

Licensing Sub-Committee

Minutes - 31 March 2016

Attendance

Chair Cllr Alan Bolshaw (Lab)

Labour

Cllr Ian Claymore
Cllr Keith Inston

Conservative

Employees

Rob Edge
Paul Fantom
Sarah Hardwick

Section Leader - Licensing
Interim Democratic Support Officer
Solicitor

Item No. *Title*

1 Apologies for absence

The Sub-Committee noted that an apology for absence had been received from Elaine Moreton of the Licensing Authority.

2 Declarations of interest

There were no declarations of interest.

3 Licensing Act 2003 - Application for a Review of a Premises Licence in respect of The Talisman, Wildtree Avenue, Wolverhampton WV10 8LL

In Attendance

For the premises

Mr John Coen – Partner, Weightmans LLP – Counsel on behalf of the Premises Licence Holder

Mr Steve Nation – Premises Licence Holder

Mr Peter Thacker – Designated Premises Supervisor

Responsible Authority

PC Mitch Harvey – West Midlands Police

Ms Jo Till – Environmental Health (Commercial)

The Chair, Councillor Alan Bolshaw, introduced the parties and outlined the purpose of and the procedure to be followed at the meeting.

Rob Edge, Section Leader (Licensing) outlined the report submitted to the meeting, which had been circulated to the parties in advance. An expedited review had been held on 9 March 2016 to determine the interim steps to be applied to the premises licence pending a full review hearing. The Licensing Sub-Committee had resolved to suspend the premises licence as the interim step. Mr Edge stated that in addition to the report, the current premises licence was attached as Appendix 1, a location plan was provided as Appendix 2, Appendix 3 contained the expedited review application, and representations from the Licensing Authority and Environmental Health (Commercial) were provided in Appendices 4 and 5 respectively.

At this point, the Counsel for the Premises Licence Holder, Mr Coen, sought clarification on whether the documentation that he had submitted in accordance of the requirements of Regulation 18 of the Licensing Act 2003 (Hearings) Regulations 2005 had been received. It was confirmed that this, together with documentation provided by West Midlands Police, had been circulated to the Sub-Committee. Furthermore, petitions and other supportive documents had been submitted by the local community, although it was noted these had been received after the expiry of the representation period.

PC Harvey outlined the review application, as contained in Appendix 3 to the report. He drew attention to the police operation on 4 March 2016, instigated on the basis of

intelligence received, and at which a warrant had been executed in accordance with S23 of the Misuse of Drugs Act. Those persons present at the premises had been searched and detained, with four persons being arrested (including two members of staff from The Talisman) and one person being issued with a street caution. The Sub-Committee was reminded of the items seized during the operation. These were two cardboard boxes containing herbal cannabis, a large rock of cocaine, digital weighing scales, two sealed bags containing cocaine, one sealed bag of cannabis, and a number of discarded and empty bags that had contained these substances that were found on the floor in the bar and male toilets. PC Harvey asserted that it was believed a criminal culture had established itself at The Talisman and was unchallenged owing to the ill health of the Designated Premises Holder (DPS), Mr Peter Thacker. The police were satisfied that Mr Thacker was no longer capable of being the DPS and upholding the licensing objectives so that the premises was rendered vulnerable to criminal elements. Therefore, West Midlands Police's recommendations were that the Sub-Committee should consider the implementation of the proposed conditions to The Talisman's licence and the removal of Mr Thacker as the DPS.

Having heard the representations from the Police, questions were invited. PC Harvey responded to questions from the Sub-Committee and other parties as follows:

- With reference to Councillor Bolshaw's question on whether the incident represented an aberration or was part of a longer-term trend, PC Harvey stated that Mr Thacker had been a good influence on the pub but ill health had reduced his involvement. Moreover, other members of The Talisman's staff had been weak and had not challenged individuals and behaviour when necessary. Accordingly, a DPS with a more robust character was required.
- Further to a question from Councillor Inston on the time period over which intelligence had been amassed, PC Harvey recounted that it had been gathered over 18 months but the volume of intelligence had increased significantly over the previous seven to eight months.
- In responding to Councillor Bolshaw's question of whether the situation at The Talisman was salvageable, PC Harvey stated that it was provided there was partnership working between Punch Taverns, the staff of The Talisman and the Police. He added that several individuals had been responsible for the present situation and that as part of any conditions to be agreed, these persons should be banned from The Talisman.
- In considered Councillor Inston's enquiry as to whether the problems had been affected by an influx of problematic customers owing to the closure of other pubs and venues in the area, PC Harvey confirmed that this was not the case. He noted that several criminal gangs were operating in Wolverhampton but that in the case of The Talisman, it was a localised matter.
- Following Mr Coen's question, on whether anyone had been witnessed smoking at the premises during the Police operation on 4 March 2016, PC Harvey stated that no one had been found in the physical act of smoking.
- Having regard to Mr Coen's question on whether any persons present at The Talisman on 4 March 2016 had been found to be engaged in drug dealing activity, PC Harvey confirmed that they had not.
- Mr Coen referred to the discovery by the Police of cannabis in one of the bedrooms at the premises, the ownership of this drug being denied by Mr Thacker. He advised that the identity of a third party allegedly connected with

