



LICENSING ACT 2003

Application for a the review of a Premises Licence Decision Record

APPLICANT: Hampshire Constabulary

PREMISES: The Royal Staff, No. 37A Mount Pleasant
Road, Aldershot

DATE OF HEARING: 21st October, 2022

MEMBERS SITTING: Cllrs P.J. Cullum (Chairman), S. Trussler
and Jacqui Vosper

DECISION

To revoke the 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 Licensing 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 the Guidance issued by the Secretary of State under section 182 of the Act.
2. The Sub-Committee considered that it was appropriate and proportionate to revoke the licence in line with the steps sought in the review application.
3. It was the view of the Sub-Committee that the Licensing Objectives of the prevention of crime and disorder, ensuring public safety and the prevention of public nuisance were engaged. Although it heard some evidence relating to children near to the premises, the Sub-Committee did not consider that the objective of the protection of children from harm was engaged.
4. A request was made by Hampshire Constabulary at the start of the hearing for the public to be excluded from the hearing to avoid the disclosure of exempt information within Schedule 12A to the Local Government Act 1972. The Sub-Committee heard representations from the applicant in relation to the request. On applying the public interest test, the Sub-Committee resolved that the public should be excluded.
5. A number of matters informed the Sub-Committee's decision.
6. The Sub-Committee considered there to be cogent evidence of crime and disorder at the premises. The Sub-Committee heard and accepted evidence of an incident which occurred on 1 September 2022 involving an individual causing damage to the premises and a vehicle parked outside the premises with a hammer in response to an altercation with other customers of the public house. Two customers were injured as a result of the incident. The Sub-Committee considered the objectives of the prevention of crime and disorder and ensuring public safety were engaged. The Sub-Committee were concerned by the response of the management to the altercation and their action

of switching off CCTV recording. The Sub-Committee did not accept the evidence of the licence holder that the manager's action was in a moment of panic.

7. The Sub-Committee was not satisfied that the manager at the premises had been sufficiently trained in how to respond to such situations and was concerned by the licence holder's policy to have only one member of staff on the premises. On consideration of the representations made on behalf of the licence holder, the Sub-Committee did not consider that proper procedures had been implemented to ensure that staff were able to uphold the licensing objectives of the prevention of crime and disorder and ensuring public safety.
8. The Sub-Committee also accepted the evidence of the applicant for the review in relation to an incident which occurred on 2 October 2022 resulting in the assault of a police officer. The Sub-Committee considered in relation to this incident that the premises were closed at the time and as a result gave less weight to this incident. However, it still considered the evidence relevant due to the incident first occurring at the premises and the appearance of an association of those involved to the premises.
9. When considering both of the aforementioned incidents, the Sub-Committee had regard to the Guidance issued by the Secretary of State at para. 11.26 and recognised that certain activities or problems associated with the premises may have taken place despite the best efforts of the licence holder and staff working at the premises and despite full compliance with the conditions. Sub-Committee did not consider however, that the best efforts had been made by those with control of the premises. It was the view of the Sub-Committee that the licence holder had not implemented sufficient procedures to deter unacceptable behaviour at the premises or uphold the objectives of the prevention of crime and disorder and ensuring public safety. On hearing from the representative of the licence holder, the Sub-Committee was not persuaded that the licence holder appreciated the seriousness of the incidents or the risk of further incidents occurring.
10. The Sub-Committee had regard to the Guidance issued by Secretary of State at para 11.24 which advises that it was not the role of the Sub-Committee nor does the Sub-Committee have the power to judge the criminality or otherwise of any issue, this was a matter for the courts. The Sub-Committee's role when determining the application for review was not to establish the guilt or innocence of any individual but to ensure the promotion of the licensing objectives.
11. In coming to a decision, the Sub-Committee had regard to the premises being a Public House in a residential area. Evidence was provided to the Sub-Committee of disruption caused to those living near to the premises and the Sub-Committee

considered that the licensing objective of the prevention of public nuisance was engaged. The Sub-Committee was compelled by the evidence provided by local residents in writing and verbally at the hearing. The Sub-Committee considered it was limited as to the weight which it could give to the written representations which could not be explored further through questioning. However, the Sub-Committee considered the representations provided to them in person amplified the written representations to which they related and considered them to be convincing.

12. Representations made by the residents explained the need for residents to alter their living habits due to the impact of customers of the premises using the street surrounding the premises rather than the designated garden area. The Sub-Committee saw evidence of this in the form of photographs and whilst it took the view that the evidence would have been more compelling had it included dates and times of the photographs, the Sub-Committee accepted the evidence relating to public nuisance.
13. In coming to its decision, the Sub-Committee had regard to the Guidance issued by the Secretary of State at 11.17 in that it did not have to take any steps or could provide an informal warning however, the Sub-Committee did not consider this would be effective in promoting the objectives and considered that action under statutory power was appropriate.
14. The Sub-Committee considered the imposition of additional conditions to the licence however, resolved that this action would be insufficient. A significant factor in the Sub-Committee's decision was the view of the licence holder towards the licence. The Sub-Committee was concerned by the licence holder's indifference towards the continuation of the licence and was not satisfied of the licence holder's commitment to upholding the licensing objectives. The Sub-Committee did not have confidence that any imposed or amended conditions would be adhered to.
15. The Sub-Committee had regard to the times when the incidents and disruption to the residents had occurred and the hours it was informed that the premises were open and did not consider that an amendment to the hours of the licensable activities would address the problems at the premises. The Sub-Committee further considered conditions surrounding staff numbers to address the risk of further problems occurring however, were not confident that such conditions would be adhered to following the representations heard in relation to the financial viability of the premises.
16. The Sub-Committee considered that the poor management was a factor in the problems presented at the premises however, had regard to Para. 11.22 of the Guidance issued by the Secretary of State and took the view that removal of the DPS

was an inadequate response to the problems presented. It was the view of the Sub-Committee that there were problems with management throughout.

17. The Sub-Committee was satisfied that it was appropriate and proportionate to revoke the licence in order to address the cause for concern that instigated the review and those issues raised following the application. The Sub-Committee was not satisfied that any other available options would have addressed the concerns.

In coming to its decision, the Sub Committee has NOT taken into account:

18. The representations that the management should have taken more action to address those parking or driving vehicles near to the premises as the Sub-Committee did not consider that they had heard sufficient evidence that the vehicles were connected to the premises and recognised the licence holder's limited power in relation to traffic problems in the area.
19. Representations surrounding allegations of drug use. Within the representations, reference was made to the use of the premises in relation to drugs. The Sub-Committee was not satisfied by the evidence provided in relation to the use of drugs at the premises and therefore did not consider this to be a relevant factor in coming to a decision.

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.

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