

FINAL



PC L Dobson
Licensing Officer
West Yorkshire Police
North East Leeds Division
Killingbeck Police Station
Foundry Lane
Seacroft
LEEDS LS14 6NN

Governance Services

4th Floor West
Civic Hall
Leeds LS1 1UR

Contact: Helen Gray
Tel: (0113) 247 4355
Fax: (0113) 395 1599
Email: helen.gray@leeds.gov.uk
Our Ref: A61/hg/Skinners Review
Your Ref:

Date 3 June 2009

“THE SKINNERS ARMS”, SCOTT HALL ROAD, LEEDS LS7 2AT - REVIEW OF A PREMISES LICENCE FOLLOWING AN APPLICATION MADE UNDER SECTION 51 OF THE LICENSING ACT 2003

On 19th May 2009 the Licensing Sub Committee met to consider a Review of the Premises Licence currently held at the premises known as “The Skinners Arms”, Scott Hall Road, Leeds LS7 2AT. The Review had been necessitated following application made by West Yorkshire Police under Section 51 of the Licensing Act 2003 having regard to two of the four licensing objectives for the City namely the prevention of crime and disorder and the prevention of public nuisance.

This letter represents the formal decision of the Sub Committee in respect of the Review.

Preliminary Procedural Issues

The Sub Committee considered preliminary matters of a purely procedural nature. No declarations of interest were made. The Sub Committee decided that the procedure for the hearing would not be varied except that they did not set a time for submissions.

The Sub Committee also considered if the public should be excluded from any parts of the hearing. The Sub Committee decided to exclude the public from that part of the hearing where Members would deliberate on submissions and evidence presented. This would allow them to have a full and frank discussion on all matters put before them and this fact outweighed the public interest in not doing so.

Prior to the hearing the Sub Committee had considered the Licensing Officers Report containing a copy of the current premises licence and the application as made by West Yorkshire Police (WYP). Supporting evidence accompanied the application which included

FINAL

several witness statements supplied by WYP officers; incident log; crime analysis of the locality; results of a residents perception survey; minutes of meetings held between West Yorkshire Police and the Premises Licence Holder; copy of the signed Action Plan agreement between the Premise Licence Holder and the Tenant/Designated Premises Supervisor; photographs of the premise; relevant letters from the Licensing Authority to the Premises Licence Holder and letters from West Yorkshire Police to the Premises Licence Holder including one dated 29 April 2009 setting out new and revised conditions for the Premises Licence Holder to consider.

The Sub Committee was also in receipt of a letter from the Premise Licence Holder (PLH) dated 15 May 2009 responding to the new and revised conditions and setting out action taken since the application for the Review had been made. This letter had been sent to West Yorkshire Police after the despatch of the agenda for the Hearing, and had been copied for the Sub Committee to take into consideration.

In Attendance

The Applicant- West Yorkshire Police

Mr T Wynn – barrister
Mrs H Day – office for the Force Solicitor
PC L Dobson – licensing officer
Mr B Patterson – licensing officer
Inspector T Reed - Neighbourhood Policing Team (Stainbeck)

Observers

PC M Warburton

Premise Licence Holder – Trust Inns Ltd

Mr T Shield – barrister
Mr I MacGowan – Operations Director
Mr B Hayes – Business Development Manager for this region

The Hearing

In considering the Review, the Committee took into account the written submissions contained within the Licensing Officers report plus the verbal submissions made at the hearing by all parties.

The Sub Committee also had regard to the provisions of the Licensing Act 2003, guidance under Section 182 of that Act and the Council's own Licensing Policy and in particular Section 13 (Enforcement and Reviews).

The Sub Committee then went onto consider the Section 11 the Guidance (Reviews) as the Sub Committee took the view the following paragraphs had bearing on the application:

11:1 – 11:9	The Review process
11:15 -11:21	Powers of a Licensing Authority on the determination of a Review
11:22 – 11:27	Reviews arising in connection with crime

At the commencement of the hearing, the Legal Adviser to the Sub Committee referred to the letter dated 15 May 2009 from the Premises Licence Holder and clarified that the Designated Premises Supervisor had been removed from the premises, and that the premises was now shut. The representative of the Premise Licence Holder confirmed this.

