

Licensing Sub-Committee (Hearing under the Licensing Act 2003)

Monday 23 March 2020 at 7.30pm

**Committee Room
Runnymede Civic Centre, Addlestone**

Members of the Sub-Committee

Councillors D Cotty, D Clarke and J Olorenshaw

Other Members of the Licensing Committee receive this Agenda for information only

In accordance with Standing Order 29.2 any non-member of the Sub-Committee who is considering attending the meeting should first request the permission of the Chairman.

A G E N D A

Notes:

- 1) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- 2) The meeting will take place in public save that the Sub-Committee may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in public.
- 3) Enquiries about the Agenda and background papers should be directed in the first instance to **Miss C Pinnock, Democratic Services, Law and Governance Business Centre, Runnymede Civic Centre, Station Road, Addlestone (Tel. Direct Line: 01932 425627). (Email: clare.pinnock@runnymede.gov.uk).**
- 4) In the unlikely event of an alarm sounding, members of the public should leave the building immediately, either using the staircase leading from the public gallery or following other instructions as appropriate.

LIST OF MATTERS FOR CONSIDERATION

PART I

Matters in respect of which reports have been made available for public inspection

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PART II

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b) Confidential Information

(No reports to be considered under this heading)

1. **ELECTION OF CHAIRMAN**

The Legal Representative will ask the Members present to elect a Chairman for the meeting.

2. **FIRE PRECAUTIONS**

The Chairman will read the Fire Precautions which set out the procedures to be followed in the event of fire or other emergency.

3. **MINUTES**

To confirm and sign the Minutes of the Sub-Committee meetings held on 2 and 4 March 2020, as attached at Appendices 'A' and 'B'.

Runnymede Borough Council

Licensing Sub Committee

2 March 2020 at 2pm

In accordance with Section 53A of the Licensing Act 2003, a meeting of the Licensing Sub-Committee was convened on Monday 2 March 2020 at 14:00 at the Civic Centre in Addlestone.

Present: Councillors Derek Cotty (Chairman), Dolsie Clarke and John Olorenshaw.

Robert Smith, Senior Licensing Officer

Mario Leo, Corporate Head of Law and Governance (by telephone)

Clare Pinnock, Democratic Services, taking notes of the meeting.

Robert Smith had prepared a brief report with Appendices (A-F) explaining that the Police had exercised their right, under section 53A of the Licensing Act 2003, to submit a request for a Summary Review of the premises licence held in respect of Woodham Wines and Spirits, 309 Woodham Lane, Addlestone. Surrey. KT15 3PB. (Appendix 'B')

The premises was described as a traditional off-licence, the sale of alcohol was the sole licensable activity.

Mario Leo confirmed with the Councillors that they had received all the papers and were clear of the procedure for conducting the meeting.

Mr Leo summarised the concerns expressed by the Police which had led them to issue the notice; these being set out in full at Appendix 'D', that following a Police visit to the premises in question on 26 February 2020 and on production of a search warrant under section 23 of the Misuse of Drugs Act 1971, issued to one of the Premises Licence holders who was alone at the premises at the time, a substantial quantity of Class A drugs had been found and the sum of £50,000 in cash in a safe on the premises, which had confirmed their suspicion that drug dealing was taking place at the premises. Both the drugs and cash had been seized by the Police.

The Police considered that only suspension of the premises licence as an 'interim step', pending a full review of the Licence on 23 March 2020, would prevent further drug dealing from taking place. This was their request to the Sub-Committee.

Mr Smith confirmed that the alleged crime was serious enough to warrant the licence being suspended.

Mr 'X', the joint holder of the premises licence with Mrs 'X' had been arrested. Mrs 'X' was also the designated premises supervisor. Both also held personal licences.

Mr Smith referred Members to Appendix 'C' showing the location of the premises and Members confirmed they were familiar with the location. He confirmed that the premises had CCTV which had been seized by the Police for examination. It was confirmed that the Police had acted on information received as set out in their submission.

Mr Smith confirmed that the required certificate under section 53A (1) (b) of the Licensing Act 2003 had been duly received from the Police (Appendix 'D'), and that no further representations had been received either from the Police or the Premises Licence Holder(s), who had been duly advised of their right to make representations.

Members were concerned by the proximity of the premises, located in the middle of a residential area and also that a school was relatively near by. It was commented on that having £50,000 in cash on the premises was not usual.

The Sub-Committee's attention was drawn to the Summary Review flowchart appended to the papers for the Hearing and the relevant legislative guidance (Appendices 'A', 'E' and 'F').

The Sub-Committee was asked to consider possible interim steps to promote the licensing objectives, pending a full review of the Premises Licence on 23 March 2020, it being agreed that the most relevant was the prevention of crime and disorder.

All Members of the Sub-Committee present were satisfied that on the basis of the Police report as appended to the papers the most appropriate interim measure would be to suspend the premises licence with immediate effect. The Sale of Class A drugs being contrary to the promotion of the Licensing Objective to prevent crime and disorder.

