

Licensing Sub-Committee

Minutes of a Meeting of the Licensing Sub-Committee held in Committee Room No. 2, Civic Centre, Tannery Lane, Ashford on the **21st November 2017**.

Present:

Cllr. Bradford (Chairman);

Cllrs. Mrs Dyer, Mrs Webb.

Cllr. Feacey (Reserve Member)

Also Present:

Cllr. Farrell

Licensing Officer (AS), Licensing Officer (JP), Principal Solicitor, Member Services Officer.

PC A Pringle, PC C Hill – Applicant's Representatives.

PCSO K Welbourne – Licensing Co-Ordinator, Kent Police

Mr T Smith – Interested Party

Mr A Barlow - Press

231 Election of Chairman

Resolved:

That Councillor Bradford be elected as Chairman for this Meeting of the Licensing Sub-Committee.

232 Declaration of Interest

Councillor Farrell made a Voluntary Announcement as he was employed by The Deltic Group. He was attending the meeting as Ward Member and therefore would only be observing proceedings.

233 Minutes

Resolved:

That the Minutes of the Meeting of this Sub-Committee held on the 1st August 2017 be approved and confirmed as a correct record.

234 The Auction House, 7 New Street, Ashford – Application for Review of the Premises Licence

The Chairman opened the meeting and welcomed all those present. The Principal Solicitor advised that this meeting was a public meeting and it was intended to hear the whole application in public. However, if during the course of the hearing any items arose that required private or confidential matters to be discussed, it may be necessary to exclude the press and public for that part of the meeting. Members confirmed that they had read the papers relating to the application. The Chairman explained the procedure to be followed at the meeting.

The Licensing Officer (AS) then gave a brief summary of her report. She said the application to be considered by the Sub-Committee was for the review of the premises licence under the provisions of Section 51 to the Licensing Act 2003. The application had been made by Acting Chief Inspector Andrew Bidmead on behalf of the Chief Officer of Police and she confirmed that the application had been made in the correct manner.

Representations had been received from Trading Standards, Kent Fire and Rescue and a Chartered Surveyor acting on behalf of Michael Yoakley's Charity. These were also included with the papers (Appendices C, D and E). The grounds for the review as stated by the Applicant were grievous bodily harm assault by the use of glass, failure by door staff to detain the offender, poor management of outside area of premises when a group were ejected and the ineffectiveness of the Designated Premises Supervisor. The Licensing Officer concluded by outlining the decision options available to the Sub-Committee.

PC Pringle, on behalf of the Chief Officer of Police, outlined the application for a review of the premises licence. The review had been based upon an incident of grievous bodily harm that had occurred on 8th/9th September 2017. A male had had a glass forcibly thrown into his face, resulting in serious lacerations to his face. In a separate incident that same evening two males had been involved in an assault resulting in one of the males falling onto broken glass in the smoking area, resulting in a wound on his wrist. There was a casual approach to glass and the risks that it posed at the premises, the latter of these incidents highlighted that.

PC Pringle advised that it was a bar with a capacity of 130 persons, however on a Friday and Saturday evening the premises resembled a small nightclub. The premises were a member of Pubwatch, a voluntary paid scheme that afforded members a town-net radio and direct contact with both the Council's CCTV team and Kent Police. Mr Daly, the licence holder and Designated Premises Supervisor (DPS) for the Auction House, did not attend the monthly Pubwatch meetings, however Rightguard Security, who supplied the door staff to the premises, did. The Auction House did not share information or nominate anyone for banning under the scheme.

PC Pringle gave the Sub-Committee an overview of the history of the premises; in particular the expedited and summary reviews that had taken place in 2015. These reviews had taken place due to a serious incident involving glass and the Sub-

Committee, at the time of the expedited review made an interim decision that required the Auction House to serve drinks in either plastic or polycarbonate vessels. At the summary review the Sub-Committee reinstated the use of glass vessels as they had been assured that steps had been put in place to minimise incidents involving glass.

Drawing attention to the papers submitted by the Police in the making of their application to review the premises licence, PC Pringle reiterated the request to remove Mr Daly as the DPS. The incident that had brought about the review under consideration today was a repeat of the previous incident that was the subject of the expedited and summary reviews in 2015. There had been little change in the way that the premises were managed. There had been breaches of the premises licence and a failure by the DPS to promote the licensing objectives. The DPS did not work with nor interact with the Police. Mr Daly was always polite and respectful when communicating with the Police however he had a casual attitude towards responding to requests for information and would not answer questions.

