

Statutory Licensing Sub Committee

A meeting of Statutory Licensing Sub Committee was held on Monday, 5th February, 2018.

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

Officers: Jonathan Nertney, Simon Mills, Sarah Whaley (DCE)

Also in attendance: Eric Hill (Premise Licence Holder), Lisa McParland (Designated Premises Supervisor), Jason Banthorpe (customer of the premise), Ms Joan Smith (Barrister for Cleveland Police) Sergeant Higgins, PC Johnson (Cleveland Police), Craig Barnes (Stockton Council Licensing Officer called as a witness)

Apologies: None

SLS 64/17 **Evacuation Procedure**

The Evacuation Procedure was noted.

SLS 65/17 **Declarations of Interest**

There were no declarations of interest.

SLS 66/17 **Licensing Act 2003 Application For Review of a Premise Licence manhattans, 9 High Street, Stockton on Tees**

Members of the Statutory Licensing Sub Committee considered an application for a Review of a Premise Licence for Manhattans, 9 High Street, Stockton on Tees which had been received from Cleveland Police, details of which were contained within the main report.

Three letters supporting the premises had been received from interested parties.

Eric Hill (Premise Licence Holder Manhattans), Lisa McParland (Designated Premises Supervisor Manhattans), Jason Banthorpe (customer of the premise) were all in attendance at the meeting and given the opportunity to make representation.

Ms Joan Smith, Barrister, representing Cleveland Police, Sergeant Higgins and PC Johnson of Cleveland Police and Mr Craig Barnes, Stockton Council Licensing Officer who was called as a witness were all in attendance at the meeting and given the opportunity to make representation.

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

Members noted that the review of the premises licence was made at the request of Cleveland Police.

A copy of the report and supporting documents and statements had been provided to all persons present and to members of the Committee. Cleveland Police had produced in their evidence CCTV footage showing incidents at the

premises, some of which had been captured on open space CCTV positioned in the Town Centre and controlled and monitored by the Councils Surveillance Centre. CCTV footage of an assault inside the premise was also shown.

Ms Joan Smith made submissions on behalf of Cleveland Police and also called PC Johnson to give evidence. CCTV footage was shown to the Committee.

Ms Joan Smith reminded the Committee that they had initially dealt with an application to transfer the premises licence to Mr Hill on 10th October 2017. Cleveland Police had objected at that time but after a hearing the Committee had reluctantly agreed to the transfer. A copy of the Committee decision letter was attached to the papers and the members were reminded of their decision making and findings. The letter noted that the Committee had found that “the manner in which Mr Hill 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“. The Committee then went on to note that “Mr Hill had given a number of assurances that improvements had been made and continued to be made at the premise. The Committee hoped those assurances were with merit and that improvements continued to be made“. The Committee decided to “reluctantly approve the application” at that time and Mr Hill was given a warning that if he did not fulfil his responsibilities under the Licensing Act then he would be likely to have his licence reviewed.

That warning had not been heeded and the Police had sought a review of the premises licence owing to their concerns that members of the public had been injured at the premise.

There was also evidence that the premise continued to have stoppy backs/lock ins. Mrs McParland had made statements to the press stating “I’m not going to lie and say we don’t have lock in’s. We are not nuns. But they are only with friends and staff - show me a bar that doesn’t”.

The Police were strongly of the opinion that the only appropriate action to protect members of the public and prevent the licensing objectives being undermined was to revoke the premises licence.

The Polices evidence consisted of:

- Statement of PC Johnson dated 1st December 2017 plus exhibits JRJ/1 – JRJ/10);
- Statement of PC Johnson dated 29th September 2017 (Exhibit JRJ/1 – this statement had been prepared and used in support of the Polices objection to the transfer application);
- Statement of Craig Barnes dated 1st February 2018 (plus exhibits);
- Memo from PC Johnson dated 1st February 2018 producing Facebook posts made by Eric Hill

The Committee heard that there had been issues when the Police had attempted to obtain CCTV footage from the premise as it had not been kept in accordance with the conditions of the licence. Despite the assurances given to

the Licensing Committee in October 2017 the CCTV system had not been recording correctly and valuable evidence relating to an assault in the premise had been lost.

An application was made by Ms Joan Smith to exclude the Public from the meeting while CCTV footage was shown. The footage if shown in public may have breached privacy and data protection principles and that it should be viewed in private session. The Members of the Committee agreed to the request and part of the hearing was held in private with the public being excluded. After viewing the footage the meeting then resumed as a public meeting.

The CCTV footage showed:-

- Incident from 27/08/17 - numerous persons entering and leaving the premise when the premise should have been closed to members of the public;
- Incident from 12/11/17 – a female member of the public was assaulted by a male who threw a mobile phone at her in the premise. The female and male had been admitted to the premise after the premise should have been closed to members of the public. CCTV footage from inside the premise was not available as the camera covering the location of the assault had been moved to point towards the ceiling;
- Incident from 07/12/17 – when a male (Mr Banthorpe) had been assaulted in the premise by a male customer who had punched him to the floor and stamped on him before leaving the premise;
- Incident from 13/01/18 - a vehicle parked immediately outside the premise with the driver snorting white powder and customers of the premise getting into the car where small bags of white powder were handed over. On the balance of probabilities the Police submitted that the dealing and taking of illegal substances, most probably cocaine, was taking place immediately in front of the premise and in view of the door staff. Customers of the premise and the driver who was allegedly dealing illegal substances all entered the premise;
- Incident from 21/01/18 – CCTV footage from outside the premise showing a male and female arguing. A member of door staff got involved in an altercation after the male attempted to strike the doorman. The doorman adopted a boxing stance and followed the male down the High Street.

