

LICENSING APPLICATIONS SUB-COMMITTEE MEETING MINUTES - 15 FEBRUARY 2024

Present: Councillor Woodward (Chair); Edwards (Vice-Chair) and Page

40. EXCLUSION OF THE PRESS AND PUBLIC

Resolved -

That, pursuant to Section 100A of the Local Government Act 1972 (as amended), members of the press and public be excluded during consideration of the following item of business as it was likely that there would be disclosures of exempt information as defined in paragraphs 1, 2, 3 and 5 specified in Part 1 of Schedule 12A (as amended) to that Act.

41. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE IN RESPECT OF GUN STREET GARDEN, 5 GUN STREET, READING

The Sub-Committee considered a report on an application by Thames Valley Police, a named responsible authority under the Licensing Act 2003, to review the Premises Licence in respect of Gun Street Garden, 5 Gun Street, Reading, RG1 2JR.

The report explained that the application for review had been submitted by Thames Valley Police in order to address the failure of the premises licence holder to promote the four licensing objectives (the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm) via their insufficient measures to ensure due diligence or compliance with their licence conditions.

A copy of the review application form submitted by Thames Valley Police was attached to the report at Appendix TS-1. Appendix TS-1 contained 7 appendices marked TVP-1 to TVP-7.

The application to review the premises licence had been triggered following an incident that took place at Gun Street Garden on 2 December 2023 whereby it was alleged that a customer had been assaulted and injured by a member of the premises' security staff. The review application form also explained that Gun Street Garden had suffered a high number of disorders and incidents involving violence over the years and that Thames Valley Police and the Council had made a number of interventions via performance meetings with the premises in order to reduce that type of incident, and to attempt to prevent the premises from undermining the licensing objectives. The review application stated that the scale of incidents occurring at the premises, the actions of the premises licence holder, designated premises supervisor (DPS), staff and security team at this premises was very concerning and that steps needed to be taken to safeguard the late-night economy and the local community visiting the premises and area.

The review application stated that the incident that took place on 2 December 2023 and that had triggered the review was both predictable and preventable and that had the premises licence holder, management team staff and security team adhered to police warnings and previous interventions the incident could have been averted. The review application form

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explained that Thames Valley Police sought the immediate revocation of the premises licence as the only proportionate and necessary step available to prevent the undermining of the four licensing objectives.

During the 28-day consultation period for the application, representations had been received from the responsible authorities of Reading Borough Council's Trading Standards and Licensing teams. Copies of the representations were attached to the report at Appendix TS-2 and Appendix TS-3 respectively.

Appendix TS-2 contained four annexes, which included four confidential video clips which had been circulated to the Sub-Committee by email to view prior to the meeting. Appendix TS-3 included a copy of the current Premises Licence marked as Appendix RS-1.

The report stated that in determining the application for the review of a premises licence the Licensing Authority had a duty to carry out its functions with a view to promoting the four licensing objectives, as follows:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

The report explained that when determining an application for the review of a premises licence the Licensing Authority must have regard to the representations received, the Licensing Authority's Statement of Licensing Policy and to relevant sections of the Secretary of State's statutory Guidance issued under section 182 of Licensing Act 2003.

Furthermore, when determining an application for the review of a premises licence, the Licensing Authority could take such of the following steps that it considered appropriate and proportionate for the promotion of the licensing objectives:

1. take no further action;
2. issue formal warnings to the premises designated supervisor and/or premises licence holder;
3. modify the conditions of the licence (including, but not limited to hours of operation of licensable activities);
4. exclude a licensable activity from the scope of the licence;
5. remove the designated premises licence supervisor;
6. suspend the licence for a period not exceeding three months;
7. revoke the licence.

A Case Summary document had been prepared and submitted on behalf of the respondent premises licence holder and was included and circulated with the agenda pack. Eight documents were appended to the applicant's Case Summary.

Tabitha Shaw, Licensing and Enforcement Officer presented the report to the Sub-Committee.

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Declan Smyth, Licensing Officer and Edward Barham, Legal Advisor from Thames Valley Police, attended the meeting, both addressed the Sub-Committee on the review application and asked and responded to questions.

Ian Savill, Principal Trading Standards Officer and Robert Smalley, Licensing and Enforcement Officer from Reading Borough Council, attended the meeting, both addressed the Sub-Committee and asked and responded to questions.

The designated premises supervisor (DPS) Theodore Barber, his brother and business partner George Barber and their representative Andrew Woods, Woods Whur Solicitors, were present at the meeting. All three addressed the Sub-Committee and asked and responded to questions.

Resolved –

- (1) That, after taking into consideration the Licensing Act 2003, the Secretary of State's latest Guidance issued under section 182 of that Act, and the Council's Statement of Licensing Policy and having considered the likely effect of imposing each of the options available under the Secretary of State's Guidance upon the promotion of the four Licensing Objectives, namely:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm;

and having read and considered the written reports from Thames Valley Police, Reading Borough Council Trading Standards, Reading Borough Council Licensing, the respondent premises licence holder, and their respective appendices, including the four videoclips and having listened carefully to the representations made by the Applicant (Thames Valley Police) to the professional representations made by Reading Borough Council Trading Standards and Licensing teams, and to the representations made on behalf of the premises licence holder, the Sub-Committee decided to suspend the Premises Licence for Gun Street Garden for a period of 2 months.

- (2) That the Sub-Committee's reasons for the suspension were as follows:
- a) The Sub-Committee considered only the evidence served by the parties, or explicitly agreed by the parties in the course of the hearing, and not any of the disputed oral assertions;
 - b) The Sub-Committee reminded itself that it must look prospectively, rather than only act reactively to events that had already taken place;

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- c) The Sub-Committee found that there had been a period of time when the management of the premises had fallen below an acceptable standard during the change of designated premises supervisor (DPS) and many of the breaches dated from that period;
- d) The Sub-Committee found that Thames Valley Police should have utilised a more formal process in addressing its concerns about the problems identified at the premises;
- e) The Sub-Committee decided that the 67 pages of clear operational policy contained within the 'Gun Street Garden Operational Manual' (listed as document e to the applicant's Case Summary) submitted by the respondent would be sufficient, with the will and energy at all levels to implement it, to promote the four Licensing Objectives;
- f) The Sub-Committee decided that a period of two months would be required to train the staff of Gun Street Gardens, from management to the most junior employees, in order to implement the new Operation Manual and suspension of the licence for that period was necessary to allow this to take place;
- g) The Sub-Committee decided that the modification of conditions would not be sufficient as the licence already contained a robust set of conditions and the issue remained the likelihood of a failure to implement, or continue to implement, those conditions by the management;
- h) The Sub-Committee decided that the removal of elements of licensable activity would not affect the issues giving rise to the review and only the provision of alcohol, music and dancing were the source of issues;
- i) The Sub-Committee decided that the removal of the designated premises supervisor (DPS) would not be sufficient as the premises was a family-run business and changing the DPS would not change the structure, or the willingness to engage by the management team;
- j) The Sub-Committee decided that revocation was not required to promote the four Licensing Objectives and suspension was sufficient.

The applicant and the respondent premises licence holder were informed of their right of appeal.

(The meeting started at 9.34 am and closed at 2.11 pm)