

MINUTES OF LICENSING ACT 2003 SUB-COMMITTEE

MEETING DATE Tuesday, 13 October 2020

MEMBERS PRESENT: Councillor Matthew Lynch (Chair) and Councillors Gordon France and Margaret France

OFFICERS: Nathan Howson (Enforcement Team Leader (Licensing)), Alex Jackson (Legal Services Team Leader), Nina Neisser (Democratic and Member Services Officer) and Matthew Pawlyszyn (Democratic and Member Services Officer)

20.107 Declarations of Any Interests

No declarations of any interests were received.

20.108 Procedure

The Chair outlined the procedure to be used to conduct the meeting.

20.109 Hearing to Consider Application for Summary Review and any Relevant Representations- Bretherton Arms, 252 Eaves Lane

The Licensing Act 2003 Sub-Committee considered what measures (if any) were appropriate for the promotion of licensing objectives following an application for a summary review of the premises licence under Section 53A of the licensing Act 2003. This included a review of the interim steps taken on 25 September 2020 to determine whether they remain appropriate for the promotion of the licensing objectives.

The Police representative, Sergeant Richard Horton attended the meeting via Microsoft Teams, as did Andrew Cochrane of Flint Bishop Solicitors (Licence Holder's representative), Tracy Duncan of Star Pubs & Bars Limited (employee of Licence Holder), Nicola Steele (DPS) and Nick Yates (Tenant) to make their representations to the Sub-Committee.

The Council's Enforcement Team Leader for Licensing reminded the Sub-Committee that on 16 September 2020 an application was made by Lancashire Police under Section 53A of the Licensing Act 2003 for a Summary Review of the Premises Licence for Bretherton Arms, 252 Eaves Lane. Following this a hearing was held on 18 September 2020 to consider whether to take interim steps where the decision was made to suspend the premises licence with immediate effect.

At 06:53 hours on 24 September 2020, the Premises Licence Holder made representations against this interim step. In accordance with Section 53B of the Licensing Act 2003, a hearing took place within 48 hours of receiving the

representation to consider whether the interim step was appropriate for the promotion of licensing objectives. On 25 September 2020 Member's decided to modify the interim steps taken and at the time of writing the report it was confirmed that those interim steps remained in place.

On 24 September 2020 representation was received from Andrew Cochrane of Flint Bishop solicitors on behalf of Star Pubs & Bars Limited. Clarification regarding this representation was subsequently received on 25 September. On 30 September 2020, representation was received from Paul Lee, Environmental Health Officer, relating to the Prevention of Public Nuisance and Prevention of Crime and Disorder Objectives.

The Sub-Committee were advised that further representation from Mr Cochrane had been received via email in advance of the meeting. Members were provided with sight of this.

Sergeant Horton provided his representation on behalf of the police, as the applicant for the review. He reminded Members that an application was submitted on the grounds of prevention of crime and disorder. Since the Interim Steps hearings, the police had received a call from the premises when a patron caused a disturbance and threatened violence following the 10pm closure. Sergeant Horton suggested that it was entirely appropriate to call the police in to attend this incident and believed it showed responsibility under the new DPS, Ms Steele.

Sergeant Horton also noted the premises had recently joined Pubwatch, which was a positive step made by the DPS which put the premises in a good position going forward. The police were also satisfied that there were door staff present at the premises on Fridays and Saturdays and believed that the reduction in hours brought the Bretherton Arms in line with other premises in the area.

Sergeant Horton advised he had been in consultation with Mr Cochrane and invited Members to support the conditions imposed on the licence at the Interim Steps Hearing on 25 September.

In response to Member queries, Sergeant Horton confirmed that one man had been arrested for an offence of GBH in relation to the incident but was not aware of whether he had been charged or bailed. Sergeant Horton also advised that there had been no further issues at the premises and reiterated that he was satisfied with the improvements that had been made to the CCTV.

Mr Cochrane made his representations on behalf of the Premises Licence Holder, Star Pubs & Bars Limited (part of Heineken UK). The premises had been let on a long-term commercial lease to Mr Yates with Graham Moss as the DPS. The company were disappointed to hear about the incident and ensured Members that they were working with all parties to work out the best way to progress. Following Mr Yates' resignation as the premises licence holder and the removal of Mr Moss as DPS it was being proposed that Star Pubs & Bars Limited would temporarily retain the premises licence and Ms Steele would become the DPS on a permanent basis.

The Sub-Committee were advised that due to the current climate, it had been difficult to locate a tenant under the lease and it was therefore being proposed that Mr Yates would continue under a temporary management agreement, until another tenant was found.

Mr Cochrane reiterated that Ms Steele would remain as the DPS and believed that she had already taken responsibility and demonstrated her commitment to the premises in a short period of time. Star Pubs & Bars Limited had reviewed the imposed conditions and felt they were appropriate to remain on the licence.

Members were reminded that steps have already been taken to address their previous concerns, including improvements to fix the CCTV in the rear area of the premises and Ms Steele had actively joined Pubwatch. It was highlighted that there had been no representations from residents and additional noise complaints following representation from Environmental Health. It was hoped that extra steps taken to address this previously including extra signage in the premises, a new DPS in, early closing and doorstaff present had had a positive impact.

In summary, it was requested that the premises remain open subject to conditions imposed on 25 September 2020 and the further proposals put forward.

In response to a query from Members, regarding the DPS effectively running the premises alongside her existing management commitments at another job, Mr Cochrane reiterated that as tenant the premises would effectively be the business of Mr Yates, but Ms Steele had ensured that she was able to provide sufficient time for the day-to-day running of the premises. It was hoped that confidence could be restored in the interim with Star Pubs & Bar Limited as premises licence holder until a permanent premises licence holder was appointed. Mr Yates confirmed that the day to day running of his pubs was the responsibility of the DPS and he personally liaised with breweries and partners on a commercial basis.

