

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Committee Room 1A , County Hall, Durham on **Tuesday 12 March 2024 at 9.30 am**

Present:

Councillor D Brown

Members of the Committee:

Councillors L Brown and A Watson

Apologies:

Apologies for absence were received from Councillors J Howey and E Waldock

Also Present:

H Johnson – Licensing Team Leader

G Proud – Lawyer (Litigation)

K Marley – Apprentice Solicitor

Z Deagle – Lawyer (Litigation)

Sgt C Dickenson – Durham Constabulary (Responsible Authority)

PCSO K Hyde – Durham Constabulary (Responsible Authority)

N Anderson – Senior Licensing Enforcement Officer (Applicant)

F Mawson – Public Health Practitioner (L&AW) (Responsible Authority)

T Egglestone – Public Health Admin Apprentice (observing)

1 Apologies for Absence

Apologies for absence were received from Councillors J Howey and E Waldock and Mr R Adamson (Premises Licence Holder).

2 Substitute Members

There were no substitutes.

3 Declarations of Interest

There were no declarations of interest.

4 Minutes

The minutes of the meetings held on 7 August 2023, 3 October 2023 and 12 January 2024 were confirmed as correct records and signed by the Chair.

5 Application for the Review of a Premises Licence - Bar 23, The Castledene, Burnhope Way, Peterlee, County Durham, SR8 1BT

The Sub-Committee considered the report of the Corporate Director of Neighbourhoods and Climate Change regarding an application to review the premises license in respect of Bar 23, The Castledene, Burnhope Way, Peterlee, County Durham, SR8 1BT (for copy see file of minutes).

At 9.30am the Chair, Councillor D Brown agreed to adjourn the meeting for all Legal representatives, Licensing Representatives and Representatives from the Responsible Authorities to determine new information that had been submitted by Mr Adamson (Premises Licence Holder) who was unable to attend the meeting.

The meeting commenced at 10.00am. H Johnson, Licensing Team Leader informed the Committee that the application for the review of the premises licence had been made by N Anderson from the Licensing Enforcement Team (Responsible Authority) on 22 January 2024. The review had been advertised in accordance with the regulations and during the consultation period responses in support of the review had been received from Durham Public Health, the Durham Constabulary and Durham Safeguarding Children Partnership.

The Home Office Immigration Enforcement Team, the Fire Safety Authority and the Planning Department all responded to the consultation with no representations. All attempts to engage with Mr Adamson (Premises Licence Holder) since 10 December 2023 regarding the incident at the premises and the review had been unsuccessful until an email had been received from Mr Adamson on 14 February 2024 stating that he was pulling away from the business, he wanted to come off the premises licence and he no longer wanted to be the Designated Premises Supervisor (DPS). The review had been requested as there was evidence that Mr Adamson had not been compliant with the conditions of the licences as CCTV was not working and there was no record of staff being given appropriate up to date training.

The Licensing Team Leader requested that information that had been submitted by Mr Adamson the day before the hearing in relation to the application be considered in private in accordance with Regulation 14 (2) of the Licensing Act 2003 (Hearings) Regulation 2005. Members considered the request and due to nature of the information provided by the Licensing Team Leader and agreed that the public should be excluded from the meeting. All parties were given the opportunity to ask questions of the Licensing Team Leader in relation to the new information.

The meeting resumed in public.

Councillor L Brown asked why the Fire Safety Authority had not made any representation following the fire that had occurred in the flat above the premises in September 2023 even though they had placed a prohibition notice on the flat forbidding anyone including the chef to use or live there.

The Licensing Team Leader was not aware of a fire and assumed the Fire Safety Authority would have looked at the history of the premises as part of the review consultation process but there was no mention of it in their report.

G Proud, Lawyer (Litigation) stated that the Fire Safety Authority's response was to the Licensing Authority in respect of the review of the premises. Their response was limited and she was unsure of their rationale behind it but they were aware of the review hearing and had submitted nothing for the Sub-Committee to consider.

N Anderson, Senior Licensing Enforcement Officer (Applicant) addressed the Sub-Committee stating that she had applied for a review of the premises licence following a reported drinks spiking incident on 10 December 2023 where the victim had seen something being put into her drink. The police attended the premises but were not able to access CCTV footage of the alleged offence as staff were unable to operate the system. Several attempts had been made by the Licensing Enforcement team and the police to contact Mr Adamson to arrange appointments to attend the premises but no reply had been received. Several visits had also been made by the Licensing Enforcement team and the police to retrieve CCTV footage and to carry out a full inspection. She added that CCTV footage should be kept for 28 days so should have been readily available. There were 9 cameras with 7 outside and 2 inside.

