

**LICENSING SUB-COMMITTEE****14 April 2016****Attendance:**

Councillors:

Mather (Chairman) (P)

Izard (P)

Lipscomb (P)

**Officers in attendance:**

Miss J Allingham – Licensing Officer

Miss C Stefanczuk – Licensing Manager

Ms C Tetstall – Licensing Solicitor

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**1. REVIEW OF PREMISES LICENCE – SHAPLA RESTAURANT, 60 WEST STREET, ALRESFORD**

(Report LR470 refers)

The Chairman welcomed to the meeting:

- PC Brian Swallow (Hampshire Constabulary / Police Licensing Officer)
- Mr Khalique Meah (Premises Licence Holder / Co-owner)
- Mr Ahmed Moon (Co-owner)
- Mr Mark Ruffell (Counsel, on behalf of the Co-owners)
- Mr Christopher Chidley (Solicitor)
- Ms Debbie Wright (Solicitor)
- Ms Sarah Coles (Interested Party)

Miss Allingham introduced the review application to the Sub-Committee. In summary, she explained that the application for a review of the premises licence held by Mr Khalique Meah for Shapla Restaurant, 60 West Street, Alresford, SO24 9AU had been made by the Police Licensing Officer, on behalf of Hampshire Constabulary (a responsible authority) under section 51 of the Licensing Act 2003. The basis of the review related to the prevention of crime and disorder and public safety licensing objectives following an assault outside the above premises on 16 January 2016. The application was set out at Appendix 1 to the Report. Representations from Members of the Public, who expressed support for the premises and who did not want the licence to be reviewed or revoked, were attached as Appendix 2. Whilst exempt papers formed part of the Agenda at Appendix 5, the Sub-Committee did not need to meet in private session, wholly or in part, as specific details from those pages were not discussed.

It was confirmed that the only representation received from a Responsible Authority was from Hampshire Constabulary (the applicant).

PC Swallow, the Police Licensing Officer, advised the meeting that the assault had involved a male who was standing outside of the premises. He had attended the restaurant to try and purchase an alcoholic drink at around 23:15 on 16 January 2016. The current licence permitted drinking ancillary to the meal only, and accordingly he was advised that he could not be served. On leaving the premises, he met with a small group of men who were drinking beer outside the restaurant. He was advised by them that if he said a password to the waiter he would get served. He did this, and was served a pint of lager in a plastic cup. He went back outside and spoke to the small group of men again. After about 15 minutes, a male came out of the restaurant and, after a short heated exchange of words followed by a physical tussle, the male struck the aggrieved in the face with his bottle of Cobra beer. The neck and top with the cap of the bottle were later found to still be in place, and so it was considered that the bottle was supplied for consumption off the premises (which the licence did not permit).

PC Swallow confirmed that this case was still an ongoing police investigation, so some information in the sub-committee's papers had been redacted so as not to prejudice the outcome of this. He advised, though, that the police officer attending the premises on the night of the incident, found that the co-owners were not on site: Mr Meah was out of the country and Mr Moon had gone home earlier that night as the restaurant was quiet. In their absence, the police officer spoke to Mr Muhammed Hussain, one of the waiters on duty, who was evasive in his responses.

PC Swallow visited the premises on 21 January 2016 to meet with Mr Moon. Initially Mr Moon did not know the specifics of the incident and, with structural works taking place, the CCTV monitor and hard drive had been removed; Mr Moon advised that this was broken. Only the CCTV wires remained and, given that they were not covered in brick dust, it was possible that the CCTV equipment had recently been taken away. In the bar area there was a significant number of plastic beer glasses under the counter; Mr Moon explained that these were for people with a snack drinking outside the restaurant. The Cobra beer, similar to the one used in the attack, was in stock.

PC Swallow concluded by saying the alcohol sales without food at the Shapla restaurant was a deliberate breach of the law and licence conditions and that, given the existence of a known password system, the practice had been unchallenged and in place for some time. He felt that, whilst the total removal of alcohol licence should be considered, the Police had proposed possible new licensing conditions to the Premises representatives which had been deemed acceptable by them and which were then circulated to Members. These included ceasing to serve alcohol after 23:00 on all nights, with the premises closing at 23:30 on all nights; tighter/extended CCTV provision; staff training; and a more specific condition over the supply of alcohol only being served with meals.

In response to Member questions, PC Swallow advised that he was not aware of previous problems with the Shapla premises and that, given its quietness on a Saturday evening, the area was not usually policed as standard.

Mrs Coles, a local resident and one of the respondents in Appendix 2, was then invited to speak by the Chairman. Mrs Coles expressed support for the premises which she had visited on many occasions with her family.

Mr Ruffell was then invited to speak by the Chairman. He stated that, in 23 years of trading, this was the first time that something of this nature had occurred at Shapla. Mr Ruffell confirmed that his clients accepted, and regretted, the breaches of the licence. He also confirmed that the two waiters on duty that night (one being the aforementioned Mr Hussain) had been dismissed. The Co-owners had not been aware of such alcohol sales and breaches of the licence when they were not on the premises. They also did not know why the bottle of beer had been given to the aggressor rather than a plastic cup nor about the password scheme (although agreed that this must have been in operation for some time to be known about in this way). Mr Ruffell added that the structural works and refurbishment had now taken place at Shapla; the business had been closed for six weeks because of this. By the time of re-opening, on 3 March 2016, a more sophisticated CCTV system had been installed in the restaurant; this now captured images just outside the doorway and because of its motion sensitivity had a storage capacity of 14 days. The Police could also access the system and download any images they wanted. The Co-owners were also voluntarily closing the restaurant at 23:30 each night; new contracts had been issued to staff with Mr Moon also training them on their licensing requirements. An incident book had been put in place which would fully log all instances/timings of 'refusals to serve' and would note incident-free days as well.