FINAL

Reasons for the Review request

In brief, West Yorkshire Police (WYP) presented a case based on incidents of crime and disorder within, around and associated with The Skinners Arms, particularly drugs related, which were chronologically listed within the application form. This Review application had been made following a three-month period of closure made under the Anti Social Behaviour Act 2003 (also known as “crack house” legislation.)

The Skinners Arms had previously been closed under this legislation in November 2007 due to the number of incidents relating to drug use and drug dealing at the premises, incidents of crime and disorder and a lack of control exercised by the then DPS at the premises. The premises had been due to reopen in February 2008, however at the beginning of 2008 action planning and multi-agency meetings began between WYP and relevant parties with a view to supporting the premises towards re-opening. An Action Plan containing measures and conditions to control the premises had been drawn up and agreed between the parties.

The Skinners Arms actually re-opened on 24 December 2008. However within 2 weeks of opening, WYP again had serious concerns in relation to drugs and crime and disorder at the premises and breaches of the agreed Action Plan. A number of visits were made to the premises and these, along with the incidents, were listed within the application. This resulted in the issuing of a Section 19 Closure Notice on 10 January 2009.

WYP maintained that many months and much time and effort had been spent working with the premises and the DPS with the hope that the premises would be run properly. The Action Plan was specifically drawn up to avoid the problems that had blighted the premises prior to its closure in November 2007. However WYP were now of the opinion that as soon as the DPS opened the premises in December 2008, there was a blatant disregard of the Action Plan, and given the incidents which had occurred during December 2008 and January 2009 WYP had lost confidence in the ability of the DPS and her willingness to work with the police. WYP stated their belief that it was clearly possible the premise could slip back in to being a haven for drug users and drug dealing, with all the associated incidents of crime and disorder which would be devastating for the local community.

In conclusion at the time the application was made, WYP had sought the removal of Mrs I Jerome as the DPS and the imposition of new and/or amended conditions to be attached to the Operating Schedule for the premises – similar to those proposed in the failed Action Plan.

Noting that Mrs Jerome was no longer in control of the premises, WYP maintained their application to Review the Premises Licence with a view to imposing conditions on the Licence to address the licensing objectives and redress the problems of crime and disorder and public nuisance associated with the premises, should it re-open.

In considering this evidence, the Sub Committee felt it first needed to establish if problems existed at the premises. If the premises were operating in a manner which did not undermine the Licensing Objectives, then the Sub Committee could conclude no action was required on the Review.

FINAL

Submissions and Evidence on behalf of the applicant – West Yorkshire Police

The Sub Committee heard representation from Mr T Wynn on behalf of West Yorkshire Police (WYP) who explained that when the application had first been made, Ms Jerome had been in situ at the Skinners Arms as the Designated Premises Supervisor (DPS). Her presence was of concern to WYP and had been a factor in the request for the Review. Mr Wynn confirmed that Ms Jerome was no longer at the premises. He stated he wished to make it clear that WYP felt the premises was owned by a highly reputable company with 500 premises under its control and that this community should have access to licensed premises. However the difficulty with the Skinners Arms arose from its history and this was outlined in the written statement supplied by PC Dobson within the report before the Sub Committee.

Mr Wynn stated it was a fact that the Skinners Arms was associated with large scale supplies of Class A drugs, which led to its closure in November 2007. WYP submitted that these premises were such that a modification of the Licence was required in order to prevent further incidents of crime and disorder and public nuisance in the future.

Mr Wynn referred all parties to page 217 of the report containing a letter sent by WYP to Trust Inns setting out the modifications WYP required of the Premises Licence. WYP were mindful that modifying the Licence was the function of the Sub Committee, not the police, but he sought to explain why WYP sought the modifications. Plus he felt it would be useful to hear the response of the Premise Licence Holder to the modifications. As such he stated his intention to go through each of the 19 proposed conditions and modifications to clarify the current position between the parties.

Mr Wynn then introduced PC Dobson to the Sub Committee and by answering his questions she confirmed her written statement was a true record and that the 19 conditions proposed in her letter of 29 April 2009 related to matters which had been agreed in the Action Plan with Mrs Jerome and Trust Inns prior to the premises opening in December 2008. The creation of the Action Plan had involved numerous telephone calls and meetings between WYP, Trust Inn and Mrs Jerome.

