

LICENSING SUB-COMMITTEE A

A meeting of the Licensing Sub-Committee A was held on 28 March 2018.

PRESENT: Councillors J A Walker (Chair), T Higgins and D Rooney

OFFICERS: J Dixon

DECLARATIONS OF INTERESTS

No Declarations of Interest were made by Members at this point in the meeting.

17/17 EXCLUSION OF PRESS AND PUBLIC.

ORDERED that the press and public be excluded from the meeting for the following items on the grounds that, the public interest in doing so outweighed the public interest in the hearing, or the part of the hearing, taking place in public. Any party and any person assisting or representing a party may be treated as a member of the public.

17/18 LICENSING ACT 2003: APPLICATION FOR REVIEW OF PREMISES LICENCE - THE GREEN TREE, 55 GILKES STREET, MIDDLESBROUGH, TS1 5EH.**DECISION**

1. On the 28 March 2018, the Committee considered an Application to Review a Premises Licence in the name of Trust Inns Limited in relation to Premises at 57 Gilkes Street Middlesbrough known as The Green Tree, ("the Premises") which authorises various licensable activities including the sale of alcohol on and off the Premises between 10.00am and midnight daily (with an additional hour on various specific days).
2. The Committee noted under Section 4 of the Licensing Act 2003 ("the Act") that it must carry out its functions with a view to promoting the licensing objectives. It noted under Section 52 of the Act, the Committee, following hearing a review of a Premises licence, must, having regard to the application and any relevant representations, take such steps as it considers appropriate for the promotion of the licensing objectives.
3. The Committee noted that the steps are: to do nothing; issue a warning; remove, add or change the conditions on the Licence; exclude a licensable activity from the Licence; remove the Designated Premises Supervisor (DPS); suspend the Licence; or revoke the Licence.
4. The Committee carefully considered the Application, the report and appendices. It carefully considered the representations made by the Applicant, the Responsible Authorities, the Premises Licence Holder and their Representatives. It carefully considered the Act, Government Guidance under Section 182 of the Act ("the Guidance"), the Council's Statement of Licensing Policy ("the Policy") and the licensing objectives.
5. The Committee decided to remove the Designated Premises Supervisor and to modify the conditions on the Licence in order to uphold the prevention of crime and disorder, public safety and the protection of children from harm.
6. The Applicant and Public Health informed the Committee, in summary, that since the Designated Premises Supervisor ("DPS") was appointed on the 28 June 2017 there has been a growing problem at the Premises becoming a base for football supporters who go on to cause disorder at football matches. On the 6 January 2018 William Myers, the husband of the DPS, opened and was operating the Green Tree at 9.00am and customers inside the Premises were drinking alcohol. That the Licence did not permit the sale of alcohol until 10.00am. Middlesbrough Football Club had a match with Sunderland on the 6 January 2018 and intelligence had been received that pre-arranged violence was arranged between Middlesbrough and Sunderland supporters at the Premises. Some of the customers at the Premises and William Myers were known to the Police and identified as risk supporters (a

person who is likely to pre-plan or be involved in spontaneous violence and disorder). Mr Myers had attempted to close off the road for five mini buses containing Sunderland fans. Mr Myers and other customers from the Premises then went on to cause disorder aimed against Sunderland supporters at various points around the town centre. That the actions of the group caused significant risk to Sunderland supporters and the general public and required a vast amount of Police resources. Mr Myers had a history of being involved in problem licensed premises including match days.

7. The Premises Licence Holder (PLH) informed the Committee, in summary, that the Premises had been operated for a very long period, approximately 50 years. That there were no issues and the Premises were ran responsibly prior to the DPS taking over in June 2017. That the PLH carried out due diligence in checking the DPS and, at the time, there were no issues. It confirmed meetings did sometimes include Mr Myers but the Tenancy was in the name of the DPS only. That the PLH was not aware of the history of the issues with Mr Myers and the Police had not objected at the time to the change in the DPS. The PLH engages a business manager to give advice to Tenants. That the PLH business model is that Premises are let out to the DPS and the DPS has full control over the Premises. The Tenancy Agreement has a clause which allows the PLH to forfeit the tenancy if action is taken following a review. That the PLH will take steps to remove the Tenant if action is taken by the Committee. The incidents occurred away from the Premises. The incident was the fault of Mr Myers and the DPS not the PLH.

8. The Committee was informed that the Applicant, Responsible Authority, requested the removal of the DPS and the addition of conditions would be the appropriate action to take to resolve the problems.

9. The Committee considered that Mr Myers had opened the Premises and sold alcohol without an authorisation to do so which constitutes a criminal offence under Section 136 of the Licensing Act 2003. The Committee considered that although the incidents occurred away from the Premises, the Premises played an integral part and was used as a base for organised serious disorder and violence. Large scale violence was also arranged to be at the Premises (although this did not occur). Therefore, in accordance with paragraph 11.27 of the Guidance, the Committee took this very seriously. It considered that Mr Myers operated the Premises and was involved in the organisation of group violence and disorder. The Committee considered that the Premises was a known venue for such risk supports and on the day in question, 3 of the 11 arrests were customers of the Premises. The Committee considered that Mr Myers has a history of being involved in problem licensed premises particularly on match days. The Committee considered that Mr Myers had control over the Premises and the DPS had no control over Mr Myers and in effect allowed the Premises to be used as the base for organised violence and disorder.

