

Minutes of: LICENSING HEARING SUB COMMITTEE

Date of Meeting: 2 February 2024

Present: Councillor G McGill (in the Chair)
Councillors G Marsden and M Walsh

Also in attendance: M. Bridge (Licensing Unit Manager)
M. Cunliffe (Democratic Services)
O. Osinuga (Legal Services)

PC P. Eccleston (Greater Manchester Police)
A. Johnson (Premises Licence Holder)
R. Cathcart (Public)

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. 1 member of the public was in virtual attendance.

1 APOLOGIES FOR ABSENCE

Apologies were submitted by B. Thomson, (Head of Public Protection).

2 DECLARATIONS OF INTEREST

There were no declarations of interest submitted although 2 Members of the Committee placed on record that they were Councillors in the Radcliffe area. Only one of them had visited the premises but that visit was not recent.

3 AN APPLICATION FROM GREATER MANCHESTER POLICE FOR A SUMMARY REVIEW OF THE PREMISES LICENCE IN RESPECT OF OVERDRAUGHT, 28/30 BLACKBURN STREET, RADCLIFFE, M26 1NQ

The Licensing Authority received an application by the Chief Constable of Greater Manchester Police in respect of the licensed premises the Overdraught, 28/30 Blackburn Street, Radcliffe, M26 1NQ. This was 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 was because the police believe that the premises are associated with serious crime and/or disorder.

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 review the interim steps that are currently 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for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.

Attention was drawn to background papers which included:-

Current Premises Licence

Section 53A application, Certificate and supporting evidence

Licensing Hearing Sub Committee Minutes (Interim steps hearing) 12th January 2024

On the 10th January 2024, Greater Manchester Police submitted an application to the Licensing Authority for a Summary Review in respect of the Overdraught, 28/30 Blackburn Street, Radcliffe, M26 1NQ, because they believed that the premises was associated with Serious Crime and/or Disorder.

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 12th January 2024, 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 Panel resolved that in order to promote the said licensing objectives, it was necessary to impose interim steps and that it must modify the conditions of the licence. The reasons for the Sub-Committee's decision are attached at appendix one.

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.

The premises licence holder had not made representations against the interim steps taken by the licensing authority.

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 any 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.

The premises licence in respect of the Overdraught has been held by Mr Alistair

Scott Johnson since the 4th April 2011. Mr Johnson is the Designated Premises Supervisor since the 4th April 2011.

The Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006) and the Licensing Act (Hearings Regulations) is the relevant legislation.

The Panel will make a decision on the day of the hearing and the parties will be notified of that decision and the reasons for it.

The Chief Superintendent had issued a certificate under section 53A (1)(b) of the Licensing Act 2003 in which he stated the following:-

The premises are associated with serious crime and serious disorder.

Attached to the agenda packs at Appendix 2 was the Application by Greater Manchester Police for the Summary Review. Appendix 3 was the Certificate issued by the Chief Superintendent respectively.

Greater Manchester Police had supplied CCTV footage of the incident. This had been circulated to the Members of the Committee and the Premises Licence Holder prior to the hearing for viewing purposes.

As part of the statutory process the Responsible Authorities and interested parties are entitled to make representations in relation to the review of a licence. The Licensing Authority has given Notice of this review by placing a Notice on the premises, at the Council Offices and on the Council website. Where further representations are made by either the Responsible Authorities or from local residents / businesses and not withdrawn, Members are required to determine them. The Greater Manchester Police will give evidence at the hearing.

Representations must be relevant to the licensing objectives defined within the Act. The objectives are:-

- a. The prevention of crime and disorder
- b. Public safety
- c. Prevention of public nuisance
- d. Protection of children from harm

The Licensing Service have received from the Premises Licence Holder Mr Johnson the following documentation: -

- Emergency First Aid Certificate
- Invoice for the SIA Door Supervision Training booked for 5 February 2024

These were attached as Appendices 5 and 6 in the agenda pack.

The Premises Licence attached to the agenda pack at Appendix 4, showed the current licensable activities and conditions.

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.

The Sub-Committee must consider what steps are appropriate for the promotion of the licensing objectives taking into account any change in circumstances since any interim steps were imposed, any relevant representations, and review the interim steps already taken.

The Sub-Committee is asked to 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.

PC P. Eccleston from Greater Manchester Police provided a summary of the application for a review at the meeting.

At 00:16 hours on Saturday 6th January 2024, Greater Manchester Police received a report of a stabbing at Overdraught, 28-30 Blackburn Street, Radcliffe.

Witness statements have been obtained and the premises CCTV footage has been reviewed. The circumstances of this incident are at approximately 23:45 hours, two male perpetrators have entered the above licensed premises. Police are not aware of any incidents occurring inside however upon exiting, approximately 10 minutes later, a conversation has taken place between the perpetrators and other customers. At present, the content of those conversations are unknown however a fight has ensued near to the main entrance/exit.

