

DECISION NOTICE

WESTERN AREA LICENSING COMMITTEE

In respect of an application by Martin Hinds for a Premises Licence at The Black Pearl, 5a Church Street, Trowbridge, BA14 8DR

Date of Hearing: 19 August 2014

Decision:

The decision of the Sub Committee is that the application by Mr. Martin Hinds for a Premises Licence in respect of The Black Pearl, 5a Church Street, Trowbridge, BA14 8DR be rejected.

In reaching its decision, the Sub Committee took account of the representations, both oral and written, that had been made by and on behalf of the Applicant, together with those made on behalf of Wiltshire Police in objection to the application. The Sub Committee also took account of relevant Government guidance and the Council's licensing policy.

Reasons for the Decision:

The Sub Committee concluded that the Applicant had demonstrated insufficient evidence as to how he would address the licensing objectives, in particular the prevention of crime and disorder. This was a significant failing, given the history of the premises concerned.

The Sub Committee acknowledged that this was a new application for a Premises Licence at the Black Pearl and that the previous licence for these premises had not been held by the Applicant. However, the Sub Committee accepted that the Applicant had nevertheless been closely involved in the management of the premises since the grant of the original Premises Licence in 2012. He had also been the holder of a series of Temporary Events Notices which had been issued since the lapse of the previous Premises Licence. The Sub Committee therefore considered that the Applicant would have been aware of the problems and concerns with the premises and the need to address those problems. However, as demonstrated by the evidence presented on behalf of the police, he had failed to do so sufficiently.

The Sub Committee noted that a considerable number of conditions had been placed on the previous premises licence for the Black Pearl, both at the time it was originally granted and following the review called by the Police. There had been a lack of regard for these conditions, including a failure to participate in Pubwatch. The conditions were

specifically designed to reduce disorder, violence and injuries. This demonstrated a disregard for the obligations imposed by the Licensing Act 2003.

The Sub Committee were therefore in agreement with the Police's grave concerns regarding the fitness and suitability of the Applicant to promote the Licensing Objectives in respect of these premises. They concluded that they had no confidence in the ability of the Applicant to adequately address the previous failings in respect of the licensing objectives. The Sub Committee, therefore, concluded that rejection of the application was the only practical option and was one which was both proportionate and appropriate.

Application

The application for a Premises Licence at the Black Pearl was made by Mr. Martin Hinds on 30 June 2014. The application was for the sale of alcohol, regulated entertainment and late night refreshment. Details of the application were set out in the agenda for the hearing. The previous Premises Licence for these premises had lapsed following the bankruptcy of the licence holder, Tammatha Newbury. A relevant representation had been made by Wiltshire Police.

Representations

In their representations, both written and oral, Wiltshire Police made the following points, which were taken into account by the Sub Committee:-

- There was a long history of problems at the premises, which was set out in the papers presented to the Sub Committee. The police had objected to the original application for a premises licence in 2012, because of their concerns as to the ability of the then applicant to manage the premises. Within a few months of the grant of that licence, they had felt the need to call for a review of the licence, because of the number of incidents of crime and disorder associated with the premises.
- Mr Hinds, the current applicant, was the partner of the previous licence holder, Ms. Newbury and had been closely involved in the management of the premises since the grant of the initial premises licence to her. It was also understood that Ms. Newbury would continue to play a role in the running of the premises, if the licence is granted.
- There had been at least two serious incidents of violence this year at the premises, details of which were set out in the papers. It was the police's view that Mr. Hinds had failed to deal with those incidents appropriately or to cooperate adequately with the police in respect of those incidents.
- In respect of the incidents at the premises, Mr. Hinds had displayed a lack of understanding of the role of a premises licence holder and had demonstrated a lack of control and supervision of the premises.

- There had been a number of incidents where persons on the Trowbridge Pubwatch banned list had been allowed to drink in the premises. The premises had not had effective involvement with Pubwatch, despite this being a condition on the previous premises licence.
- The propose Designated Premises Supervisor, Mr. Fox was not able to have effective supervision of the premises as he was not regularly present on the premises.
- The previous Licensing Sub Committee, when considering the 2012 review application had seriously considered revocation of the premises licence, because of the problems at the premises. The management of the premises had, effectively, already been given a final chance to improve, but had failed to do so.
- It was the view of the Police that the only way that the serious problems associated with the premises could be addressed was by rejection of the current licence application. The Police did not consider that any further conditions that might be imposed on the licence would be complied with.

Comments by Applicant

In support of his application, Mr. Hinds made the following points:-

- The premises were generally quiet until later in the evening. The pub was used extensively by pool players and participated in the local pool league. He called Mr. Russell Matthews, Chairman of the Trowbridge and District Pool League in support of this point.
- He felt that the premises had come a long way and did not consider that all of the conditions that had been placed on the previous licence were now necessary. In particular, he was critical of the condition restricting use of the outside smoking area, which he felt was not workable, as it was used by people other than those who were in the Black Pearl.
- He had cooperated with the police in respect of the recent incidents and had replaced the previous DPS, as she had been unwilling or unable to deal with people who caused problems at the premises.
- He called Mr. Fox, the proposed DPS to speak. Mr. Fox stated that he could have dealt with some of the incidents that had occurred, had the police contacted him. He confirmed that he was not employed by the Black Pearl but did visit it regularly to check whether there were any issues.
- It was his intention in the longer term that the premises might become a members-only club.

Conclusions

Having heard all of the evidence from both parties, the Sub Committee concluded that there remained serious problems associated with the management of the premises, particularly in respect of drunkenness and its consequences for crime and disorder and public safety.

Options and Conclusions

The Sub Committee considered the options available to it to address the concerns that they had found to be established. They did not feel that there was any merit in refusing to specify Mr. Fox as the designated premises supervisor or in excluding a licensable activity from the scope of the application.

The Sub Committee then considered whether to impose further conditions on the licence, in addition to those in the operating schedule. However, the Sub Committee felt that this would not be effective, given the failure of the management to comply with the additional conditions imposed at the previous application and review hearings.

The Sub Committee therefore concluded, on the basis of the evidence presented and for the reasons set out above, that rejection of the application was the only option available and that such rejection was reasonable, proportionate and appropriate to promote the licensing objectives.

Right of Appeal

Either party has the right to appeal against this decision to a Magistrates' Court. Any appeal must be made to a Magistrates' Court within 21 days of the date of notification of this decision.