

LICENSING SUB-COMMITTEE C

A meeting of the Licensing Sub-Committee C was held on 26 November 2013.

PRESENT: Councillors B E Taylor (Chair); G Purvis and J A Walker.

ALSO IN ATTENDANCE: Sergeant P Higgins, PC J Arbuckle - Cleveland Police,
M Nevison - Cleveland Police Legal Representative.
R Ahmed - Designated Premises Supervisor (DPS), Club Bongo.
S Catterall - Legal Representative for Club Bongo.

OFFICERS: C Cunningham, J Dixon and J Hodgson.

DECLARATIONS OF INTERESTS

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

13/8 **SUMMARY REVIEW OF PREMISES LICENCE - CLUB BONGO INTERNATIONAL, 11-12 BRIDGE STREET WEST, MIDDLESBROUGH, TS2 1AW - REF NO: PRO052**

DISCUSSION

Prior to commencement of the meeting, discussion took place as to whether the Hearing should be held in public. Cleveland Police had requested that the Hearing be held in private due to an ongoing criminal investigation and information that would be presented to the Committee in relation to this matter that could prejudice the Hearing.

Clarification was sought as to whether the historical information in relation to the premises needed to be considered in private and it was subsequently confirmed by Cleveland Police that the only information that needed to be considered in private was the information that was sub-judice.

The Council's legal representative advised that once the meeting reached the point of discussion around Sergeant Higgins' statement, the exclusion clause should be passed to exclude the Press and Public from the meeting and the remainder of the meeting should be held in private. All parties confirmed that they were agreeable to this.

LICENSING ACT 2003: APPLICATION FOR REVIEW OF PREMISES LICENCE: CLUB BONGO INTERNATIONAL, 11-12 BRIDGE STREET WEST, MIDDLESBROUGH, TS2 1AW - REF. NO. PRO/052

A report of the Assistant Director of Development and Planning Services had been circulated outlining an application for the review of the Premises Licence in relation to Club Bongo International, 11-12 Bridge Street West, Middlesbrough, TS2 1AW, Ref No. PRO/052.

Summary of Current Licensable Activities and Hours for Current Licensable Activities

Regulated Entertainment - Monday to Sunday, 11.00am to 3.30am.
Late Night Refreshment - Monday to Sunday, 11.00pm to 3.00am.
Sale of Alcohol (on and off sales) - Monday to Sunday, 11.00am to 3.00am.

Full details of the application and accompanying Operating Schedule were attached at Appendix 1 to the submitted report.

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

The Designated Premises Supervisor (DPS) of Club Bongo, accompanied by his legal representative, confirmed that copies of the report and Regulation 6 Notice had been received.

Details of the Application

The Senior Licensing Officer presented the report in relation to an application for a review of the Premises Licence in respect of Club Bongo International, 11-12 Bridge Street West, Middlesbrough.

On 31 October 2013, Cleveland Police made an application for a summary review in respect of the above premises licence following concerns in relation to serious crime and disorder at the premises. A copy of the application was attached at Appendix 2.

Following the application, a Licensing Sub Committee was held on 4 November 2013. The Committee decided to suspend the licence as an interim step pending the full review hearing. On 12 November 2013, a representation was made on behalf of the Premises Licence Holder against the interim measures imposed by the Committee and on 14 November 2013 Members considered this representation. The Committee determined that the interim steps of suspension of the Premises Licence remained appropriate for the promotion of the licensing objectives until the full review Hearing took place. The reasons for the decision were listed at 2.1 of the submitted report.

It was highlighted that since the initial application for a summary review by Cleveland Police, additional evidence had been submitted in support of their application and this was attached at Appendix 3.

It was highlighted that the premises consisted of a nightclub situated in Middlesbrough town centre and had operated under the provisions of a Premises Licence since the introduction of the Licensing Act 2003.

Applicant in Attendance**Cleveland Police**

The Police legal representative presented the case in support of the application for a review of the Premises Licence. It was confirmed that all parties had received the bundle of Police documents attached to the submitted report, which included the application for a Summary Licence Review from Cleveland Police, Statement from PC Arbuckle regarding historical concerns at the premises and a statement from Sergeant Higgins in relation to a serious assault on 27 October 2013.

PC Arbuckle's statement included minutes of meetings held in 2009 in relation to incidents at the premises and problems with the CCTV system. At that time the DPS was Isa Warsama. At a meeting held with the DPS on 4 November 2009, it was noted that there had been a significant reduction in the number of incidents at the premises since the previous meeting in October 2009. However, there were two further occasions when the CCTV could not be provided relating to incidents at the premises and the DPS was cautioned in October 2010 in relation to the offence.

In February 2011, the DPS was replaced by Benham Azadi. PC Arbuckle advised him of the concerns held by Cleveland Police in relation to the premises including the use of unofficial door staff and failure to provide CCTV footage. In November 2011 there were three further occasions when CCTV footage was not provided when requested by the Police. On one occasion, a blank disc was provided to the Police and the hard-drive was subsequently seized and footage of two incidents was obtained.

