

From: Simon Ruddy
Sent: 01 May 2020 12:49
To: Licensing Team <licensing.team@exeter.gov.uk>
Cc: Lee Staples <lee.staples@exeter.gov.uk>
Subject: RE: Review of a premises

Morning

I'd like to make representations in support of this review on the grounds of public safety. In light of information received by the police concerning an alleged lock-in at The Queens Head Hotel on Saturday 18th April, I served a Prohibition Notice on Sean Martin under the Public Health (Coronavirus, Restrictions) (England) Regulations 2020, requiring closure of the premises, or part of the premises where food or drink are sold for consumption on the premises. The Notice required closure to remain in place until the end of the emergency period; it was served on Thursday 23rd April. Please find attached a copy of the notice and a statement setting out my grounds for service.

Regards

Simon Ruddy
Principal Environmental Health Officer – Business Regulation
Environmental Health & Community Safety
Exeter City Council
01392 265790



The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (SI. 2020: No.350)

PROHIBITION NOTICE

Date 23 April 2020

Part A

To: Sean Christian Martin

At: The Queens Head, 270 Pinhoe Road, Exeter EX4 7JQ

This Prohibition Notice is served under Regulation 8(2) of The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (the Regulations) and has immediate effect.

The Regulations impose certain restrictions to protect against the risks to public health arising from coronavirus. Failure to comply with the requirements of the Regulations, without reasonable excuse, is a criminal offence.

I, Simon Ruddy, designated as a relevant person for the purposes of the Regulations by Exeter City Council, have reasonable grounds for believing that you are contravening a requirement in the Regulations as set out in Part B below and that it is necessary and proportionate to issue this Prohibition Notice to prevent continued contravention of the requirement.

Part B. Contravention of the restrictions

As a person responsible for carrying on a business listed in Part 1, Schedule 2 of the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (i.e. a public house), you contravened regulation 4 of the Regulations in so far as that you failed to close the premises, or the part of the premises where food or drink are sold for consumption on the premises - a contravention witnessed by officers of Devon and Cornwall Police on the evening of 18 April 2020.

Part C. Action required

This Prohibition Notice requires that you immediately cease the activities giving rise to contravention of the Regulations. **The activities must not resume before the end of the emergency period¹.** The measures specified below must be taken to prevent continued contravention of the Regulations:

- Close the premises, or part(s) of the premises, in which food or drink are sold for consumption on the premises.

¹The Secretary of State will publish a direction terminating the emergency period as soon as they consider the restrictions or requirements set out in the Regulations are no longer necessary

Part D. Consequences of non-compliance

Failure to comply with this Prohibition Notice, without reasonable excuse, is an offence punishable by a fine on summary conviction in a Magistrates Court.

Part E. Challenging this Prohibition Notice

There is no statutory right to appeal against this Prohibition Notice.

If you consider that the Notice should not have been issued or that the actions required of you are unreasonable or unjust, you can make representations to Exeter City Council in writing outlining your reasons for challenging the Notice, within 21 days of the date on this Notice.

Your challenge will be processed in accordance with Exeter City Council's Complaint Procedure:

<https://exeter.gov.uk/council-and-democracy/contact-us/comments-compliments-and-complaints/making-a-complaint/>

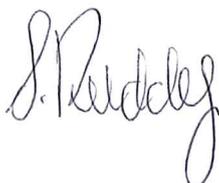
Contact: Complaints Officer, Exeter City Council, Civic Centre, Paris Street, Exeter, EX1 1JN

Alternatively, you may challenge this Notice by way of Judicial Review. Should you wish to pursue this option, you may wish to consult a lawyer to obtain independent legal advice.

This Notice remains in force even if you have raised a challenge.

Should the local authority's review of your challenge determine that the Notice should be revoked, you will be notified in writing that the Notice has been revoked.

Signed:



Date: 23 April 2020

Name in Capitals: SIMON RUDDY

Exeter City Council, Civic Centre, Paris Street, Exeter EX1 1RQ

Telephone: 01392 265147

Email: environmental.health@exeter.gov.uk

If you are not sure of your rights or the implications of this Notice, you may want to seek independent legal advice

Statement of witness

(Criminal Procedure Rules, r.27.2; Criminal Justice Act 1967, s9; Magistrates' Courts Act, s.5B)

Statement of: Simon Philip Ruddy

Age of witness (if over 18, enter "over 18"): Over 18

This statement, consisting of two page(s), signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 23rd day of April 2020

Signed:

I am Simon Philip Ruddy, Principal Environmental Health Officer (Business Regulation) in the Environmental Health and Community Safety Department at Exeter City Council. I am designated as a relevant person for the purposes of the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020.

On Monday 20 April, Principal Licensing Officer Lee Staples forwarded me an email from Sergeant Emma Storey-Barrett of Devon and Cornwall Police. The email detailed a visit made by the police to **The Queens Head Hotel, 270 Pinhoe Road**, Exeter, on the evening of Saturday 18th April after reports of an alleged lock-in were received.

Regulation 4 of The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 states that:

A person responsible for carrying on a business which is listed in Part 1 of Schedule 2 must—

(a) during the emergency period—

(i) close any premises, or part of the premises, in which food or drink are sold for consumption on those premises, and

(ii) cease selling food or drink for consumption on its premises; or

(b) if the business sells food or drink for consumption off the premises, cease selling food or drink for consumption on its premises during the emergency period.

Signed:

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Statement of witness – continuation sheet

(Criminal Procedure Rules, r.27.2; Criminal Justice Act 1967, s9; Magistrates' Courts Act, s.5B)

Statement of: Simon Philip Ruddy

Schedule 2 of the regulations lists businesses subject to restrictions or closure; public houses are listed in Part 1 of Schedule 2.

The emergency period starts when these regulations come into force (i.e. 13.00 on 26th March 2020) and finishes when the Secretary of State publishes a direction terminating the period as soon as they consider the restrictions or requirements of the regulations are no longer necessary. It is therefore apparent that, based on police evidence, on the evening of Saturday 18th April the person carrying on the business of The Queens Head Hotel was in breach of regulation 4(a)(i) in that the bar of said premises was open during the emergency period.

A check on Exeter City Council's licensing public register revealed the designated premises supervisor of the Queens Head Hotel to be **Sean Christian Martin**.

Enforcement of Regulation 4 of the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 is via the issue of a Regulation 8 Prohibition Notice, served by a relevant person. Failure to comply with a Prohibition Notice is an offence, punishable, on summary conviction, by a fine.

On 11.40 on Thursday 23rd April I posted a Prohibition Notice to Sean Christian Martin through the letterbox on the front door of The Queens Head Hotel, 270 Pinhoe Road. The Notice required Sean Christian Martin to close the premises, or part(s) of the premises, in which food and drink are sold for consumption on the premises. Whilst the pub appeared to me to be closed at the time (through a window I could see other post on the floor and stools stacked up on tables), crucially, the Notice required that the activities giving rise to contravention of the Regulations must not resume before the end of the emergency period. The Notice was signed by me, as a relevant person.

I now produce a copy of the Prohibition Notice which I served on Sean Christian Martin by leaving on the premises exhibit SR/1.

Signed:

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RESTRICTED (when complete)