



LICENSING ACT 2003

Application for the review of a premises licence Decision Record

APPLICANT: Hampshire Constabulary

PREMISES: Culture, No. 132 Victoria Road, Aldershot

DATE OF HEARING: 24th March, 2023

MEMBERS SITTING: Cllrs Christine Guinness (Chairman), Nem Thapa and S. Trussler

DECISION

With immediate effect, to revoke the licence under s52(4) of the 2003 Act.

REASONS

The licensing authority, Rushmoor Borough Council, received a report for the review a premises licence, as per section 51 of the Licensing Act 2003.

The review was considered by the Licensing Sub-Committee (Alcohol and Entertainments) at its meeting on 24th March, 2023 at the Council Offices, Farnborough Road, Farnborough. The review was conducted as per the Sub-Committee's standard procedures.

Exclusion of the press and public

Due to the nature of the evidence contained within the report and the fact that it contained exempt information, as defined by section 100I of the Local Government Act 1972, the Members considered the issue and resolved to exclude the press and public on the basis of the public interest being in favour of excluding them due to the nature of the exempt information at issue.

The Licensing Sub-Committee Report ('the report')

The Report stated that on 3rd February, 2023, the Licensing Department received, from Hampshire Constabulary, an application for a review of the premises licence held in respect of the Culture, No. 132 Victoria Road, Aldershot, as part of the process under the Licensing Act 2003.

The application requested the review of the premises licence number 22/00452/LAPRE, held in respect of the premises, initially granted in July 2022, held by C&S Leisure Ltd.

Since Culture became operational, although Darren Godwin is the DPS, it is clear that Chris Godwin is the face of the business and involved in the day to day running of the venue. Police are well aware of another venue either getting ready to be operational by the company or in the process of being purchased in Swindon by the name of Life / Gravity. There have been a steady amount of incidents related to the premises since 09/07/2022. These incidents range from drug offences and assaults to sexual assaults. Police investigators have had issues in regards to gaining CCTV from the venue and therefore vital evidence has been lost. In total it seems at this point that 3 incidents of sexual assault have been no further actioned or become obstructed due to the failure of the venue to hand over relevant CCTV.

Police have undergone a staged approach in relation to this venue. The Police have notified both the DPS and Chris Godwin in person on the 08/12 about the issues with CCTV and they have stated it would be rectified. It has not.

Police have attended the venue on the 21/10/22 in relation to business crime week and have undertaken controlled substance swabs which have been resulted as readings of cocaine throughout the premise including:- the VIP table, bar surface, men's disabled toilet, men's toilet and female toilet. All were varying indications but all were at least "direct contact". One other table was "indirect".

Police then re-attended on the 08/12/22 and these results were given to the DPS so he was well aware. Whilst at the venue a drug wipe was used for indication purposes only and it showed possible cocaine presence on the bar. This was completed in front of the DPS. During this meeting they were advised that their "refusals" log was not acceptable and some of the most poorly completed forms / paperwork police had previously seen. The DPS was then told immediately this needed to change and improvements made. There was a denial of the issues on the premise in regards to controlled substances. Drug wipes were used elsewhere in the venue including the toilets again. The DPS was advised in no uncertain terms that improvements needed to be made.

Police then re-attended the venue on the 27/1/23 during evening patrols. Police were advised of issues on the premise in regards to no hot water and unsafe flooring behind the bar. The venue was not open to the public at the time. The unsafe flooring had not been coned off and there was no hot water and the boiler was on the pool table. Chris Godwin was advised of this. Further controlled substance swabs were completed by the Police.

Police then re-attended during the opening hours. SIA were on duty but there were no customers on site. Police, on speaking with SIA, then discovered that they do not wear Body worn Video devices and they do not use a Scanner. Door staff said this had been for a long time. Both of these are conditions on the premise licence.

