

## **Minutes of the Licensing Sub-Committee 1**

**Friday 18<sup>th</sup> January, 2019 at 10.05 am**  
**in the Council Chamber, The Council House, Dudley**

### **Present:-**

Councillors H Bills, M Evans and S Keasey

### **Officers:-**

R Clark (Legal Advisor – Solicitor) and H Shepherd (Democratic Services Officer) (Both Chief Executive’s Directorate) and B Hughes (Assistant Team Manager - Waste and Fleet Care) (Place Directorate).

Together with one member of the press.

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18 **Election of Chair**

That Councillor M Evans be elected as Chair for this meeting only.

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19 **Apology for Absence**

An apology for absence from the meeting was submitted on behalf of Councillor C Elcock.

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20 **Appointment of Substitute Member**

It was reported that Councillor M Evans had been appointed as a Substitute Member for Councillor C Elcock for this meeting of the Sub-Committee only.

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21 **Declarations of Interest**

No Member made a declaration of interest in accordance with the Members Code of Conduct.

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22 **Minutes**

### **Resolved**

That the minutes of the meeting of the Sub-Committee held on 16<sup>th</sup> October 2018, be approved as a correct record and signed.

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### **Application for Review of a Premises Licence following a Closure Order**

A report of the Strategic Director Place was submitted in respect of an application for the review of the premises licence for The Crown, Simms Lane, Netherton, following receipt of a Closure Order under the Anti-Social Behaviour, Crime and Policing Act 2014.

The following persons were in attendance at the meeting:-

J Hancock – West Midlands Police  
A Parker – Barrister on behalf of West Midlands Police  
D Jenkins – West Midlands Police  
K Turley – West Midlands Police  
M Bloomfield – West Midlands Police  
J Scobie – Enforcement Officer  
T Glews – Public Protection Manager  
S Grant – NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited – Premises Licence Holders  
D Crank – NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited – Premises Licence Holders

It was noted that the Designated Premises Supervisor (DPS) or the appointed Manager of the premises was not in attendance at the meeting.

Following introductions, the Assistant Team Manager - Waste and Fleet Care presented the report on behalf of the Council.

A Parker, Barrister, West Midlands Police, presented the facts of the case relating to the Closure Order under Section 80 of the Anti-Social Behaviour, Crime and Policing Act 2014 that was granted by Wolverhampton Magistrates Court. In doing so it was suggested that the DPS and Manager of the premises had lost all control of the management and authority of the premises, with numerous public safety/disorder incidents being reported and logged by local residents with West Midlands Police since the current DPS and Manager had taken over the premises. It was noted that no supervision or intervention attempts had been made by NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited as a result of reported incidents.

Police Officers that had visited the premises following a serious incident reported that the Manager responsible for the day-to-day operations, lacked management skills, had received no proactive support from the DPS or the premises licence holder and undertook staff duties rather than a managerial role.

In referring to the two serious events that had occurred at the premises in October 2018, which had subsequently led to the Closure Order, Police Officers in attendance commented that there was a strong smell of cannabis at the premises, the public house was in disarray and the Manager had no control of the situation.

A Parker, on behalf of West Midlands Police expressed concern in respect of the new management plan that NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited had proposed, which was considered to be aspirations for the future rather than a definitive or viable plan to ensure that similar circumstances would not occur in the future.

Arising from a question raised by a Member, A Parker confirmed prior to February 2018, only minor incidents had been logged by residents. However, between February 2018 and October 2018, when the new DPS was appointed, reports had escalated to 18 incidents over an eight-month period, two of which were considered serious/major incidents involving weapons and criminal damage on the car parking area of the premises.

Arising from a further question raised by a Member, it was confirmed that the operating times of 10.00 to 02.00 hours on Fridays and Saturdays had always been included on the licence.

