

PART A

Report to: Licensing Sub-Committee
Date of meeting: 2 October 2013
Report of: Head of Community and Customer Services
Title: Application for Premises Licence Review:
The Yellow and Red Lion, 105 Vicarage Road, Watford,
WD18 0EY
13/00918/LAINPT

1.0 SUMMARY

1.1 An application for the review of a premises licence was received from Hertfordshire Constabulary on 8 August 2013 in respect of The Yellow and Red Lion public house at 105 Vicarage Road, Watford. The application is made on the grounds that the following licensing objectives are being undermined:

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

1.2 Additional representations have been made by Environmental Health and by Public Health Hertfordshire..

2.0 RECOMMENDATIONS

2.1 That the Licensing Sub-Committee determines with reasons which, if any, actions open to it in paragraph 9.7 are appropriate for the promotion of the licensing objectives in relation to The Yellow and Red Lion, 105 Vicarage Road, Watford.

Contact Officer:

For further information on this report please contact: Jeffrey Leib, Licensing Manager telephone 01923 278476, email: jeffrey.leib@watford.gov.uk

Report approved by: Alan Gough, Head of Community and Customer Services

3.0 APPLICATION

3.1 Type of application

Application by Hertfordshire Constabulary for the review of the premises licence in respect of The Yellow and Red Lion. The application is attached at appendix 1 of this report.

3.2 Description of premises

The premises is a small public house with a small external beer garden, on a street with mixed residential and commercial use. It is opposite Vicarage Road stadium

A map of the location and an internal plan of the premises are attached at appendix 2.

A copy of the current premises licence is included at pages 12 – 21 of the police application (appendix 1).

3.3 Licensable activities

Licensable activity	
Plays	
Films	
Indoor sports events	
Boxing or wrestling entertainment	
Live music	✓
Recorded music	✓
Performances of dance	
Anything of a similar description to live or recorded music or dance	
Provision of facilities for making music	✓
Provision of facilities for dancing	✓
Provision of facilities of a similar description to making music or dancing	✓
Provision of late night refreshment	
Sale by retail of alcohol for consumption on the premises	✓
Sale by retail of alcohol for consumption off the premises	✓

3.4 Hours

The hours for licensable activities and the opening hours are detailed in the table below and on the current premises licence.

	Opening hours	Alcohol sales	Live music	Recorded music	Entertainment facilities
Monday	1100 - 2330	1100 - 2300	1100 - 2300	1100 - 0000	1100 – 2300
Tuesday	1100 - 2330	1100 - 2300	1100 - 2300	1100 - 0000	1100 – 2300
Wednesday	1100 - 2330	1100 - 2300	1100 - 2300	1100 - 0000	1100 – 2300
Thursday	1100 - 0030	1100 - 0030	1100 - 0030	1100 - 0000	1100 – 0000
Friday	1100 - 0030	1100 - 0030	1100 - 0030	1100 - 0100	1100 – 0000
Saturday	1100 - 0030	1100 - 0030	1100 - 0030	1100 - 0100	1100 – 0000
Sunday	1200 - 2300	1200 - 2230	1200 - 2230	1200 - 2230	1200 - 2230

An additional hour into the morning following every Friday, Saturday and Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday, every August Bank Holiday weekend and every Thursday, Friday, Saturday and Monday for the Easter Bank Holiday weekend.

New Year's Eve – from the end of the permitted hours to the start of permitted hours on the following day.

4.0 **BACKGROUND INFORMATION**

4.1 The following background information is known about these premises:

4.2 Designated premises supervisor
Peter Gavin from 12 August 2013

4.3 Current licences held
The current premises licence 13/00189/LAPRE was granted to Jonathon (Josh) Price on 14 February 2013.

4.4 Closing date for representations
5 September 2013

4.5 Visits and Enforcement action by the Licensing Authority
26/02/13 – Notice served under section 55 of the Licensing Act 2003 (as amended) to suspend the licence arising from non-payment of the licence fee. This was removed on 01/03/13 upon payment of the licence fee and before the suspension took effect.

5.0 **RESPONSIBLE AUTHORITIES**

5.1 Environmental Health
Environmental Health has submitted a representation in the form of a witness statement (appendix 3) with allegations that the prevention of public nuisance objective has been undermined by the premises' management.

5.2 Hertfordshire Public Health
The representation from Hertfordshire Public Health (appendix 4) supports the police application.

6.0 **INTERESTED PARTIES**

6.1 No representations have been received from interested parties.

7.0 **POLICY CONSIDERATIONS**

7.1 The following provisions of the Licensing Act 2003 apply to this application:

Sections 51 and 52 (review of premises licence)

These sections detail how a review application should be made and the process that should be followed for determination.

7.2 The following provisions of the Secretary of State's guidance apply to this application:

Chapter 11 Reviews

Gives guidance around the review process.

- 7.3 The following paragraphs of the licensing authority's statement of licensing policy apply to this application:

LP13 (Licence Reviews)

This policy states that responsible authorities should give premises an early warning when issues, problems or concerns arise that need improvement and that failure to respond to such warnings would lead to the responsible authority taking the decision to review the licence.

