

<b>Contains Confidential Exempt Information</b>	No
<b>Report Title</b>	Premises Licence Review hearing
<b>Premises Details</b>	BAYLIS HOUSE Stoke Poges Lane Slough SL1 3PB  Premises Licence Number PL4603
<b>Author(s)</b>	Mick Sims Licensing Manager Enforcement and Regulatory Services
<b>Purpose of Report</b>	Regulatory / Review Hearing for Premises Licence

## 1. **SUMMARY**

- 1.1 On the 2<sup>nd</sup> July 2014, Mrs Debie Pearmain - Thames Valley Police Licensing Officer applied for a Review of the Premises Licence for Baylis House, Stoke Poges Lane, Slough, SL1 3PB under Section 51 of the Licensing Act 2003.

## 2. **RECOMMENDATIONS**

- 2.1 The Sub Committee are asked to determine the Application.
- 2.2 Where the Sub Committee considers action is appropriate the options available are:
- 2.2.1 modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- 2.2.2 exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- 2.2.3 remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- 2.2.4 suspend the licence for a period not exceeding three months;
- 2.2.5 revoke the licence.

### **3. PRINCIPLES FOR MAKING DECISIONS**

#### **Context**

- 3.1 As quasi-judicial body the Committee is required to consider this matter on its merits and must act reasonably and rationally. The Committee can only take into account relevant factors and must ignore irrelevant factors. The decision must be based on evidence, that is to say material, which tends logically to show the existence or non-existence of the relevant facts, or the likelihood or the unlikelihood of some future event, the occurrence of which would be relevant. The Committee must give fair consideration to the contentions of all persons entitled to make representation to them.
- 3.2 The Committee can only consider matters within the report along with relevant representations made at the hearing.
- 3.3 Members should note that the Committee is meeting on this occasion solely to perform the role of licensing authority. As such Members should disregard the Council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the licensing law, guidance and the Council's related policies and guidance.
- 3.4 Members will be aware of the Council's Code of Conduct which requires them to declare interests. The Code applies to members when considering licensing issues. In addition as a quasi-judicial body, members are required to avoid both actual bias and the appearance of bias.

#### **Human Rights & Equality Act Duties**

- 3.5 In determining the case, the Committee should be aware of and take into account any implications that may arise from the Human Rights Act 1998 and Sc 149 Equality Act 2010. The Act 1998 makes it unlawful for a public authority to act in a manner which is incompatible with the European Convention on Human Rights.
- 3.6 When determining the case and considering imposition of conditions the Committee must be satisfied that any decision which interferes with the rights of the applicant or of others only does so insofar as it is necessary to protect the rights of others and that no alternative decisions would be appropriate.
- 3.7 The Committee is specifically referred to the following Convention rights:
  - 3.7.1 Article 6 (the right to a fair trial),
  - 3.7.2 Article 8 (the right to respect for private and family life)
  - 3.7.3 Article 1 of the First Protocol (the protection of property)

### **4. RELEVANT POLICY AND LEGISLATION CONSIDERATIONS**

- 4.1 The procedure to be followed for the Review hearing is attached at **Appendix F**.

4.2 The amended guidance issued under section 182 of the Licensing Act 2003 was published in June 2014, paragraph 11 and the salient points that the Committee must have regard to for Review Applications are detailed below:

*“11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.*

*11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.*

*11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.”*

#### ***Powers of a licensing authority on the determination of a review***

*11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.*

*11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote 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.*

*11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.*

*11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.*

*11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.*

*11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent*

*review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.*

*11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence."*

- 4.3 Paragraphs 11.24 to 11.28 of the section 182 Guidance are also relevant as they cover reviews arising in connection with crime.
- 4.4 The committee should also consider and make use of the 'Yellow and Red Card' system as directed and recommended by The Department of Culture, Media and Sport (DCMS) and as approved by the Licensing Committee.
- 4.5 The committee must also have regard to Slough Borough Council's Statement of Licensing Policy 2014-2015, sub-paragraphs 6.1 to 6.8 of which cover the authority's general approach to licence conditions.