N Anderson commented that upon one visit it had been found that the staff training log was unable to be found and when the Deputy Manager was asked if she had received training she could not remember. The Deputy Manager was also asked if Mr Adamson frequented the premises often and she replied that he came every now and again. There was little evidence of records if any to show who was in charge and there were serious concerns that the running of the bar was compliant to the licensing objectives as there was a failure to have fully trained staff or working CCTV putting staff and members of the public at risk. There was an inability and unwillingness to cooperate by Mr Adamson who had stated in an email on 14 February 2024 that he no longer had input in the running of the business. There were concerns about Mr Adamson being the premises licence holder and DPS as there was a lack of accountability or control of the premises if there had been a serious incident. There was little confidence that the licence holder was upholding the licensing objectives.

Councillor D Brown thanked N Anderson for the extensive report and envisaged it had taken a lot of time to pull together.

N Anderson confirmed it had taken a lot of time to pull together.

Councillor L Brown asked if the premises licence holder was aware of the hearing.

N Anderson confirmed that papers had been hand delivered to the premises licence holder at both his home address and at that bar.

In response to the Licensing Team Leader's request for clarification on who the papers were served to, the Senior Licensing Enforcement Officer confirmed that the papers had been served on Mr Adamson.

Councillor L Brown queried if the lease holder was aware of the hearing.

The Licensing Team Leader advised that as part of the advertisement and consultation process notification had been displayed on the premises in line with the regulations.

Councillor L Brown was surprised that the owner was not present to defend himself.

Sgt C Dickenson informed the sub-committee that she had received notification of the review of the premises licence and supported it. As part of her report for the review integrated checks had been carried out on the premises. She had found that on 1 July 2023 the bar had been sold via a cash sale to the new owner however there was no evidence that money was exchanged or any paperwork filed in relation to the sale. Initially there had been no concerns with Mr Adamson. She also discovered that there were 12 separate reported incidents over several months as detailed in the report that took place following the sale that included a male being threatened with a knife and being punched, a male had thrown a glass at a member of bar staff, a male had smashed a chair and made homophobic remarks and the suspected sexual assault/drink spiking incident on 10 December 2023 that had triggered the review application by N Anderson that had been escalated to CID to investigate. It was found that with every incident when the police attended they were unable to obtain CCTV footage, victims had withdrawn their statements and there were no witnesses. On one occasion an innocent male had been arrested due to mistaken identity but no further action was taken. All incidents were unresolved which did not look good for the police's statistics.

Sgt C Dickenson commented that over a period of time the police had made unsuccessful attempts to contact Mr Adamson. He eventually sent an email on 14 February 2024 stating that he wanted to be removed from the licence and that the CCTV was now functioning and that staff training records would be brought up to date. She added that there was evidence that the DPS was rarely on site and had no input in the running of the business. There was no prevention of crime and disorder, there was no CCTV footage, and victims reported incidents then changed their minds. She had no faith in the running of the premises or the safety of the public who went there.

Councillor L Brown queried if there had been a typo in the report and if Mr Adamson meant to state that the CCTV was not functioning.

Sgt C Dickenson clarified that the email from Mr Adamson sent on 22 January 2024 had stated the CCTV was now functioning.

The Licensing Team Leader declared that the email that was received on 14 February 2024 specified that the CCTV had not been brought up to date.

G Proud asked if the email sent by Mr Adamson that was sent on 22 January 2024 had been sent directly to Sgt C Dickenson or whether she had been copied in.

N Anderson confirmed that the email sent on 22 January 2024 by Mr Adamson had been sent to the Licensing team with Sgt C Dickenson being copied in. This email included Mr Adamson's intentions he wanted to come off the licence, that CCTV was now functioning and staff training records were being brought up to date.

Councillor L Brown queried if anyone had checked to see if the staff training records had been brought up to date.

N Anderson responded to Councillor L Brown that another site visit would have been required to check but the review had then taken precedence. She added that the premises licence condition had areas to be adhered to which Mr Adamson had been spoken to about.

Councillor A Watson deemed that the Licensing Authority had been lenient with Mr Adamson with the several breaches of the licensing conditions and the several reported incidents that had occurred. He queried why the premise licence had not been revoked on that basis.

