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LICENSING & APPEALS SUB-COMMITTEE

Minutes of a Meeting held on Thursday 7 July 2016 in the Committee Room, Town Hall, Matlock at 2.30pm

PRESENT

Councillor Jean Monks - In the Chair

Councillors Tom Donnelly and Helen Froggatt

Eileen Tierney (Licensing Manager), Brett Wilson (Barrister) and Christine Laver (Democratic Services Team Leader)
Sergeant Phil Bateman (Derbyshire Constabulary)
Piers Warne (TLT Solicitors – representing Greene King)
Martin Robson (Business Development Manager - Greene King)
Mike Mannion (Operations Manager – Greene King)
Gary Smith – (Relief Manager – Steel City Pubs)
Simon Thompson (DPS Designate for Railway Hotel)
Craig Wright (Regional Manager – Steel City Pubs)

98/16 – ELECTION OF CHAIRMAN

It was moved by Councillor Tom Donnelly, seconded by Councillor Helen Froggatt and

RESOLVED

(Unanimously)

That Councillor Jean Monks be elected as Chairman of the Sub-Committee

99/16 – APPLICATION FOR EXPEDITED REVIEW OF A PREMISES LICENCE UNDER SECTION 53A OF THE LICENSING ACT 2003 – THE RAILWAY HOTEL, 7 BAKEWELL ROAD, MATLOCK DE4 3AU

The Sub-Committee considered an Application and Certificate for Summary Review of Premises Licence by a Superintendent of Derbyshire Constabulary in respect of The Railway Hotel, 7 Bakewell Road, Matlock. The application requested immediate suspension of the premises licence.

The Chairman invited the participants to introduce themselves, asked whether any party wished the Committee to consider the application in private and confirmed that the Committee was quorate.

The Licensing Manager gave an outline of the application.

The Committee and the other parties were afforded an opportunity to request clarification of the Licensing Manager's report.

The Police were invited to put their case and show their DVD evidence

The Committee had an opportunity to question Sergeant Bateman. The representative of Greene King was also afforded the opportunity to request clarification of any points.

Mr Warne then presented his case on behalf of Greene King.

The Committee had an opportunity to question the Greene King representatives.

All parties were afforded an opportunity to request clarification of any point

The Committee members confirmed that they had sufficient information to make a decision and withdrew into private session to discuss their findings.

100/16 – DECISION

The Sub-Committee resumed in public session.

It was moved by Councillor Tom Donnelly, seconded by Councillor Helen Froggat and

RESOLVED
(Unanimously)

We have considered the facts and representations made to the Sub-Committee in relation to the Railway Inn, Bakewell Road, Matlock, following an application for Summary Review of the Licence.

We are disappointed to see this matter coming before us this afternoon.

In our view there is a serious lack of accountability on the part of the licence holder, and that needs to be addressed.

However, the evidence put before us is insufficient to warrant immediate suspension of the licence. Having regard to the submissions of the licence holder and the Police we have decided to modify the conditions of the premises licence by the addition of the following:

1. The DPS shall be present at the premises between 6pm and close on Friday and Saturday nights and will actively manage the premises whilst present.
2. An incident log book shall be maintained at the premises. All incidents witnessed by staff or notified to staff shall be recorded in the log book, along with date, time, person making the entry, nature of incident and any action taken thereafter.
3. The DPS will liaise with the Police Licensing Officer (or other Officer as nominated in their absence) at least once per week at an agreed time to discuss trading and any incidents.
4. CCTV and a monitor will be installed and be operational at all times when licensable activities are taking place at the premises. As a minimum this shall cover all entrances and exits and the main bar area.

Reasons for Decision

We consider that the Police did not provide sufficient evidence in support of their assertions of historical disorder taking place at the premises to justify suspension of the licence.

The overall impression made by the evidence provided by the licence holder was that there was a lack of robust management and responsibility with made us feel that further steps are needed to promote the licensing objective of preventing crime and disorder

The premises Licence Holder may make representations against the interim steps taken by the Licensing Authority. On receipt of such representations the licensing authority must (if the representations are not withdrawn) hold a hearing within 48 hours of their receipt. When calculating the 48 hour period any non-working day can be disregarded.

Full Decision Notice is attached below.

