

LICENSING SUB-COMMITTEE C

A meeting of the Licensing Sub-Committee C was held on 8 March 2016.

PRESENT: Councillors B E Taylor (Chair), T Lawton and J A Walker

ALSO IN ATTENDANCE: On Behalf of the Premises Licence Holder

A Shaher - Premises Licence Holder and DPS
M Foster - Premises Licence Holder's Legal Representative
T Robson - Licensing Consultant, TJR Licensing
M Holmes - Security Manager

Making Representations

Sergeant Higgins - Cleveland Police
PC Price - Cleveland Police
A Anderson - Cleveland Police Legal Representative

OFFICERS: C Cunningham, J Dixon and J Hodgson.

DECLARATIONS OF INTERESTS

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

15/12 **LICENSING ACT 2005 - REPRESENTATIONS AGAINST INTERIM STEPS: CHAMBERS, 2-6 ALBERT ROAD, REF NO. OL/16/04.**

A report of the Assistant Director of Improving Public Health had been circulated asking Members to consider representations from the Premises Licence Holder against the interim steps taken by the Licensing Authority following an application made by Cleveland Police on 24 February 2016 for a summary review of the premises. A copy of the representation - received on 7 March 2016 - was attached at Appendix 1.

The Chair introduced those present and outlined the procedure to be followed at the meeting. The Chair highlighted that the previous Summary Review Hearing had been held in private and asked all parties whether there were any objections to holding the Hearing in public. All parties confirmed that they were agreeable to holding the Hearing in public.

The Senior Licensing Officer presented the report which provided details in relation to the Hearing held on 26 February 2016, following receipt of an application for a Summary Review by Cleveland Police. At that Hearing, the Licensing Sub Committee C determined to suspend the Premises Licence, with immediate effect, for a period of one week. It also determined to restrict the sale of alcohol from the premises from Friday, 4 March 2016 during the hours 11.00am until 1.00am daily, pending a full Review Hearing.

Members considered the suspension to be necessary to prevent further crime and disorder at the premises following the serious violent incidents that had occurred at the premises (as set out in the Police Certificate) and that the suspension would enable the measures, proposed by the Premise Licence Holder, to improve the prevention of crime and disorder to be properly implemented. Members considered that the interim restriction on the sale of alcohol would protect the public as the violent incidents appeared to occur after 1.00am and that this would enable the Licence Holder to assess whether the new measures were sufficient to uphold the licensing objectives.

A copy of the existing Premises Licence was attached at Appendix 2 for information.

Reference was made to the legislation governing the summary review procedure, which had been followed by the Licensing Authority in relation to this matter.

Members were reminded that they must take into account the Senior Officer's Certificate that accompanied the application, attached at Appendix 3, the Chief Officer's representations and any representations made by the Premises Licence Holder.

All parties were also reminded that there was no right of appeal to the Magistrates Court against the Licensing Authority's decision at this stage.

Premises Licence Holder in Attendance

The Premises Licence Holder's legal representative referred to the Police Certificate which outlined three incidents at the premises which had led the Police to apply for a summary review of the premises, citing serious crime and disorder at the premises as the reason for the expedited review application.

The legal representative accepted that incidents had occurred at the premises and stated that he would call on Mr Robson, TJR Licensing Consultants, to outline the risk assessment he had completed in respect of the premises.

The legal representative highlighted that one of the main proposals put forward by the applicant was to undertake a full risk assessment of the premises and to identify areas for improvement. The legal representative wished to ask Mr Robson, Licensing Consultant, to provide details of the risk assessment.

The Police legal representative highlighted that this was an Interim Steps Hearing and that the Committee did not need to hear evidence of the steps that had been implemented as it was not a full Review Hearing.

The Premises Licence Holder's legal representative stated that this formed the basis of the representations against the interim steps. The Committee had previously determined to restrict the operating hours of the premises and this was a test of how the premises had operated and needed to be explained.

The Police legal representative stated that the representations should be made by submission and not evidence.

The Council's legal representative advised that, under the Licensing Act, representations against the interim steps continuing could be submitted by the Premises Licence Holder. Mr Robson was being asked to provide an explanation in relation to the risk assessment he had carried out during the suspension period. The Police legal representative reiterated that evidence should not be accepted and that representations should be made via the legal representations. The Premises Licence Holder's legal representative responded that the applicant wanted to demonstrate what he had done at the premises.

In response to a question from the Council's legal representative, the Premises Licence Holder's legal representative clarified that the purpose of calling Mr Robson was to explain the risk assessment he had undertaken at the premises and his report and findings following the risk assessment - all of which was included in the documentation bundle circulated to all parties prior to the meeting.

At 10.30am, the Chair decided that the Committee should retire into private session to discuss whether it would allow the evidence to be presented by Mr Robson. All interested parties, other than officers from the Council's Legal Services and Democratic Services, withdrew from the meeting.

