

## SELBY DISTRICT COUNCIL

LICENSING ACT 2003 RECORD OF HEARING AND DECISION TAKEN BY THE LICENSING SUB-COMMITTEE	
DATE OF HEARING:	Friday 15 February 2013
SUB-COMMITTEE MEMBERS PRESENT:	Councillor C Mackman (chair) Councillor S Ryder Councillor J Thurlow
OFFICERS PRESENT:	Palbinder Mann (Democratic Services) Rachel Howden (Enforcement Officer) Kelly Hamblin (Senior Solicitor)
DISCLOSURE OF INTEREST BY MEMBERS PRESENT:	None
PREMISES:	The Swan 1 Low Street Sherburn in Elmet Leeds LS25 6BG
PREMISES LICENCE HOLDER:	Enterprise Inns Plc The Swan 1 Low Street Sherburn in Elmet Leeds LS25 6BG
DESIGNATED PREMISES SUPERVISOR:	Mr Michael Lavin

<p>TYPE OF APPLICATION:</p>	<p>Application under section 51 of the Licensing Act 2003 for a review of premises licence LN/000003115 by North Yorkshire Police Authority.</p> <p>Grounds for review:</p> <p>North Yorkshire Police applied for a review of premises licence LN/000003115 as all of the Licensing Objectives have been undermined.</p> <p>Over recent years there has been a number of alcohol related incidents directly associated with the venue that clearly show mismanagement of the premises by the Designated Premises Supervisor (Mr Michael Lavin). The most recent serious incident involves a 17 year old customer using a glass vessel to assault another customer by way of 'glassing' causing lacerations to the face. This assault is still being investigated/progressed at the time of this submission.</p> <p>The history of incidents shows the nature of issues that the Police have had to deal with and include:-</p> <ul style="list-style-type: none"> <li>- Numerous reports of underage drinking.</li> <li>- Alcohol related anti-social behaviour of customers sat drinking outside the premises.</li> <li>- Assaults in which customers have received injuries such as broken ankle, fractured eye socket, injuries due to being head butted and lacerations to the face (due to the above mentioned 'glassing').</li> <li>- Breaches of licensing conditions</li> <li>- Large scale disturbances</li> <li>- Officers being sworn at by the Premises Licence Holder (Susan Lavin) when undertaking routine licensing visits.</li> <li>- Operating outside listed opening times.</li> <li>- Allegations of open drug use and drug dealing within the venue.</li> </ul>
<p>APPLICANT:</p>	<p>PC952 Michael Wilkinson, Police Licensing Officer, North Yorkshire Police</p>

**RESPONSIBLE AUTHORITIES:**

North Yorkshire Police:  
Police Inspector Abbot, North Yorkshire Police  
PC Wilkinson, Police Licensing Officer

Selby District Council – Licensing Authority  
Tim Grogan, Senior Enforcement Officer

Selby District Council - Environmental Health Services:  
Not in attendance

North Yorkshire County Council - Trading Standards:  
Greg Chapman (attended but not required by Enterprise Inns as details of representation accepted).

**OTHER PERSONS IN ATTENDANCE:**

For the Premises Licence Holder:  
Richard Taylor, Solicitor acting for Enterprise Inns Plc  
Fran Painter, for Enterprise Inns Plc

Interested Parties:  
Mel Hobson (attended on behalf of Sherburn Parish Council) did not return response notice but attendance not required by Enterprise Inns as details of representation accepted).

Public Gallery:  
Two

**DETAILS OF DECISION TAKEN:**

by Enterprise Inns as details of representation accepted).  
The Sub-Committee considered an application from the North Yorkshire Police for a review of the licence in respect of The Swan, Sherburn in Elmet. Representations were also received subsequently from Trading Standards, Licensing Authority and Environmental Health as responsible authorities. Four representations were received from Interest Parties, three in connection with complaints regarding the conduct of the premises from Sherburn-in-Elmet Parish Council and two residents, the fourth representation from the solicitors acting for Enterprise Inns Plc who is the freehold owner.

