

Licensing Act 2003 Sub-Committee

Thursday, 25 June 2009

Present: Councillor Pat Haughton (Chair) and Councillors Ralph Snape and John Walker

09.LAS.01 APOLOGIES FOR ABSENCE

Apologies from absence were received from Councillor Keith Iddon.

09.LAS.02 DECLARATIONS OF ANY INTERESTS

There were no declarations of interest by any of the Sub-Committee Member in the principal agenda item.

09.LAS.03 APPLICATION TO TRANSFER A PREMISES LICENCE UNDER SECTION 42 OF THE LICENSING ACT 2003 RELATING TO THE PREMISES KNOWN AS THE SWAN WITH TWO NECKS, HOLLINSHEAD STREET, CHORLEY

The Corporate Director of Neighbourhoods submitted a report on an application to transfer the premises licence for The Swan with Two Necks.

On 13 May 2009 the Council was notified that the company to which the premises licence for The Swan with Two Necks had been dissolved by Companies House on 12 May 2009 for non production of accounts. In this instance, the premises licence lapses under Section 27 of the Licensing Act 2003. The Designated Premises Supervisor was notified of the situation on the same day and advised that the premise was no longer licensed.

On 14 May 2009 an application to transfer the premises licence with respect to The Swan with Two Necks was received by the Licensing Authority.

The Police had lodged an objection to the application as they felt there were exceptional circumstances that would undermine the licensing objective 'Prevention of Crime and Disorder' as required at Section 42(6) of the Licensing Act 2003 if the transfer of the premises licence were granted.

The Sub-Committee noted that there had been one conviction in relation to the applicant for the sale of alcohol to a person under 18 years of age relating to an offence committed at the premises on 21 December 2008. On that occasion the applicant admitted the offence and accepted a caution.

The Sub-Committee also noted that there had been a pending prosecution for alleged offences of providing unlicensed activity at the premises under the Licensing Act 2003 and that the premises was subject to a closure warning notice under Section 19 of the Criminal Justice and Police Act 2001 due to the same unlicensed activity.

During cross examination the Police confirmed that The Swan with Two Necks was one of four establishments that had failed the test purchase during the same operation. The Police also confirmed that The Swan with Two Necks had passed a further test purchase.

The Sub-Committee carefully considered the applicant's representations, the verbal and written submissions by Lancashire Constabulary to this application, and the

guidance issued under Section 182 of the Licensing Act 2003 together with the Council's Statement of Licensing Policy.

The Sub-Committee were mindful that it had to achieve a balanced approach to the difficult issues it had heard throughout the hearing, and considered the Human Rights implications, specifically Article 1, Article 6 and Article 8 of the First Protocol and the proportionately principles.

The Sub-Committee were satisfied that there are no exceptional circumstances that would undermine the Crime Prevention Objective of the Licensing Act 2003. Members were also satisfied that the evidence submitted by the Police was not sufficient to demonstrate there was significant crime and disorder and the Police evidence was not robust enough to reject the application.

The Sub-Committee was mindful that the Swan with Two Necks was one of four establishments that had failed the test purchase. The outcome of the latest test purchase invoked confidence in the Sub-Committee that the Crime Prevention Objective was being satisfied.

Since the date of the application there had been no reports that the Sub-Committee was made aware of that had connected the establishment with disorderly or anti-social activity. Members were satisfied that the alleged unlicensed activity pre-dated the last six months and the outstanding prosecution and Closure Notice proceedings are contested by the applicant.

The Sub-Committee recognised that the applicant had some experience working in this establishment, particularly as she was the Designated Premises Supervisor.

Members of the Sub-Committee were also encouraged by the announcement that the Swan with Two Necks had recently received an award and that it was the only establishment in the area to employ for four door supervisors.

At the conclusion of their deliberations, the Sub-Committee **RESOLVED: -**

- (1) That after taking all due account of the representation made from the applicant, the applicant's husband and Legal representative, the Police and the Licensing Manager the Sub-Committee agreed that the application to transfer a premises licence be granted.**
- (2) The applicant should co-operate with the Police and work with them in the event that any crime and disorder occurs.**
- (3) The Sub-Committee trusts that these recommendations will encourage the applicant and give her the confidence to fulfil her role in a responsible manner. The applicant must not allow her personal integrity be influenced by other persons connected to the establishment.**

Chair