

# LICENSING PANEL HEARING

A record of a Licensing Panel hearing held on Wednesday 18 December 2013, at the Town Hall, Royal Leamington Spa at 2.00 pm.

**PANEL MEMBERS:** Councillors Mrs Bromley, Mrs Grainger and Illingworth.

**ALSO PRESENT:** Peter Dixon (Committee Services Officer), Emma Dudgeon (Licensing Enforcement Officer), Caroline Gutteridge (Council's Solicitor).

## 1. APPOINTMENT OF CHAIRMAN

**RESOLVED** that Councillor Illingworth be appointed as Chairman for the hearing.

The Chairman introduced himself, other members of the Panel and officers, and asked the other parties to introduce themselves.

Sergeant Paul Calver attended to represent Warwickshire Police, the party that had applied for a review of the premises licence.

Mr French (Solicitor) attended to represent DFK Leisure, who managed the Juice Factory. He was accompanied by Mr Hawkes (Designated Premises Supervisor for the Juice Factory) and Ms Ashubadi (Juice Factory).

Two officers from Community Protection attended the meeting as observers.

## 2. DECLARATIONS OF INTEREST

There were no declarations of interest.

## 3. APPLICATION FOR A REVIEW OF THE PREMISES LICENCE ISSUED UNDER THE LICENSING ACT 2003 FOR JUICE FACTORY, 7 COURT STREET, ROYAL LEAMINGTON SPA

A report from Community Protection was submitted which outlined a review application of the premises licence for Juice Factory, 7 Court Street, Royal Leamington Spa.

The Council's Solicitor read out the procedure that would be followed at the meeting.

The Licensing Enforcement Officer outlined the report and asked the Panel to consider all the information contained within it when reaching a decision. The report referred to those matters to which the Panel had to give consideration, the statutory guidance issued by the Secretary of State, the Council's Licensing Policy Statement and the Licensing objectives.

The Council's Licensing Policy Statement provided that the authority would take an objective view on all applications and would seek to attach appropriate and proportionate conditions to licences, where necessary, in

## **LICENSING PANEL HEARING MINUTES (Continued)**

order to ensure compliance with the four licensing objectives. Each application would be judged on its individual merits.

The Licensing Enforcement Officer explained that a premises licence had been granted for 7 Court Street on 7 October 2010. On 16 April 2013 the licence had been transferred to Mr Kandola and transferred again on 16 September 2013 to DFK Leisure, the current licence holders.

On 5 November 2013 the licensing authority Warwick District Council received an application for a review of the premises licence from Warwickshire Police. The application was made under the licensing objectives of the Prevention of Crime and Disorder, Public Safety and the Prevention of Public Nuisance. No other representations were received.

Warwickshire Police submitted further evidence which was collected and signed for by DFK Leisure's solicitor on 19 November 2013. Due to the sensitive nature of the documents they were not included in the report but circulated to all parties concerned. CCTV footage submitted by Warwickshire Police had also been made available for viewing by DFK Leisure and was intended to be shown to the Panel.

The Chairman checked that everybody had received all of the information and the various parties confirmed that this was so.

Sergeant Calver made a representation to the Panel on behalf of Warwickshire Police, strongly recommending full revocation of the licence. The review was brought with evidence under three out of the four licensing objectives, those being:

- Crime & Disorder – evidence of open Class A, B & C drug usage and dealing, violence and disorder.
- Public Nuisance – disturbance in the street and vicinity.
- Public Safety – drug usage, open vessels in the street and unprovoked violence.

Sergeant Calver stated that during July and August 2013 it became apparent from the number of incidents and conversations with uniformed officers that issues at the premises were out of hand and unacceptable. As a result a meeting took place on 9 September with the then Designated Premises Supervisor (DPS) and other representatives of the premises, including Mr Hawkes who had since become DPS. Nineteen areas of improvement were drawn up by the Police, following the stepped approach recommended by Home Office Guidance. A follow up meeting had been due to take place on 25 October but unfortunately the new DPS had not attended, for reasons since clarified, and the meeting had been abandoned. That notwithstanding, incidents of crime and disorder had persisted between 9 September and 25 October, and therefore Warwickshire Police had decided to submit a review application and advised the venue's legal representative of this on 25 October.

