

## LICENSING SUB COMMITTEE

Meeting held in the Council Chamber, Council Offices, Urban Road, Kirkby-in-Ashfield,

on Thursday, 18th May, 2017 at 5.30 pm

**Present:** Councillor Mike Smith, in the Chair;

Councillors Jim Aspinall and  
Robert Sears-Piccavey.

**Officers Present:** Julian Alison, Joanne Lindley, Julie Robinson  
and Kieran Stockley.

### **LSC.7 Declarations of Disclosable Pecuniary and Non Disclosable Pecuniary/Other Interests**

There were no declarations of interest.

### **LSC.8 Licensing Act 2003; Hearing for Review of a Premises Licence – The Chequers Inn, High Street, Hucknall**

The Chairman introduced himself, his fellow Sub Committee Members and the Legal Officer and asked those parties present to introduce themselves.

In attendance was David Ring (Solicitor for the Applicant, Nottinghamshire Police), Inspector Glenn Longden (Nottinghamshire Police), Sergeant Simon Scales (Nottinghamshire Police), Susan Rhodes-Best (Senior Licensing Officer, Nottinghamshire Police), Catherine Ansty (Licensing Officer, Nottinghamshire Police) and Helen Guest (Senior Licensing Enforcement Officer, Nottinghamshire Police).

Piers Warne (Solicitor for the Licence Holder Punch Taverns Plc), Naomi Hall (Designated Premises Supervisor for The Chequers Inn), Louis Barnes (Partner of Naomi Hall) and Mark Gardner (Business Development Manager for Punch Taverns Plc).

All material received by Nottinghamshire Police and the Solicitor on behalf of Punch Taverns Plc following the issue of the agenda had been circulated to all parties prior to the meeting.

The Licensing Team Leader outlined the application and explained the procedure to be adopted throughout the duration of the hearing.

The Chairman then invited Mr. Ring, the Solicitor for the Applicant, to put forward his case to the Sub Committee. Mr. Ring proceeded to address the Sub Committee and in doing so introduced evidence from other Police representatives with regard to statements as deemed appropriate.

Following this, and in accordance with adopted procedure, the Solicitor on behalf of the Licence Holder, Sub Committee Members and the Legal Officer were offered the opportunity to ask questions of the Applicant's representatives.

The Chairman then invited Mr. Warne, the Solicitor for the Licence Holder, to put forward representations to the Sub Committee. Mr. Warne proceeded to address the Sub Committee on behalf of the Licence Holder.

Following this, and in accordance with adopted procedure, representatives for the Applicant, Sub Committee Members and the Legal Officer were offered the opportunity to ask questions of the Solicitor for the Licence Holder.

Finally, the Chairman invited the Solicitors for both the Applicant and the Licence Holder to sum up their respective cases.

(At this point in the proceedings and in accordance with Council Procedure Rule 23, a motion was moved and seconded to extend the conclusion of the meeting to 9.15 p.m. The motion was put to the vote and subsequently carried).

The hearing was adjourned at 8.35 p.m. to enable the Chairman and Members of the Sub Committee to withdraw and deliberate upon the application and representations made in respect of it.

The Chairman and Sub Committee Members subsequently returned to the room and the hearing was reconvened at 9.10 p.m.

The Legal Officer delivered the Sub Committees decision as follows:-

#### RESOLVED

that in accordance with Regulation 26 of The Licensing Act 2003 (Hearings) Regulations 2005, the Sub Committee would make a decision in respect of the review of a premises licence within 5 working days of this Sub Committee and thereafter the decision would be notified in writing to the relevant parties.

#### Reasons:

In accordance with Council Procedure Rule 23, the meeting was extended to 9.15 p.m. but Members of the Sub Committee agreed that this was still insufficient time to consider all of the evidence and representations made at the hearing and as a result more time was required prior to making a formal decision.

The hearing closed at 9.12 p.m.

Chairman.

# **THE LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

## **DECISION OF HEARING**

The LICENSING SUB-COMITTEE sitting at Ashfield District Council:

**Date:** Thursday 18 May 2017

**Applicant:** Nottinghamshire Police

**Premises:** The Chequers Inn, High Street, Hucknall, NG15 7HD

### **Application for review of premises licence**

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#### **1 Decision**

The decision of the Licensing Sub-Committee (in exercise of its powers delegated by Ashfield District Council as Licensing Authority) is to revoke the premises licence.

