

MINUTES

LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE

1 MARCH 2022

Present:

Members:

Councillors: Mrs Bassadone
P Hearn (Chairman)
R Sutton

Officers: Alexander Kowalski Trainee Solicitor
Sally Mcdonald Lead Licensing Officer
Phil Wortley Licensing Officer

Also Attendance:

Sgt M Saunders	Police
V Lampey	Police Licensing Officer
P Wright	Licensing Director for Stonegate
R Taylor	Goschalks Solicitors representing Stonegate

The meeting began at Time Not Specified

10 **MINUTES**

The Minutes of the previous meeting will be signed at the next meeting.

11 **APOLOGIES FOR ABSENCE**

There were no apologies for absence.

12 **DECLARATIONS OF INTEREST**

There were no declarations of interests.

13 **PREMISES LICENCE APPLICATION UNDER THE LICENSING ACT
2003**

The Sub-Committee were required to consider an application to review a premises licence for the following premises:

Tudor Rose
Long Chaulden
Hemel Hempstead
HP1 2HU

Closure Order granted on 4 February 2022 until 25 February 2022.

The Chairman introduced everyone.

The Chairman asked if all legal requirements had been complied with. P. Wortley confirmed that they had. The Chairman asked P. Wortley to introduce the application.

This application had come before the Sub-Committee as a result of the Closure Order. On 21st January 2022 (Friday), P. Wortley, Security Industry Authority investigators and the Police visited the Tudor Rose regarding unlicensed door staff. When they arrived it was a shambles, there was nobody in charge, customers were helping themselves behind the bar, although one person said he was serving. They couldn't contact the DPS and nobody appeared to know who was doing what. They refused to provide details of names and addresses but the Police did manage to obtain some information. As a result it was decided that they would leave the Police presence through the evening and contact the Licence Holder on the Monday morning. P. Wortley contacted the Area Manager, Kate Halloway, and she explained that the Licence Holder had been given Notice to Quit the premises on 25th February and that they had done everything they could to try to get him out of the premises, as he hadn't paid rent, he was buying beer out and not from the brewery which was in breach of their conditions. The problem was that he was not named on the Licence as a DPS therefore there was very little the Licensing Team could do in respect of him and it was purely down to the Licence Holders. It was decided that they would remove the DPS from the Licence to prevent alcohol being sold and this was done via application to the Council on 1 February 2022. This meant that there was no DPS and legally no alcohol could be sold. On Tuesday evening there was a type of party, travellers arrived at the property and alcohol was being sold and because of this a Closure Order was applied for. Stonegate were aware of all parts of this investigation and on Friday 4 February the Closure Order was granted, the premises was boarded up, therefore no one could enter the premises except the owners and the Licence Holder. The tenant wouldn't speak with the Licensing Department and therefore they were unable to get any details from him. It did appear that he was walking away from the business. The reason it had to come before the Sub-Committee is because Licensing Act 2003 regulations state that it must be determined by the Licensing Committee within 28 days.

Councillor Sutton asked if the routine checks are carried out when officers are called out. P. Wortley replied that they do routine checks and this one was highlighted by the SIA.

Councillor Bassadone asked who the Security Industry Authority were and where did they operate from. P. Wortley replied that they were a Government led Department and they were set up to monitor door staff and other different people that work in the security industry. They have a main office in London but the investigators are placed all over the country. They have very few investigators and they cover a large area so for them to attend this particular premises they would have had concerns. Councillor Bassadone went on to ask whether local people had complained. P. Wortley advised that they had received intelligence that the particular person that was working the door had been involved in violence at the premises and he had assaulted someone quite badly which was why the Police, P. Wortley and SIA had attended but when they arrived there was no evidence of this person actually carrying out any

enforcement of the door, however, it was apparent that he did have something to do with the premises because he was the only one that spoke to the Police and was fairly co-operative.

