

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, Council Offices, Spennymoor on **Tuesday 15 January 2013 at 10.00 am**

Present:

Councillor C Carr (Chair)

Members of the Committee:

Councillors B Alderson, B Graham and J Lee

Also Present:

Councillor J Lee

H Johnson – Licensing Team Leader

S Buston – Legal Officer

S Mooney – Durham Constabulary

Sgt T Robson – Durham Constabulary

K Wilkinson – on behalf of the Director of Public Health

G Keay – Licensing Enforcement Authority

R Cornwell – Crossgate Community Partnership

D Clark – representative, Premises Licence Holder

1 Apologies for Absence

An apology for absence was received from Councillor A Hopgood.

2 Substitute Members

Councillor Graham substituted for Councillor Hopgood.

3 Minutes

The Minutes of the meeting held on 2 January 2013 were agreed as a correct record and were signed by the Chair.

4 Declarations of Interest (if any)

There were no declarations of interest received.

5 Application for the Review of a Premises Licence - Boxers, 69-70 Crossgate, Durham

Consideration was given to the report of the Corporate Director, Neighbourhood Services which gave details of an application for the review of a Premises Licence in respect of Boxers Bar, Crossgate, Durham (for copy see file of Minutes).

Members had been provided with a copy of the Premises Licence, location plan, the review application, additional documents from Durham Constabulary and letters of representations.

It was noted that local resident Mr Williams and a representative from Local Safeguarding Children's Board were not in attendance but their written representations would be taken into account by the Sub-Committee.

S Mooney, representing the Applicant stated that the Police were seeking a review of the Premises Licence to address concerns relating to the licensing objectives of the 'prevention of public nuisance', the 'prevention of crime and disorder' and the 'protection of children from harm'.

He referred Members to the grounds for review set out in their bundle of evidence which included witness statements, letters and Police reports, and summarised the incidents that led to the review application, which included 3 test purchases as part of Operation Glenside.

There had been a catalogue of failings highlighted by poor management with persistent and blatant transgressions of the law. The test purchases carried out also highlighted the depth of the problems at the premises.

Pemberstone Partnership should assume responsibility and whilst the company may argue that the cause of the problem was no longer there it had put in place a tenant without making arrangements for monitoring the activities on the premises. They had also failed to provide a formal response when their Solicitor Mr Campbell was contacted at an early stage to discuss the issues.

He asked Members to take into account relevant provisions of Section 182 Guidance and also to R v Bassett case law. The Police were of the opinion that the only course of action was revocation of the Premises Licence.

At this point Sgt Robson guided Members through CCTV footage of incidents which included drugs being consumed inside the premises by customers who were well known to the Police, and subsequent disturbances which followed outside. The footage also showed an unprovoked assault on a transgender male who was escorted from the premises and pushed to the ground, and of sexual acts occurring in the premises.

Members were also shown footage of a door supervisor ejecting a person from the premises then throwing a glass bottle at that person. Staff were seen to be drinking alcohol at the same time.

Sgt Robson concluded with footage of the 3 test purchases carried out as part of Operation Glenside.

K Wilkinson from Public Health addressed the Sub-Committee and referred to the written representations of the Director of Public Health. The Director of Public Health had concerns about the ease which young people could access alcohol and

the sex acts simulated in open view of all customers. Binge drinking was encouraged on the premises with the free pouring of spirits into patrons' mouths. County Durham had some of the highest levels of under 18 admissions to hospital as a result of excessive alcohol consumption and there were clear links between alcohol and sexual exploitation of children. As County Durham had an approved proof of age scheme there was no excuse for the bar not to ask for identification.

G Keay, on behalf of the Licensing Enforcement Authority referred to his letter of representation and wished to make it clear that in view of the numerous incidents at the premises the Authority believed that the licensing objectives had been seriously undermined. The Premises Licence Holder was ultimately in control of the premises and must be responsible for licensing breaches.

R Cornwell of Crossgate Partnership referred to the content of the written representation contained within the bundle. He briefly outlined the Partnership's concerns under each of the licensing objectives. Residents were in full support of the Police and had expressed concerns since the premises opened.

In response to a question from Councillor Carr, R Cornwell advised that residents had complained at virtually every PACT meeting, and of 72 residents in the locality, 30 had attended at least one meeting. In the last 3 months average attendance at meetings had increased from 11 to 17.

Mr D Clark, on behalf of the Premises Licence Holder addressed the Sub-Committee. He stated that he was shocked and appalled at what he had heard today.

He explained that he acted as Chartered Surveyor for Blue Marble Properties, agents for Pemberstone Partnership. Pemberstone Partnership were the landlords and owned the freehold of the commercial ground floor only, not the residential apartments above. After the Japanese restaurant ceased trading local letting agents assisted in the re-letting of the premises and a personal guarantee had been received for a new business trading as an American Diner. A Business Plan and references had been secured at that time.

The company had entered into the lease in good faith and had only been made aware of problems in July 2012 by Mainstay, and these related to noise nuisance caused to the residents in the apartments above. The company followed these up and since then no other complaints had been received either from the Licensing Authority or the Police. The issues referred to were brought to their attention in November 2012 at which time the premises were closed following non-payment of rent. Pemberstone Partnership would have taken action if they had been aware of the incidents referred to by the Police and they felt that they were being penalised because of the actions of a tenant.

