

Licensing Sub Committee

A meeting of Licensing Sub Committee was held on Wednesday, 16th May, 2007.

Present: Cllr Colin Leckonby, Cllr Roy Rix, Cllr William Woodhead.

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

Also in attendance: Cleveland Police (Applicant): Sergeant Keith Daley, PC Sue Icton, PC Deborah Fenny and Sergeant David Allen (represented by Miss Smith, Barrister).

Respondents: Mr Kevin Manning (Designated Premises Supervisor), Mrs Susan Manning, Mr Simon Jepson (Tadcaster Pub Company, Area Manager) (represented by Mr James Anderson, Solicitor).

Apologies: None.

1323 Appointment of Chairman

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

1324 Declarations of Interest

There were no interests were declared at the meeting.

1325 Exclusion the Public

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

1326 The Falchion, 56 Yarm Lane, Stockton on Tees - Application for a Review of a Premise Licence under the Licensing Act 2003.

The Chair introduced all persons who were present and explained the procedure to be followed during the hearing.

A copy of the report and witness statements had been provided to all those persons present and to members of the Committee. Members noted that this review of a premises licence was made at the request of Cleveland Police.

Cleveland Police presented additional evidence which had previously been unseen by Members of the Committee and the respondents. At the request of the respondents it was agreed that the meeting should be adjourned to 22nd May 2007 to enable the respondents to prepare a response to the additional evidence.

A re-convened meeting of the Licensing Sub Committee was held on Tuesday, 22nd May 2007.

Present:- Councillor Rix (Chairman), Councillor Leckonby and Councillor Woodhead.

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

Also in attendance:- Mr Kevin Manning (Designated Premises Supervisor), Mrs Susan Manning, Mr Simon Jepson (Tadcaster Pub Company, Area Manager) (represented by Mr James Anderson, Solicitor).

Miss Smith, Barrister, represented Cleveland Police and stated that in their view Mr Manning, the Designated Premises Supervisor (DPS) should be removed and that conditions should be attached to the licence to address the crime and disorder associated with the premise. There were a large number of violent incidents and disorder which undermine public safety. There had also been Police intelligence reports that drug dealing and use took place at the premises. The Police had visited the premise on one occasion and taken swab tests in the male and female toilets which indicated the presence of cocaine. This issue had been discussed with Mr Manning. The Police were of the view that Mr Manning was not taking sufficient action to tackle the supply and use of drugs in the premises as they continue to receive intelligence reports.

Mr Manning as the DPS was undermining the licensing objectives in particular the prevention of crime and disorder and public safety. In the Police's view the only reasonable steps which could be taken would be to remove Mr Manning as the Designated Premises Supervisor.

Miss Smith called evidence from PC Iceton, PC Fenny and Sergeant Allen. PC Iceton gave evidence in relation to the Police Event Chronologies, copies of which had been provided to all parties. PC Iceton stated that there were other incidents connected with the premise but that the incidents detailed on the event chronologies were the ones which were of most concern to the Police. In total there were 30 incidents included in the event chronologies which took place between 17th July 2006 and 13th May 2007.

PC Iceton stated that the reporting of locations on chronologies was accurate and if the report referred to The Falchion as the location it would either be at the premises or in the immediate vicinity. PC Iceton stated that a number of the incidents of violence had resulted in the Police being called but the injured parties indicated they did not wish to make a complaint. This was of concern to the Police as most law abiding citizens who were assaulted would wish the Police to take action against the perpetrator. In PC Iceton's view this seemed to indicate that the injured parties would take their own retribution and was indicative of the clientele of the premises.

The Police were particularly concerned about two incidents which were so serious they were treated as major incidents. The first occurred on 5th August 2006 when the Police received a report that someone had been stabbed at the premise, when Police attended the premise there was a great deal of blood in the toilet and evidence of a disturbance in the toilet which had resulted in a wash basin being removed from the wall and broken into pieces. Sergeant Allen gave evidence in relation to this incident. The injured party who had initially reported being stabbed then changed his story and said that he had fallen over in the toilets and cut his back.

The second serious incident was also recorded as being at the Falchion and was also a stabbing which occurred on 18th August 2006. PC Fenny gave evidence in relation to that incident. PC Fenny stated that she had initially been

requested to attend a fight at the Falchion which had then moved onto Baba Jons and then Skinner Street.

