

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, Council Offices, Chester-le-Street on **Tuesday 26 March 2013 at 10.00 am**

Present:

Councillor D Marshall (Chair)

Members of the Committee:

Councillors E Bell, K Holroyd and J Wilkinson

Apologies:

An Apology for absence was received from Councillor J Lee

Also Present:

Councillor J Wilkinson

C Greenlay (Principal Solicitor) and H Johnson (Licensing Team Leader)

Sgt T Robson (Durham Constabulary)

Inspector C Dobson (Durham Constabulary)

Mr C Morrison (Counsel to the Premises Licence Holder)

Mrs S Watson (Owner of the Premises)

Ms N Bush (Premises Licence Holder and Designated Premises Supervisor)

1 Apologies for Absence

An Apology for absence had been received from Councillor J Lee.

2 Substitute Members

There was no substitution of members.

3 Minutes

The Minutes of the meetings held on 7, 10, 15, 18 and 24 January 2013 and 22 February 2013 were agreed as a correct record and were signed by the Chair.

4 Declarations of Interest

Councillor D Marshall declared an interest in the Temporary Event Notice for Montgomerys, Stanley and withdrew from the meeting during consideration thereof.

5 Application for the Review of a Premises Licence - The Flintlock Inn, 48 High Street, West Cornforth, County Durham, DL17 9HS

Consideration was given to the report of the Corporate Director, Neighbourhood Services which detailed an application by Durham Constabulary to summarily review the premises licence in respect of The Flintlock Inn, 48 High Street, West Cornforth, Ferryhill, County Durham which was currently licensed to supply alcohol for consumption on the premises and for the provision of regulated entertainment (for copy see file on minutes).

A copy of the licence and location plan had been circulated to Members.

On 26 February 2013, the Licensing Authority received an application and supporting Certificate under Section 53A of the Licensing Act 2003 from Durham Constabulary where it was required to consider the matter within 48 hours of receipt. A copy of the application had been circulated to Members.

On 27 February 2013, the Statutory Licensing Sub-Committee met to consider the application. It was determined that the premises licence be suspended with immediate effect and to remove Nicola Jane Bush as the Designated Premises Supervisor. A copy of the Notice of Determination had been circulated to Members.

The License Holder had not submitted a representation against the decision to suspend the licence with immediate effect.

Additional documentation had been received from Durham Constabulary which had been circulated to Members and Interested Parties prior to the meeting.

A colour copy of the previously circulated location plan had been provided to all parties at the meeting.

The Licence Holder and Durham Constabulary had submitted additional information at the meeting and with the agreement of all parties was circulated to Members and all parties with time being allocated for the information to be read.

The Chairman had indicated that the witness statements had not been verified so little weight would be given to these.

Sergeant Robson, representing the Applicant stated that a copy of his statement had been circulated. The Flintlock Inn was a rural pub in a small community. In August 2011, Durham Constabulary had started to receive complaints about the premises in particular rowdy drunk people outside the premises.

In August 2011, a visit was made to the premises by a PCSO to discuss with the Designated Premises Supervisor (DPS) concerns of barred persons under the Pubwatch scheme being allowed in the premises.

In May 2012 a new Designated Premises Supervisor was assigned to the premises who also became the Premises Licence Holder. Within a few months control and management was passed to persons who had no licensing experience. The DPS

was not seen to take a vested interest in the running of the premises and the management was in the hands of inexperienced staff. Management was then passed to lesser experienced staff until the level of management at the premises was negligible.

Residents complained of rave style parties, after hours drinking and noise which was causing them poor quality of life. Residents feared patrons and the management so complaints were made via a third party.

On the 25 March 2012 a customer lost his car key inside the Flintlock Inn so had to get a lift home. Upon his return the vehicle had been stolen.

Sergeant Robson referred to his statement and the fire inspection carried out on 11 December 2012 which identified work that needed to be carried out. He advised members that these issues had now been resolved.

On 15 December 2012 he visited the premises, the DPS was not present and a young girl was working behind the bar who did not understand the licensing objectives. There were very few people in the premises so he could not gauge if they were drunken and disorderly. The Manager came downstairs and escorted him to the domestic kitchen upstairs which was behind two locked doors so there was no access by staff or patrons and this was where the CCTV equipment was installed.

During this visit he was made aware that the manager would be shortly vacating the premises. He contacted the DPS expressing his concerns that she was barely present at the premises and if the premises were left unoccupied may be the subject of a burglary. He was advised by the DPS that the premises would be occupied.

