

Runnymede Borough Council

Licensing Sub-Committee

Hearing under the Licensing Act 2003

23 March 2020 at 7.30pm

Members of the Sub-Committee      Councillors Elaine Gill, Robert King and  
Present:                                      John Olorenshaw.

Mr and Mrs 'X' Joint Premises Licence Holders in respect of Woodham Wines and Spirits, 309 Woodham Lane, Addlestone. Surrey. KT15 3PB, Mr F Khan and Inspector N Pinkerton and Mr M Gibney also attended the meeting.

Apologies for absence were received from Councillors D Cotty, D Clarke and T Burton and M R Smith, Senior Licensing Officer.

582    ELECTION OF CHAIRMAN

Councillor E Gill was elected as Chairman for the meeting.

583    FIRE PRECAUTIONS

The Chairman read the fire precautions to be followed in the event of fire or other emergency.

584    MINUTES

The Minutes of the meetings of the Sub-Committee held on 2 and 4 March, as attached at Appendices 'A' and 'B' were signed as correct records.

585    DECLARATIONS OF INTEREST

Mr P Ionta, the Deputy Head of Law and Governance declared an interest on behalf of the authority in that Mr M Gibney, Counsel for the Police, had been previously instructed by the Council in a matter some years ago.

586    PROCEDURE FOR THE CONDUCT OF BUSINESS

The Procedure for the conduct of business was duly noted by those present. There being one departure from the procedure. It was explained that the Proper Officer was unable to attend the meeting, and good wishes were extended to him. Those present confirmed they had read his report which would stand as it was without him being available to either ask or answer any questions.

587    LICENSING ACT 2003 – PREMISES LICENCE SUMMARY REVIEW

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

The Police were invited to present their case first, followed by the Premises Licence Holders. Both parties agreed that 20 minutes each would be sufficient to present their cases followed by 10 minutes maximum each to sum up. There would also be ample opportunity for the panel and other parties to ask questions of each other in order to give the case due consideration.

The Sub-Committee's attention was firstly drawn to the background Information in the Proper Officer's report; stating that the premises in question was subject to a summary review, requested by Surrey Police, following the execution of a search warrant on 26 February 2020 under Section 23 of the Misuse of Drugs Act 1971. The Police had been acting on information received from members of the community. Members were advised that the narrative history provided by Surrey Police explained the circumstances of Mr 'X's arrest at the premises where a number of 'snap bags' containing approximately 13.2g of a Class A drug (cocaine) had been seized together with a sum of cash found on the premises. The drugs had an estimated street value of £1,320. The Police contended that there was intent to supply the drugs and they were not, as Mr 'X' claimed. For personal use only. Mr 'X' had been bailed pending further enquiries.

In respect of the cash seized from the premises, the exact amount, or whether it contained traces of drugs had not been established as it was still undergoing forensic examination. This was unfortunate as the Premises Licence Holders were disputing the statement made in the agenda papers by the Police at the previous hearing that approximately £50,000 had been found, as they had calculated it to be £23,000 and had provided a number of bank statements in support of their claim, which the Police refuted in their submission. For example, in Mrs 'X' statement she said that a sum of £5,500 had been put aside for the rent, but the sum appeared as an outgoing direct debit in one of the bank statements provided.

The Police considered it was significant that Mrs 'X' was the Designated Premises Supervisor and thought it inherently unlikely that in that position she was unaware of her husband's activities. They also advised that she had been present at the first raid on their other premises in September 2019 and aware that Mr 'X' had admitted then to drug use; this she disputed.

The Committee's attention was drawn to the duties and responsibilities of a Designated Premises Supervisor, as set out in the agenda papers. It was considered by the Police that she had failed to exercise those duties properly by allowing the drug use and their presence in one of their premises. Reference was made to the promotion of the licensing objectives, of relevance in this case was the prevention of crime and disorder.

The Police expressed scepticism with regard to how Mrs 'X' had been presented as distancing herself from the events, again this was disputed vigorously by Mrs 'X' and her representative, on the basis that her involvement was supposition and not evidenced in any way.

The Police submission was that the premises licence be revoked.

The panel sought clarification from the Police regarding the intelligence on which they had acted. Although the Inspector was unable to say whether the intelligence had been in respect of both premises, he confirmed that for the Police to obtain a search warrant, the Magistrate would have been satisfied by the information provided.

The Inspector confirmed when asked by the Premises Licence Holders' representative that no counting of the cash seized from the premises had taken place to preserve the evidence. Although the Police could not yet counter the claim regarding the amount of money found until it was counted, it was stated that the amount seized was consistent with serious crime.

Regarding Mrs 'X', the Police confirmed that she had not been interviewed and there was no evidence that she was involved. However, the point in question was had she, as the Designated Premises Supervisor been negligent in her duties thereto.

The Sub-Committee noted their priority was to consider the matter in the context of the Licensing Objectives and those matters set out in the legislation as reproduced in the agenda papers.

The legal representative for the Premises Licence Holders, asked each to speak in turn in support of their submissions as set out in the supplementary agenda papers.

Mr 'X' spoke first; he stood by his statement and reiterated his wife knew nothing about what he had done. Mr 'X' apologised for his actions that had led to the hearing, taking full and sole responsibility. He set out the events leading to his drug use, explaining that it was the lack of response by the Police (which they disputed) in respect of harassment by potential intruders at his home and a subsequent break in at one of their premises which had caused him extreme disquiet and stress. He felt unsupported by the Police and was shocked that people in the community would provide 'false' intelligence leading to the police raid. He asserted that his drug use was personal and that he had never supplied. He took drugs in a controlled way to get him through the day and stay awake at night, fearful of further trouble at the family home or at the premises. The Police did not believe his assertion that he was unaware possession of class A drugs was a criminal offence. He emphasised his shame at having to admit to his family what he had done but now that they knew he had, encouraged by their support, ceased all use and was receiving professional help from his GP.

