

LICENSING SUB-COMMITTEE

A record of proceedings of the Licensing Sub-Committee held at Bloxham Mill, Barford Road, Bloxham, Banbury on 1 August 2007 at 10.30 am.

Membership of the Sub-Committee (all Members present) – Councillors Heath (Chairman), Gibbard and O’Sullivan.

Officers:	M Dudfield (Solicitor)	}	Advising the Sub-Committee
	J D Best (Senior Democratic Services Officer)	}	
	Mr J Parkinson (Interim Head of Urban and Rural Services)	}	Representing the Licensing Authority
	Mrs N Barnes (Senior Licensing Officer)	}	

1. DECLARATIONS OF INTEREST

There were no declarations of interest.

2. LICENSING HEARING PROCEDURE

The Hearing was undertaken in accordance with the agreed Licensing Hearing Procedure.

3. APPEAL HEARING – REVIEW OF PREMISES LICENCE – CONFESSIONS, 11 HORSEFAIR, BANBURY

Present at the Hearing:	Mr O Wright	}	Thames Valley Police –
	Inspector M Lynch	}	Responsible Authority
	Sergeant L Johnson	}	
	PC P Froggatt	}	
	Mr G Opperman	-	Counsel for the Premises Licence Holder
	Mr M T Eyles	-	Solicitor acting for the Premises Licence Holder
	Mr R Howe	-	Premises Licence Holder

The Interim Head of Urban and Rural Services reported that an application had been received from the Thames Valley Police for a review of the Premises Licence issued under the Licensing Act 2003 in respect of premises known as Confessions located at 11 Horsefair, Banbury.

The report of the Interim Head of Urban and Rural Services detailed:-

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- (1) the grounds for the review of the Premises Licence put forward by the Police as Responsible Authority as Confessions had been a problematic premise since the new Licensing Act came into force in 2005. The Police had been called to the premises to deal with a huge number of incidents relating to the crime and disorder objective and had also discovered on numerous occasions problems relating to the protection of children objective. The grounds for the review were that Confessions had been operating to the detriment of, and had been failing to uphold, the two aforementioned objectives. In addition the management of the premises had failed to manage the premises to an acceptable standard. The management had also failed in their duty to adhere to Condition 14 (i) imposed on the Premises Licence issued by the Licensing Authority relating to drink promotions as neither the Police or the Licensing Authority had authorised any of the promotions as required by that condition;
- (2) the existing Premises Licence which allowed:-
 - (a) Sale (by retail) of alcohol Sunday to Wednesday (inclusive) 11:00 to 01:00 hours (morning following), Thursday to Friday (inclusive) 11:00 to 03:00 hours (morning following) and Saturday 11:00 to 04:00 hours (morning following). Every Sunday of Each Bank Holiday Week-end from 11:00 until 03:00 the following morning. For consumption on the premises;
 - (b) Provision of Regulated Entertainment to include Recorded Music Sunday to Wednesday (inclusive) 20:00 to 01:00 hours (morning following), Thursday to Friday (inclusive) 22:00 to 03:00 hours (morning following) and Saturday 22:00 to 04:00 hours (morning following). Every Sunday of Each Bank Holiday Week-end from 20:00 until 03:00 the following morning. Every Friday from 18:45 to 21:45 party for 12 to 17 year old children. In all cases for provision indoors;
 - (c) Provision of Entertainment facilities to include Dancing Sunday to Wednesday (inclusive) 20:00 to 01:00 hours (morning following), Thursday to Friday (inclusive) 22:00 to 03:00 hours (morning following) and Saturday 22:00 to 04:00 hours (morning following). Every Sunday of Each Bank Holiday Week-end from 20:00 until 03:00 the following morning. Every Friday from 18:45 to 21:45 party for 12 to 17 year old children. In all cases for provision indoors;
 - (d) Opening Hours of the Premises are; Sunday to Wednesday (inclusive) 11:00 to 01:30 hours (morning following), Thursday to Friday (inclusive) 11:00 to 03:30 hours (morning following) and Saturday 11:00 to 04:30 hours (morning following). Every Sunday of Each Bank Holiday Week-end from 11:00 until 03:30 the following morning. Every Friday from 18:45 to 21:45 specifically for teenage parties.
- (3) that the review application had been served on the Licensing Authority on 8 June 2007 and the consultation period in respect of the Notice of Review expired on 6 July 2007 the result of which was that no representations had been received;
- (4) the supporting evidence submitted by Thames Valley Policy;

- (5) the relevant sections of the Guidance and Licensing Authority Policy which were appropriate in this case;
- (6) the options available to the Sub-Committee in the determination of the review which were:-
 - (i) to modify the conditions of the Premises Licence;
 - (ii) to exclude a licensable activity from the scope of the Premises Licence;
 - (iii) to remove the Designated Premises Supervisor from the Premises Licence;
 - (iv) to suspend the Premises Licence for a period not exceeding three months;
 - (v) to revoke the Premises Licence;
 - (vi) to impose a combination or none of the above;
- (7) that any decision made at the Hearing would not take effect until the period for an appeal had expired and then not until any appeal had been finally disposed of.

