

## **LICENSING COMMITTEE – 24<sup>TH</sup> NOVEMBER 2008**

### **LICENSING APPEAL DECISION – THE LONDON INN (THE GROOVE)**

#### **REPORT OF THE CITY SOLICITOR**

##### **1. PURPOSE OF THE REPORT**

- 1.1 To inform members of the Appeal Decision of District Judge Elsey in Houghton-le-Spring Magistrates Court on Friday 7<sup>th</sup> November 2008.

##### **2.0 INTRODUCTION/BACKGROUND**

- 2.1 The Police undertook a covert test purchase operation in the early months of 2007 after concerns from their own Officers and the local community regarding class A drug use and supply and anti-social behaviour at the premises.
- 2.2 This culminated in a raid involving over 100 Officers in the early hours of Saturday 9<sup>th</sup> June 2007. A Closure Order was issued by the Police under the Anti Social Behaviour Act 2003. This Order is immediately subject to review by the Magistrates Court at which time the Police could have applied for an extension of the closure for a period of up to 3 months. However Mr. Young, the owner and Managing Director, of the London Inn (hereafter referred to as the London Inn) agreed to implement a number of measures requested by the Police.
- 2.3 On the 28<sup>th</sup> June 2007 the Police applied to the Licensing Authority for a review of the Premises Licence based on the promotion of the two licensing objectives of:-
- The prevention of crime and disorder, and;
  - The prevention of public nuisance.

- 2.4 The Review was advertised allowing 28 days for representations to be made regarding it by other responsible authorities and Interested Parties in the form of local residents.
- 2.5 Relevant representations were received from Environmental Services and local residents. An initial Directions Hearing for the Review which has been listed for the 28<sup>th</sup> August 2007 was re-arranged for the 3<sup>rd</sup> September 2007 to accommodate London Inn's Barrister's availability. The Final Review was listed for two days, 4<sup>th</sup> and 5<sup>th</sup> December 2007 with Directions being given regarding disclosure and the filing of additional evidence.
- 2.6 The Hearing did not proceed on the 4<sup>th</sup> and 5<sup>th</sup> December 2007 as at this time, the Barrister for the London Inn claimed he had not had disclosure from the Police that had been requested in the Closure Order proceedings in the Magistrates Court. Despite this request for disclosure not having been mentioned in the earlier Directions Hearings before the Licensing Sub-Committee. The members in the interests of justice reluctantly adjourned the Hearing. This was re-listed for 3 days from the 7<sup>th</sup> April 2008. The London Inn made another application to adjourn the Review further but this was refused on the 14<sup>th</sup> March 2008.
- 2.7 The 3 day Hearing took place in April with all parties given unlimited time to present their case. At the conclusion of the Hearing those members hearing the review decided all four licensed premises within the London Inn complex be required to close no later than midnight. A number of further conditions were attached to the Premises Licence. (The full decision from the Notice of Determination is attached as Appendix 1.)

- 2.8 The London Inn decided to Appeal the decision of the Licensing Committee to the Magistrates Court. The lodging of the Appeal has the effect of delaying the implementation of the Sub-Committee's decision allowing the Premises to remain open until the Appeal is heard.
- 2.9 The Court decided to bring in a District Judge to hear the Appeal. At a Directions Hearing on the 10<sup>th</sup> July 2008 the Police were made a party to the Appeal Hearing, the Hearing was fixed for 5 days from the 3<sup>rd</sup> to 7<sup>th</sup> November 2008 and further Directions made regarding the filing of Skeleton Arguments and further evidence.
- 2.10 The Local Authority and Police complied with these Directions and filed additional evidence. Nothing was received from the London Inn.
- 2.11 On the 28<sup>th</sup> October 2008 at the request of the London Inn's Solicitors a further Hearing took place when the Solicitors requested the Hearing in November be adjourned because of difficulties with their Barrister's availability. The request was opposed and the Judge refused to adjourn the Hearing but did reduce it to 3 days.
- 2.12 On the first day of the actual Appeal, Mr. Young, the Managing Director, turned up without his Barrister or Solicitor and again requested an adjournment. The District Judge refused the request, but gave Mr. Young the rest of the day to prepare to represent himself. The evidence in the Appeal was heard on the 6<sup>th</sup> and 7<sup>th</sup> November 2008, following which District Judge Elsey gave his decision.

### 3.0 OUTCOME OF THE APPEAL

- 3.1 District Judge Elsey on the 7<sup>th</sup> November 2008 dismissed the Appeal of the London Inn and endorsed the decision of the Licensing Sub Committee as being well reasoned. The London Inn will therefore have to close at midnight and be subject of the additional conditions

imposed. The only change made was to the condition regarding the monitoring of the CCTV cameras the wording being changed from “constant monitoring” to “regular monitoring”.

3.2 The District Judge also awarded the Licensing Authority its legal costs of £3,777.00 and the Police £3,000.00 for their Barrister’s fees.

3.3 The London Inn is to pay these costs in full within 56 days. (A more complete summary of the decision of District Judge Elsey is included as part of Appendix 1).

#### 4.0 RECOMMENDATIONS

4.1 That the contents of the report be noted.

#### 5.0 BACKGROUND PAPERS

5.1 Legal files and Bundles used in the Review and Appeal.