



## **LICENSING ACT 2003**

### **Application for the review of a Premises Licence Decision Record**

**APPLICANT:** PC Dennett on behalf of Hampshire Constabulary

**PREMISES:** The Aldershot and District West Indian Association, Queens Road Recreation Ground, Queens Road, Farnborough

**DATE OF HEARING:** 26th January, 2022

**MEMBERS SITTING:** Cllrs P.J. Cullum, Christine Guinness and Jacqui Vosper (Chairman)

## DECISION

To revoke the licence.

The Sub-Committee considered, on a balance of probabilities, that the premises licence should be revoked in order to promote the licensing objectives, namely the prevention of crime and disorder.

## REASONS

The Sub-Committee considered an application made under section 53A of the Licensing Act 2003 for a review of the premises licence. This hearing was held following interim steps imposed in the form of a licence suspension which was dealt with as an urgent matter by the Licensing Authority on 31<sup>st</sup> December 2021. The decision to suspend the licence was made following consideration without hearing by the same Sub-Committee dealing with this review hearing. The decision outlined below was made following a full review hearing with the opportunity for all parties to be heard and, in particular, for the Licence Holder to attend to represent their position and provide a full explanation and mitigation. Members of the Sub-Committee were advised to deal with this matter afresh without any reference to the interim suspension in their decision-making.

In coming to its decision, the Sub Committee has taken into account:

- The Licensing Act s.35, which states that, having regard to the representations, it must take such steps as it considers appropriate for the promotion of the Licensing Objectives.
- The Secretary of State's Guidance issued under section 182 of the Licensing Act 2003, particularly:
  - Paragraph 1.17 which advises that each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy;
  - Paragraph 9.37 - 9.40 which states that the licensing authority must give appropriate weight to the steps that are appropriate to promote the licensing objectives, the representations and supporting information made by all parties, the Guidance of the Secretary of State and its own statement of licensing policy;
  - Paragraph 9.42 – 9.44 which states that all licensing decisions should be considered on a case by case basis and should take into account any representations or objections which have been received, and any representations made by the applicant;

- Paragraph 11.16 – 11.23 which outlines the powers of a licensing authority on the determination of a review;
  - Paragraph 11.24 – 11.28 which provides guidance on reviews arising in connection with crime.
- Rushmoor Borough Council's statement of Licensing Policy and Guidance version 2 2018, particularly
  - The General Licensing Principles, paragraph 3.12, which states that the licensing authority will be objective in its determination, consider the promotion of the licensing objectives and focus on matters that are within the control of individual applicants, the premises where licensable activities are to be provided and the area in the vicinity of the premises concerned.
  - Paragraph 3.13 - 3.14 which covers Control of Third Parties.
  - Paragraph 14.18 – 14.23 regarding the determination of a review.
  - Paragraph 10.3 – 10.4 regarding what is meant by 'designated premises supervisor'
- All the written representations and oral evidence presented at the hearing.

The Sub-Committee was presented with the report by the Licencing Officer and heard representations from the Licensing Authority as a responsible Authority, and from the Applicant. They also heard from the Designated Premises Supervisor (DPS) who represented the Licence Holder.

All of the parties present and the Sub-Committee had the opportunity to ask questions of all other parties.

The Sub-Committee was satisfied that the licensing objective of the prevention of crime and disorder was engaged.

The Sub-Committee heard evidence from the Applicant that a Temporary Event Notice (TEN) had been applied for in relation to an event which was to take place on 26 -27 December 2021 but that such a Notice had not been granted due to the application having been made outside the minimum time period before the event was due to take place. The Applicant explained to the Sub-Committee that the event which took place should, therefore, have been in accordance with the terms of the premises licence.

The Sub-Committee heard that despite the TEN not having been granted, an event had taken place which continued past the hours of opening permitted by the licence. The Sub-Committee further heard that a serious incident had occurred in close proximity to the

premises between individuals who had been in attendance at the event.

The Applicant submitted that door staff had been in attendance during the event which took place on the 26 - 27 December 2021, however it had not been possible for the event organiser or DPS to confirm the times during which the door staff had been present nor to confirm the credentials of the door staff.

The Sub-Committee heard from the Licencing Authority that they echoed the concerns of the Applicant around the serious incident which had occurred. The Licencing Authority submitted to the Sub-Committee that they felt that action was required in order to promote the licencing objectives.

The Sub-Committee heard from the Designated Premises Supervisor (DPS) at the premises that the Association holding the licence had done so for 14 years without incident. The Sub-Committee were reminded by the DPS of the events which the premises were used for and the importance of the events in the community. It was explained to the Sub-Committee that the serious incident had occurred near to, but not on, the premises and the DPS reiterated to the Sub-Committee that the Association did not consider any violence to be acceptable. The Association is run by volunteers and does not employ any staff to run the bar for any of the events held at the premises.

The Sub-Committee heard from the DPS that the Association were usually careful to ensure that their licence was complied with and would normally have a member of the association check in on open events, albeit not necessarily for the whole event, although this did not happen for this event. The Sub-committee were concerned to note that the DPS was not aware of the details of the event held on the 26 – 27 December 2021 prior to it taking place and when questioned on the door staff at the event did not demonstrate compliance with the licence conditions.

In coming to its decision, the Sub-Committee considered all of the options available to them and considered paragraph 11.24 – 11.28 of the Secretary of State guidance in detail.

The Sub-Committee considered whether a suspension would be effective in allowing the Licence holder to reconsider the controls put in place during events however, felt that there had been a number of failures by the Licence Holder and that suspension would not be sufficient in promoting the licencing objectives.

It was accepted by the Sub-Committee that during the event on the 26 – 27 December 2021 the sale of Alcohol did cease in accordance with the licence despite the Licence Holder being unable to provide evidence of this.

The Sub-Committee were satisfied however, that the licence had been breached by the continuation of the aforementioned event

past the hours permitted by the licence and without the grant of a TEN. The Sub-Committee felt that there had been a disregard for the licencing objectives when it had been made clear to the event organiser that the event must take place in accordance with the licence. The Sub-Committee felt that if the licence conditions had been adhered to it is unlikely that a serious event would have occurred.

The Sub-Committee were not satisfied by the communication between the DPS and those running the events. The Sub-Committee also took the view that the DPS did not have sufficient knowledge or control of the events taking place at the premises.

The Sub-Committee recognised the value of the Association within the community however, were greatly concerned with the complacency around adherence to the licence conditions and the failure to follow those conditions on the night in question

### **REVIEW OF INTERIM STEPS**

The Sub-Committee determined that it is appropriate for the promotion of the licencing objectives that the interim suspension imposed on the 31<sup>st</sup> December 2021 continue until the end of the appeal period or until any appeal made within this period is disposed of.

The Licence Holder has a right of Appeal to the Magistrates' Court within 21 days of the date of this decision notice.