

Licensing & Regulatory Committee

Confidential minutes of the meeting held on Wednesday 1 August 2018, at the Town Hall, Royal Leamington Spa at 10.00am.

Present: Councillors Illingworth (Chairman); Councillors Cain, Mrs Cain, Davies, Mrs Gallagher, Gifford, Gill, Mrs Hill, Murphy, Naimo, Quinney and Mrs Redford.

12. Apologies and Substitutes

- (a) Apologies for absence were received from Councillors H Grainger and Mrs Stevens; and
- (b) Councillor Cain substituted for Councillor Ashford and Councillor Naimo substituted for Councillor Mrs Knight.

13. Declarations of Interest

There were no declarations of interest.

The chairman invited all parties to introduce themselves including Councillors and officers.

Representatives from the responsible authorities included:

Sergeant Paul Calver, DI Jill Fowler, DS Kathryn Somerville QPM, DC Paul Hinton, and Psi Anne Guerra, Warwickshire Police.

Mr Simon Coupe, Warwickshire County Council Trading Standards.

Mr Nick Fowkes and Mr Michael Leach, Warwickshire Fire and Rescue Service.

Representatives from the licence holder Talash Hotels, included Mr Naushad Busawon, Area Manager and Mr Kulwant Singh Manak, legal representative employed by Falstaff Hotel.

14. Public & Press

Resolved that under Section 100A of the Local Government Act 1972 that the public and press be excluded from the meeting for the following item by reason of the likely disclosure of exempt information within paragraph 7 of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006.

The Legal Officer outlined the procedure to be followed at the meeting.

15. Application for a review of the premises licence issued under the Licensing Act 2003 for The Best Western Falstaff Hotel, 16-20 Warwick New Road, Royal Leamington Spa

The Committee received a report from Health and Community Protection which advised that, under the provisions of the Licensing Act 2003, a responsible

authority could apply for a review of a premises licence if they felt that the licensing objectives were not being met.

In this case, Warwickshire Police had made representations and called for a review of the premises licence for The Best Western Falstaff Hotel, 16-20 Warwick New Road, Royal Leamington Spa. In addition, a further representation from Warwickshire Fire and Rescue had been received.

Members were asked to consider the information contained in the report, and to determine what action, if any, to take further to Warwickshire Police and Warwickshire Fire and Rescue's representations and the premises licence holder's response to these.

The Legal Officer outlined the procedure to be followed at the meeting and the Chairman clarified that all parties had received the relevant paperwork. Prior to the hearing and with the agreement of all parties present, additional paperwork had been distributed by the licence holder's representative which included amended conditions.

Risk Assessment documents were also circulated by the Warwickshire Fire and Rescue Service.

Some Members questioned the lateness of the circulation of these documents and were advised that it was acceptable as long as all parties agreed. The licence holder's representative advised that they would not be referring to the documents specifically.

The Licensing Officer, Ms Russell, outlined the report, explaining that Warwickshire Police had applied for a review of the licence in June 2018. Clarification was also given on the responsibilities of the Designated Premises Supervisor (DPS) and the official name of the hotel.

The Chairman invited the applicant, Warwickshire Police, to outline their request for a review of the licence and Sergeant Calver advised that there was currently an ongoing investigation into incidents of Child Sexual Exploitation (CSE) at the hotel.

Sergeant Calver, Warwickshire Police, invited the following people to address the Committee:

DI Jill Fowler who gave a strategic overview of CSE issues and investigations and the definitions of grooming, forms of abuse and the impact this could have on children; and

DS Kathryn Somerville QPM gave a strategic overview of CSE training and explained that all hotels in the District had been offered free CSE training sessions. She stated that they received consistently excellent feedback and children had been safeguarded as a result.

Following a question from Councillor Quinney, Sergeant Calver advised that there was not a high proportion of hotels in the District that had taken up the offer of free training but he did not have the exact figures.

DC Paul Hinton and Psi Anne Guerra were also present from Warwickshire Police to answer any questions that may arise relating to the ongoing investigation.

Mrs Dudgeon, Licensing Officer at Warwick District Council, explained her role and highlighted the importance of training, especially the free sessions. However, there had consistently been a lack of correspondence back from the premises.

Mr Manak addressed Members and advised that with regards to training, the hotel had used an alternative, on line provider called EduCare. However, officers felt that this was general training and not bespoke for the hotel industry.

Mr Simon Coupe from Warwickshire Trading Standards outlined his statement as detailed page 85 of the report. This referred to an advisory visit undertaken by Mr Coupe and Mrs Dudgeon, Licensing Officer on 18 March 2016. At the visit, age verification policies were discussed and the Challenge 25 procedure was proposed as best practice. Mr Naushad advised the officers that he was refreshing all procedures at the hotel and CSE issues were discussed with a view to raising awareness with staff.

