

## Licensing Sub Committee

A meeting of Licensing Sub Committee was held on Thursday, 18th August, 2011.

**Present:** Cllr Eileen Johnson, Cllr Ray McCall and Cllr Bill Woodhead.

**Officers:** J Nertney (LD); L Maloney (DNS).

**Also in attendance:** Cleveland Police – PC Iceton (represented by Miss Smith, Barrister); Responsible Authorities/ Statutory Consultees: Environmental Health - Mrs Landles, Environmental Health Officer; Respondent: Mr Smith, Premises Licence Holder and Designated Premises Supervisor (represented by Mr Catterall of Jacksons Solicitors); Objectors: Thirteen representations had been received and eight of those were in attendance.

**Apologies:** None

### **LSC 13/11 Appointment of Chairman**

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

### **LSC 14/11 Declarations of Interest**

Councillor McCall declared a personal prejudicial interest in respect of agenda item 4 - The Astronaut, 16 West Precinct, Billingham, Stockton on Tees - Application for Review of a Premise Licence under the Licensing Act 2003 as he was the Chair of Billingham Town Council.

### **LSC 15/11 The Astronaut, 16 West Precinct, Billingham, Stockton on Tees - Application for Review of a Premise Licence under the Licensing Act 2003**

The Chair introduced all persons present and explained the procedure that would be followed.

A copy of the report and witness statements had been provided to all those persons present and to Members. Members noted that this review of a premises licence was made at the request of Cleveland Police. Representations in support of the review had also been submitted by Environmental Health who were in support of the Polices review application. Representations had also been received from thirteen residents who lived within the vicinity of the premises. Eight residents of Dawson House who had made a representation were in attendance at the meeting.

Miss Smith on behalf of Cleveland Police outlined the Police grounds for the review which included a positive underage sale at the premise and a history of crime and disorder. It was noted that when issues were raised with Mr Smith there were initial improvements but that matters would then deteriorate and the Police continued to have concerns. The Police were of the view that the licence should be revoked. Mr Smith had been on an action plan with the Police but the improvements at the premises had not been maintained.

Miss Smith called evidence from PC Iceton. PC Iceton gave a response to the document submitted by Mr Smith in response to the schedule of incidents relied on by the Police.

PC Iceton gave evidence and questions were asked by the representative of the premise licence holder and Members.

Mrs Landles informed Members that Environmental Health had been dealing with complaints of noise from the premise and from patrons leaving the premise for some time.

Mrs Landles confirmed that since Mr Smith had voluntarily agreed to close the premise at 00:00 hours there had been a marked improvement in noise and disorder and she had received far fewer complaints.

The representative of the premise licence holder and Members were given the opportunity to ask questions of Mrs Landles.

Mr and Mrs Johnson, Mrs Wilson, Mr Kirkbride, Mr Whelpton, Mr Watts, Mrs Scott and Mr Byrne, who were all residents of Dawson House were in attendance to make a submission to the Committee. It was noted that Mr Byrne had been appointed as spokesperson. Members confirmed that they had watched the video footage which had been filmed by a resident and submitted to demonstrate the noise nuisance and disorder caused by the premise.

Mr Catterall called evidence from Mr Smith. Mr Smith blamed the problem at the premises on a number of youths who had started frequenting his premise following the closure of the Billingham Arms. Mr Smith conceded that the premise had caused a number of problems to local residents and the Police and he apologised for this. Mr Smith stated that since he had voluntarily closed the premise at 00:00 hours with last orders for the supply of alcohol at 23:30 hours there had been a vast improvement.

Mr Smith accepted that he had taken on too much with the running of the premise and indicated that he intended to step down from the management role and appoint a new Designated Premises Supervisor.

Mr Smith was asked questions by the Polices representative and Members.

All parties were given an opportunity to sum up with Mr Smith's representative having the final submission.

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 evidence put before Members was mainly based on the Crime and Disorder and Public Nuisance objectives. Given the underage sale at the premise the protection of Children from Harm licensing objectives was also relevant.

Members were concerned by the fact that the premise had an under age sale but noted that this was the only positive under age sale while Mr Smith had been in charge of the premise.

It was noted that the positive under age sale had occurred with one of Mr

Smiths newer members of staff. Members were of the view that as Mr Smith was both Designated Premises Supervisor and the Premises Licence holder he could not abdicate his responsibilities by blaming his staff. The buck stopped with the premise licence holder. However Members noted that this was the first occasion that Mr Smith had appeared before the Committee. Members noted that when Mr Smith had voluntarily reduced the hours of the premise there had been a noticeable improvement in crime and disorder and public nuisance. This was corroborated by the evidence given to Members. Members therefore felt the revocation of the licence would be a step too far and perhaps too draconian in this instance. However Mr Smith as Premises Licence Holder should be in no doubt that further positive test purchases or continued crime and disorder at the premise would be highly likely to result in the revocation of the licence.