PC Pringle drew the Sub-Committee's attention to letters that he has sent to the DPS in both 2016 and 2017 regarding incidents that had taken place at the premises and issues surrounding the CCTV system. It was also noted that Mr Daly had suggested making the bar manager the DPS, which was welcomed by Police however this had never come to fruition. There had been repeated delays in receiving CCTV footage from the premises, with the longest delay upwards of two months. Arrangements had been made to meet Mr Daly at the premises to discuss concerns regarding a female member of the public assaulting Police Officers after leaving the premises. Mr Daly failed to attend this meeting, which had been arranged at the premises. PC Pringle highlighted a number of occasions when contact had been disregarded by Mr Daly, with one resulting in the Police attending the premises and seizing CCTV footage to enable them to investigate a claim of assault by a member of the door team. The footage disproved this claim and the Police made a recommendation that body worn cameras would assist door staff and protect against false allegations.

Kent Police has requested the hours of alcohol sales and operation be reduced. PC Pringle drew attention to a bar chart that showed a breakdown of incidents at the premises and the times at which they occurred. It was considered that a reduction in hours would greatly assist in reducing the level of incidences at the premises. Since May 2016 there had been 2 incidences of GBH, 13 of ABH, 9 common assaults, 2 sexual assaults, 1 fear/provocation of violence, 1 theft and 1 allegation of drink spiking at the premises. Five of these incidents involved glass. PC Pringle advised of an incident whereby a female had a glass thrown in her face causing lacerations. Drawing attention back to two incidents that occurred on 8th/9th September PC Pringle advised that the manner in which they had been dealt with differed quite dramatically. The first incident that resulted in serious lacerations to a males face had not been reported to the Police by the venue nor had first aid been provided to the victim. The male injured in the other incident had received first aid and been attended to by an ambulance. PC Pringle questioned why these incidents had been treated so differently. The response to the former incident showed a blatant disregard for the licensing objectives. Furthermore, Kent Police requested the CCTV of that evening on no fewer than 12 occasions, with CCTV footage having to

be seized by Police. Upon seizing the footage it became apparent that the CCTV system had not been merged as had been a condition imposed by the previous review and footage had been wrongly identified. By refusing to supply the CCTV footage when requested Mr Daly had obstructed the Police and had broken the conditions of his premises licence.

PC Pringle indicated to the Sub-Committee that he wished to show CCTV footage of the incident that had occurred on 8th/9th September and an image of a glass incident involving a female member of the public.

235 Exclusion of the Public

Resolved:

That pursuant to Section 100A(4) of the Local Government Act 1972, as amended, the public be excluded from the meeting during consideration of the following item, namely 'The Auction House, 7 New Street, Ashford, TN24 8TN – Application for a Review of the Premises Licence' as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present there would be disclosure of exempt information hereinafter specified by reference to paragraphs 1, 2 and 7 of Schedule 12A of the Act and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

PC Pringle, assisted by PC Hill, during exempt session, showed the Sub-Committee CCTV footage of the incident that occurred on 8th/9th September. This footage was of the inside and outside of the premises. They also showed the Sub-Committee an image detailing injuries to a female member of the public who had been injured as a result of an incident involving glass.

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In summary, PC Pringle advised the Sub-Committee that there had been 5 incidents involving glass at the premises since May 2016. The risk posed to the public and members of staff from glass was real and had been witnessed through the showing of CCTV footage. He urged the Sub-Committee to consider the options put forward by the Police, including the revocation of the premises licence. The Sub-Committee may have some questions that would only be able to be answered by Mr Daly, however he was not in attendance at the meeting.

In response to a question, PC Hills advised that Mr Daly leased the building. The premises licence was in his name and he was the DPS. The Licensing Officer advised that the premises were currently closed. The Sub-Committee wishing for further information in relation to this closure invited the representative from the Press that was present to advise on what had been published in the local paper. Mr Barlow advised that their understanding was that a dispute had occurred between

Mr Daly and the owner of the building and a note was affixed to the premises stating that the lease had been forfeited.