10. The Committee considered that although the matter was very serious and the the Premises were being used to facilitate crime and disorder, it did appear that the Premises had been ran responsibly prior to the DPS taking over for a number of years with no detriment to the Licensing Objectives. Therefore, the Committee considered that it would be appropriate in this case to remove the DPS who caused or allowed the undermining of the objectives as opposed to suspending or revoking the Premises Licence, in accordance with paragraphs 1.20 and 11.21 of the Guidance.

11 However, the Committee was concerned that the DPS would still have a Tenancy and therefore be entitled to occupy the Premises with her husband and have control over the Premises. The Committee noted that there can be no sale of alcohol without a DPS in place. It advised that the PLH takes immediate action under the Tenancy Agreement. The Committee considered it appropriate to impose the following conditions attached to this decision. The conditions are required to prevent the DPS from being involved in the running of the Premises and Mr Myers and risk supporters from using the Premises.

12. The CCTV condition on the Licence is to be deleted and replaced with the condition attached to ensure the objectives will be upheld.

13. There is no refusals register required by a condition on the current Licence. As the Premises are known as being linked to organised football violence and disorder, to ensure risk supporters are deterred from using the Premises, the Committee considered it appropriate for a condition that a refusals register, electronic or otherwise, be required to be completed at the Premises. This will assist the DPS showing reasons for refusals and can be checked by the Responsible Authorities.

14. The Premises were operating outside of the times permitted by the Licence and it appeared a member of staff was serving behind the bar during these hours. There is no condition on the Licence to undertake training of staff and therefore the Committee considered it appropriate that staff should be trained in respect of what is permitted by the Licence and the conditions to which the licence is subject to ensure future compliance.

15. Although the conditions were not discussed at the hearing the Committee considered the additional conditions to be appropriate in light of all of the information received and the very serious problems that have occurred at the Premises. In addition the Premises are situated in the town centre which suffers from high levels of alcohol-related crime and disorder and anti-social behavior as set out in the Policy and in the representation of Public Health. The Committee therefore considered that the addition of a refusals register and training would not be burdensome to implement and would assist the new DPS in ensuring the Premises are no longer linked to football violence and the Premises is operated in line with the requirements of the Licence.

 
Conditions

1. William Myers and Sarah Myers will have no involvement in the management of the Premises or to be employed at the premises.

2. William Myers is not to be permitted entry to the Premises when the Premises is open to the public.

3. The DPS and the Premises management will not permit any individual notified in writing to the DPS by the Police as being subject to a football banning order to the Premises, insofar as is practicable.

4. A digital Closed Circuit Television System (CCTV) will be installed and maintained in good working order and be correctly time and date stamped.

(a) The system will incorporate sufficient built-in hard-drive capacity to suit the number of cameras installed.

(b) CCTV will be capable of providing pictures of evidential quality in all lighting conditions, particularly facial recognition.

(c) Cameras will encompass all ingress and egress to the premises, outside areas and all areas where the sale/supply of alcohol occurs.

(d) The system will record and retain CCTV footage for a minimum of 28 days.

(e) The system will record at all times when the premises are open for the purposes of licensable activities.

(f) The system will incorporate a means of transferring images from the hard-drive to a format that can be played back on any desktop computer.

(g) The Digital recorder will be password protected to prevent unauthorised access, tampering, or deletion of images.

(h) There will be at all times, when the premises is open, a member of staff on duty with access to the CCTV system who is trained in the use of the equipment.

(i) Upon receipt of a request for a copy of CCTV footage from Police, Licensing Officers or any other Responsible Authority, the member of staff will produce the footage within 24 hours or less if urgently required for investigations of serious crime.

(j) CCTV footage must be made available to be viewed by the Police, Licensing Officers or other Responsible Authorities on request during an inspection of or visit to the Premises.

(k) The above is subject to any prohibition under Data Protection legislation.

5. A refusals register will be kept and maintained at the Premises at all times up to date recording the date, time and reason for every refusal to sell alcohol to a customer. The refusals register will be made available to Police, licensing officers and other responsible authorities on reasonable request or during an inspection.

6. Training in relation to the requirements of the Premise Licence, conditions on the Premises Licence and the Licensing objectives must be provided and undertaken by all members of staff (whether paid or unpaid) before he / she makes a sale or supply of alcohol and at least every six months thereafter.

7. Documented training records must be completed in respect of every member of staff and must include the name of the member of staff trained, date, time and content of the training. The record must be signed by the member of staff who has received the training and the Designated Premises Supervisor or external training providers.

8. Documented training records must be kept at the Premises and made available to the Police, Licensing Officers and all other Responsible Authorities on reasonable request or during an inspection.