

Contains Confidential Exempt Information	No
Report Title	Premises Licence Review hearing
Premises Details	SKYWAYS HOTEL 19-21 London Road Langley Slough SL3 7RL Premises Licence Number PL4582
Author(s)	Mick Sims Licensing Manager Enforcement and Regulatory Services
Purpose of Report	Regulatory / Review Hearing for Premises Licence

1. SUMMARY

- 1.1 On 20th November 2015, Debie Pearmain - Thames Valley Police Licensing Officer applied for a Review of the Premises Licence for the Skyways Hotel, 19-21 London Road, Langley Slough, SL3 7RL under Section 51 of the Licensing Act 2003.
- 1.2 A copy of section 51 of the Licensing Act 2003 is attached at **Appendix E**

2. RECOMMENDATIONS

- 2.1 The Sub Committee are asked to determine the Application.
- 2.2 Where the Sub Committee considers action is appropriate the options available are:
- 2.2.1 Temporarily or permanently modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- 2.2.2 exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- 2.2.3 remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- 2.2.4 suspend the licence for a period not exceeding three months;
- 2.2.5 revoke the licence;

2.2.6 issue an informal warning; and

2.2.7 do nothing.

3. PRINCIPLES FOR MAKING DECISIONS

Context

3.1 As quasi-judicial body the Committee is required to consider this matter on its merits and must act reasonably and rationally. The Committee can only take into account relevant factors and must ignore irrelevant factors. The decision must be based on evidence, that is to say material, which tends logically to show the existence or non-existence of the relevant facts, or the likelihood or the unlikelihood of some future event, the occurrence of which would be relevant. The Committee must give fair consideration to the contentions of all persons entitled to make representation to it.

3.2 The Committee can only consider matters within the report along with relevant representations made at the hearing.

3.3 Members should note that the Committee is meeting on this occasion solely to perform the role of licensing authority. As such, Members should disregard the Council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the licensing law, guidance and the Council's related policies and guidance.

3.4 Members will be aware of the Council's Code of Conduct which requires them to declare interests. The Code applies to members when considering licensing issues. In addition as a quasi-judicial body, members are required to avoid both actual bias and the appearance of bias.

Human Rights & Equality Act Duties

3.5 In determining the case, the Committee should be aware of and take into account any implications that may arise from the Human Rights Act 1998 and S149 Equality Act 2010. The Act 1998 makes it unlawful for a public authority to act in a manner which is incompatible with the European Convention on Human Rights.

3.6 When determining the case and considering imposition of conditions the Committee must be satisfied that any decision which interferes with the rights of the applicant or of others only does so insofar as it is necessary to protect the rights of others and that no alternative decisions would be appropriate.

3.7 The Committee is specifically referred to the following Convention rights:

3.7.1 Article 6 (the right to a fair trial),

3.7.2 Article 8 (the right to respect for private and family life)

3.7.3 Article 1 of the First Protocol (the protection of property)

4. RELEVANT POLICY AND LEGISLATION CONSIDERATIONS

- 4.1 The procedure to be followed for the Review hearing is attached at **Appendix D**.
- 4.2 The amended guidance issued under section 182 of the Licensing Act 2003 was published in March 2015, paragraph 11 and the salient points that the Committee must have regard to for Review Applications are detailed below:

“11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

11.10 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 co-operation.”

Powers of a licensing authority on the determination of a review

11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

11.17 The licensing authority 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 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.

11.18 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.

11.20 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.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 *Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.*

11.23 *Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence."*

- 4.3 The committee should also consider and make use of the 'Yellow and Red Card' system as directed and recommended by The Department of Culture, Media and Sport (DCMS) and as approved by the Licensing Committee.
- 4.4 The committee must also have regard to Slough Borough Council's Statement of Licensing Policy 2014-2019, sub-paragraphs 6.1 to 6.8 of which cover the authority's general approach to licence conditions.

