

Licensing Sub-Committee

Tuesday, 4th December, 2012

PRESENT: Councillor C Townsley in the Chair
Councillors A Khan and G Wilkinson

103 Election of the Chair

Councillor Townsley was elected Chair of the meeting

104 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 of exempt information so designated as follows:

- a) Appendix D of the submitted report 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 documents as they contain information relating to action taken or to be taken in connection with the prevention, investigation or prosecution of crime
- 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

105 Late Items

There were no late items

106 Declarations of Disclosable Pecuniary and Other Interests

There were no declarations of disclosable pecuniary interests or other interests

107 Review of the Premises Licence for "Phono", 174 Lower Briggate, Leeds, LS1 6DT

The Licensing Sub-Committee considered an application made by West Yorkshire Police under Section 51 of the Licensing Act 2003 for the review of a Premises Licence in respect of Phono, 174 Lower Briggate LS1. It was noted that the application was originally scheduled for hearing on 17th September 2012, but following agreements between West Yorkshire Police and the Premises Licence

Holder, the hearing was adjourned to allow the new management team further time to satisfy West Yorkshire Police that they were promoting the licensing objectives

Present at the hearing were:

Sgt Fullilove – West Yorkshire Police
Mr Whur – Legal representative for the Premises Licence Holder
Mr Nathan-Geary – Representative for the Premises Licence Holder
Mr Kowiak – Member of Phono's Management Team
Mr Baxter – Designated Premises Supervisor – Phono
Mr Grinion – Protech Security
Mr Dyson – Protech Security

The Licensing Officer presented the report; outlined the activities and operating hours permitted in the premises licence and the steps the Sub-Committee could take when determining the review

The Licensing Sub-Committee then heard from Sgt Fullilove who stated that the review had been brought at the request of a Senior Police Officer, following several incidents, up to and including incidents on 14th and 15th July 2012. Since that time the Premises Licence Holder had addressed issues at the premises through bringing in new management and a new Designated Premises Supervisor (DPS) and that whatever the outcome of the review, Members were informed that West Yorkshire Police would work with the Licence Holder and his management team for the benefit of both parties

Sgt Fullilove briefly outlined the concerns which had led to the review being brought and which were documented in the submitted report. Members were informed that West Yorkshire Police had now only one remaining concern and that this related to the licensing objective of the prevention of public nuisance. Incidents of people attempting to gain entry to the premises in the early hours of the morning were occurring, with many of these taking place after 04:00, having been reported by door staff at the premises

West Yorkshire Police had concerns about this as the previous management at the premises had a connection with a particular client base which had sought to gain entry to the premises, and it was felt that this same client base were continuing to seek admittance to Phono and other premises in the area, with concerns that they did not bring anything positive to the venues they sought to be admitted to. The Police were also concerned about why the premises remained an attraction to this group, despite the change of management at Phono

Another concern to West Yorkshire Police was the recruitment of a member of staff who had experienced serious problems when employed at another venue in the city and that there was a lack of clarity about the role of this person at the premises, in view of recent visits by the Police to Phono. Whilst this issue was ultimately a matter for the management team at the premises, concerns remained in view of previous difficulties which had occurred involving this person

Sgt Fullilove also referred to traces of drugs which had been found on a police visit in November. The traces had been found in what was believed to be the staff toilet, although it had been stated that this was the disabled toilet. A routine Police visit on Saturday 1st December found traces of drugs in the men's toilet but the

disabled toilet was not able to be inspected as the Police were informed that the key could not be located

To address the licensing objective of the prevention of public nuisance, West Yorkshire Police requested a reduction in the trading hours of the premises, with an extra condition being imposed that the last customer to be admitted no later than 03:00; to cease licensable activities at 04:00 and for the doors to be closed at 04:30 hours, with Members being informed that this was considered to be reasonable and proportionate

In response to questions from the Sub-Committee, Sgt Fullilove confirmed that the problems which had occurred with the previous management about the CCTV were no longer an issue with the current management team and that there had not been any further incidents at the premises since the last one detailed in the submitted report, which had occurred on 24th November 2012