Sergeant Calver advised the Panel that 62 incidents associated with the premises had been logged on the Police command control system between

## **LICENSING PANEL HEARING MINUTES (Continued)**

1 May and 15 December 2013. The incidents had been categorised as follows:

- Drugs – 22 incidents
- Assault – 12 incidents
- Disorder – 14 incidents
- Theft – 5 incidents
- Licensing – 4 incidents
- Injured / ill – 3 incidents
- Unconnected – 2 incidents

Warwickshire Police recognised that some of these incidents took place outside of the premises. However, due to the location of the premises and the time of the majority of the incidents, a connection to the premises could logically be made due to no other venue operating at those times in that location or nearby. Also, due to the nature of the incidents, the Police believed that the venue were aware of the activity in relation to drug use and were turning a blind eye, letting customers out of the venue to carry out drugs activity before letting them in again.

Sergeant Calver went on to detail the various types of assault which had occurred over the past 7 months and talked about how the Juice Factory had failed to work with the Police to address crime and disorder, ignoring incidents taking place immediately outside of the premises.

At this point in the proceedings Sergeant Calver showed some of over 2 hours of CCTV footage which had captured 13 incidents immediately outside the premises. He provided a commentary and pointed out that a number of the drugs related offences took place within plain sight of a CCTV camera which was clearly visible to pedestrians.

The Panel asked questions of Sergeant Calver, who stated that near other venues, drug use generally took place in seclusion, whereas here there was little or no effort to conceal it, as evidenced by the CCTV footage. He confirmed that people tended to linger outside premises if there was nowhere else to go and that generally they congregated outside late night licensed venues or takeaways.

Responding to questions from Mr French, Sergeant Calver stated that there was specific evidence within the bundles of information before the Panel of Juice Factory's failure to cooperate with the Police, such as when the Police had highlighted issues that needed to be tackled but which had still not been addressed. Sergeant Calver also stated that, if necessary, he was happy to consult his notes and come back to the Panel with evidence of drugs users being let back into the premises.

Mr French asked whether it was reasonable to expect Juice Factory staff to manage problems taking place some way from the premises. Sergeant Calver responded that, as discussed with the venue's door staff at a previous meeting, they should effectively control their venue and report incidents to the Police as and when they took place.

Mr French made a representation to the Panel, suggesting that to revoke the premises licence would be onerous, unfair and a sanction of last resort.

## **LICENSING PANEL HEARING MINUTES (Continued)**

He suggested that while there had been incidence of crime, it was no more than could be expected outside a late night venue and was fairly minor when compared with what took place elsewhere. He submitted that the CCTV footage shown to the Panel had been handpicked and that in one instance, the incident had taken place half an hour after the premises had closed. He also pointed out that all incidents relating to drugs had taken place outside the Juice Factory, which had a zero tolerance to drugs inside the premises.

Regarding lack of cooperation with the Police, Mr French explained that Mr Hawkes had apologised for failing to attend the meeting on 25 October, the result of a family emergency. Mr French pointed out that he had requested a further meeting, which took place on 28 November, and that representatives of Juice Factory had made it clear to Sergeant Calver on that occasion that they were taking his concerns seriously and had put into place a plan of action.

Mr French gave details of some of the recent changes which had been put in place at the Juice Factory. Door staff now wore fluorescent jackets, patrolled the front and side of the premises and an additional member of staff was employed on busy nights. It was intended that a wireless CCTV system would be installed within the premises, using iPads and 6 more cameras than were currently in place. They also planned to hold drug awareness nights. Bar and door staff understood the need to be vigilant in terms of alcohol and drug abuse, and had attended a training day in September. One in seven people were randomly searched for drugs as they entered the premises. Mr Hawkes was present at least 1 hour before the premises opened and an hour after it closed.

