

MINUTES OF A MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEE (B) HELD IN COMMITTEE ROOM 2/3, CIVIC OFFICES, ANGEL STREET, BRIDGEND ON FRIDAY, 3 OCTOBER 2014 AT 10.20AM

Present:

Councillor D R W Lewis - Chairperson

Councillors:

E M Dodd  
G W Davies MBE

Officers:

Y Witchell - Licensing and Registration Officer  
K Daw - Legal Officer  
J Monks - Democratic Services Officer - Committees

Invitees:

A Williams - Applicant  
D Evans - Premises Licence Holder  
C Davies - Solicitor for the Applicant

South Wales Police Representatives

PC Ellis - South Wales Police  
R Davies - Solicitor for the South Wales Police

25 APOLOGIES FOR ABSENCE

None

26 DECLARATIONS OF INTEREST

None.

27 LICENSING ACT 2003: SECTION 37  
VARIATION OF DESIGNATED PREMISES SUPERVISOR  
THREE HORSESHOES, QUEEN STREET, BRIDGEND

This meeting was reconvened from a meeting held on the 5<sup>TH</sup> September 2014, which was adjourned due to further information over and above that contained within the report being served on the Applicant separately by the South Wales Police after the date the agenda/report had initially been issued. As the information contained further Police evidence against the Applicant, his legal representative had requested an adjournment to allow time to fully read and respond to the documentation.

The Chairperson opened the meeting and the necessary introductions were made.

The Assistant Chief Executive - Legal and Regulatory Services submitted a report to request the Sub-Committee to consider an Objection Notice received from the South Wales Police and to determine an application to vary a Premises Licence to specify an individual as Designated Premises Supervisor at the Three Horseshoes, Queen Street, Bridgend. A full copy of the application was attached at Appendix A to the report and the Objection Notice was attached at Appendix B.

The Licensing and Registration Officer advised that a section of the report contained exempt information at Appendix D and the Sub-Committee would go into closed session to hear that evidence.

Dealing firstly with the public parts of the report, she reported that the Premises Licence Holder wished to nominate the applicant, Alan Williams, as the Designated Premises Supervisor and the application took immediate effect at the time of the receipt, which was in accordance with the Licensing Act 2003. The South Wales Police had submitted an Objection Notice, and since then two further communications were received; the first was a letter dated 16<sup>th</sup> September 2014 from the South Wales Police relating to illegal vodka being found at the premises known as the Three Golden Cups in Southerndown and copies were served on Mr Evans.

The South Wales Police were then invited to present their case which could be heard in public session.

Mr Davies, Solicitor for the South Wales Police, took the Sub-Committee through the correspondence which had been sent by the Police to the Applicant over a seven year period in the form of warning letters in relation to the Premises Licence Holder at the Three Horseshoes. He described how the first incident on the 22<sup>nd</sup> November 2007 which resulted in a warning letter, related to an alleged assault which took place at the premises. On that occasion Mr Davies advised that availability of CCTV footage at the premises was not forthcoming. On the 6<sup>th</sup> December 2007 when it was found during a joint visit to the Three Horseshoes by the South Wales Police/Fire and Rescue Service, that there was non-compliance in relation to Fire Safety Regulations. He explained that a risk assessment was not available at the premises, and it was also noted that there was alcohol being sold at the premises despite the time, with no Designated Premises Supervisor on duty. On the 23<sup>rd</sup> December 2009, there was a similar incident during a South Wales Police/Fire and Rescue joint visit, and at that time three breaches of the Licensing Act were noted which were:

- An absence of signs asking customers to leave quietly;
- No incident book on the premises;
- No communication between staff and the Police.

Mr Davies continued by referring to an incident at the premises on the 2nd February 2013 involving alcohol being served to a 17 year old. Again, on the 20<sup>th</sup> December 2013 an incident relating to a licensing contravention similar to the one referred to in 2007, in which CCTV footage was requested as part of an investigation. No footage was provided and there was no functioning system at the premises. A Closure Notice was served on the premises in relation to alcohol continuing to be served. Two further letters were submitted to the Premises Licence Holder in April this year in connection with the CCTV.

The Sub-Committee asked for an explanation to the letter sent to Mr Williams from the Police, dated 7<sup>th</sup> December 2007, in which he was identified as the person in charge and was informed that alcohol could not be supplied without the authorisation of a Designated Premises Supervisor being present.

Mr Davies explained that there was no person appointed as Designated Premises Supervisor at the time the alcohol was served to an underage person. PC Ellis advised that Mr Williams had left that position and there was therefore no Designated Premises Supervisor.

Mr Williams informed the Sub-Committee that no alcohol had been served on that day in question, 6<sup>th</sup> December 2007, only food and he had put himself forward as Designated Premises Supervisor at that time.