Members noted that a sixteenth birthday party had taken place at the hotel on 19 May 2018, referred to as Incident 6, page 46 of the report. There had been a disturbance at the hotel, involving an intoxicated female and potential theft.

Members raised concerns that the issue of underage sales had been raised with the premises previously but did not appear to have been taken seriously. Sergeant Calver advised that a revocation of the licence would not prevent the hotel from operating as they would still be able to trade for a timeframe before an appeal was lodged.

The removal of the DPS was preferable, however, all communication to the individual had been 'returned to sender' and the telephone number held by the Council was no longer in service. At the time of the meeting, no contact had been received from the DPS or licence holder throughout the proceedings.

Clarification was provided on the differing lists of conditions in the report and those distributed by the premises' representatives at the hearing.

Sergeant Calver confirmed that the Police had initially wanted a full revocation of the licence but were now requesting a suspension with conditions, which would assist in the management of the licence. If the Committee were minded to revoke the premises licence, the business could still trade as a hotel and any potential conditions relating to safeguarding would then be unenforceable.

Members discussed the provision of CCTV at the hotel and the failure by staff members to release the recordings to Police. The Committee were advised that this was not an offence because it was not a condition of the licence. Whilst the Police had the power to seize the recordings, their experts had been unable to retrieve them from the system.

Following a question from Councillor Illingworth, Sergeant Calver confirmed that he was content with the conditions detailed in the report.

The Chairman moved that a comfort break be taken at 11.39am and the meeting reconvened at 11:52am.

Mr Fowkes and Mr Leach from Warwickshire Fire and Rescue Service (WFRS) addressed Members and outlined their representation regarding the premises. Mr Fowkes outlined the WFRS' statement on page 116 of the report and advised

that a number of visits had been undertaken to the premises and the hotel had had a succession of managers. Advice was also provided on the powers executed by a prohibition notice and if a schedule of works was required, the work must be carried out.

Mr Leach advised that a number of fire safety deficiencies had been identified during an audit which was carried out in November 2015 and in May 2016 an enforcement notice was issued. Between April and December 2017, three further concerns were raised and the fire alarm system was not deemed to reach the required standard. Staff were unsure how to reset the system which showed that one of the zones was not working correctly, however, no zone plan was available to assist officers in locating the fault. The manager at the time was advised to request attendance from an engineer as a matter of urgency because individuals could have been put at significant risk during that time period. In addition, Mr Leach reported that there had been breaches in walls, ceilings and doors and plastic bags had been fixed over some smoke alarms. Members were reminded that guests in hotels could be considered more vulnerable because they were staying in unfamiliar surroundings and could be under the influence of alcohol.

In summary, Mr Leach stated that the matters raised with the hotel had not been given the attention they deserved and an enforcement notice could be issued requiring steps to be taken.

Members raised concerns that not only was the fire alarm system not up to current standard, but since 2015, the hotel had failed to rectify the faults and between that time, the measures they had put in place had failed. Very limited information had been passed to WFRS and there was little evidence to show that staff members were being trained in respect of fire safety.

In response to questions from Members, Mr Fowkes advised that:

- Modern legislation expected businesses to ensure their fire alarm system met modern standards;
- WFRS felt they had highlighted their concerns sufficiently following their visit;
- WFRS had not personally written to the licence holder – in the first instance they would have written to Talash Hotels and copied in the manager;
- It was common to find issues with premises relating to fire safety but particularly unusual was the time taken to try and rectify the issues; and
- Ten notices had been issued to premises so far this year.

The Chairman invited the licence holder's representative, Mr Manak, to address Members and state the reasons as to why the Committee should not revoke the premise licence.

Mr Manak apologised for the improper form of delivery of documents that morning and stressed that it had not been an attempt to derail the committee. He stated that the hotel did not want to seek to undermine the representations made and wanted to adhere to the licencing objectives. He assured Members that the hotel had viewed the issues very seriously and referred to the amount of work undertaken since then.

He felt that a reflection of this was the hotel's commitment to consult an external contractor who had assisted them in amending their policies. Mr Manak advised that staff had been trained in CSE using an online training course and certificates

had been included in the bundle of paperwork. Training was ongoing and fire risk training was due to be completed the next day. In addition, the CCTV system had been installed, and although it had not been signed off yet, it would meet the requisite standard and was very robust.

