

Licensing Sub-Committee – Meeting held on Wednesday, 16th November, 2022.

Present:- Councillors Sandhu (Chair), Kaur and Strutton

Officers Present:- Mrs Ali (Legal Services), Mr Cryan (Legal Services), Mrs Kauser (Democratic Services) and Ms Rumney (Licensing)

PART 1

7. Declarations of Interest

None received.

8. Guidance on Predetermination/ Predisposition - To Note

Members confirmed that they had read and understood the guidance on predetermination and predisposition.

9. Minutes of the Meetings held on 1st February 2022 and 23 June 2022.

Resolved - That the minutes of the meetings held on 1st February 2022 and 23rd June 2022 be approved as a correct record.

10. Review of Premises Licence - Farnham Road Off Licence, 240 Farnham Road, Slough.

The Licensing Officer set out details of the review application, reminding the Sub-Committee that Thames Valley Police (TVP) had submitted a review on the grounds that licensing objectives relating to the prevention of crime and disorder, public safety and the protection of children from harm were not being met.

The Sub-Committee was advised that there were numerous breaches of the premises licence which were summarised as follows:

- 18 October 2018 – Failed test purchase when a member of staff sold alcohol to two 16-year-old female volunteers.
- 1 November 2021 – Alleged sexual assault of a 17-year-old female inside the premises. TVP unable to obtain CCTV.
- 12 July 2021 – TVP received intelligence that Designated Premises Supervisor is knowingly selling alcohol to underage children, along with NOS (nitrate oxide) canisters and balloons. Information also received that the premises is employing illegal staff.
- 6 September 2022 – Joint Immigration, Trading Standards, Licensing and TVP visit to premises. Upon entry to the premises, a male tried to leave at the rear of the premises but was stopped by Immigration and TVP. It was confirmed by Immigration that the male who was stopped from leaving the premises did not have the right to work in the UK and

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during his interview he stated that he had been employed by the premises owner; no documentation was shown and the premises licence holder was aware that he did not have the right to work in the UK.

- 6 September 2022 – Trading Standards seized cigarettes that had non-English packaging and unlabelled white pots containing shisha.
- 6 September 2022 – In addition, 2 large canisters of Fastgas (Nitrous Oxide) and 3 boxes of NOS canisters were found behind the counter. Small plastic bags were also found.

Options available and the relevant guidance was outlined for Sub-Committee Members.

Submissions by Responsible Authority - Thames Valley Police

Mr Clarke Licensing Officer for TVP was in attendance with colleagues from Immigration Ms Laird and Mr Austin.

Mr Clarke submitted that TVP had concerns in the manner the premises were being managed by the current Designated Premises Supervisor (DPS) who had been at the premises for nearly four years and referred to the number of incidents as detailed in the report. It was brought to the Sub-Committee's attention that despite a number of meetings held with the DPS in December 2018, November 2021 and September 2022 there had been no improvement in the management of the premises.

TVP requested that the premises licence be revoked but in the absence of this, a number of additional conditions (as outlined in the review application) be added to the premises licence; and an additional condition requiring employment checks to be carried out prior to any individual commencing work at the premises.

Members asked a number of questions relating to the CCTV system and whether lack of CCTV had had an impact on the prosecution of this offence. Mr Clarke confirmed that failure to provide the Police with the CCTV evidence had meant that the case was unable proceed further. The Licensing Officer confirmed that it was a condition of the premises licence that CCTV be in working order and provided when requested.

Submissions on behalf of the Premises Licence Holder

The Premises Licence Holder (PLH) was in attendance with his representative Mr Panchal.

Mr Panchal brought to Members attention that there had not been a conviction in relation to the sexual offence which was alleged to have taken place at the premises. He sought to argue that it should be excluded from the Sub-Committee's considerations but was informed that this was not a criminal hearing and that the standard of proof was lower.

It was submitted that matters had improved since the alleged offence had taken place and that the designated premises supervisor ("DPS") would now

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be trained to DPS level 3. A Challenge 25 policy would be robustly promoted and a training manual would be retained at the premises along with an incident and a refusal book. In addition, right to work checks would be carried out on all staff, who would receive training every 2 to 3 months and be provided with a pocket guide on selling alcohol.

The PLH addressed the Sub-Committee stating that he had held a premises licence for four years and explained the circumstances relating to why the CCTV had not been working and the steps he had taken to resolve the matter.

