Statutory Licensing Sub Committee

A meeting of Statutory Licensing Sub Committee was held on Tuesday, 10th October, 2017.

Present: Cllr Paul Kirton (Chair), Cllr Derrick Brown, Cllr Chris Clough

Officers: Jonathan Nertney (DHR&LC), Simon Mills (DCE)

Also in attendance: Eric Hill (applying to be named as the Premises Licence Holder), Lisa McParland (Designated Premises Supervisor), Sergeant Higgins and PC Johnson(Cleveland Police)

Apologies: None

SLS 33/17 Appointment of Chair

RESOLVED that Councillor Kirton be appointed as Chairman for this meeting only.

SLS 34/17 Evacuation Procedure

The Evacuation Procedure was noted.

SLS 35/17 Declarations of Interest

There were no declarations of interest.

SLS 36/17 Licensing Act 2003
Application for Transfer of a Premise Licence
Manhattans, 9 High Street, Stockton on Tees

Members were required to determine an application for the transfer of a premise licence under the Licensing Act 2003 to which there had been a notice of objection from Cleveland Police that they were satisfied that the exceptional circumstance of the case was such that granting of the application would undermine the crime and disorder and public nuisance objectives.

An application for transfer of a premise licence had been received from Mr Eric Hill in relation to Manhattans 9 High Street, Stockton on Tees.

A notice of objection had been received from Cleveland Police. Sergeant Higgins and PC Johnson attended the meeting and were given the opportunity to make representation.

Mr Eric Hill (applying to be named as the Premises Licence Holder), Lisa McParland (Designated Premises Supervisor) attended the meeting and were given the opportunity to make representation.

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

The Committee gave consideration to the report, the application and the representation which had been received from Cleveland Police. The Committee heard oral submissions from the parties who were in attendance at the meeting.

The Committee noted that the application was for a Premise Licence to be transferred to Eric Hill. Cleveland Police were satisfied that exceptional circumstances applied and that granting the application would, in their view, undermine the crime prevention objective.

Mr Eric Hill explained to the Committee that he had leased the premise with effect from 29th June 2017.

Mr Eric Hill noted the Police objection but when he acquired the lease he relied on the previous DPS however his trust in her had been misguided. Mr Eric Hill was under the impression that the previous DPS had lodged a Temporary Event Notice (TEN) for the boxing but this had not been done. Mr Eric Hill stated that as it was not possible within the timescale to go through the TEN processes so he decided to show the boxing to his friends and family as he had spent several hundred pounds paying for the broadcast at the premise.

Mr Hill explained that there had been an issue with the provision of CCTV footage to the Police but he believed the problem was caused by the electrics tripping which he had raised with his landlord. The landlord had promised to provide a statement confirming but had not done so.

Mr Hill stated that the male who had made the call to the Police alleging use of cocaine by customers in the premises toilets was known to him and he had said he was willing to give a statement as he had informed Mr Hill that he had made the call maliciously after being asked to leave the premise. Mr Hill confirmed that he had not obtained the statement.

Mr Hill stated that the premise did not tolerate drug use and the staff carried out toilet checks every 20 minutes.

Mr Hill explained that since the issues at the premise there was a new DPS and they also had a new door company operating.

Cleveland Police were given an opportunity to ask questions of Mr Hill. Mr Hill was asked why it had taken him so long to apply to transfer the premises licence if he had taken over control of the premise at the end of June.

Mr Hill was questioned on his understanding of the licensing objectives and the conditions of the premises licence.

Mr Hill was questioned on the records being kept at the premise which the Police alleged were lacking. As an example Sergeant Higgins stated that Mr Hill had been asked to provide till receipts for the night in question but had been unable to do so. Mr Hill was questioned on why a male was ejected from the premise. Mr Hill confirmed that he had been intoxicated and had been in the premise for many hours.

Sergeant Higgins on behalf of Cleveland police stated that since Mr Hill had taken over the lease of the premise they had concerns in the manner in which the premise was operating. Evidence had been presented to the Committee to show that unauthorised licensable activities had taken place at the premise when the boxing was shown. This was a serious matter and on conviction could

result in up to 6 months imprisonment or a £20,000 fine or both.

Evidence showed that the premise had been trading in breach of its licence conditions as CCTV was not operating as it should and training records were not completed appropriately. The Police were particularly concerned that the CCTV appeared to have been wiped from the system. In the opinion of the Police even if there was a power cut it did not wipe the memory. There were two explanations for this, it had either been deliberately wiped by the management or it was sheer incompetence.

In the Polices view the management of the premise were simply not good enough. Cleveland Police were satisfied that this was an exceptional circumstance where they felt they had sufficient evidence to object to the transfer of the premises licence.

The Committee asked for clarification as to why Cleveland Police had not taken any action to review the premises licence at the present time and until the transfer took effect. Mr John Taylor was the current premise licence holder. Sergeant Higgins advised that if a premise had breached its licence conditions then they would firstly try to work with the Premise in order to identify and address any issues which they had and give the premise an opportunity to improve. If that did not work then the Police would seek a review of the Premises Licence.

The Committee had regard to the legislation and the statutory guidance under Section 182 of the Licensing Act. In particular the Committee noted paragraphs 8.97 – 8.100 of the Guidance which detailed the transfer process and when the Police could object.

The Committee had regard to the application and noted that a representation had been received from Cleveland Police who were of the view that there were exceptional circumstances to object to the application.

The Committee considered all of the evidence but were mindful that as this was an application for a transfer of a premises licence they could only approve or refuse. The Committee were mindful that this was not a review and therefore they had no power to vary the terms of the licence or attach conditions. If it had been a review application the Committee would have been minded to take action against the licence as Mr Hill had instilled little faith in the Committee.

The Committee were also mindful of the Statutory Guidance and what specific legal considerations applied. The Committee had to consider whether there was sufficient evidence to find that Mr Hill or businesses or individuals linked to him were involved in crime (or disorder). In the opinion of the Committee these powers, given they were only to be used by the Police in exceptional circumstances, were as noted in the Guidance intended to address persons or businesses involved in crime. Although the Committee did not condone the manner in which the premises had operated since Mr Hill had taken over the lease this was not in their opinion a situation which would fulfil the test of crime under the Legislation and Guidance. Notwithstanding that view the Committee did share the concerns which the Police had expressed. The manner in which Mr Hill had presented his evidence to the Committee was of serious concern. Mr Hill had done little to instil any confidence in his ability to manage the premise

effectively. However it was noted that Mr Hill had given a number of assurances that improvements had been made and continue to be made at the premise. The Committee hoped the assurances given were with merit and that improvements were continued to be made.

After giving due consideration to all relevant information the Committee decided to reluctantly approve the application as detailed.

The Committee advised Mr Hill that he should take on board the concerns that had been expressed about his management of the premise. It was clear his initial management of the premise was a cause for concern and that he would no doubt be closely monitored by Cleveland Police and the Councils Licensing Section. If Mr Hill did not fulfill his responsibilities under the Licensing Act then he would be likely to see his licence being subject to a review.

RESOLVED that application for transfer of a premise licence Manhattans, 9 High Street, Stockton on Tees be granted as detailed above.