The Police's bundle of evidence also included witness statements from PC's Hodgson, Icton and Fenny and Sergeant Allen.

PC's Icton, Fenny and Allen were cross-examined by Mr Anderson, Solicitor for the premises licence holder, the respondent in this matter.

Mr Anderson then called evidence from Mr Manning the Designated Premises Supervisor, Mrs Susan Manning, his wife and Mr Simon Jepson, Area Manager for the Tadcaster Pub Company.

Mr Anderson conceded that matters could be improved at the premises and he detailed 9 conditions that could be attached to the premises licence. Mr Anderson stated that they had initially offered to remove the DPS as they had only received one side of the story. However since taking instructions it was clear that a number of the incidents on which the Police wished to rely were not related to the premises or were not relevant.

Mr Manning stated that the location of the premises on Yarm lane means that some incidents often get connected to the premise when in fact they are caused by persons walking past or coming and going to the town.

It was noted that Mr Manning 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 detailed which of the alleged incidents he disputed.

Mr Manning stated that he felt he was doing a good job in sometimes difficult circumstances. He always acted in the best interests of his customers and if there were any violent incidents in the premise his first priority was to remove the aggressor from the premises. Mr Manning stated that he had always cooperated with the Police and had assisted them on a number of occasions in relation to Pub watch barrings and in the provision of CCTV.

Miss Smith, Barrister for Cleveland Police then cross-examined Mr Manning on his evidence.

Mr Anderson then called evidence from Mrs Susan Manning. Mrs Manning confirmed that she had been responsible for the call been logged with the Police in relation to the stabbing on 18th August 2006. She had left the premise to see her friend to a taxi. She noticed three males who were acting suspiciously and asked the taxi driver to call the Police. The three males had not been in the premise and were walking up from the town.

Miss Smith, Barrister for Cleveland Police had no questions for Mrs Manning.

Mr Anderson then called evidence from Mr Jepson, the Area Manager for Tadcaster Pub Company, the premises licence holder. Mr Jepson confirmed that Mr Manning has been the tenant since December 2004. The first time concerns were brought to the attention of Tadcaster Pub Company was on 29th March 2007. The Police initially indicated that they were looking for a reduction in licensing hours from 04:00 to 02:00.

Miss Smith, Barrister for Cleveland Police had no questions for Mr Jepson.

Miss Smith stated that the Police were seeking this review on the grounds that the Designated Premises Supervisor was undermining the licensing objectives. In the Police's view there are 30 incidents which can be related to the premises and include assaults, violence and drug use.

As has been stated previously in the Police's view the Committee should consider removing Mr Manning as the Designated Premises Officer.

Mr Anderson stated that Mr Manning was the tenant of the premise and had been there for approximately three years. The Police only raised their concerns with him in December 2006 and it was only in March 2007 that they raised their concerns with the premises licence holder.

Although the Police had referred to 30 incidents the Committee should look at each and decide what relevance they had.

Mr Manning was promoting the licensing objectives in a number of ways such as:-

- Attending and actively participating in Pub Watch meetings.
- There was no evidence of under age drinking at the premise.
- He had not breached any of his conditions.
- He had not opened outside of the licensed hours.
- On every occasion he has assisted the Police and provided CCTV evidence when requested.
- He had put three members of his staff through voluntary training.
- He had agreed to voluntarily reduce the licensing hours at the premise.

It was accepted that the running of the premise had not been perfect but the conditions that had been offered and the improvements that had been put in place would address the concerns of the Police and it would be premature to remove Mr Manning as DPS at this time.

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.

It was noted that the evidence put before the Committee was based mainly on the amount of incidents of crime and disorder connected with the premise.

The Committee had regard to the event chronologies which had been provided by the Police and they considered these in some detail. The members of the Committee were concerned that the Police relied solely on these chronologies but even though there were a great deal of incidents the Police had no evidence to corroborate anything within these chronologies. The members of the Committee were aware that when premises were licensed under the Licensing Act 2003 the Police Licensing Officer had always requested the imposition of conditions relating to CCTV and that tapes should be provided to the Police and licensing authority on request. The Police had not provided any CCTV evidence

to support their application for the review and simply relied solely on the evidence contained in the chronologies. It was apparent that there were significant disputes over the manner in which the chronologies record their location and the nature of the incident. The Police confirmed that they received details of incidents connected with a premise each week. If this was the case then surely if a premise was such a cause for concern then they could have requested copies of CCTV tapes in relation to incidents, either from the Local Authority CCTV system or from Mr Manning himself.

