

STATUTORY LICENSING SUB COMMITTEE

A meeting of Statutory Licensing Sub Committee was held on Thursday 7 September 2023.

Present: Cllr Mick Moore (Chair), Cllr Clare Gamble and Cllr Elsi Hampton.

Officers: Polly Edwards, Leanne Maloney-Kelly, Kirsty Wannop (DoAH&W), John Devine and Rebecca Jackson (DoCS).

Also in attendance: Mr Edward Hayes (Leadwise Leisure Limited) and PC Andrew Thorpe (Cleveland Police)

Apologies: .

SLS/5/23 Evacuation Procedure

The Evacuation Procedure was noted.

SLS/6/23 Declarations of Interest

There were no declarations of interest.

SLS/7/23 Licensing Act 2003 Application For Review Of A Premises Licence The Dog House 3 Macmillan Chambers, Prince Regent Street, Stockton-On-Tees, TS18 1DB.

Members of the Statutory Licensing Sub Committee of the Council's Statutory Licensing Committee were asked to consider an application for a review of a premise licence from Cleveland Police on the grounds of the prevention of crime and disorder and prevention of public nuisance for the premise, The Doghouse, 3 Macmillan Chambers, Prince Regent Street, Stockton on Tees, TS18 1DB.

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

A copy of the report and supporting documents had been provided to all persons present and to members of the Committee.

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

PC Andrew Thorpe presented his application on behalf of Cleveland Police ("the Police"), a responsible authority under the Licensing Act 2003.

The Committee heard that Mr Edward Hayes (Premise Licence Holder) was the sole director for Leadwise Leisure Limited and was the named designated premises supervisor and had been solely responsible for the management and day to day operations at the premises since 14th April 2023 .

The Committee were told that Police had made the application to review the premises licence on the grounds that it was undermining the licensing objectives of the Prevention of Crime and Disorder and Prevention of Public Nuisance.

PC Andrew Thorpe explained to the Committee that on the 17th of March 2023, the Police and a Local Authority, Licensing Officer, visited the premises as part of their joint licensing checks in the area. The premises was open and trading. PC Andrew Thorpe explained that he spoke with Mr Edward Hayes that evening. Mr Edward Hayes explained that he was the new Licensee, but the Local Authority had not received the paperwork regarding the transfer of the premises to Mr Edward Hayes. Mr Edwards Hayes explained that he had submitted the paperwork, however there was no record of it. Mr Edward Hayes advised to keep the premises closed until the paperwork had been submitted and approved by the Local Authority. Since that date, Mr Edward Hayes had submitted the paperwork and the record was now up to date.

During the visit, PC Andrew Thorpe noted that there was no security staff on the door of the premises. Mr Hayes explained that sometimes there were door staff, and sometimes they were not. There were other areas of non-compliance with the licensing conditions evident during that meeting including CCTV, as well as no evidence of an age verification policy (no Challenge 25 posters), not using polycarbonate glasses and no incident logs.

The Committee heard that the Police and the Local Authority arranged several meetings with Mr Edward Hayes to discuss the non-compliance issues. There were a number of meetings that Mr Edward Hayes did not attend however the Licensing Officer did discuss the non-compliance with Mr Edward Hayes on 18 April 2023.

During a meeting on 11 May 2023, the Licensing Officer identified some improvements but there were still areas of non-compliance with the licensing conditions.

The Committee heard that in May 2023 there was a report regarding the premises allegedly trading outside of its licensing hours. PC Andrew Thorpe received weekly CCTV reports from a roaming camera in Stockton. On 13 May 2023, the camera had identified activity in the premises in the early hours of the morning. The Committee noted from the Licensing Officers statement that there had been an assault on a male near the premises and the two attackers had run into the premises following the assault. A joint visit at the premises from the PC Andrew Thorpe and the Licensing Officer took place on 22 May 2023.

During that meeting, the Committee noted that Mr Edward Hayes was questioned regarding the activity at the premises on the night of 13 May 2023. The Committee heard that Mr Edward Hayes said people had gone to the premises to get taxis and one was looking for a lost laptop. The Committee noted that it was reported that Mr Edward Hayes remained non-compliant with licensing conditions at that visit.

During the investigation, PC Andrew Thorpe and the Local Authority requested the CCTV from the premises on several occasions, but Mr Edward Hayes had refused to disclose this. PC Andrew Thorpe requested the CCTV from the Local Authority's Security and Surveillance for the evening of 13 May 2023.

The Police received a further report relating to activity at the premises in the early hours of 21 June and 1 September 2023. PC Andrew Thorpe also requested that CCTV from Security and Surveillance.

