

Steele was appointed as Designated Premises Supervisor (DPS), but since the incident on 17 April 2021, left the position and the Bretherton Arms currently had no DPS in place. The Summary Review that took place on 13 October 2020 was due to an assault that occurred which resulted in life changing injuries, the result of the Review reduced the hours alcohol could be served and a condition imposed stating that 2 Security Industry Authority (SIA) registered door staff would be present Friday and Saturday evenings from 10:00pm until the establishment was empty or closed.

The Sub-Committee was shown extracts from an hour of CCTV recording on the afternoon of the incident, showing the rear yard car park. On that day, the police received two logs, the first was from North West Ambulance Service at 5:36pm, after a man was assaulted after leaving the premises, and 7:29pm as there were concerns that there were too many people present and social distancing guidelines were not being adhered to.

The man that was assaulted was said to be severely inebriated, drinking measures of spirits with every pint prior to visiting the Bretherton Arms. Initial reports from the ambulance service indicated that the victim was more drunk than injured, but it was not the case, he deteriorated and it was revealed that he had a skull fracture and bleeding on the brain.

The CCTV footage demonstrated that patrons were out of control, there was no supervision by the staff of the Bretherton Arms or the DPS. There was no adherence to social distancing and Covid-19 guidelines, and it was the opinion of Sergeant Horton that the management of the Bretherton Arms contributed to a serious offence of violence. The footage showed the victim to be significantly impaired, stumbling and falling, at one point approaching Mr Howson, the DPS and two police officers. Later in the footage the DPS appeared to laugh and send him back to his seat after he fell to the floor.

In response to questions from Members, it was clarified that there was nothing within the CCTV that suggested that the victim was served while on the premises. The time stamp on the footage was accurate within a few minutes.

There was uncertainty as to what caused the disagreement and assault on the DPS's partner, but it was believed that one of the patrons was intent on damaging a parasol on the premises.

Mr Howson made his representations, emphasising that it was serious that this was not the first Summary Review, as they are convened where there was serious crime, disorder or both at an establishment. The threshold to convene was high and required a criminal offence for which a person who was over the age of eighteen with no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more. He explained that he was the Licensing Officer at the October 2020 Summary Review and found serious failings associated with the management of the premises. At the Summary Review, the Sub-Committee heard assurances that there would be greater oversight. The appointment of a new DPS that was experienced complying with licensing rules and regulations. These assurances were a significant factor on the decision.

There were approximately 45 days where the establishment was open between the two incidents, a large number of these days required a table meal which restricted the

sales of alcohol. The day of the incident was the first Saturday the pubs could reopen for outside consumption.

On the day of the incident, Mr Howson visited 13 different premises in a joint operation with the police to assess adherence to Covid-19 guidelines. During the conversation with Ms Steele, the victim of the assault approached, and she was informed that it was an offence to serve someone drunk and that he needed to be removed from the premises. Various other infractions were raised, such as the standing customers, in which no effort was made to control and keep them in their seats, there was no track and trace enforcement and various groups were mixing. He concluded that it was due to the failure of management and oversight that led to the assault.

Mr Howson explained that when infractions were highlighted, the DPS was visibly overwhelmed. The premises were under prepared for the reopening, door staff would have prevented overcrowding and allowed effective track and trace use. When the victim was highlighted as being too intoxicated to remain on the premises, the DPS said that she understood, but she failed to utilise the resource of the two police officers to remove offenders. It was believed that had appropriate action been taken, it would have prevented an escalation of misbehaviour by other patrons.

Mr Graham informed the Review that he received a call on the day of the incident at 4:20pm from the DPS explaining that there were a lot of people at the venue and she wanted to make sure that no one in attendance was barred on the Pubwatch scheme. When he arrived at the premises at 4:30pm – 4:45pm, there was a lot of people standing without masks. He added that the Bretherton Arms initially had SIA staff booked for the weekend but was cancelled.

Mr Cochrane made his representations, he expressed disappointment that the premises were once again under review and did not seek to contest the main points that were made by Sergeant Horton and Mr Howson. He agreed that there was a lack of control in the rear area of premises that allowed prohibited behaviours.

The Bretherton Arms was currently closed, Ms Steele was no longer the DPS, and Mr Yates was no longer the tenant. The premises would be shut for the near future, but Star Pubs and Bars still believed that there was potential for the premises and they intended to seek a new long term tenant and to invest substantial amounts in the premises, and invited the sub-committee to suspend the licence but not to revoke it.

Members believed that it was short-sighted to not have door staff, or any crowd control measures in place. They said that the Bretherton Arms had an image problem and the establishment was attracting the wrong clientele, the wrong DPS, and assurance after assurance were given but the assurances were merely aspirations.

Mr Cochrane rebutted and felt that it was true that the previous year had seen a turn in reputation, but the Covid-19 restrictions contributed to the shift in clientele and the return to normality will see the Bretherton Arms return to what it was. There were long term plans for the establishment with a greater emphasis on food.

