

Minutes of a Summary Review meeting held in the Conference Room, Riverside, Lowestoft on **Monday, 22 August 2016 at 2.00 pm**

Members present:

Councillors P Ashdown, N Brooks and A Green
Councillor Y Cherry (Substitute and as an observer)

Officers present:

C Evans (Licensing Services Manager), I dePrez (Senior Solicitor) and N Wotton (Democratic Services Manager)

Also Present:

Mr J Corkett, Licensing Officer - Suffolk Constabulary
PCSO Santano – Suffolk Constabulary
Mr W Carr – Owner of The Carlton Public House
Mr and Mrs Willgoss – Prospective Landlord and Landlady of The Carlton Public House

Member in attendance:

Councillor M Rudd, Cabinet Member for Community Health & Safety

1 APPOINTMENT OF CHAIRMAN

Consideration was given to the appointment of Chairman for the Sub-Committee Hearing, and it was

RESOLVED

That Councillor Brooks be appointed as Chairman for this Sub-Committee Hearing.

2 APOLOGIES / SUBSTITUTES

No apology for absence was received.

3 DECLARATIONS OF INTEREST

No declarations of interest were made.

4 DECLARATIONS OF LOBBYING

No declarations of lobbying were made.

5 SUMMARY REVIEW APPLICATION HEARING – THE CARLTON, LOWESTOFT

Purpose of the Hearing

The Senior Solicitor reported that this hearing was unusual, as it was a Summary Review, which had been requested by the Police, as the Responsible Authority. This review had been requested by the Police on 28 July 2016 and the Council held an urgent Hearing within 48 hours of this application, on 29 July, to consider whether any interim steps were necessary, pending a determination of the Summary Review Application itself. At that meeting on the 29 July 2016, the Sub-Committee had decided to suspend the premises license as an interim step and the business had been closed. It was noted that the former licence holder, Mr Daniels, who was also the Designated Premises Supervisor (DPS), voluntarily gave up his license and had left the establishment.

The Sub-Committee considered the report which documented that there had already been an application to transfer the premises licence to Mr William Carr, the owner of the property. There was no named DPS at this stage but this was not an issue as the premises licence was currently suspended.

The Licensing Services Manager reported that Mr and Mrs Willgoss, who were in attendance at the meeting, were keen to become the joint Licence Holders of the premises, and Mrs Willgoss the DPS; their applications were ready to be submitted to the Licensing Authority as soon as they knew if the suspension would be lifted.

The Senior Solicitor reported that in cases where interim steps had been imposed, the licence holder had the right to make a representation seeking a reconsideration of those interim steps, and that if that occurs, a sub-committee is convened urgently, ahead of the hearing of the Summary review. In this case that had not occurred.. It was reported that the Sub-Committee had the option in determining the Summary Review application today to:

- Modify the conditions of the licence.
- Exclude a licensable activity from the scope of the licence.
- Remove the Designated Premises Supervisor (however this option was inappropriate as there was currently no-one in place to remove).
- Suspend the licence for a period not exceeding three months.
- Revoke the licence.

Depending on the decision of the Sub-Committee, the Applicant and the objectors had rights of appeal to the Magistrates' Court.

When announcing its decision, the Sub-Committee was asked to state its reasons.

Representations by Mr Corkett, Licensing Officer for Suffolk Constabulary

Mr Corkett reported that Suffolk Constabulary had requested the Summary Review due to a serious incident which took place at the premises where the victim lost the sight in one eye. The DPS did nothing to prevent the assault, did not try to help the unconscious victim whilst he was on the premises and did not report the incident to the Police. The victim's wife had reported the crime to Police and an investigation then took place. The DPS said that the incident had not been captured on the premises CCTV and this was subsequently found to be untrue. As a result of the Police investigation, the suspects were now on bail.