Mr French added that Juice Factory was a member of Pubwatch and a radio scheme which was regulated by the Security Industry Authority. Incidents were logged on record sheets, which Mr French had brought to the meeting in case the Panel wished to examine them. Posters about drugs and antisocial behavior were displayed near entrances and exits.

Mr French concluded that revocation of the licence would be harsh, that issues had been exaggerated by Police and that the Juice Factory's big selling point was its late licence. Other premises did not have such a late licence and that was what made the Juice Factory attractive to people looking for a late drink.

The Panel asked why the Juice Factory was only just beginning to address issues of concern and had not been doing so as a matter of course. Mr French responded that issues needed to be addressed, that his client was facing revocation of the licence and that they were looking to keep the premises open permanently, not just for another couple of months.

Responding to a question about staff reporting incidents, Mr French confirmed that they were now attempting to be more vigilant and that the DPS was committed to ensuring that past problems did not recur. Mr Hawkes added that there had been incidents where customers had been hurt but offers of assistance from the premises staff had been rejected. This included the injured man captured on the CCTV footage. Mr Hawkes also said that there was a lot of noise within the premises and that as a

## **LICENSING PANEL HEARING MINUTES (Continued)**

result staff did not always hear the radio. However, door staff now wore earpieces regularly and the volume was set at a higher level than before.

The Panel felt that it was getting mixed messages from Juice Factory representatives and asked whether they were admitting or denying that they had problems. Mr French responded that his client recognised that there were problems and was trying to address them. With regard to the zero tolerance policy to drug taking on the premises, Mr French stated that all the evidence showed that drug taking took place outside and that they could argue that it was up to the Police to sort out. The Panel asked whether that meant that Juice Factory did not care less what happened outside. Mr French responded that the policy was that they did not want drug taking to occur, that they now accepted that there was an issue and that they were attempting to do something about it using CCTV and staff patrols. Juice Factory stood by its policy of zero tolerance to drug taking on the premises, which was not taking place within the venue.

Responding to questions from Sergeant Calver, Mr French confirmed that further incidents had occurred since the meeting of 28 November, but suggested that it would be unlikely that there would be no incidents at all and that no late night establishment was ever going to have a clean record. Asked whether, as a result of searches, door staff had ever seized drugs and contacted the Police, Mr French responded that this had never happened. Asked whether he felt that the number of incidents relating to the venue was acceptable, Mr French stated that there was an issue to be dealt with, that the Juice Factory needed to be as user friendly as possible and improvements should be noticeable over the next couple of months.

Sergeant Calver summed up the application, drawing attention to the large number of incidents associated with the premises, the Police incident logs before the Panel and a number of statements which demonstrated a lack of cooperation with the Police. He stated that Warwickshire Police had suggested a stepped approach to addressing problems and that there had been plenty of opportunity for Juice Factory to improve. However, a big drugs problem was causing significant public harm, as was the violence taking place outside of the premises. Sergeant Calver suggested that it was commonly known that people who would not be allowed into many premises were not turned away from this one. Incidents had continued to take place after a meeting in November between the Police and premises representatives. Warwickshire Police aimed to protect people from harm, believed that they had been reasonable and appropriate in their approach, believed that the Juice Factory remained a significant threat and therefore requested that the premises licence be revoked.

At 3.45 pm the Chairman asked everybody except for the Panel members, the Council's Solicitor and the Committee Services Officer to leave the room in order to enable the Panel to deliberate in private and reach its decision.

At 4.20pm all parties were invited back into the room to hear the Panel's decision. They were reminded of their right to appeal the Panel's decision to the Magistrates Court within 21 days of formal notice of the decision.

