



# **Walsall Council**

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## **REPORT OF THE DIRECTOR OF RESILIENT COMMUNITIES**

### **LICENSING SUB - COMMITTEE**

**15<sup>th</sup> March 2021**

## **APPLICATION FOR A PREMISES LICENCE REVIEW UNDER SECTION 51**

### **OF THE LICENSING ACT 2003**

**King George V  
Wallows Lane  
Walsall  
WS2 9BZ**

#### **1.0 Summary of Report**

- 1.1 For members of the licensing sub-committee to determine an application for a premises licence review, in respect of King George V, Wallows Lane, Walsall, WS2 9BZ
- 1.2 The review application is made by West Midlands Police, a responsible authority under the terms of the Licensing Act 2003.
- 1.3 The application cannot be determined under officer delegated authority.

#### **2.0 Recommendations**

- 2.1 That the licensing sub-committee having regard to the submitted review application and any relevant representations, determine what steps if any, it considers appropriate for the promotion of the licensing objectives.

The subcommittee may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent the sub -committee issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time

- 2.2 The steps, set out in section 52(4) of the Licensing Act 2003, are to:
- modify the conditions of the premises licence (conditions of the licence are modified if any of them is altered or omitted or any new condition is added) either permanently or for a period not exceeding three months
  - exclude a licensable activity from the scope of the licence, either permanently or for a period not exceeding three months
  - remove the designated premises supervisor,
  - suspend the licence for a period not exceeding three months;
  - revoke the licence.

### **3.0 Background information**

- 3.1 Admiral Taverns Piccadilly Limited have been the premises licence holders for King George V since 16<sup>th</sup> November 2016. The current premises licence including the operating schedule and premises plan is attached as **Appendix 1**
- 3.2 Mr Raman Singh was nominated as the Designated Premises Supervisor (DPS) for King George V by Admiral Taverns Piccadilly Limited on the 15<sup>th</sup> February 2017.
- 3.3 In order to assist members of the Committee and those attending the Hearing a street map of the locality of King George V is provided at **Appendix 2**.

#### **West Midlands Police**

- 3.4 An application from the Chief Constable of West Midlands Police to review the premises licence for King George V was received by the licensing authority on 18<sup>th</sup> January 2021. The grounds for the review (section C of the application) relate to three of the statutory licensing objectives
- the prevention of crime and disorder,
  - public safety,
  - the prevention of public nuisance

The representation sets out a chronological sequence of events between January and December 2020 indicating the failure of the DPS Mr Raman Singh to operate the premises in line with three of the four licensing objectives

Examples of the incidents investigated by the Police include

- Customers attempting to enter the premises after closing time.
- A vehicle ramming the premises whilst individuals were inside both the vehicle and the premises.
- Alleged fights at the premises
- Allegations of the premises being operated outside of its permitted hours having 'lock ins'.
- Allegations of noise and disorder from customers leaving the premises
- Fighting and disorder occurring outside of the permitted operating hours of the Pub and involving persons at the pub and a local car wash.
- Failure by the DPS following reasonable requests to provide recordings of incidents at the pub via the CCTV system.
- Incidents involving persons being at the premises in breach of Coronavirus restrictions and Mr Singh being issued with a Fixed Penalty Notice for the breach.

- 3.5 The representation clarifies that the Police believe they have exhausted their engage, explain, encourage national procedure for dealing with noncompliance. They believe Mr Singh acted independently from Admiral Taverns and wilfully ignored the advice and encouragement given by both West Midlands Police and Admiral Taverns. They also believe Admiral Taverns as Premises Licence Holder failed to control their tenant leading to the licensing objectives being undermined.

A copy of the review application is provided at **Appendix 3**.

- 3.6 In accordance with prescribed regulation, following the submission of the review application officers arranged for a premises licence review notice to be displayed for 28 consecutive days at the premises and on the council's website.
- 3.7 The period for further written representations (of either a positive or negative nature) to be submitted from other responsible authorities and 'other persons' closed on 15<sup>th</sup> February 2021.
- 3.8 On the 18<sup>th</sup> January 2021 the licensing authority received a response from the Home Office to say that they have no record of any Immigration Offences against the premises and so will not be making any representations.
- 3.9 On the 27<sup>th</sup> January 2021 the licensing authority were in receipt of an application to Vary the DPS from Admiral Taverns. The application was made to remove Mr Singh as the DPS for the premises. At present there is no DPS in place for the premises. A copy of the application is attached as **Appendix 4**.

## Environmental Health

- 310 On the 9<sup>th</sup> February 2021 the licensing authority received a representation from John Harvey on behalf of Walsall Council's Environmental Health Service. The representation was made on the grounds of the prevention of crime and disorder and public safety.
- 3.11 The representation details investigations the Environmental Health Service have conducted as a response to complaints that the King George V was operating in contravention of Regulations intended by Government to control the spread of coronavirus. The representation shows the Council and Police working together to try and ensure the responsible persons at King George V complied with said regulations. The representation and appendices highlight the failure of the DPS Mr Raman Singh to comply with the advice provided by both organisations. Appended to the Representation are the following documents.
1. A Public Health report on the impact of Coronavirus.
  2. A copy of a letter dated 1/4/2020 sent to the responsible person at King George V asking for the person to contact Environmental health due to complaints being received regarding alleged breach of COVID regulations.
  3. Copies of a Prohibition Notice (and covering letter) dated 31<sup>st</sup> December 2020 served on Admiral Taverns Piccadilly Ltd under the Health Protection (Coronavirus, Restrictions)(All Tiers)(England) Regulations 2020 as amended. The Notice requires the responsible person to
    - i. Close any premises or part of the premises in which food or drink are provided for consumption on the premises and
    - ii. Cease providing food or drink for consumption on its premises.
  4. Copies of a Prohibition Notice (and covering letter) dated 31<sup>st</sup> December 2020 served on Mr Raman Singh under the Health Protection (Coronavirus, Restrictions)(All Tiers)(England) Regulations 2020 as amended. The Notice requires the responsible person to
    - iii. Close any premises or part of the premises in which food or drink are provided for consumption on the premises and
    - iv. Cease providing food or drink for consumption on its premises.
  5. A list of nine complaints received in relation to the premises between 30<sup>th</sup> March 2020 and 16<sup>th</sup> September 2020. A copy of the email and documents are attached as **Appendix 6**.