Mr Wynn then worked through each of the proposed conditions, referring to PC Dobson's letter and the response letter sent on behalf of the Premises Licence Holder, noting those the Premises Licence Holder had agreed to prior to the hearing

- 1) Agreed between the police and the Premises Licence Holder as proposed by WYP. PC Dobson confirmed she was satisfied the CCTV had been installed
- 2) Condition not agreed and the subject of discussion with the Premises Licence Holder who seemed to suggest in their response that WYP should be the key holder for access to the CCTV data, rather than themselves or the DPS. PC Dobson confirmed that discussion had been held with the Premises Licence Holder on this issue, and she stated that the wording of this condition as proposed by WYP had been used before. Mr Wynn stated the condition needed further amendment to read "DPS/tenant" thus deleting reference to the Premises Licence Holder
- 3) PC Dobson confirmed this was a matter WYP could concede to the Premises Licence Holder in that the condition should read "DPS/tenant" thus deleting reference to the Premises Licence Holder
- 4) Again PC Dobson conceded to the Premise Licence Holder and stated the proposed condition should read "DPS/tenant" and delete reference to the Premises Licence

FINAL

- Holder. PC Dobson also stated both 3 and 4 were already contained on the current Premises Licence, however this amended wording was stronger and more enforceable
- 5) and 6) – these matters were currently dealt with by one condition under the existing Premises Licence but had been separated in order to draw a distinction between the beer garden and other external areas. 5 referred to the beer garden only and the Premises Licence Holder did not contest this. Condition 6 was proposed in order to address those persons who may have bought alcohol from the premises and then went outside to consume it – outside of the beer garden.
 - 7) PC Dobson confirmed WYP agreed with the Premises Licence Holder to remove reference to “Premises Licence Holder” so the condition would refer to the “tenant”.
 - 8) Agreed between the police and the Premises Licence Holder as proposed by WYP
 - 9) Agreed between the police and the Premises Licence Holder as proposed by WYP. PC Dobson also stated she was satisfied the measure was now in place.
 - 10) Mr Wynn stated this related to the duty to notify and to ensure that the DPS or a Personal Licence Holder was present. The Premises Licence Holder contested this condition. WYP submitted these were problem premises and no one without the relevant qualifications should be in charge. The Premises Licence Holder agreed that approach, however objected to the notification requirement. WYP submitted notification was an employment and contractual matter and should form some of the responsibilities of the Premises Licence Holder, and not be solely left to the DPS. WYP believed notification was an appropriate matter for the Premises Licence Holder to be involved in and submitted that their version of Condition 10 be imposed.
 - 11) Agreed between the police and the Premises Licence Holder as proposed by WYP
 - 12) Agreed between the police and the Premises Licence Holder as proposed by WYP
 - 13) Agreed between the police and the Premises Licence Holder with a revision to read DPS/tenant not Premises Licence Holder
 - 14) Agreed between the police and the Premises Licence Holder with a revision to read DPS/tenant not Premises Licence Holder, thus making it the DPS or tenants obligation to inform
 - 15) Agreed between the police and the Premises Licence Holder with a revision to read DPS/tenant and PC Dobson confirmed she was satisfied with this
 - 16) Agreed between the police and the Premises Licence Holder as proposed by WYP
 - 17) Agreed between the police and the Premises Licence Holder as proposed by WYP
 - 18) Agreed between the police and the Premises Licence Holder with a revision to read DPS/tenant
 - 19) Agreed between the police and the Premises Licence Holder as proposed by WYP

Mr Wynn concluded that having set out the proposed conditions and areas of agreement and objection between WYP and the Premises Licence Holder he submitted WYP case to the Sub Committee.

The Sub Committee had no questions of WYP and moved onto consider the representation of the Premise Licence Holder

Submissions and evidence of Mr Shield – on behalf of the Premises Licence Holder

Mr Shield began by acknowledging it had been a useful exercise for WYP to address each of the conditions proposed and the agreements reached between the parties so far. Mr Shield stated it was also important for him to explain who the Premises Licence Holder was in relation to the Skinners Arms. Trust Inns was a privately owned company who operated and

FINAL

owned freehold premises that were then let to tenant occupiers. The tenant was an autonomous individual or company. The tenant operated the premises, although purchased alcohol for sale in the premises from Trust Inns who stood back from the day-to-day operation of the premises.