The Licensing and Registration asked what incident had occurred which related to the request for CCTV footage. PC Ellis was unable to describe the incident.

Mr Davies continued by stating that the supplementary documents submitted on the 23<sup>rd</sup> September, related to the incident which took place on the 21<sup>st</sup> September 2007 when Mr Williams was the Premises Licence Holder at the Three Golden Cups. The incident involved 100% vodka being concealed on the premises. He advised that there were no resultant criminal prosecutions or convictions.

The Licensing and Registration Officer explained that the Three Golden Cups came under a different County Borough and two separate premises were being referred to. She advised Members that the incident at the Three Golden Cups would have been investigated by Officers from the Vale of Glamorgan County Council.

The Chairperson then asked the Applicant if he had any questions based on the police submissions.

The Applicant's legal representative, Ms Davies, advised that she did not have any questions; however she explained that her client had a different version of events to those put forward by the South Wales Police.

Mr Evans asked for clarification as to the outcome of the warning letters issued in April this year and whether the Police had been satisfied with the outcome.

PC Ellis informed the Sub-Committee that the letters had requested CCTV footage from the Three Horseshoes, which was not produced; however since those letters were sent the situation had been rectified. He advised that on the 5<sup>th</sup> May 2014, he received a phone call from the manager of the premises, who explained that engineers had inspected the CCTV system, which was found to be faulty and needed replacing, as the recording could only be back dated by an hour and therefore not recorded any previous incidents. He explained that the engineer's call-out was part of the annual maintenance contract and they had found that as the system was not recording any errors, any faults in the system would not have been easily recognised. The manufacturer was contacted to investigate why this had happened, and in the meantime the engineer fitted a DVR to ensure the premises were protected. He confirmed that the system was now fully working. Mr Evans asked if the Police were happy with this action. PC Ellis replied that he assumed his colleagues were happy with it.

Mr Evans asked who the DPS was at the premises during that time. PC Ellis replied that he was not sure. Mr Evans stated that he was sure that Mr Williams was not the Designated Premises Supervisor at that time.

The Sub-Committee asked how often maintenance on the CCTV was carried out.

Mr Evans advised that it was on an annual basis. He explained that when equipment broke down, the only way to cover was by having a stand-by on the premises. He pointed out that as this information was not in the guidelines, there needed to be some leeway in order to allow time to carry out repairs. He advised that at all times the Police were aware of what was happening.

PC Ellis advised the Sub-Committee that Mr Williams did not become the Designated Premises Supervisor until the 25<sup>th</sup> July 2014.

Mr Evans stated that this meant that technically Mr Williams had not been involved in the incident involving the CCTV footage. PC Ellis maintained that the letter regarding the CCTV was sent to Mr Williams in his role as the Premises Licence Holder.

Mr Evans asked who had produced the evidence involving the incident at the Three Golden Cups. PC Ellis reported that he had received a report from PC Barratt the Licensing Officer at the Vale of Glamorgan Council, and the evidence submitted had been written by PC Ellis who had taken extracts from PC Barratt's report.

Mr Evans asked whether it was possible to have sight of PC Barratt's report, as he believed that important details about the incident had been omitted.

Ms Davies advised that the document was served on the 23<sup>rd</sup> September 2014, and she felt that it had been submitted to bolster the Police objectives. She stressed that the incident involving the vodka dated back seven years and was brought in evidence as Mr Williams was a Premises Licence Holder at a public house at the time.

The Chairperson then asked the applicant to present his case which would be heard in public session.

On behalf of the applicant, Ms Davies commenced by explaining to the Sub-Committee that matters had been slightly confused due to the fact that two premises had been presented in evidence. She maintained that the Police had served an Objection Notice on the application as they did not want Mr Williams to be Designated Premises Supervisor at the premises in Bridgend as he was Designated Premises Supervisor at the Three Golden Cups and as such had a dual role at those premises. She explained that Mr Williams and his wife are Directors of the Three Golden Cups, where he is the Premises Licence Holder, and had applied to be Designated Premises Supervisor at the Three Horseshoes. She advised that Mr Williams had been in the licensing trade for 23 years on a daily basis, and although he knew the licensing laws, there were periods of adjustment when those laws were amended. She quoted Section 182 of the Licensing Act, and referred to the fact that the Police may object to a Designated Premises Supervisor in exceptional circumstances when they believe that an appointment would undermine crime prevention. She referred to cases where the Premises Licence Holder had been allowed to retain their licences, despite having received convictions for selling alcohol to minors, and would be recorded as exceptional circumstances to which the Police could object.

