

**LICENSING SUB-COMMITTEE C**

A meeting of the Licensing Sub-Committee C was held on 4 November 2013.

**PRESENT:** Councillors Taylor (Chair); G Purvis and J A Walker

**ALSO IN ATTENDANCE:** Rashid Ahmed - DPS/Manager - Club Bongo International  
Simon Catterall - Legal Adviser for Club Bongo International  
Sgt Paul Higgins - Licensing Sergeant - Cleveland Police

**OFFICERS:** B Carr, C Cunningham and T Hodgkinson

**DECLARATIONS OF INTERESTS**

There were no Declarations of Interest made at this point of the meeting

13/3 **APPLICATION FOR SUMMARY REVIEW OF PREMISES LICENCE : CLUB BONGO INTERNATIONAL: REF NO: MBRO/PR0052**

A report of the Assistant Director of Development and Planning Services had been circulated outlining an application for a Summary Review of the Premises Licence submitted by Cleveland Police under Section 53A of the Licensing Act 2003 in respect of Club Bongo International, 11-12 Bridge Street West, St Hildas, Middlesbrough, TS2 1AW - Ref No: MBRO/PR0052.

A copy of the application for Summary Review was appended to the report at Appendix 1 and a copy of the existing premises licence was appended at Appendix 2 to the report.

The Chair introduced those present and outlined the procedure to be followed.

**Details of the Application**

The Principal Licensing Officer presented the report and advised Members that the Licensing Act 2003 provided a procedure for a Summary Review of a premises licence by the Police which triggered a fast track to review premises where the Police considered that the premises were associated with serious crime and/or serious disorder. The procedure allowed the licensing authority to respond by taking Interim Steps quickly, where appropriate, pending a full review of the licence.

The Principal Licensing Officer outlined the Interim Steps that Members were required to consider. Members were advised that if they did decide to take any steps at the Interim Stage then the decision would take immediate effect pending the full review hearing.

It was highlighted that the Premises Licence Holder could submit further representations against any Interim Steps imposed at the hearing, at any time prior to the full review hearing (which must take place within 28 days of receipt of the application). If such an application was submitted by the Premises Licence Holder, a further hearing would need to be arranged within 48 hours of receipt of the representations to allow those representations to be heard.

The Chair invited Sergeant Higgins to present the case on behalf of Cleveland Police.

Sergeant Higgins advised that Club Bongo International was an established night club in Middlesbrough and the Police had been involved in the premises over the years. The Police had held a number of meetings with the Designated Premises Supervisor (DPS) in 2009 due to concerns with regard to the non-production of CCTV footage by the staff at the club (which was a breach of the licensing conditions) and as a consequence the premises were placed on an Action Plan by the Police.

On 23 October 2010 the Police had carried out a Licensing inspection of the premises and the CCTV was not recording in accordance with the conditions on the licence. As a consequence, the DPS who was in place at that time was issued with a Police Caution for the offence under

section 136 of the Licensing Act 2003.

The situation with regard to disorder at the premises appeared to improve in 2010 however there were further incidents of disorder at the premises towards the end of 2011 and issues with regard to the production of CCTV footage. As a consequence the DPS was replaced, however further instances of disorder at the premises occurred and there were further issues regarding the non-production of CCTV footage which resulted in meetings being held with the premises in February 2012. The premises were warned again that if the issues with regard to disorder at the premises and the production of CCTV footage did not improve, the Police would seek a review of the premises licence.

In March 2012, the premises licence was varied to appoint a new DPS and the Police met with the new DPS to advise of the previous issues with regard to disorder at the premises and the non-production of CCTV footage and to warn the new DPS of the consequences if the situation did not improve.

The Committee was advised that on 27 October 2013 at 1.45am, an incident at the premises had occurred. According to the Certificate submitted by the Superintendent, a male was abusive to a female family member of a 34 year old customer in the smoking area which escalated into a fight in which a number of people attacked the 34 year old victim. It resulted in the 34 year old male receiving serious injuries which included a bitten cheek and a slashed cheek (inflicted with a blade). Door staff had eventually entered the smoking area and ejected the victim through the side door. The victim who was covered in blood attended hospital and received 70 stitches to repair the wound to his face due to the blade having cut right through to the males cheek.

The Police responsible for investigating the assault have since established that there was no CCTV footage of the incident available as the CCTV at the premises had not been in operation since August 2013 due to a power cut.

Sergeant Higgins advised that the Police had serious concerns that despite repeated warnings about the failure to provide CCTV, there was no footage available for the incident that occurred on 27 October 2013. Cleveland Police believed that the incident constituted a serious crime where a dangerous weapon was used and the Summary Review procedure was used to speed the review process to prevent a further serious crime occurring within the premises.

