

WESTERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 25 JUNE 2012 AT COUNCIL CHAMBER - COUNCIL OFFICES, BRADLEY ROAD, TROWBRIDGE, BA14 0RD IN RESPECT OF AN REVIEW - BLACK PEARL, 5A CHURCH STREET, TROWBRIDGE.

Present:

Cllr Liz Bryant, Cllr Trevor Carbin and Cllr George Jeans

Also Present:

Maggie Jones (Senior Licensing Officer), Paul Taylor (Senior Solicitor), Kieran Elliott (Democratic Services Officer), Jacqui Gallimore (Wiltshire Police), Pippa McVeigh (Public Protection Manager), PC Tuite (Wiltshire Police), PS Malcolm McLundie (Wiltshire Police), David Bennett (Wiltshire Police), Ann Robson (Designated Premises Supervisor), Tammatha Newbury (Licence Holder), Martin Hinds (Pub Manager), Pam Denton (Senior Democratic Services Officer), Stuart Figini (Democratic Services Officer)

1 Election of Chairman

Nominations for a Chairman of the Licensing Sub-Committee were sought and it was,

Resolved:

To elect Cllr Trevor Carbin as Chairman for this meeting only.

2 Procedure for the Meeting

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 6 of the Agenda refers).

3 Chairman's Announcements

There were no announcements.

4 Declarations of Interest

There were no interests declared.

5 **An Application by Wiltshire Police for a Review of a Premises Licence at Black Pearl, 5a Church Street, Trowbridge, BA14 8DR**

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

In accordance with the procedure detailed in the agenda, the Review Applicant and the Premises Licence holder and associated were given the opportunity to address the Sub Committee.

Key points raised by Review Applicant (Wiltshire Police) were:

- The previous history of the Premises Licence Holder in failing to adhere to licensing objectives while Designated Premises Supervisor (DPS) of the Carpenter's Arms, and repeated breach of conditions leading to action from Environmental Health and Public Protection Teams of the Council.
- The repeated breach of licensing conditions at the Black Pearl since the opening of the establishment, including advertising licensable activities beyond permitted deadlines, the sale of alcohol in the absence of a DPS, and multiple acts of violence and disorder, some serious, including one witnessed by children.
- The Review Applicant drew attention to a recording error on the witness statement (page 43) , stating the correct detail should be "Sunday 20th April at 0200 hours" rather than "Sunday 29th March at 0215 hours".
- CCTV at the address collected after an incident had been of no evidentiary value;
- Those on the Pubwatch banned list had on several occasions gained admittance to the property;
- No suitable drugs policy or training for staff had been put in place despite being a condition of the licence, and the recording of information required by conditions had been inadequate.
- Police had made many efforts to support and engage with the Licence Holder as seen in the submission.
- Given the disregard for licensing objectives and licence conditions, and the serious breaches listed above and previous history of the licence holder, including receiving censure from public protection teams, a revocation of the licence is deemed the most appropriate action.

Key points raised by Tammatha Newbury (Licence Holder), Martin Hinds (Pub manager), and Ann Robson (Designated Premises Supervisor) were:

- Many of the lapses were the responsibility of the previous Designated Premises Supervisor, who has been discharged from his position. The trading without a valid DPS occurred when the former DPS, Mr James,
- Signs had been placed around the premises highlighting the zero tolerance approach to drugs policy.

- The licence does not require there to be door supervisors in the absence of regulated entertainment. However, this has been attempted where costs permit regardless.
- The premises has cooperated with Pubwatch but received little assistance from others who flout the system, with the police also being of little assistance. It was claimed the police were focusing on the Black Pearl over other establishments.
- Patrons have been bringing in glasses from other establishments, as the Black Pearl only uses polycarbonate glasses after 2100.
- An incident where there was a man stumbling around in the street in a state of undress outside the establishment had not been the result of him being served or thrown out of the Black Pearl, neither of which had occurred.
- CCTV had been installed at considerable expense.