The major incident on 18th August 2006 was recorded by the Police as a fight at the Falchion. PC Fenny had given evidence that she believed that there had been a fight at the Falchion. However both Mr and Mrs Manning gave evidence that this was not the case. Mrs Manning had given a statement to the Detectives who were investigating the incident as she had witnessed the alleged perpetrators and the injured party walking up from the town centre towards the Falchion and Skinner Street. Mrs Manning was suspicious of the individuals demeanour and had been responsible for the call being logged with the Police. Furthermore Mr Manning gave evidence that he had provided CCTV footage to the Detective investigating the incident which showed the individuals had not come from The Falchion. It was noted that neither PC Fenny or PC Iceton could confirm whether any CCTV footage had been requested or provided. The Police could not confirm or deny whether Mrs Manning had given a statement in relation to the incident as the files on the investigation were in storage. In the view of the Committee this undermined the Polices argument that they were satisfied that all the incidents on the event chronologies were specifically related to the Falchion or within the direct vicinity.

The Committee noted that the Premises Licence Holder had confirmed that he was willing to attach a number of conditions to the Licence which would assist in improving standards at the premise.

RESOLVED that the licence be amended to include the ten conditions as detailed below which would have immediate effect:-

1. All licensable activities shall revert to a terminal hour of 02:00 a.m. on Friday Saturday and Sunday and 02:30 shall be the terminal hour when the premises are open to the public
2. The attached drugs policy is to be implemented immediately (a copy of which had been provided to all parties)
3. A register of door staff is to be kept at the premises which shall include the name, address, commencement time, finish time and badge number of each member of door staff on duty during any trading session.
4. A risk assessment be carried out to assess the level of staff required during each trading session.
5. Within two months of 16th May 2007, at least one member of staff will have attended BIIAB Level 1 award in Responsible Alcohol Retailing. Proof of such attendance will be sent to the Police Licensing Officer. Within four months of

16th May 2007, a second member of staff will have attended this course and proof will also be sent to the Police Licensing Officer. One of those persons should also be trained to BIIAB Level 2 and hold a personal licence alongside the DPS.

6. In addition to the above training, the Designated Premises Supervisor will conduct training of other members of staff using the BIIAB Level 1 award as a basis for this. A record will be kept of this training and refresher training will be undertaken every two months and a further record kept.

7. The Designated Premises Supervisor will have a staff meeting at least once a week to review the following:-

- i) Any incidents during the last week
- ii) Any refusals to serve persons under the age of 18 and these will be recorded in the incident book
- iii) Any persons who have been barred from attending any local premises by Pub Watch in the last week
- iv) Any persons who have been barred from the Falchion during the last week
- v) Photographs of any person who has been Pub Watch barred will be forwarded to each member of staff
- vi) At the beginning of each evening when door staff are on duty, the designated premises holder will hold a meeting with them to discuss any potential problems during that evenings trading and to distribute photographs of persons under the Pub Watch ban.

8. The Designated Premises Supervisor and all staff will operate a Challenger 21 policy whereby those persons attempting to purchase alcohol who do not appear to be 21 will be asked to produce proof of identification that they are at least 18.

9. Every night a dispersal policy will be operated whereby 30 minutes prior to the end of the sale of alcohol, music will be turned down in volume and door staff will encourage persons to leave the premises as soon as possible.

10. An area manager or representative of Tadcaster Pub Company will conduct a visit to the premise to ensure compliance with conditions a minimum of once per week and a written record will be maintained at the premise of these visits detailing the name of the person visiting and the date and time. This record shall be made available to the Police and responsible Licensing Authorities on request.

The Committee also gave consideration to whether Mr Manning should be removed as the DPS. The Committee did have concerns that there were a large number of incidents connected with the premise which had resulted in Police involvement. The Committee noted that some of the incidents were in dispute between the parties but it was accepted that such a high number of incidents was unacceptable. However, in considering all of the evidence relating to Mr Manning the Committee felt that, at this time, there was not sufficient justification for removing Mr Manning as Designated Premises Supervisor.

The Committee had legitimate concerns over Mr Mannings running of the premise and therefore passed the following resolution:-

RESOLVED that to Mr Manning be issued with a formal written warning which will 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 Manning.

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