

Licensing Sub-Committee

Tuesday, 22nd April, 2014

PRESENT: Councillor B Gettings in the Chair

Councillors K Bruce and C Townsley

227 Election of the Chair

RESOLVED – Councillor Gettings was elected Chair for the duration of the hearing.

228 Appeals Against Refusal of Inspection of Documents

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

229 Exempt Information - Possible Exclusion of the Press and Public

Item 6 Appendix D of the report was identified as containing exempt information.

RESOLVED- That members of the public be excluded from the hearing in relation to exempt information.

230 Late Items

There were no late items on the agenda. However, there was a supplementary information pack that was published and circulated to all parties prior to the hearing.

231 Declarations of Disclosable Pecuniary Interests

There were no declarations of disclosable pecuniary interests.

232 Review of the Premises Licence for The Angel, High Street, Wetherby, LS22 6LT

Members of the Licensing Sub Committee considered an application for a review of the Premises Licence for The Angel, High Street, Wetherby, LS22 6LT. The application was submitted by West Yorkshire Police under, three of the licensing objectives:

- Prevention of crime and disorder;
- The prevention of public nuisance; and
- The protection of children from harm.

Ms Checka-Dover, Barrister for West Yorkshire Police (WYP) outlined the issues in relation to the review application as;

- Operating outside of premises licensable hours
- Use of the upstairs of the premises
- Assaults on or within the vicinity of the premises
- Non availability of CCTV when requested
- Lack of door staff as set out in licence

PC Lynn Dobson informed the Members that in April 2010 the Premises Licence Holder (PLH) applied for a variation to the licence for the upstairs of the premises to be used as a function/conference facility during the day and as an overspill bar in the evening. The extension in hours was granted in part and numerous conditions attached to the licence. Members were told that the upstairs was now used as a bar every day of the week.

Members' attention was drawn to page 97 which highlighted a visit to the premises to view CCTV footage. Mr Del Buono had been given notice of the visit but would not let the officers view the CCTV without speaking to his solicitor. After officers had been permitted to view the CCTV and were walking to the office Mr Del Buono shrugged his shoulders and said 'it is only half an hour' Mr Del Buono was informed that he was operating beyond his licensable hours.

The Barrister for WYP then brought the issue of a Temporary Event Notice (TEN) to the attention of the Members. Evidence submitted by Mr Del Buono had included the application of a TEN which was to cover the weekends during December 2013. Members had noted that the application carried no signature and asked for clarification of the TEN application electronic process. The Licensing Officer explained the electronic process for TEN applications and informed the Members that no application had been submitted to the Licensing Team as the email address had been spelt wrongly therefore no TEN had been granted for the Christmas period.

Inspector Dwyer informed the Members that the Angel had become a focus of his attention due to the criminal issues in relation to the upstairs of the premises. He told the Sub-Committee that the upstairs of the Angel was difficult to access as the only means of getting to the upstairs was via a domestic staircase inside the premises. From the police point of view the upstairs could not be monitored. The Inspector explained the need for and availability of CCTV evidence when investigating incidents at licensed premises.

A chronology of disturbances in and around the vicinity of the Angel was read out with a number of dates and incidents highlighted.

The Licensing Sub-Committee viewed CCTV footage and stills which showed bar staff serving drinks after hours on a number of occasions. The information captured on CCTV was not disputed by Mr Del Buono.

Mr Blake-Barnard, barrister for Mr Del Buono informed the Members that Mr Del Buono had been in the restaurant trade for 21 years running successful businesses. He told Members that Mr Del Buono had installed CCTV of a high specification covering both the downstairs which was an Italian restaurant and the upstairs known as 'The Dukes' which was used for drinks. Mr Blake-Barnard said that reducing the licensing hours of the Angel would move customers from the Angel to premises which were not covered by CCTV or door supervision.

Mr Blake-Barnard in response to information presented by WYP, told the Sub-Committee that in relation to the licensing objective protecting children from harm the test purchase in 2011 had been successful, however other test purchases were not successful.

Issues received in relation to drugs problems were historic the toilets where a swab had been previously taken and had shown that cocaine had been present were covered by CCTV, although not in the cubicles. The toilets were checked regularly by staff. The premises also has a 'drugs box', however, the police had never checked the box.

Members' attention was drawn to page 15 of the supplementary information which highlighted the upgrade of the CCTV at the premises, and the maintenance reviews of the system.

Mr Lockhart the Designated Premises Supervisor (DPS) was in attendance at the hearing and informed Members that he had been the DPS at the Angel since 2009. He had regularly attended Pubwatch meetings since 2011. He told Members that it was at a Pubwatch meeting that he had spoken to the Senior Licensing and Enforcement Officer about opening hours for the Christmas period. He said that he was told that Christmas was extended by one hour above the set closing time and whenever you wanted on New Year Eve, he had informed Mr Del Buono of these times.

The DPS informed Members that he had submitted two TEN applications for December 2013. He sent two as he realised that he had sent one blank, he had not realised that the second application had not gone to the Licensing Team as it had not bounced the email back. He had rung the Licensing Team to query the application, and had been told that it was being dealt with. Members enquired if Mr Lockhart had applied previously for TEN's and why he had not realised that he had not received an acknowledgement and not paid the fee.

In relation to footage of him serving drinks after hours he told the Sub-Committee that it may have been a friend but it was not the norm for him to serve friends after operating hours. He also told the Members that it took time getting customers out of the premises therefore customers were still leaving the premises at 1:00am.

Mr Del Buono the Premises Licence Holder (PLH) informed the Licensing Sub-Committee that he had been a licence holder since 1990. He had invested in the conversion of the Angel including installation of a high specification CCTV. He said that he had always responded to police requests and had used Protech Security for a number of years for door staff although it was not viable to employ door staff on a Thursday night. He told Members that the upstairs bar had originally been open each week day for meetings. However, it was not used and is now only open Friday and Saturday night or if there is a private function.

In response to a question from Members he said that he had rung his solicitor to ask about his rights as his partner Miss Spence had not notified him of the request from the police to view the CCTV. He told Members that he was aware that Mr Lockhart had phoned about the TEN and had been assured by his DPS that he was operating properly through December. He had not applied for Christmas or New Year only for the weekends leading up to Christmas as he had ladies parties booked.

In reply to Members question he informed the Sub-Committee that the restaurant was open Sunday to Thursday till 10:00pm and Friday and Saturday till 11:00pm. His staff had all gone by 12:30 and cashier gone by 1:00am. He told Members that it was a Continental style bar operating as a café during the day.

In relation to the successful test purchasers Mr Del Buono had done as requested and displays a Proof 25 Notice behind the bar.

The barrister for WYP in summing up highlighted the obligations of the PLH to inform the police in relation to incidents in or around the premises and that the PLH had breached a number of conditions of the premises licence.

The Licensing Sub-Committee heard from the West Yorkshire Police and the Premises Licence Holder and carefully considered all the information presented to them including modifications of the conditions sought by West Yorkshire Police.

RESOLVED - That the Licensing Sub-Committee resolved to modify the conditions of the Premises Licence as follows:

With regard to the downstairs premises they added a condition

- A minimum of 120 full covers to be maintained at the ground floor level at all times when the premises were open to the public.

With regard to the upstairs premises they modified the condition that:

- All licensable activities to cease at 23:00 hours;
- The PLH/DPS to ensure that no members of the public should be in the upstairs licensable areas after 23:30 hours;

In respect of the premises as a whole:

- No admission to the premises by members of the public after 22:30 hours

In respect of the Premises Licence:

- Conditions 10c-10i to be removed from licence; and
- Conditions 11-108 inclusive to be removed from licence