The parties were given the opportunity to each ask questions of the Review Applicant and Licence Holder and representatives and Wiltshire Council Officers. A debate ensue in which the Sub Committee discussed points including the following:

- Whether those involved in the incidents on the Trowbridge Pubwatch banned list. It was established that one was, and a second has since been placed on the list.
- The question of there being regulated entertainment advertised past the time permitted under the Licence was raised, in relation to a facebook post presented in the Wiltshire Police submission. Ms Newbury maintained the post had been misinterpreted, and that the premises was advertised as open until 0300 as permitted under the licence, but not regulated entertainment.
- The presence of two separate incident books was queried, and it was clarified by Ms Newbury that as the Licence Holder she maintained an incident record in addition to one used by door staff.
- The Sub Committee queried how extensive the drugs policy required under the licence needed to be. It was clarified that it needed to be a written drugs policy, which has not been provided by the Licence Holder, and signs being placed around the premises were not sufficient. Ms Newbury confirmed a written drugs policy was not in place.

All parties were then given the opportunity to summarize their cases, before the Sub Committee members sought clarification on some points before retiring to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer clerking the meeting.

The Sub Committee then retired to consider the application at 12:55

The Hearing reconvened at 15:10.

Following the deliberations of the Sub Committee Members, the Solicitor for the Council made a statement of material legal advice given in closed session as follows:

No specific legal advice had been given other than to draw the Sub Committee's attention to relevant government guidance and national policy and licensing law. The Licensing Officer had also been requested to attend briefly to seek clarification on training and drug policies required.

The Sub Committee considered all of the submissions made to it and the written representations together with the Licensing Act 2003, Statutory Guidance and Regulations and the Licensing Policy of the Council

Resolved:

The Western Area Licensing Sub Committee has resolved to SUSPEND the licence for ONE MONTH and amend the conditions as detailed below:

a) Condition 5 be amended as follows:-

5. When regulated entertainment is taking place a minimum of three door supervisors will be deployed at the premises from 2100hrs to the closing of the premises. In addition on all Thursdays, Fridays and Saturdays, and any other evening when regulated entertainment is taking place, a minimum of two door supervisors will be deployed at the premises from 1900hrs.

b) A further condition be added as follows:

18. The premises licence holder shall maintain a written rota of all staff for at least seven days in advance and submit a copy of it to the licensing authority monthly. This rota is to be made available for immediate inspection on request of council officers and police.

Evidence and Reasons

The Sub Committee noted the evidence that was presented on behalf of the police in relation to the incidents of violence and disorder that had occurred at the premises and also the incidents that had occurred at the Carpenters' Arms, during the time that the premises licence holder had been working there. They accepted that there had been a failure by the premises licence holder to properly maintain certain records required by conditions on the licence and that some people on the Pubwatch banned list had gained access to the premises, which had, on occasion, led to incidents of disorder.

In light of the evidence presented, the Sub Committee seriously considered the request by police to revoke the licence, but concluded that the licensing objectives could still be met by a period of suspension and the addition of further conditions.

The Sub Committee concluded that a period of suspension was appropriate to permit the licence holders to implement existing conditions and improve management skills. The additional requirement for door staff was considered to be appropriate to control access to the premises and to seek to prevent incidents of violence and disorder.

In reaching its decision the Sub Committee has considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 52); the guidance issued under Section 182 of the Act (in particular to paragraphs 11.19, 11.21, 11.23 and the Licensing Policy of Wiltshire Council.

The Sub Committee have also considered the written evidence presented in the agenda and the supporting evidence provided by the review applicant and premises licence holder, together with the oral evidence given at the hearing.

Right to Appeal

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this decision.

The decision of the Sub Committee will not come into effect until the period of appeal is concluded, or if an appeal is made until the appeal has been finally disposed of.

(Duration of meeting: 11.05 am - 3.15 pm)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

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