She advised that it was important for the Sub-Committee to understand the role of a Designated Premises Supervisor in order to make an informed decision as to whether Mr Williams would undermine crime prevention if he were to become the Designated Premises Supervisor at the Three Horseshoes. She then explained the role of a Designated Premises Supervisor for the benefit of the Members, concluding by advising that each of the two businesses in question may have one Designated Premises Supervisor selected for that role, and that same person may have more than one business. The Police had stated that one of the objectives to Mr Williams becoming a Designated Premises Supervisor was due to the fact that he was already a Designated Premises Supervisor elsewhere. Furthermore, Mr William had received warning letters in his capacity as a Designated Premises Supervisor for the last seven years, or as a Premises Licence Holder, where someone else had the role of Designated Premises Supervisor. As far as the letters were concerned, she informed the Sub-Committee that they had only been sent to Mr Williams, irrespective of whether the letters should have been written to him as opposed to the Premises Licence Holder who is Mr Evans.

In relation to the incidents put forward by the Police, she asked the Sub-Committee to remember that there had to be exceptional circumstances for an objection, and the only two exceptional circumstances. Mr Williams is a Designated Premises Supervisor at his other licensed premises in Southerndown. However, there are no restrictions on the number of licensed premises and the portability of the licence. Furthermore, she explained that the warning letters had been written without evidence being produced.

Turning to the issue regarding the CCTV footage, she confirmed that there had been a misunderstanding as to what requirements were involved within the duties of a Premises Licence Holder at the specific times when the warning letter was sent. She believed there had been confusion on behalf of the Police as the CCTV footage was produced for viewing at the time, as opposed to copying the footage for the Police to take away. As the facility for the Police to view the CCTV at the premises was made available, the Licensing Regulations were adhered to. In relation to other incidents, such as notices not being displayed at the premises requesting people to leave quietly, she advised that this was rectified immediately. Also, some

of the incidents put forward in evidence by the Police dated as far back as 2007, and other matters raised were either not appropriate for warning letters, or if they were, Mr Williams had rectified them immediately. She advised that there are times when equipment breaks down and slight errors made, but did not regard the CCTV footage as exceptional circumstances for denying Mr Williams the role of Designated Premises Supervisor.

She informed Members that Mr Williams had held various roles within the licensing trade over the years and if he were to continue as Designated Premises Supervisor at the Three Horseshoes, he would be the first point of contact for the Police and the Licensing Authority. She added that the fact he had financial and business interests in the premises would seem to make him the most appropriate person to contact. She advised that various people had been employed at the premises over the years as Designated Premises Supervisor which had not prevented the odd incident arising, and even at those specific times when there were such problems, it was always Mr Williams who was contacted. She therefore did not believe that Mr Williams being a Designated Premises Supervisor would undermine crime prevention, particularly as he had been qualified as a Designated Premises Supervisor for 23 years.

She then referred to the issue regarding the vodka which was found at the Three Golden Cups, an incident she stated which had occurred seven years ago. She advised that although the vodka was at the premises it was not for public consumption, as Mr and Mrs Williams lived at the premises and the vodka was in the cellar. The investigation which was carried out at the time found that none of that vodka was in the optics and no evidence was found that it was going to be sold to the public. She queried why this had been put forward as evidence and believed it was to boost the weak application made by the Police. She maintained that there were no exceptional circumstances to prevent Mr Williams from remaining Designated Premises Supervisor, and emphasised that legally he was permitted to be a Designated Premises Supervisor at more than one licensed premises, and that he was currently the first point of contact for both the Three Horseshoes and the Three Golden Cups and fully trained in Licensing Law.

The Sub-Committee asked Mr Williams how much time in a week he spent as Designated Premises Supervisor at the Three Horseshoes.

Mr Williams explained that he spent around two to three days a week there and that he also dealt with the administration and financial side of the business.

The Licensing and Registration Officer drew Members' attention to paragraph 4.1.9 of the guidance and advised that the role of Designated Premises Supervisor consisted of more than just a point of contact, but a person who had been given the day to day responsibility by the Premises Licence Holder for running the premises and crucially to promote the licensing objectives.

Ms Davies agreed and added that the role was also to ensure staff were fully trained and made aware of the licensing objectives and terms and conditions. The Designated Premises Supervisor is deemed to be the person who runs the business in that capacity; however the Licensing Act states that whilst the Designated Premises Supervisor need not be on site at all times, he was able to involve an individual in the business to act as his representative.

## 28 EXCLUSION OF THE PUBLIC

RESOLVED: That under section 100A(4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, the public be excluded from the meeting during consideration of the following items of business as they contain exempt information as defined in Paragraphs 12 of Part 4 and Paragraph 21 of Part 5 of Schedule 12A of the Act.

Following the application of the public interest test it was resolved that pursuant to the Act referred to above to consider the following items in private, with the public excluded from the meeting, as it was considered that in all the circumstances relating to the items, the public interest in maintaining the exemption outweighed the public interest in disclosing the information, because the information would be prejudicial to the applicants.

