

Licensing Sub Committee

A meeting of Licensing Sub Committee was held on Thursday, 15th May, 2008.

Present: Cllr Dick Cains, Cllr Colin Leckonby and Cllr Bill Woodhead.

Officers: S Mills, C Snowdon, J Stocks, M Vaines (DNS); J Nertney (LD).

Also in attendance: PC Sue Iceton (represented by Mr Constable, Barrister), Sergeant Daley and PC Johnson; Mr Ozols - Premises Licence Holder & Designated Premises Supervisor (represented by Mr Clive Harvard, Solicitor), Three employees at the premise, namely Ms Payne, Mrs Nugent and Mrs Jennings, Mr Brand - Designated Premises Supervisor of the Unicorn Public House, Mr and Mrs Carter (Persons living in the vicinity of the premises).

Apologies: None

LSC 7/08 Appointment of Chairman

RESOLVED that Councillor Woodhead be appointed Chairman for this meeting only.

LSC 8/08 Declarations of Interest

There were no interests declared.

LSC 9/08 The George and Dragon, 109 High Street, Norton, Stockton on Tees - Application for Review of a Premise Licence under the Licensing Act 2003.

The Chairman introduced all persons who were present and explained the procedure to be followed during the hearing.

A copy of the report and witness statements had been provided to all those persons present and to members of the Committee. Members noted that this review of a premises licence was made at the request of the Councils Environmental Health Section. Representations in support of the review had also been submitted by Cleveland Police and from persons living within the vicinity of the premises.

Mr Snowdon (Environmental Health Officer) explained that the application for a review of the premises licence had been made following complaints from local residents, in particular Mr Carter who was present at the meeting. These matters were initially dealt with in an informal basis by discussing the issues with the DPS and providing advice. However efforts to address the complaints failed and more formal action was then taken. A Noise Abatement Notice was served on Mr Ozols (DPS) on 30th October 2007. This Notice prevented karaoke at the premises. The EHO was concerned that if Mr Ozols leaves the premises then further problems could be caused as the formal Notice only applied to Mr Ozols. At the very least the EHO would request conditions to address the problems and that karaoke not be allowed at the premise. Mr Snowdon stated that he would be urging Members to consider removing the provision of live and recorded music at the premise.

The EHO was also concerned that when officers had visited the premises the DPS was often not present and when he was there the steps taken to manage

he problem were insufficient.

Mr Snowdon confirmed that since the service of the Abatement Notice his section had not received any further complaints about noise at the premise and the Notice appeared to be having the desired effect.

Mr Harvard stated that his client had instructed him to agree to a condition that there be no karaoke at the premise even though this would have a detrimental effect on his profits. He was anxious to retain the ability for live music as he had singers on at the premise who played guitars and they had not, to his knowledge, caused nuisance to local residents.

Mr Stocks and Mr Mills both gave evidence and were cross-examined by Mr Harvard, Solicitor for the premises licence holder, the respondent in this matter.

Mr Carter and his sister Mrs Carter were both in attendance at the meeting and explained that they had experienced problems with the premise causing them noise nuisance from both the karaoke entertainment and noise from the beer garden. They accepted that since the service of the Noise Abatement Notice they had not experienced further problems but they were concerned at the onset of the summer months.

Mr Constable called evidence from PC Iceton.

In summary the Police stated that they supported the review application and had concerns over Mr Ozols ability to manage the premises.

Mr Harvard cross examined PC Iceton.

Mr Harvard then called evidence from Mr Ozols, the Premises Licence Holder and the Designated Premises Supervisor. Mr Ozols stated that he took over the premise in November 2005 and prior to that had no experience in the licensed trade. He obtained his personal licence after attending a training course at Middlesbrough college. Mr Ozols said that he appreciated his progress had been slow but that he had slowly transformed the premise.

Evidence was also called from three employees at the premises who worked as bar staff namely Ms Payne, Mrs Nugent and Mrs Jennings and from Mr Brand who stated he was the DPS at The Unicorn Public House, Norton.

Mr Constable, on behalf of the Police cross examined Mr Ozols and his witnesses.

All parties present were given an opportunity to sum up their case.

In considering their decision Members had regard to the evidence which had been presented to them in both written and oral form from the witnesses and representatives. The Committee also had regard to the statutory guidance issued under Section 182 of the Licensing Act 2003 and the Council's Licensing Policy.