this matter had become known to the Police recently. PC Harvey confirmed to the Sub-Committee that whilst these details were now known via a solicitor, Mr Thacker remained on bail and the matter was still being progressed.

- Following some discussion of the conditions recommended by the Police and the necessity of changing the DPS, PC Harvey concurred with Mr Coen that these measures would assist in the process of restoring The Talisman's standing, and he emphasised the importance of engagement with the Police to ensure this.

At this juncture, Mr Coen commenced making his representations and expressed gratitude to the officers of West Midlands Police for their assistance and engagement. He reminded the Sub-Committee that during Mr Thacker's 21 year tenure as the DPS of The Talisman there had been few occasions for the Police to visit the premises, with the last being 12 years previously. Furthermore, until now there had been no issues to necessitate a review hearing. Mr Coen noted that he had reviewed Punch Tavern's records, including the previous correspondence with the Licensing Authority in relation to The Talisman, and stated that he was reassured by this.

Mr Coen referred to Mr Thacker's recent ill health, as he had been diagnosed with prostate cancer, and the impact of this on his capacity to fulfil the role of DPS. The Sub-Committee was informed that Mr Thacker had agreed to cease being DPS for The Talisman, at least for a period of time. Steps had been taken to appoint a replacement DPS but the Police had reservations concerning the background of the person initially considered. A further person had been identified and the Police were satisfied with their credentials to perform the duties of DPS at The Talisman.

The measures necessary to ensure adherence to the licensing objectives were outlined by Mr Coen. These were contained in the representations from West Midlands Police, which had been circulated to the Sub-Committee prior to the meeting. These included improvements to the CCTV system and a requirement to have at least one member of staff on duty at all times, thereby ensuring that should the Police require video footage, it could be provided efficiently. Improved signage would be installed and physical changes to the premises to improve security and prevent unauthorised persons accessing the upstairs residential area would be undertaken. Compliance with Challenge 25, the keeping of a log book and a refusals book and the appropriate training of staff would also be undertaken by Punch Taverns.

Mr Coen speculated that having regard to the finding of the discarded self-seal bags containing drugs and similar empty bags, as had been found by the Police at The Talisman, it would be possible to find such items in many other venues. He emphasised that there had been no visible drug-dealing activity at The Talisman at the time of the Police operation on 4 March 2016.

Further to the discovery of alleged contraband items and non-duty alcohol, Mr Coen asserted that Mr Thacker had brought the cigarettes and tobacco back with him from holidays in Spain. It was maintained that the 60 bottles of vodka found at the premises had been purchased from Asda and that receipts were available to verify this.

Mr Coen pointed out that there was considerable strength of community feeling, underlined by a demonstration attended by 300 people that was featured in the local media coverage. He noted that no negative representations had been received from any persons residing in proximity to The Talisman.

Having heard the representations from Mr Coen, questions were invited. Responses to questions from the Sub-Committee and other parties were as follows:

- Councillor Claymore enquired why similar measures to those proposed had not been introduced previously, with Mr Coen's response being that there had not been an awareness of the problems. The Premises Licence Holder, Mr Nation, reiterated the point that Mr Thacker had been DPS for 21 years and his recent ill health had impaired his ability to deal with undesirable persons who had sought to exploit this situation. He felt that Mr Thacker was worthy of a second chance and deserved support. Mr Nation maintained that the measures under consideration would prevent The Talisman from receiving unfavourable media attention in future.
- Councillor Inston sought clarification on which of The Talisman's employees would be leaving or staying. Mr Nation confirmed that of the six members of bar staff, one had been dismissed summarily and another person was to be dismissed.
- Councillor Bolshaw articulated some reservations concerning the replacement of Mr Thacker by another DPS. He sought the reassurance that with a new DPS to be appointed, Mr Thacker would not intervene in the daily running of The Talisman, especially given his continued occupancy of the residential accommodation at the premises. Mr Coen recounted that Mr Thacker had always protested his innocence and, with a third person having come forward in connection with the cannabis found in the residential accommodation, he expected Mr Thacker to be exonerated. As the Police had not expressed concerns about the person now proposed as DPS, and who had experience in managing several other premises successfully, Mr Coen was confident that The Talisman would operate to the required standards. Mr Thacker informed the Sub-Committee that he would not interfere in any way with the management of The Talisman and he believed that the community would be behind the new DPS. Mr Nation highlighted the possibility that Mr Thacker might retire from his role but his health prognosis suggested that he would return to fitness and be able to resume the role of DPS at some future time.
- Mr Nation pointed out that there were five persons who would be banned from The Talisman. This would include the front and rear of the premises, with the new CCTV system serving as a deterrent.
- Mr Coen indicated that the new CCTV system would come into operation by 11 April 2016. Training for employees would also be organised by the new DPS in conjunction with Punch Taverns. Mr Nation confirmed that there were in-house resources for training staff in the techniques necessary for challenging members of the public in such circumstances. Councillor Bolshaw asked whether there was an assessment aspect to this training, so that there could be some assurance that the employees had been sufficiently prepared by this training. Mr Nation remarked that this was not the case, and Councillor Bolshaw suggested that its incorporation should be considered by Punch Taverns. Further to a request from Mr Edge, Mr Nation agreed to forward a

copy of the training package to the Licensing Authority in order for it to be placed on The Talisman's file.

- Mr Edge also requested that with respect to the signage to be erected at The Talisman, the proposed wording should be agreed with the Police and forwarded to the Licensing Authority. He sought confirmation of whether any of the proposed alterations to the structure of the premises would affect the plans and Mr Nation indicated that this was not the case.
- Further to a question from Councillor Inston, Mr Nation stated that it was not deemed necessary to employ staff on the door at The Talisman. This view was shared by PC Harvey, who advised that there would be regular dialogue between the new DPS and West Midlands Police.

Jo Till, Compliance Officer – Environmental Health (Commercial), informed the Sub-Committee that she had been present during the Police operation on 4 March 2016. She reported that when she entered the premises, there was a strong odour of cannabis that was suggestive that it had been smoked recently. Miss Till confirmed that a compliance questionnaire had been completed with The Talisman's bar staff and checks carried out. However, she stated that the responses from the staff had not been satisfactory, that a refusals book had not been kept and that this should be a licence condition.

Having heard the representations from Ms Till, questions were invited. Responses to questions from the Sub-Committee and other parties were as follows:

- Further to a question from Councillor Bolshaw, Ms Till emphasised the importance of The Talisman's bar staff receiving appropriate training and updating.
- Mr Coen enquired whether any of the customers on the premises at this time were underage, with Ms Till's response being that there did not appear to be any underage persons at The Talisman.

At this juncture, all parties were afforded an opportunity to make a closing statement.

4 Exclusion of press and public

Resolved:

That, in accordance with Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business as it involved the likely disclosure of exempt information falling within paragraph 3 of Schedule 12A to the Act relating to the business affairs of particular persons.

5 Deliberations and decision

The Sub-Committee discussed the issues which had been raised during consideration of the application.

6 Re-admission of press and public

The parties returned to the meeting and were advised of the Sub-Committee's decision as follows.

7 **Announcement of decision**

The parties returned to the meeting and Sarah Hardwick, Solicitor, read out the decision of the Sub-Committee as follows:

At this hearing to review the premises licence, the Licensing Sub-Committee has listened carefully to all representations made by the persons who have spoken at this hearing, has considered all the evidence presented and found the following facts:

The Sub-Committee has heard from the West Midlands Police that:

1. Following receipt of intelligence indicating that drug-dealing activity was occurring at the premises together with organised crime, a police operation took place at the premises on 4 March 2016.
2. During the operation, drugs and equipment associated with drugs were discovered on the premises and four persons were arrested.
3. As a result, the West Midlands Police applied to the Licensing Authority for an Expedited Summary Review of the premises licence, having provided a certificate under Section 53 A (1) (B) of the Licensing Act 2003, stating that the premises were associated with serious crime. The hearing took place on 9 March 2016. Due to the serious nature of the matter, the Licensing Sub-Committee determined to suspend the premises licence with immediate effect pending the full review hearing in accordance with Section 53 of the Licensing Act 2003. This is the reason that the Licensing Sub-Committee has been convened today.
4. It is now confirmed that a criminal investigation is continuing and a criminal culture had been growing at the premises due to the ill health of Mr Peter Thacker, the current Designated Premises Supervisor (DPS).
5. It is further confirmed that Mr Thacker is no longer capable of being the DPS and should be removed.
6. That conditions have been agreed between the West Midlands Police and the premises, and the Police believe the action to be taken by the Licensing Authority should be to remove Mr Thacker as DPS and attach the agreed conditions to the licence in place of those currently on the licence relating to crime and disorder.