Meeting Closed 5.00pm

LICENSING & APPEALS COMMITTEE DECISION

(Licensing Act 2003)

Record of proceedings of Derbyshire Dales District Council's Licensing & Appeals Sub-Committee held on Thursday 7 July 2016

Full name of Applicant: Derbyshire Police

Premises Address: The Railway Hotel, 7 Bakewell Road, Matlock DE4 3AU

Reason for attendance at the Sub Committee: To determine an application for an expedited review of the premises Licence

CONSTITUTION OF COMMITTEE

Councillor Jean Monks (Chair)

Councillor Tom Donnelly

Councillor Helen Froggatt

APPLICANT'S REPRESENTATIVE

Sergeant Phil Bateman

NAMES OF OTHERS PRESENT (WRITE "NONE" WHERE APPROPRIATE)

Brett Wilson - Barrister

Eileen Tierney – Licensing Manager

Christine Laver – Democratic Services Team Leader

APPLICANT'S WITNESSES

None

PREMISES REPRESENTATIVES

In person

Piers Warne (TLT Solicitors – representing Greene King)

Martin Robson (Business Development Manager - Greene King)

Mike Mannion (Operations Manager – Greene King)

Gary Smith – (Relief Manager – Steel City Pubs)

Simon Thompson (DPS Designate for Railway Hotel)

Craig Wright (Regional Manager – Steel City Pubs)

1. The meeting was conducted in public, with the agreement of all parties.

The Subcommittee withdrew into private session to consider its decision and were advised

by the Sub-Committee legal representative that only evidence that was relevant to the four licensing objectives could be taken into consideration and that it was important that any conditions attached to a licence should be to promote the licensing objectives.

2. Chairpersons note of evidence (i.e. concise details of all oral and written details put before the Committee)

The Committee considered the report of the Licensing Officer.

Sergeant Bateman showed two DVD's relating to an alleged violent incident at the premises at 6.20pm on Saturday 2 July. The first DVD showed footage obtained from the body camera of one of the constables that attended the incident whilst the other showed footage obtained from the CCTV system at the premises.

Sergeant Bateman also informed the Sub-Committee of the ongoing concern of the Police with regard to these premises and their perception that it was difficult to know who was in charge at any given time. He also noted that the local door staff supplier had refused to supply staff as the DPS (no longer there) was involved in drugs. He said that some people who frequented the pub were well known to the Police.

He noted that the Police had worked with the premises supervisors to improve the situation in the past, with some success, but recently things had deteriorated.

He contested that the suspension of the licence was necessary for the above reasons and because

- The CCTV system was not very good
- There had been a pushchair inside the pub when Police entered following the incident on 2 July
- The DVD's showed that there had been an attempt to inflict serious harm on individuals, and some of the events had taken place inside the premises
- The Police had received calls since the incident to say that potential witnesses had been intimidated

Sergeant Bateman said that the Police would provide additional evidence at the full Review Hearing but, in the meantime, felt that the only option was to suspend the licence.

In response to a question from the Sub-Committee Sergeant Bateman stated that the Police did not know who was in charge.

Mr Warne, for Greene King, said there were gaps in the information on the application for expedited review and it lacked reasons for the request given that a Review was not intended to look at an isolated incident but should consider evidence provided by the Police to back up their request.

He did not feel that the video evidence matched the statement on the application. His interpretation was that the incident had occurred outside and the aggressors had arrived shortly beforehand in a van. They attacked a customer who was outside. The staff reacted immediately by bringing the customers inside the pub, removing all glasses from the tables and locking the doors. There was no knife shown by the video evidence and customers were not injured. The Police had been called immediately. The customers were on 'lock down' when the Police arrived and were understandably agitated and keen to report their

view of events. The Police did not exercise their power to close the premises immediately.

Mr Warne conceded that there had been several changes to the DPS recently and explained this by saying that some of those appointed had proved to be unsuitable. There was currently an application in progress for Simon Thompson to be appointed DPS and he had a good record of managing these premises in the past. He said that the Police had been informed of all changes.

There was no evidence to suggest that the licensing objectives had been undermined. The premises had previously been subject to review in 2013 when the Police challenged the appointment of a DPS – the challenge had been rejected. Since then the Railway had passed a test purchase exercise and there was no evidence to support anti-social behaviour at the premises. There had been two calls to the Police 101 number to remove people from the premises and on a further occasion a passing Officer had assisted with a similar incident.

Mr Warne went on to outline Greene King's plans to invest in the premises and reposition it in the market.

Mr Warne presented suggested amendments to the conditions of the licence to the Committee.

3. Findings of the Sub-Committee on questions of fact material to the decision (i.e. the relevant facts accepted from the evidence available)

The Sub-Committee found that:

There appeared to be a serious lack of accountability on the part of the licence holder, which needed to be addressed

The evidence presented by the Police was insufficient to warrant immediate suspension of the licence.

Modifications to the conditions, as detailed in the full text of the unanimous decision, below, were necessary pending a full hearing.

4. Full text of unanimous decision

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However, the evidence put before us is insufficient to warrant immediate suspension of the licence. Having regard to the submissions of the licence holder and the Police we have

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1. The DPS shall be present at the premises between 6pm and close on Friday and Saturday nights and will actively manage the premises whilst present.
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Reasons for Decision

We consider that the Police did not provide sufficient evidence in support of their assertions of historical disorder taking place at the premises to justify suspension of the licence.

The overall impression made by the evidence provided by the licence holder was that there was a lack of robust management and responsibility which made us feel that further steps are needed to promote the licensing objective of preventing crime and disorder.

Chairman

John Monk

Date

7-7-2016

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