

NOTTINGHAM CITY COUNCIL

SPECIAL LICENSING PANEL

RECORD OF PROCEEDINGS

1. **Meeting date** - 18 September 2014
2. **Panel**
 - Councillor Brian Grocock (Chair)
 - Councillor Mohammed Ibrahim
 - Councillor Mick Wildgust
3. **Legal advisor & Note taker**
 - Tamazin Wilson
 - Mark Leavesley
4. **Type of application** - Representation against Interim Steps decision
5. **Applicant / Premises Licence Holder and premises under review**

Mr Gerard Dowling *in respect of*
Dowlings
532/534 Mansfield Road
Nottingham
NG5 7EH

6. Parties present

- (1) For the License Holder
 - Sarah Clover, Barrister
 - Karen Cochrane, Solicitor, Flint Bishop
 - Gerard Dowling, Premises Licence Holder
 - Helen Dowling, Designated Premises Supervisor
- (2) For Nottinghamshire Police
 - Sergeant Chris Hardwick, Licensing Sergeant
 - Robert McKay, Solicitor

7. Persons present refused permission to speak and why – None.

8. Parties not present and why – None.

9. Applications and decisions on ancillary issues eg requests for adjournments, determinations whether to proceed in absence, directions etc

Mr McKay on behalf of the Police asked for an adjournment to respond to the submissions made by Ms Clover on behalf of the Premises Licence Holder. The Panel agreed to a short adjournment of approximately half an hour.

The Police also confirmed that they did not intend to submit any additional documentation or to refer to any additional information or evidence at this hearing

10. Material taken into consideration

- Application for Summary Review and certificate accompanying the application

dated and received on 9 September 2014;

- Licensing Authority's determination of interim steps dated 11 September 2014;
- Representation from Flint Bishop Solicitors in the form of a letter, dated 15 September, requesting to make representations against the interim steps.
- Documents provided by Sarah Clover on behalf of the Premises Licence Holder including 'Summary Review Guidance' issued by the Home Office, and Sentencing Guidance 'Supply or offering to supply a controlled drug'.

11. Facts/Issues in dispute

Whether the interim steps imposed on 11 September 2014 are appropriate for the promotion of the licensing objectives or whether to withdraw or modify those steps.

12. Submissions

In summary, the parties made the following submissions:

On behalf of the premises licence holder:

- It was submitted that the police had used the Summary Review procedure incorrectly in this case as a matter of law, and that therefore the interim steps imposed on 11 September 2014 were not sustainable.
- It was submitted that there had been a delay in submitting the Summary Review application following the drugs warrant executed on 4 September 2014, and that the Police had not given any reason for this delay, which it was submitted indicated that the Summary Review application was not 'urgent'.
- It was acknowledged that a Senior Member of the Police Force had signed a Certificate to confirm that in his opinion the Licensed Premises were associated with 'serious crime or serious disorder or both'. However, it was submitted that the alleged offences detailed in the application were not 'serious crime' as defined by section 81 of the Regulation of Investigatory Powers Act 2000.
- In particular it was submitted that the maximum sentence for the most serious of the alleged offences (supply or offering to supply a controlled drug) was 18 months imprisonment, not three years or more as required by the legal definition of 'serious crime'. Ms Clover referred the Panel to the Sentencing Guidance for supplying or offering to supply a controlled drug. It was submitted that the other alleged offences referred to in the application did not fall within the definition of 'serious crime'.
- It was also submitted that nothing detailed in the application could be described as 'serious disorder'.
- Panel were therefore asked to withdraw the interim step made by Panel on 11 September 2014 to close the premises pending the review hearing.
- It was, however, acknowledged that the matters alleged in the application were important and serious.
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On behalf of Nottinghamshire Police:

- It was confirmed that the offence 'possession with intent to supply a Class A drug' has a maximum of life imprisonment, however no submission was made on the likely sentence for the alleged offence.

13. Decision

The Panel determined that the interim step taken on 11 September 2014, namely the suspension of the premises licence, was not appropriate for the reasons below, and that that step should be withdrawn.

The Panel did, however, wish to record that while it understood that there was doubt whether the alleged offences were considered 'serious crime' under the relevant legislation, as representatives of the Licensing Authority they had concerns over the way the PLH seems to conduct business at the premises, particularly in view of the alleged use and supply of illegal substances at the premises (as borne out by the CCTV footage viewed during the Interim Steps hearing).

Reason:

- The Council have received an application for a summary review of the premises, which was accompanied by a Certificate signed by a senior Police Officer stating that there is serious crime or serious disorder or both at the premises, and the Council are therefore under an obligation to deal with this application. The Panel have no power to say whether this was a valid application or not.
- However, some doubts had been raised on behalf of the Premises Licence Holder whether the alleged offences were 'serious crime' within the meaning of section 81 of the Regulation of Investigatory Powers Act 2000, and in particular whether the alleged drug offence falls within the 'could reasonably be expected to be sentenced to imprisonment for 3 years or more' test.
- No additional evidence was supplied by the Police of serious crime or disorder at the premises.
- In view of this element of doubt and in the absence of any further evidence at this stage, the Panel decided to lift the suspension of the Premises Licence pending the full Review Hearing in this matter, which will take place on 6 October 2014.
- The Panel considered whether any other interim steps were appropriate, but found that no additional evidence had been provided regarding the suitability or otherwise of the DPS, therefore they did not feel that it was appropriate to remove the DPS.
- The Panel did not feel that it was appropriate to add any additional conditions to the Premises Licence as the allegations related to general crime.

The interim steps imposed on 11 September 2014 therefore were lifted and shall not continue to have effect.

Signed: Councillor Brian Grocock (Chair)

Dated: 18 September 2014