertainment; Provision of late night refreshment; Sale by retail of alcohol

Monday-Sunday: 11:00 - 00:30

Any playing of recorded music

Monday-Saturday: 11:00 - 00:00

Sunday: 11:00 - 23:00

- 4 The grounds for the review are contained in Appendix 1 and 2 of the background papers. Also attached is the request to make representation against the expedited review (appendix 3)

### 5 **Responsible Authorities**

Copies of the application and certificate have been sent to the responsible authorities.

## **Key Considerations**

- 6 To consider whether the interim steps are necessary for the promotion of the 'Licensing Objectives' and to determine whether to withdraw or modify the steps taken.

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**

- 7 It is felt that if the wrong course of action is taken then this could have an adverse effect on the local community.

## **Legal Implications**

- 8 There is no right of appeal against the decision of the Licensing Authority at this stage.

## **Consultees**

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

## **Appendices**

- 11 a. Application form for expedited review
- b. Certificate
- c. Request to make representation against the interim steps
- d. Decision notice from 1<sup>st</sup> March 2012

## **Background Papers**

**Background papers were available for inspection in the Council Chamber 30 minutes before the start of the hearing.**