Mr 'X' explained that his wife looked after the financial side of the business and that the cash found from different places (not just the safe) could all be accounted for as set out in their statements. He stated that he could not trust the Police and their inaction had caused the problems. He questioned why having stated previously that he took drugs, the Police had not arrested him. He added that if the Police were to conduct a further 'raid', they would not find anything because he was no longer taking drugs. Mr 'X' also stated that he had brought his personal licence to the Hearing with the intention of surrendering it.

Regarding the amount of drugs found at the premises, Mr 'X' was asked by the Sub-Committee why the persons who supplied him only wanted a sum far less than the

street value of the quantity found. Mr 'X' thought it was because they wanted to get rid of the drugs quickly. The Police refuted this explanation and contended that Mr 'X' knew his suppliers well and that they had been visiting his shop every week to supply him for several months. Regarding the intention to supply drugs, Mr 'X' drew a distinction between offering someone a 'taste' as a gift and supplying for money, the latter being something that he had never done.

When questioned, Mr 'X' re-iterated his version of events and that his wife was totally unaware and blameless in all respects. He also disputed the Police when they said that support had been rejected by him in respect of the two incidents referred to in the Hearing.

Mrs 'X' was then invited to address the Sub-Committee. She too confirmed that her statement was correct in all regards and went over the events as set out in the agenda papers. Mrs 'X' sought to affirm that she had been kept in ignorance of her husband's actions but also that the Police had not fully explained what was happening when the search warrant was exercised that had given rise to the Premises Licence being the subject a summary review.

Mrs 'X' confirmed, which was not disputed, that she had co-operated with the Police fully, adding that if the police had contacted her when the intelligence was first discovered she could have helped. In terms of the financial position of the businesses, Mrs 'X' stated that they had been doing well, there was no reason for drug dealing, which she condemned to be taking place. She also justified the amount of cash found at the premises which she re-asserted was approximately £23,000, and which could all be accounted for as business related.

The Sub-Committee asked whether it would be normal practice for the Police to contact the Designated Premises Supervisor, if they were in possession of intelligence about the business. The Police replied that maybe they would, but not where the parties were in the same household as it could have frustrated the purpose of the searches. The first search in September 2019 was discussed, Mrs 'X' confirmed that at that time because she was unaware of any issues, she thought it was a 'regular check' and was unconcerned.

Mrs 'X' role as the Designated Premises Supervisor was then discussed, the Police considered that she should have been aware and in control but had failed to be. Mrs 'X' stated that when the burglary had occurred, she had contacted the Police and justified the continued storage of cash at the premises and that it was a normal amount for a profitable business.

Both parties were invited to sum up their submissions. The Police's Legal representative sought to conclude that Mrs 'X' was not a fit and proper person for the purposes of the Licensing Act, by demonstrating a lack of supervision and responsibility. The points made by Mrs 'X' in respect of the cash and how it had been accounted for were rejected.

The Legal representative for the Premises Licence Holders stated that central to the case was the issue of alleged drug dealing, and that Mrs 'X' innocence was established and that to punish her for her husband's actions, about which she knew

nothing was both unfair and disproportionate. He stated that assuming guilt by association was an outdated and unacceptable approach, substantiated by the fact that she had never been arrested or interviewed, the focus being on her husband and his activities. That said, during the searches no paraphernalia to suggest drug dealing had been found and that the previous Hearings had been misled by the Police not having produced evidence of drug dealing so to suspend the licence to prevent further occurrence was unsound. Further, it was stated that the Police had produced no written evidence of the intelligence upon which they had relied. However, several members of the Community had produced, as tabled at the meeting, several references in support of Mrs 'X' to which he urged the Sub-Committee to attach due weight, in their determination of the matter.

Removal of the Premises Licence was he felt a punitive step that would directly affect Mrs 'X'. As the innocent party he asked the Sub-Committee to take into account that Mr 'X' had taken full and sole responsibility and that he had learnt his lesson through what he described as 'mitigation shock'.

Regarding options open to the Sub-Committee, it was suggested that conditions could be attached to safeguard the licensing objectives rather than revocation.

The Inspector returned with a closing statement that drug dealing was a matter for the courts and that the Sub-Committee's focus should be on Mrs 'X' position as the Designated Premises Supervisor and Licence Holder and whether she had been negligent with regard to the drugs and money, contrary to the prevention of crime and disorder.

The meeting adjourned at 21:30 and reconvened at 22:02.

The Chairman thanked all parties for waiting. She delivered the considered decision of the Sub-Committee that having due regard for all the evidence submitted by those present and taking into account the licensing objectives that the Premises Licence be revoked.

The Sub-Committee listened to submissions by each party about the interim step to continue suspension of the licence pending an appeal.

The meeting adjourned at 22:06 and reconvened at 22:14.

The Chairman confirmed that it was the decision of the Sub-Committee that the licence remain suspended, pending the disposal of the appeal, which the legal representative for the Premises Licence Holders confirmed would be lodged within 21 days of the decision notice being received. It was accepted that owing to the current Covid 19 pandemic, issue of the decision notice might be delayed.

The meeting ended at 22:15.

Chairman