Mr Ruffell confirmed that his clients accepted the Police requirements / additional conditions, which would now specify that 'alcohol shall only be supplied to those persons who are taking a tabled meal which is not a snack. The meal must be eaten at a table within the restaurant. Alcohol is not to be supplied to those ordering a takeaway only. They agreed that the late night refreshments condition in the current licence should be removed; supply of alcohol should cease at 23:00 daily; that the venue would only open 12:00-23:00 daily, with the premises vacated by diners by 23:30 daily, with the exception of existing seasonal variations. Mr Ruffell concluded by asking that these revisions, as agreed with PC Swallow, be accepted by the sub-committee rather than consumption of alcohol being prohibited altogether.

In response to questions raised by Members, Mr Ruffell confirmed that plastic cups would no longer be used as drinking outside the premises would not be allowed if the revised conditions were accepted. In addition, the motion awareness facility on the new CCTV system meant that storage of images would be increased to 14 days as it would not record images when there was no movement / when the premises was shut.

At the invitation of the Chairman, PC Swallow concluded by reminding the Sub-Committee that, as a result of the incident, a man had been left scarred

for life. The Police had considered the various licensing options that could be pursued, and felt that the aforementioned restrictions and extra conditions were acceptable. He thanked Mr Ruffell for their open discussions.

The Sub-Committee retired to deliberate in private.

On returning to the meeting room, the Chairman stated that the Sub-Committee had carefully considered the application and the representations made by the Police and Premises representatives. It had taken into account the duties under the Crime and Disorder Act 1998 and the rights set out in the Human Rights Act 1998.

Members supported the amendments and restrictions agreed between the Police and the Premises representatives, as set out in the papers circulated by the Police and amended during the meeting, with the addition of condition 8 (vii) on page 3 of the licence holder's submission, as also amended during the meeting.

The reason for the decision was that the Sub-Committee took a very serious view of the circumstances described in the Applicant's evidence, and which were accepted by the licence holder, in so far as there was a significant infringement of the prevention of crime and disorder licensing objective.

The Chairman thanked all present for attending the meeting and explained to all parties that they would be formally notified of the decision in writing in due course and of their right to appeal to the Magistrate's Court within 21 days from the date of the decision letter.

**RESOLVED:**

1. That the Premises Licence conditions for Shapla Restaurant, 60 West Street, Alresford be modified as set out below.

**REASON**

To ensure that the crime and disorder licensing objective be better upheld in future.

**MODIFIED CONDITIONS:**

**CCTV**

The licence holder shall comply with the following requirements concerning the use of CCTV at the premises.

- Operation and Storage
  - A recording CCTV system that captures images from the main public areas must be fully operational whilst licensable activities are taking place.
  - The recording equipment shall be stored and operated in a secure environment with limited access, to avoid damage, theft, unauthorised viewing and maintain the integrity of the system.
  - A record shall be kept of any access made to information held on the system.
  - The system will be serviced at twelve monthly intervals and maintained to a standard that is acceptable to the police licensing department responsible for the area.
  - The system clock shall be checked regularly for accuracy taking account of GMT and BST.
  - Digital systems shall have sufficient storage capacity for 14 days evidential quality recordings.
  - The images produced will be date and time stamped.
  - A notice will be displayed at the entrance to the premises advising that CCTV is in operation.
  - An additional recording CCTV camera shall be installed and fully operational whilst the venue is open to the public to cover the area immediately outside the front of the premises.
- Access
  - It is important that the Police are able to access data from the systems quickly and easily and therefore provision shall be made for someone to have access to the secure area and also be able to operate the equipment at all times.
  - Ensure all operators receive training from the installer when equipment is installed and that this is cascaded down to new members of staff.
  - Have a simple operator's manual available to assist in replaying and exporting data (particularly important with digital systems) and to produce images to the police for the purpose of the detection of crime as long as the request is lawful and complies with the Data Protection Act.
- Staff Training
  - Before commencing their duties all new staff must receive information and training concerning the sale of age-restricted products. This training must cover their legal responsibilities and action to be taken in the event of suspicions being aroused that someone purchasing or attempting to purchase an item under the legal age. All employees will sign a letter to acknowledge that they completed this training and have understood their responsibilities on this area. This training should be reviewed and updated at reasonable intervals.

- Refusals Book
  - A written log shall be kept of all refusals including refusals to sell alcohol. The Premises Licence Holder shall ensure that the refusals log is checked, signed and dated on a weekly basis by the manager/manageress.
  - The refusal log will be kept maintained at the premises and will be available for inspection immediately upon request by Hampshire Constabulary and any responsible authority.
  - The record of refusals will be retained for 12 months.
  
- Alcohol Supply
  - Alcohol shall only be supplied to those persons who are taking a table meal which is not a snack. The meal must be eaten at a table within the restaurant.
  - Alcohol shall not be supplied to persons who are ordering takeaways only.
  - The licensable activity of late night refreshment will be removed from the current licence.
  - Supply of alcohol is reduced to 2300 hours on all nights.
  - There shall be no service of food or alcohol after 2300 hours and the premises shall close at 2330 hours to allow diners to vacate the premises.

The meeting commenced at 10.15am and concluded at 11.30am.

Chairman