

LICENSING SUB-COMMITTEE A

A meeting of the Licensing Sub-Committee A was held on 27 September 2018.

PRESENT: Councillors J A Walker (Chair), R Arundale and D Rooney

PRESENT AS OBSERVERS: Councillors Hubbard and Saunders - Park End and Beckfields Ward Councillors
7 members of the public
J Cain - BBC local democracy reporter

ALSO IN ATTENDANCE: On behalf of the Applicant:-
S Gerrard - FACT
Sergeant P Higgins; PC E Price - Cleveland Police
J McCluskey - Trading Standards
F Helyer - Public Health
S Lawrence; N Williams - Licensing
C Holland - Legal Representative representing the applicant

On behalf of the Premises Licence Holder:-
C Beadnall - Manager, Park End Pub
E Lynes - DPS, Park End Pub
A Cochrane - Legal Representative on behalf of Punch Partnerships (PTL) Ltd.

OFFICERS: J Dixon, T Hodgkinson and A Perriman.

DECLARATIONS OF INTERESTS

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

18/4 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.

18/5 LICENSING ACT 2003 - APPLICATION FOR REVIEW OF PREMISES LICENCE - PARK END PUB, PENISTONE ROAD, PARK END, MIDDLESBROUGH, TS3 0EF, REF NO: PR0051

Decision - Park End Pub, Penistone Road, Middlesbrough

1. On the 27 September 2018, the Sub-Committee considered an Application to Review a Premises Licence in the name of Punch Partnerships (PTL) Limited in relation to Premises at Penistone Road Middlesbrough known as Park End Pub, ("the Premises") which authorises various licensable activities including the sale of alcohol (on and off sales) between 11.00am and 11.00pm Monday to Wednesday, 11.00am to midnight Thursday to Saturday and 12.00pm to 11.30pm Sundays (with an additional hour on various specific days).
2. The Sub-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 Sub-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 Sub-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, suspend the Licence or revoke the Licence.

4. The Sub-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 Sub-Committee decided to suspend the Premises Licence for a period of 3 months, to remove the Designated Premises Supervisor and to modify the conditions on the Licence in order to uphold the prevention of crime and disorder.
6. The Applicant and Responsible Authorities informed the Sub-Committee, in summary, that despite the Designated Premises Licence Holder ("DPS") being appointed, a third party namely the lessee Catherine Beadnall, still maintained control of the premises and the day to day running of such. The Applicant had brought prosecutions against Catherine Beadnall. Firstly in 2009 where Catherine Beadnall was convicted of 4 offences under s.297(1) Copyrights, Designs and Patents Act 1988, this being at a time when Catherine Beadnall was the Designated Premises Supervisor. A further four offences under the same legislation were prosecuted and following guilty pleas by Catherine Beadnall resulted in convictions for those offences on 15 June 2018. The convictions were as a result of the public display of Sky programmes which form part of a subscription, where the subscription payment had been avoided, specifically Premier League matches.
7. Further representations were made on behalf of the Responsible Authorities. The submissions included other matters that ought to be considered as part of the Application and included but was not limited to the following (the full details of which were provided to the Sub-Committee in an agreed chronology of events):
 - a. It was submitted that Catherine Beadnall had been fined in the sum of £3,000.00 and ordered to pay costs in the sum of £266.95 on 27 February 2007 for carrying on licensable activity on/from a premises other than in accordance with an authorisation contrary to s.136(1)(a) Licensing Act 2003.
 - b. On 18 March 2011 Catherine Beadnall was convicted of Mortgage fraud and sentenced on 31 May 2011 to a 6 month suspended prison sentence. Following which the Licensing Authority issued a caution to Catherine Beadnall for failing to notify them of a relevant conviction. The caution was issued on 08 March 2012.
 - c. On 15 November 2011 the Premises Licence was varied on application by the Premises Licence Holder to replace Catherine Beadnall as the Designated Premises Supervisor.
 - d. On 02 December 2012, Catherine Beadnall surrendered her Personal Licence
 - e. On 1 February 2013 reports were received of a firearm incident at the Premises.
 - f. On 10 September 2016 it was reported that there was "large scale disorder" at the premises resulting in 2 people being stabbed.
 - g. Throughout the chronology there were numerous references to licensing visits and ineffective CCTV, no staff training records, no challenge 25 posters and other licensing requirements, and reports of live Premiership matches being shown.
8. The Applicant and the Responsible Authorities maintained their position in respect of the use of the premises and that certain criminal activity should be treated particularly seriously and the showing of Premier League matches falls within the category of 'particularly serious' in accordance to the guidance issued under s.182 of the Licensing Act 2003 and that the licensing objectives namely Prevention of Crime and Disorder had been impinged upon and as such responsibilities flow from that.
9. The Applicant and Responsible Authorities indicated that they had no faith that anything is going to change, as warnings had not been adhered to and mistakes continue to be made and they had no confidence that the licensing objectives would be met going forward.
10. The Premises Licence Holders' Representative informed the Sub-Committee, in summary, that the Premises had been transferred to Punch Partnerships (PTL) Limited in March 2018 as a result of the acquisition of a number of premises and as such assumed responsibility as the Premises Licence Holder from that date. It was affirmed by the representative that the PLH in no way condoned the displaying of unauthorised Premier League matches, however raised concern/surprise about the purposes of a review at this stage, considering the 14 years or so that Catherine Beadnall had been a tenant and that more recently a new licence was granted by way of minor variation in May 2018. The representative identified that the Mortgage fraud was nothing to do with the Premises Licence Holder (Punch Partnerships (PTL) limited) and that the Premises "lives at ease with its community" and that it was much less common for people to support a premises than to go against it, which was representative of those present at this hearing. In addition, the Premises Licence Holder was keen to keep the premises open

and that it was not beyond redemption.

