

MINUTES of a meeting of the LICENSING SUB COMMITTEE held in the Council Chamber, Council Offices, Coalville on MONDAY, 9 JUNE 2014

Present: Councillors G A Allman, A Bridges and T Neilson

In attendance: Councillor J Legrys

Officers: Mr D Gill and Mrs M Meredith

Interested Parties: Ms S Booth (Designated Premises Supervisor), Mr G Owen, Insp. N Rixon (Leicestershire Police), PC C Turner (Leicestershire Police) and Sergeant M Watson (Leicestershire Police)

## **1 ELECTION OF CHAIRMAN**

It was moved by Councillor G A Allman, seconded by Councillor A Bridges and

RESOLVED THAT:

Councillor T Neilson take the chair for the remainder of the meeting.

## **2 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor N Smith.

The Legal Advisor explained that one of the panel members had recently arrived due to traffic problems. He requested a brief adjournment to enable any queries to be addressed prior to the commencement of the hearing.

The Sub-Committee was adjourned at 6.16pm and was reconvened at 6.21pm.

## **3 DECLARATION OF INTERESTS**

No interests were declared.

## **4 EXCLUSION OF PRESS AND PUBLIC**

The Legal Advisor explained that there had been a request from the Police to deal with this matter in private. He added that the representative of the Designated Premises Supervisor had no objection to this, however it was a matter for Members to determine. He clarified that Councillor J Legrys was observing as ward Member and had the right to remain should the matter be considered in private.

It was moved by Councillor T Neilson, seconded by Councillor G A Allman and

RESOLVED THAT:

In pursuance of the Licensing Act 2003 (Hearings) Regulations 2005/44, the press and public be excluded from the remainder of the meeting on the grounds that the business to be transacted involves the likely disclosure of exempt information as defined in regulation 14 to the Act and that the public interest in maintaining this exemption outweighs the public interest in disclosing the information.

## **5 APPLICATION FOR THE REVIEW OF A PREMISES LICENCE**

The Chairman introduced the parties and explained the procedure to be followed. The Hearing Regulations 2005 stated that the Authority must allow parties an equal period of

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time in which to present their evidence. It was agreed that the maximum time limit for each presentation be twenty minutes.

The Licensing Team Leader presented the report to Members, highlighting background information and the representations received. He advised that a request to submit a late representation had been submitted by the representative of the Designated Premises Supervisor (DPS), and in consultation with the Legal Advisor it was agreed to accept the late representation as the DPS was most likely to be affected by any decisions made by the Sub Committee.

There were no questions for the Licensing Team Leader.

Sergeant M Watson addressed the Sub Committee and presented the case on behalf of Leicestershire Police. He stated that with regret, Leicestershire Police sought to remove the DPS and to prevent her being present at the premises when licensable activity was taking place. He referred to the serious issues of crime and disorder which had been raised during the previous review application and the conditions which had subsequently been imposed. He recognised that the DPS had initially demonstrated good compliance and co-operation as she was Chair of Pubwatch and had successfully completed two recent test purchases, however the bundle demonstrated recent breaches of those conditions which showed that she was not supporting the Licensing objectives. He raised the following points for consideration:

- On 12 January 2014 an assault had taken place on the premises between two members of staff, one of whom had been cautioned and the other dismissed.
- On 14 January 2014 the DPS submitted a dispersal policy which had been accepted by the Police. Attention had been given to the terminal hour in respect of dancing and music.
- The first breach of the conditions occurred on 25 January 2014 during the closing event for the Emporium. Reference was made to PC Turner's statement which indicated that the Engine was at capacity and the door staff were one member short due to sickness. The DPS had been interviewed and had failed to address this, however she had accepted that 5 door staff should have been on duty. The premises should have reduced their capacity accordingly.
- CCTV footage was shown to the Sub Committee of a drunken male who was escorted outside and fell backwards directly into the middle of the road, the implications of which were clear and serious. Clarification was sought on how the male had become so drunk. It was suggested that the male was simply taken outside and left to fend for himself as there had been no calls to the CCTV operator or the Police despite the DPS stating that she had called it in. The DPS clearly felt that her responsibility ended at the front door.
- On 1 February 2014 a male customer had been allowed to re-enter the premises after the terminal hour. He was not smoking a cigarette. This showed a blatant disregard for the conditions imposed.
- CCTV footage was shown demonstrating breaches in respect of recorded music being played after midnight and dancing after hours. The DPS had claimed that the music was being played at a lower volume than normal and the dancing was spontaneous. This varied to the account shown by the CCTV. 2 Police Officers had reported loud music and flashing lights, and the Police did not agree that the dancing was spontaneous. This demonstrated that the DPS did not adhere to her own dispersal policy. Furthermore, a conversation with the door staff showed that they had a lack of knowledge in respect of the dispersal policy. It was suggested