The Committee viewed the CCTV from 13 May, 21 June, and 1 September 2023. Committee Members could see that there were people entering and leaving the premises between the hours of 3.55am – 4.06am on 13 May and 3.14am - 3.45am on 21 June. There was activity in and out of the premises on 1 September between 2.55am – 4. 59am. On 1 September, the CCTV showed several people dressed in smart casual clothing. The Committee heard from PC Andrew Thorpe that there was no discernible reason for this activity at the premises at that time and it gave the impression that the pub was open.

PC Andrew Thorpe explained to the Committee that Mr Edward Hayes had obstructed licensing officers in their investigation by not disclosing the CCTV for the nights in question, without a reasonable excuse.

The Committee heard that Mr Edward Hayes had advertised a drinks promotion on Instagram. The promotion was £1 for single spirit and a mixer. PC Thorpe put forward that this was an irresponsible drink promotion and would encourage customers to consume more alcohol. The Committee heard that this was in contravention of the licensing conditions.

Committee Members were told by PC Andrew Thorpe that a review of the license was always a last resort but there were three separate occasions of activity in the premises outside of licensable hours, and other areas of concern regarding non- compliance with the licensing conditions in particular the refusal to disclose the CCTV.

The Local Authorities Licensing Team Leader addressed the committee on behalf of the licensing authority. The Committee noted that the Premises Licence Holder (PLH) was a company called Leadwise Leisure Limited. Mr Edward Hayes was the sole director and secretary for Leadwise Leisure Limited. The company was named as to PLH and Mr Edward Hayes was also registered as the Designated Premises Supervisor (DPS). The registered address for Leadwise Leisure Limited was 3 MacMillan Chambers, Prince Regent Street, Stockton. This was the same address as the Dog House premises. The Licensing Team Leader confirmed to the Committee that the responsibility fell to Mr Edward Hayes.

The Local Authorities Licensing Team Leader explained that licensing officers had received extensive number of calls and emails with Mr Edward Hayes trying to investigate the concerns raised in the application, and Mr Edward Hayes' lack of engagement and cooperation had led to the investigation being hindered. The Local Authorities Licensing Team Leader reminded the Committee that the supply of alcohol outside of licensable hours was a criminal offence under the Licensing Act, and due to Mr Edward Hayes' refusal to disclose CCTV caused obstruction to the investigation, therefore the Licensing team had been unable to fully investigate the concerns fully.

The Local Authorities Licensing Team Leader highlighted to the Committee that CCTV must be installed and there should be a staff member on duty who is trained in the use of the equipment, and it should be disclosed upon request. The Local Authorities Licensing Team Leader pointed out that the CCTV would have confirmed the activity within the premises at the times and dates in question.

The Committee heard from Mr Edward Hayes, he explained that he took over the pub on 17 February 2023. At that time, the side and front windows had been smashed and

were boarded up. Mr Edward Hayes told the Committee that the pub was in a state of disrepair and refurbishment was ongoing.

Mr Edward Hayes explained that he had submitted the paperwork regarding the transfer of the pub, but he did receive a refund for the application fee. Since then, the paperwork had since been submitted and approved.

With regards to the CCTV shown by PC Andrew Thorpe during the Committee hearing, Mr Edward Hayes said that on 13 May 2023 he had submitted temporary events notice because he was hosting a Eurovision evening. One of the people in the CCTV was Mr Edward Hayes' son and the others were waiting for taxis. They were only in the premises for 5 minutes and then left. One of the people was a former employee and he was helped to get home.

With regards to 21 June 2023, Mr Edward Hayes said that he took his dog into work with him and only some taxi drivers will accommodate a large dog, so he was unable to get a taxi until early into the morning. Mr Edward Hayes also stated that the pub was getting refurbished, and he had volunteers to help. He said that it was easier to do this following closing time, than arriving during the day before the pub opens.

Mr Edward Hayes named some of the people on the CCTV. Two were regulars at the pub and one female in the video had been barred from the pub. Two others helped with moving furniture in the pub. Mr Edward Hayes went onto describe the works necessary to lift the carpet and flooring and that the lighting was on different circuits and required rewiring.

With regards to the drink's promotion, Mr Edward Hayes told the Committee that the £1 drinks were one per customer and was only on three spirits. He said that he had one bottle of each of the three spirits and once those bottles were empty, the promotion ended. Mr Edward Hayes said that he did not make a lot of money that night but had seen customers return following that promotion.

With regards to not disclosing the CCTV, Mr Edward Hayes said that under the General Data Protection Regulations 2016 and Data Protection Act 2018, he believed he could not disclose any CCTV to anyone without a DSAR. Mr Edward Hayes said he had worked in roles previously that involved working with CCTV and disclosure, and he always needed a DSAR. Mr Edward Hayes said he had spoken with the Information Commissioners Office (ICO), and they had advised the same. Mr Edward Hayes believed that if he did disclose the CCTV, he could be liable for thousands of pounds in fines.