Mr Manak admitted that there was no excuse for the lapse in fire safety but steps had been taken and the hotel was now compliant. He felt that revocation of the licence would be harsh and a suspension would be equally detrimental to business. He requested that the Committee consider only suspending the licence until the CCTV had been signed off and all fire certificates and training were in place. Whilst the issues raised were serious, he stated that the hotel was not complicit in criminal activity.

In response to questions from Members, Mr Manak stated that:

- The Hotel had transferred to 'Talash Hotels' in January 2018 and the corporate structure had changed at that point;
- In hindsight, a lot of the issues would not have occurred if the staff had been properly trained;
- There was no direct evidence that underage people had been sold alcohol;
- The DPS would be changed and training would be undertaken under direct supervision from Mr Naushad;
- The new management structure would be supplied;
- The DPS was no longer responsible for the licence and was still living at the property that the letters had been addressed to;
- The DPS was still involved in the hotel structure and an application would be submitted to change the DPS in due course; and
- The new policies had been introduced two weeks ago and training was ongoing.

Clarification was also provided on the business which had originally been part of the Best Western group. Mr Manak also advised that 12 members of staff had undertaken the online training and all of them had certificates. There would be separate policies for bar staff, reception staff or housekeeping.

Mr Manak advised that there were 25 members of staff currently employed, 12 of which were part time. Out of the full time staff, the positions of responsibility were Front of House Manager, Head Chef, Head Housekeeper and General Manager.

Mr Moore, Talash Hotel's consultant, addressed Members and explained that when he first attended the hotel there had been some policies in place but not in all areas. The policies had been split into three folders – Health and Safety, Fire and Licensing. This was a bespoke system which covered all areas and was easy to use. There was ongoing communication between the hotel and the responsible authorities and another full audit would be undertaken next week, before being signed off.

In response to further questions from Members and WFRS, Mr Manak stated:

- The paperwork had not been provided to Members earlier because the hotel did not feel it needed to be provided;
- Out of the staff currently employed they did not know how many were fire marshalls;

- When one member of staff was on duty at night, they were not always a fire marshal;
- The document supplied by Shield should not have stated 'temporary' on the front page and no electronic copy had been sent;
- The fire alarm system was being looked at and surveyed that day;
- No decision had been taken to upgrade the fire alarm system as yet;
- With regards to the compartmentation survey, this had been booked in by Shield and was scheduled for the second week of August;
- The evacuation procedure had been changed recently and was now a full evacuation;
- The hotel could choose to sell tickets for future events for example in the function room; and
- There was no nightclub at the hotel, just the function room known as The Fat Knight.

The Chairman resolved to break for lunch at 1.35pm and reconvened at 2.05pm.

On reconvening, apologies for absence were received from Councillor Mrs Hill.

The Chairman invited the Police to sum up and DS Somerville provided a view on the training being provided to staff at the hotel bearing in mind that this information had not been available until the start of the hearing. The certificates provided stated that it was a maximum of one hour training and the copy of the PowerPoint presentation provided did not relate to the online course which had been taken. DS Somerville did not feel that this was suitable as a standalone document and online training was not a substitute for in person training because it was low level and non-specific. The documents could be used in addition to the training being offered by the Council and Barnardo's but the third document was from the West Midlands area and was not relevant to Warwickshire premises. DS Somerville did not feel that this document was set at the right level and should be removed from the bundle.

Sergeant Calver addressed the Committee and reminded them that the clear intention was to protect young people along with the safety of guests and staff. He questioned why training had only just been addressed and reminded Members that this hotel was part of a larger chain of some 12 to 15 in total.

The Chairman invited WFRS representatives to sum up and Mr Fowkes stated that they had no further points to make. He felt their report indicated their concerns regarding a lack of awareness and poor fire safety procedures. Mr Fowkes advised Members that there were further enforcement powers that could be used and little had been done by the hotel until recent weeks.

In response, Mr Manak assured the Committee that he did not seek excuses because there had been neglect but there were measures to consider going forward. He reiterated that training had started and active steps were being taken to improve on this. He felt that Talash Hotels had demonstrated their new policies which had become more bespoke following a full overhaul. He again requested that Members consider suspending the licence only until all training had been undertaken.

At 2.20pm, the Chairman asked all parties other than the Civic and Committee Services Manager and Legal Advisor, to leave the room to allow Members to deliberate in private and reach a decision.

Resolved that

The Committee have listened to representations from the Police, Fire & Rescue and the representatives of the licensed premises holder.

The Committee heard evidence from the Police regarding a number of incidents that have taken place at the premises during a 17 month period from January 2017 to June 2018 which included allegations of underage drinking, criminal damage, common assault, rape and child sexual exploitation. The Committee have also heard from Fire & Rescue regarding a number of concerns they have identified regarding fire safety at the premises and note that Fire & Rescue have served a prohibition notice and an enforcement notice in respect of these concerns. The Committee note that the representatives of the licence holder have not provided any evidence to refute the evidence provided by the Police or Fire & Rescue.