Councillor Bassadone continued and said that on page 16 of the agenda it stated that the date the Licence was issued was 5th July 2021, was this when this particular tenant who we are not aware of actually took over and what was the significance of the date of 5th July 2021. P. Wortley explained that this was the date that the Designated Premises Supervisor was given permission to work at the premises and hold the authority to serve alcohol. Each time a Licence came up for a change the date changed. Councillor Bassadone mentioned that on page 21 it mentioned plans but that there was not room to attach a copy of these plans, and she felt it would have been useful to have been able see some kind of plan of the premises interior. P. Wortley explained that the plans are sent in and this would have been sent in in 2003/4 when the original application went in for the transfer of the premises licence. Usually they are kept on file and unless they changed throughout the life of the Licence they were not normally attached.

Councillor Hearn asked Sergeant Saunders to introduce the case for the Police.

Sergeant Saunders advised that P. Wortley had covered most of the details. There had been sporadic incidences throughout the last 8-10 months but on 1st of the month there was an anniversary of a death and that the travellers attended the premises and, because there was no licence in place, the Closure Order was applied for. On the evening of the Closure Notice there was one other person on the premises who was renting or it had been sub-let.

Sergeant Saunders reported that the Police advised of the Closure Notice and Closure Order to a person on the premises and requested that the information was forwarded to the DPS and that the case would be heard in Court on the Friday morning. If a Closure Order is signed by an Inspector they only have 24 hours to close the premises and the application has to be heard in Court within 48 hours. However on this occasion it was signed by a Superintendent. During this process the Police have been working with Stonegate who have been very supportive. The application for the Closure Notice was only for a short period and the premises were vacated completely.

Councillor Bassadone noted that the Police had been working with Stonegate and asked where did they operate from. Richard Taylor from Gosschalks Solicitors replied that Stonegate were the biggest pub company in the country and owned about 4500 pubs. There was a base in Birmingham and one in Luton.

Councillor Hearn asked R. Taylor to present their case. R. Taylor thanked Sergeant Saunders for acknowledging their support to the Police. EI Group Ltd. was part of the Stonegate pub company and Stonegate were the biggest pub company in the country and owned about 4500 pubs. The vast majority of these pubs were the subject of lease or tenancy agreements through which the tenant ran their own business out of the premises and payed rent and sometimes there were other purchasing obligations. EI/Stonegate sat in the place of the old brewery. This is what was happening at the Tudor Rose which was subject to a one year tenancy with a company known as Triple B Scaffolding and at the time that company took over the running of the pub Stonegate did all of the background and credit checks etc. When

a DPS application for example was submitted, the Police and Licensing Authority do their checks too and there was nothing in June last year to suggest that this wouldn't be a successful operation. In this case, the tenant didn't pay the rent and didn't comply with the lease agreement and as a result of his failure to do this he was served with a Notice to Quit. This Notice to Quit expired in February. As a result of the information received at the end of January, steps were taken to force the closure of the pub and remove the Designated Premises Supervisor with the effect that alcohol sales were illegal but sales continued. The letters also stated that the Police and Licensing Authority were aware of this as a criminal offence. Unlawfully the event took place on 1st February. They went to the Magistrates on 4th February, and the Closure Order was issued, Stonegate staff went to the premises with the Police and the building was boarded up and the Police issued the necessary notices on the premises. The Closure Order only lasted until 25 February 2022. The tenants had already gone and the locks were changed. The next step is to seek a new tenant and when they have been found they will speak to the Police and introduce the new tenant.

Councillor Hearn asked when was the last time the tenant had paid his rent.

R. Taylor advised that they had not received any rent from him. Councillor Hearn asked if this was not a warning sign. R. Taylor explained that there are payments up front but as far as he was aware there had never been any payments and he had not fulfilled the purchasing obligations. The lease required certain drinks to be purchased through the company.

Councillor Bassadone asked with regard to the tenant, what was the previous record that was checked.

R. Taylor replied that he was unable to answer that question but he could find out if it would help. However, he did say that they didn't just let people into premises without any experience of running the business. There is always someone new to the business so they ask the potential tenant to attend a number of training courses.

Councillor Bassadone said it was now about what was the best way forward and looking for a new tenant. R. Taylor replied that they were looking for a new tenant for a very difficult industry to be in at the moment but they would not rush into anything and suspected that it may take some time, and there were also repairs to be carried out.