Witnesses to the incident report seeing a 2inch blade being used by one off the perpetrators and two other customers who were victim to the attack received some serious injuries which included:

Victim 1: 2cm laceration to the left side of his face, close to the eye socket and a 6cm laceration to his left arm, just below the elbow. Swollen right elbow.

Victim 2: 2cm laceration to the back of the head, close to the base of the skull.

Both victims required hospital treatment, one of which fell unconscious and unresponsive later in the morning.

No door supervision were on duty at the time of this incident and although the premises license does not require the employment of door supervisors on a weekly basis, it is my opinion that this incident may have been avoided had they been employed. For that reason, it is my opinion that an expedited review of the premises is necessary to allow the licensing authority to review/amend the license conditions and prevent a reoccurrence of such serious crime and disorder in the future.

CCTV footage from the premises which had been previously shared with the Committee was played to those in attendance with PC Eccleston highlighting key points of interest from the clip. There was no audio with the footage which made it harder to understand what may have started the incident.

The opinion of GMP was that if door staff had been present then the incident was likely to have not occurred or may have been prevented with the searching of patrons as they entered the premises. The venue traded like a nightclub and if this was in Bury Town centre, door staff would be required as part of the licence. The location was in isolation and away from regular police patrols.

PC P. Eccleston presented to the hearing what conditions they would like to be placed on the licence such as door staff, searches, prevention of loitering, challenge 25 scheme, incident logs, last entry and door closures by a set time.

The premises licence holder, Mr A. Johnson showed to the hearing via his camera, a metal detector body scanner which had been purchased to aid with any searches required.

Members questioned PC Eccleston on the incident and what measure could help prevent a repeat. Clarification was also sought on the term loitering and the law in relation to carrying a bladed article in public.

GMP were of the opinion that door staff could have found the knife upon searches whilst the offenders entered and it could have been seized with the individuals refused entry. It would also act as a visual deterrent for anyone carrying a weapon helping to prevent such incidents.

Upon questioning by the Chair, PC Eccleston confirmed there was no previous history of incidents at the premises in the last 5 years apart from one assault on Mr Johnson who he considered to be a good licence holder. There had been no issues obtaining the CCTV and Mr Johnson had fully cooperated with GMP on the night and since the incident.

Mr Johnson explained that he felt door staff were not necessary and reminded Members that himself and a friend were booked on a course between the 5th-10th February to become SIA registered and further educate themselves on customer safety. He normally closed his doors at 11.30pm as he didn't want drunk customers with little money entering the premises after that time. Around 70% of his customers were regulars and body searches upon entering may be off putting for new and existing customers.

Mr R. Cathcart who was a former Councillor, was in attendance at the meeting and provided a supporting statement on behalf of Mr Johnson.

As part of the summing up process a discussion took place on possible amendments to the licence conditions.

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 Adviser 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 relevant provisions of national guidance and the Council's licensing policy statement.

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 disorder. It was therefore unanimously **resolved to modify the conditions of the licence** in order to promote the licensing objectives.

The Sub-Committee also reviewed the interim steps and unanimously **resolved to withdraw the interim steps in place due to these being included as new conditions on the licence.**

The Sub-Committee was therefore satisfied that there was sufficient evidence to mean modifications were necessary for some amendments to the current premises licence under the licensing objectives recommended by GMP, these were as follows:-

Prevention of Crime and Disorder:-

- An incident log (which may be electronically recorded) shall be kept at the premises for at least six months, and made available on request to the Police or an authorised Officer of the licensing authority, which will record the following incidents including pertinent details:
 - a- all crimes reported to the venue, or by the venue to the police
 - b- all ejections of patrons
 - c- any incidents of disorder
 - d- any faults in the CCTV system
 - e- any visit by a relevant authority or emergency service
- All licensable activity is to cease half an hour prior to closure to allow drinking up time and the safe dispersal of patrons.

Prevention of Public Nuisance:-

- Management and staff are to use their best endeavours to prevent persons loitering outside the premises and to ensure that persons refused entry or ejected are asked to leave the vicinity of the premises.
- Those patrons who wish to smoke or vape would be directed to the beer garden at the rear of the premises.

Protection of Children from Harm:-

- The premises will operate a "Challenge 25" proof of age policy and signage to this is to be prominently displayed within the premises. Persons who appear to be under the age of 25 must produce for thorough scrutiny by staff, proof of identity/age before being sold/supplied alcohol. Only a passport or photo-card driving licence or a proof of age card bearing the official 'PASS' accreditation hologram should be accepted as proof of age.

An advisory issued by the Committee, included:-

- The quality of images from the external CCTV could be improved and an additional camera may be required or the existing CCTV re-positioned.

The evidence presented at the meeting had demonstrated the following licensing objectives had not been met and failed the:-

- The prevention of crime and disorder
- Public safety
- Prevention of public nuisance

The reasons by the sub-committee, included:-

- The serious nature of the incident.

- The new measures would help prevent any similar incidents in the future.

COUNCILLOR G MCGILL
Chair

(Note: The meeting started at 10.00am and ended at 12.10pm)