

Minutes of: LICENSING HEARING SUB COMMITTEE

Date of Meeting: 18th May 2023, 10.30am

Present: Councillor S Walmsley (in the Chair)
Councillors G Marsden and G McGill

Also in attendance: M. Bridge (Licensing Unit Manager)
M. Cunliffe (Democratic Services)
O. Osinuga (Legal Services)
PC P. Eccleston Greater Manchester Police

Public Attendance: The Hearing was held virtually and interested members of the public were provided with a link to access the hearing online via Microsoft Teams or could be telephoned into the meeting via audio only. No members of the public or press were in virtual attendance.

1 APOLOGIES FOR ABSENCE

Apologies for absence were submitted from B. Thomson, Head of Public Protection at Bury Council.

Mr Shah, the Premises Licence Holder was not in attendance.

2 DECLARATIONS OF INTEREST

There were no declarations of interest made.

3 MINUTES OF THE LAST MEETINGS

The minutes of the last Licensing Hearing Sub Committee meetings held at 9.30am on the 26th of April 2023 and 1.00pm on the 27th of April 2023 were attached to the agenda.

Resolved:- That the minutes of the Licensing Hearing Sub Committees held at 9.30am on the 26th of April 2023 and 1.00pm on the 27th of April 2023 be approved as a correct record.

4 AN APPLICATION FROM GREATER MANCHESTER POLICE FOR A SUMMARY REVIEW OF THE PREMISES IN RESPECT OF TOPSHOP, 20 HURST STREET, BURY, BL9 7ER

The Licensing Authority received an application by the Chief Constable of Greater Manchester Police in respect of the licence premises the Topshop, 20 Hurst Street, Bury, BL9 7ER for a Summary Review of the Premises Licence and for interim steps to be taken in advance of that review in accordance with Sections 53A to 53C of the Licensing Act. The reason for the application is because the police believe that the premises is associated with serious crime.

The nature of the application and consideration of options was detailed in the report which was presented to the Members of the Sub-Committee by the Licensing Unit Manager, Mr M. Bridge.

The options available were:

- To modify the conditions of the licence
- To exclude the retail sale of alcohol from the licence
- To remove the Designated Premises Supervisor from the licence
- To suspend the licence for a period not exceeding 3 months
- To revoke the licence

Following the review under section 53C, Members of the Licensing Hearings Sub-Committee must also review the interim steps that were currently in place and determine whether it was appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.

Attention was drawn to background papers which included:-

Current Premises Licence

Section 53A application, Certificate and supporting evidence

Licensing and Safety Panel Report (interim steps hearing) – 26 April 2023

Licensing and Safety Panel Minutes (interim steps hearing) –26 April 2023

On the 24th of April 2023, Greater Manchester Police submitted an application to the Licensing Authority for a Summary Review in respect of Top Shop, 20 Hurst Street, Bury, BL9 7ER because they believe that the premises are associated with Serious Crime.

Summary reviews can be undertaken when the police consider that the premises concerned are associated with serious crime or serious disorder (or both). The summary review process allows interim conditions to be quickly attached to a licence and a fast-track licence review.

A 10 working-day public consultation exercise had been undertaken in accordance with Licensing Act 2003 regulations; requiring the application to be advertised by the displaying of a blue notice at or on the premises and details of the application published on the Council's website.

Within 48 hours of receiving a summary review application, under s53B of the Licensing Act 2003 the licensing authority must consider whether it is necessary to take interim steps pending the review of the licence for the promotion of the licensing objectives.

On the 26th of April 2023, a Licensing Hearings Sub Committee interim steps hearing was held, following receipt of the Summary Review application from Greater Manchester Police, Members of the Licensing and Safety Panel considered whether interim measures should be taken in respect of the Premises Licence for the purpose of promoting the Licensing Objectives.

The Sub-Committee resolved that in order to promote the said licensing objectives, it was necessary to impose interim steps and that it must suspend the premises licence immediately and the removal of the Designated Premises Supervisor.

The premises licence holder may make representations against the interim steps taken by the licensing authority. Under s53B of the Licensing Act 2003 the licensing authority must within 48 hours of the time of its receipt of the representations, hold a hearing to consider those representations. To date, the premises licence holder had not made representations against the interim steps taken by the licensing authority.

On the date of this review hearing, the licensing authority is required to review any interim steps that are in place and consider whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.

Under section 53C of the Licensing Act 2003, the licensing authority must hold a full review of the premises licence and determine the review within 28 days after the day of receipt of the application.

Following the review under section 53C, the licensing authority must then review the interim steps in place and determine whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.

Attached to the agenda pack at Appendix 2 was the (Application by Greater Manchester Police for the Summary Review) and Appendix 3 (Certificate issued by the Chief Superintendent under section 53A (1)(b) of the Licensing Act 2003).

The premises licence which shows the current licensable activities and conditions was attached at Appendix 4 of the agenda pack.

The Secretary of State's Guidance to the Licensing Act 2003 is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.

PC P. Eccleston from Greater Manchester Police referred Members to his statement included in the agenda packs.

The Chair requested if there had been any further information or changes from the review hearing and it was reported the premises was still locked up. Investigations were still on-going in relation to any possible criminal charges being made but there was no further information to present in terms of the licensing aspect.

The Licensing Unit Manager also referred Members to appendix C which had been circulated after publication of the agenda and were the photographs of drugs seized on the premises.

The Sub-Committee then duly retired to consider the matter and all of the information provided.

The Members of the Sub-Committee 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.

In addition, Members were advised to give appropriate weight to the steps that are appropriate to promote the licensing objectives and the representations presented at the meeting.

DELEGATED DECISION

The Sub-Committee carefully considered the representations and evidence provided which demonstrated serious crime and therefore unanimously **resolved to revoke the licence** in order to promote the licensing objectives.

The Sub-Committee also reviewed the interim steps and unanimously **resolved to keep the interim steps in place which was to suspend the licence and remove the Designated Premises Supervisor from the licence** in order to promote the licensing objectives.

The Sub-Committee was satisfied that the sufficient evidence presented had demonstrated the following licensing objectives had not been met and failed the:-

- Prevention of crime and disorder
- Public safety
- The prevention of public nuisance; and
- The protection of children from harm

The reasons by the sub-committee, included:-

- Evidence of serious crime taking place at the premises and not promoting the Licensing Objective of Prevention of Crime and Disorder.

- The Licensing Objective of Public Safety was not being promoted at the premises by the Premises Licence Holder/Designated Premises Supervisor.
- The Premises Licence Holder/Designated Premises Supervisor was breaching conditions of the premises licence in relation to breach of Licensing conditions in relation to the provision of CCTV and the requirement to maintain a refusals book to record incidents/descriptions of individuals whenever a member of staff has refused to sell alcohol to a person suspected of being under the age of 18. This book must be made available to the police / authorised officers of the Council on request.
- The impact of anti-social behaviour occurring and criminality being a risk to children within a high residential area.

COUNCILLOR S WALMSLEY
Chair

(Note: The meeting started at 10.30am and ended at 10.46am)