PC Johnson referred to Facebook postings made by Eric Hill which were made in reference to the female member of the public who was assaulted in the premise. Mr Hills comments were potentially witness intimidation.

PC Johnson confirmed that the memory stick provided by Mr Conner (an employee of the premise) at the premise had no footage on it. PC Johnson did confirm that Mr Conner seemed genuinely surprised when informed there was no footage on the memory stick. The footage was no longer available as the CCTV system was not recording for the required time period. Valuable evidence of an assault in the premise had therefore been lost.

Mr Eric Hill made submission as the Premise Licence Holder and also called

Mrs Lisa McParland as the Designated Premises Supervisor to also give evidence.

They did not accept that they had stoppy backs at the premise but that they did have a drink with their staff after closing time. There was no evidence that they had been selling alcohol and the only time the till had been touched was to get change for the pool table.

When the premise showed the boxing match it was stated that most of the people who attended had not been drinking alcohol as they were driving.

Mr Hill stated that he had been unaware that drug dealing had been taking place immediately outside his premise and that in his view that showed it could not take place inside the premise.

When the female was injured at the premise it had been by a man who was with her. They had asked to come into the premise so that they could use the toilet. Mr Hill felt that he could not be held responsible if someone decided to attack another person in his premise. Mr Hill had done his best to assist the female and had taken her to hospital after she had been injured.

Mr Hill stated that he regretted making the Facebook comments but he had retaliated to comments that she had made towards him. Mr Hill asked the Committee to consider text messages from the female and other Facebook postings. Cleveland Police were provided with a copy of these as they were considered to be late evidence. Cleveland Police confirmed they had no objection to the evidence been put before the Committee.

Mrs McParland also produced an unsigned letter from RS Monitoring Services dated 31st January 2018 who referred to the problems which had occurred with the CCTV system and the premise and the efforts that had been made to rectify the issue. Cleveland Police were provided with a copy of the letter as this was considered to be late evidence. Cleveland Police confirmed they had no objection to the evidence been put before the Committee.

Mrs McParland informed the Committee that she felt the premise was being well run and that they had no issues over the Christmas and New Year period.

All parties present were given an opportunity to sum up their case.

Members had regard to the extensive bundle of written evidence, which had been circulated prior to the hearing and presented to them, in addition to the oral evidence given by witnesses and submissions made at the meeting.

Having carefully considered those matters brought before them and in reaching their decision, the Members had full regard to both the provisions of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006), the Guidance Issued under Section 182 of the Licensing Act 2003 (as amended) and the Council's Licensing Policy.

The Committee were satisfied that the persons causing the anti-social behaviour and violence were customers of the premise. The Committee noted that the CCTV evidence presented as evidence showed incidents of crime and

disorder both inside and immediately outside of the premise. Injury had been caused to members of the public who were in the premise and were assaulted. The assaults were serious and appeared to be unprovoked.

The Committee considered the evidence presented to them concerning the moving of the CCTV camera. The Police alleged this was deliberate and Mr Hill and Mrs McParland claimed it was accidental. The Committee were of the view from the evidence they had heard that the moving of the CCTV camera had been deliberate. This was a matter of serious concern to the Committee.

On the balance of probabilities the Committee found that the CCTV camera had been deliberately moved by a member of staff and that the only reasonable explanation for this being done was to ensure the stoppy back taking place was not covered by the CCTV.

The Committee found that on the balance of probabilities there was evidence of drug dealing taking place immediately in front of the premise and in view of the Door Supervisor employed at the premise. Customers of the premise were blatantly coming out of the premise and purchasing what appeared to be illegal substances, most probably cocaine. The customers and the person dealing the drugs were then seen to re-enter the premise. The evidence of drug taking by customers of the premise was also corroborated by evidence received by the Police prior to the transfer when on 27th August 2017 a member of the public had reported "people snorting cocaine in the toilets as well as talking about using the drug" This person reported that he had "approached door staff who have allegedly consulted with other staff members and asked the caller to leave".

The Facebook comments made by Mr Hill towards the female who was injured in his premise were outrageous. The Committee agreed that as suggested by the Police they were either harassment or at worst witness intimidation. Mr Hills actions in making such comments could in themselves undermine the licensing objectives. Suggesting payment of money to someone who could injure the female was potentially undermining the licensing objectives. The Committee found Mr Hills explanation for making the comments as another example of him failing to understand the effects of his actions. There was no justification for Mr Hill to make such comments.

The Committee had regard to the letter submitted by RS Monitoring Systems and noted that it made no reference to any improvements being made to the CCTV system in early November 2017 when it was apparent that the system was still not operating in accordance with the conditions of the licence. The Committee were of the view that Mr Hills attitude to resolving the problems was lacking. He had been given explicit warnings during the transfer process that the Committee and Cleveland Police had concerns over Mr Hills ability to fulfil his legal responsibilities. He had failed to do so and had not acted with due diligence.

The Committee considered whether Mrs McParland, the DPS, should be removed. The Committee were satisfied that the issues concerning the management of the premises failure to adhere to conditions, making threats against a member of the public who had been assaulted in the premise were all the responsibility of Mr Hill. The previous findings of the Committee that Mr Hill

had done little to instil confidence in his ability to manage the premise had all come true. There had been little or no improvement in Mr Hills ability to manage the premise and prevent the licensing objectives from being undermined.

Mr Hill appeared to accept no responsibility for failings at the premise. He had put forward no proactive steps to address the issues. Removal of the DPS would not address the issues at the premise as these were solely the responsibility of Mr Hill.

Given these findings the Committee felt it appropriate and proportionate to revoke the Premises Licence.

RESOLVED that the Premise Licence for Manhattans, 9 High Street, Stockton on Tees be revoked for the reasons as detailed above.