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| <b>Minutes of</b>       | <b>Licensing Act 2003 Sub-Committee</b>  |
| <b>Meeting date</b>     | <b>Monday, 15 November 2021</b>  |
| <b>Members present:</b> | Councillor Matthew Lynch (Chair) and Councillors Christine Turner and Jenny Whiffen  |
| <b>Officers:</b>        | Nathan Howson (Enforcement Team Leader (Licensing)), Alex Jackson (Legal Services Team Leader), Coral Astbury and Usman Gazra (Democratic and Member Services Officer) |
| <b>Public</b>           | 2  |

#### **20.14 Declarations of Any Interests**

There were no declarations of interest.

#### **20.15 Procedure**

The Chair outlined the procedure to be followed at the hearing.

#### **20.16 Determination of Application for the Review of a Premises Licence- Applejax, 1 Back Mount Street, Chorley**

The Director of Planning and Development submitted a report for the Licensing Act 2003 Sub-Committee to advise members of an application for review of a premises licence in respect of Applejax Nightclub, 1 Back Mount Street, Chorley, PR7 1EA.

As the Premises Licence Holder (PLH) Mr Craig Leeming was not present, members decided to postpone the start of the meeting by ten minutes to allow Officers to attempt contact with the PLH. The Enforcement Team Leader (Licensing) confirmed that contact had been made with the PLH via email, although Mr Leeming did not respond to the email requesting notice of his attendance at the meeting. He had not responded to a separate email which provided notice of suspension of the licence due to non-payment, however the fee had now having been paid. Officers had attempted to call the PLH prior to the meeting but had been unable to establish any contact.

Members decided to continue with the hearing as all other parties were present and it was felt that there had been sufficient attempts at contacting the PLH.

The Applicant for Review on behalf of the Environmental Health Department at Chorley Council, Mr Paul Carter was present. Also present was Sergeant Richard Horton of Lancashire Constabulary, who had submitted a representation as a

Responsible Authority. An officer from Lancashire Constabulary who would take over the role of Sergeant Horton in 2022 was also present as was a press reporter, a local resident and the Council's Licensing Enforcement Officer.

The Enforcement Team Leader (Licensing) explained that the premises had been licensed since 18 January 2021 following an application to specify the Designated Premises Supervisor (DPS). It was explained that the premises is situated in a residential area, with flats surrounding the venue and residential properties facing the venue. On 21 September 2021, an application for the review of the premises licence was received from Mr Paul Carter, for and on the behalf of the Environmental Health Department of Chorley Council. The review was submitted on the basis that the licensing objective of the Prevention of Public Nuisance was being undermined. An abatement notice had been served on the 17 September 2021 following repeated complaints by residents. Noise monitoring equipment had also been installed at a neighbouring property.

The Enforcement Team Leader (Licensing) advised that the application for review was advertised in accordance with regulations. In response to the consultation, a representation was received on 25 September 2021 by Sergeant Richard Horton, on behalf of the Chief Constable of Lancashire Constabulary. Members noted that their decision would need to be based on the individual merits of the application.

The Applicant for Review, Mr Paul Carter explained that the authority had received complaints from several residents, some being over 135 metres from the property. On the weekend of 23 July 2021 complaints were received from residents who stated they had been unable to sleep all weekend due to excessive music overnight, with music continuing until 5:30am. Officers from Environmental Health visited the premises to discuss the complaints with the PLH and requested that the DPS also attend, however they were unavailable.

Officers tried to look at the CCTV but as the PLH was unfamiliar with the system, officers had to operate it themselves. Mr Carter explained that they had advised the PLH that he needed to take more responsibility in managing the premises. Officers also went through the conditions of the licence with the PLH, as he seemed unfamiliar with these. Mr Carter explained they advised the PLH to take advice from a licensing consultant or another experienced PLH.

Mr Carter explained that the authority continued to receive complaints about the premises. A complaint was received for Friday 6 August 2021 with residents stating they could hear a person shouting on the microphone until 5am in the morning, followed by drunken patrons leaving the premises around 6am. Officers held another meeting with the PLH and his manager and went through a lot of the issues which had been raised by residents. A noise test was undertaken in the car park, with the doors both open and closed. The PLH and his manager admitted that they had purchased a new audio system which could cause issues.

Officers had explained to the PLH that all doors should be closed for the period the venue was open, save for the front door. The manager of the premises committed to putting a sound limiter onto the system to prevent guest DJ's playing music at an inappropriate volume. Mr Carter advised that he had sent a follow up email after the meeting.

Members noted that further complaints were received over the bank holiday weekend

in August, with the Police in attendance. Noise recording equipment was installed in a residential property on Queen's Road from 7 September 2021 for seven days. The noise recorded clearly picked up the music, bass and microphone used by the DJ on the Saturday night until the recordings stopped at 5.23am.

Mr Carter explained that an abatement notice, requiring the premises to abate the nuisance within seven days was served on the PLH. No response was received from the PLH to the notice, however, the authority received complaints that music was still ongoing until 5:30am on the day before the compliance period in the abatement notice commenced. From 24 September 2021 until 13 November 2021 there were no substantial complaints about noise.

Mr Carter confirmed that he has had no further contact with anyone at Applejax in response to any correspondence or notices sent by the authority. It was his view that the premises were not being managed effectively and the current conditions on the licence were not robust enough.

Members sought clarification on how many visits and interactions had been successfully undertaken with the PLH. Mr Carter confirmed that there had been two actual visits, accompanied with Licensing Officers. The PLH had not responded to any written correspondence.

Members asked if there were any sound limiting devices installed at the premises. In response, it was explained that there was none when officers attended however the PLH did make reference to purchasing a limiter. Officers had offered to assist the premises in setting the device up to ensure the sound system did not continue to cause noise nuisance, but no response had been received.

