

Licensing Sub Committee

A meeting of Licensing Sub Committee was held on Thursday, 14th September, 2006.

Present: Cllr Leonard, Cllr Mrs Nelson and Cllr Woodhead.

Officers: J Nertney(LD); M Vaines(DNS).

Also in attendance: PC M Hodgson & PC V Danks (represented by Miss Smith, Barrister), Mr S Burey (Designated Premises Supervisor), Mr C Richardson (owner of the premises) (represented by Miss Farnsworth, Barrister), Mr Ross (Hawkins Ross Solicitors).

Apologies: None.

541 Appointment of Chairman

RESOLVED that Councillor Leonard be appointed Chairman for this meeting only.

542 Bannatyne Health Club, Myton Way, Ingleby Barwick - Application to vary a Premise Licence.

Members were informed that as the conditions had been agreed with the Environmental Health Officer and as there were no other representations the item had been withdrawn from the agenda.

543 Exclusion of the Public

RESOLVED that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act.

544 Lords Tavern, Yarm Lane, Stockton on Tees - Application for a Review of a Premise Licence under the Licensing Act 2003.

The Licensing Officer presented the report to the Committee. Members noted that this review of a premises licence was made at the request of Cleveland Police. Cleveland Police were of the view that there were no conditions which could be placed on the licence to alleviate the problem and that they were recommending either the removal of Mr Burey as the Designated Premises Supervisor or the revocation of the licence.

Miss Smith, Barrister, represented Cleveland Police and stated that in their view Mr Burey as the Designated Premises Supervisor was undermining the licensing objectives in particular the prevention of crime and disorder, public safety and the protection of children from harm. In the Police's view the only reasonable steps which could be taken would be to remove Mr Burey as the Designated Premises Supervisor or revoke the licence.

Miss Smith called evidence from PC Hodgson who had provided a witness statement dated 20 July 2006 which exhibited a number of documents and

video evidence. The Police's bundle of evidence also included witness statements from Mr S Mills, Licensing Officer at Stockton Borough Council and PC Iceton, a member of the Polices licensing section.

The Police's evidence and concerns were based on the following issues:-

1. The incidents which had been caught on CCTV including an incident at Brad's Bar on 29th May 2006 when Mr Burey had allegedly assaulted a member of the door staff after becoming involved in a dispute following his request that his seventeen-year-old daughter be permitted entry to the premises at approximately 3 am. Two incidents on 25th June 2006 when Mr Burey was present in the company of an individual who was barred under Stockton Pub Watch Scheme and entered two licensed premises with this gentleman namely Louis' Bar and the Falchion.

2. Records of incidents at The Lords Tavern which showed there was a higher proportion of crime and disorder and public nuisance than at other similar premises.

PC Hodgson was cross-examined by Miss Farnsworth, the Barrister on behalf of the respondent in this matter.

Miss Farnsworth then called evidence from Mr Burey the Designated Premises Supervisor.

Mr Burey stated that he had held the Justices Licence at The Lords Tavern Premise for approximately five and a half years. Mr Burey stated that the location of the premises did have some problems in the surrounding area including drug abuse and youths who may congregate in the vicinity.

Mr Burey stated that the main clientele of the public house was elderly people and they had a number of promotions such as an over 60's card.

It was noted that Mr Burey disputed a number of the incidents which the police had attributed to his premises and he had gone through these along with his legal advisor and made notes detailing which of the alleged incidents he disputed or felt were not relevant to the premises licence. Mr Burey presented to the Committee a five page document which addressed each of the incidents which were in dispute.

Mr Burey also gave evidence in relation to his attendance at the two public houses when he was in the company of a gentleman barred under the Pub Watch Scheme.

Mr Burey also gave evidence in relation to the incidents at Brads Bar. It was noted that Mr Burey had been spoken to by PC Hodgson in relation to this incident and had been issued with a warning letter dated 26th June 2006 which noted that his behaviour was unacceptable.

Mr Burey confirmed that apart from the incident at Brads Bar he had never received any other warnings from Cleveland Police.

Miss Smith, Barrister for Cleveland Police then cross-examined Mr Burey on his

evidence.

Miss Farnsworth then called evidence from Mr Richardson, the owner of the premises.

Mr Richardson gave some brief evidence detailing the nature of the premises, the amount of staff who he employed who could potentially lose their jobs if the premises licence was revoked and the fact that the notices which had been erected at the premises detailing the review procedure had not been touched or removed by him or any of his staff.

The Police and Applicants representative then summed up their respective cases.

Miss Farnsworth stated that the Committee should take regard to the Section 182 guidance and the Council's licensing policy when considering what action to take which should be necessary and proportionate. Mr Burey had had a warning from PC Hodgson in relation to the incident at Brad's Bar but had had nothing else whether that be meetings or otherwise. Revocation of the licence or removal of Mr Burey as a Designated Premises Officer would not be proportional and the Committee may feel that an informal warning would be more appropriate. The Committee could also consider attaching conditions to the licence in order to address some of the concerns of the Police.

