

Licensing Sub-Committee

Friday, 2nd December, 2011

PRESENT: Councillor J Dunn in the Chair

Councillors C Townsley and G Wilkinson

143 Election of the Chair

RESOLVED – Councillor Dunn was elected Chair for the meeting.

144 Appeals Against Refusal of Inspection of Documents

There were no appeals against the refusal of inspection of documents.

145 Exempt Information - Possible Exclusion of the Press and Public

RESOLVED – That the public be excluded from the meeting during consideration of that part of the agenda designated as exempt information on the grounds that 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 to them of exempt information so designated as follows:-

- (a) Appendix D of the report referred to in minute 148 both in terms of Regulation 14 of the Licensing Act 2003 (Hearing Regulations 2005) and the Licensing Procedure Rules, and on the grounds that it is not in the public interest to disclose the contents as the information therein pertains to an individual and that person would not reasonably expect their personal information or discussions thereon to be in the public domain. Additionally the information relates to ongoing police investigations which could be jeopardised if discussions were held in public; and
- (b) The Sub Committee also noted that the press and public would also be excluded from that part of the hearing where Members deliberate the application as it is in the public interest to allow the Members to have full and frank debate on the matter, as allowed under the provisions of the Licensing Procedure Rules.

146 Late Items

No formal late items of business were added to the agenda for the meeting, however in respect of agenda item 6 (minute no 148 refers), the Sub Committee received the following:

- supplementary information from the Environmental Protection Team entitled 'Review of the Premises Licence, The Fellmonger';
- a copy of the Premise Licence;
- a Statement of Lee William Wilson;

- a Statement of Guy Thomas Lissimore;
- a Statement of Martin Richard Hall;
- a Statement of Marc Ronald Burnham– Thomas; and
- a chronology prepared by the Licence Holder entitled – ‘History of Ownership and DPS Appointments with Events.

147 Declarations of Interest

There were no declarations of interest.

148 "The Fellmonger"

The Sub-Committee considered a Review of a Premises Licence held at the premises known as “The Fellmonger” North Parkway, Seacroft Leeds LS14. The Review was considered under the provisions of Section 167 of the Licensing Act 2003 following the issuing of a Section 161 Closure Notice by West Yorkshire Police at the premises on 17 November 2011. The Licensing Authority was therefore required to review the Premises Licence under the provisions of Section 167 of the Act.

Present at the hearing:

- West Yorkshire Police – the applicant, represented by Mr Patterson, PC Dobson, Inspector Emmett. (WYP);
- Sergeant Rob Fulliove, Inspector King and PC Shelton (observers)
- Councillor Vonnie Morgan (witness for WYP);
- Leeds City Council (Environmental Protection Service), represented by Gurdip Mudhar; and
- CAL Management Ltd – Premise Licence Holder (PLH), represented by Nadeem Bashir (Counsel);
- Lee Wilson, Duty Manager at “The Fellmonger”;
- Martin Hall of Zolfo Cooper (the administrator); and
- Guy Lissimore Director of Asset Manager Solutions and Marc Burnham – Thomas, Area Manager of Asset Manager Solutions (appointed by the administrator to run the pub).

The Sub-Committee first considered representations from WYP who provided the background of events leading up to the Section 161 Closure Notice being issued and also the previous history of the premises highlighting the following:

- the number of serious incidents that have occurred at the “The Fellmonger”;
- the measures previously put in place to reduce the number of incidents occurring;
- the effect of the disturbances at “The Fellmonger” on the residents surrounding the pub;
- the family connections and repeated involvement of the same individuals in the incidents irrespective of management structure;
- the lack of appetite from the present owners of “The Fellmonger” to re-brand the pub due to financial constraints imposed by the administrator in control of the pub; and

- that the premises had not engaged with pubwatch.

WYP also called the local ward Councillor, Vonnie Morgan, as a witness who informed the Committee of the complaints she had received which, were increasing. Cllr Morgan also informed the Committee that she has received no complaints from other premises in the ward.

Further to this, the Leeds City Council (Environmental Protection Service) representative provided details of complaints received between 2007 and 2010, it was highlighted that no complaints had been received in 2011.

The Sub Committee then heard from the PLH who responded to the submissions of WYP in detail. Evidence was called from Guy Lissimore, Director of the PLH, Mark Burnham – Thomas, Area Manager on behalf of the PLH, Martin Hall on behalf of the Court appointed administrators and Lee Wilson the current manager of the premises. Nadeem Bashir, counsel for the PLH, highlighted the following points which the sub committee gave careful consideration to:

- W Licensing Ltd were the new PLH and that they should not be held responsible for previous failures;
- the experience of the management company in managing many venues successfully;
- only the one incident, that had led to the closure order, under the tenure of the current holders and that had happened shortly after they assumed control;
- the conditions proposed were a serious effort to address the issues and provide a way forward for these premises
- the premises had remained shut voluntarily since the incident which led to the closure order and would remain shut until the new DPS took over;
- a new DPS, acceptable to WYP, would be appointed following a successful interview process;
- although Asset Manager Solutions Ltd were operationally in control the administrators appointed by the court were required to maximise asset realisation and therefore were limited in terms of allowing funding for re-branding meaning the options with regard to re-branding were limited.

In summing up for WYP PC Lynn Dobson made the following key points:

- there has been 5 changes of PLH and 9 changes of DPS in recent years;
- the PLH has no appetite to re-brand and re-furbish the premises, which could possibly be something that could improve the situation the pub faces;

- the conditions submitted to the committee by the PLH were, unacceptable and unenforceable, with nothing to show how the licensing objectives would be upheld;
- revocation would be a serious step and could result in displacement but WYP viewed this as the only option; and
- suspension of the licence would not be appropriate as it does not address the problems of these premises.

In summing up on behalf of the PLH Nadeem Bashir made the following key points:

- the police objected to linking with old with the new in terms of current DPS Lee Wilson continuing in the role, however the police were doing just that by linking this PLH with what had gone before, and that in any case the proposal had been for an acceptable DPS and this would not necessarily have been Mr Wilson;
- Asset Manager Solutions (AMS) had only recently taken over the premises and in line with the administrators instructions were getting to grips with the premises. Further to this, AMS are considered a responsible company who would manage the premises responsibly despite them being in a challenging area; and
- the Conditions submitted were serious proposals and AMS had committed to keeping the premises shut until an acceptable DPS was in place.

Following full and lengthy consideration of the options open to the Sub-Committee in the determination of Review applications Members made the following decision:

RESOLVED – To revoke the premises Licence.

Whilst the Committee accepted that these were new premises licence holders and had some sympathy with the argument that they should not be responsible for previous failures, Members felt they could not ignore the history. These were tough premises in a tough area and to continue to operate they would need a strong management team.

This management company did have experience but there were no proposals on the table to show how they would address the problems caused by the 8-10 individuals whose names cropped up repeatedly in the incidents.

Given the constraints of the administration and lack of a proposed and checked acceptable DPS/manager the committee could not conclude that allowing the premises to operate would uphold the promote the licensing objectives.

The conditions proposed were those which would often appear on premises licences in any event and on their own did not address the issues at this premise and would not adequately promote the licensing objectives of prevention of crime and disorder.