

DURHAM COUNTY COUNCIL

At a Special Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber - County Hall, Durham on **Friday 5 July 2019 at 9.30 am**

Present:

Members of the Committee:

Councillors D Bell, J Blakey and D Brown

Also Present:

C Hazell (Council's Solicitor)
H Johnson (Licensing Team Leader)
Sgt Haythornthwaite (Durham Constabulary)
Inspector Jones (Durham Constabulary)
J Morg (Durham Constabulary)
R Edge (Applicant's Solicitor)
A Toshie (Manager of Lux Bar)
V Bell (Security at Lux Bar)

Cllr J Blakey (in the Chair)

1 Declarations of Interest

There were no declarations of interest.

2 Application for Summary Licence Review - Lux Bar, 28-30 Front Street, Consett

Consideration was given to the application received from Durham Constabulary for steps to be taken prior to a review hearing in relation to the Premises Licence for Lux Bar, 28-30 Front Street, Consett (for copy, see file of Minutes).

The Licensing Team Leader advised that the Licensing Authority had received a summary licence review application under Section 53A of the Licensing Act 2003 from Durham Constabulary on 3 July 2019. In accordance with the provisions of the Act the application must be considered within 48 hours of receipt. The Officer informed Members of the steps the

Sub-Committee could consider in accordance with the legislation, and a full hearing would be required within 28 days (by 31 July 2019).

Sgt Haythornthwaite, speaking on behalf of Durham Constabulary indicated that they had submitted the summary licence review application for Lux Bar, Consett as the premises was associated with serious crime.

On 1 July 2019 a male was assaulted inside Lux Bar by 2 males by means of being struck to the face and hit over the head with a bottle then further attacked once the victim fell to the ground. The male had been left in need of hospital treatment for a significant wound to his head and face as well as extensive injuries to the body. The incident had been investigated as a wounding with intent which was the most serious level of assault which was caught on CCTV.

One of the offenders was known to the premises which he referred to as Male 1. Male 1 had been barred from the premises but the management had allowed him entry into the premises and agreed to keep an eye on him which resulted in a serious assault.

On 27 May 2019, Male 1 and another offender (referred to as male 2) attacked a male inside Lux Bar. Male 2 was already banned from local licensed premises under the Pubwatch scheme so there were failings by the premises on this occasion too. Following the attack one of the offending males then returned to the scene unchallenged and collected his bottled drink before leaving the premises. On this occasion male 2 should not have been in the premises and one of the attackers returned unchallenged and could have easily carried out a further attack.

Since Lux Bar obtained their licence there had been 6 reported assaults associated with the premises. In the last 9 weeks there had been 3 very serious assaults.

On 5 June 2019 a member of Durham Constabulary had met with a representative of Lux Bar to express significant concerns and to seek assurances that the licensing objectives would be actively promoted. Since that meeting a barred male had been allowed entry into the premises.

The person with the day to day control of the premises, Mr Toshi was the husband of the only Director and when the Designated Premises Supervisor (DPS) was asked what he does at the premises the DPS responded that he did nothing and just helped behind the bar occasionally. It became apparent that they had no knowledge of the conditions attached to their premises licence and they were breaching several of them regularly.

Durham Constabulary concluded by indicating that the public were at risk of harm and they would seek revocation of the premises licence.

There were no questions of Durham Constabulary.

Mr Edge, The Applicant's Solicitor indicated that the expedited review was a quick process which happened within a 48 hour period. He had spoken to Mr Toshi and his wife and had spoken to Durham Constabulary just prior to the meeting. He admitted that there had been failings in the period that Mr Toshi had taken over and he had sacked 2 security companies.

Mr Toshi owned restaurants which he had ran for a number of years successfully and was his area of expertise. It was not unfair to say that a night club license and conditions and hours were widely different to that of a restaurant and his client admitted that he was out of his depth.

They were aware that this was their last chance, and they wished to work with responsible officers and come to some mediation. They offered interim steps that would be a full suspension of the premises licence until the full hearing and the immediate removal of the DPS from the premises licence. They were not asking for the DPS to be removed as an escape goat as this was only part of the problem and they would continue working with the police. If they could not find a compromise that was acceptable to the police, with robust policies in place and a change in management, Mr Toshi would accept that he had bitten off more than he could chew and would convert the premises to a bar/restaurant which was the expertise of Mr Toshi. By converting the premises to a bar/restaurant he would not be faced with what he had at the minute which was a vertical drinking establishment that required a well experienced full team and staff highly trained in dealing with these issues. They would attend Pubwatch meetings and ensure that the information was given to the head of security, so that they were aware who should be refused entry into the premises.

Councillor Brown indicated that he understood that it was a complex problem and asked if the problems were associated with the premises or customers and were the issues going to be moved elsewhere.

The Applicant's Solicitor indicated that he was not from the area but had looked at the crime maps and it would appear that the area was not the best place for a nightclub. People who were banned under Pubwatch this was what it meant but they had disregard and go back to pubs and clubs and try and gain entry. They even try and gain entry by saying I know your family and I know where you live, the door staff at Lux Bar were local people and the only way around this was to employ people from outside the area.

Councillor Blakey asked why male 1 was allowed into the premises when he was known to them and why was male 2 allowed entry when he was on a complete ban.

The Applicant's Solicitor responded that the Pubwatch scheme worked well but not all DPS's attended regularly and did not fully understand the policy on how the information was distributed.

Sgt Haythornthwaite referred to body camera footage from the 27 May 2019 that they had not had time to produce for the hearing today, but he had viewed the footage and one of the door staff had said that the male was on Pubwatch and should not be in the premises, so they were aware that he was on Pubwatch.

The Chairman asked if male 2 had been drinking in any other establishments.

Durham Constabulary stated that there had been some discussion around the DPS's understanding of his role and the amount of time at the premises, not what they would look for in a DPS. Mr Toshi was at the premises all the time and was the husband of the Director and was the driving force around the premises and should be engaging as well.

The Licensing Team Leader sought clarification if Mr Toshi was going to be the DPS.

The Applicant's Solicitor responded that they did not want to make any quick rash decisions but the current DPS had been removed from the Licence. Mr Toshi had indicated to him that he had booked himself onto another PLH course, he had changed the security company 3 times in a 7 month period and by completing the course he would know what was expected of him.

In summing up, the Applicant's Solicitor indicated that they had offered suspension of the licence which would give him time to sit down with Mr Toshi and his wife and to introduce a set of robust conditions to the satisfaction of the Police. If the Police, then still sought revocation of the premises licence then they would have a further conversation to convert the premises to a restaurant/cocktail bar and remove the vertical drinking element. Cocktail bars did not attract people who were committing these types of acts.

At 10.10 am the Sub-Committee **Resolved** to retire to deliberate the application in private.

After re-convening at 10.20 am the Chair delivered the Sub-Committee's decision. In reaching their decision the Sub-Committee had considered the

application, and the verbal representations of the Applicant and Durham Constabulary.

Resolved:

That the Premises Licence be suspended and the DPS be removed with immediate effect.