Appendix 1 (Licence Review Guidelines)

These guidelines were produced to maintain a degree of consistency and transparency in decision-making.

- 7.4 The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the Borough.
- 7.5 The Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life. For this reason, the licensing authority's statement of licensing policy requires any party making an application for a licence review to prove the facts on the balance of probabilities (that is, they are more likely that not to have occurred). Robust evidence must be presented and not just anecdotal or hearsay evidence.

8.0 SUMMARY OF APPLICATION

- 8.1 Hertfordshire Constabulary have applied for the premises licence currently granted to Jonathon Price to be revoked on the grounds of crime and disorder, and prevention of harm to children.
- 8.2 Their application highlights a number of concerns about Mr Price's ability to manage a public house with the potential to be high-risk premises during football matches at Vicarage Road stadium. They specifically allege he has failed to adhere to basic licensing conditions such as operating times; failure to employ an appropriate premises supervisor on the premises; and failure to comply with conditions on the premises licence.
- 8.3 A chronology of relevant events is set out below for convenience. An index to the appendices is set out on page 10 of this report:

April 2012 Police meet with Josh Price (JP) to discuss new premises licence (appendix 1, p 4)

25/04/12 Application submitted by JP to be specified as premises supervisor. Application withdrawn as JP does not have a personal licence to sell alcohol (appendix 1, p 5)

- August 2012 Police discussions with JP and Neil Price about management of the premises including installation of netting over the beer garden (appendix 1, p 5)
- 28/09/12 Illegally dumped waste associated with the premises found in Tolpits Lane, Watford (appendix 3, p 1)
- 06/12/12 JP interviewed under caution by Watford Borough Council officers about the dumped waste
- 08/02/13 Closure order issued by police under section 161, Licensing Act 2003 due to police concerns about impending disorder at the premises
- 14/02/13 Premises licence transferred to JP. A Proposed DPS was rejected by police as being unsuitable (appendix 1, p 5)
- 25/02/13 Licensing sub-committee meeting to consider closure order. Resulted in additional licence conditions being imposed (appendix 5).
- 19/02/13 Ronald Smith specified on licence as DPS
- 04/05/13 Watford v Leeds football match: disorder originating in pub beer garden (appendix 1, p 5)
- 06/04/13 Watford v Cardiff football match: disorder originating in pub beer garden (appendix 1, p 5)
- 06/04/13 Children observed playing in beer garden after 1930 hours in contravention of premises licence annex 2, condition 5 (appendix 1, pp 6, 18, 70)
- May 2013 Police request for copy of pub CCTV in relation to incidents on 4 and 6 May 2013 (appendix 1, p 5)
- 08/05/13 JP attended meeting at Watford police station with Sgt White and Licensing & Anti-Social Behaviour co-ordinator John Corkett. JP reminded of licence obligations and provided with copy licence (appendix 1, p 5)
- 12/05/13 Police visited premises at 1030 hours and found it open and selling alcohol. Conversation with JP recorded on police video (appendix 1, pp 6, 69 – 70, 73 - 75)
- 12/05/13 Formal warning letter sent by police to JP and nominated DPS Ronald Smith (appendix 1, pp 6 and 61)
- 13/05/13 Letter from police to Ronald Smith about alleged breaches on

- 12/05/13, 12/06/12 [which would appear to be a misprint] and 06/04/13 (appendix 1, p 61)
- 13/05/13 Letter from police to JP advising him of need to conduct formal interview into alleged breaches of premises licence (appendix 1, p 66)
- 16/05/13 Ronald Smith made a witness statement about his involvement with the premises (appendix 1, pp 6, 27)
- 16/05/13 Ronald Smith resigned as DPS with immediate effect (appendix 1, pp 7, 65)
- 17/05/13 Letter from police to Red Lion advising of Ron Smith's resignation as DPS and that sales of alcohol could not be allowed (appendix 1, p 68)
- 23/05/13 JP attended the licensing authority and was given forms and advice on varying the licence to specify a new DPS (appendix 1, pp 7, 44 - 46)
- 24/05/13 Application purportedly signed by JP submitted to the licensing authority to specify Allan Smart as DPS (appendix 1, p 7). Differences in the signatures of Allan Smart in February 2013 and May 2013 were then noticed (appendix 1, pp 7, 50 - 60)
- 25/05/13 Covert visit by police officers identified various breaches of licence conditions (appendix 1, pp 8, 36 - 39)
- 26/05/13 Police officer witnessed premises still open and music being played at 0200 hours (appendix 1, pp 8, 40)
- 30/05/13 Sgt White advised by Allan Smart in a telephone conversation he had not signed or seen the forms submitted to the licensing authority on 24/05/13. Allan Smart did not agree to become DPS until 27/05/13 and in light of current investigations did not wish to be involved with them (appendix 1 pp 8, 34 - 35)
- 31/05/13 Email from Allan Smart withdrawing application and consent to be DPS (appendix 1a, p 60a). (Between 17/05/13 and 12/08/13 no DPS was named on the premises licence and therefore the premises could not lawfully sell alcohol).
- 31/05/13 Warning letter sent by police to Red Lion about the lack of a designated premises supervisor on site (appendix 1, p 63)
- 11/06/13 JP interviewed under caution by police and licensing authority officers (appendix 1, pp 8, 69 et seq)

