

Minutes of: LICENSING HEARING PANEL

Date of Meeting: 10 May 2016

Present: Councillor D Jones (in the Chair)
Councillors R Caserta and J Kelly

Public Attendance: Representatives of Greater Manchester Police, the Licence Holders' representative Mr Paul Douglas (Licensing Consultant), Ms Claire Clarke (Director of The Dog House Bury Limited), Ms Alex Clarke (Designated Premises Supervisor) and 4 members of the public were in attendance

Apologies for Absence:

1 DECLARATIONS OF INTEREST

No declarations of interest were made in relation to any items considered at the meeting.

2 AN APPLICATION FROM GREATER MANCHESTER POLICE FOR A REVIEW OF THE PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF PICS, 30 - 32 MARKET STREET, BURY, BL9 0AJ

Prior to the Hearing, the Licensing Authority received an application pursuant to section 51 of the Licensing Act 2003 from Greater Manchester Police (GMP), for a review of the Premises Licence in respect of Pics Bar at 30-32 Market Street, Bury.

The hearing of the application had previously been set for 29th April 2016, but was adjourned at the request of the Premises Licence Holder.

The application for review was outlined in the report presented to members of the Panel by the Licensing Unit Manager.

Written representations and statements in relation to the application from GMP were submitted to the Panel.

All documentary evidence had been served on all parties in advance of the Hearing.

The Panel heard oral representations from Greater Manchester Police (GMP) through their solicitor Mr Kent. During those representations, an application was made to move into private session pursuant to regulation 14 of the Licensing Act 2003 (Hearing) Regulations 2005. This was on the basis that the CCTV footage to be presented may identify individuals which in turn may harm the progress of the police investigation into certain events that took place at the premises and any subsequent trial of the perpetrators.

Upon consideration of the application, the Panel passed a resolution excluding members of the public (save for the Applicant and the 4 members of the public who had made relevant representations) from part of the hearing under regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, on the basis that the

public interest in doing so outweighed the public interest in the hearing taking place in public, in view of the information to be discussed.

CCTV footage was then played. All parties were given an opportunity to comment.

Once the footage had been viewed, the hearing returned to public session.

The Panel asked questions of the GMP. All parties were offered the opportunity to question the GMP.

The Panel then heard oral representations from Mr G. Clarke, Mr M. Clarke and Ms. E. Hastie who had all made relevant representations.

The Panel asked questions of the representors, and all parties were offered the opportunity to question of them.

The Premises Licence Holder through their representative Mr Douglas made oral representations.

The Panel asked questions of the Premises Licence Holder's representatives and all parties were offered the opportunity to question them.

All parties were offered the opportunity to sum up their case.

The Members of the Panel were advised by the Legal Officer on the issues raised by both parties in relation to the relevant licensing objectives being crime and disorder as well as public safety, that a criminal conviction was not required to satisfy these objectives, that incidents outside the premises could be taken into account if connected with the premises and that the standard of proof for the Panel was on a balance of probability.

The Panel then duly retired to consider the application and all of the information provided.

The Members of the Panel were advised by the Legal Officer as to their duties under Section 4 of the Licensing Act 2003 to at all times consider the promotion of the Licensing Objectives, these being:

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

The Members were also advised of their duties in carrying out those functions in relation to:

- a) the Council's published Statement of Licensing Policy
- b) the Guidance issued by the Secretary of State as contained in section 182 of the Licensing Act 2003, which was updated in March 2015

In addition Members were advised to give appropriate weight to the steps that are appropriate to promote the licensing objectives and the representations presented by all parties.

The Panel also had regard to the European Convention on Human Rights and in particular that everyone has the right to peaceful enjoyment of his possessions, respect for his private and family life, his home and his correspondence. A fair balance between competing interests must be considered.

FINDINGS

The following facts were found:

1. The Premises Licence in respect of Pics was held by Pics Bar Limited. Mrs Clare Clarke was the sole director for the Company. The Designated Premises Supervisor was Miss Alexandra Clarke.
2. Pics Bar Limited was dissolved on the 22nd March 2016.
3. On the 24th March 2016 the Licensing Service received an application from the Dog House Bury Limited for the licence to be transferred to the company. Mrs Clare Clarke is the Company Director of the Dog House Bury Limited. The Designated Premises Supervisor is Miss Alexandra Clarke. The Licence was transferred to the Dog House Bury Limited.
4. Pics is a bar/small club situated in a prominent and busy area of Bury Town Centre at 30/32 Market Street.
5. Pics is one of only three licensed premises within Bury Town Centre that have a licence allowing the sale of alcohol until 0400 hours.
6. On the 31st January 2016 an incident occurred at the premises which had been of a violent nature, and which resulted in a serious injury to a member of the public inside the premises, who suffered a fractured skull. During this incident a police officer attending feared for his safety due to the actions of security staff and other patrons of the premises. The staff at the premises had to be asked twice to turn off music and close the premises, and the injured party was found at the rear of the premises outside a poorly lit fire door. The Premises Licence Holder's staff were of no assistance to GMP.
7. Following the incident on 31st January 2016, the following crimes were reported; Section 47 assault and a section 20 assault. Both assaults occurred in the premises.
8. On the 27th February 2016 a further incident occurred at the premises of a violent nature, and which resulted in a serious injury to a member of the public outside the premises and also injury to a street pastor trying to assist. Members of the Licensing Hearings Panel reviewed CCTV of the incident that occurred on the 27th February 2016 and noted that;
 - a. Security staff were smoking whilst on duty

