

Minutes of: LICENSING HEARING SUB COMMITTEE

Date of Meeting: 11 October 2023

Present: Councillor G McGill (in the Chair)
Councillors G Marsden and M Walsh
M. Bridge (Licensing Unit Manager)
M. Cunliffe (Democratic Services)
O. Osinuga (Legal Services)

Also in attendance: PC P. Eccleston Greater Manchester Police (Representor)
Mr M. Abady
Mr A. Abady
I Oldman- Bury Times (Press)

Public Attendance: No members of the public were present at the meeting.

1 APOLOGIES FOR ABSENCE

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

2 DECLARATIONS OF INTEREST

There were no declarations of interest made.

3 MINUTES OF THE LAST MEETING

The minutes of the last Licensing Hearing Sub Committee meeting held at 10.00am on the 28th September 2023 were attached to the agenda.

Resolved:- That the minutes of the Licensing Hearing Sub Committees held at 10.00am on the 28th September 2023 be approved as a correct record.

4 APPLICATION TO VARY THE PREMISES LICENCE TO SPECIFY A CHANGE OF DESIGNATED PREMISES SUPERVISOR IN RESPECT OF CLUB 66, 24 SILVER STREET, BURY

The Licensing Authority received an application under section 37 of the Licensing Act 2003, from Club Sixty Six Limited, to vary the Premises Licence held by them, in respect of Club 66, 24 Silver Street, Bury, to specify a change of Designated Premises Supervisor (DPS). Greater Manchester Police in their capacity as 'A Responsible Authority' had made a representation in respect of the application.

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 grant the application
- To refuse the application

Attention was drawn to background papers which included:-

- The application form
- Representations received

The Licensing Unit Manager reported the Licensing Act 2003 and the Licensing Act 2003 (Hearings) regulations is the relevant legislation.

The Panel would make a decision at the hearing and the parties will be notified subsequently of the decision and the reasons for it by letter from the Licensing Office.

Under the provisions of section 37(5) of the Act, where the chief officer of police notified of an application to specify an individual as a DPS, is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the relevant Licensing Authority a notice stating the reasons he is so satisfied.

The applicant had complied with all the necessary procedural requirements laid down by the Act.

On the application form it had been requested that the application to have immediate effect under section 38 of the Act which allows the premises to continue to sell alcohol until such time that this application is determined or withdrawn.

Members were reminded that consideration was given to a review of the premises licence submitted by Greater Manchester Police on the 13th June 2023 and members resolved to revoke the premises licence and to remove the designated premises supervisor. An appeal to the Magistrates Court had been lodged against the decision, no date as yet had been given for this, therefore the premises can continue to trade in the meantime.

Paragraph 4.3 of the Guidance issued under Section 182 of the Licensing Act 2003, states: - *Any premises at which alcohol is sold or supplied where the requirement for a personal licence holder does apply may employ one or more such licence holders. For example, there may be one owner or senior manager and several junior managers holding a personal licence. However, the requirement that every sale of alcohol must at least be authorised by a personal licence holder does not mean that the licence holder has to be present on the premises or oversee each sale; it is sufficient that such sales are authorised.*

The application from Club Sixty Six Limited names Mr Ali Khalil Abadi of 32 Horne Street, Bury, BL9 9BW as the new DPS. It was confirmed that Mr A. Abadi is the holder of a Personal Licence granted by Bury Council.

Greater Manchester Police would give their reason(s) for their representations in relation to the application in which they request the Panel to refuse the application. The representation was attached at Appendix One of the agenda packs.

The Licensing Unit Manager had also circulated to Members CCTV footage recorded outside the premises and additional documents from Greater Manchester Police. These included a GMP witness statement from PC Peter Eccleston and:-

Appendix A- Email and application to change DPS to Mr Alikhalil Abadi

Appendix B- Copy of request to be removed as DPS

Appendix C- Copy of Bury Councils CCTV occurrence forms

Appendix D- Copy of Bury Councils CCTV regarding 6th & 12th November 2022

After hearing the representations made and the evidence presented, Members were obliged to determine the application with a view to promoting the licensing objectives and having regard to the Authority's Licensing Policy and National Guidance.

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 Unit Manager sought clarification from Mr M. Abady in relation to the application submitted and the registered postal address of the business listed with Companies House. Upon sending the Hearing Sub Committee invites and reports out via the Post Office, the paperwork had been returned to the Council via Royal Mail with a hand written note on the front of the envelope stating not at this address, return to sender.

Mr M. Abady stated he had telephoned the Council some months ago to inform them that his main office was based in central Manchester and he provided the full address to the Licensing Unit Manager at the meeting. The change had not been made with Companies House and Mr A. Abady added they were in the middle of a move and there was a temporary receptionist at the location where the papers had been posted.

Mr A. Abady told the committee that he was surprised representations had been submitted from GMP in relation to late entry into the club outside licensing hours as these issues had been the fault of a security company previously employed by the club. This had occurred over 2 weekends and when it came to his attention of late admission he came out of the premises and informed the door staff to stop. He also informed the panel that he had been a DPS twice previously for a short period of time at the club and had to take time away from work due to a personal health issue. He had in the past been involved with a club in Bolton and had a good relationship with the Bolton Police.