Sgt C Dickenson explained that the Licensing Act tried to mediate with Responsible Authorities and Licence holders. Unfortunately all means possible were made to contact Mr Adamson but he had been extremely difficult to get hold of which then prompted the Licensing Enforcement Team to apply for the review.

Councillor A Watson noted that the number of incidents had increased since the business had been sold and asked if the new owner had cooperated with any requests made for information.

Sgt C Dickenson replied to Councillor A Watson that the police had spoken once to the new owner when they had turned up at the premises.

PCSO K Hyde informed the sub-committee that the new owner had attended the pub watch meetings and agreed to provide the CCTV footage, but it never materialised when the police attended the premises at a scheduled appointment.

The Licensing Team Leader asked what Mr Adamson was like prior to 1 July 2023 and the alleged sale of the premises.

PCSO K Hyde felt that Mr Adamson was very capable and attended all the pub watch meetings and had done everything according to the conditions set out in the licence and both he and his brother had run a tight ship.

The Licensing Team Leader queried how involved Mr Adamson was before 1 July 2023 with his cooperation and speaking to him and wondered if something had happened.

N Anderson reiterated that she had always been comfortable on how the premises had been run and Mr Adamson had been compliant with the licence. She stressed that the Licensing Authority had not been lenient with Mr Adamson, but they would not just inspect a premises if they believed that everything was running smoothly as it was prior to July 2023. The Licensing Enforcement Team were only made aware that there was an issue in December 2023 when the spiking of a drink incident took place that prompted further investigation.

Councillor A Watson queried why Mr Adamson had not produced the CCTV footage as required.

N Anderson stated that they could not get in touch with Mr Adamson in order to retrieve the CCTV footage.

Councillor D Brown acknowledged that the Licensing Authority were not aware of the incidents until December 2023 when they had tried to follow up the allegation with the review request.

G Proud stated that further incidents prior to December had only come to light in preparing for the hearing.

When officers attended the premises the Licensing Team Leader queried who had appeared to be responsible for the running of the business.

PCSO K Hyde replied that she had liaised with the General Manager, Ms K Smith when she had attended the premises and had only spoken to Gary once who had attended the pub watch meeting one time.

The Licensing Team Leader asked if Ms K Smith was related to Gary or Mr Adamson.

PCSO K Hyde confirmed that Ms K Smith just worked at the premises and was no relation to either gentleman.

The Licensing Team Leader had noted that the facebook account for the premises had been very active considering the DPS had cut ties.

Councillor L Brown asked if Gary was associated with the premises in any way.

The Licensing Team Leader commented that every opportunity had been taken to advise Mr Adamson on how he could transfer the premises licence to some one else as soon as he indicated he no longer wanted to be on it. He had made no effort to do anything about the premises licence and had ignored attempts to contact him.

G Proud indicated that Gary's association with the premises was not relevant.

The Licensing Team Leader however confirmed that Gary was not on the system.

F Mawson, Public Health Practitioner (L&AW) (Responsible Authority) addressed the Sub-Committee that she had supported the review of the premises licence and had raised concerns regarding the protection of children from harm. The use of age verification policies, refusal register and the supervision and training of staff on licensed premises could make a significant contribution in ensuring that licensed premises restrict the availability of alcohol to all children and young people. Public Health had no confidence that any of these practices took place nor that the premises was a responsible licenced premises. She noted from reading the statement the Premises Licence holder had not been compliant with the conditions of the licence as staff had not been trained in the safety of children, the refusal register had not been updated since September 2023 and as CCTV was not working there was no evidence to prove underage sales had not taken place.

At 10.45am the Sub-Committee consisting of Councillor D Brown, Councillor L Brown and Councillor A Watson **Resolved** to retire to deliberate the application in private. After re-convening at 11.21am the Chair delivered the Sub-Committee's decision.

In reaching their decision the Sub-Committee had considered the report of the Corporate Director of Neighbourhoods and Climate Change, all written representations and responses from responsible authorities as listed in the report including the updated information provided by the Licensing Team Leader from the Premises Licence Holder that was discussed in private. Members also considered Durham County Council's Statement of Licensing Policy and the Revised Guidance issued under Section 182 of the Licensing Act 2003 (as amended August 2023).

Resolved:

- i) That the Premise Licence be revoked.
- ii) That the Designated Premises Supervisor be removed.