In regards to this visit, police and the Local Authority Licensing Team attended on the 02/02/2023 for a joint meeting. During the meeting the concerns were discussed and the following issues were raised

- BWV cameras on site but the SD card is corrupted. Footage was asked to be seen by the Police but this was not able to be completed. It is therefore confirmed that the equipment is not maintained and footage is not made available to the Police on request. This was a request of an incident on the 20/01/23. This involved disorder. This was beyond the 48hrs required but the footage had not been downloaded in any case. The Police had not been notified of any failure of the equipment as per the conditions in relation to this.

- No Scanner on site. Issues in regards to the current Patron

Scan – it was stated by the DPS that this is expensive and not working very well. Poor internet coverage is considered an issue by the supplying company. It was not confirmed when the issue arose so it could not be confirmed the last ID that had been scanned. Although IDs would be checked by assertive SIA there is no guarantee that those under the age of 18 have not entered the site as they had not been scanned. Previously Screen Shot was used by SIA which is an app on the phone of the individual SIA which then holds details and scans it. This is of concern as the Police asked about where that info is but that could not be answered satisfactorily. There are no safeguards explained to the Police about the details of those persons who have previously been scanned and where the information now is. It has not been confirmed if previous usage of the app by door staff is secure or if door staff still have those details.

- SIA was discussed by the Police and the DPS and it was suggested that females are not searched as there are no female SIA operatives but the DPS did suggest that SIA do search female customers' pockets. This is not acceptable. It was suggested by the DPS that a female member of staff could search – the partner of Chris Godwin – but this was completely inappropriate due to no training and not being SIA.

- In regards to an incident log, it was found that no improvement had been made in regards to this since the previous request. It was exactly how it was found previously. It was just a pile of papers. This consisted of SIA signing on and off sheets and some incident logs. These incident logs were on scrap bits of paper and some were signed and some were not. There was very limited information. For some dates there were not even any incident logs. Police find this extremely unusual because even well run premises have incidents, especially late night venues. Police had to assist in putting paperwork in the correct order. Police did not see any acceptable logs in regards to refusals at the bar. Therefore due to issues stated in regards to BWV there can be no correlation between noted incidents and BWV footage – as there is none. The evidential package / trail available is therefore non-existent.

- CCTV shows the wrong time (6 mins out). There is also no operator manual in regards to the system. Only the DPS and Chris Godwin can use it.

- It was confirmed that not every member of staff had satisfactorily completed training in regards to age restricted products. A new member of staff was on scene who the DPS had stated had not yet completed the training as his first shift was the forthcoming weekend. However it had transpired that he had worked the previous week but not completed the training. The staff member had previously worked at the venue but no proof given in regards to training being completed. The evidential package in regards to training was not complete. There was nothing to confirm what had actually been trained. It was just a signature and a date.

- CCTV viewed on 22/01/23 and it was confirmed that entry had

been gained by customers at 01:48hrs despite a condition that no one should be permitted entry to the premise after 01:30hrs until the close.

- There is no record of any noise level assessments
- The DPS stated that he was allowing 20 persons in the smoking area outside the front of the premise despite it being pointed out that only 10 persons are allowed. It appears that since the venue started trading over 10 people have been allowed in this area despite the condition that no more than 10 should be allowed. The front of the venue on CCTV seems to be poorly controlled and therefore drinking vessels seem to be able to be taken externally.
- The drug swab results from the 27/01 were also given to the DPS which showed a high direct use of cocaine on the bar. This was immediately challenged by the DPS who completely denied use of substances on the bar. It also showed high use of the same substance within the toilets.

The prevention of crime and disorder is being completely undermined at this venue. As mentioned before within this application, there is no evidential trail. There are no functioning Body Worn Videos available, the footage cannot be saved due to SD card corruption. The equipment is not being maintained. There is no Scanner system in place. This assists in gaining details of those suspected of being involved in crime and disorder so that justice can be sought for the victims. This is not in place. It can also be queried as to the location of sensitive details of scanned customers. This is GDPR related and should be dealt with by the ICO. There is clear high drug use in the premise and there is no sign of this decreasing. This is a constant and there are concerns that due to the readings this could be a real issue within the premise. Violence against women and girls is so very important to prevent and with these identified issues this unfortunately cannot be guaranteed.