The Licensing Sub-Committee then heard from Mr Whur, on behalf of the Premises Licence Holder who sought clarification from Sgt Fullilove as to whether the sliding scale of incidents which could lead to an application for a review hearing remained in operation, and if so, whether Phono, since its new management had taken over, would have triggered a review. Sgt Fullilove confirmed that this 'traffic light' system was still being used and that since the current management team had been operating at the premises, a review would not have been triggered on the basis of the incidents which had been logged

Mr Whur referred to a meeting between West Yorkshire Police and the Premises Licence Holder which had taken place on 6th November 2012, where no further requirements in respect of the premises licence had been made by the police

Members were informed that Ravenpine Ltd as premises licence holder was a family-based company which had positively addressed the previous problems which had led to the review being brought. It was felt that the previous issues had been due to the use of an external promoter who was no longer affiliated to the premises. Time had been taken to find a new management team and the DPS, Mr Baxter, had been carefully selected, that he was experienced and was also a trainer of door staff

When the application for a review of the premises license was made, time was sought for the new management at Phono to build bridges and develop a relationship with the police, which had occurred

The premises operated with stringent levels of control through the use of regular and SIA registered door supervisors. Whilst there was the view that a particular group of people were trying to gain admittance to the premises, these incidents were being reported to the police. To further distance Phono from its previous problems, there would be a re-branding of the premises and its name would be changed in January 2013

Regarding the comments made by Sgt Fullilove, about a member of staff, these issues had been discussed with Mr Nathan-Geary and Mr Baxter who were supportive of their employee. In addressing the point raised by Sgt Fullilove, this person's role at the premises was clarified at the hearing

In relation to the points raised about the toilets at the premises, it was confirmed that the key to the disabled toilet was not available on Saturday 1st December 2012, and that Mr Baxter, who had not been on duty at the time, would take this issue up. The Licensing Sub-Committee was informed that management at the premises did not accept that staff were taking drugs; that a strict search policy

existed, which included staff and that random searches were also undertaken on staff, and that this policy was made clear at the induction process

The toilets had been reconfigured and that an attendant was present in the men's toilets, however, it was accepted that despite the rigorous searches which took place on customers entering the premises, there were ways in which substances could be brought in, undetected, and that it was likely that traces of drugs would be found in most premises

Concerning the management's relationship with the Police, Mr Whur stated that this had developed and that the level of contact which now existed would be maintained

Mr Whur referred to paragraphs 11.21, 11.22 and 11.24 of the Section 182 guidance, in respect of reviews and stated that the work done by the premises licence holder to address the previous problems was the most appropriate response and that this had occurred. To reduce the hours would be disproportionate in view of all the measures which had been taken by the new management team to deal with the previous issues

In response to questions from the Sub-Committee, it was stated that the capacity of the premises was 450; that by 8am at weekends, there were usually only around 20-30 customers on the premises; that a person named in the papers was no longer employed at the premises and there would be an impact of reducing the operating hours as requested by West Yorkshire Police. The reasons for this were that venues in close proximity opened similar hours to Phono and that was what the public expected; also customers would be unlikely to pay a door fee to enter premises which closed early. Whilst accepting the problems which occurred when an external operator was used, the events which had been organised at the premises had proved popular and that since this operator's removal, there had been a loss of revenue, which would be compounded if the opening hours were reduced

In summing up, Sgt Fullilove stated there was some anecdotal evidence that some of the client base which were causing concerns, were being allowed to enter the premises, to alleviate problems which were occurring. There were also issues about the validity of the calls for the police to attend at the premises. Mr Whur highlighted the issue of proportionality and balance and highlighted the experience of the DPS and the good working relationship with the Police which would be maintained

The Licensing Sub-Committee carefully considered the written representations from West Yorkshire Police and heard from the Police and the Premises Licence Holder's legal representative

The Licensing Sub-Committee acknowledged the seriousness of the incidents which had taken place at the premises in the past and considered that the review had been correctly sought. Members noted that the Premises Licence Holder had taken control of the problems at the premises and had replaced the Designated Premises Supervisor and the management team

Both parties accepted that there was a problem with people trying to gain entry to the premises in the early hours of the morning and the Licensing Sub-Committee imposed an additional condition that there were to be no admission to the premises after 04:00 on any night of the week

Members were also pleased to see that there was a working relationship developing between West Yorkshire Police, the Premises Licence Holder and the management team at the premises

RESOLVED - To impose a further condition on the licence in respect of no further admission to the premises after 04:00 on any night of the week