- b. A patron clearly intoxicated was not assisted by security staff
 - c. Groups of individuals were allowed to congregate around the door area and not moved away
 - d. A member of the security staff could be seen acting aggressively and remonstrating away from the door area with a number of individuals
 - e. A member of the public who was knocked unconscious was not attended to by the security staff
 - f. A street pastor who was struck and knocked to the ground was not attended to by the security staff
 - g. No attempt were made to call the police or an ambulance by the Premises Licence Holders staff
 - h. The Security Staff left the door area for a number of minutes allowing people to go in and out freely unchecked and unchallenged
 - i. Members of the public could be seen on CCTV footage trying to get away safely from the area without assistance from Premises Licence Holders staff and it was noted that the staff were not clearly identifiable and did not disperse patrons from outside the premises.
9. As a result of the incident at Pics on the 27th February 2016, a racially aggravated section 5 public order was submitted; two section 20 assaults and a section 47 assault was reported. A street pastor who was in attendance was kicked twice in the head; a further section 47 assault was submitted. All of these incidents occurred directly outside the premises.
10. Following these incidents and during police investigations it was found that CCTV at the rear of the premises was not connected to any system. Not only is this a condition of the licence, but the Premises Licence Holder was not aware of this until brought to their representative attention by the police.
11. There has been a large amount of correspondence with representatives from Pics, in respect of concerns about levels of intoxication, behaviour of the door staff, CCTV, management issue on the following occasions; advice letters in October 2012 and 2013, warning letter in December 2013 and email correspondence in February and March 2016, emanating from GMP.
12. Six of the seven incidents reported to police during the time period 25th October 2015 to 27th February 2016 occurred between 0200 hours and 0405 hours.
13. The Panel noted the letters of support for Pics bar were received from local businesses and the Chair of Pubwatch.

Decision

The Panel returned to the Hearing room to give its decision.

Having heard from Mr Kent, Solicitor of Greater Manchester Police, Mr Douglas and the Designated Premises Supervisor along with the Premises Licence Holder, the Panel considered the merits of the case and in accordance with its duties and decided as follows.

All of the evidence was considered with care and it was established that having understood the request for review and equally understanding the representations made, on balance, the Panel found there were causes for concern so far as the promotion of the following licensing objectives were concerned;

- Public Safety
- the Prevention of Crime and Disorder

The Panel were satisfied based on the evidence before it, that the incidents referred to by GMP on the 31st January 2016 and 27th February 2016, clearly took place. The Panel noted that, in isolation, each of these incidents were of a serious nature. The Panel was not satisfied there was the appropriate level of control and management of the security of the premises generally and in particular outside of the premises. Patrons were left unattended when in need of assistance, not assisted when leaving, there were no clear dispersal arrangements and security staff could be seen leaving the door unattended, and becoming aggressive with persons outside. People had been seriously injured both inside and outside the premises, and these factors left the Panel with not option but to take action.

The Panel considered the merits of the case and in accordance with its duties and in light of the relevant policy and guidance unanimously resolved the following modifications to the premises licence:

a. The Supply of alcohol – For consumption on & off the premises:

Monday – Sunday	11.00 – 03.00hrs
Bank holidays	11.00 – 03.00hrs

b. The Provision of Regulated Entertainment comprising:

Recorded music:

Monday – Sunday	11.00 – 03.00hrs
Bank holidays	11.00 – 03.00hrs

c. Performance of live music:

Monday – Sunday	11.00 – 01.00hrs
Bank holidays	11.00 – 01.00hrs

d. Provision of late night refreshment:

Monday – Sunday	23.00 – 03.00hrs
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| | Bank holidays | 23.00 – 03.00hrs |
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- e. The Opening hours of the premises:
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| | Monday – Sunday | 11.00 – 03.00hrs |
| | Bank holidays | 11.00 – 03.00hrs |
- f. Last admittance
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| | Monday – Sunday | 02.00hrs |
| | Bank holidays | 02.00hrs |
- g. Door staff employed at Pics Bar Limited will be members of the Approved Contractor Scheme.

Councillor Jones reminded the DPS and the Licence Holder of the conditions of the existing Premises Licence in respect of the operation of effective CCTV which states:

The premise is to operate an effective CCTV system which is to be maintained in good working order at all times the premises is open for business. The type of system and the number / positioning of cameras is to be agreed in liaison with the police. The location of cameras will be recorded on the plan attached to the licence. The recording medium (e.g. discs / tapes / hard drive etc) and associated images are to be retained and securely stored for a minimum period of 22 days and are to be made available to the police / Authorised Officers of the Licensing Authority upon request. The premises licence holder or designated premises supervisor [delete as necessary] is to provide the police with the contact details of at least two members of staff (or other person(s)) who are trained and familiar with the operation of the equipment so that, at the expense of the premises licence holder, they are able to check that the equipment is operating properly and that they are able to provide copies of recorded data upon request and within no more than 12 hours from the time of the request. The premises licence holder or the Designated Premises Supervisor must notify the licensing office or the Police in the event of CCTV breakdown or malfunction as soon as is reasonably practicable and in any event within 24hrs.

The Chair thanked all of those present for their attendance.

COUNCILLOR D Jones
Chair

(Note: The meeting started at 1.30pm and ended at 6.50pm)