Sgt Robson advised the Sub-Committee that he did not wish to make application under Section 14 of the Licensing Act 2005 but the police did have intelligence in relation to the Flintlock Inn and the family associated with the premises, relating to an ongoing investigation.

On 25 February 2013 calls were received to Durham Police. The initial call was from a lady who stated that her husband had been assaulted and had facial injuries and that people were coming with guns. A call was later received from the Flintlock Inn stating that a group of travellers had been asked to leave and an unidentified person had said that they would return. He stated that CCTV evidence suggested that this did not happen but the footage was not shown to the Sub-Committee.

As shown in the circulated statements people had various injuries including a child who had suffered a blow to the head. Two people were identified and arrested and were on remand charged with serious offences. The pub manager was named as being in possession of a knife and a single barrelled shotgun. The manager's stepson was also named as being in possession of a knife and a baseball bat.

A witness reported that the travellers were playing pool then the manager offered them a drink on the house, it was believed this was done as a delaying tactic to keep them within the pub.

The Child's father had a gun put into his mouth; he was also knifed and repeatedly hit with a baseball bat. The child was also struck by the butt of the gun which caused him to lose consciousness.

The CCTV footage was missing for approximately 37 minutes which was the duration of the incident. Sergeant Robson believed that the CCTV had been turned off while the incident occurred.

The DPS had shown little interest in the Flintlock and did not reside at the Premises and lived some distance away and no application had been made to change the DPS. The Police felt that if the premises remained open then there would be further serious crime and disorder.

The concerns of the police were placed before County Durham and Darlington Magistrates Court on 27 February 2013, and an order was made by the Magistrates that the premises should remain closed until the matter was determined by the Authority. The police then made application for a review of the premises licence.

Sergeant Robson then advised the Sub-Committee that information had been received from a PCSO that the premises had been open for an event involving a medium; the event had been advertised on Facebook which was open to members of the public who were asked to bring their own alcohol.

The DPS had handed the running of the premises over to individuals who had little experience and the community were too scared to report concerns about the premises but had spoken to the PCSO who worked in the area about their concerns.

Sergeant Robson referred to the premises being linked to organised crime which was subject to further investigation so he was unable to provide further information. He asked that the licence be revoked as all the licensing objectives had been undermined and he believed there would be further acts of serious violence associated with these premises.

The Sub-Committee left at 11.50 am. The Sub-Committee returned at 11.55 am and advised that they had discussed their concerns about information been provided which was subject to an ongoing investigation.

Mrs Greenlay the Council's Principal Solicitor reminded everyone to ensure that information was not been divulged which was not already in the public domain in view of the pending criminal trial and the minutes would reflect what had been said at the meeting.

Mr Morrison acting for the Premises Licence Holder advised the Sub-Committee that a date for the court hearing had been set which was the 17 June 2013.

Councillor Bell referred to the three incidents which the police had highlighted and asked if the police had been called to the premises on other occasions. In response, Sergeant Robson confirmed that there had been a number of issues

reported second or third hand but there had been three main incidents which directly involved the premises. The driver who lost his car keys in the premises was adamant that the keys had been lost in the premises and there was no evidence of a procedure in the premises to log and secure lost property. It is believed the keys were taken from the Premises and the van stolen.

Mr Morrison sought clarification of how many people had been convicted of offences which had occurred at the Premises if it was the centre of criminal activity. Sergeant Robson responded that there was substantial police intelligence and that three people had recently been arrested.

In response to question from Mr Morrison, Sergeant Robson confirmed that there had been regular complaints about the running of the Premises but the Police had not previously sought a review of the premises licence as this was considered as a last resort. He confirmed that barred people were under the Pubwatch scheme and that he had spoken to the previous DPS about allowing barred persons into the Premises and he was advised that they had been allowed into the Premises as the DPS had no problems with the individual concerned. Mr Morrison asked if the current DPS had allowed barred persons into the premises. Sergeant Robson responded that the DPS would have been notified and supplied with photographs of barred persons.

Mr Morrison advised the Sub-Committee that Mrs Watson's son had no connection with the running of the Premises and he did not live in Cornforth. Sergeant Robson responded that her son had links with the management, had access to the upstairs of the Premises and had been seen working behind the bar.

Mr Morrison also advised the Sub-Committee that the premises were located on the High Street which was mostly shops so it was not in the middle of an estate.

The Chairman advised the Sub-Committee that little weight would be attached to the character references submitted by the Premises Licence Holder as the letters were unable to be verified as they had only submitted the information at the meeting.

Mr Morrison responded that the letters were produced to show that other businesses and individuals had no concerns with the Premises.