Minute No:      Summary of Item:

29                      Licensing Act 2003: Section 37  
Variation of Designated Premises Supervisor Three Horseshoes, Queen Street, Bridgend - Appendix D only.

30      The press and public were then readmitted.

The Legal Officer asked the Committee if they had any questions.

The Sub-Committee asked for clarification of the meaning of 'exceptional circumstances' regarding the Three Horseshoes and how it applied from 2007 to present day.

PC Ellis explained that the Police had sent six letters to the premises dating back to 2007, which in the main were the result of the most serious Licensing offences, which breach the condition of the licence, which the Police believed to be exceptional circumstances.

Ms Davies advised that within those warning letters there was a principal of being able to correct something and in all of the incidents they were either corrected immediately, or it was erroneous to have sent them in the first place.

The Police were asked whether they wished to make a closing statement regarding the matters which had been held in open session.

Ms Davies was asked whether she, on behalf of the applicant, wished to make a closing statement regarding the matters which had been held in open session.

31      EXCLUSION OF THE PUBLIC

RESOLVED:      That under section 100A(4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, the public be excluded from the meeting during consideration of the following items of business as they contain exempt information as defined in Paragraphs 12 of Part 4 and Paragraph 21 of Part 5 of Schedule 12A of the Act.

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Minute No:      Summary of Item:

32                      Licensing Act 2003: Section 37  
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only.

The press and public were then readmitted.

In dealing with all matters, both those in public and private sessions, it was

RESOLVED: That the Sub-Committee had considered the application made under Section 34 of the Licensing Act 2003 to amend the Designated Premises Supervisor of the Three Horseshoes in Bridgend. The Premises Licence Holder, Mr Denis Evans, had nominated Mr Alun Williams as the new Designated Premises Supervisor to which the South Wales Police had objected under Section 37 of the Licensing Act 2003.

The Sub-Committee had considered the written objections made by the South Wales Police as well as the oral representations made on behalf of both the Police and the Premises Licence Holder, both of whom were legally represented.

In determining this matter the Sub-Committee had been helped greatly by paragraphs 4.27 to 4.29 of the Statutory Guidance.

The Police had listed exceptional circumstances which they felt meant the appointment of Mr Williams as Designated Premises Supervisor would undermine the crime prevention objective. The exceptional circumstances included:

1. That Mr Williams is a Designated Premises Supervisor at other premises owned by a company in which he is a 50% shareholder. The Police referenced an incident in 2007 whereby illegal alcohol was found at this premises, although this was not taken to prosecution.

There was a matter of relevance here which was referenced in the private session. The Police listed a schedule of incidents which had occurred at this premises, including incidents when Mr Williams was not the Designated Premises Supervisor.

2. That the Three Horseshoes had been sent a number of warning letters over a number of years regarding breaches in licence conditions and requirements of Fire Safety legislation. Several of the letters related to breaches of the CCTV requirements. The Three Horseshoes is owned by W E Wales Ltd, and Mr Williams is a 50% shareholder in this company.
3. This matter was based on the information held in private session.

On behalf of the Premises License Holder the Committee heard that:

1. The law specifically allows someone to be a Designated Premises Supervisor at more than one premises, and the guidance makes reference to the importance of the portability of personal licenses. The role of Designated Premises Supervisor was highlighted and it was suggested that Mr Williams was able to meet all of these requirements, and being a shareholder in the company which owned the premises, he had a financial interest to ensure that it was run correctly and the legal requirements complied with.
2. This matter was based on the information held in private session.
3. That only six warning letters were sent to the Three Horseshoes over seven years and that these had not resulted in further enforcement action. The warning letters regarding the CCTV were allegedly caused by a misunderstanding in the requirements of the licence conditions which had been

subsequently clarified as part of the 2014 prosecution and a letter by an Engineer working on the CCTV at the premises.

4. This matter was based on the information held in private session.

Having considered all of the above, the Sub-Committee had resolved not to uphold the Police objection and instead allowed the Licence to be varied allowing Mr Williams to act as Designated Premises Supervisor. Although it is noted that the Three Horseshoes is an establishment that has had incidents recorded whereby the Police have had to attend, the Sub-Committee did not feel that the circumstances of Mr Williams meant his appointment as Designated Premises Supervisor at this premises would undermine the crime prevention objective.

#### 34 EXCLUSION OF THE PUBLIC

RESOLVED: That under section 100A(4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, the public be excluded from the meeting during consideration of the following items of business as they contain exempt information as defined in Paragraphs 12 of Part 4 and Paragraph 21 of Part 5 of Schedule 12A of the Act.

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<u>Minute No:</u>	<u>Summary of Item:</u>
35	Licensing Act 2003: Section 37 Variation of Designated Premises Supervisor Three Horseshoes, Queen Street, Bridgend - Appendix D only.