- 02/07/13 Neil Price interviewed under caution by police and licensing authority officers (appendix 1). NP was interviewed due to a belief that he was involved in the management of the premises (appendix 6, p 89) and suspected of involvement in the alleged licensing offences
- 08/07/13 Complaint received by Watford Borough Council about tyres dumped on ground of Red and Yellow Lion (appendix 3, p 1)
- 08/08/13 Police serve review application on licensing authority and Yellow & Red Lion (appendix 1, pp 1 – 12)
- 10/08/13 JP and Neil Price recorded on police DVD (appendix 3, p 69)
- 12/08/13 Peter Gavin nominated as DPS and licence varied accordingly
- 13/08/13 JP observed by Watford Borough Council Environmental Crime Officer and appeared to be adding tyres to the pile (appendix 4, p 2)
- 25/08/13 Police observed Nottingham Forest football fans being served and drinking alcohol in the premises which is designated for Watford FC supporters only on match days (appendix 1, p 80)
- 30/08/13 Litter and refuse clearing notice served on JP (appendix 4, p 2)

8.4 Response on behalf of Yellow and Red Lion

At the time of drafting the report no documents had been submitted from or on behalf of Mr Price.

9.0 **OFFICERS' OBSERVATIONS**

- 9.1 There is considerable evidence presented by the police relating to alleged fraudulent activities, and alleged breaches of the premises licence and its conditions either by or on behalf of Josh Price and Neil Price. Whilst these are only allegations at this stage, the sub-committee must satisfy itself in accordance with the licensing authority's policy that such allegations are true on the balance of probabilities before deciding what if any of the powers open to it are appropriate to promote the licensing objectives.
- 9.2 The representation submitted by Hertfordshire Public Health does not present any new or additional evidence, but merely supports some of the police's allegations.
- 9.3 The sub-committee may wish to consider that the evidence presented by Environmental Health provides support for the police's argument that Mr Price treats the law in an extremely cavalier fashion.

- 9.4 The police have proposed conditions for the sub-committee to consider if a decision is taken short of revocation (appendix 1, p 10). Officers would agree that those conditions would be appropriate for the promotion of the licensing objectives. However, the words “and the Local Planning Authority” should be added to the proposed condition 2.
- 9.5 In determining the application the Sub-Committee must have regard to the:
1. need to promote the four licensing objectives
 2. representations
 3. relevant section of the statutory guidance to licensing authorities
 4. relevant section of the licensing authority’s statement of licensing policy. In particular appendix 1 sets out a list of aggravating and mitigating factors the Sub-Committee may wish to take into account.
- 9.6 In determining the application the Sub-Committee can take such steps as it considers appropriate for the promotion of the licensing objectives, which are:
1. take no further action
 2. to issue formal warning to the premises supervisor and/or the premises licence holder
 3. modify the conditions of the licence
 4. exclude a licensable activity from the scope of the licence
 5. remove the designated premises licence supervisor
 6. suspend the licence for a period not exceeding three months
 7. revoke the licence

Where the Licensing Sub-Committee takes a step mentioned in 3 or 4 it may do so either permanently or for a period not exceeding 3 months. The Licensing Sub-Committee is asked to give full reasons for its decision.

The Licensing Sub-Committee must make its decision within five working days of the end of the hearing. Any decision of the Licensing Sub-Committee does not come into effect until either:

- the expiry of 21 days from the date of the decision (the period given for appealing the decision); or
- If the decision is appealed against, until the appeal is disposed of.

Any party to the proceedings may appeal against the decision of the Licensing Sub-Committee.

Appendices

Appendix 1

part 1 (pp 1 – 68) review application and supporting documents

part 1a Exhibit MSW/01 email from Ron Smith

part 2 (pp1 – 43)* transcript of interview with Neil Price

part 2 (pp 1 – 35)* transcript of interview with Jonathan Price

* numbered separately from rest of appendix

part 3 (pp 69 – 79) details concerning Allan Smart and video recording from 06/04/13, 12/05/13 and 10/08/13

part 4 (p 80) Details of Nottingham Forest v Watford FC football match on 25/08/13

part 5 (pp 81 – 88) Police statements concerning Nottingham Forest v Watford FC football match on 25/08/13

part 6 (p 89) Extract from Watford Observer 01/03/13

Appendix 2 – plan and map of the location of premises

Appendix 3 – representation by Environmental Health and two photographs

Appendix 4 – representation by Hertfordshire Public Health

Appendix 5 – Minutes and decision notice of licence review hearing held on 25/02/13

Background Papers

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

Licensing Act 2003

Guidance issued under section 182 of the Licensing Act 2003 (Home Office, July 2013)

Licensing Act (Hearings) Regulations 2005

Watford Borough Council Licensing Policy January 2011

File Reference

Yellow and Red Lion – review