5. LICENCE SUMMARY

- 5.1 Skyways Hotel operates as a hotel with a restaurant and bar and currently holds Premises Licence number **PL 4582 (Appendix A)**. The Premises Licence holder is a Mr Sewa Singh Johal and the named Designated Premises Supervisor ("DPS") is Mr Kavi Raj Singh Johal, who holds a Personal Licence (number PA004685). Both the Premises Licence and Personal Licence were issued by Slough Borough Council.
- 5.2 The DPS is responsible for the day to day management of the licensed premises.
- 5.3 The Premises Licence authorises the carrying out of the licensable activities as follows:

E - Performance of live music (Indoors)

F - Playing of recorded music (Indoors)

G - Performance of Dance (Indoors)

H - Entertainment of a similar description to that falling within E, F, or G (Indoors)

The times the Licence authorises the above Licensable Activities are:

Friday to Sunday: 08.00pm 11.00pm

*Non Standard Timings: 8.00pm Midnight
(1 extra hour on all Bank Holidays, Vasaki and Dewali)*

I - Late night refreshment (Indoors)

The times the Licence authorises this activity are:

Monday to Sunday: 11.00pm Midnight

J - Supply of alcohol for consumption ON and OFF the premises

The times the Licence authorises this activity are:

Monday to Sunday: 10.00am Midnight

Good Friday: Noon 11.30pm

Christmas Day: Noon 11.30pm

New Year's Eve: 10.00am Midnight

A copy of the current Premises Licence is attached at **Appendix A**.

6. REASON FOR REFERRAL: REVIEW APPLICATION

- 6.1 The Applicant asking for the Review is Debie Pearmain - Police Licensing Officer on behalf of Thames Valley Police. Any responsible authority or an interested party may apply for a review of a premises licence if it is concerned about activities taking place at the licensed premises which may impact adversely on one of the licensing objectives.
- 6.2 The Applicant has asked that the Premises Licence is suspended for a period of 3 months to allow all current conditions on the Premises Licence to be fully implemented and complied with, for all staff to undergo Child Sexual Exploitation (CSE) course, and for a full agency licensing inspection to take place with all relevant Authorities before the end of the suspension period to ensure full compliance. The full Review Application and supporting evidence sent with it are contained at **Appendices B and C**.
- 6.3 The Licensing Authority is satisfied that this application for Review meets the appropriate legislative requirements within the Licensing Act 2003 and is therefore a valid application to be considered by the Licensing Sub-Committee
- 6.3 Responsible authorities or any interested party may ask for a review because of a matter or matters arising at the premises in connection with any of the **four** licensing objectives.
- 6.4 The grounds for the Review are:
1. The Prevention of Crime and Disorder,
 2. Public Safety,
 3. The Protection of Children from Harm, and
 4. The Prevention of Public Nuisance.

- 6.5 The grounds for the Review Application are based on items 1 to 3 of paragraph 6.4 above, being:
- 6.6 Repeated identified breaches of conditions attached to the current Premises Licence, poor management of the licensed premises, concerns over hotel security and the room booking system at the premises together with potential safeguarding issues following a Police operation at the hotel which took place on 12th August 2015.

7 BACKGROUND INFORMATION

- 7.1.1 On 6th July 2009, the Skyways Hotel was the subject of a Review application made by Thames Valley Police, on the grounds that the premises was not able to fully promote the licensing objectives relating to: The Prevention of Crime and Disorder; Public Safety; The Prevention of Public Nuisance and The Protection of Children from Harm.
- 7.1.2 The grounds for that review are briefly summarised as being mismanagement of the premises which has caused numerous crimes, severe disorder, drunkenness, and public nuisance. As result of that Review the Licensing Sub Committee imposed a total of 14 new conditions on the premises licence a copy of which is contained in **Appendix A**.
- 7.1.3 In late 2014, Thames Valley Police conducted a number of visits and inspections at Skyways Hotel where breaches of conditions were identified as well as concerns regarding the booking in system of guests, the security of the hotel, correct use of the CCTV system.
- 7.1.4 The Police and Licensing Officers met with the owner and Premises Licence Holder, Mr Sewa Johal and the DPS, Mr Kavi Raj Singh Johal to discuss the concerns about the premises and to discuss the addition of nine new conditions to the premises Licence by way of a Minor Variation. Mr Sewa Johal agreed to this and a Minor Variation was submitted on 14th October 2014. The new conditions are detailed on page 6 of the premises licence.
- 7.1.5 On 28th November 2014, Ms Pearmain and neighbourhood officers attended the premises. A plain clothes officer managed to successfully gain access to the annexe building next door, without being challenged. The receptionist could not show ID for someone staying in one of the rooms. The receptionist also asked if he had to ID if 2 people are staying in one room.
- 7.1.5 On 5th December 2014, Ms Chalmers, the Police Crime Reduction Advisor carried out a crime reduction survey at the premises. A Security Assessment Report was completed with recommendations on security which was passed to Skyways Hotel for their consideration.
- 7.1.6 Various licensing checks were carried out at the Skyways Hotel between March and August 2015.
- 7.1.7 On 10th April 2015, Ms Pearmain and others attended the licensed premises. The annexe building next door was open and not locked.

