



## **LICENSING ACT 2003**

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

**APPLICANT:** Hampshire Constabulary

**PREMISES:** No. 133 Victoria Road, Aldershot

**DATE OF HEARING:** 29th September, 2022

**MEMBERS SITTING:** Cllrs Christine Guinness, S. Trussler and  
Jacqui Vosper (Chairman)

## DECISION

To suspend the premises licence for a period of three months and to modify the conditions of the premises licence under s52(4) of the 2003 Act.

## REASONS

The Licensing Sub-Committee considered an application made under s51 of the 2003 Act for a review of the premises licence by Hampshire Constabulary in its capacity as Responsible Authority.

1. The Sub-Committee has had regard to the application and all relevant representations made both in writing before the hearing, and orally by those in attendance at the hearing. The Sub-Committee also had regard to Rushmoor Borough Council's Statement of Licensing Policy and Guidance and the Guidance issued by the Secretary of State under section 182 of the Act.
2. The Sub-Committee considers that it is appropriate and proportionate to revoke the premises licence for a period of three months and modify the conditions of the premises licence in order to promote the licensing objectives.
3. It was the view of the Sub-Committee that all of the Licensing Objectives were engaged namely;
  - The prevention of crime and disorder;
  - Ensuring public safety;
  - The prevention of public nuisance; and
  - The protection of children from harm.
4. A request was made by the licence holder at the start of the hearing for the inclusion of additional documents, namely entries from a refusals log. The addition of the documents was not agreed by all parties and therefore the documents were not considered by the Sub-Committee.
5. A number of matters informed the Sub-Committee's decision.
6. First, the Sub-Committee considered the evidence presented to it regarding the incident which occurred on the premises on the 7 August 2022. It was felt that the level of injury resulting from the alleged assault was pertinent to the objectives of the prevention of crime and disorder and ensuring public safety. The Sub-Committee also considered that the Objective of the prevention of public nuisance was engaged in relation to the incident.

7. The Sub-Committee was very concerned by the evidence that the member of staff on the premises at the time of the incident did not make efforts to contact the police or an ambulance at any time. It was recognised that the victim of the alleged assault may not have initially appeared to the member of staff to be in need of medical assistance however, the Sub-Committee was satisfied that as the incident progressed it should have become clear to the member of staff that it was appropriate and necessary to contact emergency services.
8. The Sub-Committee did not consider the disputed time that the victim of the alleged assault spent in hospital following the incident to be of importance when coming to their decision.
9. The Sub-Committee did not feel that the response to the incident upheld the licensing objectives and were concerned that this may result in incidents occurring in the future. The Sub-Committee considered that a reduction in the hours in which the premises could carry out licensable activities was a proportionate response to promote the licensing objectives. The Sub-Committee considered it important to include as an informative (which is not binding on the premises licence holder) that the Licence Holder should ensure that all staff are aware of the necessity to engage the help of the Police and Ambulance services should incidents occur and the importance of working with such services to uphold and promote the licensing objectives.
10. Secondly, the Sub-Committee considered the importance of CCTV in the event of such incidents as that which occurred on 7 August 2022. The Sub-Committee considered the evidence of Hampshire Constabulary that the time on the CCTV was incorrect by 50 minutes and that there was some delay in the footage being provided on request. The Sub-Committee considered it appropriate to modify an existing condition and implement additional conditions to the premises licence regarding CCTV in order to address these matters.
11. The Sub-Committee further considered the test purchase which was undertaken on 28 August 2022. The Sub-Committee were satisfied that the member of staff was provided with the option to receive a fixed penalty notice rather than opting to attend training and did not consider that adverse inferences should be drawn from the refusal of training. The Sub-Committee noted the submission by the Licence holder that they undertook internal training following the failed test purchase.
12. In coming to its decision, the Sub-Committee gave weight to the failure of the test purchase and agreed with the application for review that this engaged the objective of the protection of children from harm. The Sub-Committee recognised that a member of staff may wish to see identification of the Officer present at the test purchase however, were concerned in this instance by the response of the staff member to being informed

of the failed test and were not satisfied that they had responded appropriately or displayed an understanding of the importance of the licensing objectives.