Elaine Moreton, Licensing Authority, is not in attendance; however, the Sub-Committee are advised that she supports the position of the police.

The Sub-Committee has heard from Jo Till, Environmental Health (Commercial), that:

1. When she attended the premises on 4 March 2016, there was a pungent odour of cannabis.
2. There were issues with licensing compliance.
3. Environmental Health are satisfied that if the conditions proposed by West Midlands Police are attached to the licence there will be no further concern.

The Sub-Committee has heard from the Premises Licence Holder and his legal representative that:

1. There have been issues at the premises. Regrettably, due to the ill health of Mr Thacker, who has successfully run the premises for 21 years, his authority at the premises has been undermined and management of the premises has been effected.
2. There has been considerable liaison with West Midlands Police. It is agreed that Mr Thacker should be removed as DPS. A replacement has been found, who is acceptable to the police.
3. The premises agree the conditions proposed by West Midlands Police and are implementing changes.

Based upon the above and having regard to the application and relevant representations made, the Sub-Committee has decided to remove Mr Thacker as DPS and to modify the conditions of the premises licence in accordance with Section 53 C (3) (a) of the Licensing Act 2003 in the following terms:

1. The conditions agreed between West Midlands Police and the premises attached hereto be added to the licence and the conditions under the heading 'Crime and Disorder' on the current licence should be removed.

In accordance with Section 53 C (2) (c) of the Licensing Act 2003, the interim steps put in place following the hearing on 9 March 2016 will cease to have effect from the coming into effect of the decision on review today. The decision following review does not take effect until the end of the period allowed for appeal or until disposal of the appeal.

The above action is considered appropriate and proportionate for the promotion of the prevention of crime and disorder licensing objectives.

An appeal may be made to the Magistrates' Court against the decision, by the applicant, the holder of the premises licence, or any other person who made a relevant representation within 21 days from the date of receipt of written notice of this decision.

**The Talisman, Wildtree Avenue, Low Hill, Wolverhampton, WV10 8LL
OPERATING SCHEDULE –
ADDITIONS/AMENDMENTS – SUPPLEMENT TO PREMISES LICENCE**

THE PREVENTION OF CRIME & DISORDER

- A CCTV system with recording equipment shall be installed and maintained at the premises.
- CCTV will cover entry and exit points of the premises and all areas where alcohol/money is served/taken and all areas to where public have access and the front and rear car parks of the premises.
- Images / recordings to be downloaded in a suitable format and provided to any member of a Responsible Authority upon request and without any undue delay.
- Images and recordings must be of evidential quality, must indicate the correct time and date and be kept for at least 30 days.
- All staff to be trained to use the CCTV system and at least one member of staff to be on duty, who is trained to download the systems images should any member of a Responsible Authority make a request.

An incident log must be maintained at the premises and a written record of any incident that occurs at the premises must be appropriately recorded. Where it is deemed appropriate, the incident must be reported to West Midlands Police. Incident log book to be produced to a member of a Responsible Authority upon request.

To ensure compliance with Challenge 25, a 'refusals book' will be utilised where any sale of alcohol is refused to persons who present themselves to be under age.

New signage indicating "drug use will not be tolerated and will be reported to the Police" will be prominently displayed around the premises.

West Midlands Police can provide the premises with names of individuals who, based on intelligence and risk, will be permanently excluded from the premises. Any breaches of this exclusion, will be reported to the Police

THE PROTECTION OF CHILDREN FROM HARM

- All staff will be trained in Challenge 25; all appropriate ID checks will be undertaken by all staff to ensure no sale of alcohol is made to underage persons.
- All staff to receive training and refresher training every 6 months on their responsibilities with regard to licensing legislation. Training to be documented and shown to member of a Responsible Authority upon request.
- Acceptable forms of ID are; photo driving licence, passport or PASS approved card.