Mr Morrison then referred to the statement of Sergeant Robson which indicated that a fire inspection had taken place which required work to be undertaken. He indicated that the items identified were routine things to snag and it was not unusual to inspect premises and be told of items which needed fixing. Sergeant Robson responded that you would expect premises to be safe and that it was unusual.

Mr Morrison asked if the Premises were quiet during the inspection and did he notice that the CCTV equipment was powered by the mains electricity and was he aware that one of the complainants was known as "King of Gypsy Boxers" who was not local to the North East and was in fact Irish and his statement did not mention anything about a shotgun in his mouth. Sergeant Robson responded that the premises were quiet during the inspection and there were approximately 3 people in

the Premises but it was early. He did not know about the “King of the Gypsy Boxers” but he believed he was not local but had connection to the North and that he could not account for disparities between the statements that had been supplied by the Premises Licence Holder but a firearm in public was a concern.

Mr Morrison advised the Sub-Committee that on the day of the incident the alarm was raised by Mrs Watson and that the DPS was first on the scene and was in fact there before the Armed Response Team and asked how many times the DPS had spoken to the Police. Sergeant Robson confirmed that Mrs Watson did raise the alarm just after the incident but the alarm contained irregularities and that he was not aware the DPS was first on the scene. He had only spoken to the DPS on the telephone.

Mr Morrison referred to the allegation that the Premises had remained open and indicated that the flat above the Premises was still occupied. Sergeant Robson responded that the event had been advertised on Facebook. Mr Morrison asked for details of the advertising. Sergeant Robson responded that the information was provided from the PCSO and a statement confirming this had been circulated.

Mr Morrison then made his submission on behalf of the Premises Licence Holder stating as the Police had agreed the Premises was a central feature of the village which was vacant for some time and was re-opened in 2010 in compliance with relevant requirements. Other Public Houses in the village have no objections to the Premises and local businesses were in favour of the keeping of the Premises. If people were against the Premises then individuals would not have made statements and would suggest that this was evidence that the Premises was well thought of and if there were any irregularities or difficulties then these testimonials which had been circulated today would not exist. The Premises donated to charity and a letter had been circulated from the local Primary School thanking them. This is not the sort of thing you would expect from a Premises associated with regular crime. He asked that the references circulated to Members today carry heavy weight.

There had been no other incidents or arrests surrounding the individuals concerned or the Premises and he referred to an MP who had recently been arrested in the Bar at the House of Commons. He did not accept the Police version of events and the witness statements circulated today had been handed to the Crown Prosecution Service 3 weeks ago so the Police should have been aware of the inconsistencies but nothing had been done to follow them up. His client is actively trying to assist with the investigation.

Mr Morrison referred to the CCTV footage and was instructed to say that the CCTV was operated by the mains electricity and when the lights were smashed in the bar area during the fight this had fused the premises which cut off the electricity causing the CCTV to be switched off. The claim that the CCTV was deliberately switched off was strongly denied. The DPS had 10 years experience in Licensing and 15 years experience in catering. She had completed a Punch Tavern Management course and she specialised in run down premises which she turned around. Her record was unblemished until 4 years ago when an under age boy bought a drink and was

served by one of her staff which went to court. She has recently not been in good health.

Mr Morrison stated that the management could not be responsible for the action of others. The Premises currently did not have any Door Supervisors and he would suggest that the employing of Door Supervisors and a no travellers rule would be enough of a step to manage the situation as it had no previous history of problems and the incident did not involve locals. He asked that the Sub-Committee look at other measures as revocation was last resort only if you could not impose a lesser measure, such as the appointment of Door Supervisors who were properly trained.

On the day of the incident staff called the Police and when the DPS arrived at the Premises she closed the Premises and arranged for the safe transport of a regular who was disabled. The Armed Response Team had indicated to the DPS that they did not know why they had been called. Mr Morrison indicated that the DPS could not have done anything further, she stayed at the Premises and handed the keys over to the Police and no more co-operation could have been offered. Even if she had of been on the premises at the time there was nothing further she could have done to prevent a fight from breaking out.

Mr Morrison went on to say that his client had a good record as a DPS, there was no history of crime at the Premises but there were clear grounds for modification of the licence but not to remove the DPS or the Premises from trade.

Councillor Holroyd sought clarification on the failings of the CCTV equipment due to the loss of electricity and why the lights were not on a separate circuit. Mrs Watson responded that CCTV in her other businesses had a battery backup system but this was not the case on the equipment at the Flintlock and that the flat and premises were all on the same circuit.

