

<b>Meeting:</b>	<b>Regulatory Sub-Committee</b>
<b>Meeting date:</b>	<b>12<sup>th</sup> November 2015</b>
<b>Title of report:</b>	<b>REVIEW OF A PREMISES LICENCE IN RESPECT OF: CHAMPAGNE SIGNATURE, 14-15 UNION STREET, HEREFORD, HR1 2BT - LICENSING ACT 2003</b>
<b>Report by:</b>	<b>Fred Spriggs - Licensing Officer</b>

## **Classification**

Open

## **Key Decision**

This is not an executive decision.

## **Wards Affected**

Central

## **Purpose**

To consider an application for the Review of a Premises Licence in respect of Champagne Signature, 14-15 Union Street, Hereford, HR1 2BT.

## **Recommendation**

**That:**

Sub-Committee determine the application with a view to promoting the licensing objectives in the overall interests of the local community. They should give appropriate weight to:

- The steps that are appropriate to promote the licensing objectives,
- The Police application for the review,
- The Guidance issued to local authorities under the Licensing Act 2003, and
- The Herefordshire Council Licensing Policy.

## **Options**

1. There are a number of options open to the committee:

- the modification of the conditions of the premises licence;
- to exclude a licensable activity from the scope of the licence;
- the removal of the designated premises supervisor from the licence;
- the suspension of the licence for a period not exceeding 3 months; and
- the revocation of the licence.

## Reasons for Recommendations

2. Ensures compliance with the Licensing Act 2003.

## Key Considerations

3. The licensing authority must take into account any relevant representations made. Relevant representations are those that:
  - relate to one or more of the licensing objectives;
  - have not been withdrawn; and
  - are made by the premises licence holder, a responsible authority or an interested party

Applicant	<b>Chief Constable – West Mercia Police</b>	
	<b>Represented by: - Inspector Semper</b>	
Premise Licence Holder	<b>Mr Mikayeel Deen</b>	
	<b>14-15 Union Street, Hereford, HR1 2BT</b>	
Solicitor	<b>N/K</b>	
Type of application:	Date received:	End of 28 day period
<b>Review</b>	<b>23/09/2015</b>	<b>20/10/2015</b>

4. The application for the review has received no representation.
5. Neither the police nor the Licensing Authority has been contacted by the premises licence holder.
6. Copies of the application were sent to the premise licence holder and responsible authorities.
7. The police grounds for the review are:  
*The premises is a well established restaurant. The premises is licensed for the sale of alcohol and the provision of late night refreshment.*

*As a result of intelligence a joint enforcement visit was made to the premises by the UK Border Agency and West Mercia Police on the 17 September 2015.*

*At this time the premises were open to the public and staff were working*

*Two members of staff were detained. One had no entitlement to be in the country and the other was classed as an individual who had over stayed their entitlement period to remain in the United Kingdom.*

*It is the view of West Mercia Police that the employment of these men is a financial gain for the premises licence holder as no UK tax and insurance are paid legally. It shows a lack of control and management of the premises by the premises licence holder and a disregard to legal requirements concerning the employment of non UK or EU nationals*

## 8. **Current Licence**

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

Live Music / Performance of Dance Monday – Saturday: 19:00 until 01:00

Sunday: 19:00 until 23:00

Recorded Music Monday – Thursday: 10:00 until 01:00

Friday – Saturday: 10:00 until 02:00

Sunday: 10:00 until 00:00

Late Night Refreshment Monday – Thursday: 23:00 until 01:00

Friday – Saturday: 23:00 until 02:00

Sunday - from 23:00 until 00:00

Supply/Sale of Alcohol Monday – Thursday: 10:00 until 01:00

Friday – Saturday: 10:00 until 02:00

Sunday: 10:00 until 23:00

Non Standard Timings:

New Years Eve and day extend to 03.00; Christmas eve and Day and bank holiday extend to 0200; Good Friday 12-22.30

## **Community Impact**

9. Any decision is unlikely to have any significant effect of the local community.

## **Equality duty**

10. There are no equality or human rights issues in relation to the content of this report.

## Financial implications

11. There are unlikely to be any financial implications for the authority at this time.

## Legal Implications

12. An appeal may be made within 21 days to the Magistrates Court by the police or the licence holder once notified of the licensing authority's decision.
13. The decision of the licensing authority, following the review hearing, will not have effect until the end of the period allowed for appeal, or until the appeal is disposed of.
14. The Committee should be aware of a number of stated cases which have appeared before the Administrative Court and are binding on the Licensing Authority.

The case of Daniel Thwaites Plc v Wirral Borough Magistrates' Court (Case No: CO/5533/2006) at the High Court of Justice Queen's Bench Division Administrative Court on 6 May 2008, [2008] EWHC 838 (Admin), 2008 WL 1968943, Before the Honourable Mrs Justice Black.

In this case it was summed up that: -

A licensing authority must have regard to guidance issued by the Secretary of State under section 182. Licensing authorities may depart from it if they have reason to do so but will need to give full reasons for their actions.

Furthermore the Thwaites case established that only conditions should be attached to a licence with a view to promoting the Licensing objectives and that 'real evidence' must be presented to support the reason for imposing these conditions.

This judgement is further supported in the case of The Queen on the Application of Bristol Council v Bristol Magistrates' Court, CO/6920/2008 High Court of Justice Queen's Bench Division The Administrative Court, 24 February 2009, [2009] EWHC 625 (Admin) 2009 WL 648859 in which it was said:

'Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for licensing objectives'.

In addition to this it was stated that any condition attached to the licence should be an enforceable condition.

15. The Guidance issued under Section 182 covers the employment of persons unlawfully in the UK and states:
  - 11.27 *There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:*
    - *for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and*
    - *the laundering of the proceeds of drugs crime;*
    - *for the sale and distribution of illegal firearms;*
    - *for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;*
    - *for prostitution or the sale of unlawful pornography;*
    - *by organised groups of paedophiles to groom children;*
    - *as the base for the organisation of criminal activity, particularly by gangs;*
    - *for the organisation of racist activity or the promotion of racist attacks;*

- **for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;**
- *for unlawful gambling; and*
- *for the sale or storage of smuggled tobacco and alcohol.*

11.28 *It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.*

## **Risk Management**

16. There is little risk associated with the decision at this time as the legislation allows representation to be made against the interim steps.

## **Consultees**

17. Copies of the application and certificate have been sent to the responsible authorities. A notice has been displayed at the premises, at the offices of the Licensing Authority and details have been shown on the council website.

## **Appendices**

1. Application for review

## **Background Papers**

None