PC Pringle advised that Pubwatch enabled scheme members to log in and provide details of incidents that had taken place and to nominate individuals for barring from member premises. A monthly meeting of the Pubwatch board considered all nominations and Kent Police were able to provide assistance with identifying individuals if appropriate.

The Sub-Committee questioned whether a premises licence holder or DPS had a duty to report incidents. PC Hill advised that whilst this was not a condition of the premises licence it was a moral issue as a responsible person. A small fracas may not require Police attendance but it should be noted and reported. PC Pringle added that at the monthly Pubwatch meeting he had repeatedly stated that any incidents involving weapons must be reported to the Police.

PC Pringle advised that he was unable to provide exact details on the number of prosecutions that had been carried out as a result of incidents at the premises. However it should be noted that victims did not always support prosecutions. During the last three year period incidences had increased at the premises from 12 in 2015 to 22 in 2017. Visits were carried out to premises in the Borough, with requests made of the late shift on Friday and Saturdays to attend premises for license checks.

The Chairman was concerned about the representations made by Kent Fire and Rescue Service (KFRS) and the Chartered Surveyor on behalf of a neighbour. KFRS had attended the premises and carried out a fire safety inspection on 19 October 2017 and confirmed that the public safety objective of the Licensing Act 2003 had not been adequately satisfied. The fire alarm panel had showed multiple faults and fires in certain zones. There were no records or evidence of maintenance of the system and the most recent fire risk assessment was dated 2014. The neighbour had advised that Mr Daly had not entered into an agreement to access their land and thereby was unable to gain access for fire escape purposes. They had made numerous attempts to contact Mr Daly and were considering blocking the exit to prevent trespass. The Licensing Officers confirmed that no comments had been received from Mr Daly on this or any other matter raised by parties that had made representations.

The Sub-Committee requested clarification on how the incident book was completed. They requested that Mr Smith, from Rightguard Security, who was present at the meeting explain the procedure followed by his staff. Mr Smith advised that the incident book was located in the office and was completed at the end of the shift and in the presence of the DPS or bar manager usually. The door staff would complete the form and if necessary provide Police with a statement. Door staff also had pocket books which enabled them to make notes during their shift to enable them to complete any incident reports at the end of that shift.

The Sub-Committee then retired to make their decision.

On return the Chairman read out the Licensing Sub-Committee's decision and reasons.

Resolved:

That:

- 1. Mr Alan Daly be removed as the Designated Premises Supervisor.**
- 2. The Premises Licence be revoked.**

The decision notice and formal wording read out by the Chairman is appended to these minutes.

LICENSING SUB-COMMITTEE
Tuesday 21st November 2017

**APPLICATION FOR A REVIEW OF THE PREMISES LICENCE FOR THE
AUCTION HOUSE, 7 NEW STREET, ASHFORD, KENT, TN24 8TN, UNDER THE
PROVISIONS OF SECTION 51 TO THE LICENSING ACT 2003**

LICENSING SUB-COMMITTEE DECISION AND REASONINGS

**OFFICER CASE
STATEMENT OF :**

Licensing Officer

**REASON FOR
MEETING:**

An application was made by the Police for a review for the premises licence for The Auction House, 7 New Street, Ashford, Kent, TN24 8TN, under the provisions of Section 51 to the Licensing Act 2003

DELIBERATION:

The Sub-Committee was advised at the meeting by the Licensing Officer of the Police's application. They heard representations by the Police in respect of their application, and in particular they amplified the incident that occurred on the 8th/9th September 2017. The police explained that since May 2016 there had been 2 incidences of GBH, 13 of ABH, 9 common assaults, 2 sexual assaults, 1 fear/provocation of violence, 1 theft and 1 allegation of drink spiking.

The Police, during exempt session, showed the Sub-Committee CCTV footage of the incident that occurred on 8th/9th September. This footage was of the inside and outside of the premises. The Police also showed the Sub-Committee an image detailing injuries to a female member of the public who had been injured as a result of an incident involving glass.

The Police drew attention to the previous review of the premises that had been undertaken in 2015. In particular, the issues relating to glass that had occurred at that time.

During questioning the Sub-Committee noted that the CCTV system was not being managed or maintained correctly in particular that the clock had not been changed from GMT to BST and any evidence obtained during that period of time would have been misleading. They also noted Police frustrations at their ability to obtain CCTV evidence during the previous 18 month period from the Licensee in relation to offences that had been reported and occurred in the premises.