It was confirmed by Mr Panchal that all additional conditions as proposed by TVP were accepted and that a one month suspension of the premises licence was deemed reasonable in order to implement the changes as outlined during the meeting.

Members sought clarification regarding the timeline in relation to when the CCTV had stopped working, noting that the onus was on the PLH to have submitted documentation showing when it had been replaced.

Closing remarks

In summary, the Licensing Officer pointed out that the legislation allowed the Licensing Authority to review the premises licence where a complaint is made and highlighted the options available to the Sub-Committee.

Mr Clarke requested that the premises licence be revoked as there had been a number of breaches of the licence conditions and despite meetings held with the PLH these had not been addressed.

In closing, Mr Panchal sought to make further representations about the breaches of licence conditions in respect of the sale of alcohol to two 16 year old female volunteers, disputing that alcohol had been sold to two 16 year old female volunteers. It was reiterated that all of the proposed conditions by TVP would be accepted by the premises licence holder and that the Sub-Committee should not revoke the premises licence but instead seek to impose a one month suspension of the premises license.

Decision

The Sub-Committee carefully considered all the evidence before it and all oral submissions made during the hearing and

Resolved -

Given the breaches of licence conditions, the Sub-Committee concluded that the PLH was not a fit and proper person to act as a DPS and be removed from the licence. The premises licence was suspended for 3 months on condition that a new DPS trained to DPS level 3 be appointed within this period.

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The Sub-Committee also decided that the following additional conditions be added to the premises licence:

- DPS or nominated person be trained on how to work the CCTV system to the standard where the nominated person is able to download any potential evidence required by Thames Valley Police employees and Authorised Persons as defined by Sections 13 & 69 Licensing Act 2003;
- DPS or nominated person is responsible in supplying the necessary media (disks, data stick) containing any downloaded content;
- Challenge 25 policy to be in place;
- In the absence of the Designated Premises Supervisor a Personal Licence Holder to be on the premises during the sale of alcohol;
- Before any person is employed at the premises sufficient checks will be made of their bona fides to ensure they are legally entitled to employment in the UK. Such checks shall include:

Proof of identity (such as a copy of their passport)

Nationality

Current immigration status

Employment checks will be subject of making copies of any relevant documents produced by the employee, which will be retained on the premises and kept for a minimum period of one year. Employment records as they relate to the checking of a person's right to work will be made available to an authorized officer of the Council or Thames Valley Police upon request;

- Refusals register to be in place, kept up to date and made available upon request of Police, Trading Standards or Slough Borough Council Licensing Officers;
- The Licensing Sub Committee also issued a "Yellow card" to the licensed premises as a warning that if a further review is necessary and matters have not improved the Premises Licence may be revoked. A "Yellow card" will be clearly and visibly displayed at the Premises for a period of 12 months detailing the imposition of new conditions on the Premises Licence and that this warning has been given.

The Sub Committee considered the imposition of the conditions reasonable and proportionate to promote the licensing objectives relating to prevention of crime and disorder, public safety and protection of children from harm.

The Sub-Committee was satisfied that the PLH had breached the terms of the licence conditions as set out in the Licensing Officer's report, and that it was therefore necessary to remove him as the DPS and to suspend the premises licence for a period of 3 months.

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11. Exclusion of the Press and Public

Resolved - That the press and public be excluded from the remainder of the meeting as the item to be considered contains exempt information relating to an individual as defined in Paragraph 1 of Part I of Schedule 12A to the Local Government Act 1972 (as amended)

12. Private Hire Driver Licence Application (Reference 01-22)

Below is a summary of the agenda item discussed in Part II of the meeting.

The Chair explained the procedure for the hearing and confirmed that all parties had received a copy of the paperwork.

The Licensing Officer set out details of the report, reminding Members that an application for a private hire driver (PHD) licence was refused in June 2022. It was explained that following the hearing, the licensing team had received further information relevant to the application. The applicant was submitted to make a new application, which was received on 25th September 2022. Options available to the Sub-Committee were outlined.

Members asked a number of questions regarding the online application process. The Licensing Officer confirmed it was clearly stated that details relating to any cautions and or convictions must be declared.

The Applicant submitted his reasons for applying for a PHD licence which included a summary of his application process.

Resolved – That Private Hire Driver Licence Application (Reference 01-22) be approved.

Chair

(Note: The Meeting opened at 10.30 am and closed at 1.45 pm)