Councillor Clare Gamble asked if Mr Edward Hayes whether he had sought legal advice regarding the disclosure of the CCTV and licensing conditions. Mr Edward Hayes said that he had not, relying on his previous experience and the ICO guidance.

The Local Authorities Lead Solicitor asked Mr Edward Hayes, as a point of clarity, what specific regulation or clause was he relying upon to not have to disclose the CCTV in line with his licensing conditions, to which Mr Edward Hayes confirmed that he was not aware of the specific provision in the law. The Lead Solicitor then asked Mr Edward Hayes to who did he believe he would be liable for fines. Mr Edward Hayes said anybody on the CCTV, the Police, or the Local Authority. The Lead Solicitor asked who he believed he was 'subject' of the data he was disclosing, to which Mr Edward Hayes said anybody.

Councillor Mick Moore asked Mr Edward Hayes to explain further why there was activity at the premises on the three separate occasions. Mr Edward Hayes said they were refurbishing the premises and most of the people in the videos were volunteers helping him. Mr Edward Hayes did say that he was not present on 1 September 2023, having been to a funeral that day, and he was not aware that there had been anyone at the pub, and that he would need to speak to his staff to discuss this. Mr Edward Hayes did say that the pub had been closed since 17 August 2023 and that there was no alcohol on the premises and therefore was no activity in contravention of the licensing conditions.

PC Andrew Thorpe explained that he had never dealt with a licensee before who refused to disclose CCTV footage. The request for a DSAR from Mr Edward Hayes was not referred to previously but PC Andrew Thorpe explained that this was not necessary when a licensee was disclosing CCTV to the Police.

PC Andrew Thorpe explained that Mr Edward Hayes had admitted to allowing people into the premises outside of the licensing hours and on 1 September 2023 this was without permission, which was a concern.

PC Andrew Thorpe referred to S136 Licensing Act 2003 that confirmed it was an offence to carry on a licensable activity otherwise than in line with the authorisation. The CCTV from the premises would confirm the activity in the premises but this had not been provided. Mr Edward Hayes' lack of engagement with meetings and lack of responses, without reasons, was a cause for concern in addition to the lack of CCTV disclosure.

Mr Edward Hayes said that he had evidence of the refurbishment on his Instagram account and maintained that there was no licensable activity going on during any of the three occasions identified by PC Thorpe.

The Committee considered all of the papers before them and verbal submissions from all parties. The Committee had lengthy discussions when determining their decision.

The Committee concluded that there were three distinct elements to the actions of Mr Edward Hayes:

1. Mr Hayes' refusal to disclose the CCTV. It was a condition of the license that the CCTV would be produced if requested. The Committee were not persuaded by Mr Edward Hayes' stance that he required a DSAR to disclose it. The CCTV would have provided clarity on the elements of the Applicant's concerns and there was no legal reason or reasonable excuse for not disclosing it. The Committee were concerned by Mr Edward Hayes' lack of compliance with this condition and the tenacity of his stance on this without legal advice.

2. The second element was the activity at the premises outside of licensable hours. Although the Committee did not dispute the premises required refurbishment, the Committee were not swayed by Mr Edward Hayes' position that these refurbishments were being completed between 3-4am on 13 May and 21 June. There was no evidence in front of the committee that the refurbishments detailed by Mr Edward Hayes were being carried out at the time; the CCTV did not indicate any building work. Although the CCTV did not show the sale of any alcohol, the activity at that time in the morning was suspicious to the Committee. The lack of disclosure of the premises' CCTV also led the Committee to infer that, on the balance of probabilities, a

licensable activity was being carried out in contravention of the license. The Committee were also concerned that Mr Edward Hayes was not aware of the activity at the premises on the night of 1 September 2023.

3.The third element was that Mr Edward Hayes behaviour and lack of engagement during the Licensing Authority's and the Police's investigation was obstructive. Mr Hayes' unwillingness to cooperate with officers during the investigation and lack of compliance with the licensing conditions was a concern to the Committee.

Mr Edward Hayes' position on the CCTV and activity at the premises outside of licensable hours did not persuade the Committee that Mr Edward Hayes would act in a different way and cooperate with officers in the future. This deterred the Committee from reaching any alternative conclusion than the revocation of the premises licence.

The Committee took this matter extremely seriously and were satisfied that this was a case where revocation of the premise licence was a necessary and an appropriate sanction. After considering and weighing up all the evidence and submissions made by the parties to the hearing, the Committee resolved to revoke the premises licence.

RESOLVED that the Premise Licence for The Doghouse, 3 Macmillan Chambers, Prince Regent Street, Stockton on Tees TS18 1DB be revoked for the reasons as detailed above.

SLS/8/23

Licensing Act 2003 Application For Review Of A Premises Licence The Dog House 3 Macmillan Chambers, Prince Regent Street, Stockton-On-Tees, TS18 1DB - ADDITIONAL EVIDENCE

Please see minutes above.