13. The Sub-Committee were not satisfied that the refusal log had been adequately completed and were concerned to see that aside from one entry, the entries did not contain dates, times of descriptions of the incidents. The Sub-Committee felt that it was appropriate to impose conditions in relation to the requirements to the refusals log.
14. In relation to both incidents on which the Sub-Committee heard evidence, it was felt that the staff had not been sufficiently trained. The Sub-Committee therefore considered it proportionate to impose conditions in relation to the training of all staff who make sales of alcohol. It was felt by the Sub-Committee that the licence holder did not have sufficient knowledge of the running of the business and that there was some complacency throughout as to ensuring that the licensing conditions were upheld. In order to promote the licensing objectives, the Sub-Committee considered that it was appropriate to require that the Designated Premises Supervisor be trained to a suitable level.
15. The Sub-Committee in coming to its decision to suspend the licence considered the evidence which it had heard on the seriousness of the incidents as well as the lack of compliance with the existing conditions and therefore considered that the licence should be suspended to allow the licence holder time to implement the modified conditions.

#### **FINAL POINTS AND APPEAL RIGHTS**

Interested Parties and Responsible Authorities should be aware of the power to apply for a review of the licence in the future should there be any concerns about the operation of the licence.

The Applicant is reminded that a failure to comply with a condition is a criminal Offence.

All Parties have a right of Appeal to the Magistrates' Court within 21 days of the date of this decision notice.

## **OTHER CONDITIONS**

### **(New, amended and deleted conditions consistent with the operating schedule)**

- **Modify the times the licence authorises the carrying out of licensable activities to;**

‘On any day – 9:00am to 21:00pm’

- **Modify Condition 2 of Annex 2, so that it reads:**

‘(2)

(i) A suitable CCTV camera system linked to a suitable recording facility shall be in operation at the premises for the purpose of preventing crime and disorder.

(ii) So far as reasonably practicable, all cameras must be maintained in good working order.

(iii) CCTV recordings and footage must be retained for a minimum period of 31 (thirty-one) days and be made available for review by the Police upon request (subject to the requirements of the Data Protection legislation in force at the time).

(iii) All CCTV recorded images / footage and copies thereof shall, , display the correct time and date of each recording. The system clock shall be checked regularly for accuracy taking account of GMT and BST.

(iv) A competent person conversant with the operation and retrieval of information contained in the CCTV system / footage shall be available to provide immediate copies of footage to the police on request. Any images recovered must be in a viewable format on a disc. Footage supplied in a digital format on CD or DVD will also have a copy of the CCTV system software enabled on the disc to allow playback.’

- **Add the following conditions:**

(1) (i) A written log shall be kept of all refusals, including but not limited to, refusals to serve alcohol. The holder of the premises licence shall ensure that the refusals log is properly maintained and this shall involve, but is not limited to, the Designated Premises Supervisor checking and signing it on a weekly basis.

(ii) Written records of any refusals shall be maintained and kept at the premises for 12 (twelve) months in a location that is accessible to all staff and are to be made available to the responsible authorities immediately on request.

(iii) All written records of refusals must contain a date, time and adequate description.

(2) Any person who is refused the sale of alcohol due to being already intoxicated shall be asked to leave the licensed premises as soon as is reasonably practicable. A written record of each such event shall be maintained.

(3) (i) All staff/ employees shall (before being permitted to make sales of alcohol) be suitably trained in respect of the following matters to a level commensurate with their duties and responsibilities:-

(a) the refusal of the sale of alcohol to those who appear intoxicated and how to recognise them; and

(b) the appropriate precautions to prevent the sale of alcohol to persons under the age of 18.

(ii) Refresher training shall take place at least every 6 months provided by a suitable training provider as decided by the Designated Premises Supervisor.

(iii) Written records of such training shall be produced and be signed and dated by the member of staff receiving the training and the Designated Premises Supervisor. They shall be kept on the premises to which they relate for a minimum of 2 years and be made available to the responsible authorities immediately on request.

(4) The Designated Premises Supervisor (DPS) must have passed the BIIAB Level 2 Award for Designated Premises Supervisors (ADPS) or equivalent qualification. Any new DPS appointed must have completed the same prior to their appointment.