In clarifying the information that the Sub-Committee had available, the Legal Advisor – Solicitor, confirmed that Members had not been provided with the same information that had been presented to the Magistrates Court. Therefore, the representatives of NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited could not confirm the specific details of each and every event that A Parker had referred to in his representation. It was acknowledged that the two incidents that had taken place on 20<sup>th</sup> and 27<sup>th</sup> October, 2018 had not been brought to the attention of NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited until after the request for a Closure Order had been made.

J Scobie then presented the representations on behalf of Dudley Licensing Authority and in doing so referred to complaints received from local residents in respect of noise disturbance and possible breaches of the premises licence. An initial complaint was received on 1<sup>st</sup> May, 2018 and the premises was visited by Licensing Enforcement Officers on 14<sup>th</sup> May 2018. On this occasion, neither the DPS or Manager was in attendance and therefore a further visit was made on 22<sup>nd</sup> May, 2018. Officers spoke with Mr C Jarrod, partner and Manager of the premises. The allegations of the complaint were denied by Mr Jarrod and no breaches of the premises licence were evident during the visit. The DPS, Mr Patel was made aware of the complaint by telephone the following day.

It was noted that on 11<sup>th</sup> June, 2018, further complaints were received from residents in respect of playing loud music and noise outside opening hours. Enforcement Officers revisited the premises and issues were raised with Mr Jarrod about the complaints received. Mr Jarrod again denied allegations relating to the sale of alcohol outside the scheduled hours, but acknowledged that he had experienced difficulties with patrons dispersing from the premises by the required deadline. Officers suggested closing the premises slightly earlier to ensure that the premises were able to close by the required time and advice on noise levels was also provided. A letter outlining the incident and advice provided by Officers to Mr Jarrod was recorded in a letter and sent to the DPS and NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited.

Further complaints in respect of playing loud music and noise from the car park and premises outside operational hours were received and a further visit was made on 18<sup>th</sup> July, 2018 at 3pm by Enforcement and Senior Environmental Health Officers. The complaints were discussed at length and further detailed advice was provided on how to address the issue to prevent further complaints. It was also suggested that consideration be given to putting measures in place to prevent access to the car park outside of operational hours and it was reiterated that consideration be given to closing the premises slightly earlier to ensure that the premises were able to close by the required time.

It was noted that on 6<sup>th</sup> August, 2018, a Licensing Enforcement Officer was advised by Mr M Doherty, representative of NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited, that developers were due to commence work on the car park to build a Co-op Convenience Store and works were imminent. However, works had yet to commence.

Arising from a question raised by the NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited, J Scobie stated that he did not recall having a telephone conversation with D Crank in respect of the noise issues, as most contact and engagement had been via Mr Doherty.

In responding to a question raised by a Member, J Scobie commented that Mr Jarrod had accepted all the advice provided and had the best intentions, but no action was taken.

T Glews presented representations on behalf of Environmental Safety and Health in the interests of meeting the licensing objective of the prevention of public nuisance and in doing so confirmed that there were numerous residential properties within close proximity to the public house. Numerous complaints were received from two residents mainly with regard to noise and disturbance from vehicles on the car park on Friday, Saturday and Sunday evenings, lasting up to 4am in the morning. No complaints had been received by the Environmental Safety and Health Team since the Closure Order on 8<sup>th</sup> November, 2018 had been issued.

D Crank then presented the case on behalf of the Premises Licence Holders NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited and in doing so, confirmed that they were aware of the incidents that led to the Closure Order and did not contest the decision. D Crank provided a background to the organisation and stated that the premises, at the time of the incidents, were occupied under a tenancy agreement which was managed on their behalf by LT Management. However, the company would, and did, engage with the premises and relevant authorities when an issue arose. Communication and correspondence had taken place with the Senior Environmental Health Officer and J Scobie in relation to the noise complaints received.

It was noted that the incidents that had occurred in October had not been brought to the companies immediate attention. They concurred that the incidents were serious and had suggested voluntary closure of the premises, however by that time proceedings for the Closure Order were already in progress.