## **5. LICENCE SUMMARY**

- 5.1 Baylis House which operates as a hotel, conference and banqueting venue holds a Premises Licence (number **PL 4603**) (Appendix A) and the named Designated Premises Supervisor (DPS) is Mr Sandeep Shetty, who holds a Personal Licence (number H03349) issued by Hounslow Borough Council.
- 5.2 The DPS is responsible for the day to day management of the premises.
- 5.3 The premises licence authorises the carrying out of the licensable activities as follows:

E - Performance of live music (Indoors & Outdoors)  
F - Playing of recorded music (Indoors & Outdoors)  
G - Performance of Dance (Indoors & Outdoors)  
H - Entertainment of a similar description to that falling within E, F, or G (Indoors & Outdoors)

### **The times the Licence authorises the above Licensable Activities are:**

Sunday to Thursday:	09.00am	01.00am
Friday and Saturday:	09.00am	03.00am
Christmas Day:	Noon	10.30pm
New Years Eve:	10.00am	Midnight

Except when New Years Eve falls on a Sunday when the permitted hours begin from 12.00 hours.

New Years Day:       Midnight   Midnight

Licensable Activities including live and recorded music or dance will not be played in the open air after 23.00 hours

### **I - Late night refreshment (Indoors & Outdoors)**

The times the Licence authorises this activity are:

Sunday to Thursday:   11.00pm   01.00am

Friday and Saturday:   11.00pm   03.00am

New Years Eve:         11.00pm   05.00am

New years Day:         11.00pm   Midnight

### **J - Supply of alcohol for consumption ON and OFF the premises**

The times the Licence authorises this activity are:

Sunday to Thursday:   09.00am   01.00am

Friday and Saturday:   09.00am   03.00am

Christmas Day:         Noon      11.30pm

New Years Eve:         10.00am   Midnight

Except when New Years Eve falls on a Sunday when the permitted hours begin from 12.00 hours.

New Years Day:         Midnight   Midnight

A copy of the current Premises Licence is attached at **Appendix A.**

## **6. REASON FOR REFERRAL: REVIEW APPLICATION**

- 6.1 The Applicant asking for the Review is Debie Pearmain - Police Licensing Officer on behalf of Thames Valley Police. Any responsible authority may apply for a review of a premises licence if it is concerned about the licensed activities.
- 6.2 The Applicant has asked that all current conditions on the Premises Licence are removed and replaced with 24 new conditions as detailed within the Review application.
- 6.3 The full Review Application and supporting evidence sent with it are contained at **Appendices B and C.**
- 6.4 The Licensing Authority is satisfied that this application for Review meets the appropriate legislative requirements within the Licensing Act 2003 and is therefore a valid application to be considered by the Licensing Sub-Committee
- 6.3 Responsible authorities may ask for a review because of a matter or matters arising at the premises in connection with any of the four licensing objectives. Such matters may include for example:

- 1 or more sales to minors of alcohol or any other age restricted product
- Reports of anti-social behaviour linked to the premises
- Evidence of proxy sales
- Sales of alcohol outside trading hours
- **Other crime and disorder connected to the premises**
- Sales of counterfeit or substitute goods
- Offences under the Licensing Act 2003 including breach of conditions

6.5 The grounds for the Review are:

1. The Prevention of Crime and Disorder,
2. The Protection of Children from Harm,

6.6 The grounds for the Review Application are based on the following allegations:

6.7 A serious incident occurred at Baylis House in January 2014 involving two young females having sex with two older men at the hotel with one girl being described as 'comatose and lifeless'. The matter was reported to the night-staff who did no more than move the two men with the vulnerable females to other rooms at the hotel. The night-staff did not or attempt to report the incident to the Police who are now investigating two cases of possible rape.