Sergeant Higgins referred to Paragraph 2.6 of Section 53A of the Licensing Act 2003 Summary Review Guidance which takes account that an intended use of the power of the Summary Review Process is to tackle the use of dangerous weapons and the violence they fuel. He advised that because of the seriousness of the incident and the fact that a dangerous weapon was used in the assault, the view of Cleveland Police was that the most appropriate interim step was to suspend the licence.

The Chair invited the legal representative for Club Bongo International to address the Committee in response to the representations by Cleveland Police.

The legal representative for Club Bongo International advised that Club Bongo International was unlike any other licensed premises in Middlesbrough because it had been in operation for over 50 years and had been owned by the same family throughout that period.

The legal representative acknowledged that the premises had experienced some issues in previous years but he pointed out that the premises had in the past provided the Police with CCTV footage in particular in April 2013, which had resulted in the police convicting the perpetrator of a crime.

With regard to issues with the CCTV, Members were advised that as the monitors for the CCTV appeared to be working unfortunately the actual CCTV recording equipment had not been checked.

In respect of the incident that occurred on 27 October, the legal representative advised that

the two men visited the premises, one of them caused the problem and the premises' doormen broke the fight up and assisted the victim in leaving the club via the side exit. The premises had also assisted the Police in providing the details of witnesses to the incident.

The Legal Adviser stated that the premises did not have a history of serious incidents and he advised that no knife or blade was used in the assault as the doormen would not have intervened if a weapon was involved in the assault. The legal representative pointed out that the incident would have a detrimental effect on trade at the premises and he stated that the article that had appeared in the local press had appeared to be one-sided against the premises.

The legal adviser stated that although the Police had the power to close the premises down immediately, they chose to leave the premises open over the weekend. He advised that the CCTV footage was not wiped to protect people. He urged Members to consider the licensing objectives, and advised that although the Police had submitted the application to review the premises to prevent crime, he pointed out that this was an isolated incident involving two individuals and no drugs or gangs were involved.

The legal adviser asked Members to consider what actions the premises had taken since the incident. The premises had agreed to check that the CCTV was in working order prior to each trading day and to turn off the CCTV footage at the end of each day. He requested that the premises be allowed to remain open but that an interim condition be placed on the premises licence which would require that the CCTV was checked prior to every trading day and that a register be signed and dated to signify that this had been done. He also suggested that a hard copy of the CCTV footage be printed off at the end of each trading day and that the register be signed to signify that this action had been taken.

The legal representative advised Members that a decision to close the premises was a very serious step to take and would be very damaging to the club. He reiterated that although the incident was serious it was an isolated incident and he urged Members to think carefully about closing the premises.

In response to a query, Members were advised that the club was open for business on Fridays and Saturdays and the current DPS was the same as the one that was in place at the time of the incident.

Sergeant Higgins was asked if the Police had considered taking any other action in respect of this incident. Members were advised that the Police could have considered a section 161 closure, however by the time the Police became aware of the incident, the premises were already closed so there was no opportunity to use the section 161 closure legislation.

Members were advised that the Police had put in place an Action Plan in the past but the injuries sustained by the victim and the fact that there was no CCTV footage to record the incident that occurred on 27 October warranted the decision to call for a Summary Review of the licence.

Sergeant Higgins advised that the Police submitted the application for review on the Thursday because they wanted to be clear of the facts before submitting the application for the review of the licence.

It was confirmed that there were no further questions and all interested parties other than the officers of Legal Services and Members Office, withdrew whilst the Committee determined the application.

Subsequently all the parties returned and the Chair announced the Committee's decision.

## **DECISION**

The Committee considered that the Interim Steps required to prevent a further serious crime occurring at the premises was to suspend the licence with immediate effect for the following reasons:

The Committee was satisfied that the Certificate from the Superintendent from the Police showed that there was serious crime and disorder at the premises which the Police believed involved a dangerous weapon resulting in a very serious injury.

The matter will be fully reviewed within 28 days from the date of the application. In the meantime, the Premises Licence Holder can submit representations on the Interim Steps, whereupon the Committee will reconvene within 48 hours.

In reaching the decision Members had considered the following:-

1. The Licensing Act 2003 and Section 53A Licensing Act 2003 Summary Review Guidance issued by the Home Office.
2. Middlesbrough Council's Licensing Policy.
3. The case presented by the Premises Licence Holder.
4. The representations received from the Police.