#### **2 Facts and Reasons**

##### **Facts – The Sub-Committee decided the following:**

1. There had been an unacceptably high level of serious incidents of crime and disorder associated with this premises including a stabbing;
2. There was intelligence of drugs being associated with the Premises and class A drugs were found at the Premises on 11 November 2016 and 27 January 2017;
3. There had been a number of breaches of the licence conditions on:
  - 3.1 27 January 2017
  - 3.2 11 November 2016
  - 3.3 28 July 2016
  - 3.4 11 June 2016
  - 3.5 25 May 2016
  - 3.6 12 February 2016
  - 3.7 25 December 2015
4. Whilst it was accepted that there may have been issues in removing the previous DPS due to an omission in the Lease agreement, it was not accepted by the Sub-Committee that the Licence Holder was powerless to do anything which ensured the Licensing Objectives were upheld. The Sub-Committee felt very strongly about the Licence Holder taking responsibility and ensuring its premises were operating responsibly by upholding the Licensing Objectives.  
Despite a voluntary action plan being agreed between the Licence Holder and the Police in June 2016 incidents still occurred at the premises which undermined the crime and disorder licensing objective.

5. Whilst the Sub-Committee had no criticism to make of the current DPS, Ms Hall, they did note that further concerns were noted on 14 April 2017 with an incident of a very sensitive nature occurring on 17 April 2017. The Sub-Committee were not satisfied that sufficient measures had been taken to ensure promotion of the licensing objectives going forward;
6. The following licensing objectives had been undermined:
  - 6.1 Prevention of Crime and Disorder
  - 6.2 Prevention of Children from Harm
  - 6.3 Public Safety
7. A temporary DPS was not sufficient to break the cycle of activity associated with this Premises;
8. The Sub-Committee considered a suspension but having considered the number and the severity of the incidents that had occurred that were associated with the Premises it was decided that a suspension would not be a proportionate response on the evidence presented.
9. The Sub-Committee felt that on the evidence presented, revocation of the Premises Licence was a reasonable and proportionate response to the problems associated with this Premises at this time.

**Reasons – The Sub-Committee’s reasons were:**

1. Whilst it was accepted by the Sub-Committee that there were discrepancies in the evidence presented by the Police, both parties accepted that there had been serious problems at the Premises under the previous DPS. Paragraph 9.12 of April 2017 Home Office guidance was considered by the Sub-Committee and they accepted that *“the Police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The Police have a key role in managing the night time economy and should have good working relationships with those working in their local area”*. That said, *“it remains incumbent on the Police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing”* and the Sub-Committee were disappointed with the discrepancies highlighted in their bundle of evidence.
2. The Sub-Committee accepted the oral evidence given by the Police in relation to drugs being associated with and found at the premises.
3. Whilst the omission in the previous lease may have resulted in problems of removing the DPS, the Sub-Committee felt that it did not prevent any additional action by the Licence Holder to ensure the licensing objectives were being upheld. Paragraph 11.22 of the 2017 Guidance states that *“it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the DPS may be an inadequate response to the problems presented...”* There had been an unacceptably high level of serious incidents of crime and disorder associated with this premises and the Sub-Committee were not presented with any evidence during the course of the hearing of company practice or policy and as a

result could not be satisfied that the Licence Holder had or indeed would have sufficient control over the premises going forward to prevent these types of incidents occurring.