## **Community Protection**

- 3.12 On the 12<sup>th</sup> February 2021 the licensing authority were in receipt of a representation from Kirsty Steward on behalf of Walsall Council's Community Protection Service.

The representation supported the review application made by the Chief Constable and was made on the grounds of Prevention of Public Nuisance. The representation states that between 15<sup>th</sup> July 2020 and 19<sup>th</sup> August 2020 twelve noise nuisance and antisocial behaviour complaints were made about the premises by thirteen local residents. The complainants were concerned about noise and anti-social behaviour from persons leaving the premises, revving cars, loud music from speakers and noise from sporting events shown on a television near the garden area of the premises.

- 3.13 Two residents recorded the noise nuisance they were suffering from on a Noise App used by the Community Protection service for noise nuisance complaints. Between 14<sup>th</sup> August 2020 and 18<sup>th</sup> September 2020, 28 recordings of noise nuisance and antisocial behaviour were uploaded to the App for review by Community Protection staff. A copy of the representation is attached at **Appendix 7**.
- 3.14 No further representations have been received from any of the other responsible authorities or other persons.
- 3.15 The Licensing Authority is able to confirm that there are no annual fees currently outstanding for the premises.

### **4.0 Resource Considerations.**

- 4.1 **Financial:** Any decision taken by the Licensing Authority may be appealed to the Magistrates' Court. The Licensing Authority would have to bear the costs of defending such an appeal.
- 4.2 **Legal:** Any application for review received by the licensing authority must be relevant to the promotion of the licensing objectives namely: Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance, Protection of Children from Harm.

In determining the review application the licensing sub committee must have regard to:

- The need to promote the four licensing objectives.
- Representations made.
- Relevant sections of the Licensing Act 2003.
- Relevant sections of the statutory guidance issued under s.182 of the Act.
- The licensing authorities' policy statement.

4.3 Paragraph 10.28 of Section 182 Guidance issued under The Licensing Act 2003 states:

*The 2003 Act does not require a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the designated premises supervisor and the premises licence holder remain responsible for the premises at all times including compliance with the terms of the 2003 Act and conditions attached to the premises licence to promote the licensing objectives.*

In determining the review application the sub committee can take such steps as it considers necessary for the promotion of the licensing objectives:

- Take no further action.
- Modify the conditions of the licence.
- Exclude a licensable activity from the scope of the licence.
- Removal of the designated premises supervisor (if applicable).
- Suspend the licence for a period not exceeding three months.
- Revoke the licence.

In deciding which of these powers to invoke, it is expected that licensing authorities 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 to address the causes of concern that instigated the review.

Where the sub committee takes the step to modify the conditions of licence or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for one such period (not exceeding three months) as it may specify.

The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

*However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities*

*should not merely repeat that approach and should take this into account when considering what further action is appropriate (11.18 Guidance).*

*Where the applicant for review, holder of the premises licence or any other person who made relevant representations in relation to the application is aggrieved by the decision of the licensing authority, appeal is to magistrates court where the reasonableness or otherwise of the decision will be tested.*

*Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this cooperation.*

- 4.4 Licensing authorities should look to the police as the main source of advice on crime and disorder as stated in Section 182 of the guidance issued under the Licensing Act 2003. Section 2.5 of the guidance also states:

*“It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder”*

- 4.5 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

- 4.6 Paragraph 11.24 of the guidance states:

*A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or*

*innocence of any individual but to ensure the promotion of the crime prevention objective.*

4.7 Paragraph 11.25 of the guidance states:

*Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.*

*Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning*

4.8 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority 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.

4.9 **Staffing:** Nothing arising from this report.

5.0 **Citizen impact**

5.1 None arising from this report.

6.0 **Community Safety.**

6.1 Is addressed through the review hearing process.

7.0 **Environmental impact**

7.1 None arising from this report.



## **8.0 Performance and risk management issues**

8.1 None arising from this report.

## **9.0 Equality implications**

9.1 None arising from this report.

## **10.0 Consultation**

10.1 Carried out in accordance with prescribed regulation.

## **11.0 Contact Officer**

11.1 Sayful Alom – [Sayful.alom@walsall.gov.uk](mailto:Sayful.alom@walsall.gov.uk)

## **12.0 Appendices**

12.1 Appendix 1 – Current premises licence.  
Appendix 2 – Street map of the locality.  
Appendix 3 – Application for review.  
Appendix 4 – Vary DPS Application  
Appendix 5 – Response from Home Office  
Appendix 6 – Representation from Environmental Health  
Appendix 7 – Representation from Community Protection