

LICENSING SUB COMMITTEE

2 OCTOBER 2013

Present: Councillor G Derbyshire
Councillors P Jeffree and M Meerabux

Also present: Sergeant Mark Bilsdon, Hertfordshire Constabulary
Sergeant Marie White, Hertfordshire Constabulary
John Corkett, Hertfordshire Constabulary
Kate Moore, Hertfordshire County Council
Josh Price, Yellow and Red Lion
Mike Wright, Watford Observer

Officers: Solicitor
Licensing Manager
Senior Environmental Crime Officer
Committee and Scrutiny Support Officer (JK)

13 COMMITTEE MEMBERSHIP/ ELECTION OF A CHAIR

The Committee and Scrutiny Support Officer confirmed that the Sub-Committee would comprise Councillors G Derbyshire, P Jeffree and M Meerabux.

The Sub-Committee was asked to elect a Chair for the Hearing.

RESOLVED –

that Councillor G Derbyshire be elected Chair for this Hearing.

14 DISCLOSURE OF INTERESTS (IF ANY)

There were no disclosures of interest.

15 APPLICATION FOR PREMISES LICENCE REVIEW: THE YELLOW AND RED LION, 105 VICARAGE ROAD, WATFORD, WD18 0EY (13/00918/LAINPT)

The Sub-Committee received a report of the Head of Community and Customer Services setting out details of an application by Hertfordshire Constabulary for a review of the premises licence for The Yellow and Red Lion, 105 Vicarage Road.

The Chair asked the parties present to introduce themselves. Following a question from the Chair, Mr Josh Price confirmed that he was the Premises Licence Holder and that the Designated Premises Supervisor (DPS) was unavailable to attend.

The Licensing Manager introduced the report. Hertfordshire Constabulary were seeking the revocation of the licence on the grounds that the following licensing objectives were being undermined:

- the prevention of crime and disorder
- the protection of children from harm

He reported that there were a large number of incidents for the Sub-Committee to consider, many of which related to Mr Price's ability to manage the premises. Hertfordshire Constabulary considered it a high-profile venue, given its proximity to Vicarage Road Stadium. It was alleged that there had been a failure to adhere to licensing conditions and to employ a DPS. He highlighted that these were allegations at this stage and it was for the Police to demonstrate them on the balance of probabilities. He drew the Sub-Committee's attention to the powers they had which were set out at paragraph 9.6 of the report. He referred to the conditions that the Police proposed be added to the licence should the Sub-Committee decide not to revoke it. He suggested that in relation to the condition about netting, the local planning authority should be consulted.

Representations had also been received from Environmental Health at Watford Borough Council and from Public Health at Hertfordshire County Council.

The Chair invited the Senior Environmental Crime Officer to make his representations.

The Senior Environmental Crime Officer advised that he dealt with illegal deposits of waste. He reported that he had had two dealings with Mr Price. The first was a report of fly-tipping which contained evidence relating to the premises. Following a change in the ownership of the premises, no formal action had been taken. The second incident related to a large accumulation of tyres on the open land beside The Yellow and Red Lion. He described his further dealings with Mr Price about the removal of the tyres. A Litter and Refuse Clearing Notice was served and the tyres were later cleared, although some refuse remained.

Following a question from the Chair, the Senior Environmental Crime Officer advised that his representations related to the public safety and public nuisance licensing objectives.

Mr Price referred to the incident of fly-tipping. He noted that the name of the premises was clearly visible through the clear bags. He said that had he fly-tipped the waste, he would have taken care to remove the evidence. It was not a large amount of waste for a public house and at the time the premises had permission to use the waste disposal facilities at Watford Football Club.

The Senior Environmental Crime Officer noted that it was possible that the waste had been passed to an unlicensed waste carrier.

Mr Price noted that the previous owner of Watford Football Club, Mr Bassini, was unpopular with the club's supporters. As Mr Bassini had been associated with the premises, he supposed that this act of fly-tipping could have been carried out

due to this association. He felt that it was clear that this had not been carried out by him or his staff.