A further meeting was held in February 2012 with the DPS in relation to assaults at the premise, use of unofficial door staff and issues surrounding the CCTV system. In March 2012, Cleveland Police were notified of an application to vary the DPS at the premises and Rashid Ahmed became the DPS. A meeting was held on 17 April 2012 with Mr Ahmed in relation to all of the issues at the premises and an action plan was agreed.

On 27 October 2013, a serious assault occurred at the premises and Cleveland Police requested CCTV footage. This footage was not forthcoming and it was established that the CCTV system had not been operating correctly.

At this point in the meeting, the Police legal representative requested that Regulation 14 (2) of the Licensing Act 2003 (Hearings) Regulations 2005 be imposed to exclude the public and press from the remainder of the Hearing.

It was confirmed that questions up to this point could be asked and the following issues were raised by Members:-

- Clarification was sought in relation to the failure to supply CCTV footage of the three incidents at the premises on 19, 20 and 26 November 2011. PC Arbuckle responded that the request for the footage had been made in relation to three incidents. Following numerous telephone calls and visits to the premises in relation to obtaining the footage, the hard-drive was seized from the premises in order to examine the footage. Footage in relation to one of the incidents was not obtainable, however, the reason for this was unknown.
- In relation to unofficial door staff at the premises, it was clarified that several allegations had been made to the Police that members of staff were assisting registered door staff when dealing with incidents. Part of the agreed action plan was for members of staff to be easily identifiable by wearing t-shirts displaying the word 'STAFF'. This would be a proposed condition of the licence.
- In relation to the allegations of staff members being responsible for some of the assaults at the premises, it was confirmed that arrests were made but no prosecutions resulted from those arrests.

13/9 **EXCLUSION - PRESS AND PUBLIC**

ORDERED that the press and public be excluded from the remainder of the meeting on the grounds that, if present, there would be disclosure to them of confidential information by Cleveland Police and that the public interest in hearing the confidential information would outweigh the public interest in disclosing the information in the Hearing being held in public under Paragraph 14 (2) of the Licensing Act 2003 (Hearings) Regulations 2005.

13/10 **LICENSING ACT 2003: APPLICATION FOR REVIEW OF PREMISES LICENCE: CLUB BONGO INTERNATIONAL, 11-12 BRIDGE STREET WEST, MIDDLESBROUGH, TS2 1AW - REF. NO. PRO/052**

The Police legal representative led Sergeant Higgins' through his statement, dated 20 November 2013, relating to a serious incident that occurred at the premises on 27 October 2013.

Sergeant Higgins responded to questions in relation to the operation of the premises, historically and currently, and provided information in relation to conditions that the Police sought to add to the existing premises licence in order to ensure that the four Licensing Objectives were not undermined.

Sergeant Higgins responded to questions from Members and the Licence Holder's legal representative.

The Police legal representative confirmed that Cleveland Police were not seeking to revoke the licence or to remove the DPS. The Police considered that the addition of the proposed stringent conditions would ensure that the licensing objectives were promoted and not undermined.

Premises Licence Holder

The legal representative acting on behalf of the Premises Licence Holder presented the case in support of the premises and referred to the conditions proposed by the Police. It was confirmed that the Premises Licence Holder was agreeable to the additional conditions.

It was confirmed that there were no further questions from any interested parties and the

Premises Licence Holder's legal representative and Cleveland Police both confirmed that they did not wish to sum up as they had already covered everything.

At this point all interested parties and officers of the Council, other than representatives of the Council's Legal Services and Members' Office, withdrew whilst the Committee determined the review.

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

DECISION

ORDERED that the suspension of the Premises License in respect of Club Bongo International, 11-12 Bridge Street West, Middlesbrough, Ref No: MBRO/PR0052, be lifted to permit the following licensable activities:-

Regulated Entertainment - Monday to Sunday 11.00am to 3.30am.

Late Night Refreshment - Monday to Sunday 11.00pm to 3.00am.

Sale of Alcohol (on and off sales) - Monday to Sunday 11.00am to 3.00am;
subject to the following conditions, as agreed with Cleveland Police:-

1. That there shall be a minimum of three SIA registered door staff on duty at any time the premises was open, with an additional fourth door staff member on duty should the function room be open.
2. Door staff shall not perform any other task other than that of a member of door staff, for example, the DPS shall not count as a member of door staff.
3. The door staff shall be easily identified as such and display their SIA badges on high visibility arm bands.
4. All members of staff on the premises shall be easily identified as such by wearing clothing which clearly displays the word 'STAFF' in large letters.
5. Persons entering the premises shall be subject to random searches for the prevention of drug misuse.
6. Persons entering the premises shall be subject to random searches for possession of knives or other weapons.
7. The premises shall have a minimum of two hand-held metal detectors on the premises to assist with searching.
8. The number of random searches conducted each night shall be recorded in the incident book.
9. In relation to CCTV:-

9.1 A digital Closed Circuit Television System (CCTV) that meets the approval of the current Chief Licensing Officer of Cleveland Police will be installed and maintained in good working order and be correctly time and date stamped.