The Chairman asked for clarification on the number of masked men at the Premises as Mrs Watson indicated two but in the bundle of evidence it stated that there were three which was a contradiction. Mr Morrison responded that it was not unusual for witnesses to have an inconsistent recollection of events.

In response to questions from Members, Mrs Watson confirmed that they were two lots of travellers in the Premises who she had not seen before, they were initially arguing amongst themselves, she had asked for ID from one of the travellers and she had advised them that children were not allowed on the Premises after 6.00 pm. Once she was no longer in control of the Premises she called the Police.

In response to questions from Durham Constabulary, Mrs Watson confirmed that she owned a number of other businesses in West Cornforth and that the light which had been broken was in the area where the pool table was located. She was playing darts at the time then she went outside but she thought it had only been approximately 52 seconds for the lights to go out but she was on the telephone at that time.

Durham Constabulary also indicated that they believed that the lights were on a separate circuit so the electricity supply for the CCTV equipment should not have

been affected. There was also no mention of the lights going off in any of the statements. Mrs Watson responded that she had advised CID.

The Council's Principal Solicitor asked the DPS how often she attended the Premises. Ms Bush responded that it varied but generally it was five or six days a week and amounted to between twenty and sixty hours per week but she had not been at the Premises a lot since Christmas due to her health issues.

In Summing up for the Applicant, Sergeant Robson confirmed that since the premises had been operated by Ms Bush there had been a detriment to the community. Residents of West Cornforth were showing great concern and there was a substantial amount of police intelligence to link the Premises to criminal activity. He had viewed the CCTV footage and a hearing was to be held on 17 June 2013.

A serious offence had occurred while the CCTV equipment had been switched off which involved a firearm and there had been no mention in any of the statements that the lights had gone off.

He had great concerns about the Premises and the Police opinion was that the licence should not be modified or suspended. A condition on the licence to employ door supervisor or change the DPS would not address the problems.

In summing up for the Premises, Mr Morrison asked that the Sub-Committee consider what the reality was. The reality was that, apart from the incident on 25 February 2013, there had been no one arrested or prosecuted at the Premises. The police intelligence must be poor if no one had been arrested or charged. The Licensing Act required transparency and it was not enough to say there was evidence of criminality it had to be provided and proven. The Premises had a clean record and no petition had been received from residents or evidence to close the Public House. The evidence provided suggested that residents wanted the Public House, they had given money to the local school and the DPS had a good track record. There was insufficient evidence to suggest displacement. The individuals concerned with the incident were not local and it was just a case that the Premises were unlucky that the fight broke out in their establishment. No one could see the future and it was not reasonable to suggest liability and in the circumstances would suggest it would be appropriate to impose a requirement to use door supervisors to protect public safety.

Members retired to deliberate the application in private at 1.05 pm and returned at 1.40 pm when the Chair delivered the decision.

In determining the application, Members had taken into account the provisions of the Licensing Act 2003, Section 182 Guidance and the Council's Licensing Policy and the written evidence, together with the information provided by all of the parties to the hearing.

Given that the Licensing Authority had taken an Interim Step of suspending the Premises Licence following a hearing on 27 February 2013, the Sub-Committee were obliged to confirm that the suspension of the premises was lifted.

Resolved:

- (i) That the Suspension of the Premises Licence imposed by the Sub-Committee on 27 February 2013 be lifted.
- (ii) That the premises licence be revoked.

Councillor C Marshall withdrew from the Meeting.

**Councillor E Bell (in the Chair) and
Councillor J Wilkinson joined the Meeting.**

The Chair had agreed to accept the Application for a Temporary Event Notice for Montgomerys, Stanley as the application needed to be determined by 3 April 2013.

6 Consideration of Temporary Event Notice - Montgomerys, Stanley

Consideration was given to the report of the Corporate Director, Neighbourhood Services which gave details of an application for a Temporary Event Notice in respect of Montgomerys, Stanley (for copy see file of Minutes).

Montgomery's Public House currently held a premises licence issued under the Licensing Act 2003 a copy of which had been circulated to Members.

On 19 March 2013 the Licensing Authority had received an objection notice from Durham Constabulary of the grounds of the Prevention of Crime and Disorder. They considered it appropriate that all conditions currently attached to Montgomery's Premises Licence were also attached to the Temporary Event Notice for the promotion of the licensing objectives, details of which had been circulated.

Members were advised that the premises user confirmed her agreement to the conditions from the premises licence been attached to the Temporary Event Notice. A copy of the signed Mediation documentation 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 Temporary Event be allowed to proceed subject to the premises licence conditions being imposed for the duration of the event.