Mr O Wright outlined the Police case supported by Inspector Lynch, Sergeant Johnson and PC Froggatt. The evidence showed a disproportionate number of crime and disorder incidents for premises the size of Confessions (additional evidence was tabled at the Hearing of further incidents since the agenda for the Hearing had been circulated).

The Police had sought the review given the serious issues relating to the management of Confessions and the associated high number of violent incidents and evidence of under age drinking. Whilst there had been an overall reduction of 6% in crime in the Banbury Division violent alcohol related crime had increased by 50%. The Police accepted that there were other premises in Banbury which had crime and disorder issues but it was the inability of the Premises Licence Holder (Mr Howe) to manage Confessions properly which was the main problem. The Police had a good relationship with Mr Howe but when advice was given he lacked the ability to put the advice into practice or was choosing to ignore it. The continuing problems at Confessions were placing a consistent strain on Police resources. The unauthorised drink promotions had led to underage drinking and fights had taken place both inside and outside the premises. During a test purchasing operation a 15 year old had been able to purchase alcohol in the premises. Confessions was one of the smaller venues in the town but the number of disturbances was completely out of proportion to the number of patrons usually found in the premises which the Police suggested was due to poor management.

Mr Opperman (Counsel for Mr Howe) circulated a spreadsheet showing an analysis of the incidents which had occurred at the premises and stated that on many cases there was no evidence to indicate that anything was actually wrong. He also confirmed that Mr Howe was working extremely hard to improve security and identity checks on everyone who entered the premises had been introduced in an attempt to stop underage drinkers.

Mr Opperman went on to refer to the check lists and logs kept by staff which clearly evidenced a responsible approach to the management of the premises. Evidence of this was produced at the hearing. Mr Opperman also read, for the benefit of the Sub-

Committee, a character reference produced for Mr Howe by a serving police officer in the Thames Valley force.

Mr Howe addressed the Sub-Committee and indicated that he was aware his management of the premises needed to improve although he could not accept that he was acting in a cavalier fashion. He commented that there were other premises in the town with similar crime and disorder issues but they had not been subject to a licence review. Mr Howe confirmed that he was willing for the drinks promotions condition to be removed from the Premises Licence.

Mr Opperman, went on to refer to the possible imposition of a sanction and stressed that the review process had already cost Mr Howe a great deal of money. Mr Howe had also taken action to introduce a number of measures to improve the management of the premises in recent weeks and reiterated the offer that Mr Howe was willing to have the drinks promotion condition removed from the Premises Licence and also to close the premises one hour earlier.

The Police in their final submission were clear that there were continuing crime and disorder issues at the premises and that the improvements outlined were not working. The test purchasing operation had proved this when alcohol had been sold to a 15 year old. The other premises in the town did not have to be visited as much as Confessions. The review had been requested not because of the character of Mr Howe but because the Premises Licence conditions had been breached on numerous occasions and the cause of this was poor management.

The Sub-Committee then retired to consider the review in accordance with Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005. On the return on the Sub-Committee the decision was announced and it was

RESOLVED that the Premises Licence relating to Confessions be suspended for a period of 6 weeks and on resumption the following amended Conditions be imposed:-

- (1) Replace Condition 14 with an absolute ban on drinks promotions;
- (2) All persons entering the premises who do not appear to be 21 years of age shall be required to produce age identification before they shall be admitted to the premises.

REASONS

- (1) the Sub-Committee has limited its consideration of this review to the relevant evidence that has been produced in the review documents and the bundles that have been presented this morning. The evidence shows considerable problems associated with persons who resort to this property and these problems appear in many cases to be despite involvement of the management of the premises. The Sub-Committee would expect an operation such as this to have a proper management policy in existence but this does not appear to have been so. Indeed some of the examples of practices introduced recently are practices that are automatically included in policies elsewhere. However, even with the new practices the recent test purchase shows a failure to properly identify an under-age person by both door staff and bar staff. The Premises Licence Holder needs to

seriously consider how these premises are to be managed in the future. The Sub-Committee did consider whether the Designated Premises Supervisor should be replaced but felt that this was an insufficient sanction to the evidence presented. However, relieving the Premises Licence Holder of the legal requirements imposed on a Designated Premises Supervisor may be a suitable option for the Premises Licence Holder to consider for the future management of the premises;

- (2) the Sub-Committee felt that a measure of suspension was the only sanction that was appropriate to the circumstances presented at the Hearing. In fixing the period of suspension the Sub-Committee took into account the potential financial hardship that would be encountered by the Premises Licence Holder and balanced this against the need for an appropriate sanction; and
- (3) the changes to the conditions reflect, in the first case, the offer made by the Premises Licence Holder and, in the second, a stronger version of the practice recently adopted at the premises. The Sub-Committee did not feel that a minor amendment of the licensing hours would make any real change.

4. **END OF MEETING**

The meeting ended at 1.10 pm.