- 7.1.8 On 7th August 2015, Ms Pearmain and others attended the premises. The annexe building next door was unlocked. Some guests still not being asked for their ID.
- 7.1.9 On 12th August 2015 Thames Valley Police conducted an operation at the Skyways Hotel which formed part of "Operation Cuckoo," a Child Sexual Exploitation Initiative. A plain clothed Police Officer from the Thames Valley Police accompanied by a 13 year old female volunteer attempted to book a room at the hotel . The purpose of the operation was to test room bookings without ID at the hotel as well as to try and purchase alcohol for a minor.
- 7.1.10. The Police Officer accompanied by the 13 year old female volunteer asked for a room for one night, but was told all double rooms were booked. The Officer then went to bar, together with the female volunteer and was able to purchase a vodka and lemonade for the female volunteer and himself without any challenge as to age or identification for either of them. Whilst the Officer and the female volunteer remained in the bar area, the hotel receptionist asked the Officer if he wanted a room for the whole night or just few hours. The Officer asked for 3 hours and was told that they could not do 3 hours. The Officer was about to ask for 2 hours, when his Inspector arrived. During the whole time the 13 year old female volunteer was in attendance directly next to the Officer, who was not challenged at anytime and no ID was requested.
- 7.1.11 On 14 September 2015, the Police and licensing officers met with representatives from Skyways Hotel to raise their continued concerns over the unacceptable management of the Premises, breach of the licence conditions and findings following Operation Cuckoo.
- 7.1.12 On 15th October 2015 the Police, licensing officers, the Fire Safety Inspection Officer and Ms Chalmers attended Skyways Hotel. Ms Chalmers conducted a further review of the premises in light of her original Security Assessment Report and found further issues and concerns.
- 7.1.13 Debie Pearmain highlights in the Review Application that the Police and Licensing Authority have tried to work with Skyways Hotel to address concerns at the Hotel. In particular, Ms Pearmain highlights potential safeguarding issues relating to the Police operation on 12th August 2015 as well as breaches of licence conditions. As the premises licence is already heavily conditioned, the Police are recommending that the premises licence is suspended for a period of 3 months (*the maximum period in accordance with the section 182 guidance*) for the current conditions on the premises licence to be fully implemented and complied with, for all staff to undergo Child Sexual Exploitation (CSE) training, and for a full agency licensing inspection to take place with all relevant Authorities before the end of the suspension period to ensure full compliance.

8 REPRESENTATIONS RECEIVED

- 8.1 Responses have been received from Royal Berkshire Fire and Rescue Service, Neighbourhood Enforcement and Trading Standards with no comments on the application.

8.2 There has not been any responses from any other Responsible Authorities.

APPENDICES

Appendix A - Copy of Premises Licence for Skyways Hotel PL4582

Appendix B - Review Application

Appendix C - Supporting information (sent with and part of the Review Application)

Appendix D - Procedure to be followed at the hearing

Appendix E - Section 51 of the Licensing Act 2003

Background papers

- The Licensing Act 2003
- Guidance issued under Section 182 of the Licensing Act 2003 - (Revised March 2015)
- Regulations (cited as the Licensing Act 2003 ([Various]) Orders 2005
- Slough Borough Council Statement of Licensing Policy - December 2014 to 2019
- DCMS Guidance – Red and Yellow Card System