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

The Committee agreed that Mr Robson should be allowed to make representations on behalf of the Premises Licence Holder and that those representations should only be against the interim steps taken and why they considered them to be no longer appropriate. The representations must not go behind the Certificate issued by the Police. The Police would have the opportunity to ask questions and to make representations.

Licensing Consultant - Mr Robson (on behalf of the Premises Licence Holder)

Mr Robson, Licensing Consultant, provided background information in relation to himself, including his 30 years' previous experience as a Police Sergeant, including extensive involvement in licensing matters during this time.

The Licensing Consultant advised that he was tasked with risk assessing the premises against the licensing objectives and ensuring that the prevention of crime and disorder objective, which had been undermined, was remedied. The Licensing Consultant had completed a full risk assessment of the premises based on the 'Best Bar None' Accreditation Scheme.

A copy of the assessment document was attached at Appendix 1 and it was explained that the column on the left denoted a specific area of assessment, with the column on the right denoting the findings and recommendations, where appropriate.

The Licensing Consultant went through the document and made reference to the key areas assessed and recommended actions.

The Licensing Consultant stated that the premises had been closed for a period of one week which had caused great financial hardship to the owner. He stated that he felt fully satisfied, following the period of closure, that there were sufficiently robust measures in place at the premises to promote the licensing objectives. Concern was expressed that if the premises were to continue operating at the current restricted hours, a permanent closure may be inevitable and it was, therefore, requested that the hours be returned to 3.00am with a 3.30am closing time in order to properly assess the operation of the premises.

Questions to the Premises Licence Holder

Cleveland Police

Cleveland Police were afforded the opportunity to ask questions of the Licensing Consultant in relation to the information presented and the following issues were raised:-

- Reference was made to the Licensing Consultant's visit to the premises on 5 March 2016 when he had been present at closing time (1.00am) and it was queried whether there had been any trouble at that time. The Licensing Consultant confirmed that there had not.
- It was noted that the Consultant had carried out an assessment of the premises and was satisfied that the measures in place were robust and was asked why he felt that the restriction of hours should be lifted. The Licensing Consultant stated that he would welcome the opportunity to assess the premises to see how it operated within the night-time economy to see how the procedures that had been put in place worked. He stated that it was impossible to fully assess the premises beyond 1.00am and that lifting the restrictions on the opening hours would allow him to further assess the premises as a nightclub.
- The Police legal representative asked whether the Licensing Consultant considered the procedures put in place at the premises were sufficient to promote the licensing objectives. The Licensing Consultant responded that they were sufficient up to 1.00am but he would like the opportunity to go beyond 1.00am to witness the premises operating as a nightclub.

Committee Members

Members of the Committee were afforded the opportunity to ask questions of the Licensing Consultant and the following issues were raised:-

- In response to a query it was confirmed that the premises, known as Chambers Bar and Haze, operated from a single building comprising three floors. Chambers bar, located on the ground floor, operated as a cocktail bar and Haze was a nightclub which opened later in the evening, operating from the first floor.

- A Member of the Committee asked at what time were new customers stopped from entering the premises under the current operating hours. It was confirmed that no-one would be admitted after 12.30am and that those customers seeking admittance at that time would be advised that the premises currently closed at 1.00am. This had deterred many patrons from entering the premises.
- It was queried what time final entry had been prior to the imposition of the current operating hours. The Committee was advised that final admittance had previously been one hour before closing time (previously a 4.30am closing time in the nightclub).
- In relation to a query regarding a restaurant on the ground floor of the premises, the Premises Licence Holder's legal representative confirmed that the restaurant had planned to open at the end of February 2016, however, this had not gone ahead due to the premises licence being suspended for one week at the previous Hearing.
- A Member made reference to the ratio of door staff to patrons at the premises and queried whether the Licensing Consultant considered it to be sufficient. The Licensing Consultant advised that from 8.00pm onwards there should be two door staff employed (with one remaining at the door at all times and one to roam the premises). The Security Manager advised that at maximum capacity there would be a total of 13 security staff but that this could be increased if needed.

Cleveland Police

Cleveland Police were invited to present the case in response to the Premises Licence Holder's representations to the interim steps.

The Police legal representative stated that the original Certificate (under Section 53A (1)(b) of the Licensing Act 2003) had been served by the Chief Superintendent of Cleveland Police.

Reference was made to page two of the Licence Holder's submission which referred to the Summary Review procedures, stating that "The powers were aimed at tackling serious crime and serious disorder, in particular (but not exclusively) the use of guns and knives." It was clarified that a summary review application was not exclusively used in relation to the use of guns or knives and that the Chief Superintendent had deemed the incidents that occurred at the premises to be serious incidents of crime and disorder. It was stated that the Police were not responsible for how licence holders managed their venues but were responsible for highlighting any problems so that they could be dealt with. The Licence Holder's submission referred to the lack of an action plan in relation to the premises and it was stated that the Police would simply request the operator to take control of violence issues inside and outside the premises. The guidance did not require the Police to create an action plan for the operator.

