

Licensing Act 2003 Sub-Committee

Monday, 17 August 2009

Present: Councillor Keith Iddon (Chair) and Councillors Judith Boothman and Ralph Snape

09.LAS.04 APOLOGIES FOR ABSENCE

There were no apologies for absence.

09.LAS.05 DECLARATIONS OF ANY INTERESTS

None of the Sub-Committee members declared an interest in the principal agenda item under consideration.

09.LAS.06 APPLICATION FOR A REVIEW OF A LICENCE IN RESPECT OF THE CROWN, 46-48 CHAPEL STREET, CHORLEY PR7 1BW MADE UNDER SECTION 52 OF THE LICENSING ACT 2003

The Sub-Committee considered a report from the Corporate Director of Neighbourhoods on an application for a review of a premises licence in respect of The Crown, 46-48 Chapel Street, Chorley.

The Sub-Committee considered guidance issued under Section 182 of the Licensing Act 2003 together with the Council's Licensing Policy, in particular those paragraphs referred to in the report.

The Sub-Committee had to achieve a balanced approach to the difficult issues it had heard throughout the hearing and considered the Human Rights implications, specifically Article 1, and Article 6 of the First Protocol and the proportionately principles.

The Sub-Committee considered carefully the representations submitted by the Police, the Premises Licence Holder, Scottish and Newcastle Brewery and the Licensing Officer.

The Sub-Committee were satisfied that there had been repeated incidents at the premises which undermined the licensing objective of the prevention of crime and disorder.

After carefully considering representations from the Police, the Premises Licence Holder and Scottish and Newcastle Brewery the Sub-Committee considered the Premises Licence Holder had failed to effectively manage the premises leading to the licensing objective of the prevention of crime and disorder being undermined.

The report indicated that the Premises Licence Holder regularly employed unregistered door supervisors working at the premises, even though he had been warned on several occasions that by doing so he was breaching his Premise Licence, and that an offence was being committed.

In response the Premises Licence Holder pointed out that the security company were supplying the unregistered staff. However members noted that it was ultimately the responsibility of the Premises Licence Holder to comply with the condition on his licence. The Premises Licence Holder stated that he had used his vast experience to

decide who was suitable to work as door staff. The Sub-Committee felt this was not acceptable where this involved a breach of the licence.

The Sub-Committee had also felt that as the Premises Licence Holder was also Designated Premises Supervisor (DPS), that he should have been aware that an individual employed to carry out security activity on the premises should be licensed by the SIA and display a badge while on duty. Even after the police representative had explained repeatedly that it was a breach of his licensing conditions, the Premises Licence Holder ignored the advice offered and continued to employ non registered door supervisors.

The Sub-Committee had been informed of a serious incident which took place on 1 January 2009 where a customer's ear had been bitten off. The Sub-Committee accepted that this incident could have happened elsewhere but felt that had the premises been better managed the incident may not have occurred.

Members of the Sub-Committee had been informed that drug paraphernalia had been found in the toilets of The Crown. As a result Sgt Bushell and the Licensing Enforcement Manager attended The Crown to discuss the matter. It was highlighted that there was evidence of customers using drugs in the toilets and the Premises Licence Holder asked what provisions had been put in place to stop this. The Sub-Committee was concerned that Mr Davies had stated he had done nothing and did not think notices would be a deterrent although they noted that he had now installed notices and made changes to the toilet facilities to make drug use more difficult.

The Sub-Committee noted that at the meeting of Pubwatch in June an individual had been nominated by a member of staff at the Crown to be banned as he had been witnessed openly taking drugs in the premises on 14 May 2009. It was stated in the police application that the Premises Licence Holder had not been happy about the individual being banned and refused to support the decision and had taken the member of his staff to task for raising the matter at the Pubwatch meeting. The Premises Licence Holder disputed that he had taken his employee to task and said that instead he had wished to raise the issue privately with a third party. The Sub-Committee also noted that the member of staff was still working at the Crown. Members however, considered that dealing with the issue privately would undermine the aim of Pubwatch which was to ensure that banned individuals are notified to all participating premises.