Members asked Mr Carter if officer advice had been adhered to either partially or in full. Mr Carter provided that early on advice was clearly ignored and it seemed that the issues were particularly bad when guest DJ's were performing at the premises and that the PLH would have no control over the noise levels. On discussions with the PLH and manager, officers had made clear what was expected and what the result of non-compliance could be, however complaints continued to be received and the PLH took no further action.

Sgt Horton, in making his representations, advised members that premises was the only operating purpose-built nightclub in Chorley and was permitted to open until 6am. It was his view that the premises, if run badly, could have a serious adverse impact on the licensing objectives. Sgt Horton had met with the new DPS, Miss Rachel Eastham on 2 August 2021 to go through the licensing conditions on the licence, she was provided a paper copy of the conditions. On the 3 August 2021, the Police received intelligence that there was drug dealing happening in the venue. They contacted the PLH to make him aware, so he could act and check the premises or ask the door staff to check that it was not happening in the venue. The PLH acknowledged the concerns and suggested that the police carry out warrants on people's home addresses.

Sgt Horton explained there were several police logs in relation to the premises. One log from the 26 July 2021 recorded music from the venue which was that loud it could be heard inside Chorley Police Station. The Police had received a call on 7 August 2021 from a resident who wanted to complain about the noise at the premises, they had already attended the premises and was told, "the party won't stop." Sgt Horton advised members that he had met with the PLH on 19 August 2021 and spoke to him

about getting better and more regular door staff and controlling the noise from his drum and bass events. He advised the PLH that regular noise complaints about the premises would lead to an inevitable licence review if he did not control the volume properly. The PLH advised that attendances were steadily declining.

On 24 and 25 September 2021 upon learning of the application to review, several observations were carried out by officers from Lancashire Constabulary. At 10pm the loud drum and bass music started, with the noise being that loud it was heard from the unmarked car with its windows wound up. When driving past the venue entry, Sgt Horton saw the doors were wide open and door staff were engaged in conversation with a small group smoking outside. Officers returned to the car park just after midnight and the music was still audible inside the vehicle with the windows up. A Police Officer had attended the venue and spoken with a member of staff who presented a sound limiter. The staff claimed that the DJ for the event was removing the limiter and turning the sound up, staff were trying to put the limiter back in place.

At 3am on 25 September 2021 police attended a call to the premises, that a father had arrived to remove his 16-year-old son. The 16-year-old had used a picture of somebody else's passport on his phone as ID rather than an original document. Officers overheard a member of door staff telling the child he would be admitted next week. Sgt Horton advised members that two licence conditions were identified as being breached that night.

Members expressed disappointment at the lack of engagement from the PLH and DPS and their failure to address the issues the premises was causing.

In summarising, Mr Carter advised that the licensing objective of the prevention of public nuisance was being undermined. There were continuous occurrences of noise complaints and the Environmental Health Department was no longer satisfied with the PLH's ability to promote the licensing objectives. Nearby residents were on edge and constantly wondering when the noise would begin again and were spending time reviewing social media. Officers could not guarantee there would be a change of practice and had no other option but to apply for a review.

In response to a member enquiry, both Mr Carter and Sgt Horton provided that no alternative conditions had been provided to them by the PLH.

### **Resolved:**

Members took account of the application and relevant representations, the Council's Statement of Licensing Policy and the Section 182 guidance issued by the Home Office, the licensing objectives and the Human Rights implications including Article 6, Article 8 and Article 1 of the First Protocol. After careful consideration members resolved, pursuant to Section 52(4)(e) of the Licensing Act 2003, to revoke the premises licence for the following reasons:

1. Members were satisfied that the prevention of public nuisance objective was being undermined at the premises, arising from licensable activities and in particular, from regulated entertainment and lack of control of entry and exit of customers.

2. The Environmental Health Officer had found incidents of statutory nuisance originating at the premises. Statutory nuisance is a high threshold.
3. The noise nuisance was repeated and not an isolated event.
4. There were multiple noise nuisance complaints from different persons living nearby.
5. Some of the noise issues were witnessed by the police even after it was known that an application to review the premises licence had been made showing a lack of a proper response from management at the premises.
6. The police had identified a 16 year old in the premises after 22:30 hours in breach of a condition attached to the premises licence and there was hearsay evidence that the door staff at the premises promised to re-admit the minor at a later date. He had been admitted on the strength of a photograph of a passport rather than an original document, in breach of a condition of the licence.
7. There was evidence of breach of a licence condition prohibiting drinking alcohol outside.
8. The Environmental Health Officer gave evidence that a door had been propped open allowing noise to escape.
9. There had been a lack of proper management of the premises.
10. It was clear to members that the licensing objectives of the prevention of public nuisance and protection of children from harm were not being promoted.
11. Members heard nothing from the premises licence holder to persuade them otherwise as he had failed to attend the sub-committee hearing. His absence from the hearing meant that there was no rebuttal of the complaints about the operation of the premises.
12. Members noted that the Environmental Health Officer (EHO) stated that there had been little complaints from 24 September. However, he also gave evidence that this was the start of the compliance period under the abatement notice and that the premises carried on as normal allowing noise nuisance right up to the start of the compliance period. The EHO stated that there had been little engagement from the premises. This was consistent with the evidence of the police who gave evidence that the premises licence holder had responded to reports of drug dealing at the premises by suggesting that the police execute warrants when members felt that the correct response was to tackle the issue at source at the premises. The premises licence holder did not show willingness to tackle problems arising at the premises. Members considered that the issues leading to the review meant the premises could not be trusted to improve.

Chair

Date