Mr M. Abady added when he was aware of the issues with the security firm he had a meeting with the police and said if there were any problems to contact him direct and thought the issue had been resolved.

Mr A. Abady said there had been no issues with the club over the past couple of months co-operating with the town radio scheme and felt they were being victimised.

He was shocked the security firm from Manchester did not follow procedures and sacked them before employing a new door staff company.

The Licensing Unit Manager questioned Mr A. Abady when he had said that he had been acting as the DPS for the past 2 and a half months. Mr A. Abady confirmed it had been since the application had been submitted. The Licensing Unit Manager informed the panel that this application had been submitted on the 15th September 2023 and was made by Club 66. Mr M. Abady was the sole director of that company according to Companies House.

Mr A. Abady disputed late entries into the club by new customers on the nights in question and informed the panel that a one off event had been held by people who had hired out the club for the night. He had worked on these nights and made sure the rules were followed and there had been no issues this year.

Mr M. Abady informed the meeting that the club was located in a shared building and Hidden Bar staff needed to go through the building to access their back office. He also stated that businesses were located upstairs which required 24 hour access and one of these was a milkshake bar. That meant entry after 3am was still required via the front door of the building for these other businesses to be accessed.

PC P. Eccleston from Greater Manchester Police (GMP) provided representations to the panel and gave background information on a number of issues which were presented at the full review hearing held in June 2023 when the premises licence was revoked. The operating schedule was being ignored for last entry time and past closing time and video evidence of this occurring in November was when Mr A. Abady was the DPS for a short duration.

CCTV footage was played at the hearing with footage recorded from the 6th and 12th November 2022. PC Eccleston provided a commentary over the clips in relation to customers entering the premises at 03.28am and leaving at 04.20am on the 6th November. Again, a similar pattern took place on the 12th November and there was still a large line of people queuing to enter after the operating hours and the front door of the premises not closed and locked.

Mr M. Abady commented that people were going in the building but for the office use upstairs which also included the milkshake bar.

Mr A. Abady pointed himself out on the footage and explained he had come out of the venue and told door staff to stop entry and close the door.

PC Eccleston questioned why the footage appeared to show the front door being locked and unlocked on different occasions if access was required to the other businesses in the building.

Mr A. Abady also clarified that the clip which showed an individual walking past the que and being allowed in the venue after hours was a member of the event staff for a private function held.

Mr A. Abady questioned why the police had not addressed the issues with him earlier and PC Eccleston explained that once the information had been gathered he would then notify the relevant party but Mr A. Abady had already resigned as the DPS.

Mr M. Abady felt the issues had been addressed at a meeting held at Bury police station earlier this year when the footage was played and it was agreed that it was the security company's fault.

Upon request of the Chair, the Licensing Unit Manager provided a timeline of the procedural rules in relation to representations being received.

Legal services advised that comments made by Mr A. Abady about the integrity of the police were not relevant to the issues for determination before the committee.

The Licensing Unit Manager asked if GMP had been aware of the private event taking place at the premises after 5.00am and PC Eccleston confirmed no TEN had been submitted for that date. He also added that it was the responsibility of the premises licence holder and not door staff to ensure the private event runs under the conditions of the licence.

Mr A. Abady said that applications had been made to open later and PC Eccleston explained that after the incidents the premises did mention about later opening although he had stated he would not support this based on previous incidents and no evidence of being responsible operators. No applications had been received for a variation of operating hours and PC Eccleston explained that a TEN would allow the police to arrange staffing levels if they knew in advance of an event.

PC Eccleston recapped what the CCTV evidence played to the committee demonstrated and felt the DPS application would lead to further problems with crime, disorder and the issues of public nuisance.

Mr A. Abady repeated he would be a strict DPS and had demonstrated this by sacking a previous employed door security company. He thought previous issues had been resolved with the police and said he was aware that safety was important being a manager of many staff at a call centre in Manchester.

The Licensing Unit Manager explained for background purposes that a transfer of the licence had been submitted in the past to a different company, but this had been withdrawn and reverted back to Club 66.

Mr M. Abady summed up that over £300,000 had been spent on the venue to provide the people of Bury a safe and nice club to visit. 8 door staff were employed now and there had been no issues this year and the proposed DPS would keep the premises safe.

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 all the representations and evidence provided which was accepted as being accurate and demonstrated the need to prevent crime and disorder, promote public safety and prevent public nuisance. The panel therefore unanimously **resolved to refuse the application** in order to promote the licensing objectives.

The Sub-Committee was therefore satisfied that there was sufficient evidence to refuse the application.

The evidence presented had demonstrated the following licensing objectives had and would not be promoted by failing the:-

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

The reasons by the sub-committee, included:-

There would be no change on incidents occurring, as had been the case on previous occasions when the proposed DPS was the DPS on two separate occasions for a short period of time. This was demonstrated by the premises not complying with the last admittance and closing times permitted under the premises licence on a number of occasions.

COUNCILLOR G MCGILL
Chair

(Note: The meeting started at 10.00am and ended at 12.40pm)