

FAREHAM

BOROUGH COUNCIL

Minutes of the Licensing Panel

(to be confirmed at the next meeting)

Date: Tuesday, 6 September 2016

Venue: Collingwood Room - Civic Offices

PRESENT:

Councillor Trevor Cartwright, MBE (Chairman)

Councillors: Mrs S M Bayford and Mrs K Mandry



1. LICENSING ACT 2003 - APPLICATION FOR REVIEW OF PREMISES LICENCE - OASIS, 152 WEST STREET, FAREHAM, PO16 0EH

At the invitation of the Chairman, the Panel was joined by the following persons:-

Representing Oasis

Mr Ketan Pattni, Designated Premises Supervisor & Licence Holder
Mr Pankaj Patel, The business Owner
Mr S Panchal, The Agent.

Representing Hampshire County Council Trading Standards

Mr Steve Lawford, Senior Trading Standards Officer

Representing Hampshire Constabulary

PC Jason Pearce, Fareham Police Licensing Unit

The Panel had before it a report by the Licensing Officer regarding the application made by Hampshire Constabulary for the review of the premises licence of Oasis, 152 West Street, Fareham PO16 0EH. A copy of the hearing procedure for the Premises Licence Review of Oasis, in accordance with the Licensing Act 2003, had been made available to all parties at the meeting.

The Panel's attention was drawn to the application for review received from Hampshire Constabulary and attached as Appendix B to the report. It was noted that a copy of the report had been circulated to Panel Members, the Applicant (Hampshire Constabulary), Trading Standards and the representatives of the premises in advance of the meeting.

The Panel considered the application in accordance with the agreed hearing procedure as follows:-

- (i) The Chairman introduced the Members of the Licensing Panel and outlined the procedure that was to be observed.
- (ii) The Head of Environmental Health presented a summary of the application, including the representations received from Trading Standards and Hampshire Constabulary and explained their relevance to the Licensing Act 2003 and the Council's Licensing Policy.

The Solicitor to the Council recommended that the review evidence should be heard at the same time as that relating to the transfer of the premises and the application to vary the Designated Premises Supervisor (DPS). It was also the solicitor's recommendation that, having heard the evidence in relation to all three matters, the Panel should determine them in turn and in the order they were received by the Licensing Authority. There was a short adjournment at 9.42am to enable the Chairman and the Solicitor to consult on this proposal and when the meeting resumed, the recommendations were adopted with the agreement of all parties.

- (iii) The Hampshire Constabulary representative commented on the representations made in the request to review the application, addressing relevant licensing objectives. The Panel sought clarification of points and asked questions throughout, adjourning for 20 minutes at 10.15am to determine whether evidence from Her Majesty's Revenue and Customs should be taken into account. On returning to the meeting it was noted that the evidence would be disregarded.
- (iv) The Oasis representatives were invited to ask the Hampshire Constabulary representative questions relating to the review application and to comment on the representations made.
- (v) The Trading Standards representative commented on the representation made in the review application, addressing the relevant licensing objectives. The Panel sought clarification of points and asked questions throughout.
- (vi) The Oasis representatives were invited to ask the Trading Standards representative questions relating to the review application and to comment on the representations made.
- (vii) The Oasis representatives commented on the review application and on the representations made addressing the relevant licensing objectives.
- (viii) The Panel asked questions of the Oasis representatives to seek clarification of points raised.
- (ix) The Trading Standards representative asked questions of the Oasis representatives.
- (x) The Hampshire Constabulary representative made a closing statement.
- (xi) The Trading Standards representative made a closing statement.
- (xii) The Oasis representatives made a closing statement.

The Licensing Panel then withdrew from the room to deliberate in private on the application. Having considered the representations made, the Panel returned to the hearing and all parties were advised that the decision of the Panel was as follows:-

RESOLVED that the premises licence be revoked.

DECISION OF THE LICENSING PANEL REGARDING THE REVIEW OF THE PREMISES LICENCE FOR OASIS, 152 WEST STREET, FAREHAM

All parties shall receive written notification of the decision and reasons.

The Panel has considered very carefully the application for review of the premises licence at Oasis. With the agreement of all the parties it was determined that the review evidence should be heard at the same time as that relating to the transfer of the premises and an application to vary the DPS. Further it was decided that having heard the evidence in relation to all three matters the Panel would determine them in turn and in the order they were received by the Licensing Authority.

The Panel has given due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of Licensing Policy. Human Rights legislation has been borne in mind whilst making the decision. It has paid due regard to all representations and evidence both written and given orally today and attached due weight accordingly in light of all the circumstances.