## **7 BACKGROUND INFORMATION**

7.1.1 Thames Valley Police and Licensing Officers initially met with the management from Baylis House to discuss the incident in January 2014, and that it was felt new conditions would be needed to be imposed on the Premises Licence either voluntarily by way of a minor variation being made or if not by way of a Review application being brought..

7.1.2 Thames Valley Police and Licensing Officers reviewed the current conditions and prepared 24 new proposed conditions to replace the existing conditions on the Premises Licence and to put in place measures to prevent any similar incident occurring to that in January of this year. The officers then met further with the Baylis House management for the conditions to be agreed.

7.1.3 There was a delay in Baylis House responding to the repeated requests by Thames Valley Police for the proposed conditions to be agreed. As no formal response or agreement was received the Review application was brought on 1<sup>st</sup> July 2014.

7.1.4 Following the Review being brought a further meeting between Thames Valley Police, SBC Licensing and Baylis House and their legal representative was held on 11<sup>th</sup> July 2014. All parties now currently agree with all the proposed conditions however Baylis House do not agree with proposed condition 23 with regards to verification of individuals booking rooms and records of identification being retained for a minimum period of 6 months. Thames Valley Police are satisfied that condition 23 is a relevant and necessary requirement to be put in place to address their concerns over the serious incident and repetition of such an incident that occurred in January of this year and to

promote the two licensing objectives of the Prevention of Crime and Disorder and most importantly the Protection of Children from Harm.

- 7.1.5 On 11<sup>th</sup> August 2014, Thames Valley Police have submitted additional information relevant to the review application. The information relates to a report made to the Police of a missing 15 year old girl who has been assessed as vulnerable to child sexual exploitation (CSE). Information provided stated that she had been sighted at Baylis House the previous day.
- 7.1.6 The missing girl was not found at the premises however Police Officers were taken to a room occupied by persons who had become a concern to hotel staff. Five young men were found in the room (no females) and due to the state of the room (drinks had been thrown around) Police Officers escorted them from the premises.
- 7.1.7 Police have reviewed CCTV at the premises from earlier in the day. A young women is seen with an Asian male (believed to be from the group ejected later that evening) entering the premises by a side or back door. At present, Police have been unable identify the female and are therefore unable to verify her age. Full details of the Police report are attached at **Appendix G**.

## **8 REPRESENTATIONS RECEIVED**

- 8.1 Responses have been received by Responsible Authorities to the Review Application.
- 8.2 Dr Angela Snowing - Assistant Director of Public Health has responded supporting the application as she was the officer first notified of the CSE (Child Sexual Exploitation) case and reported the matter to the Police. The full response is at attached at **Appendix D**.
- 8.3 Mr John Nixon - Head of Safeguarding & Quality Assurance has responded supporting the application detailing that - The proposed licence conditions are appropriate and proportionate and will make a contribution to the disruption and prevention of Child sexual Exploitation. He further states that- The conditions will also contribute to collation of intelligence to support prosecution of perpetrators of Child Sexual Exploitation in the event of further incidents at this venue. The full response is attached at **Appendix E**.
- 8.4 Responses have also been received from Royal Berkshire Fire and Rescue Service, Trading Standards and Community Safety with comments on the application.
- 8.5 Additional information has also been received by the legal representative acting for Baylis House which is attached at **Appendix H**.

## **APPENDICES**

Appendix A - Copy of Premises Licence for Baylis House PL4603

Appendix B - Review Application

Appendix C - Supporting information (sent with and part of the Review Application)

Appendix D - Response / Representation from Dr Angela Snowling

Appendix E - Response / Representation from John Nixon

Appendix F - Procedure to be followed for Review hearing

Appendix G - Additional information submitted by Thames Valley Police

Appendix H - Additional information supplied on behalf of Baylis House

**Background papers**

- The Licensing Act 2003
- Guidance issued under Section 182 of the Licensing Act 2003 - (Revised June 2014)
- Regulations (cited as the Licensing Act 2003 ([Various]) Orders 2005
- Slough Borough Council Statement of Licensing Policy - December 2013
- DCMS Guidance – Red and Yellow Card System