North Yorkshire Police originally sought the revocation of the Premises Licence, however, since the application by the Police Mr & Mrs Lavin's lease of the premises had been terminated by Enterprise Inns and the premises licence had been transferred to Enterprise Inns Plc. The premises were currently closed. Discussions between Enterprise Inns Plc, the Licensing Authority and the Police had taken place and agreed a number of additional conditions to be included in the premises Licence as an alternative to revocation. The other Responsible Authorities had also submitted additional conditions for inclusion in the Premises Licence.

The Sub-Committee heard representations from the Police Authority, Licensing Authority, and the solicitor acting for Enterprise Inns Plc.

Agreement on the conditions sought had been reached between the Police, the Licensing Authority and Enterprise Inns Plc and all the these conditions put forward were designed to deal with the areas of concern highlighted in the review application.

The Premises Licence holder made representations for the removal of existing conditions on the Premises Licence, no objections to this were raised by the Licensing Authority or the Police.

Members of the Sub-Committee and the parties present asked questions and received replies. The members of the Sub-Committee retired together with the Democratic Services Officer and Legal Adviser to consider the application for review, written submissions, verbal representations and proposals that had been made.

In reviewing the Licence, the Sub-Committee:

(i) noted the serious nature of the incident which led to the Review Application together with the schedule of incidents and the representations made concerning the schedule.

(ii) noted that Enterprise Inns Plc had acted promptly to resolve problems once they became aware and had worked with the Police and the Licensing Authority to agree suitable conditions to ensure future problems did not re-occur.

(iv) had taken into account the relevant representations submitted both in writing and at the hearing, the relevant sections of the Council's Licensing Policy, and the revised guidance issued under section 182 of the Licensing Act 2003 (as amended).

RESOLVED:

That, in view of the serious nature of the incident leading to the Review and other incidents on the premises including abusive insults, the concerns over underage customers, and noise from the premises, and evidence of mismanagement by Mr and Mrs Lavin (the previous Premises Licence Holders), the Sub-Committee resolved to:

1. Remove Mr Michael Lavin as Designated Premises Supervisor
2. Not to modify the existing conditions on the Premises Licence as they felt this required proper consideration through an application to modify the Premise Licence
3. To impose the following conditions to overcome the concerns:
  1. Michael and Sue Lavin (the previous Premises Licence Holders) shall have no supervisory or managerial control at the venue in any capacity and shall not be employed at the venue whether for reward or otherwise.
  2. Digital colour CCTV will be installed to cover the premises and will include all areas to where public have access for licensable activities and where the public can consume alcohol. For the purpose of clarity this will include all rooms, corridors and outside areas to which the public have access for licensable activities and where the public can consume alcohol.
  3. It will be maintained, working and recording at all times when the premises are open.
  4. The recordings should be of sufficient quality to be produced in Court or other such hearing.
  5. Copies of the recordings will be kept available for any Responsible Authority for 28 days.
  6. Copies of the recordings will be made available to any Responsible Authority within 48hrs of request.
  7. Copies of the recordings will display the correct time and date of the recording.