However Members noted that Mr Smiths voluntarily earlier closing of the premises had led to a noticeable improvement in incidents of crime and disorder and public nuisance. Members therefore agreed to amend the hours for the supply of alcohol to 23:00 hours with the premises been closed to members of the public at 23:30 hours.

It was noted that Mr Smith had indicated he intended to appoint a new Designated Premises Supervisor. The Committee therefore agreed to remove Mr Smith as Designated Premises Supervisor.

Members felt that suspension was appropriate in order to give the premise licence holder sufficient time to appoint a new Designated Premises Supervisor and ensure that they were trained to the appropriate standard. Members were also of the view that because of the seriousness and scale of the evidence before them a period of suspension should also be imposed by way of a deterrent. Members noted that the Act allowed for suspension for a period of up to three months. In considering all of the evidence Members deemed a period of two weeks to be a fair and proportionate period of suspension.

Members noted that the Premises Licence Holder had confirmed that he was willing to attach a number of conditions to the Licence which would assist in improving standards at the premise.

RESOLVED that:-

- Mr Smith be removed as the Designated Premises Supervisor;
- The permitted hour be reduced for the supply of alcohol to 23:00 hours with the premises been closed to members of the public at 23:30 hours;
- The premises licence be suspended for a period of two weeks; and
- The conditions as set out below be attached to the licence:-

1. A digital closed circuit Television System (CCTV) must be installed and maintained in good working order and be correctly time and date stamped. The system must incorporate sufficient built in hard drive capacity to suit the number of cameras installed, whilst complying with Data Protection legislation. CCTV will be capable of providing pictures of evidential quality in all lighting conditions, particularly facial recognition. Cameras will encompass all ingress and egress to

the premises, outside areas and all areas where the sale/supply of alcohol occurs. A minimum of 14 days recording is required. The system will record for 24 hours a day and the footage must be kept for a minimum of 31 days. The system must incorporate a means of transferring images from the hard drive to a format that can be played back on any desktop computer. The digital recorder must have the facility to be password protected to prevent unauthorised access, tampering, or deletion of images. There must be at all times a member of staff on duty who is trained in the use of the equipment and upon receipt of a request for footage from a governing body, such as Cleveland Police or any other responsible authority, be able to produce the footage within a reasonable time, e.g. 24 hours routine or less if urgently required for investigation of serious crime. In the event of technical failure of the CCTV equipment the premise licence holder/DPS must report the failure to Police on contact number 01642 302360 immediately.

2. A personal licence holder shall be on duty at all times when the premises operate for licensable activities.

3. An incident book shall be kept and maintained on the premises at all times. The book shall detailed in brief, incident of injury/ ejection/ refusals/ drug misuse/ seizure/ age challenge. Such matters shall be timed, dated and signed by the author and produced to Police and any other responsible authority including the licensing authority on request.

4. Signage will be clearly displayed prominently at all points of access, point of sale of alcohol and toilet areas in relation to Admission Policy, Age Policy, Drug Policy and Dress Policy.

5. No person under the age of 18 shall be allowed in the bottom floor bar except for children of the Premise Licence Holder/ DPS and other employed staff members (NOTE – this will replace the current condition under Annex 2 The Protection of Children from Harm)

6. The DPS and all other members of staff will ensure that no vessels are taken off the premises by customers.

7. A receptacle disposal bin will be sited to the main access/aggress door to facilitate vessel disposal.

8. A Challenge 21 policy will be implemented with all staff insisting on evidence of age from any person appearing to be under 21 years of age and who is attempting to buy alcohol or other age restricted products. There shall be sufficient public notices displayed at the premises to inform customers and remind staff that the premises is operating a Challenge 21 policy.

9. All staff will be fully trained and retrained on a 3 monthly basis in relation to the laws relating to the sale of alcohol to underage persons, persons buying on behalf of under 18's (proxy sales), persons appearing to be under the influence of alcohol and also the operation of the associated Challenge 21 policy. Staff will receive refresher training at least every 3 months.

10. Training records, signed by both the staff member and the Designated Premise Supervisor/ Manager/ Business Owner will be retained for future

reference and shall be updated at least every 3 months. All staff training records will be made available to enforcement agencies and/or Responsible Authorities upon request.

11. The business will maintain a refusals book to record all instances where the sale of age restricted products have been refused. This shall include the date and time of the attempted sale, together with a description of the incident. The Designated Premise Supervisor/ Manager/ Business Owner will check and sign each page and the refusals book shall be made available to enforcement agencies and/or Responsible Authorities upon request.

12. There shall be adequate notices displayed on the premise indicating that the sale of alcohol to those under the age of 18 is illegal and that those adults who buy alcohol for immediate disposal to those under the age of 18 are committing an offence.