

WEST LINDSEY DISTRICT COUNCIL

MINUTES of a Meeting of the Licensing Sub-Committee held in the Trent Meeting Room at The Guildhall, Gainsborough on Monday 16 April 2012 at 2.00 pm

Present:
Councillor Jessie Milne
Councillor Irmgard Parrott
Councillor Judy Rainsforth

In Attendance :
Kim Newbould-Robinson - Legal Adviser
Licensing and Support Team Leader
Licensing Enforcement Officer
Senior Democratic Officer

Also in Attendance : **In support of the Application:**
Martin Merrigan – Applicant
Applicant's Witness (and Nominated DPS at the
Glass and Bottle Public House)

Objectors:
Sergeant John Mellor – Lincolnshire Police

1 ELECTION OF CHAIRMAN

RESOLVED that Councillor Jessie Milne be elected Chairman of the Licensing Sub-Committee for this meeting.

Councillor Jessie Milne took the Chair for the remainder of the meeting and round the table introductions were made.

2 MEMBERS' DECLARATIONS OF INTEREST

There were no declarations of interest made.

3 EXCLUSION OF PUBLIC AND PRESS

RESOLVED that under Section 100 (a)(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1,2 and 7 part 1 of schedule 12a of the Act.

**4 LICENCE HEARING RE:
APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY AN
INDIVIDUAL AS DESIGNATED PREMISES SUPERVISOR (DPS) AT
THE BOTTLE AND GLASS, NORMANBY-BY-SPITAL, LN8 2HE**

The procedure circulated with the agenda was followed and the Senior Licensing Officer presented the report and summarised the purpose of the Hearing, this being an application to vary a premises licence to specify an individual as a Designated Premises Supervisor (DPS) at the Bottle and Glass, Normanby-by-Spital, in light of objections having been raised.

Members noted the nature of the objection received from Lincolnshire Police, the licensing objectives to which it related and the options available to the Sub-Committee in determining this matter.

The Applicant, Mr Merrigan, presented his Case, and in opening provided details of the nature of both his private and business relationship with the individual, he had specified as the DPS, at the Bottle and Glass Public House. He had known the individual concerned for a considerable length of time and had never known of him having been in trouble with the Police. Mr Merrigan, indicated that he had only recently purchased the Premise and outlined the extensive renovation he had undertaken on the property and the jobs he hoped it would create, once completed. Mr Merrigan, stated that he had complete trust in the individual concerned and in light of him, having had previous experience in managing such premises, had also leased the property to him.

In concluding, Mr Merrigan again stressed the previous good character of the individual concerned, who was then afforded the opportunity to personally address the Sub-Committee, as the Applicant's Witness.

Making reference to the notice of objection, he offered explanation and context as to why he had responded in the way he had to Police questions on 7 March, together with reasoning as to how the inaccuracies had arisen and the steps he had taken to rectify the situation. A further brief mitigating statement was offered to the Sub-Committee, during which the individual concerned cited a number of personal stresses he had been under at the time. Finally he stated to the Sub-Committee that he had never been in trouble nor arrested before and gave his assurance that this was a one-off, out of character event that would not be repeated.

The Objector's representative, Sergeant John Mellor of Lincolnshire Police, was then invited to question the Applicant and his witness, after which Members were afforded the same opportunity.

In responding to the questions posed, the Applicant's Witness indicated he could not recall the exact language he'd used during the incident on 7 March. In relation to 8 April, he strongly disputed being drunk or even having had a drink that night, stating it was he who had telephoned the Police to report a disturbance. Furthermore, the Applicant's Witness definitively stated that he

respected the Police and indicated that he shared the Sub-Committee's view that the role of DPS was both an important and responsible one, hence his having made the call on 8 April, and the reason he had not been and would not drink whilst on duty.

Mr Merrigan re-iterated the previous good character of his Witness. He considered both he and his witness's working relations with Lincolnshire Police prior to this had been positive and cited a number of examples, to demonstrate such. In conclusion Mr Merrigan confirmed that such incidents were not a common occurrence at the Bottle and Glass.