Councillor Jeffree asked when the tyres had first been reported. The Senior Environmental Crime Officer advised that this had taken place in July 2013.

Following a question from Councillor Meerabux, the Senior Environmental Crime Officer estimated that there had originally been 50 tyres on the piece of land in question. He suspected this may have been a holding area for tyres, rather than a fly-tip.

The Chair asked about the legal obligations on businesses relating to waste disposal. The Senior Environmental Crime Officer outlined the duties under the Environmental Protection Act.

In response to a question from the Chair, Mr Price explained that he had had a contract with PHS for waste disposal since September 2012.

Mr Price referred to the tyres on the adjacent piece of land to the premises. He explained that he had discussed the matter with the then leaseholder. He did not know where the tyres had come from. He questioned why he would leave waste on his own land to create a problem for himself. He advised that a waste disposal company had only taken some of the tyres. Fence panels had been installed to prevent a recurrence of the problem.

The Chair invited Ms Moore to make her representations.

Ms Moore advised that she was representing the Health Improvement Manager at Hertfordshire County Council. The representation was based on the following licensing objectives: the prevention of crime and disorder, public safety and the protection of children from harm. It was expected that licensed premises would act in a responsible manner to support the promotion of safe drinking. The recently published Local Authority Alcohol Profiles for England showed that Watford had the second-highest number of alcohol-related crimes and alcohol-related violent crimes in Hertfordshire. Watford also ranked 258th out of 326 authorities in violence against the person. The breaches of the licence were of concern, particularly those related to unaccompanied children and serving alcohol outside licenced hours. Hertfordshire Public Health therefore supported the review application.

It was agreed that questions relating to the detail of the incidents that had been referred to would be dealt with by the Police when they presented their evidence.

The Chair invited Hertfordshire Constabulary to introduce their application for review of the licence.

Sergeant Bilsdon explained that the review had been requested on the basis that the prevention of crime and disorder and the protection of children from harm were being undermined and that revocation of the licence was sought. The Police wanted this high-profile premises to have strong and effective

management, but this had not been demonstrated by the current premises licence holder.

Mr John Corkett introduced the details of the evidence. He explained that the Police had tried to work with Mr Price but had lost confidence in his ability to manage the premises. When the premises reopened in April 2012, Mr Price was involved in the negotiations but could not be the DPS as he did not hold a personal licence. The Police had urged Mr Price to obtain his personal licence, but despite passing the course he had taken no steps to do this. Mr Corkett referred to an incident in May 2013 when CCTV from the premises was not provided in good time when requested. Shortly after this, Mr Price had begun selling alcohol at the premises at 10.30 am, before his licensed hours, on a match day.

Mr Corkett showed the Sub-Committee a DVD taken by a Police bodycam on the day in question which showed a conversation between the Police and Mr Price. Mr Corkett advised that several reasons were given by Mr Price as to why he was selling alcohol before his licensed hours. He said that the DVD also showed Mr Price claiming that he had a personal licence to cover the condition requiring a personal licence holder to be on site on match days.

Mr Corkett explained that letters had been sent to Mr Price and the DPS at the time, Mr Ron Smith. Mr Smith then contacted the Police and explained that he had agreed to be the DPS on a temporary basis but had been led to believe by Mr Price that he was no longer in that position. Mr Smith subsequently resigned.

Mr Corkett alleged that what followed was deceit in order to have a named DPS for the premises. He advised that an application for a Mr Allan Smart was submitted to the Council but it seemed that Mr Smart's signature was forged. Mr Corkett referred the Sub-Committee to the relevant pages in the agenda, noted that Mr Smart's name had been misspelled and there were variations in the signature. He referred to the interview with Mr Neil Price, Mr Josh Price's brother, who maintained that Mr Smart had signed the application. Mr Smart denied signing the form. This was the subject of another investigation.