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that the DPS was not giving an accurate account of events and was therefore undermining the public nuisance objectives.

- The DPS had refused to comply with a request for CCTV footage as no data protection form had been signed.
- The Police believed that the incidents showed a blatant disregard for public safety, the prevention of crime and disorder and public nuisance.

Councillor A Bridges asked if the man who was drunk had been picked up by the Police after the event.

Sergeant M Watson responded that they had not been informed about the incident so had never been aware of the situation and as such were not able to pick him up.

Councillor A Bridges asked what evidence there was that he was in fact drunk or on drugs.

Sergeant M Watson stated that there was footage which showed him inside the premises, however he accepted there may have been other vulnerability issues.

Councillor A Bridges referred to the CCTV footage she had viewed which appeared to be fixed on the entrance to the Engine for a number of hours. She asked if the Police could request that a camera be fixed on a premises for a set period.

Sergeant M Watson stated that the Police had had no input on the actions of the CCTV operator.

Councillor A Bridges asked if the Police would suggest that the barriers or the zebra crossing should be moved away from the entrance to protect people from themselves.

Sergeant M Watson stated that the incident was frightening and this was why the dispersal policy had been put in place. He felt that the duty of care to the patron had been neglected.

Councillor A Bridges referred to the request to remove Ms S Booth as the DPS. She asked the Police to expand upon why they felt she did not fulfil the role.

Sergeant M Watson referred to the issues and the fact that the conditions added at the previous review had been breached. He added that the Police felt the responses from the DPS were not accurate and that she had not co-operated during the investigation providing a written statement for instance rather than answering questions when interviewed under caution and they felt no longer able to work with the DPS because of this.

The Legal Advisor reminded Members that the DPS could not be required to incriminate herself and she was perfectly entitled not to answer any questions. He advised Members that they should not draw any adverse inference from the fact that the DPS preferred to produce a written statement following legal advice and was not helpful to the Police in proving their case.

Councillor G A Allman asked about the capacity of the premises and how this was monitored.

Sergeant M Watson advised that the capacity was 200 including staff. He was unsure whether this was monitored by a clicker system.

Councillor G A Allman asked if the Police were aware how much the drunk man had consumed on the premises.

Sergeant M Watson confirmed that he was not aware, however this issue was in respect of duty of care.

Councillor T Neilson stated that he was unsure why the previous incidents had been listed in the grounds for review. He asked if the assault between the two bar staff had been in any way related to the licensable activities.

Sergeant M Watson responded that he did not believe there were any issues in respect of drinking, however the incident obviously related to the prevention of crime and disorder which was one of the licensing objectives.

Councillor T Neilson asked if it was a personal disagreement between two staff members, or if it was in any way related to the running of the premises.

Sergeant M Watson responded that he was unaware of the reasons for the assault.

Mr A Grimsey sought clarification on Sergeant M Watson's statement that one of the grounds for the review was the fact that Ms S Booth had given a no comment interview.

Sergeant M Watson stated that was not what he was suggesting.

Mr A Grimsey pointed out that this was contrary to what Sergeant M Watson had stated earlier in the hearing.

Inspector N Rixon stated that Sergeant M Watson should not be subjected to cross-examination.

Councillor T Neilson stated that he did not see a problem with the question as Mr Grimsey simply sought to clarify what had been said.

Sergeant M Watson clarified that the no comment interview was one of many reasons for the review as it had caused a problem with the working relationship.

Mr A Grimsey asked what attempts were made to contact the DPS and when.