Mr Leo explained that if the Premises Licence holder(s) made representations against the Sub-Committee's decision a further hearing would need to be convened within 48 hours of any such appeal being made.

Mr Smith confirmed that he would inform the Premises Licence Holder as soon as practicably possible that day and a notice regarding a summary review of the Premises Licence would be displayed at the premises without delay.

The Meeting ended at 14:26

Runnymede Borough Council

Licensing Sub-Committee

4 March 2020 at 2.30pm

In accordance with Section 53B of the Licensing Act 2003, a meeting of the Licensing Sub-Committee was convened on Wednesday 4 March 2020 at 14:30 at the Civic Centre in Addlestone.

Present: Councillors Derek Cotty (Chairman), Dolsie Clarke and John Olorenshaw.

Robert Smith, Senior Licensing Officer

Mario Leo, Corporate Head of Law and Governance

Joan Grant, Licensing Enforcement Officer, Surrey Police

Mrs 'X' Joint Premises Licence Holder in respect of Woodham Wines and Spirits, 309 Woodham Lane, Addlestone. Surrey. KT15 3PB.

Clare Pinnock, Democratic Services, taking notes of the meeting.

Robert Smith had prepared a brief report with Appendices (A-C) explaining that the Premises Licence Holder (Mrs 'X'), had exercised her right of appeal under section 53B of the Licensing Act 2003 against the decision made at the meeting of the Sub-Committee held on 2 March 2020 in respect of the Police request for a Summary Review of the premises licence held in respect of Woodham Wines and Spirits, 309 Woodham Lane, Addlestone. Surrey. KT15 3PB.

On 2 March 2020, the Sub-Committee had agreed that the appropriate interim steps were to suspend the Premises Licence in order to promote the Licensing Objective of the prevention of crime and disorder. Mrs 'X' had been personally notified of the decision by Mr Smith and served with the Summary Review notice to be displayed at the premises until the Full Review. This was due to take place on 23 March 2020.

Mario Leo introduced all the those present to each other and sought to put Mrs 'X' at her ease. Mr Leo confirmed with the Councillors, Ms Grant and Mrs 'X' that they had received all the papers and were clear of the procedure for conducting the meeting.

Mr Leo invited Mrs 'X' to present her representations to the Sub-Committee.

Mrs 'X' apologised for the situation and explained that she did not want any of this but accepted full responsibility as the Designated Premises Supervisor. She stated clearly that drug use was not acceptable, and she had immediately put procedures in place to prevent its re-occurrence at the premises. Since Saturday 29 February 2020, Mr 'X' had been removed and dismissed from the business. Two vacancies had been advertised through an agency, but no suitably qualified candidates had been found to date.

Mrs 'X' requested that the Premises Licence be transferred from being held jointly with Mr 'X' to be held by her alone. Further, she had taken steps to sell the business as soon as practicably possible so that she would only be responsible for another premises, a Newsagents and tobacconists at 286 Woodham Lane, which she had owned since 2000.

Mrs 'X' was clear that she had no knowledge of what had been going on at Woodham Wines, and was shocked, hurt and disappointed. Mrs 'X' stated that had the Police made her aware there was a problem at an earlier stage (as indicated by their statement at Appendix 'C') she would have been in a position to help.

Mr Leo referred Mrs 'X' and the Sub-Committee to Mrs 'X' written statement at Appendix 'B' and confirmed it was accurate in all respects. The Sub-Committee took all the points made into consideration.

At the request of the Sub-Committee, Mrs 'X' clarified a number of points in her written representations including; the ignorance of herself and the other employee in respect of the alleged crime, who had since resigned for a career change, and the revised proposed opening hours of the Premises and her dispute of the amount of cash that was seized from the premises. The police stated that as far as they were aware it was £50,000 in cash, Mrs 'X' asserted it was £23,000.

Mrs 'X' confirmed that she visited the premises on a daily basis and was the only key holder for the main safe and undertook cashing up at the end of each day's business. Mrs 'X' confirmed that she had submitted financial information to the court but had not been advised of the outcome to date.

In support of her case, Mrs 'X' also submitted a 'pass test purchase' letter dated 9 October 2019. The Sub-Committee noted its contents.

Ms Grant stated that she had been present at the execution of the warrant and had gained access to the safe using a key obtained from Mr and Mrs 'X's' residence. Mrs 'X' confirmed there was one main safe from which the money had been seized and one metal box under the till in which cash could be stored temporarily.

Ms Grant read from a prepared statement (Appendix 'C') and its contents were duly noted by the Sub-Committee. Clarification was sought with regard to the amount of drugs found on the premises (each of the 34 'snap bags' contained between 0.3 and 0.5g of cocaine with between 4 and 7 'snap bags' in each matchbox). The Police were satisfied that enough drugs had been found for a charge of 'possession' but would be guided by the Crown Prosecution Service (CPS) as to whether there was 'possession with intent to supply.'