## **LICENSING PANEL HEARING MINUTES (Continued)**

**RESOLVED** that the premises licence for the Juice Factory be revoked with immediate effect, the Panel's decision being as follows:

The review of the Juice Factory premises licence has been brought by Warwickshire Police and related to the licensing objectives of the prevention of crime and disorder, public safety, and the prevention of public nuisance.

The Licensing Panel heard and read evidence from the Police and heard evidence from the premises licence holder's legal representative and the Designated Premises Supervisor ("DPS") Mr Hawkes.

The evidence included:

- The application for review dated 5 November 2013;
- Correspondence between the police and the venue;
- Statements, crime reports and STORM incidents inside and outside of the premises between 1 May 2013 and 12 November 2013;
- Email from the CCTV supervisor at Warwick District Council dated 15 November 2013;
- Incident logs, crime report and statements inside and outside of the premises between 23 November 2013 and 5 December 2013;
- Details of incidents at the premises over the weekend of 13 to 15 December 2013;
- CCTV evidence from the CCTV camera operated by Warwick District Council outside Juice Factory showing 12 incidents between 21 September 2013 and 3 November 2013; and
- Representations made by the premises licence holder's legal representative and the DPS Mr Hawkes at the hearing.

The Panel has also considered the statutory guidance issued under the Licensing Act 2003 and the Warwick District Council Licensing Policy.

The Police representations identified a number of concerns. These included incidents of drug use by customers and drug use in the immediate vicinity of the venue; other incidents of crime and disorder in and around the venue; a lack of co-operation with the Police and other agencies and a lack of effective management and any meaningful action to properly address the issues at the premises.

Having considered the Police representations and viewed the CCTV, the Panel's main concern was the compelling evidence of drug use at Juice Factory, including the apparent use of Class A drugs. The

## **LICENSING PANEL HEARING MINUTES (Continued)**

CCTV evidence appears to show people in the immediate vicinity of the premises regularly using Class A drugs in plain view. The evidence from the Police statements and logs is that customers have been seen to use drugs outside of the premises and re-enter and that there is drug use within the premises. The Panel noted that there were no other licensed premises in the vicinity and believed that it was overwhelmingly probable that the vast majority of the people viewed on the CCTV were customers of Juice Factory.

The Panel recognises that licensed premises are not responsible for the actions of individuals once they have left the immediate vicinity of the premises but found that the Police evidence demonstrated that open use of drugs was taking place by customers leaning against the wall of the premises or sitting on the windowsill of the premises. The Panel concluded that it was very likely that this drug use was tolerated by door staff and management at the venue.

The premises licence holder's representative accepted that there were incidents of crime in and around the premises but submitted that there were no more than would be expected at any late night venue and that the Police evidence was exaggerated. This was not accepted by the Panel who felt that the evidence from the Police and the CCTV operator showed that there were an unacceptably high number of incidents at Juice Factory. The premises licence holder's representative told the Panel that Juice Factory had a zero tolerance policy towards drugs inside the premises and an action plan had been put into place which included regular patrols by door staff of the perimeter of the premises and an increase in random drug searches. The Panel did not have confidence that these measures would appropriately address the issues and noted that the random drug searches had, to date, not resulted in any drugs being found and there was no evidence that the door staff or management at the premises had ever reported drug offences to the Police.

The Panel also considered the evidence from Police about other incidents of crime and disorder at the premises. Whilst the Panel do acknowledge that incidents of crime and disorder occur in all late night premises and accept that premises are not responsible for the behaviour of people once they have left, the Panel did find that the number of incidents linked to the premises was unacceptable and found that there was evidence of incidents not being properly reported to Police and ambulances not

## **LICENSING PANEL HEARING MINUTES (Continued)**

being called when customers were injured. The Panel noted that 62 recorded incidents had been associated with the premises in the last 7 months and that there was no evidence of any improvement despite the assistance offered by the Police and the threat of the review application.