11. The PLH's Representative further went on to state that they would be in a position to provide training to all staff via CPL Training in matters including but not limited to:

- a. Understanding Conditions of a Premises Licence.
- b. Conflict Management
- c. Underage Sales Prevention
- d. CCTV training

12. Further representations were made, that indicated that if there were further breaches of any of the conditions, Punch Partnerships (PTL) Limited would have the power to close the premises. It was further made clear that Catherine Beadnall was informed that any further instances of non-compliance would mean it was "game over for Cath". Punch Partnerships (PTL) Limited Representative identified that the premises would be hard to let out and as such the area and building may then be made subject to anti-social behaviour, which would not be in anyone's interest.

13. Further representations from Punch Partnerships (PTL) Limited's Representative alluded to the opportunity of this matter boiling down to "one more chance". It was accepted that there were historical breaches but the premises now enjoys huge support to make a difference and turn things around since Punch Partnerships (PTL) Limited have taken control of the Premises Licence and identified that there is a better way of dealing with the issue going forward and reiterated the training provision on offer which could be completed within 28 days.

14. Despite not being a party to proceedings, Catherine Beadnall was afforded the opportunity of making representations in person. She identified that she accepts that she allowed it (the showing of live Premiership matches) even though it was illegal and for those reasons she pleaded guilty at court, she stated that she just "turned a blind eye" and in respect of breaches of the licence for example the CCTV not working effectively, she stated she was not technology savvy. She further identified that Punch Partnerships (PTL) Limited had been working more closely with her and this included fortnightly visits, support and some training.

15. Further oral representations were made by Councillors Hubbard and Saunders. Both reiterated their concerns if the Premises were to close in respect of anti-social behaviour and that the Premises formed part of the heart of the area. They also supported Catherine Beadnall and indicated that they had not received any complaints from their ward in respect of the Premises and that she was active in the community.

16. In reaching its decision the Sub-Committee was advised that the Guidance Issued under section 182 of the Licensing Act 2003 was of particular relevance to the Sub-Committee, particularly the guidance set out at paragraph 11.26, which provides:

"Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder."

17. The Sub-committee was further advised that the guidance sets out some consideration in respect of criminal activities, specifically at paragraph 11.27 which states:

"There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises: "...• for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;..."

18. The Sub-Committee were of the view that the total disregard for the law and the number of occasions where Premier League matches were shown at the Premises were of a significant concern to them, particularly the propensity of such offences. Furthermore they considered the Chronology of Events prepared for the hearing identified matters that were serious in nature and conduct. The Sub-Committee also took the view, shared by Punch Partnerships (PTL) Limited, as "why was this case being brought now" and also shared their "surprise", but for different reasons.

19. The Sub-Committee was satisfied that Catherine Beadnall was in 'control' of the Premises

at the material times irrespective of her title. The Sub-Committee when considering her representations, did not consider that a 'landlady' of some 14 years could rely upon the fact of turning a blind eye to events or not being technology savvy as reasonable or valid reasons for wrongdoing. Furthermore they were concerned that Catherine Beadnall was a tenant of the Premises and as such may influence control in the future. As such the Sub-Committee decided to impose a condition on the licence that neither Catherine Beadnall or any member of her family be involved in the day to day management of the premises and/or be directly involved or employed at the Premises.

20. The Sub-Committee felt that Elaine Lynes, being the Designated Premises Supervisor, did not, in their view, take any or all necessary steps to prevent the showing of Premiership Football, a responsibility commensurate with her role. It was also clear that Elaine Lynes was for all intents and purposes not carrying out the roles associated with the position with any great commitment or at all. Further, it was observed that the DPS had little or no control over Catherine Beadnall. The Sub-Committee decided to remove her as the Designated Premises Supervisor.

21. The Sub-Committee took on board the newly appointed Premises Licence Holders Representatives representations and applied the necessary weight in their submissions and were persuaded that Revocation of the Licence on this occasion would be disproportionate on the PLH in this case, however it was deemed that a suspension in the circumstances was appropriate to allow the PLH to get their house in order in respect of these Premises in terms of adequate training, suitable persons to take up the roles at the premises and adequate management of the Public House. The Sub-Committee decided that a suspension of 3 months was a proportionate response in the circumstances.

22. The above removal, conditions and suspension accord with the Guidelines specifically paragraph 11.19 and align with the causes and/or causes for concern that the representations identified by all the parties.

23. The Premises Licence Holder was advised of the Right of Appeal to the Magistrates Court within 21 days of the date of the decision.