Members felt that it was clear that the Premises Licence Holder had little due diligence in relation to the training of the staff although it was accepted that at

this time that was not a condition on the licence. It would however have been a matter of good practice for a responsible premise Licence Holder and DPS.

Members felt it was clear that even now almost three years after taking over the premise Mr Ozols had serious failings in regard to his knowledge of licensing law and the requirements placed upon him. As an example Mr Ozols could not name the four main licensing objectives under the legislation and was unaware of who had been a DPS at the premise at a particular time.

The only explanation put forward by Mr Ozols was that he was learning as he went along. It was accepted by Mr Ozols representative that his progress was "painfully slow" but that he was "getting there". Members were not convinced that this was the case and they had serious concerns over Mr Ozols ability to fully understand and fulfil his legal obligations.

Mr Ozols had had numerous help and assistance from officers from many relevant bodies including the Police, Licensing Authority and the Environmental Health Section. All of the efforts to assist Mr Ozols had failed to some extent and formal action had to be taken to address his failings. Members found that Mr Ozols failings were not for minor matters but were deemed to be serious including:-

- Numerous complaints of noise nuisance which were only addressed after lengthy attempts to resolve and the service of Noise Abatement notice.
- Continuing complaints about the use of the beer garden after the terminal hour for its use.
- Members were concerned that the incident logs provided by Mr Ozols in support of his case were wholly unacceptable and some of them had been completed well after the event.

Members gave consideration to whether Mr Ozols should be removed as the DPS. Members unanimously agreed that most, if not all, of the failings at this premise could be traced back to Mr Ozols and his management of the premise.

It was clear that Mr Ozols had provided minimal training to his staff and this seemed to be that it was Mr Ozols that need the training. It was accepted that some of Mr Ozols staff had far more experience than him in the licensed trade.

Although Mr Ozols stated he provided training to his staff there was no documentation to confirm this. It was clear that any training provided by Mr Ozols was minimal although it was noted that this was not in breach of any condition. However it was a matter of good practice for a responsible premise.

After considering all of the evidence Members unanimously agreed that this was a scenario that could be addressed by removing the DPS. The Section 182 Guidance was quite clear that the Committee could "remove the DPS Because they consider that the problems are the result of bad management". This was clearly the case at the premise. Members hoped that the removal of the DPS would promote an improvement in standards at the premise as if problems persisted for responsible authorities then any further review application could possibly result in the Premises Licence been revoked.

It was evident to Members that some of the improvements that had been made at the premise were very recent and were as a result of advice given by Mr Harvard as Mr Ozols legal adviser.

Members felt that Mr Ozols as the Premises Licence Holder and the DPS still did not appreciate the seriousness of the situation in which he found himself. It was noted that Mr Ozols had invested a lot of his own money into the premise and that this investment was at risk if he did not improve the standards at the premise. It was noted however that from the evidence given there had been an improvement at the premises from when Mr Ozols had taken over and that Mr Ozols did deserve some credit for that.

Members noted that there at least three persons currently employed at the premise who held personal licences and who could act as DPS. Members considered what impact a short suspension of the licence would have. Members were aware that they had the power to suspend for a period of up to three months. Members noted that Mr Ozols had numerous opportunities to improve his working practices but had failed to do so. Mr Ozols had already received a formal Noise Abatement Notice and a formal caution for an offence under the Licensing Act 2003. It was therefore felt appropriate that a short suspension of 14 days was proportionate and would give Mr Ozols sufficient time to identify a new DPS and deal with the relevant paperwork with the licensing authority.

RESOLVED that:-

- Mr Ozols be removed as the Designated Premises Supervisor
- The licence shall be suspended for a period of 14 days
- In addition the following conditions be attached to the licence:-
 1. There shall be no karaoke or entertainment of a similar nature permitted in the premises at any time.
 2. There shall be no entertainment provided which uses amplifiers or microphones.
 3. Any recorded music played within the premises shall be background music only and shall be at such a level that it does not cause a nuisance to the nearest residential premises.
 4. Staff employed at the premises should be given training as to their duties and responsibilities under the law. Training records must be maintained in writing and be made available to licensing officers and responsible authorities on request.
 5. A bound hard backed incident book should be maintained at the premises which should include details of incidents, time and date and any action taken as a result. This should be maintained at the premise and be made available to licensing officers and responsible authorities on request.