It was accepted that there had been issues with the recent tenant and it was advised that the site had been scheduled for development which would reduce the size of the car park and create a convenience store. Planning permission for the development had been granted, however, an issue had arose in respect of a strip of land owned by the Council and the need to change the entrance and egress of the site which was not to the satisfaction of the developer, resulting in a delay in the commencement of the development.

It was stated that it was the intention to continue to operate the premises as a public house, subject to the appointment of a suitable tenant. It was proposed to upgrade the Closed Circuit Television (CCTV) system, but this had not taken place to date due to the closure of the premises. The Sub-Committee were advised during the closure period, appropriate action had been taken to secure the premises, with the energy supply to the premises disconnected and fencing surrounding the premises erected at a significant cost.

In referring to a request from West Midlands Police to revoke the licence, D Crank considered this would have a detrimental impact on the future of the site, as premises without a licence would potentially deter qualified and suitable tenants.

It was confirmed that all connections with the previous DPS and Manager had been severed and it was proposed that a significant amount of money would be spent on the premises, which demonstrated their commitment to the site. Reassurance was provided that the premises would be operated properly in the future and additional conditions were suggested by NewRiver Trustee 7 Limited & NewRiver Trustee 8 Limited for inclusion on the licence to ensure that this was the case.

It was considered that the closure of the premises helped to disperse all associations with the incidents that had occurred. It was further indicated that it would take a considerable amount of time to find a new suitable tenant with the right aptitude and capabilities and therefore the premises would not reopen imminently.

Arising from the presentation, and in response to a question raised by West Midlands Police representative, D Crank confirmed that NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited accepted responsibility, however the premises on this occasion were managed by an independent management company. Both parties had engaged with relevant Authorities during the summer to address the noise disturbance complaints that had been received, which it was considered had had a positive impact on the period of time prior to the serious incidents occurring in October. It was again reiterated that these incidents had not be bought to the company's immediate attention.

In referring to NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited having not been advised of the serious incident, D Jenkins commented that several attempts had been made to contact NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited and LT Management, but to no avail. D Crank suggested that the company would have no objection to a condition requesting contact details of an appropriate individual within the organisation with responsibility for the premises, to be included on the licence.

In responding to a question raised in relation to what reassurances would NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited provide to ensure appropriate actions had been taken to alleviate any risk of incidents reoccurring, D Crank advised that it was proposed that there would be a different business setup than the previous arrangements, with an increased level of contact should issues arise. An improved CCTV system would be installed on the premises, which could incorporate the car parking area, if necessary.

Further concerns were raised by West Midlands Police on the lack of robust measures that would be enforced at the premises taking into account the demographic issues in the area. In responding, D Crank advised that a risk assessment to assess the need for security would be undertaken and the company would be willing to become a member of a local pub watch if there was one in operation in the area.

The Assistant Team Manager - Waste and Fleet Care expressed concern in respect of the lack of proactive support that was provided to the previous manager of the premises from NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited. The representatives from NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited disputed the comments and advised that training was provided upon request but was not a mandatory condition.

In responding to a question raised in relation to what measures had been implemented following the complaints, D Crank was unable to stipulate what specific improvements had been made. However it was commented that no complaints had been received during August and September following engagement with NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited.

Arising from a question raised as to what plans were in place to change the fabrication of the accommodation to become less attractive to anti-social behaviour, it was stated that a new tenant would be appointed in the first instance. Should the convenience store not be developed, before the premises re-opened the site would be made secure, with consideration being given to the erection of a wall or fence. Car registration recognition would be installed on the car park, as well as the improved CCTV system. A risk assessment to assess the need for security would be undertaken and it was reiterated that there would be no objection for the inclusion of a condition in respect of contact-ability being added to the licence.

A Member expressed his disappointment that no firm action had been taken or any plans put in place to mitigate further incidences reoccurring.