The Sub-Committee was informed that the police had information that on a number of occasions The Crown had served alcohol to banned persons on the Pubwatch scheme. The Sub-Committee were reminded that it was not an offence to serve alcohol to any person on the banned Pubwatch list and was not a breach of a licence condition. However members considered that by doing so the whole purpose of the scheme would be undermined and the licensing objectives could also thereby be compromised.

The Sub-Committee were made aware that the Premises Licence Holder had submitted notice to quit to Scottish and Newcastle Brewery, in relation to The Crown from 21 September 2009, and that this notice had been accepted. Scottish and Newcastle Brewery indicated that an interim management company might be installed until a new Premises Licence holder could be found.

The Sub-Committee did not accept the claim, which had not been supported by any evidence, that the Premises Licence Holder had been victimised by the Police. Members had noted with particular concern that the Premises Licence Holder had attended an interview with the Police on 24 February 2009 and had been given a warning that future weaknesses in the management of the premises could result in formal action. Members considered that the Premises Licence Holder had been offered the opportunity to improve but that his management of the premises continued to undermine the licensing objectives.

Members also noted that the Premises Licence Holder claim that he had “changed his ways” had been an admission of problems with his management of the premises. However the Sub-Committee did not agree that his management, after previous warnings by the police, were sufficiently robust.

The Sub-Committee considered that the conditions suggested by Police were reasonable and proportionate to achieve the licensing objectives given the history of incidents of crime and disorder and drug use at the premises.

After taking all due account of all representations the Sub-Committee did not feel that the Premises Licence Holder was a fit an proper person to hold a Premises Licence as the repeated incidents at the premises undermined the licensing objectives of the prevention of crime and disorder, therefore the **Sub-Committee RESOLVED: -**

- a) **To suspend the current Premises Licence for three months or until such earlier date as the Premises Licence may be transferred to another person .**
- b) **The Premise Licence Holder be removed as Designated Premises Supervisor.**
- c) **To accept the changes to the Premise Licence conditions as recommended by the police in their report and as modified at the Sub-Committee hearing which are as follows: -**

Annex 1

Mandatory Conditions

Conditions to be retained.

Public Entertainment Licence Conditions

These conditions to be removed in their entirety.

Annex 2

a) **General - to be removed.**

b) **The prevention of crime and disorder
Conditions 1, 2 and 3 to be retained**

- 4) **To be removed and replaced with – A minimum of 2 Door Supervisors will be used at the premises from 00:00 until close on Friday and Saturday and New Year’s Eve.**
- 5) **To be removed and replaced with – The premises will have a CCTV system installed, maintained and operated on the premises to the satisfaction of Lancashire Constabulary.**
- 6) **The premises will operate a day book to the satisfaction of Lancashire Constabulary. This will be made available for inspection on reasonable request by any responsible authority.**
- 7) **The premises will operate a drugs policy and all staff will be regularly trained in the policy.**
- 8) **Hourly toilet checks will be carried out and recorded in the day book.**

- 9) All staff training will be documented and provided for inspection on reasonable request by any responsible authority.
 - 10) No persons will be allowed to consume drinks outside the front of the premises after 00:00.
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- c) **Public Safety**
Conditions 1, 2 and 3 to be retained
Condition 4 to be removed
 - d) **Prevention of Public Nuisance**
Conditions 1 to be removed
Conditions 2, 3 to be retained
Conditions 4, 5 and 6 to be removed
 - e) **Protection of Children from Harm**
This condition to be removed and replaced with:-
 - 1) The premises will operate a Challenge 21 Policy
 - 2) All Staff will be regularly trained with regards age related sales.

The Premise Licence Holder was informed that he had a right to appeal to the Magistrates Court within 21 days of notification of the decision.

Chair