Trust Inns owned 500 premises nationwide and employed Area Managers to oversee the running of their premises. Mr Shield introduced Mr MacGowan and Mr Hayes to the meeting and explained that Trust Inns had been nominated for various awards within the licensing trade. He then went onto address the letter dated 15 May 2009 sent by him on behalf of the Premises Licence Holder to WYP in response to the proposed conditions.

Mr Shield stated that up until the Closure Order, Trust Inns as the Premises Licence Holder had not been aware of the problems encountered at the premises. On 22 November 2007, Trust Inns were made aware by WYP and were invited to attend a meeting. He added that the Premises Licence Holder understood WYP had undertaken covert operations at the premises prior to that date and could not have told the Premises Licence Holder.

When the Closure Order was served, Trust Inns supported the Closure Order and were represented in order to board up the premises. The Closure Order expired in February 2008. The Premises Licence Holder did not then immediately seek to re-open the premises, but engaged with WYP which had taken some time. The premises remained closed until all the measures the Premises Licence Holder had agreed to undertake were completed. Mr Shield stated that all the conditions (in the Action Plan) reflected the investment that Trust Inns were prepared to make. He added that Trust Inns operated other premises successfully in Leeds – Northern Monkey in the city centre, The Red Lion at Shadwell and The Queens at Horsforth – showing the Premises Licence Holder did operate both town centre and community premises. He maintained their premises usually operated well, but unfortunately Mrs Jerome had not operated the Skinners Arms well. Trust Inns had taken action and removed her once they were aware of this however he noted that tenants did have some legal rights and Trust Inns would act wherever possible.

Mr Shield explained that when a suitable new tenant was found, the Premises Licence Holder would undertake the same process again – meeting with WYP as they had done about Mrs Jerome when she was the prospective tenant. He stated that Trust Inns would not have put Mrs Jerome forward as the DPS if WYP had said they would object but they did not object. Mr Shield explained that Trust Inns as the Premises Licence Holder were somewhat remote from day to day running of the premises, but did act where they could and did oversee premises to ensure they were managed appropriately.

Turning to the 18 conditions, he addressed each one in turn

- 1) and 2) – Trust Inns had no query with the CCTV retention condition. There were 11 cameras at the premises covering both internal and external areas. Their query had been who should be the key holder to the system. Trust Inns had considered WYP should hold a key in order to give the police immediate access and to keep the access away from the tenant. Trust Inns had experience of other tenants tampering with footage, plus Trust Inns representatives were not on site all the time so could not give immediate access to the police. Trust Inns had considered placing the key within the drugs safe as WYP had a key for that safe and could therefore retrieve the CCTV key. The tenant would still be able to place any retrieved drug items in the drug safe but would not be able to take them out, as they did not have a key to the safe.

FINAL

- 3) Trust Inns were concerned about the “Premises Licence Holder” within that condition because although they wished to comply with everything, they did not wish to agree to compliance when in practical terms they could not as they were not on site. Most of Trust Inns premises received a visit from a company representative every 4 – 6 weeks, however the Skinners Arms had received a weekly visit and he envisaged this was likely to continue when the premises re-opened. So he concluded the condition would require the tenant to adopt the proof of age scheme, not the Premises Licence Holder.
- 4) Mr Shield stated he was unsure whether there was a Pubwatch scheme in the area, they had been invited to join the adjacent area scheme in Chapel Allerton but was not sure this was appropriate. However Trust Inns supported Pubwatch schemes and would undertake this when a local scheme was established
- 5) Agreed
- 6) The Premises Licence Holder expressed concern over the wording of this condition as the Premises Licence Holder would not be able to approach someone walking in the vicinity consuming their own alcohol. He referred to the location map within the report, noting the premises were flanked by very busy roads including the A61 and Raby Street and queried where would be classed as “in the vicinity”. However as trust between WYP and the Premises Licence Holder was growing, he felt that with an element of trust about interpretation of the “vicinity”, the Premises Licence Holder would be happy to accept that condition with an amendment to include “alcohol purchased at the premises”
- 7), 8) and 9) – The Premises Licence Holder agreed these conditions as proposed by WYP. Mr Shield stated these were either implemented or the Premises Licence Holder was happy to accept the conditions as proposed
- 10) Mr Shield stated his intention to return to this matter
- 11) The Premises Licence Holder agreed this condition as proposed by WYP
- 12) The Premises Licence Holder agreed this condition with the amendment to read “tenant/DPS” rather than refer to the Premises Licence Holder. He added that windows to the lower levels had been replaced to remove the stained glass to allow passers by to see in
- 13) The Premises Licence Holder agreed this condition as proposed by WYP
- 14) The Premises Licence Holder agreed this condition with the amendment to read “tenant/DPS rather than refer to the Premises Licence Holder as the Premises Licence Holder would not be on site to inform WYP about drug seizures
- 15) The Premises Licence Holder agreed this condition as proposed by WYP
- 16), 17) and 18) The Premises Licence Holder agreed this condition as proposed by WYP