The Committee have also heard evidence from the Police and Fire & Rescue regarding a failure to engage with both responsible authorities by the License Premises Holder who is also the DPS. The Committee note that the LPH/DPS has failed to respond to correspondence from both responsible authorities and the correspondence has been returned to sender. The Committee also note that the LPH/DPS has also failed to take up numerous offers by the Licensing Authority to attend CSE training. The Committee note that the LPH/DPS has not attended today's committee meeting.

Having listened to the representations, the Committee have serious concerns with the management of the premises. The Committee are concerned that there has been a failure by the management at the premises to ensure that all staff have received appropriate CSE training and fire safety training. The Committee is also concerned by the failure by the DPS and the management of the premises to engage with any of the responsible authorities.

The Committee have heard from the licensed premises holders representatives that various policies and training has now been put in place regarding CSE, fire safety and licensing matters. The Committee have considered the bundle of papers which have been presented to them today. The Committee note that the bundle only shows that nine employees have received CSE training from an external provider named Educare, and that this only involved one hour of training. The Committee also noted that the training logs contained within the bundle were blank.

The Committee are not satisfied that the LPH has put in place sufficient policies and training in respect of CSE, fire safety and licensing.

Given the concerns that this Committee has regarding the management of the premises and the failure by the LPH to put in place sufficient policies and training to meet the concerns of the responsible authorities, the committee has resolved to take the following action:

- (1) the licence shall be suspended for a period of three months;
- (2) the DPS shall be removed; and
- (3) and the following additional conditions shall be imposed:

Conditions:

- 1) no alcohol shall be provided via room service at any time and any mini-bars located within the rooms shall not contain alcohol;
- 2) all reasonable steps shall be taken to ensure that no alcohol other than that purchased at the premises may be consumed on the premises or taken to any room by any person, including any guest or member of staff staying at the hotel;
- 3) only hotel residents and their guests shall be permitted to purchase alcohol before or after the hours for the sale of alcohol as authorised by the licence;
- 4) CCTV to be installed and the premises licence holder must ensure that:
 - a) CCTV cameras are located within the premises to cover all public areas, including stairways and corridors where the public have access;
 - b) The system records clear images permitting the identification of individuals;
 - c) The CCTV system is able to capture a minimum of 12 frames per second and all recorded footage must be securely retained for a minimum of 28 days;
 - d) The CCTV system operates at all times while the premises are open to the public;
 - e) All equipment must have a constant and accurate time and date generation;
 - f) The CCTV system is fitted with security functions to prevent recordings being tampered with i.e. password protection;
 - g) Downloads will be provided to the Police upon receipt of a reasonable request in accordance with General Data Protection Regulations; and
 - h) The CCTV system shall be approved by the Warwickshire Police Design Out Crime Officer (DOCO);
- (5) all new staff shall be provided with safeguarding training before they commence work at the premises. All current

staff shall be trained in safeguarding and shall be provided refresher training every 12 months and written records of all training shall be kept on the premises. The safeguarding training must be provided by an external training provided approved in writing by the Licensing Authority;

- (6) all new staff shall be provided with Fire Safety and licensing training before they commence work at the premises. All current staff shall be trained in Fire Safety and licensing training and written records of all training shall be kept on the premises;
- (7) upon arrival at the hotel, the occupants of the room must provide photo ID to reception staff before they are permitted access to their accommodation;
- (8) no events shall be held at the premises for any person under the age of 18 years unless their parent/guardian is present;
- (9) no persons under the age of 18 years shall be permitted in the bar area at any time;
- (10) an incident log shall be maintained by reception staff and housekeeping staff to record any concerns or incidents at the premises;
- (11) a Refusals book shall be maintained by bar staff to record all refusals at the premises;
- (12) the DPS shall carry out professional risk assessments as whether to employ SIA registered door supervisors for any functions or events taking place;
- (13) all training records, incident books, refusals books, risk assessments must be kept on site and shall be made available for inspection by any responsible authority on receipt of a reasonable request; and
- (14) there must be a personal licence holder present at the premises for the duration of any functions taking place at the premises after 20:00 hours.

At 4.43pm, all parties were invited back into the room with apologies for absence received from Councillors Cain, Mrs Cain, Naimo and Mr Manak. The Chairman invited the Legal Advisor to deliver the Committee's decision and advised that all parties had the right to appeal within 21 days.

(The meeting ended at 4.51 pm)

CHAIRMAN
6 August 2018