The Police legal representative explained that the Certificate had been issued out of necessity as the Police believed that the operator had lost control of the premises. At a Licensing Sub Committee Hearing, the premises licence was suspended for one week and the operating hours were reduced to 1.00am (closing time). Dates were provided in relation to various meetings that had been held between the operator and the Police where issues of concern in relation to the operation of the premises were raised.

PCs Bryan and Price had met with Mr Holmes, Security Manager, on 26 May 2015 in relation to reports of door staff being 'heavy-handed'. On 24 July 2015, PC Icton had undertaken an inspection of the premises and identified 13 breaches of the premises licence. These had since been rectified.

A meeting was held with the Premises Licence Holder, Security Manager and Police in August 2015 to discuss a theft and violence that had occurred at the premises in July. The Premises Licence Holder was asked to reduce the final entry time to the premises and he did not agree but had stated he would consider it.

In December 2015, Sergeant Higgins was called to a serious assault in the male toilets but had difficulty in obtaining CCTV footage that night and had difficulty in gaining assistance to obtain the CCTV which subsequently had to be downloaded by the Police technical support unit.

The Police were called to two further violent incidents in February 2016, one of which involved a broken jaw. The Premises Licence Holder was advised that the incidents were totally unacceptable and that further incidents would lead to a review of the premises licence and the Licence Holder was asked to provide details of the steps taken to reduce violence.

The Police legal representative requested that, on behalf of the Chief Superintendent, the reduced hours at the premises remain in force until the full Review Hearing in respect of the premises.

Questions

It was confirmed that there were no questions from any of the interested parties.

Summing Up

Premises Licence Holder

The Premises Licence Holder's legal representative summed up by stating that he accepted that the premises could have been better run but that this had been dealt with. The Security Manager had made every improvement possible. During the suspension of the licence, time had been spent reviewing the operation of the premises and the measures implemented were sufficient to reinforce the licensing objectives, allowing the premises to operate without any threat to public safety. It was highlighted that the premises directly employed between 40 and 50 staff and generated income within the local economy as well as business rates for the Council. If the restricted hours were to remain in place, the premise's competitors would take over the market which was likely to impact on the number of jobs at the premises.

The Licence Holder ran a family business and was happy to work with the Police to ensure the premises were safe. The summary review had been a shock to the Licence Holder, with no prior warning and no action plan being implemented prior to the summary review being applied for. The legal representative stated that he was aware of other premises in Middlesbrough that had been subject to action plans. The Licence Holder had accepted that there had been room for improvement in relation to the running of the premises and had liaised with the Police to implement those improvements, however, he considered that he was unable to prove the safe-running of the premises with restricted trading hours. It was difficult to demonstrate that the improvements were sufficient to uphold the licensing objectives with just 60 and 40 customers on Friday and Saturday nights respectively. The low number of patrons, due to the restrictions, was not sufficient to test the premises and the additional hours were required to continue operating, at least on par with other premises in the area. The Committee was requested to consider all of the evidence to assess whether it considered the premises could operate safely and it was requested that the restricted hours be removed to allow the premises to trade in line with other nearby premises.

Cleveland Police

The Police legal representative drew the Committee's attention to the relevant provisions and advised that there would be full powers at a full Review Hearing. The Committee must bear in mind the four licensing objectives when making a decision in relation to the interim steps.

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

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

DECISION

ORDERED that the interim step to restrict the sale of alcohol to 1.00am daily should remain, pending the full review of the licence. The Licensing Sub Committee decided that this was appropriate for the promotion of the licensing objectives.

The Licensing Sub Committee considered whether the interim steps were appropriate pending the review of the Premises Licence and considered whether to withdraw or modify the steps taken.

In reaching its decision the Licensing Sub Committee considered the Certificate accompanying the application for summary review, the representations from the Police and the written and oral representations from the Premises Licence Holder and its representatives in accordance with the Act.

The Licensing Sub Committee considered that it appeared, from the Certificate from the Police, that there had been a lack of control to prevent crime and disorder occurring at the premises.

The interim measure to restrict the hours for the sale of alcohol to 1.00am was put in place to protect the public as it appeared from the Certificate provided by the Police that the serious violent incidents at the premises occurred after this time. It was also put in place to enable the licence holder to assess whether the measures they proposed were sufficient to uphold the licensing objectives.

The Licensing Sub Committee noted that measures had been put in place since the licence was suspended and the premises had operated without incident since 4 March 2016 up to a closing time of 1.30am. However, in light of the serious incidents that had occurred at the premises after this time, one of which involved an off-duty member of the door staff, and previous lack of control by the Premises Licence Holder and failure to uphold the promotion of prevention of crime and disorder, the Licensing Sub Committee considered it appropriate that the premises restrict the sale of alcohol until 1.00am to prevent the risk of violent incidents occurring at the premises.