



## Minutes of the Licensing Sub-Committee

7 February 2019

**-: Present :-**

Councillors Pentney, Sykes and Thomas (J)

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### 41. Election of Chairman/woman

Councillor Thomas (J) was elected as Chairman for the meeting.

### 42. Licensing Act 2003 – An application for a Review of a Premises Licence for Jolly Judge, 168-170 Union Street, Torquay TQ2 5QP

Members considered a report on an application for a review of a Premises Licence in respect of Jolly Judge, 168-170 Union Street, Torquay. The Premises do fall within the Cumulative Impact Area.

Written Representations received from:

Name	Details	Date of Representation
Police	Application for a Review of a Premises Licence in respect of Jolly Judge, 168-170 Union Street, Torquay.	Dated 14 December 2018
Premises Licence Holder	Representation providing information in respect of the Review of the Premises Licence.	11 January 2019
Wollen Mitchelmore Solicitors	Representation providing information in respect of the Review of the Premises Licence.	10 January 2019
Police	Emails providing additional information in support of the application for Review of the Premises Licence.	29 January 2019
Police	Additional information in support of the application for Review of the Premises Licence.	31 January 2019

Additional Information:

The Chairman permitted an extension of time for oral representations and advised that each party would be permitted 20 minutes for their representations. All parties present confirmed 20 minutes would be sufficient time to submit their oral representations.

Oral Representations received from:

Name	Details
Applicant (Police)	The Applicant outlined their application for the Review of the Premises Licence.
Respondent	The Respondent outlined their response to the application for the Review of the Premises Licence and responded to Members questions

### **Decision**

That the Premises Licence in respect of Jolly Judge, 168-170 Union Street, Torquay be revoked.

### **Reasons for Decision**

Having carefully considered all the written and oral Representations, Members unanimously resolved to revoke the Premises Licence having heard the Premises Licence Holder, Mr McCabe's oral submissions which sought to abdicate himself of any responsibility in respect of the numerous incidents of crime and disorder at the premises. Mr McCabe's lack of recognition for his poor decision making with regards to those he leased the premises to and his concerning carefree appointment of a suitable Designated Premises Supervisor (DPS), demonstrated he was wilfully negligent in his responsibilities as a Premises Licence Holder.

Throughout Mr McCabe's oral representation, it was clear that he believed it was for the Responsible Authorities to advise him of issues arising in his premises rather than for him to have made himself aware, taken measurable steps to ensure these incidents did not occur or reoccur, thus ensuring that the Licensing Objectives were promoted. Mr McCabe's admission that prior to November 2018 he would only visit the premises for an hour, once a month, demonstrated his lack of proactive approach to managing the premises or performance managing those he entrusted with operating his premises. This management style fell well below the standards reasonably expected by Members of a Premises Licence Holder operating a Licence within the Licensing Authority's Cumulative Impact Area (CIA) which is an area identified as having higher incidents of crime and disorder and having been previously advised in writing that his premises were now 'Targeted Premises' by the Police, he failed to put in place measurable ways to address the concerns raised with him.

It was of great concern to Members that Mr McCabe failed to present any form of robust operational plan to manage the premises going forward. Instead Mr McCabe placed considerable emphasis on the capability of the current DPS, who has only been in post since December 2018. When asked for a plan to deal with occasions that the DPS was not working, Mr McCabe's solution was for the premises to close. Members found Mr McCabe's response to the challenges faced by him as a Premises Licence Holder to be reactionary in nature with no clear management strategy in place or recognition that such was needed.

Members were dismayed to learn that when appointing Managers, Business Operators or DPS's to operate the premises, Mr McCabe only requested CV's; did

not seek references or conduct formal interviews. Hence the catalogue of inappropriate appointments of which some had been objected to by the Police, and more importantly the current lease of his premises to an individual since 11<sup>th</sup> July 2018 who by his own admission and that put forward by the individuals instructed Solicitor in a letter to Torbay Council dated 10 January 2019, stating that 'our client accepts he was naïve in taking on the pub and did not have the relevant experience of running licenced premises'. This was of grave concern to Members, given the premises is located in the CIA and the nature of the clientele which required firm management.

Members noted the submissions advanced by Mr McCabe in respect of the current DPS and how she would be the solution to all the issues that had arisen at the premises over the last few years. However and notwithstanding any evidence to the contrary which would cause Members to doubt her ability to operate the premises, Member's decision to revoke the Licence was as a direct concern at the lack of awareness and responsibility that he as the Premises Licence Holder had shown and there being no robust plans in place should the current DPS be absent from her post or leave her employment at these premises. Given the number of previous DPS's at this premise in the time Mr McCabe has been the Premises Licence Holder and the unsuitability of some which were known or become apparent to Mr McCabe, was in Members opinion a real risk to the promotion of the Licensing Objectives, in particular to the Prevention of Crime and Disorder.

Members considered what if any additional conditions could be added to the Premises Licence as an alternative to revocation, though having been presented with evidence of non-compliance to existing conditions, Members could not be satisfied that such additional conditions would be complied with. Having discounted modifying the premises licence with additional conditions, Members subsequently deliberated whether a suspension of the Premises Licence would be appropriate. However, Members resolved that a suspension would not remove the root cause of the problem, which having considered all of the written and oral evidence was clearly Mr McCabe's lack of control and poor management. Having been presented with comprehensive evidence from the Police, there was in Members opinion an evident lack of accountability from Mr McCabe, and Members concluded they had no other option but to revoke the Licence.

In concluding, it was apparent to Members that Mr McCabe was not personally invested in ensuring the Premises were well run and that he did not assume the level of responsibility or commitment reasonably expected of him as a Premises Licence Holder of a premises situated in the CIA. It was also of great concern that Members found Mr McCabe not to be forthcoming when questioned in respect of his other business ventures when trying to assess the risks and likelihood of measurable changes being implemented at these premises which would in turn ensure future promotion of the Licensing Objectives.