4. Paragraph 11.10 of the 2017 guidance had been complied with in that the Licence Holder has been notified of the problems at the premises and a voluntary action plan had been agreed between the Parties. The Sub-Committee found that the measures taken by the Licence Holder were too little and too late despite warnings that had been issued by the police as part of their stepped approach to address concerns in accordance with paragraph 11.18 of the 2017 Guidance. Despite this stepped approach action, no evidence was provided of the Licence Holder's interventions at this Premises until the DPS was changed in April 2017.
5. Paragraph 9.43 of the 2017 Guidance states *"The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve"*. The Sub-Committee were advised of:
  - a. 12-week rotational visits of premises under the control of Punch Taverns but no evidence was provided of visits to this premises.
  - b. Additional visits to this premises in light of the problems but no evidence was provided of additional visits to this premises;
  - c. Between 30 -35 patrons being ejected/barred in the last month but there was no evidence by way of incident logs provided;
  - d. A structured approach going forward with a potential new DPS who would not commit until the outcome of this hearing had been confirmed but no evidence of policies, procedures or the potential DPS were presented to the Sub-Committee.
6. Whilst licensing cannot be used as a punitive measure, the Sub-Committee are able to use its review powers to effectively deter activities which undermine the Licensing objectives.
7. The Sub-Committee accepted there had been some improvements since the appointment of the new DPS but the representations made on behalf of the Licence Holder indicated that this was a temporary measure and therefore they could not be satisfied that this measure was permanent enough to break the cycle of activity associated with this Premises;
8. The Sub-Committee were disappointed with what they deemed to be a 'veiled threat' from the Licence Holder's representative i.e. if a suspension was not deemed appropriate by the Licensing Authority and the licence was revoked that it would not make the situation better and would attract ASB. Having considered whether suspension of the licence was appropriate the Sub-Committee found that there was no evidence to suggest that the current DPS would continue to be present at the premises to promote the licensing objectives. There was also no evidence put forward about the individual found to replace the current DPS and the Sub-Committee were not provided with anything that would re-assure them that

this individual would be able to promote the licensing objectives going forward. Public Safety was a paramount concern for the Sub-Committee and as a result did not feel a suspension was a reasonable and proportionate measure in the circumstances.

9. As per paragraph 11.26 of the 2017 Guidance, the Sub-Committee felt that they had a duty to take steps with a view to the promotion of the licensing objectives which were in the interests of the wider community and not those of the individual licence holder. Having considered the representations made on behalf of the Licence Holder, the Sub-Committee did not see any evidence which would satisfy them that the Premises Licence Holder had sufficient policies and procedures in place to effectively and responsibly manage the Premises going forward. The Sub-Committee were also not satisfied that once the proceedings were over that the licensing objectives would continue to be promoted. Consequently, and having considered paragraph 11.27 of the s.182 guidance (April 2017) the Sub-Committee felt that revocation was a reasonable and proportionate measure in the circumstances.

### **3 Decision**

The Sub-Committee considered the evidence submitted by the Police, the representations made by the Licence Holder's representative, the District's Statement of Licensing Policy, the Secretary of State's Guidance issued under s182 of the Licensing Act 2003 (April 2017) in particular paragraphs 9.12, 9.38, 9.43, 11.1-11.30, the Human Rights Act and the four licensing objectives, namely:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

With each objective being of equal importance, the Sub-Committee's decision was to revoke the Premises Licence.

### **4 Appeal**

The parties to the hearing are reminded that there is a right to appeal against the decision to the Mansfield Magistrates Court, Rosemary Street, Mansfield, Nottinghamshire, exercisable within 21 days from the date of notification of the Licensing Authority's decision.

Signed .....

Chairman of the Panel

Dated: 23 May 2017

## **GUIDANCE NOTES ON APPEALING AGAINST THE COUNCIL'S DECISION**

### **Please read these notes carefully**

If you wish to appeal against this decision Schedule 5 to the Licensing Act 2003 governs how you should make your appeal to the Magistrates' Court.

The appeal must be commenced by Notice of Appeal to the Justices' Chief Executive for the Mansfield Magistrates' Court at the address below. You should contact the Magistrates' Court or your Solicitor immediately to obtain the correct documentation to ensure that your appeal is made correctly.

Unless you are exempt, **the Magistrates' Court will require you to pay a fee when you lodge your appeal.** You should contact the Magistrates' Court or your Solicitor immediately to find out how much you will have to pay.

**You must lodge your appeal with the Court within the period of 21 days beginning with the day on which you were notified of the decision.** This means that the signed Notice of Appeal and court fee [if applicable] must reach the Court within 21 days. The Court cannot accept appeals lodged once this appeal period has expired.

On appeal, the Magistrates' Court may-

- (a) dismiss the appeal;
- (b) substitute for the decision appealed against any other decision which could have been made by the Licensing Authority;
- (c) remit the case to the Licensing Authority to dispose of it in accordance with the discretion of the Court;
- (d) make such order for costs as it thinks fit.

You are strongly advised to take this decision notice to the Magistrates' Court or your Solicitor when seeking advice on how to appeal.

The Magistrates' Court Office is at:      Mansfield      Magistrates'      Court,  
Rosemary Street,      Mansfield,  
Nottinghamshire