Due to the lack of a scanner and directed entry processes it could be very possible that those under the legal age to drink alcohol could enter the premise and with the lack of detail in regards to training and the lack of refusals there would be every opportunity for such vulnerable persons to put in a dangerous situation for their health or wellbeing. Therefore the venue is not currently in a position to support the safety of a child or vulnerable person.

No noise assessments have been recorded and double the amount of customers allowed in the external smoking area therefore the level and risk of public nuisance is high. This could so easily be rectified but it seems as though there is a lack of motivation to complete this.

The Sub-Committee heard from:

Ms BOWMAN – Rushmoor Borough Council Licensing Officer

Ms Bowman read the Report to the Committee.

PC DENNETT – Hampshire Constabulary Licensing Team

PC Dennett highlighted points raised within the original application for review and other matters of concern disclosed, addendums dated 01 March 2023 and 16 March 2023, since the original report.

PC Dennett answered questions raised by the licence holder and the Sub-Committee, including failure of the licence holder to handover CCTV in regard to alleged sexual assaults.

JULIE BURKE – Environmental Health Officer, Rushmoor Borough Council

Ms Burke highlighted health & safety issues contained within the Health & Safety representation, forming Appendix E of the report. Ms Burke specifically raising the point of no hot water on the premises and a failure to comply with requests and broken promises to correct the issues raised. In addition Ms Burke raised issues regarding no Food Safety Management in place posing health risks; fire exits obstructed; smoking on the premises; dirty equipment and unsecured gas cylinders. Ms Burke stated that the licence holders failed to engage with the regulators and thus placing the public at risk, including e-coli.

Ms Burkes answered questions from the Sub-Committee, including evidence of rodents and flies. No questions from the licence holder.

AIMEE VOSSER – Licensing Officer, Rushmoor Borough Council

Ms Vosser highlighted licensing issues contained within the licensing representation, forming Appendix D of the report. Ms Vosser showed videos of the premises which highlighted premises license conditions breaches, including the DPS smoking on the premises; alleged no body-worn cameras; entry to premises outside authorised hours and failure of DPS or security to control entry to the premises.

No questions raised for Ms Vosser.

Mr CHRIS GODWIN – Director , C & S Leisure Ltd

Mr DARREN GODWIN – Director C&S Leisure Ltd

Mr Godwin stated they had previously had problems with handing over CCTV. As to drugs mentioned in the report, the drugs were handed over to the Military Police. Body worn cameras are worn by the staff. They had allowed a lady late entry to the premises as she appeared to be being intimidated by a male outside the premises. Mr Godwin advised that they accept there were too many people in the smoking area. All persons entering the premises are ID checked by way of using scanners. As to Health & Safety issues, they referred to it as a bit of a witch-hunt, but nonetheless they have addressed the issues including installation of hot water. Mr Godwin disputed the issues surrounding the gas canisters. Mr Godwin confirmed that they had cleaned and rectified the condition of the equipment. Accumulation of rubbish caused by access to bins etc and part of waste is in area belonging to the arcade.

Mr Godwin stated they admit they have 'dropped the ball' at the premises due to being overstretched. They have now resolved any issues and invite further inspections from the relevant authorities.

Mr Godwin answered questions raised by the Sub-Committee, the Police and licensing authority; including the disposal of waste, which they have now resolved. Mr Godwin stated the authorities would find a different result to their visit some 15 days ago if they now visited the premises. However, there are problems due to the age of the property and vandalism in the toilets, mainly down to visits by soldiers.

Mr Godwin stated they have a separate safe installed for drugs that are seized on the premises. Drugs seized are recorded in a log, sealed in an evidence bag and then placed in the safe.

Mr Godwin stated it was possible he said "*I don't give two shits*" to a Council officer.

Mr Godwin advised they got Mr Butcher involved as there were security issues that needed resolving.

Mr Godwin gave an explanation of the financial consequences if they lost their licence.

Mr Godwin gave an overview of staff training and confirmed they have signed logs confirming training. He advised that 6 members of staff had Food Hygiene Certificates and provided information as to alleged smoking on the premises. Mr Godwin also gave information as to the cleaning regime at the premises.

