

Minutes of: LICENSING HEARING SUB COMMITTEE

Date of Meeting: 14th September 2022, 3.30pm

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

M. Bridge (Licensing Unit Manager)
M. Cunliffe (Democratic Services)
A. Green (Legal)
L. Jones (Deputy Licensing Officer)
B. Thomson (Head of Public Protection)

Also in attendance: Mr P. Sarnoe, Premises Licence Holder
PC P. Eccleston Greater Manchester Police

Public Attendance: The Hearing was held virtually and interested members of the public would be 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 were in virtual attendance.

1 APOLOGIES FOR ABSENCE

No Apologies for absence were submitted.

2 DECLARATIONS OF INTEREST

There were no declarations of interest made.

3 MINUTES OF THE LAST MEETING(S)

The Minutes of the last Licensing Hearing Sub Committee meetings held at 1.00 pm on the 13th June 2022 and 1.00 pm on the 21st June 2022 were attached to the agenda.

Resolved:- That the minutes of the Licensing Hearing Sub Committees held virtually at 1.00pm on the 13th June 2022 and 1.00pm on the 21st June 2022 be approved as a correct record.

4 AN APPLICATION FROM GREATER MANCHESTER POLICE FOR A SUMMARY REVIEW OF THE PREMISES LICENCE IN RESPECT OF HIDDEN BAR, UNIT B, 24 SILVER STREET, BURY, BL9 0DH

The Licensing Authority received an application by the Chief Constable of Greater Manchester Police in respect of the licence premises Hidden Bar, Unit B, 24 Silver Street, Bury, BL9 0DH 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 are associated with serious crime and/or disorder.

The nature of the application and consideration of interim steps was detailed in the report which was presented to the Members of the Sub-Committee by the Licensing Unit Manager.

The steps 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.

Members were made aware that the cost of the licensing function was funded through the fees and charges levied by the Council. There may be additional costs if appeals are lodged with the Magistrates and Crown Courts.

Attention was drawn to background papers which included:

Current Premises Licence

Section 53A application, Certificate and supporting evidence

Bury Council's Licensing Policy

Guidance issued under Section 182 of the Licensing Act 2003

Licensing Act (Hearings) Regulations 2005

The Licensing Unit Manager reported that 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 for the review of the licence to be fast tracked

The premises licence in respect of Hidden Bar has been held by Hidden Bar Bury Limited since 30 September 2020. Mr Paul Sarnoe has been the Designated Premises Supervisor since 26th May 2022 and is also a director of the company.

A licensing authority must carry out its functions under this Act ("licensing functions") with a view to promoting the licensing objectives:

- the prevention of crime and disorder
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

In reaching a decision, regard must be had to relevant provisions of the national guidance and the Council's licensing policy statement.

Appendix 1 of the report included an application for the review of a premises licence under section 53A of the Licensing Act 2003 submitted by PC Eccleston in relation to incidents in the early hours of Saturday 10th September 2022.

Appendix 2 of the report included the certificate under section 53A(1)(B) of the Licensing Act 2003 issued and signed by The Chief Superintendent.

Appendix 3 of the report included the current licence and conditions.

At the meeting Greater Manchester Police supplied further supporting evidence for this application by playing CCTV footage of the incidents that took place on 10th September 2022. This footage was shared on screen for Members of the Sub-Committee to view at the hearing.

The Sub-Committee then heard oral representations from PC Eccleston who set out the basis of Greater Manchester Police's application for a summary review of the premises licence.

At 03.31 hours on the morning of Saturday the 10th of September 2022 an incident of disorder occurred immediately outside the above premises resulting in numerous customers from the premises fighting, receiving punches and being knocked to the ground.

The disorder continued along Broad Street (which is the street where the main entrance/exit is situated) with several flashpoints of disorder. As a result one male whom was also a perpetrator to the disorder received a puncture wound to his upper left thigh resulting in loss of blood and the victim being taken to hospital.

It is my opinion that an expedited review of the premises licence is necessary to allow the licence authority to review/amend the licence conditions and prevent a reoccurrence of such serious crime and disorder.

The Chair allowed for facts to be checked with Greater Manchester Police.

The Premises Licence Holder made representations.

All parties were given the opportunity to question each other and to sum up their respective cases.

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 by all parties.

The Sub-Committee 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.

DELEGATED DECISION

The Sub-Committee carefully considered all of the representations and evidence produced and in particular found that incidents of serious crime and serious disorder connected with the licensed premises had occurred on the 10th September 2022 when a number of individual were assaulted outside the premises resulting in one person receiving a puncture wound in the leg and suffering from heavy bleeding.

The Sub-Committee therefore unanimously **resolved** that the evidence presented both demonstrated serious crime and serious disorder of an extremely violent nature. The Sub-Committee was therefore satisfied that the incidents were sufficiently serious to mean interim steps are necessary pending consideration of the summary review application.

The Sub-Committee noted that there is no definition of 'serious disorder' in the Licensing Act 2003, but based on the evidence before it, it was satisfied that incidents clearly took place were so serious that not only were members of the public injured, but others were put at serious risk of injury. This in the Sub-Committee's view meant its powers to impose interim steps under section 53B of the said Act were engaged.

In relation to what steps are appropriate, again the Sub-Committee considered all of the representations and evidence, as well as the options set out in section 53B(3) of the Licensing Act 2003. The Sub-Committee has also considered what steps it felt were appropriate to best promote the licensing objectives in the said Act, in particular in this case the prevention of crime and disorder, and public safety.

In this case, because of the serious nature of the incidents referred to, and the risk of further serious crime and disorder, the Sub-Committee **resolved** that in order to

promote the said licensing objectives it must **suspend the premises licence immediately**.

Reasons as follows:-

- Serious crime and disorder evidenced by CCTV
- Taken note of the current conditions of the premises licence which included:-
 - no loitering:
 - Failure to use the communications radio link to the police for reporting an incident in a prompt manner
 - Admission to the premises by customers after 3.00am

None of those conditions were complied with.

- Furthermore, an instruction was given to a member of staff to wash away blood from the street which affected evidence of a crime scene.
- Door staff failing to intervene during a lull in the violence
- The DPS failed in his responsibilities to ensure the licence conditions are complied with and the licensing objectives are met.
- The DPS continually sort to blame doorstaff for the issues on the night.
- The Sub-Committee accepted on the balance of probabilities that a male received a puncture wound in the close vicinity of the premises taking account of how the blood pooled outside as described by police.
- Emergency calls made at 3.51am and 3.57am by staff but this incident began just after 03.30am which was too little too late sometime after the first incident which could have avoided the later injury to the victim.
- The Sub-Committee considered the points of new measures volunteered by Mr Sarnoe being introduced of extra doorstaff, additional CCTV and additional external lighting. The Sub-Committee felt there is not the current capacity in place to comply with the conditions of the premises licence and promote the Licensing Objectives.
- Lack of compliance to the Bury purple flag scheme which promotes a safe night time economy and the lack of compliance with the premises licence conditions by the DPS have encouraged violence and it is fortunate the injuries sustained were not more serious.
- Full training to staff had not been executed by staff or the DPS

The Chair of the Sub-Committee advised the Premises Licence Holder that a letter in writing would be sent by the Licensing Service which would provide information on the summary review and next steps within the next 26 days.

COUNCILLOR S. WALMSLEY
Chair

(Note: The meeting started at 3.30pm and ended at 5.26pm)