Sergeant M Watson stated that initially when collecting evidence for this process he had attempted to phone her and there had been great resistance in offering an explanation or the CCTV footage. When trying to arrange an interview, the Police were unable to talk to her in any detail.

Mr A Grimsey asked if any contact was made as part of the Police's partnership working commitments.

Sergeant M Watson stated that no contact was made because the Police were at the collation stage. He added that when the breaches occurred, officers did go and speak to the door staff.

Mr A Grimsey asked if any attempt had been made to contact the DPS directly over the last few months.

Sergeant M Watson stated that there had been contact previously when the dispersal policy had been agreed and at Pubwatch meetings.

Mr A Grimsey asked if the Police would agree that there was no evidence of customers being served out of hours, no evidence of underage sales, and no evidence of serious crime.

Sergeant M Watson stated that he was not trying to claim anything other than what had been submitted.

Mr A Grimsey asked if there had been any incidents at the Engine on the closing night of the Emporium.

Sergeant M Watson confirmed that there had been no incidents of violence or anti-social behaviour, he was simply reporting on the breaches of the conditions.

Mr A Grimsey asked if the Police had requested CCTV of the bar area to show whether the drunk male had been drinking inside the premises.

Sergeant M Watson advised that there was CCTV footage of the drunk male, however this simply showed him slumped so had not been presented to the Sub Committee.

Mr A Grimsey asked if the Police would accept that a written request was the appropriate way to request disclosure of CCTV footage.

Sergeant M Watson accepted that this was the case. He stated that there had been an initial discussion before preparing the appropriate form but this has not been submitted.

Mr A Grimsey asked if the Police would agree these issues were heightened when an interview under caution was being conducted and consideration was being given to referring the matter for prosecution.

Sergeant M Watson stated that he agreed fully.

Mr A Grimsey presented the case on behalf of the Designated Premises Supervisor. He urged the Sub Committee to consider this matter in context. He referred to the previous review and the fact that the circumstances now were vastly different in nature. He reiterated the need to treat this matter proportionally. He raised the following points for consideration:

- It was accepted that there had been a vast improvement since September and since the review there had been no incidents reported of violence, drugs, underage sales or loud noise nuisance.
- The incident regarding the drunk male was shocking but there was no evidence that he was served alcohol at the premises.
- The issues raised by the Police could have been resolved with partnership working. This had been lacking and therefore the DPS was unaware of the issues.
- Members were asked to concentrate on the specific issues that they felt had undermined the licensing objectives.

Mr A Grimsey asked Ms S Booth to comment on the specific incidents. She raised the following points for consideration:

- She had spoken to the Police about the drunk male. He was known to the staff and no one remembered serving him. The Police were offered the footage showing that he had not been served inside the premises but this was refused.

- The door staff were very strict about people re-entering the premises. The gentleman shown on the footage was in fact her partner. No patrons were let into the premises after 12am.
- No incident occurred regarding the drunk male so she had no logs to go on, however she remembered having a conversation with the CCTV operator. Usually the CCTV operator would also contact the premises if an incident was not reported and that did not occur either. No one could have anticipated the drunk male falling into the road and he did walk away from the premises afterwards.
- It was known that the premises were likely to be busy during the closing weekend for the Emporium, so four door staff had been booked for Friday and Saturday. The Friday was very quiet, and as such the coaches that arrived on Saturday were unexpected and the premises was inundated with people. No one had called in sick. A clicker system was in operation and there were 170 people on the premises. The police officer had asked the only member of staff who did not have a clicker about the numbers of patrons inside the premises. There were no issues that evening.
- The footage in respect of recorded music was from January. A dispersal policy had been put in place and background music was played. The CCTV footage showed people dancing and it can be seen clearly that they are talking and can hear each other as the music level is lower. The disco lights are now also switched off. The Police had been constantly driving up and down each weekend and their presence was known, and as such music had never been played any higher than at 50% volume.

Mr A Grimsey stated that he had never been in a review to discuss background music and the DPS had felt she was doing the right thing. He emphasised that there was no fighting at the premises and this was not the sort of breach that should mean the end of the DPS's business. He added that if a discussion could be had with Sergeant M Watson around what was appropriate in terms of background music, that would certainly resolve the matter.