At the request of the Legal Adviser, it was confirmed that the Sub-Committee had heard information in respect of two separate incidents. For clarity, it was therefore, further requested that the circumstances leading up to each, be summarised again to the Hearing, during which the following points were noted:

- The first incident, had occurred whilst the individual in question had been "off duty" and was not at or within the vicinity of the Glass and Bottle Public House. Furthermore it had not involved a patron and had been a 'domestic' matter.
- The second incident, had not directly involved the individual in question. However, the Police had been called to the Bottle and Glass and whilst in attendance had raised concerns that the nominated DPS had been drunk.

The Applicant's witness agreed with Members' views that his actions had been disrespectful and totally inappropriate on 7 March and offered an apology. Members again stressed the critical importance of there being good relationships and mutual respect between DPSs and the Police and expressed doubt that this was achievable. This was strongly disputed.

In presenting the Objector's Case in opening, Sergeant Mellor, confirmed the above summary to be accurate and thanked the Applicant and his witness for the assistance they had shown Lincolnshire Police previously and acknowledged the relationship had been a positive one, which he hoped would continue in the event of the application being granted.

However, as a result of the two incidents, the Police were of the opinion that the individual concerned was not an appropriate person to hold the role of DPS. Furthermore, he referred to the Witness Statement, submitted in support of the Objection and in particular the Officer's comments regarding 8 April 2012. He was of the view that assessing whether an individual was drunk or not was an area in which police officers had expertise. In concluding, it was stressed that it was rare for the Police to take such a step and thus stressed they did hold real concerns.

The Applicant and his Witness were then invited to question the Objector, after which Members were afforded the same opportunity.

In responding to the questions posed, it was confirmed that it had been a private party on 8 April, however the establishment had also been open to the

public. It was also confirmed that a member of the public had contacted the police on 7 March. Sergeant Mellor reinforced his earlier statement regarding the Polices' expertise and cited relevant legislation which specified the test a Police officer should apply to determine such and thus gave the Police such a power.

Sergeant Mellor also disputed that these two incidents were irrelevant to the nominated DPSs ability to undertake the role and offered reasoning for this. He again stressed that it was rare for the Police to take such a step, however, he was unable to comment on the explanation as to how or why the inaccurate information was given to Police on 7 March, offered by the Applicant's witness, as this matter was currently subject to sub-judice. Sergeant Mellor finally confirmed that the latter incident, on its own, would not have resulted in the objection being submitted and outlined the usual action the Police would have taken in this instance.

Each party confirmed they had no further questions, and the Applicant offered no amendments to the application submitted.

A closing statement was made by both parties, during which the Applicant and Witness re-iterated the comments they had previously made, whilst the Objector again stressed this was an unusual step for the Police to take but had been of enough concern for them to do so.

The Sub-Committee, the Legal Adviser and the Senior Democratic Officer then withdrew to consider the application at 2.47 pm.

They subsequently returned at 3.28 pm and at the request of the Chairman, the Legal Adviser summarised the nature of the advice she had provided the Sub-Committee, following which the decision was announced, as follows:

"The Sub-Committee have heard and read all of the evidence put before them. The Sub-Committee have noted that the offence on 7 March 2012 took place away from the premises and did not involve a customer. The Sub-Committee have also heard from the Police that the incident on 8 April 2012, in isolation, would not have resulted in a notice of objection, but would have resulted in them discussing the issue with the DPS.

The Sub-Committee have heard from the nominated DPS that he has not been in trouble with the Police previously or been arrested, something which was not disputed by the Police.

The Sub-Committee have noted the concerns of the Police, however, considering the totality of the evidence, the Sub-Committee have decided to grant the application."

The Chairman advised that all parties would be notified of the decision in writing within five working days of today's hearing and reminded those present

of the right to appeal to the magistrates' court within 21 days of receiving such notice.

The Chairman thanked everyone for attending the Hearing and made a closing remark to the Applicant and his Witness that the Sub-Committee were reliant upon the trust they had shown in them was not misplaced.

RESOLVED that the application to vary a premises licence, namely to specify an individual as a Designated Premises Supervisor (DPS) at the Bottle and Glass, Normanby-by-Spital, be granted as applied, (Appendix 1 of the report relates).

The meeting closed at 3.33pm

Chairman