Councillor Hearn thought that it sounded like there would be quite a lot of work needed inside the premises. P. Wright replied that the premises have been closed for a period of time and there will be some dilapidation to be taken care of.

Councillor Sutton asked how confident they were that they would be able to get a new tenant to be able to handle difficult customers/situation such as this case. R. Taylor replied that is the company had a lot of experience at looking for the right people and fortunately this sort of situation did not happen very often.

Councillor Hearn asked R. Taylor to sum up.

R. Taylor said that this was a very odd case in that everyone was "singing from the same hymn sheet" and in a review case where no one is asking for any steps to be

taken. Any decision needed to be evidence based. The evidence here was clear and it was the “bad apple” where action needed to be directed. The tenant had already been removed and looking at the options, no one is seeking, revocation or suspension of the premises licence or seeking to change the conditions or hours, and one thing that you would normally see in proceedings like these was the removal of the DPS but this had been done. Therefore this was a very unusual case in which you can look at what has been done and determine to do nothing because it had already been done. The evidence that they have is that the Tudor Rose had never had a problem until this last tenant. Stonegate was a professional pub company which the Police had confidence working with and which had supported the Police all the way through and would continue to do so.

Councillor Hearn thanked everyone.

A Kowalski wished to clarify the position with regard to the steps for the Sub-Committee because there were three recommendations in the report but the legislation was clear in that there were five steps available and it wasn't mentioned about the suspension or removal of the DPS and excluding licensable activity so there were a couple of other options.

R. Taylor advised that from a legal perspective these steps were all discretionary and there was a sixth option of doing nothing.

Councillor Hearn asked everyone to leave whilst the Committee considered their decision.

The meeting ended at 11.10 am

14 PROCEDURE OF THE HEARING

Decision:

When determining a review of a premises licence (under section 167 of the Licensing Act 2003), the Sub-Committee must, having regard to the closure order and any relevant representations made, take such of the following steps (if any) as it considers appropriate for the promotion of the licensing objectives.

Steps considered:

- (a) modify the conditions of the premises licence;
- (b) exclude a licensable activity from the scope of the licence;
- (c) remove the designated premises supervisor from the licence;
- (d) suspend the licence for a period not exceeding three months; or
- (e) revoke the licence

The Sub-Committee has decided to not to take any of the above steps and therefore to allow the premises licence to continue in its current format.

The Sub-Committee notes that whilst the closure order confirms that there was crime and/or disorder at the Premises, this was done so under the occupation and control of the Tenant who has now vacated the Premises. The Sub-Committee further notes that there were no representations from responsible authorities.

The Sub-Committee is satisfied that the premises licence holder had co-operated with the police and the Licensing Authority to promote the licensing objective of preventing crime and disorder. The premises licence holder had terminated the lease

with the Tenant, removed the Designated Premises Supervisor from the premises licence to prevent the sale of alcohol at the Premises and supported the closure order. The Tenant had also not paid any rent under the lease to the premises licence holder (Ei Group Ltd) and breached further covenants including purchasing obligations with the Stonegate Group.

The Sub-Committee notes that the premises licence holder has confirmed that it will now look to seek a new tenant for the Premises and will liaise with the police to ensure the new tenant is suitable and carry out the necessary due-diligence checks accordingly and continue to co-operate with all responsible authorities. The premises licence holder shall also carry out a refurbishment of the Premises and has given assurances to the Sub-Committee as to the future running of the Premises.

The Sub-Committee confirms that the Licensing Authority has statutory responsibilities under the Licensing Act 2003 to review the premises licence, at the request of a responsible authority or any other person, should there be relevant grounds concerning one or more of the licensing objectives in the future.

Appeal:

A right of appeal is conferred by the Licensing Act 2003. The time within which any such appeal may be brought to a magistrates' court shall be 21 days from the date on which you were notified by the Licensing Authority of this decision.

Costs:

If an appeal is lodged and the appellant is successful in their appeal, it is the intention of the Licensing Authority to resist any application for costs.

If an appeal is lodged and the appellant is unsuccessful in their appeal, it is the intention of the Licensing Authority to apply for full costs to be awarded to the Licensing Authority in respect of the appeal.

The Meeting ended at Time Not Specified