He concluded that part of his submission by stating that the vast majority of the conditions were already in place or would be instigated when the premises re-opens

Mr Shield then returned to proposed Condition 10 which had been the matter of some discussion. The Premises Licence Holder had concerns regarding the wording of this condition – “The PLH will ensure”, the difficulty being that if the Premises Licence Holder was on a routine visit to the premises and the Personal Licence Holder was there, then they would be compliant. If the Premises Licence Holder was not there, then the DPS should be ensuring compliance. Mr Shield suggested the phrase “The PLH will ensure that” should be taken out and that part referring to the “personal licence holder” should be left in. He suggested this would leave whoever was in charge of running the premises the responsibility of ensuring a Personal Licence Holder was on site. The condition would be enforceable if the DPS did not

FINAL

ensure compliance, and if the Premises Licence Holder was found to be culpable then Trust Inns would be prosecuted

Mr Shield concluded by saying he was pleased that WYP had stated their support for the premises re-opening and that they had not requested any other sanctions from the Review process. Finally Mr Shield confirmed the Skinners Arms would remain closed until the Premise Licence Holder was certain of a new DPS.

The Sub Committee then allowed Mr Wynn on behalf of WYP to address the meeting in response to the comments made over Condition 10. Mr Wynn stated that WYP did not wish to criticise Trust Inns' business model by which they operated their premises, but he reiterated Trust Inns was the holder of the Premises Licence for the Skinners Arms. He stated it was therefore Trust Inns' responsibility to ensure the premises were run in line with the licensing objectives. WYP submitted, that for Condition No.10, it was not unreasonable for Trust Inns to be the Licence Holder. If Trust Inns chose to retain the Premises Licence it was not then acceptable to state at the Hearing that they were never there. He concluded by noting that Mr Shield had conceded the principal of a Personal Licence Holder always being on site, so surely it would follow that the Premises Licence Holder should ensure compliance with Condition No.10, not West Yorkshire Police.

The Sub Committee allowed Mr Shield to respond who stated the issue of whether tenanted landlords or the owner of the premises was a nationwide conundrum. He considered whether it was better for Trust Inns to hold the Premises Licence as Trust Inns did not want to cause problems for themselves in the future.

Having noted the conclusions of the submissions the Sub Committee then moved on to deliberate the Review application in private. The Sub Committee reviewed the Licence and had regard to all the representations, the Licensing Act and relevant Guidance. The Sub Committee considered the four options available to them as set out in paragraph 6.1 of the Licensing Officers report

Specific Incidents

The Sub-Committee in reviewing the Licence heard and considered the verbal and written evidence brought on behalf of the police.

In considering this evidence, the Sub Committee felt it first needed to establish if problems existed at the premises. If the premises were operating in a manner which did not undermine the Licensing Objectives, then the Sub Committee could conclude no action was required on the Review.

The evidence of the police had been twofold. It was firstly said that there was a problem with the DPS – this matter had been dealt with. Secondly WYP submitted that conditions on the Premises Licence required modification in order to address the licensing objectives and to prevent any further incidents of crime and disorder and/or public nuisance in the future

The Sub Committee had regard to the history of drug use and drug dealing in and around the premises evidenced by the WYP written submission and were convinced by the evidence presented that the previous operation of this premise had undermined the licensing objectives.

FINAL Decision

The Sub-Committee were satisfied that there was a need to address the conditions in order to promote the licensing objectives of the prevention of crime and disorder and prevention of public nuisance.