The review application was made by the Hampshire Constabulary and supported by Trading Standards. Representations objecting to the transfer of the licence and variation of the DPS were made by Hampshire Constabulary. The Panel determined to exclude parts of the police evidence that despite having been submitted to the Authority were not included in the papers (circulated to members and the parties) and were not supplied to the Premises Licence Holder in advance of the hearing. The Panel considered Regulation 18 of the Licensing Act 2003 (Hearings) Regulations 2005 whilst making this determination.

The Panel very carefully considered all of the options available to it in accordance with the Licensing Act on review and set out specifically at section 52.

In consideration of all the above the Panel has determined to revoke the premises licence.

REASONS

The Panel heard evidence from the Police and Trading Standards relating to the following issues:

- an absent DPS at the premises for an extended period.
- the identity of staff being unknown at the premises.
- the sale of stolen goods and storing of stolen goods at the premises.
- a general lack of co-operation with the police in attempting to investigate criminal offences.
- the inappropriate display and sale of drug paraphernalia at the premises.
- the sale of alcohol to known and identified street drinkers, contrary to an agreement / scheme adopted by the premises.
- a lack of training records and a lack of refusal recording.

In explanation and on behalf of the Premises Licence Holder the Panel heard (amongst others):

- that the business owner had taken on the business and had allowed the existing staff member to remain without undertaking checks.
- The business owner had not taken on the premises licence and had arranged for his friend to hold the premises licence and take the role of DPS.
- It was a mistake to fail to undertake these checks.
- That the premises licence holder had an extensive period of good character, trading at other premises without breaches or issues.
- That the DPS was not absent and had made regular checks (every other day) at the premises.
- That the employee in question was paid in cash and details passed to the accountant.
- That it was not unusual for two people to have precisely the same name (the date of birth and address being the same not having come to their attention) as the friend of the owner.
- That the Premises Licence Holder and the business owner do not know the missing employee or his whereabouts since the handling stolen goods allegation.
- That the missing employee may have wiped evidence from the CCTV and attempts were made to comply with police requests.

Despite this explanation the Panel did not find the premises licence holder or the business owner credible in their evidence. There were repeated contradictions with Police evidence and the Panel ultimately preferred the evidence of the Police. In any event, the management of the premises has been shambolic and who is precisely responsible at any given time is, in the opinion of the Panel, convoluted to say the least. There has been a disregard of the licensing objectives – particularly the prevention of crime and disorder and the protection of children from harm. The Panel did not go on to consider the secondary applications in light of the determination to revoke, however, would stress that had it gone on to do so it had absolutely no confidence that the transfer and variation would result in any difference at the premises. Whilst it is accepted that a particular employee is no longer at the premises it is the clear view of the Panel that the complete lack of due diligence and general compliance with the legislation would continue with exactly the same individuals in control.

The Panel believes the Police evidence that the DPS indicated he had no involvement at the premises other than setting the business up – this is borne out by his attempts to extricate himself by removing himself as DPS. Accordingly, evidence given today that regular and proper checks were made at the premises is not accepted. If it were accepted, the Panel would have no alternative but to conclude that this was an even more significant and flagrant lack of control and management.

In any event the issues of concern were raised by the Police with sufficient opportunity for steps to be taken to address matters of concern. The fact that they were not appropriately addressed shows a disregard or refusal to engage.

In light of all the facts the Licensing Authority has decided that it is both necessary and appropriate to revoke the licence. The causes of concern were

established (namely the lack of management of the premises) and revocation was considered proportionate and appropriate. Removing the DPS or other changes would not suffice. Modification of conditions would not address the issues as asserted by the Premises Licence Holder. The impact of revocation upon the Premises Licence Holder was carefully considered however the Panel has determined that the premises licence is being used to further crimes and, in accordance with the statutory guidance (including paragraphs 11.24-11.27) views this particularly seriously.

There is a right of appeal to the Magistrates' Court for all parties and formal written notification of the decision will set out that right in full. The decision has effect on the expiry of the time period for appeal – 21 days from the date of formal notification.

2. LICENSING ACT 2003 - PREMISES LICENCE APPLICATION - VARY DESIGNATED PREMISES SUPERVISOR (DPS) - OASIS, 152 WEST STREET, FAREHAM, PO16 0EH.

As advised by the Solicitor to the Council under agenda item 1, the application to vary the Designated Premises Supervisor (DPS) was heard at the same time as the evidence relating to the review of the premises licence.

(The meeting started at 9.30 am
and ended at 1.15 pm).