Mr Godwin confirmed CCTV issues are now resolved and the timings shown are now correct within a matter of a few seconds. This was corrected on 04 March 2023, rather than 06 February 2023 when first identified.

Mr Godwin gave information relating to the alleged sexual assaults mentioned in the report.

Mr Godwin gave an explanation as to the previous lack of hot water, which has now been resolved.

Mr Godwin stated log discrepancies were due to the old security company. The incident on 12 February, regarding female entering premises, was not logged. Mr Godwin stated himself was on the door at the time.

Mr Godwin stated that the previous scanner's information was held on their system for 6 months from date of recording.

Mr Godwin stated they have seized one fake ID and handed it to a Police Sergeant and one ID still was held by the licence holder.

PAUL BUTCHER – Security consultant, (Section 8 Services), to Licence Holder

Mr Butcher was invited to provide advice to the licence holder. During the consultation period he had noted several areas which needed addressing. His first impression was shocking in regard to security issues at the premises, including being flabbergasted at search procedures. He has worked with the licence holder to resolve these issues.

Mr Butcher answered questions from the Sub-Committee and licensing authority.

Mr Butcher addressed visits by soldiers and confirmed problems with initiation horseplay by army recruits. Mr Butcher also answered questions regarding the use of female security staff and the searching of females. Mr Butcher stated he had a 'rolling contract' with the licence holder. Mr Butcher stated that they are now using re-vamped logs which have replaced the 'appalling' logs shown in the report.

Mr Butcher confirmed that false ID would be highlighted by their scanner system which is on one mobile phone used by management and security staff. Any false ID would be seized and handed over to the relevant authorities.

Mr Butcher confirmed that the premises rents its radios from his firm. The radios use a digital frequency and are crystal clear. He also stated there are 2 security staff on the door and 2 security staff inside the premises.

The Sub-Committee received legal advice as follows:

- The options available to the Sub-Committee are laid out in the report and the Sub-Committee must consider which option, in their consideration, is reasonable based upon this hearing.
- The decision must be made solely by the Sub-Committee members and only by those members who have heard the whole application.
- Each application must be considered on its own merits
- The Sub-Committee must take such steps as it considers appropriate for the promotion of the licensing objectives;
 - The prevention of crime and disorder
 - Public Safety
 - the prevention of public nuisance
 - the protection of children from harm
- To ensure natural justice, the Sub-Committee should give reasons for their decision.

Legislation also supports a number of aims and purposes;

- Protecting the public and local residents from crime, ASB and noise nuisance.
- Giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy.
- Recognising the important role which pubs and other licensed premises play in local communities.
- Ensure greater community involvement in licensing decisions and giving local residents a voice.

As to licence conditions;

- Must be appropriate for the promotion of the licensing objectives.
- Must be precise and enforceable.
- Must be unambiguous and clear in what they intend to achieve.
- Must be tailored to the individual type, location and characteristics of the premises concerned.
- Should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case.
- Should be proportionate, justifiable and be capable of being met.

The Sub-Committee made the following findings of fact:

Premises not being run to a suitable standard and with a poor standard of health & safety standards along with poor hygiene. The licence holders have failed to cooperate or comply with the relevant authorities and licensing conditions, including failing to respond to queries from said authorities. The security has not been to a standard to ensure the safety of the public.

The Sub-Committee **considered the options open to it** under the Act and the extent to which they were appropriate.

The reasons for the Sub-Committee's decision are as follows:

- Premises not being run to a suitable standard
- Failure of Health & Safety regulations
- Failure to comply with CCTV requirements
- Poor hygiene at premises
- Failure to comply with licensing conditions
- Failure to comply with Health & Safety Notices

- The Sub-Committee do not find Chris Godwin, Darren Godwin and Paul Butcher to be credible witnesses - in particular that there was conflicting and contradicting evidence and leading after questions had been adversely answered
- Disregard for the licensing, Police and health & safety authorities.

The Licence Holder may appeal against this decision to a Magistrates' Court within 21 days of the date this decision is served on them.