The Sub Committee therefore imposed 18 conditions on the Premises Licence (which had been discussed by the parties) with the following wording:

1. A suitable CCTV system will be maintained to be operational on the premises at all times when licensable activities are being carried out.
2. Security footage will be made secure and retained for a period of 31 days. The footage and / or images will be made available to West Yorkshire Police or Enforcement Officers upon demand within a reasonable time.
3. A proof of age scheme which is approved by West Yorkshire Police and/or West Yorkshire Trading Standards will be adopted.
4. Where one exists, the Tenant/DPS will belong to a recognised trade or body such as Pub Watch or a similar scheme, whose aims include the promotion of the licensing objectives. The Tenant/DPS will comply with the agreed protocols of such local Pub Watch scheme or trade or body. Where unilateral banning orders are in force, they will be implemented.
5. No consumption of alcohol will be allowed in the beer garden between the hours of 23:00 hours and 10:00 hours each day. And no licensable activities will be allowed in this area at any time.
6. No consumption of alcohol purchased from the premises or any licensable activities emanating from the premises will be allowed in the vicinity of the premises at any time when the premises are open.
7. The Premises Licence Holder/DPS will prominently display notices which inform customers that open bottles or glasses may not be taken off the premises.
8. External lighting at the premises will be maintained to the side and rear of the premises.
9. The rear door of the premises which gives access to Raby Street will be utilised as a fire door only.
10. A Personal Licence Holder will be on the premises throughout all of the operating times or when the premises are open to the public. The Tenant/DPS will undertake to notify the West Yorkshire Police Licensing Department if the Designated Premises Supervisor is to be away from the premises for a period of longer than 48 hours. In these circumstances the Tenant/DPS will advise West Yorkshire Police as in point 11. Seven days written notice will be given to WYP Licensing Department of any absences.

FINAL

11. A register stating the name of the person who is in overall charge of the premises when licensable activities are carried out will be kept at site. This information will be retained for a period of 12 months and produced for inspection on request by a Licensing Officer.
12. The Premises Licence Holder/DPS must ensure that plain panes of glass in the downstairs windows at ground level are maintained.
13. West Yorkshire Police Officers will be permitted to visit the premises at any given time without prior notice to conduct a random "drug swab test". This test will involve the wiping of tables and other surfaces in the premises for evidence of drug dealing or drug use in the premises. The results of such tests will be provided to the Premises Licence Holder and the Tenant/DPS.
14. West Yorkshire Police will be informed of any search of any person resulting in a seizure of drugs or offensive weapons.
15. A suitable receptacle for the safe retention of any illegal substances seized will be maintained and arrangements will be made for the safe disposal of its contents with West Yorkshire Police.
16. Notices will be displayed at the entrance and rear of the premises stating as follows:
 - a) "Incidents of crime and disorder will be reported to the Police"
 - b) "Entrance will be refused to any person who appears to be drunk or is acting in a threatening or violent manner"
17. Entry will be refused to any person who is known by the Designated Premises Supervisor or person supervising the premises to have been convicted of an offence of drunkenness, violent or threatening behaviour or the distribution of illegal substances.
18. An incident report register will be maintained on the premises to record incidents such as anti social behaviour and/or ejection of customers from the premises. The register will be produced for inspection immediately upon request of West Yorkshire Police and an authorised Officer of the Licensing Authority.
19. The incident report register referred to above will contain consecutive numbered pages, the date, time and location of the incident, the details of the nature of the incident, the names and registration numbers of any door staff involved or to whom the incident was reported, the names and Personal Licence numbers of any staff involved or to whom the incident was reported, the names and numbers of any Police Officers who attended (where available), name and addresses of any witnesses and confirmation of whether there is CCTV footage relevant to the incident.

There is a right of appeal to the Magistrates Court should you be dissatisfied with the decision made by the Sub Committee. You must make this appeal within 21 days of this letter reaching you.

Appeals should be addressed to the Magistrates Court at:

FINAL

Clerk to the Justices
Leeds Magistrates Court
Westgate
Leeds
LS1 3JP

Appeals should be accompanied by a copy of this decision letter and the court fee of £400.00 if you are the premises Licence holder and £200.00 for all other parties. Cheques should be made payable to HMCS.

Yours Faithfully

Helen Gray
Clerk to the Licensing Sub Committee
Governance Services