

Licensing Sub-Committee

Monday, 14th May, 2012

PRESENT: Councillor S Armitage in the Chair

Councillors G Hyde and B Selby

277 Election of the Chair

Councillor Armitage was elected Chair of the meeting

278 Late Items

Although there were no formal late items, the Sub-Committee was in receipt of the following additional information to be considered at the meeting, copies of which had been circulated before the day of the meeting:

- supplementary documentation submitted by the applicant
- supplementary documentation submitted by the Premises Licence Holder
- an e-mail from Councillor Coulson – Ward Member for Pudsey Ward

279 Declarations of Interest

There were no declarations of interest

280 Preliminary matters

Prior to the commencement of the Review Hearing, Mr Whur raised a preliminary issue regarding the CCTV footage which Mr Sutherland had provided to be considered by Members and referred to a letter he had sent to the Licensing Section on this matter, particularly on how the images had been captured; that notices to indicate that CCTV recorded images were being made had not been put up and that the images could contravene guidelines under the Data Protection Act

Mr Sutherland stated he believed that recording images from a private dwelling was acceptable and had consulted West Yorkshire Police in 2011 about this

To assist the hearing, the Legal Adviser suggested that when the CCTV footage was viewed, the public be excluded, with no objections being raised from the public who were in attendance

281 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 of 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) CCTV footage captured by Mr Sutherland with concerns that showing this in the public domain could be in contravention of the Data Protection Act

- b) To note that the press and public will 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

282 "Bojangles" - Review of a Premises Licence for Bojangles, 28 - 30 Lowtown, Pudsey, Leeds LS28 7AA

The Sub-Committee considered an application made by local resident, Mr Keith Sutherland, under Section 51 of the Licensing Act 2003 for the Review of a Premises Licence in respect of Bojangles

The following were present at the hearing:

Mr Sutherland – applicant
Mr Moore – Premises Licence Holder
Mrs Moore – Business Partner in Bojangles
Mr Whur – Licence Holders Agent
Mr Grinion – Provider of security at the premises
Mr Brown – Provider of security at the premises
Sgt Fulillove – West Yorkshire Police
Ms Sanderson – West Yorkshire Police
Ms Longfellow – Licensing Officer
Mr Rix – Licensing Officer

The Licensing Officer presented the report and tabled some larger scale maps of the premises and surrounding area, for the benefit of the Licensing Sub-Committee

Mr Sutherland presented his case and indicated he wished Members to view some of the CCTV footage at which point the members of the public who were present at the hearing left the room

The Sub-Committee viewed a series of images showing people urinating in the street; congregating outside the premises; an incident of alleged drug-taking and a member of the public gesticulating to a passer by, who was the applicant's wife, with Mr Sutherland stating that a racist comment had been made to Mrs Sutherland by the person shown on the footage

Following Members' viewing of these images, the public were allowed back into the meeting

Mr Sutherland continued to present his case stating that although he owned 26 Lowtown, he had only recently begun to reside in that property and that he owned 2 of the three properties in Studley Terrace which were served by an access where several of the incidents shown on the CCTV footage had occurred

Whilst originally a request for longer opening hours had been refused by Planning Services, with this also being refused on appeal, a temporary permission for longer opening hours had been granted with a permanent planning permission for

longer opening hours having been recently granted despite the approval notice acknowledging the problems Mr Sutherland had reported as part of his objection to the extended hours

A sound attenuation report had been obtained by the Premises Licence Holder where the need for bar management procedures to prevent loitering after closing had been identified

Reference was made to a representation made by Mrs Howe who ran The Ironing Room located at 25 Lowtown Pudsey, with concerns that she was having to clean the area outside her premises following patrons at Bojangles which was adjacent to her shop using this area inappropriately

Reference was made to the photographs submitted by Mr Sutherland, with larger copies and the original images being shown to the Sub-Committee. These images showed the location of the Premises Licence Holder's CCTV equipment to demonstrate that the images captured by Mr Sutherland would also have been captured by the cameras attached to the premises, together with a group of people with horses who had purchased refreshment from Bojangles but had consumed this on the street

Mr Sutherland referred to representations from Councillor Coulson and queried whether he was fully aware of the situation at the premises

In terms of the outcome of the Review Hearing, Mr Sutherland requested that the operating hours of Bojangles be reduced in order to prevent people leaving the premises at 1.00am having consumed drink and then having to relieve themselves in the alleyway before going home

The Sub-Committee then heard from Mr Whur, on behalf of the Premises Licence Holder who referred to the Section 182 Guidance of the Licensing Act 2003 and asked that no action be taken by the Sub-Committee in what was essentially a neighbour dispute which was being fought out in licensing terms

Mr Whur referred to the lack of complaints about the premises, with the exception of Mr Sutherland and his tenant, Mrs Howe and pointed out that all of the responsible authorities were satisfied with how the premises were operating as were the local Councillors. Furthermore, nothing had been raised in respect of licensing objectives relating to the prevention of crime and disorder; public safety and the prevention of public nuisance

Whilst not disputing the incidents shown on the CCTV footage, Mr Whur referred to paragraphs 2.4, 2.38 and 2.39 of the guidance which related to the limited actions a Premises Licence Holder could take once patrons had left the premises and that beyond the vicinity of the premises behaviour and actions were the personal responsibility of those involved and that they were accountable for these actions in their own right

Mr Whur also stated that if Mr Sutherland had contacted Mr Moore to discuss the situation, staff could have worked with him to address these issues and that this offer was still open to Mr Sutherland

The Licensing Sub-Committee carefully considered the written, verbal and visual representations submitted from the applicant and the Premises Licence Holder's representative

The Licensing Sub-Committee noted that the objection was based on three grounds; the prevention of crime and disorder; public safety and the prevention of

public nuisance. The Licensing Sub-Committee also noted that none of the responsible authorities had raised any issue with the licensing objectives

Members noted that the applicant had not reported any of the incidents to West Yorkshire Police and that West Yorkshire Police were supportive of the Premises Licence Holder and were of the view that Bojangles was one of the better run premises in the area

The Licensing Sub-Committee was of the view that the issue of the alleyway was one of neighbour dispute and that it could best be resolved by discussions between the parties

RESOLVED - That no actions were necessary and that the circumstances of the review did not require the Premises Licence Holder to take any steps to promote the licensing objectives