

Minutes of: LICENSING HEARING SUB COMMITTEE

Date of Meeting: 17 April 2024, 1.00pm

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

Also in attendance: M. Cunliffe (Democratic Services)
K. Halligan (Trading Standards)
L. Jones (Licensing Unit)
C. Riley (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 were in virtual attendance.

1 APOLOGIES FOR ABSENCE

Apologies were submitted by M Bridge, (Licensing Unit Manager) and B Thomson- Assistant Director of Operations Strategy.

2 DECLARATIONS OF INTEREST

There were no declarations of interest submitted.

3 MINUTES OF THE LAST MEETING

The Minutes of the last Licensing Hearing Sub Committee meeting held on the 26th March 2024 were attached to the agenda.

Resolved:- That the minutes of the Licensing Hearing Sub Committee held on the 26th March 2024 be approved as a correct record.

4 AN APPLICATION FROM GREATER MANCHESTER POLICE FOR A SUMMARY REVIEW OF THE PREMISES LICENCE IN RESPECT OF METRO OFF LICENCE, 66 SPRING LANE, RADCLIFFE, M26 2SZ

The Licensing Authority received an application by the Chief Constable of Greater Manchester Police in respect of the licensed premises, Metro Off Licence, 66 Spring Lane, Radcliffe, M26 2SZ, 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.

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 Deputy Licensing Unit Officer, Ms L. Jones.

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 Hearings Sub Committee Report (interim steps hearing) – 26th March 2024

On the 25th March 2024, Greater Manchester Police submitted an application to the Licensing Authority for a Summary Review in respect of Metro Off Licence, 66 Spring Lane, Radcliffe, M26 2SZ 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 will be 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.

On the 26th March 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 these would be to suspend the licence and to remove the Designated Premises Supervisor. The reasons for the Sub-Committee's decision was attached at Appendix 1 in the agenda packs.

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 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.

The premises licence in respect of Metro Off Licence has been held by Mr Mohammad Shafqat since the 3rd October 2022. Mr Shafqat is also the Designated Premises Supervisor and has been since the 23rd December 2022.

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

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.

Attached to the agenda packs was the application by Greater Manchester Police for the Summary Review. Annex B was the Certificate issued by the Chief Superintendent respectively.

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. 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. To modify the Conditions attached to the licence
- b. The exclusion of the sale of alcohol from the scope of the licence.
- c. The removal of the Designated Premises Supervisor from the licence.
- d. Suspension of the premises licence

A representation was received from Trading Standards in their capacity as a Responsible Authority. The representation related to the following issues and was attached at Appendix 4 in the agenda packs:-

- Illicit cigarettes and illegal vapes on the premises
- Offensive weapons on the premises

The Premises Licence was also attached to the agenda pack and detailed 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.

Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. The Guidance is therefore binding on all licensing authorities to that extent. However, the Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons.

Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

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.

PC P. Eccleston from Greater Manchester Police provided a summary of the application for a review at the meeting, which was contained at Appendix 2 of the agenda pack.

He explained on Thursday the 29th February 2024, a test purchase was carried out at the above licensed premises which had been organised by Bury Council Trading Standards Department. A successful purchase was made of a pack of 20 Lambert and Butler cigarettes in none standardised packaging for £7 as such it did not comply with the Tobacco and Related Products Regulations 2016.

As a result of the test purchase, at 15:50 hours on Thursday 21st March 2024, Kelly Halligan (Bury Council Trading Standards Unit Manager), Laura Jones (Bury Council Deputy Licensing Officer), Lucy Sutton (Dog Handler from DC Detection Dogs), Immigration Officers and I, attended the above address as part of Greater Manchester Police's day of action, Operation Avro.

On entering the premises, we were greeted by a male member of staff who introduced himself as Adrees Masood. Mr Masood was behind the serving counter at the time and claimed that he was only helping out at the shop. Whilst looking around the store, the dog and handler, went behind the counter and x4 packets of 20 Lambert and Butler cigarettes which were in the same, none standardised packaging as the packet recovered during the test purchase were found. Also found under the counter was a large machete with a blade over 12 inches in length and a hockey stick. As the search continued, 49 disposable vapes which exceeded the maximum capacity and therefore contravened the Tobacco and Related Product Regulations 2016 were also recovered.

The cigarettes and the disposable vapes were seized by Kelly Halligan who has provided her own statement and photographs of the machete and hockey stick at appendix A.

There is no legitimate reason as to why a machete or hockey stick would be kept on any licensed premises, other than to cause serious harm to someone in the event of a robbery or other similar theft related incident. Considering this premise is open to members of the public, it is illegal to have such items under Section 1 of the Prevention of Crime Act 1953 (possession of an offensive weapon). As such, I seized the items as exhibits PE/1 and PE/2 respectively and a picture of the items have been included in appendix B.

Although no other items were recovered as evidence, we did find copies of the lease agreement for the premises which named two other individuals which had signed the agreement. The third named person was Mr Masood however there was no signature next to his details. He was asked numerous questions in relation to his involvement in the business and he continued to claim that he had nothing to do with and had only been working in the store over the last couple of weeks as a shop assistant.