Members expressed their concerns over the changing demographic at the premises following Covid-19 and sought clarity on the input of Star Pubs & Bars Limited regarding this, as well as clarity on how the conditions would be upheld and whether a risk assessment had been undertaken to reflect the issues discussed previously.

Mr Cochrane and Mr Yates believed that the premises had already started to exercise a plan to demonstrate that it can deal with the appropriate measures. This included improvements to CCTV, Ms Steele in place as an effective DPS who delivered a fresh approach at the premises, and the transfer of premises licence to Star Pubs & Bars Limited. A risk assessment was in place to cover issues such as Covid measures and social distancing and threats of violence to staff. This risk assessment would be updated as and when required.

Ms Duncan confirmed that in her role as Area Manager of Star Pubs & Bars Limited, she visited the premises every four weeks (these visits were more infrequent prior to Covid). Following queries from Members, Ms Duncan was unable to make a commitment for how long she would visit the premises or every four weeks for as this depended on the individual demands of the business but did advise she had weekly phone contact with the premises and this could be increased if required. It was also confirmed that there was an online portal available for premises to easily access information and risk assessments.

In response to Members' queries, Ms Steele confirmed that the doorstaff were currently present at the premises on Friday and Saturday evenings from 6.30pm until 10.30pm. It was recognised that there may be a time when doorstaff are no longer required but it was understood that further conditionality would be required in this instance. Ms Steele confirmed that she intended to remain a member of Pubwatch and

advised that since becoming a member and introducing signage at the premises, individuals who had been banned at other establishments as part of Pubwatch, had not returned.

In summary, Sergeant Horton reiterated the representations, evidence heard, and the interim steps put in place. He believed that the actions taken at the premises to address previous concerns had been reasonable and was happy to continue with the current conditions in place.

Mr Cochrane summarised by endorsing Sergeant Horton's statements and encouraged the Sub-Committee to allow the licence to continue with the appropriate conditions imposed on 25 September 2020. He felt that Ms Steele was an excellent DPS and hoped that the current positive progress continued.

Having considered the application from the police and the relevant representations, the Sub-Committee **resolved under Section 53C of the Licensing Act 2003 that the following steps were appropriate for the promotion of the licensing objectives:**

1. The modification of the conditions of the premises licence:

- a. Reduction in hours for the sale of alcohol by retail to 00:30 (presently 01:00) on a Friday and Saturday (it is presently only midnight for the rest of the week) with the Hours the premises is open to the public to be reduced to 01:00 (presently 02:00).**
- b. The addition of the following conditions of the licence:**
 - i. Graham Moss shall have no involvement in the management of the premises, nor the carrying on of any licensable activities, nor be employed by the premises.**
 - ii. At least two SIA door staff shall be employed on a Friday and Saturday from 22:00, until the premises are cleared of customers or 01:00 (whichever is the later).**
 - iii. The premises shall operate and maintain a CCTV system covering the interior of the premises, the outside area, the bar, the rear car park and the smoking shelter which shall be in use at all times that licensable activities are taking place. The focus of the camera(s) shall be so as to enable clear identification of persons on the premises.**
 - iv. The CCTV system shall correctly time and date stamp recordings and retain said recordings for at least 28 days.**
 - v. The Data Controller shall make footage available to a police officer or authorised officer of the Council, where such a request is made in accordance with the principles of the Data Protection Act 2018 or any subsequent legislation.**
 - vi. Appropriate signage shall be displayed advertising that CCTV is in operation.**
 - vii. Appropriate signage notifying customers that the rear area is not to be used after 10:30 pm shall be displayed in appropriately prominent positions in the premises.**

The above steps are subject to national Coronavirus restrictions.

Members came to the decision for the following reasons;

- The step regarding CCTV was imposed given the serious incident of violence and to promote the licensing objective of prevention of crime and disorder.
- The step at paragraph vii was imposed due to use of the rear outside area in breach of the existing licence condition at Annex 3.
- Members did not consider that it was reasonable to prohibit Mr Moss from being allowed on the premises as a customer. If the premises choose to exclude Mr Moss as a customer or at other times to the extent permissible by law that is a matter for the premises.
- Members' gravest concern on 18 September had been that it was envisaged that Mr Moss would still be employed in some capacity at the premises. The removal of Mr Moss as DPS and in any other employed capacity and other steps addressed members' concerns.
- Members' concerns were also alleviated by the improvement at the premises including the upgrade to the CCTV.

This decision will not take effect until the end of 21 days following notice of this decision to the licence holder, being the appeal period or until any appeal against this determination under section 53C is disposed of.

The Sub-Committee have separately resolved under Section 53D of the Licensing Act 2003 that the interim steps taken on 25 September 2020 (as above) shall not be modified or withdrawn, for the same reasons set out in the decision notice for that hearing. These only apply until the end of the of 21 days following notice of the decision to the licence holder or until any appeal made against the decision taken under section 53C is disposed of.

In respect of both determinations, members noted that the final reason in the decision notice arising from the hearing on 25 September (members disregarding Mr Yates handing in his notice as tenant) was no longer relevant. Members also noted that the penultimate reason (Ms Steele as proposed DPS was no longer relevant) as she is now DPS.

In respect of both determinations members also note that the police were reasonably comfortable with the premises remaining open subject to the steps taken on 25 September. This was an additional reason in respect of each determination.

Both determinations are subject to coronavirus regulations and the three tier system of local Covid alert levels expected to come into force on 15 October. Since members took the decisions above it is noted that the three tier system in fact came into force on 14 October 2020.

Chair

Date