Without the Premises Licence the landlord would suffer further financial loss. The premises had previously been let for 10 years without problem, and they were now the victim of the actions of a tenant who had only been in place for 5 months.

He gave an assurance that the company would work closely with the Licensing Authority and the Police in respect of any new tenancy.

Councillor Carr sought clarification in respect of the official point of contact for the Licence Holder during the relevant period. Mr Clark responded that Mr Campbell made the application on behalf of Pemberstone Partnership and also handled the expedited hearing. Pemberstone Partnership did not receive any correspondence directly.

Following further questions Mr Clark advised that periodic inspections were carried out with the first taking place six months into the tenancy. He acknowledged that the company needed to increase monitoring and be more vigilant in future. In retrospect additional efforts should have been made but had it been aware of the issues the company would have acted earlier with more aggressive action taken.

In summing up S Mooney stated that as could be seen from a Police Statement in the bundle that Mr Campbell had been instructed to act on behalf of Pemberstone Partnership during the period. A key issue for Members to consider was the responsibility of the Licence Holder with regard to the operation of the premises. The Licence Holder had failed to act on problems caused by a tenant.

Mr Clark reiterated the comments made in his submission and added that the company wished to develop better lines of communication to ensure a close working relationship with the Police and Licensing Authority in the re-letting of the tenancy.

Members retired to deliberate the application in private at 11.25am. After re-convening at 11.40am the Chair delivered the Sub-Committee's decision.

In determining the application Members had considered the report of the Licensing Officer, the relevant provisions of the Licensing Act 2003, Section 182 Guidance issued by the Secretary of State and the Council's Licensing Policy. The Sub-Committee had also taken into account the verbal and written representations of the applicant, licence holder, responsible authorities and interested parties.

Resolved:

That the application be revoked.

6 Application for the Grant of a Premises Licence - The Jumping Bean, 5 Neville Street, Durham

Consideration was given to the report of the Corporate Director, Neighbourhood Services which gave details of an application for a Premises Licence in respect of Jumping Bean, Neville Street, Durham (for copy see file of Minutes).

Members were advised that following lengthy negotiations successful mediation had taken place between Durham Constabulary, Crossgate Partnership and the applicant, with the result that the hours applied for had been amended and additional conditions imposed.

The signed Mediation Agreement had been circulated to Members.

In determining the application Members considered the report of the Licensing Officer and the Mediation Agreement. The Sub-Committee also took into account the relevant provisions of the Licensing Act 2003, Section 182 Guidance issued by the Secretary of State and the Council's Licensing Policy.

Resolved:

That in view of the mediation agreement between all parties the Premises Licence be granted as follows:-

Opening hours of the premises	Monday – Sunday 08.00 – 23.30 New Years Eve 08.00 – 00.30
Sale of Alcohol (on the premises)	Monday – Sunday 17.00 – 23.00 (no alcohol to be consumed on the premises after 23.15) New Years Eve until 00.00 (no alcohol to be consumed on the premises after 00.15)

The prevention of Crime and Disorder

- Challenge 25 will ensure only persons of lawful age will be able to purchase alcohol from our store, and on deliveries. Photo ID only (PASS logo card/photo driving licence/passport).
- Visual inspection, and personal interaction with customer, will enable staff to determine if the customer is fit to be sold alcohol. If staff believe person to be intoxicated with drink or drugs they will be refused.
- CCTV will be installed and fitted to Home Office standards. Recordings will be stored for a minimum of one month. A minimum of three digital colour cameras will be fitted externally. These cameras will be infra-red and one will cover the entrance/exit and one will record images of a panoramic view of the street outside. Recordings will be stored a minimum of 28 days.
- A member of staff will be available at all times the premises are open to download CCTV footage when requested by an authorised officer.
- Notices will be clearly displayed at the entrance and around the premises stating CCTV is in operation
- Persons known to be, or suspected of buying on behalf of children will be refused and reported to the Police

- External lighting will be installed and will be in full working order.

Public Safety

- Designated smoking areas with notices in place reminding customers to keep noise levels to a minimum
- Good housekeeping procedures in place
- Where a Pubwatch exists, the premises will be an active member of Pubwatch, they will attend meetings and join activities
- Maintain an incident book, and record and report all instances of disorder
- The Premises Licence Holder/Designated Premises Supervisor will undertake to ensure that a maximum capacity of 60 persons will be enforced within the premises
- The toilet will be modified so that it can be used by a disabled person and a portable ramp will be available so that disabled people may enter the premises before the premises operates under a premises licence.

The Prevention of Public Nuisance

- Customers will not be permitted to take their drinks outside
- Signs displayed at entrance/exit encouraging customers to leave the premises quietly
- Designated smoking areas with notices in place reminding customers to keep noise levels to a minimum
- The Premises Licence Holder/Designated Premises Supervisor will ensure that any entertainment, except that intended for young people, will not start until 8.00pm on any day of the week (which is when the lower age limit if 18 comes into force)

The Protection of Children from Harm

- Challenge 25 shall be enforced. Refusals will be logged, along with any behaviour associated with the refusal
- Children under the age of 16 must be accompanied by an adult at all times
- Persons under the age of 18 must be off the premises after 20.00 hours

- Persons known to be, or suspected of buying on behalf children will be refused and reported to the Police
- We will display signs and adhere to the law regarding alcohol and children
- If concerns arise about a child we will contact the Police for advice/assistance and not make our own investigations or conclusions