S Grant, reiterated that they believed that the premises would be unattractive to prospective applicants, should the licence be revoked. It was commented that without a tenant appointed, it was difficult to make definite plans as it would be a joint venture, with shared expenditure.

In responding to a question raised in respect to what checks were undertaken for prospective tenants, S Grant confirmed that the pubs Code of Practice was adopted, with relevant background checks and credit checks completed, as well as the requirement for applicants to hold a personal licence.

It was commented that a response in respect of the convenience store development should be known in the next two weeks. Should the project continue and subject to the licence not being revoked, development at the site would commence and completion was anticipated towards the end of the year. It was likely that the re-opening of the public house would coincide with the development timeline.

In referring to the car park at the premises, it was commented that the development of a convenience store would significantly reduce the size of the car park and limit the number of spaces dedicated to pub users. The pub was not considered to be a destination pub and therefore did not require a large number of car parking spaces. There would be a change in the nature of business, with shorter opening hours and food brought into the business.

In responding to a question raised as to what would happen to the premises should the proposed development of a convenience store not proceed, it was confirmed that significant investment would still be allocated to develop the premises. NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited confirmed they were dedicated in securing the future of the public house.

Arising from a question raised by a Member, D Crank gave an assurance that they would do their utmost to ensure that the same incidents did not reoccur at the premises. It was anticipated that the proposed reduction in opening hours would address the main issues in relation to noise disturbance. It was reiterated that improved CCTV would be installed at the premises and a risk assessment would be undertaken to address security concerns. Should the convenience store not proceed, utilisation of the car park would be addressed and made secure. D Crank advised the Sub-Committee that NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited operated nearly 500 public houses and had not been subjected to a review in three years.

In response to a question, West Midlands Police commented that in their opinion the serious incidents that occurred at the premises were as a result of the patrons that attended the public house.

Following the opportunity for all parties to sum-up their cases, all parties withdrew from the meeting to enable the Sub-Committee to determine the application.

The Sub-Committee having made their decision invited parties to return and the Legal Advisor - Solicitor outlined the decision.

### **Resolved**

That following careful consideration of the information contained in the report submitted and presented at the meeting, the current Designated Premises Supervisor be removed and the following additional conditions be applied to the premises licence in respect of The Crown, Simms Lane, Dudley:-

- (1) CCTV to be in place at the premises and to be recording at all times when the premises are open for licensable activity, to the specifications of the West Midlands Police, including coverage of the car parking area. All images are to be recorded and kept for a minimum of 28 days and made available to any responsible authority upon request on reasonable notice, and all staff are to be trained and able to operate CCTV. The hard drive is to be locked but readily accessible to designated members of staff.

- (2) A written Proof of Age Policy (Challenge 25) is to be put in force.
- (3) Security Industry Authority (SIA) door staff to be employed on Friday and Saturday evenings and bank holidays and bank holiday Sundays. Valid proof of identification will only include passport, photographic driving licence or a Proof of Age Standards Scheme (PASS) proof of age card such as Citizen Card. No other form of identification shall be accepted.
- (4) The car park to the premises shall be fenced so that it can be closed and locked after the end of licensing hours each day, and the car park shall be locked at that time each day. The car park is to be lit by good quality lighting to ensure that it is lit at all times after dark.
- (5) An Automatic Number Plate Recognition (ANPR) system shall be in operation in the car park at all times.
- (6) All licensable activities on the premises shall cease at midnight seven days a week, with a period of 30 minutes before closing thereafter.
- (7) The premises shall conduct a risk assessment prior to the premises re-opening and this shall be discussed with and approved by the licensing authority and West Midlands Police before the premises opens.
- (8) The premises shall have a named individual at the licencing management company with responsibility for the premises and who can be contacted by responsible authorities and the Designated Premises Supervisor, when necessary.

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The meeting ended at 1pm

CHAIR