

Licensing Sub-Committee

6 January 2016

Present: Councillor J O'Shea (Chair)
Councillors John Hunter and K Osborne

LSQ19/01/16 Appointment of Chair

Resolved that Councillor J O'Shea be appointed Chair for this meeting.

LSQ20/01/16 Declarations of Interest and Dispensations

There were no Declarations of Interest or Dispensations reported.

LSQ21/01/16 Review of a Premises Licence – Alnwick Castle, Saville Street, North Shields (Riverside Ward)

The Sub-Committee met to review a Premises Licence held in relation to the Alnwick Castle Public House, Saville Street, North Shields. The review had been brought by Northumbria Police because there had been sales of alcohol at the premises outside the permitted hours of trading. The application to review the licence had therefore been submitted in relation to the prevention of crime and disorder. There were no other representations.

Following introductions, the Sub-Committee's legal advisor, J Barton, set out the procedure to be followed during the course of the hearing.

The Council's Licensing Officer, D Frankland, presented details of Northumbria Police's application for a review of the licence, the terms of the licence and the options available to the Sub-Committee.

Northumbria Police were represented by Sergeant S Nicholson and Mr N Kirkpatrick, Licensing Officer. The licence holder, R Wilson, who was not present at the hearing, was represented by D Jackman, Solicitor, E Temulken, the Designated Premises Supervisor, and L Wilson, R Wilson's father.

Sergeant Nicholson stated that N Kirkpatrick had visited the Alnwick Castle on 14 October 2015 at 8.55am following receipt of community intelligence that the pub was open to the public before it was permitted to do so. N Kirkpatrick had observed two customers in the premises both of whom had been served with alcohol. One customer confirmed that he had paid for the alcohol and D Beattie confirmed that she had sold alcohol to the customers. When N Kirkpatrick had pointed out to D Beattie the permitted licensing hours as displayed in the premises, D Beattie had responded by stating that she was "just cleaning". D Beattie was a Personal Licence holder and therefore should have been aware of her responsibilities. The Sub-Committee were presented with a copy of a till receipt showing the sale of two drinks. The time on the receipt was 8:55 on 14 October 2015. A statement was also submitted from Sergeant Hall who, whilst off duty at about 10.00am on 13 October 2015, had observed the doors to the Alnwick Castle were open and two men were at the doorway but he was unable to say if anyone was drinking inside the pub. Sergeant Nicholson acknowledged that the Alnwick Castle had worked well with the Police in addressing crime and disorder, but on this occasion there had been a serious breach of the

licence in that alcohol had been sold two hours before they were permitted to serve alcohol lawfully. The Police sought the revocation of the licence but if the sub-committee felt this to be disproportionate it was invited to consider reducing the hours of trading to permit the supply of alcohol from 12.00noon rather than 11.00am.

During questioning it was stated that the licensing authority had discovered in May 2015 that the CCTV system at the premises had not been working in accordance with the conditions of the licence. The issue had been referred to N Kirkpatrick who had advised the Alnwick Castle that they had 28 days in which to resolve the issue but he had not returned to the premises to check the system after this period. Ms Jackman stated that since May 2015 a CCTV system had operated at the premises 24 hours a day. The Police had not sought evidence from the system in relation to the events of 14 October 2015.

E Temulken explained that D Beattie had been asked to clean the pub on 14 October 2015 as her husband who normally cleans the pub had been in London that day. D Beattie had explained to E Temulken that at first she had refused to serve alcohol to a regular customer but had been hassled and without thinking had served the man and then another who she thought were together. E Temulken accepted that there had been sales of alcohol on 14 October 2015 outside the permitted hours of trading. Since the incident staff had been retrained as to their responsibilities, a bolt was now used to lock the front door in the morning when the shutters were open and only herself, her husband or the cleaner would have access to the pub in the mornings. D Beattie no longer worked regular shifts at the pub and only worked as cover as and when needed.

Mrs Temulken stated that the timing on the till receipt submitted by the police was incorrect. She explained that the receipt had been printed when N Kirkpatrick had returned to the pub later on the morning of 14 October 2015. The purpose of the receipt was to show total sales and the time shown was when the receipt was printed, not when transactions had taken place. With the aid of a further receipt printed on 15 December 2015, E Temulken explained that the timings on the till receipts were not accurate but wrong by approximately two hours.

E Temulken stated that she is the Designated Premises Supervisor at the pub and she has responsibility for its day to day management. In addition to herself, three other members of staff held Personal Licences and another would soon be applying for his. Therefore there was always someone in the pub who holds a Personal Licence.

Both parties were given the opportunity to sum up their respective submissions.

The Sub-Committee withdrew from the meeting to make its decision in private. The Sub-Committee returned and the Chair announced its decision.

Resolved that the conditions attached to the Premises Licence held in relation to The Alnwick Castle be modified so that the following conditions are added:-

1. All members of staff responsible for the sale of alcohol at the Premises will undertake training in relation to their duties and responsibilities under the Licensing Act 2003 (or any replacement legislation) and will only be permitted to serve alcohol after such training has taken place and those staff members are deemed competent to carry out such sales.
2. Such training will be given by a Personal Licence Holder or a person with an accredited training qualification in relation to the Licensing Act 2003.

3. All members of staff involved in the sale of alcohol will receive refresher training every 6 months in relation to their duties and responsibilities under the Licensing Act 2003 by a Personal Licence holder or accredited trainer as described in condition 2 above.
4. The training of staff will be recorded and a training record will be kept up to date and contain details of the training undertaken by staff responsible for the sale of alcohol and the record kept at the Premises at all times. The record will be made available for immediate inspection by representatives of Northumbria Police or the Licensing Authority on request.
5. The Designated Premises Supervisor will provide written authorisation to a particular member of staff who will be responsible for the sale of alcohol at the Premises whenever the Designated Premises Supervisor is absent from the Premises. The written authorisation will be kept on the Premises and held with the training records.
6. A Personal Licence holder must be present at the Premises to supervise all sales of alcohol.

Reasons for Decision:

Having heard the oral representations, having taken into account the written representations, and having had regard to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003, North Tyneside Council's Statement of Licensing Policy and the licensing objectives which underpin the Licensing Act 2003, the Sub-Committee concluded that:-

- a) it would be disproportionate in the circumstances to revoke the Premises Licence as other steps can be taken to promote the licensing objectives that fall short of a revocation of the licence;
- b) it would be inappropriate to exclude the supply of alcohol from the licence as this would amount to a revocation of the licence;
- b) there are some concerns in relation to the management of the pub, but these concerns are not sufficiently serious to justify the removal of E Temulken as the Designated Premises Supervisor;
- c) the suspension of the licence should only ever be considered appropriate as a means of promoting one of the licensing objectives and should never be used as a means of punishing a licence holder. Punishment is something for the courts and not for the Sub-Committee to determine;
- e) modifying the conditions to the Licence by reducing the hours from 11.00am to 12.00noon would not in anyway promote the licensing objective concerned with the prevention of crime and disorder; and
- f) it is appropriate to modify the conditions of the licence by reinforcing what, to an extent has already taken place at the pub voluntarily by E Temulken, namely the training of staff, the keeping of a training record and the presence at all times of a Personal Licence holder at the pub to supervise all sales of alcohol.