

Determination Notice

Application to review a Premises Licence Licensing Act 2003, Section 52

Mr Malcolm Hughes



On the 7th April 2017, Warrington Borough Council (“the Council”), being the relevant Licensing Authority, received an application for a review of the Premises Licence from Cheshire Constabulary in respect of premises known as:

The Bells
Longshaw Street
Dallam
Warrington
WA5 0DE

Premises Licence Number: WBC\LP0424

On the 8th April 2017, the Council advertised the application on the above premises and at the Council’s Office and on its website for a period of 28 consecutive days, which ended on 5th May 2017. During the 28-day representation period, the Council received representations from:

- Kim Blondon on behalf of the Licensing Authority on 3rd May 2017
- Comments were received from Cheshire Fire Authority that were not submitted as a formal representation against the application, but taken into consideration by the Licensing Sub-Committee.

On the 30th May 2017, a hearing was held to consider the application and any relevant representations. Due to the unavailability of the Premises Licence Holder or the Designated Premises Supervisor to attend the hearing, the hearing was adjourned until the 6th June 2017.

On 6th June 2017, the Premises Licence Holder and the Designated Premises Supervisor were not in attendance. Evidence was given by the Licensing Officer for the Licensing Authority that both had had notice of the hearing which had been given to them on 30th May 2017, both had indicated that they could not attend, both had understood that the Sub-Committee may determine that the hearing was to proceed in their absence.

In the circumstances, the Sub-committee, noting that the other parties were in attendance, resolved to proceed with the Review hearing in the absence of the Premises Licence Holder and Designated premises Supervisor (DPS).

The Sub-Committee determined the application with a view to promoting the four licensing objectives. In reaching its determination, the Sub-Committee had regard to the following matters:

- (1) The written and oral evidence before them;
- (2) The Licensing Authority's Statement of Licensing Policy;
- (3) The Guidance issued under section 182 of the Licensing Act 2003 by the Secretary of State for Culture, Media and Sport (the "section 182 guidance")
- (4) Human Rights considerations as set out in the First Protocol of the European Convention on Human Rights

In consideration of all the above actors, balancing the interests of the Premises Licence holder, Cheshire Constabulary, the representations of the Licensing Authority and giving considerations to the promoting of Licensing Objectives, the Sub-Committee resolved to **revoke** the licence.

Reasons

Prevention of Crime and Disorder:

The Sub-Committee heard that there was a significant history of failure of the Premises management to engage with the police, the licensing authority, environmental health or any other authority seeking to provide guidance or assistance to the Premises. The Sub-Committee heard that the Police had sought to adopt a stepped approach with the Premises suggesting improvements or management tools which could be used to support the Licensing Objectives but neither the Premises Licence Holder nor the Designated Premises Supervisor had engaged meaningfully with this process.

There were issues with:

- Drugs having been found at the premises
- Licensing hours being exceeded
- Fighting at the premises
- No proper regulation of sales of alcohol
- No refusals book
- No incidents book
- No evidence of staff training
- CCTV not operational

- No door staff and an acknowledged reluctance on the part of those managing the Premises to engage any

Promotion of public safety

The Sub-Committee heard evidence which led them to form the view that the Premises was managed with disregard to public safety, both in terms of the physical structure of the Premises and with regard to the management of the Premises. They heard evidence that

- Police had been called because of fighting both inside and outside the Premises
- The CCTV was not operational and, despite promises on the part of the management, this had not been repaired or replaced
- There were no door staff and an acknowledged reluctance on the part of those managing the Premises to engage any
- On visits by both police and Council officers the condition of the premises was poor: note was made of doors which were poorly hinged, electrical cables which were exposed, toilets which flooded, loose and broken tiling and broken windows
- The premises had scored “zero” in many areas when the local authority officer carried out a risk assessment
- Cheshire Fire Authority had found it necessary to serve a statutory Enforcement Notice requiring works to be carried out and a risk assessment to be prepared
- Fire doors were inaccessible
- Broken glass was on the floor

Members considered whether there was action which could be taken which was less draconian than revocation and considered whether the cause of the problems related to poor management decisions made by the current designated premises supervisor. However, the Sub-Committee heard that there had been at least two previous designated premises prior to the current one and concluded that the poor management was a direct reflection of poor company practice or policy.

The Sub-Committee therefore considered that the removal of the DPS would be an inadequate response to the problems. Members also considered that there had been little or no willingness to comply or engage with the relevant authorities at any level and that the Premises was trading irresponsibly.

Further, the Premises had been closed on a temporary basis in the past but, when it had re-opened, had continued to trade in the same manner. Members therefore considered that a period of temporary closure was not be a viable

solution. Further, members considered the conditions which had been proposed by the Police when seeking the Review. The Sub-Committee noted that the Police had no confidence that those managing the premises would adhere to, or implement, the conditions proposed and, in some cases, had clear and compelling evidence that they would not.

Further, as the Sub-Committee was unable to hear evidence from the Premises Licence Holder or the Designated Premises Supervisor as they were not present, the members had no assurances to the contrary which they could consider.

The Sub-Committee considered that the revocation was necessary to support the promotion of the licensing objectives of prevention of crime and disorder and public safety.

The determination does not have effect:

- (a) Until the end of the period given for appealing against the decision, or
- (b) If the decision is appealed against, until the disposal of the appeal.

Dated: 12 June 2017

Right of Appeal

There is a right of appeal against this decision to Warrington Magistrates' Court. An appeal must be commenced within 21-days beginning with the day on which you receive notification of the decision.