

Licensing Sub Committee

A meeting of Licensing Sub Committee was held on Monday, 2nd June, 2008.

Present: Cllr Colin Leckonby, Cllr Roy Rix and Cllr Bill Woodhead.

Officers: J Allwood, M Vaines (DNS); J Nertney (LD).

Also in attendance: Mr Dixon, Mr Scott and Mr Moore (Scottish and Newcastle (Tadcaster Pub Company) Limited) (represented by Mr Jones, Solicitor), Mr Ferguson (Designated Premises Supervisor), PC Sue Iceton, PC Leek (represented by Mr Grier, Barrister).

Apologies: None.

LSC 10/08 Appointment of Chairman

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

LSC 11/08 Declarations of Interest

There were no interests declared.

LSC 12/08 The Falchion, 56 Yarm Lane, 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 Cleveland Police. Relevant representations had also been received from Trading Standards and the Local Safeguarding Children Board.

The Licensing Officer stated that the Council had received notification that the Premises Licence Holder had changed their company name.

Mr Grier, Barrister, represented Cleveland Police and stated that since the review of the Licence in May 2007 the Police had continuing concerns and that there had been two successful test purchases when staff at the premise had sold alcohol to persons under age. There had also been breaches of the conditions which were agreed at the last review hearing.

In the Polices view Members should give consideration to revoking the licence or removing the Designated Premises Supervisor (DPS).

Mr Grier called evidence from PC Iceton who stated that Mr Ferguson as the DPS had been sent a warning letter by the Police advising him of the under age sales and his responsibilities as manager of the premise and DPS. The test purchases were undertaken in November 2007 and February 2008 when persons under age were served by two different bar staff.

The premises were visited in March 2008 and it was apparent that conditions attached to the licence were not been complied with, in particular the Police had the following concerns:-

- No drugs policy was available on the premise
- The register of door staff was not been completed in a satisfactory manner
- Door staff should be provided on Friday, Saturday and Sunday evenings and there appeared to be occasions when this was not been adhered to fully
- Only one members of staff was trained to BIIA Level 2
- Training records were not been completed to an acceptable level
- Mr Ferguson, DPS, could not produce a refusals book
- The area manager from the Company had not been visiting the premise at the times and frequency as required under the conditions
- There were problems with the quality of the CCTV installed at the premise

PC Iceton stated that Mr Ferguson, DPS, had not been proactive in contacting the Police or demonstrating that he was mindful of the conditions and his obligations as DPS.

PC Iceton was cross-examined by Mr Jones, Solicitor for the premises licence holder, the respondent in this matter.

Miss Allwood on behalf of Trading Standards stated that they supported the Polices application as it was totally unacceptable to have two under age sales at the premise.

As there was no one in attendance the Members noted the representation which had been received supporting the Polices application for the Review.

Mr Jones informed Members that he represented the Premises Licence Holder, Scottish and Newcastle (Tadcaster Pub Company) Limited. Mr Jones stated the previous Premises Licence Holder was Tadcaster Pub Company but that Scottish and Newcastle had purchased all of the shares in that company and it was therefore now a wholly owned subsidiary of Scottish and Newcastle. Mr Jones stated that Scottish and Newcastle accept that there were breaches of the conditions under the previous management structure but that Scottish and Newcastle were exercising control and they would ensure the premise would now run in the correct manner.

Mr Jones respectfully suggested that PC Iceton had not dealt with her involvement in the correct manner as the vast majority of her involvement had been directed towards Mr Ferguson, the Designated Premises Supervisor, and she had failed to bring her concerns to the attention of the Premises Licence Holder until much later in the process.

Mr Jones stated that the original concerns of the Police in May 2007 were no

longer in evidence at the premise and that Mr Ferguson had got rid of the clientele that were causing problems connected to crime and disorder.

Mr Jones took Members through the conditions and provided assurances of how Scottish and Newcastle would ensure that they would be complied with. Mr Jones requested that the condition concerning the SIA door staff be varied as there was some difficulty in obtaining home address details for the SIA staff, Mr Jones submitted that the full SIA number should be sufficient.

Mr Jones did not call evidence from Mr Ferguson the Designated Premises Supervisor.

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. Members also had regard to the statutory guidance issued under Section 182 of the Licensing Act 2003 and the Council's Licensing Policy.

It was noted that the main evidence put before Members was based mainly on the two under age sales that had taken place at the premise and the breaches of the conditions attached to the Premises Licence.

Members were minded to accept the argument put forward by Mr Jones on behalf of the Premises Licence Holder that Scottish and Newcastle now had control of the premise and would ensure that it was run in the correct manner. Members therefore unanimously agreed that the revocation of the Premises Licence was not an appropriate sanction at this time. However it was quite clear to them that if significant improvements to the running of the premise did not occur then the Premises Licence would clearly be at risk should there be any review application in the future.

Members then considered whether Mr Ferguson should be removed as the DPS. Members were concerned that while Mr Ferguson was the DPS two under age sales had taken place at the premise. Mr Ferguson had been informed of the first sale and there was no evidence put before the Members to show that Mr Ferguson had taken any proactive action to prevent any further sale. The 'defence' submitted on behalf of Mr Ferguson was that the responsibility lay with the Premises Licence Holder. Although it was agreed that the Premises Licence Holder had responsibility Members could not accept the contention that no blame rested on the shoulders of Mr Ferguson. As the Designated Premises Supervisor he had responsibility for managing the premises and clearly had a responsibility to ensure that underage sales did not occur and that the conditions were not breached. The Section 182 Guidance was quite clear that the Committee could "remove the DPS Because they considered that the problems were the result of bad management". After considering all of the evidence Members unanimously concluded that there was sufficient reasonable justification to remove Mr Ferguson as Designated Premises Supervisor.

Members amended conditions '3' and '10' on Annex 3 of the Licence as detailed below. Members agreed with Mr Jones submission on condition '3' to remove the requirement for SIA registered door staff to include their home address although door staff should include their full SIA number to ensure that the Police

or responsible authorities can obtain the required personal details from the SIA. The Committee also amended condition '10' to remove the reference to Tadcaster Pub Company and replace with the Premise Licence Holder and also to make it clear that such records should be made available to all interested persons:-

3. A register of door staff is to be kept at the premises which shall include the full name (i.e. first name, middle name (if any) and surname), commencement time, finish time and full badge number of each member of door staff on duty during any trading session.

10. An area manager or representative of the Premises Licence Holder will conduct a visit to the premise to ensure compliance with conditions a minimum of once per week and a written record will be maintained at the premise of these visits detailing the name of the person visiting and the date and time. This record shall be made available to the Police, Responsible Authorities and Licensing Officers on request.

The Committee also attached the following condition:-

- Each calendar month the Premises Licence Holder or their representative shall provide written confirmation to the Police, and any other responsible authority who should request such details, that the conditions attached to the Licence have been complied with and provide details of such compliance and any other information that the Premises Licence Holder considers may be of relevance to the responsible authorities to satisfy them that the Premises is been run in the correct manner.

RESOLVED that:

1. The Designated Premises Supervisor be removed.
2. The conditions be amended and attached as detailed above.