The Summary Review had been the most appropriate course of action at that time and the premises licence had been suspended. Mr and Mrs Willgoss had expressed an interest in running the public house and Mrs Willgoss in becoming the DPS for the premises. The Police had no objections to this, as the couple had run several pubs in the area, were actively involved in the Pubwatch Scheme, were highly experienced and used to dealing with difficult customers and situations.

Mr Corkett stated that he was satisfied that the premises licence should no longer be suspended.

Questions from the Sub-Committee

A Member queried whether Mr Carr would retain the licence or whether he would seek to transfer it to Mr and Mrs Willgoss. It was reported that the licence would be transferred to Mr and Mrs Willgoss if the suspension was lifted.

A Member asked whether there had been any objections or concerns from the Police. It was confirmed that the Police were happy with the proposed course of action.

THE MEETING WAS ADJOURNED AT 2.15PM AND RECONVENED AT 2.50PM

The Chairman explained that the Sub-Committee had considered the application for review.

Having heard from the Licensing Services Manager and considered the representations from Mr Corkett, it was concluded by the Sub-Committee that the premises licence suspension should be lifted and no further action taken.

Reasons for Decision

This is an application under Section 53A of the Licensing Act 2003 by the Police as Responsible Authority for a Summary Review of the premises licence of The Carlton Public House, 564 London Road South, Lowestoft. This application was made on the 28 July 2016. In accordance with the law this hearing is being held within 28 days of that application. Furthermore, as is also required by the law, the Council held an urgent hearing within 48 hours of the application (on 29 July) to consider whether any interim steps were necessary pending a determination of the Summary Review Application itself.

On the 29 July, a different Sub-Committee decided to suspend the premises licence as an interim step. We were advised today that the law provides in this situation for a license holder to make a representation which would require the Council to review the situation urgently and in doing so to hold a further hearing at very short notice; but no such representation has been received.

At the hearing today, the Police were represented by Mr John Corkett, accompanied by PCSO Santano. At the time of the Summary Review Application, the license was held by Mr Peter Daniels, who was also the Designated Premises Supervisor (DPS). We were advised that Mr Daniels ceased to have any involvement in the premises very shortly after the interim steps were imposed. An application to transfer the license to Mr William Carr who is therefore treated today as the effective premises license holder. There is no DPS at present.

The very severe step of suspending the licence with immediate effect, without a full hearing taking place was taken because the Sub-Committee were told on the 29 July that a serious crime had occurred on the premises resulting in a customer experiencing a life changing injury. The then licence holder / DPS appeared to take a very irresponsible attitude, failing to alert the authorities or to assist the victim and indeed very worryingly did not co-operate with the Police investigation and initially misled Police Officers about the existence of CCTV footage. (We must add here that this decision was made without hearing evidence from everybody present or giving the then license holder an opportunity to be heard, but no contrary account has been given to the Council since then.)

The Police informed us today that the previous license holder / DPS no longer had any involvement or interest in the premises. The new license holder, Mr Carr, and the proposed new DPS, Mrs Willgoss, (both attended the hearing today) are known to the Police in a very positive way, having had experience of licensed premises in the same town and supported PubWatch and similar schemes.

The Licensing Act 2003 requires us to make our decision with regard to what is appropriate in order to promote the four statutory licensing objectives, the most relevant of which here is the prevention of crime and disorder. The Police acknowledged that the problem has in effect been removed, and that these premises should hopefully have a positive future. We have therefore concluded that the interim step of suspension need not continue and that the appropriate response to the Summary Review Application is to take no action. It is obvious that this Summary Review Application was very necessary and we commend the Police for having made it promptly.

Although we do not anticipate any appeal, to the Magistrates Court, we are required to add that an appeal is legally possible and should be made by any aggrieved person to the Justices Chief Executive at Ipswich Magistrate's Court within 21 days of receiving this decision.

RESOLVED

That, having taken account of all the information and evidence presented, the application to transfer the premises licence for The Carlton to Mr William Carr, the owner of the building be approved and that the licence should no longer be suspended.

The meeting concluded at 2.57pm.

Chairman