The Police were aware of other incidents including minor disorder originating in the beer garden when away supporters of Nottingham Forest had been allowed into the premises on match days in contravention of a condition on the licence.

The Sub-Committee then viewed CCTV footage which showed children in the premises after the allowed time. Mr Corkett said that when away supporters' coaches passed the beer garden the behaviour of the customers was, at times, appalling.

Mr Corkett then showed a DVD taken from a Police bodycam including a conversation with Mr Neil Price. He said it demonstrated Mr Neil Price's poor attitude.

Mr Corkett outlined the ongoing contact that the Police had had with Mr Josh Price. The venue was a potential flashpoint on match days because of its location opposite the away supporters' entrance to the ground.

Councillor Jeffree referred to the premises DPS and noted that the DPS should be involved in the day-to-day running of the venue. This did not appear to have been the case at The Yellow and Red Lion. Mr Corkett referred to the situation that had arisen with Mr Smith who was legally the DPS but had not been involved in the day to day management. Mr Corkett added that it appeared that the pub had been operating without a personal licence holder present in contravention of the licence conditions.

Councillor Meerabux noted that in the past Mr Corkett had described Mr Price's running of the pub as 'exemplary', and asked what had changed. Mr Corkett said that this had been the case earlier this year, but his leadership had changed.

Councillor Meerabux referred to the new DPS, Mr Peter Gavin. Mr Corkett replied that they had had no input from Mr Gavin yet. He added that there had also been an incident where the pub was open until 2am, beyond its licensed hours.

The Chair invited Mr Price to address the Sub-Committee.

Mr Price referred to the incident where the premises was open before licensed hours on a match day. He advised that this had been his mistake. He had felt unsettled by being filmed and said that he was the 'Personal Licence Holder' when he meant that he was the 'Premises Licence Holder'. He described the conversation that he had had with Superintendent Jamieson on the day.

Mr Price referred to his brother, Mr Neil Price, who was present at the premises on match days as supporters liked to see former players for Watford Football Club. He advised his brother could be hostile on occasion. However, this contrasted with his own attitude which was helpful. Mr Gavin was also present at the time of filming. However he had only been the DPS for 24 hours, and therefore did not say very much.

He referred to the location of the premises, opposite the away fans' entrance, and noted that there has never been an arrest in the premises. This was evidence of his good management.

Regarding the presence of children in the premises, it had been an unusually late kick-off and a mistake had been made. There was a high volume of people on match days. Fire regulations meant they could not lock the back gate to the courtyard and families had come in that entrance. He acknowledged that it had been a breach of his licence, but the situation was dealt with once staff were aware of what was happening.

Mr Price noted that there had been some disorder at the premises, and said that he had spoken with Inspector Moss of Hertfordshire Constabulary who had

acknowledged that the away fans' coaches should not have been directed to park next to the premises. In his view the presence of the coaches had caused the problem.

Mr Price added that he would happily meet Mr Corkett monthly to discuss the running of the premises, but he did not feel that the Police wished to do this. The mistakes he had made had been honest mistakes.

On the day that the premises had been open early, he alleged that he had told Mr Corkett and Sergeant White that this was his intention at a meeting earlier in the week. He thought he was able to do this.

Mr Price referred to the two previous Designated Premises Supervisors, Mr Smith and Mr Smart, who he felt had been harassed by the Police.

He made reference to the allegation of the forged signature on the licensing application form. He had signed the form and went on holiday. Mr Smart had agreed to act as the DPS. He had not been interviewed about this allegation of fraud. He understood that it was important that the law be upheld.

The Police had identified the premises as a potential hotspot. Mr Price disagreed with this and reiterated that there had been very few incidents at the premises since it reopened. He suggested that if the premises had been able to open earlier on match days, it would avoid away fans and Watford supporters being in close proximity outside the public house. The away fans who had been admitted to the premises had not caused any trouble. It had been a mistake by the door supervisors to allow them in. This was because the tickets for away and home supporters were nearly identical. The fans had left the premises once they had been asked to do so.