8. The only outside area where consumption of alcohol shall be allowed will be the rear garden area.
9. The rear garden area shall be bound by a permanent fence and/or wall. (Note: planning permission may be required, and any such necessary planning permission should be obtained prior to erection).
10. The only access to the rear garden area shall be through the public house only. There shall be no access from Low Street or Moor Lane.
11. Customers shall not be allowed to gather to either smoke, consume alcohol or congregate (other than by a formal queue to enter the premises) outside the front and side of the premises on Low Street or Moor Lane side of the venue.
12. SIA Door Supervisors from a Door Company that has "Approved Contractor" status (ACS as authorised and defined by the SIA) shall be provided at the venue when licensable activities are provided after 2300hrs at a ratio of one Door Supervisor per 100 customers plus one additional Door Supervisor on the following evenings:-
  - i) Friday and Saturday evenings
  - ii) Sunday and Monday on Bank Holiday weekends
  - iii) any evening before a Bank Holiday
  - iv) any evening that the venue intends to open beyond 2330hrs.
13. Standard one pint capacity, half pint capacity and "high ball tumbler" drinking glasses will be strengthened glass (tempered glassware) in design whereby in the event of breakage the glass will fragment and no sharp edges are left.
14. Customers shall not be allowed to leave the venue carrying glass vessels save to facilitate their movement from within the venue to the outside rear garden drinking area.
15. Documented staff training will be given regarding the retail sale of alcohol, the conditions attached to the Premises Licence and the opening times of the venue.
16. Such training (referred to in condition 15) will be refreshed and documented every 6 months.
17. Such training records (referred to in condition 15) should be kept for at least 3 years.

18. Such training records (referred to in condition 15) will be made available for inspection upon request by any Responsible Authority.
19. An Incident Report Register will be kept. The Incident Report Register will contain consecutively numbered pages in a bound format and include the following:-
  - i) Full details of the SIA Door Staff when deployed as per Condition 12 above. This will include names and licence numbers of the Door Staff.
  - ii) Full details of the Personal Licence Holders when deployed as per condition 26 above.
  - iii) Details of all instances where staff have refused service to customers at the venue for any reason.
  - iv) Details of any incident involving crimes, anti-social behaviour, injury and ejections at the venue and will cover the following points:-
    - a) time/date
    - b) location within the venue
    - c) names of staff members or Door Staff involved in the incident
    - d) details of any Police Officer who attends the incident (the main Officer in the case will suffice should there be a number of Officers attend)
    - e) full details of any witnesses to the incident
    - f) full details/report of the incident in question
20. The above document (referred to in Condition 19) will be kept for at least 3 years.
21. The above document (referred to in Condition 19) will be available for inspection upon request by any Responsible Authority.
22. All OFF SALES shall be made in sealed containers save for those that are intended for consumption in the rear garden drinking area.
23. There shall be a personal licence holder working at the premises from 1800hrs every day save for in exceptional circumstances which must be notified to the police immediately prior to the absence.
24. That at no time should there be any benches or furniture of any description in the area to the front and side of premises where it abuts onto Low Street or Moor Lane.
25. A challenge 21 Policy (minimum) should be adopted. The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo.

26. All refusals are to be recorded appropriate format, namely, a refusals log, which is to be made available to inspection at the request of the local authority, police and trading standards.
27. No external doors and windows to the room/s where regulated entertainment is being provided shall be open during the course of the entertainment, other than for normal access and egress.
28. Noise from amplified and non-amplified music, singing and speech arising from regulated entertainment at the premises (between the hours of 2300hrs and 0700hrs) shall not be audible inside habitable rooms of noise sensitive properties in the vicinity.
29. Prominent, clear notices shall be displayed (at all exits / in the beer garden) requesting customers and staff to respect the needs of local residents and leave the premises quietly.
30. A direct contact number for the duty manager shall be made available to residents living in the vicinity of the premises on request.
31. For 6 months from the date of re-opening an A3 sized poster with a luminous yellow background with black lettering covering the entire size of the poster stating  
"THESE PREMISES HAVE RECENTLY BEEN THE SUBJECT OF A LICENSING REVIEW. FURTHER ISSUES COULD RESULT IN THE PREMISES BEING CALLED TO REVIEW ON A SECOND OCCASION. PATRONS SHOULD BE MINDFUL OF THEIR BEHAVIOUR. TO BE DISPLAYED UNTIL DATE"  
shall be displayed within the premises.

REASON FOR DECISION:

To promote the following licensing objectives:

- The prevention of crime and disorder
- Public safety
- The prevention of public Nuisance
- The protection of children from harm

Signature of Chairman: A. Jackson

Dated: 18-2-2013