

**LICENSING ACT 2003
REVIEW OF PREMISES LICENCE
Kings Head Hotel/Nawab Lounge, 3 South Street, St Neots, PE19 2BW
(Report by the Head of Community)**

1. INTRODUCTION

- 1.1 Huntingdonshire District Council has received an application to review a premises Licence, from Cambridgeshire Constabulary; Kings Head Hotel, Licence number HDC/PRE00269 under the Licensing Act 2003 ('the Act').
- 1.2 As required under the Licensing Act 2003, notice of the application was advertised on the Council's website, and Blue notices were displayed at or near the premises from 6th December 2018. The 28 day consultation period ended on 2nd January 2019.
- 1.3 A copy of the application for review is attached as Appendix A, supporting documentation at Appendix B, and the current premises licence at Appendix C.
- 1.4 Redacted versions of the documents have been made available to all parties, to protect the identity of persons not connected to the Licence or Review process.

2. BACKGROUND

- 2.1 Premises Licence HDC/PRE00269 was initially granted in 2005, following a conversion and variation application by Punch Taverns PLC.

In January 2011 the Licence was transferred to Mr Brian Anderson and Mr Sidney Chapman, the current Premises Licence Holders.

In February 2011 the licence was varied to name Mr Brian Anderson as the Designated premises Supervisor.

In December 2011 an application to vary the Premises Licence was made by the Licence Holders, and following a committee hearing the application was granted.

There have been no changes or updates made to the Licence since then.

For clarity, records from Environmental Health and Business Rates show the Premises began operating as Nawab Lounge around April 2014. The recorded food business operator and person liable for Business Rates is neither Mr Anderson or Mr Chapman

The annual Licence fee, which is due for payment in September each year, has continued to be paid. Invoices for the fee have consistently been sent to Mr Brian Anderson.

3. APPLICATION FOR REVIEW OF LICENCE

- 3.1 On the 5th December 2018, PC446 Clare METCALF, acting on behalf of the Chief Officer of Police for Cambridgeshire Constabulary, a responsible authority, submitted to the licensing authority an application to review the premises licence for Kings Head Hotel.
- 3.2 The grounds for the review are: Crime & Disorder – for knowingly employing persons who are unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter /remain in the UK.
- 3.3 Cambridgeshire Constabulary are requesting revocation of the licence quoting Section 11.27 of the latest Government Guidance, (see para 6.2 of this report)

4. REPRESENTATIONS

- 4.1 During the period for the receipt of representations no additional representations have been received.
- 4.2 During the period for representations, information regarding this premises, has been received from one Responsible Authority, Home Office Immigration Enforcement. These comments are at Appendix D

5 GENERAL DUTY

- 5.1 The Sub-Committee is reminded that the licensing authority must carry out its functions under the Act with a view to promoting the licensing objectives which are –
- (a) the prevention of crime and disorder,
 - (b) public safety,
 - (c) the prevention of public nuisance, and
 - (d) the protection of children from harm.
- 5.2 The licensing authority must also have regard to –
- (a) its licensing policy statement, and
 - (b) any statutory guidance issued by the Home Office under Section 182 of the Act.
- 5.3 The Licensing Authority is bound by the Human Rights Act 1988. The Council must also fulfil its obligations under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in its district.

6. CONCLUSION

- 6.1 Having considered the review application and representations contained and attached to this report and any other information presented at the hearing, the Licensing Sub-Committee may take any of the following steps as it considers appropriate for the promotion of the licensing objectives –
- (a) to modify the conditions of the licence,
 - (b) to exclude a licensable activity from the scope of the licence,
 - (c) to remove the designated premises supervisor,
 - (d) to suspend the licence for a period not exceeding three months,
 - (e) to revoke the licence.

And for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

6.2 Government Guidance, paragraphs 11.16 – 11.23 cover the range of powers of the licensing authority on determining a review, where considered appropriate for the promotion of the licensing objectives.

- Paragraph 11.20 states that in deciding which powers to invoke, it is expected that the licensing authority should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.
- Paragraph 11.21 states licensing authorities should be alive to the possibility that the removal and replacement of the DPS may be sufficient to remedy a problem where the cause for concern directly relates to poor management decisions made by that individual.
- Paragraph 11.22 states that if poor management is a direct reflection of poor company practice, the mere removal of the DPS may be an inadequate response to the problems presented.
- Paragraph 11.23 points out that modifications of conditions and exclusions of licensable activities may be imposed permanently or for a temporary period of up to three months. It is important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. Where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

6.3 Government Guidance paragraphs 11.24 – 11.28 cover reviews arising in connection with crime.

- Paragraph 11.26 states that where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purpose, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.
- Paragraph 11.27 lists matters that should be treated particularly seriously. One listed matter is 'for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter.'
- Paragraph 11.28 envisages that the responsible authorities will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authorities determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance- should be seriously considered.

- 6.4 Any decision by the Sub-Committee may be appealed to the Magistrates' Court. An appeal may be made by the applicant for the review, the holder of the premises licence and any other person who has submitted a representation.

7. RECOMMENDATION

To determine what action to take in respect of the premises licence after hearing the evidence from the applicant, Cambridgeshire Constabulary, those other persons who have made representation and any submissions on behalf of the licence holder.

BACKGROUND INFORMATION

Licensing Act 2003.

Licensing Act 2003 (Hearings) Regulations 2005.

Guidance issued under section 182 of the Licensing Act 2003.

Huntingdonshire District Council Statement of Licensing Policy.

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