

# Notice of Decision



## of the Licensing Sub Committee

<b>Date of Hearing:</b>	2 August 2021
<b>Determination Date:</b>	2 August 2021
<b>Notice of Decision:</b>	3 August 2021
<b>Members:</b>	Cllr J Lennox (Chair) Cllr A Hutchison Cllr R Downes
<b>Legal Officer(s):</b>	Robert Brown, Principal Legal Officer
<b>Premises:</b>	Barley Mow, Lower Town Street, Bramley, Leeds, LS13 3EN
<b>Application:</b>	Summary Review: Representation Against Interim Steps
<b>Attendees:</b>	Mr P Whur (Woods Whur, for the Premises Licence Holder) Ms Kelly Shaw (Premises Licence Holder) Mr David Parker (West Yorkshire Police)

West Yorkshire Police having made an application for a summary review of the premises licence of Barley Mow, Lower Town Street, Bramley, Leeds, LS13 3EN pursuant to s.53A of the Licensing Act 2003, and members of the Council's Licensing Sub-Committee (herein referred to as "the Committee") having resolved on 22 July 2021 to take the interim step of suspending the premises licence, a representation by the licence holder against that suspension was received by the authority on 29 July 2021. A hearing via remote means was therefore convened to consider whether the interim steps remain appropriate for the promotion of the licensing objectives and whether to withdraw or modify the steps taken.

Members of the Licensing Sub-Committee had been provided in advance with a copy of the Report of the Chief Officer Elections and Regulatory. Appended to that Report were copies of the following:

- The application submitted by West Yorkshire Police ("WYP") for a summary review of the premises licence
- The certificate under s.53A(1)(b) of the Licensing Act 2003 from a senior officer of WYP that in the opinion of that officer the premises are associated with serious crime
- The Interim Steps Decision Notice
- The Licence Holder's [Solicitor's] Representation against the Interim Steps
- The premises licence
- A copy of the Home Office Summary Review Guidance

Mr Whur addressed the Committee. He said that Ms Shaw had owned some 30 licenced premises over the years. He said that this was the first time that any of her premises had been the subject of a review. That was despite the fact that a number of the premises could be described as being in challenging locations. He told the Committee that Ms Shaw had taken over The World's End pub and managed to turn it around after it had had its licence revoked and that the condition requiring it to employ door staff had now been removed. Mr Whur said that Ms Shaw had a proven track record.

Mr Whur told the Committee that Barley Mow had been closed for five years and was derelict when Ms Shaw had taken it over. She had invested a large sum of money to repair and refurbish the premises. He said that there has been a deputy manager in charge who had simply not been strong enough to deal with the challenges the premises had faced recently. Mr Whur said that as soon as she became aware of the problem Ms Shaw had flown back from her holiday. This application had not been made immediately. He said that Ms Shaw had accepted his advice to work with West Yorkshire Police to address the issues before making a representation against the interim steps. Ms Shaw was now offering a number of additional measures.

The CCTV system had been brought up to a higher standard by a company called Plantronics and now met the current requirements of West Yorkshire Police.

Mr Whur then referred to his application letter of 28 July 2021, a copy of which was included in the agenda pack at Appendix D. He said that the premises has now been closed for the last two weekends. Ms Shaw will be in direct management control. He said that he was now asking the Committee to lift the suspension but to add 12 suggested measures. These were as follows:

1. No person under the age of 18 will be allowed on the premises after 21:00 hours.
2. A suitable closed-circuit television system will be in operation at the premises.
3. A supervisors' register will be maintained at the premises.
4. A minimum of two door supervisors will operate on Fridays, Saturdays and Sundays from 20:00 hours until the premises close.
5. A daily record register will be maintained on the premises by the door staff.
6. Supervisors will be familiar with the policy concerning the admission, exclusion and safeguarding of customers.
7. An incident report register will be maintained on the premises to record any incidents of anti-social behaviour, admissions refusals and ejections from the premises.
8. The licence holder and/or designated premises supervisor will inform West Yorkshire Police of any search resulting in a seizure of drugs or offensive weapons.
9. A suitable purpose made receptacle for the safe retention of illegal substances will be provided and arrangements made for the safe disposal of its contents as agreed with West Yorkshire Police.

10. The challenge 21 age verification policy will be adopted.
11. All staff will be trained in the age verification and challenge 21 policies.
12. The premises licence holder and/or designated premises supervisor will belong to a recognised trade body or pub watch scheme where one exists.

Mr Whur told the Committee that there had been a spike of incidents. Training of staff has now taken place via Zoom. He said that the premises is a local community pub. The current deputy manager will not be there going forward and a new deputy manager will be put in place for when Ms Shaw needs downtime.

Mr Whur referred the Committee to paragraph 12.16 of the Guidance issued under section 182 of the Licensing Act 2003. This provides that the focus for interim steps should be on the immediate measures that are necessary to prevent serious crime or serious disorder occurring, rather than requiring significant cost or permanent adjustments to the premises. Mr Whur submitted that the proposed steps were appropriate in all the circumstances.

Asked by the Committee why the training had not taken place previously, Mr Whur said that it had done but that all staff have now undertaken refresher training. He also offered profuse apologies on Ms Shaw's behalf. Mr Parker of West Yorkshire Police said that there had been a number of other incidents, some of which he referred to. Ms Shaw said that the problems had been down to poor management by the deputy manager who has now gone. She added that ultimate responsibility rests with her, but she is a very strong manager.

Mr Whur said that all staff and Ms Shaw have now undertaken the training and the premises is ready to reopen with new door staff.

Mr. Parker then addressed the Committee. He said that the new closed-circuit television condition is the current standard and that is appreciated by WYP. He added that all the conditions offered positives, albeit it is for the Committee to decide whether they are appropriate to meet the licensing objectives. He also said that Ms Shaw has other premises that have not caused any problems. Mr. Parker said that he has been in communication with Mr Whur and some amendments to the proposed measures have been agreed and Mr. Parker said that he sees it as a positive that Ms Shaw is taking over the premises herself. In Mr Parker's view there were no other conditions that would enhance the situation and he believed that the offered conditions would be reasonable ones to impose. He could not think of anything else that could be imposed that would address the issues any more effectively.

Addressing the Committee again and summing up, Mr Whur reiterated the measures which were being proposed and submitted that these are appropriate; only measures which are necessary should be imposed. He submitted that it was appropriate therefore to modify the conditions and to lift the suspension.

Having started its deliberations, the Committee returned to the meeting to ask two further questions. Mr Whur and Ms Shaw were asked whether they would consider having door staff operating from an earlier time in the evening, possibly one from 18:00 hours. The Committee also asked whether the premises would agree to operating Challenge 25 rather than Challenge 21 as its age verification criteria. Having taken instructions, Mr Whur returned to the meeting and said that the issues that had caused the problems had occurred later in the evening. Ms Shaw did not think that it needed to be any earlier as she would be there as the manager herself. Mr Whur said that the staff had been trained in Challenge 21 but Ms Shaw could deal with training and adopting Challenge 25 instead. She was comfortable with that.

## Decision

The Committee reminded itself that the authority has to consider whether the interim steps are appropriate for the promotion of the licencing objectives; and then determine whether to withdraw or modify the interim steps.

Having carefully considered the contents of the senior police officer's certificate that accompanied the application, Mr Parker's representations and the representation made on behalf of Ms Shaw, the Committee resolved to lift the suspension with immediate effect and to impose the conditions offered subject to Challenge 25 rather than Challenge 21 pending the hearing of WYP's substantive application.