

Licensing Sub Committee A

Tuesday, 18 August 2020

PRESENT: Councillor J.M. Charles (Chair)

Councillors:

C.A. Davies and J.K. Howell.

Also present as observer: Councillor D.E. Williams

Present as a representative of a Responsible Authority:

D. Bizby, Dyfed Powys Police Authority Representative

E. Jones, Licensing Lead

The following Officers were in attendance:

R. Edgecombe, Legal Services Manager

A. Rees, Licensing Officer

K. Smith, Licensing Officer

E. Bryer, Democratic Services Officer

Virtual Meeting - 9.45 am - 11.10 am

1. DECLARATIONS OF PERSONAL INTEREST.

There were no declarations of personal interest.

2. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE SANTA CLARA, ST CLEARS, CARMARTHEN, CARMARTHENSHIRE, SA33 4EE

The Chair briefed all present on the procedure for the meeting and advised the Sub Committee that an application had been received from Dyfed-Powys Police for the Review of a premises licence in respect of Santa Clara, St Clears, Carmarthenshire, following a visit to the premises by Police and the Council's Licensing Officer, as well as complaints submitted, which had identified a lack of management and control at the premises

The Sub Committee noted that the following documentation was attached to the report:-

Appendix A – Background to the review and copy of the application;

Appendix B – Licensing Authority representations;

Appendix C – Other representations.

The Police Authority Representative referred to his representations, as detailed within Appendix A to the report, and advised that subsequent thereto he had spoken with the Designated Premises Supervisor and the Premises Licence holder to discuss the application. As a consequence of the discussions, Mr. Pearce had volunteered to cease to be the Designated Premises Supervisor and the additional conditions listed in Appendix A had been accepted subject to condition 18 being amended, at the request of the Police Authority to require the

Level 2 Personal Licence Holders Qualification Certificate to be obtained within a period of one month.

He also advised that following those discussions, the police were rescinding their recommendations seeking both the suspension of the premises licence for a period of three months and the removal of Mr Pearce as the Designated Premises Supervisor

All parties present were afforded the opportunity of questioning the Police Authority representative on his submission.

The Licensing Authority Representative referred to his representations, as detailed within Appendix B to the report and advised that the Licensing Authority supported the amended measures proposed by the police and considered that these measures were appropriate and proportionate.

All parties present were afforded the opportunity of questioning the Licensing Authority representative on his submission.

Mr Reynolds the licence holder in response to the representations received advised the Sub-Committee that he was not aware of what happens at the premises at all times and had not experienced any previous issues at the premises.

All parties present were afforded the opportunity of questioning Mr Reynolds the licensing holder.

Mr Richard Pearce the Designated Premises Supervisor was called on to address the Sub-Committee as a witness in support of the licence holders. Mr Pearce referred to his representations as detailed within the report.

All parties present were afforded the opportunity of questioning Mr Pearce.

The Sub Committee thereupon

UNANIMOUSLY RESOLVED to retire into private session in order to receive legal advice pursuant to Paragraph 16 of Schedule 12 to the Local Government Act.

Having regard to the relevant paragraphs of the Licensing Authority's Statement of Licensing Policy and of guidance issued by the DCMS and Home Office, it was

FURTHER RESOLVED that:

- 2.1 The additional licence conditions agreed between the Police and the Premises licence holders be added to the licence and be complied with within 3 months (save for condition 18) of the date of this decision;**
- 2.2 That condition 18 be complied within 1 month of this decision;**
- 2.3 That the DPS (Mr Pearce) should NOT be removed**

from the licence;
2.4 That the premises licence should NOT be suspended.

REASONS

In coming to its decision, the Sub-Committee made the following findings of fact;

1. On the 23rd March 2020 Licensing officers attended at the premises following a complaint of a breach of the Coronavirus Regulations and gave advice to the DPS regarding compliance.
2. On the 29th March 2020 at approximately 4pm Police Officers attended at the premises in response to a complaint from a member of the public and witnessed a breach of the Coronavirus Regulations. A warning was given to Mr Pearce the DPS.
3. At 4.40pm the same day officers returned to the premises and again witnessed a breach of the Coronavirus Regulations. A fixed Penalty Notice was issued to Mr Pearce.
4. Mr & Mrs Reynolds have no day to day involvement in the running of the premises, and were not at the premises on the above occasions.
5. Day to day management of the premises is instead undertaken by Mr Pearce the DPS.
6. Prior to the Coronavirus pandemic there was no previous history of complaints or enforcement action at the premises.
7. That the Police and Licence Holders have agreed a set of additional licence conditions aimed at improving management of the premises.
8. The Police no longer consider removal of the DPS or suspension of the premises licence to be an appropriate or proportionate course of action.

The Sub Committee has attached weight to the views of the responsible authorities particularly the Police.

The Sub Committee is extremely concerned that the premises should have breached the Coronavirus regulations in such a flagrant manner, despite having been given clear advice by licensing officers on the 23rd March. This selfish action put the lives of members of the public at risk and clearly undermined the licensing objective of preventing crime and disorder as breach of the Coronavirus Regulations was (and still is) a criminal offence.

The Sub Committee acknowledges that Mr & Mrs Reynolds are not involved in the day to day running of the premises and were not present on the occasions referred to above. However, as licence holders they are ultimately responsible for what happens at the premises and cannot simply pass that responsibility to the DPS. The incidents that occurred demonstrate a lack of proper management of the premises at the time both by Mr Pearce and Mr & Mrs Reynolds

The Sub Committee takes the view that Mr Pearce is primarily responsible for what happened in March and has doubts about his fitness to act as DPS. The Sub Committee does not accept that what happened was the result of inexperience or a lack of licensing training. The restriction brought about by the Coronavirus pandemic at that time were simple and well publicised. There was simply no excuse for Mr Pearce acting the way he did. Given that the Police application was

made in June it is disappointing that Mr Pearce has not already completed the personal licence course.

However, the Sub Committee is legally obliged to attach weight to the views of the Police and should only depart from them if there is clear evidence that the Police views are wrong. In this regard the Sub Committee is reminded that the purpose of this review is NOT to punish Mr Pearce or Mr & Mrs Reynolds for what has happened in the past. This was dealt with by the issue of the fixed Penalty Notice to Mr Pearce in March.

Rather the purpose of this review is to try and ensure the future running of the premises promotes the licensing objectives, in particular the objective of preventing crime and disorder.

Based on the evidence before it the Sub Committee is satisfied that the additional licence conditions agreed between the Police and Premises Licence holders are an appropriate and proportionate response to what has happened and will promote the licensing objective of preventing crime and disorder. The Sub Committee is also satisfied that it would NOT be appropriate or proportionate to suspend the premises licence or remove Mr Pearce as DPS.

CHAIR

DATE