It was confirmed that Mr Yates ended his tenancy and then took a temporary tenancy, he continued to run the business. He was given advice and support, which included templates for Risk Assessments, training for the staff and a portal for information. It was not known if the staff at the Bretherton Arms utilised the training. Ms Duncan had

been furloughed to the 12 April 2021, and with 37 pubs she was unable to visit all 37 and the Bretherton Arms did not receive a visit.

In summary, Sergeant Horton said that at the last Review, Mr Yates was said to be on a short-term basis yet continued to run the business which saw no significant change made. There was no criticism of Ms Duncan as she was furloughed until a week before the pub could reopen but felt that there should have been precautions in place for an establishment with a vulnerable licence.

Mr Cochrane acknowledged that Star Pubs and Bars held the licence but the day to day running was left to others. A significant amount of support was available. It was hoped that the licence would be suspended to allow the premises to come back with a new tenant, to allow investment and reassurances were given to move forward with commitment to change. Discussions will take place with Mr Howson, Mr Gore and Sergeant Horton prior to reopening. The police will have the opportunity to object to the next choice of DPS, but there were hopes that the pub will once again be the centre of the community.

Members resolved to revoke the premises licence as appropriate to promote the licensing objective of prevention of crime and disorder for the following reasons:

There had been an incident of crime and serious disorder at the premises resulting in life threatening injuries (fractured skull and bleed on the brain). A summary review last year was prompted by life changing injuries threatening loss of sight of the victim.

Members attached weight to the fact that no less than three responsible authorities had submitted representations and that the police officer and the Licensing Enforcement Officer had dealings with the premises at the previous summary review which gave them an insight into issues which had recurred.

The DPS should not have needed advice from the Council's Licensing Enforcement officer to exclude someone who was extremely intoxicated. There was blatant disregard for the proper management of the premises suggested by the Licensing Enforcement Officer. If this lack of control was displayed openly before a licensing officer Members considered that when left to her own devices the DPS would exert no better control.

This was the second summary review of the premises licence on the application of the police in the course of less than 12 months due to serious crime and disorder. Such applications by the police are not frequent and two applications in a short space of time were quite remarkable in respect of the same premises.

The serious issues subject of both reviews point to chronic issues at the premises and a common thread of a lack of effective control. The extra conditions imposed in October 2020 and the salutary effect a summary review might be expected to have had on the premises licence holder and those involved with managing the premises had clearly not transformed the management of the premises. Members no longer had confidence that more measures short of revocation would be effective as this had evidently not worked after the last summary review.

Members noted the police comment in the application for review that the premises had been largely closed since the last summary review (due to various lockdowns and tier restrictions). Members did not consider that the premises could point to any length of time when it was trading and free of serious incidents of crime and disorder.

The DPS had admitted that the condition requiring door staff imposed at the 2020 summary review had been breached. This condition had been offered by the premises before the interim steps hearing in 2020. Members considered that this meant promises by those associated with the premises could not be given credence.

Members noted that the former Premises Licence Holder Mr Yates had conceded before the 2020 summary review that the licence condition regarding supervision of the rear area had been breached. This together with the latest breach of condition regarding security staff around the weekend suggested a pattern of not complying with licence conditions. Lack of supervision of the rear area was implicated in the most recent incident. The barrister for the premises licence holder at the summary review in 2020 had promised better supervision of the rear area in future but this evidently was not kept.

Members were satisfied from the representation from the Environmental Health Authority and the representation from the Licensing Authority that measures to minimise transmission of coronavirus had not been taken and that there had not been effective compliance with the coronavirus restrictions regarding track and trace and gatherings of more than 6 persons which did not promote the licensing objective of prevention of crime and disorder. Members viewed the CCTV footage which showed lack of intervention by the premises with patrons standing rather than sitting and moving from table to table. These incidents were frequent not isolated. Members accepted that absolute compliance given that some patrons would tend to behave their own way was not possible but were satisfied that there had been no effective intervention or exclusion of persons by the management and that breaches were frequent and not isolated.

Members considered that the future business plan involving refurbishment was not relevant. Members did not conclude that the issue at the premises arose from decor or fittings or lack of investment but from poor management and corner cutting. It appeared to be a diversionary tactic as the premises licence holder could not convince members that the premises would be better managed in the future.

There had been no mention of a future DPS. There was no case made about how the premises would be effectively managed in the future. The case was made only for future investment. Star Pubs and Bars Limited seemed to have a hands off policy towards training of staff and left it to their discretion about taking it up.

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.

A separate determination was made under Section 53D Licensing Act 2003 about whether the interim step of the suspension of the premises licence should continue.

Members determined that the interim step of suspension of the premises licence taken at the meeting on 21 April 2021 should continue. The premises licence holder should note that the intermediate step of suspension continues to have effect until the decision taken on 13 May comes into effect.

Any party to the hearing aggrieved by this decision has the right to appeal to the local magistrates' court within 21 days of receiving notice of this decision.

Chair

Date