Upon retiring to consider the review, the Sub-Committee recited to themselves the following:

That their decision should be made with regard to the Secretary of State's guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from either the guidance or policy clear or cogent reasons must be given. Members should be aware that If such departure is made the chances of appeal/challenge is increased.

The Sub-Committee also refreshed their minds of the options open to them.

The Sub-Committee considered the suggestions put forward by the Police as contained on page 45 of the report as follows:

- Removal of Alan Daly as the Designated Premises Supervisor.
- A reduction of hours of alcohol sales from 03:00 hours to 01:00 hours.
- A reduction of the closing hours from 03:00 hours to 02:00 hours.
- No further admittance after midnight. This would ensure that the Auction House could control and monitor persons on site in relation to alcohol consumption.
- Suspension of the premises licence for a period of time to allow for implementation of conditions and changes.
- An increase of door staff to four from 21:00 hours each Friday and Saturday night, All public holidays, and Events.
- A member of staff nominated as 'glass collector' to proactively remove empty glasses from the public areas to reduce its accessibility and the associated risk.
- All non-bottled drinks to be provided in plastic or polycarbonate glasses. Bottled drinks to be decanted into plastic or polycarbonate glasses or provided in plastic bottles. No glass vessels or bottles to be on the bar or in the public area at any time.
- Additionally to tighten the existing conditions as follows:
 - The licence holder will ensure that staff are fully trained in responsible sales of alcohol (BIIAB or equivalent) and that training records are kept.
 - A CCTV system shall be designed, installed and maintained in proper working order, to the satisfaction of the Licensing Authority and in consultation with Kent Police. Such system shall be:
 - Operated by properly trained staff
 - Be in operation at all times that the premises are being used for a licensable activity.

- Ensure coverage of all entrances and exits to the licensed premises internally and externally.
- Ensure coverage of such other areas as may be required by the Licensing Authority and Kent Police.
- Provide continuous recording facilities for each camera to a good standard of clarity. Such recording shall be retained (on disc, hard drive or other immediately retrievable facility) for a period of 30 days and shall be supplied to the Licensing Authority or a Police Officer **immediately** on request.
- The system should be checked and maintained daily to ensure it is in good working order, this should be entered into the incident book.

The Sub-Committee particularly noted that the Licensee did not attend the hearing or offer any mitigating evidence. In the absence of the licensee the Sub-Committee was compelled to accept the evidence of Police, particularly in relation to the licensing objectives of preventing crime & disorder and promoting public safety and conduct both within and outside the premises. They were also compelled to accept representations from Kent Fire and Rescue Services and the Chartered Surveyors that represented the neighbouring property of the Auction House, in particular in relation to the absence of a current fire risk assessment and the availability of vital fire exit and public safety.

The Sub-Committee noted that a great many allegations of crime had been made to Police in the previous 18 month period in relation to the Auction House. Many of these had been subsequently dropped as those who made the allegations did not wish to substantiate those allegations made. There was an impact on the ability of Police to deal with offences committed in the premises.

The Sub-Committee noted the haphazard entries provided in the incident book at the premises and subsequently added to the incident log and the Licensee failing to report the incident that occurred on 8th/9th September which was contrary to the licensing objectives.

Evidence presented to the Sub-Committee indicated that any conditions imposed on the license were unlikely to be adhered to and they had no confidence in the Designated Premises Supervisor in his ability to promote and uphold the licensing objectives. It was therefore their decision that Mr Alan Daly be removed as the Designated Premises Supervisor.

The Sub-Committee further considered the Police's request to amend the license at the Auction House, they had been very concerned that the current Licensing Conditions had not been fully

complied with, however the Sub-Committee moving forward had no confidence in the Licence Holder upholding the licensing objectives and his ability to put steps in place to rectify the ongoing issues at the Premises and their ability or willingness to continue to work with the Police.

The Sub-Committee felt consideration needed to be given to the amount and seriousness of incidents that had taken place at the Auction House and the failure of the License Holder to properly liaise with the Police, including making available CCTV footage in a timely and proper manner. It was therefore their decision that for the sake of upholding the licensing objectives to prevent crime and disorder and the promotion of public safety the premises licence be revoked.

DECISION MADE:

That:

- 1. Mr Alan Daly be removed as the Designated Premises Supervisor.**
- 2. The Premises Licence be revoked.**