9.2 The system will incorporate sufficient built-in hard-drive capacity to suit the number of cameras installed, whilst complying with Data Protection legislation. CCTV will be capable of providing pictures of evidential quality in all lighting conditions, particularly facial recognition.

9.3 The system will retain a minimum of 31 days recording.

9.4 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. The digital recorder will have the facility to be password protected to prevent unauthorised access, tampering, or deletion of images.

9.5 The CCTV system will record at all times when the premises are open to the public.

9.6 There will be, at all times, a member of staff on duty who is trained in the use of the CCTV equipment and, upon receipt of a request for footage from a governing body, such as Cleveland Police or any other responsible authority, be able to produce the footage within a reasonable time, eg 24 hours routine or immediately if urgently require for investigation of a serious crime.

9.7 The CCTV system shall, as a minimum, cover:-

- i) The exterior of the front door on Albert Street.
- ii) The exterior of the side exit door on to Bridge Street West.

- iii) The smoking area.
- iv) The entrance foyer.
- v) All internal rooms and corridors open to the public.

9.8 The positioning of the cameras shall be to the satisfaction of the current Chief Licensing Officer of Cleveland Police.

9.9 The CCTV system shall incorporate two hard-drives which both record the same camera system so that, in the event of a failure or one of the machines, the second machine will have recorded the footage.

9.10 There shall be a physical inspection of the CCTV recording machines to ensure that they are working at the commencement of each evening's opening hours.

9.11 There shall be a written record made in the incident book of all such inspections detailing the time and date the inspection was conducted along with who by and any issues with the equipment.

10. Polycarbonate/plastic drinks containers will be used at all times when the premises operate for licensable activities.

11. A member of staff trained in administering first aid to the satisfaction of the current Chief Licensing Officer of Cleveland Police must be present on the premises at all times that the premises is open to the public.

12. A first aid box must be retained within the premises at all times, the contents of which comply with the Health and Safety (First Aid) Regulations 1981, and any amending Regulations.

13. The club shall uphold its duty of care to any injured customers by conducting an assessment of their medical needs. This shall be undertaken by either the DPS or the on duty manager of the club.

14. All injuries to the customers and any subsequent assessment of their medical needs shall be recorded in the incident book along with what action was taken.

In reaching the above decision Members had considered the following:-

1. The Committee considered the representations from both parties, taking into account the four licensing objectives of The Licensing Act 2003.
2. The Licensing Act 2003 (and Amended Government Guidance issued under Section 182 of the Act).
3. Middlesbrough Council's Licensing Policy.
4. The conditions proposed by Cleveland Police and agreed between all parties.
5. The Committee acknowledged that the Police had not requested the removal of the Designated Premises Supervisor and that a number of meetings had been held between the Police and the Designated Premises Supervisor since the suspension of the Licence, in order to find a way forward for the Club to operate and uphold the Licensing Objectives.
6. The Committee was now satisfied that the suspension could be lifted and the stringent conditions proposed by the Parties were appropriate to uphold the Licensing Objectives.
7. The proposed conditions, in summary, included searches for weapons and drugs, comprehensive detailed CCTV requirements, easily identifiable door staff and other staff members, polycarbonate / plastic drinks containers and generally a duty of care to customers.
8. The Committee considered that these conditions were appropriate to uphold the Licensing Objectives because of the historical failure to comply with CCTV requirements, previous problems with door staff and previous incidents including the serious incident on the 27 October 2013 at the Premises.
9. Current conditions which were inconsistent with the new conditions were to be removed from the Premises Licence, namely:-
 - i) Condition 36 under "Public Entertainment Licence Conditions made by the Middlesbrough Borough Council ..." relating to Security Industry Authority as this reproduces a Mandatory Condition under the Licensing Act 2003.
 - ii) Condition 37 under "Public Entertainment Licence Conditions made by the Middlesbrough Borough Council ..." as this is inconsistent with the times licensable activities are permitted

under the Licence.

- iii) Condition 42 under "Public Entertainment Licence Conditions made by the Middlesbrough Borough Council ..." in relation to a first aider as this has been replaced by a new condition.
- iv) Condition 1 under "Licensing Objectives Prevention of Crime and Disorder" relating to door supervisors as this has been replaced by a new condition.
- v) Condition 4 under "Licensing Objectives Prevention of Crime and Disorder" relating to CCTV as this has been replaced by a new condition.
- vi) Condition 3 under "Licensing Objectives Public Safety" relating to toughened glass as this has been replaced by a new condition regarding polycarbonate / plastic containers.
- vii) Condition 8 under "Licensing Objectives Public Safety" relating to a first aid box as this has been replaced by a new condition.

The Committee strongly advised that regular meetings be held between the Police and the DPS at the premises over the next few months whilst the premises re-opened and the new conditions came into force.

The Chair advised all parties of the Right of Appeal to the Magistrates Court within 21 days of the decision.