At the time, there was some confusion as to who the premises license holder and designated premises supervisor were as the business was had recently been bought and was under new management. As such further enquiries were made by Laura Jones from Bury Council Licensing Department who was able to make contact with the named PLH and DPS, Mr Shafqat later that day. He claimed that he sold the business on the 1st November 2023 to a Qasim (no further details provided) and as far as he was concerned, has had nothing more to do with the business since. This conversation was confirmed via email which has been included at appendix C.

Due to the email received from Mr Shafqat, I returned to the premises in company with Bury Council Licensing Enforcement Officer, Luke Solczak on the following day, Friday 22nd March 2024. We spoke to a different member of staff stood behind the counter who introduced himself as Bardh Patel. He insisted that we spoke to his 'boss' and so rang him on his mobile phone and both I and Luke were able to have a conversation via the loudspeaker facility. The male we spoke to introduced himself as the owner of the business and provided his personal details, introducing himself as Mohammed Quasim Khan. We explained that because of the email from Mr Shafqat, there was no DPS in place to authorise the sale of alcohol and therefore was in breach of the Licensing Act and as such was required to either remove the alcohol from the store or close the business until such time the premises license could be transfer and a new DPS be nominated. At the time the request was complied with, and he informed us both that he would be in touch with the previous DPS, Mr Shafqat to see if he would reconsider.

I also took the opportunity to ask him questions in relation the machete which was found under the counter. He claimed that the machete had been taken off someone who attempted to rob the shop early in the previous week. He claimed that a report had been made to the police and police had attended to collect CCTV which had captured the individuals responsible but not them entering with the machete or being confronted and having the machete taken from them. What I do find extraordinary about Mr Khans account is the CCTV's ability to capture those responsible but not the machete or the confrontation as the machete is being removed from those that have

entered. Furthermore, and what is even more suspicious, is the claim that police had been contacted and had been to the store to recover CCTV, yet the machete was never handed over the police and on checking police computer systems, there is no record of a report being made to Greater Manchester Police. In fact, the last reported incident to the police which involved the premises directly was on the 20th October 2023, which was in relation to a robbery.

Since the conversation with Mr Khan, a further email has been received by Bury Council Licensing Department from Mr Shafqat, asking to be reinstated as DPS at the premises. This email has been included at appendix D.

It is my opinion that an expedited review of the premises licence was necessary to allow the licence authority to impose the interim steps not only for the safety of the staff but also members of the public. It is quite clear for all to see, that they are unable to run the business within the limits of the relevant laws and legislation. Having a lethal weapon on the premises plus offering for sale illicit tobacco products is not in any way promoting the licensing objectives and it is for those reasons that as a delegated licensing officer acting on behalf of the Chief Officer, I am requesting the panel to seriously consider the DPS be removed from the license and the premises license be revoked as the licensing objectives would continue to be undermined.

PC Eccleston highlighted Appendix A and B in the agenda pack which detailed photographs taken from within the premises of the weapons found and a statement from Trading Standards.

PC Eccleston repeated that GMP had searched their records and checked with the Neighbourhood Crime Team, but no incidents had been recorded at the premises as alleged.

K. Halligan from Trading Standards concurred with the account provided by PC Eccleston and her statement was also attached in the agenda packs. She added if Members were minded not to revoke the licence, then suggested conditions within the agenda pack should be applied to ensure the licensing objectives are met. She had concerns on the weapons and illicit products found along with a lack of responsibility at the premises.

Members questioned the current ownership of the store and were informed that the licence could not be transferred to the new owner after the licence had been suspended as a suspended licence cannot be transferred.

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, concerns for public safety and the failure to protect children from harm. It was therefore unanimously decided to **remove the Designated Premises Supervisor from the licence** and 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 to remove the Designated Premises Supervisor from the licence and to suspend the licence**. These would remain until the end of the period provided for appeal against the decision, or if the decision is appealed against, the time the appeal is disposed of. It was appropriate for the promotion of the licensing objectives that the interim steps remain in place.

The Sub-Committee was therefore satisfied that there was sufficient evidence to mean steps were necessary to remove the Designated Premises Supervisor from the licence and to revoke the licence under the licensing objectives recommended and advised by GMP.

The Sub-Committee had no confidence there would be any improvement with modifications made to the licence.

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

- The prevention of crime and disorder
- Public safety
- The protection of children from harm

The reasons by the sub-committee, included:-

- 2 dangerous weapons found under the counter with the machete capable of causing serious injury or death.
- Accounts of an alleged robbery incident provided by the Licence Holder in relation to the weapons being present at the store were not believable, with no recorded crime on the GMP database.
- Non-standard and illicit items seized from the premises which would have been sold by the store.

All the above reasons were taken into consideration when revoking the licence and removing the Designated Premises Supervisor from the licence. The Sub-Committee felt the decision was appropriate and proportionate.

COUNCILLOR G MCGILL

Chair

(Note: The meeting started at 1.00pm and ended at 1.42pm)