The Police considered that only suspension of the premises licence as an 'interim step', pending a full review of the Licence, would prevent further drug dealing from taking place and did not believe Mrs 'X's' absolute conviction that she was unaware of Mr 'X' activities.

The Police were awaiting the results of the forensic examination of the CCTV footage from the premises and were hoping to present the results at the full Hearing along with the outcome of the CPS findings on the case.

Mr Smith clarified that the request to transfer the premises licence to be held in Mrs X's name was subject to a separate application process to be considered in its own right and was not a matter the Sub-Committee could determine at this stage.

The meeting was adjourned at 14:55 for the Sub-Committee to consider its decision.

All Members of the Sub-Committee had due regard for the submissions made in writing and verbally by all parties at the Hearing, and considered these in the context of the relevant legislation and the section 53a certificate and their duty to promote the licensing objectives.

After deliberation, the Sub-Committee conveyed its decision to Mrs 'X' via Mr Leo that Members were satisfied that in order to maintain the prevention of crime and disorder and to reflect Mrs 'X' responsibility as the Designated Premises Supervisor, the most appropriate interim measure would be to continue with the suspension of the premises licence with immediate effect. This would prevent anyone from entering the premises.

A full Summary Review of the Premises Licence would take place on Monday 23 March 2020 at 7.30pm and papers for the meeting would be circulated within the statutory timeframe to all parties.

The Meeting ended at 15:10

4. DECLARATIONS OF INTEREST

If Members have an interest in an item please record the interest on the form circulated with this Agenda and hand it to the Legal Representative or Democratic Services Officer at the start of the meeting. A supply of the form will also be available from the Democratic Services Officer at meetings.

Members are advised to contact the Council's Legal section prior to the meeting if they wish to seek advice on a potential interest.

Members are reminded that a non pecuniary interest includes their appointment by the Council as the Council's representative to an outside body and that this should be declared. Membership of an outside body in their private capacity as a director, trustee, committee member or in another position of influence thereon should be regarded as a disclosable pecuniary interest, as should an appointment to an outside body by the Council as a trustee.

Members who have previously declared interests which are recorded in the Minutes to be considered at this meeting need not repeat the declaration when attending the meeting. Members need take no further action unless the item in which they have an interest becomes the subject of debate, in which event the Member must leave the room if the interest is a disclosable pecuniary interest or if the interest could reasonably be regarded as so significant as to prejudice the Member's judgement of the public interest.

5. PROCEDURE FOR THE CONDUCT OF BUSINESS

The Licensing Sub-Committee's rules of procedure which are set out in full in the Council's Constitution (pages 310 - 314), are summarised below:

The Chairman will introduce the panel, including the Officers present, and explain the procedure for the conduct of business, as set out below. It is at the discretion of the Sub-Committee to alter the order of business, if appropriate.

1. The Chairman will explain the procedure of the Hearing to all parties, granting permission to those parties to be present where necessary.
2. The Authorised Officer's report shall be presented.
3. The Sub-Committee will take the form of a discussion between the Members, the Applicants, Responsible Authorities, and Other Persons present who made a representation, or persons nominated to speak on their behalf, in an orderly manner.
4. Each party will be invited to state their case followed by an opportunity for the other parties present to ask questions; in the case of an application for a premises licence this will usually be the Applicant first (or their representative), followed by Responsible Authorities and Other Persons.
5. Members of the Sub-Committee may ask questions of any party or other person appearing at the hearing and all parties shall be entitled to give further information in support of their application, representations or notice, as appropriate and ask questions of other parties present and address the Sub-Committee if given permission to do so.
6. All parties present (applicant, responsible authorities etc) will be given an equal amount of time to state their case (10 minutes).

7. Each party will be invited to make a closing submission if they wish; the applicant being the last to make their submission, following other persons and the responsible authorities.
8. Where resolved to do so, the Sub-Committee will then retire to deliberate in private, after which the hearing will be resumed.
9. If Applicants and others present at the hearing choose to wait they will be notified verbally of the decision at the meeting and given a brief outline of the decision. The formal decision of the Sub-Committee will be issued in due course.
10. If an Applicant or other party to the hearing is unhappy with the decision of the Sub-Committee in relation to the licence or conditions placed upon it, on the grounds of lawfulness or bias, they have a right of appeal to the Magistrates' Court within 21 days of the date that the licence holder is notified of the decision.

6. **EXCLUSION OF PRESS AND PUBLIC**

OFFICERS' RECOMMENDATION that -

the press and public be excluded from the meeting during discussion of the following report under Section 100A(4) of the Local Government Act 1972 on the grounds that the report in question would be likely to involve disclosure of exempt information of the description specified in paragraphs 1, 3 and 7 of Part 1 of Schedule 12A of the Act.

(To resolve)

PART II

Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.

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|----|---|-------------------|
| a) | <u>Exempt Information</u> | PARAS |
| 7. | LICENSING ACT 2003 – PREMISES LICENCE SUMMARY REVIEW | 1, 3 and 7 |
| b) | <u>Confidential Information</u>
(No reports to be considered under this heading) | |