In considering their decision Members had regard to the evidence which had been presented to them. The Committee also had regard to the statutory guidance issued under Section 182 of the Licensing Act 2003 and the Council's Licensing Policy. The Committee noted that although the Police had previously given Mr Burey a warning in relation to the incident involving Brad's Bar this warning had been an isolated incident and at that time the warning letter had indicated that that would be the end of the matter. It was noted that the rationale behind the Licensing Act 2003 was that interested parties should work in the spirit of cooperation. The Licensing Act Guidance indicated that "it would therefore be good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. It is expected that a failure to respond to such warnings would lead to a decision to request a review". The Committee noted that Mr Burey had not been given any specific warnings in relation to the Police's concerns over the amount of incidents allegedly connected to the premises. Furthermore the Police had also not raised the issue that they were concerned with the fact that Mr Burey was allegedly socialising with a gentleman who was barred under the Pub Watch Scheme. The Committee did express the view that these matters should, in their opinion, have been brought to the attention of the Designated Premises Supervisor by the Police.

However, notwithstanding the Committee's view that these matters should have been raised they then had regard to the nature of the matters and whether in their view they undermined the Licensing objectives and required action to be taken either against the Designated Premises Supervisor or the premises.

It was noted that the evidence put before the Committee rested on two main issues:-

1. The amount of incidents connected to the premises.

2. Mr Burey's behaviour in relation to the incident at Brad's Bar and the allegation that he socialised with a gentleman barred under the Pub Watch Scheme.

The Committee had regard to the schedule of incidents which had been provided by the Police and they considered these in some detail. It was noted that the Police acknowledged that the initial Schedule of Incidents which they had submitted did include a number which were not wholly relevant to the matters before the Committee. The Committee therefore had regard to the amended Schedule of Incidents which include 40 alleged incidents connected with the premise. The Committee also had regard to the event chronologies which had also been provided by the Police. The Committee still felt that there were a number of incidents included in this schedule of 40 incidents which were still not wholly relevant to the issues before them and which in their view could not be deemed as detrimental to the premises licence. There were still a number of assaults and incidents of violence allegedly connected with the premises. In addition to the violence and assaults there were a number of incidents of theft and of drunkenness at the premises. Owing to the number of incidents connected with or allegedly connected with the premises and the fact that some of these incidents had allegedly occurred in the car park or curtilage of the premises the Committee were of the view that there were certain conditions which could be attached to the licence which would remedy and address this problem. The Committee noted that as the premises had transferred their licence to the new regime under their grandfather rights that no new conditions had been attached to the licence. The Committee therefore felt that the evidence presented to them demonstrated that there was a requirement for the imposition of conditions to address the potential for violence and crime and disorder at the premises.

The Committee then went on to consider the evidence which had been submitted in relation to Mr Burey's conduct and behaviour. It was noted that Mr Burey had been spoken to by Cleveland Police about this incident and had also been given a written warning.

The Committee also had regard to the two incidents of CCTV footage which the police allegedly showed Mr Burey in the company of a gentleman barred under the Pub Watch Scheme and that he had accompanied this gentleman into two public houses. The Police were concerned about this as Mr Burey knew this gentleman was barred under Pub Watch and he had still remained in his company and gone into two licensed premises with him.

The Committee felt that it was inappropriate for a personal licence holder and Designated Premises Supervisor to be socialising with a man who was barred under the Pub Watch Scheme.

The Committee hoped that Mr Burey would learn his lesson from this and that in future he would take all necessary precautions to ensure that he did not find himself in such a situation again.

In considering all of the evidence relating to Mr Burey the Committee felt that

there was insufficient evidence before them to justify removing Mr Burey as Designated Premises Supervisor. However, the Committee were concerned that the incidents at Brad's Bar and of the situation Mr Burey had become involved in with the gentleman barred under the Pub Watch Scheme. However it was noted that from the evidence before the Committee this was a one off.

The Committee also noted that reference had been made to the fact that Mr Burey had received a formal police caution for assault in a licensed premise. This was also a cause for concern for the Committee but they did not feel on this occasion that all of these factors required Mr Burey to be removed as the Designated Premises Supervisor.

The Committee still had concerns and therefore resolved to issue Mr Burey with a formal written warning which would remain on his licensing records and file. This written warning would be referred to should there be any further matters of concern involving the premises or Mr Burey.

It was hoped that Mr Burey had learned a valuable lesson that he must demonstrate responsibility in his role as a personal licence holder and Designated Premises Supervisor. Failure to heed this written warning could place Mr Burey at risk in the future of been removed as Designated Premises Supervisor thus putting his livelihood at risk.

RESOLVED that the Premise Licence be amended to include the following conditions which will have immediate effect:-

1. There shall be a CCTV system installed at the premises to adequately cover the interior and exterior (including the car park) which should be installed to the reasonable satisfaction of Cleveland Police. The CCTV equipment shall be maintained in good working order in accordance with the manufacturers instructions and be operational during all opening times. Tapes or discs shall be kept secure for a period of 31 days and be made available to the Police and the Council on request.
2. An incident log be maintained and kept at the premises and be made available to the Police and Council on request.
3. A written drugs policy to be maintained in operation and that copies be supplied to Cleveland Police.
4. A minimum of 2 SIA registered door supervisors to be utilised at the premises on Friday and Saturday from 20.00 hours till closing.
5. The Applicant or a nominated representative shall attend the Pub Watch Scheme
6. No persons barred under the Pub Watch Scheme shall be admitted to the premises
7. Use appropriate management controls to reduce the likelihood of customers causing noise disturbance to local residents when vacating the premises. This should include placing at all exits from the premises, in a place where they can

be seen and easily read by the public, notices requiring customers to leave the premises and the area quietly.(Note, this may also include a reference to vehicles).