Ms S Booth referred to the massive financial impact of the previous review which had been reported in the newspapers and had resulted in her losing several members of staff. She added that she had lost 60% of her takings week on week due to the reduction in hours. She added that she stood to lose her business and her home if she was unable to be present when licensable activities were taking place.

Mr A Grimsey invited the Sub Committee to review the CCTV evidence following Ms S Booth's explanation.

Councillor G A Allman asked what would normally happen if door staff were missing.

Ms S Booth stated that this had never happened before and was unexpected. She added that 4 door staff had been booked and none were missing.

Councillor G A Allman asked if 3 door staff was a normal number for a premises with a capacity of 200.

Ms S Booth advised that this had been stipulated as a condition during the previous review.

Councillor G A Allman asked how the drunk male was known to staff at the premises.

Ms S Booth advised that he was a local who drinks at the premises. She added that she had spoken with him following the incident and he had apologised.

Councillor G A Allman asked if Ms S Booth had been Chair of Pubwatch.

Ms S Booth advised that she remained Chair of Pubwatch.

Councillor A Bridges asked for more information about the argument between the two staff members.

Ms S Booth advised that this was regarding a comment on social media and was not pertaining to work.

Councillor T Neilson referred to the dispersal policy and pointed out that the CCTV footage seemed to show reduced volume and tempo for the 20 minutes after trading rather than the last 20 minutes of trading.

Ms S Booth explained that the lights and music were turned down at 12:10am and this continued until people started dispersing, between 12am and 1am. She added that the issue previously was the volume of people leaving at any one time.

Sergeant M Watson referred to the incident on the closing night of the Emporium and asked if it was true that there had been full disclosure at the Pubwatch meeting regarding the anticipated levels of patrons.

Ms S Booth agreed that this had been discussed, however the Friday night had not been busy and there had never been suggested that 5,000 people would be arriving.

Sergeant M Watson sought clarification that the CCTV did show people dancing and it wasn't in fact spontaneous.

Ms S Booth felt that this would depend upon your definition.

Sergeant M Watson asked if Ms S Booth would agree that loud music had been played and more people were dancing after hours.

Ms S Booth stated that she did not agree.

Sergeant M Watson gave a brief closing speech reiterating points made earlier in the hearing. He concluded that the DPS had demonstrated a blatant disregard for the conditions imposed by the Sub Committee and had undermined the licensing objectives. He could not envisage what further conditions could be imposed to resolve this.

Mr A Grimsey made a brief closing statement reiterating points made earlier in the hearing. He stated that the Police had jettisoned the DPS after the last review and did not appear to feel the need to work with her. He added that it was apparent that no licensee could work effectively under such levels of scrutiny. He concluded that these issues could have been resolved by partnership working with the Police, and given the victimless nature of the breaches, he asked Members to encourage both parties to work together to resolve these issues.

Ms S Booth made a brief closing statement. She stated that she had not breached the licensing law and this would have been a reckless thing to do given that the Police were checking on the premises each weekend. She stated that the Police needed to work with her to move matters forward and felt that they had not given her a chance.

At 7.39pm the Sub Committee adjourned to consider its decision and reconvened at

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8.15pm.

Having considered all the evidence and the representations made, Councillor T Neilson made a few observations on behalf of the Sub Committee before providing the decision.

The Sub Committee believed that there had been breaches of the conditions on the licence.

On 25 January, entry of any other persons should have been prevented once the total number of people inside the premises reached 150.

The Sub Committee had evidence that licensable activity had continued after the terminal hour and believed that the music and disco lights needed to be turned off and the main lights switched on at 12.30am on Fridays and Saturdays.

However other than this the Sub Committee did not feel that there was a demonstrable pattern of behaviour that would indicate the DPS was undermining the licensing objectives in the way that the applicant was suggesting.

The Sub Committee recommended that some way be found to repair the damage done to the working relationship between the Police and the DPS.

It was therefore

RESOLVED THAT:

No further action be taken.

The meeting commenced at 6.15 pm

The Chairman closed the meeting at 8.17 pm

Chairman's signature