The Panel heard evidence about the Police's attempts to work with the venue to address the crime and disorder issues. The Panel noted that the premises licence holder changed on 16 September 2013 from an individual to a limited company but there was no evidence from the premises licence holder that this had resulted in any change to the management or personnel at the premises or made any significant difference to how the premises were run. It was noted that Mr Hawkes was now the DPS, having previously been the Bar Manager.

The Police evidence included details of a meeting between the Police, the licensing officer and representatives from Juice Factory on 9 September 2013 when a number of issues were discussed. The Panel felt that the premises have not made sufficient efforts to work with the Police despite the warnings and advice given. The action plan referred to by the premises licence holder's representative at the hearing included door staff wearing high visibility jackets, additional door staff, improvements to CCTV, increased presence of the DPS, recording incidents on special record sheets and membership of the Pubwatch and radio referral schemes. The Panel did not have confidence in either the management of the premises or that the measures they had put forward were sufficient given the scale of the problems. Many aspects of the action plan were considered to be very basic measures that should be undertaken anyway by a responsible licensee. It was noted that the evidence from the Police about the weekend of the 13 to 15 December 2013 demonstrated that the management at the premises continued to be ineffective.

The Panel considered the evidence from the CCTV operators. It was a significant concern that the door staff at Juice Factory were either not responding or dismissive to the CCTV team and the Police when attempts were made to contact them and alert them to incidents or potential problems. During the hearing the DPS stated that door staff may have not heard the radio on occasion and that ear pieces had been supplied. The Panel noted that this issue had been highlighted by the Police on 9 September 2013



## **LICENSING PANEL HEARING MINUTES (Continued)**

and were not confident that it had been, or would be, properly addressed by the premises.

The Police have asked for the premises licence to be revoked and the premises licence holder has asked the Panel to take no action and maintain the status quo.

Given the evidence provided by the Police the Panel do not feel that, in the light of the duty to uphold the licensing objectives, that it would be appropriate to take no action.

The Panel does recognise that the revocation of a premises licence is a last resort and has therefore given serious consideration as to whether any other measures could be taken to address the issues. In particular the Panel considered:

- i. The removal and replacement of the DPS. It was decided that this would not be appropriate as the evidence does not demonstrate that the problems at the venue are caused by that particular individual. No alternative DPS has been suggested.
- ii. The suspension of the licence. The Panel members considered that because of the ongoing concerns and their lack of confidence in the management of the premises they did not feel that suspension of the licence would result in any meaningful action or changes to the operation of the premises.
- iii. The imposition of conditions. The Panel has considered whether conditions could be applied to the licence that would ensure the licensing objectives were upheld and the problems at the venues addressed. Although the premises licence holder did not suggest any conditions the Panel has considered the conditions referred to in the Police application as well as any others that may be appropriate. In particular the Panel considered whether reducing the licensed hours would address the Police concerns. The Panel decided that because of its concerns about the way in which the premises were managed, the number of incidents and the scale of drug use, reducing the hours would not be sufficient and that incidents would continue albeit at a different time of day.

The Panel also took into account the fact that the current license was subject to a number of conditions which the license holder did not appear to comply with. In particular the Panel noted that the premises licence holder was already obliged to co-operate with the Police and the Licensing Authority, prevent open vessels from leaving the premises and employ professional and responsible door supervisors.

## **LICENSING PANEL HEARING MINUTES (Continued)**

The Panel therefore concluded that the imposition of further or amended conditions was not appropriate.

The Panel's decision is therefore that the Juice Factory Premises Licence should be revoked. The use of and distribution of Class A and other drugs in the immediate vicinity of the premises is particularly serious and the lack of real improvement despite the warnings and advice provided by the Police mean that in this case the Panel believes that revocation is an appropriate and proportionate decision and the only option in the light of the licensing objectives.

(The meeting finished at 4.25 pm)