

LICENSING SUB-COMMITTEE

MINUTES OF A MEETING of the Licensing Sub-committee held on Tuesday, 29 August 2017 at 9:30am in the executive meeting room, floor 3 of the Guildhall, Portsmouth

Present

Councillors Scott Harris
Stephen Morgan
Steve Pitt

69. Appointment of Chair.

Councillor Scott Harris was appointed chair.

70. Declarations of Members' Interests.

No interests were declared.

71. Licensing Act 2003 - Review Application - Holiday Inn Express, Eastern Road, Portsmouth PO6 1UN.

The hearing procedure of Licensing Act 2003 applications for reviews of licences was followed.

Present

Martin Coombes, Group Operations Manager, Atlas Hotels.

Richard Taylor, Solicitor Gosschalks

Philip Kolvin QC, Barrister

Lee Price, General Manager

Keith Griffiths, Managing Director

PC Pete Rackham

Nickii Humphreys, Licensing Manager

DECISION

In the matter of the Licensing Act 2003.

In the matter of an application for review of a premise licence - Holiday Inn Express, Eastern Road, Portsmouth PO6 1UN.

The committee heard the representations of the licence holder, the relevant authorities and leading counsel acting on behalf of the licence holder. In addition the committee considered all the papers put before it along with the annexes attached to each document.

The Responsible Authorities (police and Licensing) assert that the licensee failed in the administration of the licence and failed to promote the licensing objectives with particular regard to the licensing objectives of protection of children from harm.

The committee look to all the Responsible Authorities but mainly the police for guidance and assistance in determining the effect of a licensing activity in terms of all the licensing objectives, the committee should but is not obliged to accept all reasonable and proportionate

representations made by the police. The committee pays regard as it must to the statutory guidance and in particular paragraph 11.18 and paragraph 11.23

The committee takes a similar view with respect to the representations made by the Licensing Department and noted the particular recommendations of the Licensing Manager as contained in the written representation dated 1 August 2017.

The above stated, the committee balanced within its consideration all representations made by the licence holder through their counsel and by way of comments made by those attending this hearing or with respect to whom counsel directed the committee in terms of statements lodged.

In considering the application for review the committee was mindful of the following facts as having been established upon a balance of probability and further that it has been specifically taken to the relevant parts of the Statutory Guidance under section 182 of the Licensing Act 2003.

A key function of the committee is to review the licences that are referred to it by the relevant Responsible Authority (s) and consider through the process each case upon its own facts and merits. The committee found the following facts established:

1. The committee was cognisant of a range of incidents occurring in March, April and July of this year, the common theme being a material breach of the current licence with the continued inability of the licence holder to correctly adhere to the obligations under the Licensing Act 2003 with respect to sales of alcohol to minors. The Licensing Committee saw the evidential train dealing with the ramped and purposeful approach provided by the police and is entitled to conclude that the assurance of the licence holder was ignored or that the management in place at the establishment was lacking to the extent that breaches were not dealt with and the primary conditions of the licence complied with. The committee was therefore fully engaged.

2. The committee saw the engagement of the licence holder and whilst there was a disappointing start in that despite the DPS changing and appropriate recruitment of staff occurring additional failings did occur despite the fact that the company clearly engages in focussed and appropriate training. This said and having heard and read all submissions it was clear that the company is committed to compliance.

3. The committee was impressed that the company would agree to a range of additional conditions to strengthen the approach to challenge regarding age and the maintenance of the appropriate licensing objective of protecting children from harm.

4. The committee noted that the issues of staff adherence to the training and failings had all been approached and dealt with expeditiously with a view to resuming previous compliance with the Licensing Act and that a raft of purposeful training and obligation had been set out in counsel's submissions (page 1, paragraph 5 A-R).

5. The committee was satisfied that the company could review the usage of card payments only purchasing at their discretion.

Whilst the licence holders have put forward a range of conditions (and detailed comments) in an attempt to assuage the committee, having considered the factual evidence produced by the police when coupled with additional comments produced by the other Responsible Authority, Licensing and having reviewed all aspects of the case on balance and having paid due regard to all the circumstances of the case the committee was entitled to:

Impose as conditions to the licence all the conditions set out on pages 34 and 35 (1-4) save that 1 (a) should be undertaken by Serve Legal or a similarly acceptable company approved by the public such testing to be on 10 random occasions in year 1 and at least 3 monthly thereafter.

A licence suspension occur over the weekend commencing 22 September 2017 (10:00) to Monday 25 September 2017 (10:00).

It is only through this course of action that the relevant licensing objective will be maintained. This said the committee would make it clear that it was concerned that despite the corporate body spending much time and effort the failings were very basic and difficult to understand given the training. The committee viewed the independent assessment by Service Legal as being very appropriate in maintaining compliance with the law and commend the company for engaging in this process.

The committee stated that each application for a review shall be considered on merit and with due consideration as the specific facts of each case.

The Responsible Authorities and the licence holders have a right to appeal this decision.

The meeting concluded at 11:15am.

.....
Chair