Referring to the suggested conditions, Mr Price said he felt that the netting over the courtyard was unnecessary if the football coaches were not parked outside the premises, which allowed the coach passengers to look over the wall into the beer garden. Further, preventing the premises from opening 30 minutes after kick-off was needless given how few incidents there had been.

He suggested that an additional door supervisor could be stationed in the beer garden to prevent children being in the premises beyond the permitted time.

The Chair asked what Mr Price considered to be his role as the Premises Licence Holder. Mr Price responded that it was his responsibility to ensure premises was run well, that children were safe, and the hours and conditions of the licence were adhered to. Mr Price noted that his responsibility as the Premises Licence Holder was limited to the area shown on the plan included with his licence. He referred to the tyres on the adjacent site and noted that this was an issue for the then leaseholder. Mr Price confirmed that he was now the leaseholder. The Licensing Manager referred to the plan in the agenda, which showed the area covered by the licence. Mr Price reiterated that he now had sole control of the premises.

Sergeant White listed the five mistakes that Mr Price had made in his operation of the premises. These were: opening early, having children in the premises beyond the permitted time, closing late, failing to have a DPS and allowing away supporters into the premises. These were not minor issues. Mr Price responded that none of these errors had resulted in an increase in public disorder. It was difficult to manage people entering the premises via the back gate which had to be kept open. He was ready to learn from his mistakes and put measures in place to avoid them being repeated.

Sergeant White stated that Mr Price appeared to have an excuse for each of the mistakes, and was not taking responsibility for the breaches of his licence. Mr Price responded that in 35 games, seven or eight away fans had gained access to the premises. He did not feel that these were excuses; match days were very different to other days.

Sergeant White asked whether Mr Price understood the role of the DPS. She questioned why the DPS was not in attendance at the hearing. Mr Price replied that DPS could not attend as he had a personal commitment and that he had been in the position for three weeks. Sergeant White underlined the importance of his presence in discussions about the past problems and future of the premises. Mr Price outlined the role of the DPS.

Councillor Meerabux noted how important the DPS was for the premises and asked about the new DPS, Mr Gavin. Mr Price responded that he was involved in the running of the premises and was experienced in the pub trade. He was present on match days and other days.

Councillor Jeffree noted that Mr Price could not always be present. Mr Price listed the staff who were involved in running the premises. If he was not present, Mr Gavin was.

Mr Price confirmed, following question from Councillor Jeffree, that he was prepared to work with the Police.

Sergeant Bilsdon summarised the case for the Police. All the mistakes that had taken place at the premises had been whilst Mr Price was the Premises Licence Holder. It was important to the Police that the premises had strong management. The premises had a potential for problems given its location. It was important that all conditions were upheld but they were not confident that this would happen going forward. The Police were therefore seeking revocation of the licence.

The Sub-Committee retired to make their decision.

On their return, the Chair announced the decision.

RESOLVED –

Having considered the evidence of the three responsible authorities (Watford Environmental Health, Hertfordshire Public Health and Hertfordshire

Constabulary), together with the provisions of the Licensing Act 2003, the guidance issued under the Act dated June 2013 and the Council's Statement of Licensing Policy (January 2011), and the representations of the Premises Licence Holder, the Committee is satisfied that the Premises Licence Holder has demonstrated poor management of the premises as well as disregard for the terms of his licence as well as the conditions imposed on it.

In the Committee's view, the lack of confidence of the Police in the Premises Licence Holder's commitment to upholding the licensing objectives as set out in the Licensing Act is justified. The Committee therefore suspends the licence for six weeks and also imposes the following additional condition on the licence:

One SIA registered doorstaff will be on duty in the beer garden/courtyard at all times when the venue is open for licensable activity on days when Vicarage Road Stadium requires a stadium safety certificate.

These staff are additional to those door staff already required under Annex 2 condition 12.

Chair

The Meeting started at 10.30 am
and finished at 2.05 pm