

## **Licensing Sub-Committee**

**Tuesday, 27th May, 2014**

**PRESENT:** Councillor R Downes in the Chair  
Councillors B Gettings and M Harland

### **251 Election of Chair**

**RESOLVED** - Councillor Downes was elected Chair for the meeting

### **252 Exempt information -Possible Exclusion of the Press and Public**

**RESOLVED** - That the press and public be excluded from the meeting during consideration of the following parts of the agenda designated exempt 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) Appendices B, C and E of the report and supplementary documents referred to in minute 258 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; and
- b) The Sub Committee also noted that the press and public would 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

### **253 Late Items**

There were no formal late items, however Members were in receipt of supplementary written information in respect of the application (minute 258 refers) and a memory stick had been provided by the applicant to view images from a CCTV camera at Tails and Spirits. West Yorkshire Police had also provided visual images extracted from the memory stick

### **254 Declarations of Disclosable Pecuniary Interests**

There were no declarations of disclosable pecuniary interests

### **255 Application to transfer a premises licence for Tails And Spirits, 4 Sovereign Place, Leeds, LS1 4SP**

The Sub Committee considered an application for the transfer of a premises licence for Tails and Spirits, 4 Sovereign Place LS1, made under Section 42 of the Licensing Act 2003. The application had attracted representations from West Yorkshire Police (WYP)

Present at the hearing were:

Miss Tomlins – Proposed licence holder  
Mr Tate – Proposed designated premises supervisor  
Mr Shalo – Co-tenant of Tails and Spirits  
Mr Ramby – Marketing  
Mr Rollinson – Audio contractor

Sgt Shaw – WYP  
Mr Patterson – WYP  
Ms Longfellow – Licensing Enforcement Officer

At the start of the meeting, Miss Tomlins indicated she had not received the papers for the meeting, although she had received some of the information, albeit not in the agenda pack compiled for the meeting. A short adjournment was allowed to enable Miss Tomlins to read the information. Following this and with the agreement of Miss Tomlins, the Sub Committee continued to consider the application

Miss Tomlins informed Members that many of the objections to the application raised by WYP referred to another premises, La Boheme, (run by Mr Shalo) - now closed - which she had not been involved in the day to day running of and could not respond to the concerns raised about those premises

As a Co-tenant of the lease for Tails and Spirits she had brought in an experienced person – Ryan Tate – who was applying to be the DPS to run the premises. Although not working full-time at the premises, due to other work and childcare commitments, Miss Tomlins would have regular contact with Mr Tate to discuss issues

Reference was made to an incident which occurred at the premises on its opening night, where the report of an assault had been made to British Transport Police (BTP) and that although Mr Tate has not witnessed the incident, Mr Shalo had and provided BTP with an account of the incident

Regarding the provision of sheesha on the premises, although the Deputy Manager had indicated on an enforcement visit that this was taken to patrons' tables, this had in fact been provided free for use outside when a sum of £10 was spent at the bar but was no longer offered. Miss Tomlins advised that the Deputy Manager was by nature nervous of the police

Concerning the sale of alcohol beyond permitted hours, this had occurred when the clocks had changed to British Summer Time; that the bar had been busy; that time had run away with the staff and that it was accepted that a mistake had been made and that it would not occur again

Miss Tomlins advised that she did not have a copy of the licence for the premises and stated that she wanted to work with the police and the Council

In response to questions from the Panel, Miss Tomlins outlined how the licensing objectives would be promoted and provided information on the security measures at the premises, included Check 25 and membership of Pubwatch. Fire safety measures were outlined as were measures to address noise nuisance and the protection of children from harm. Miss Tomlins also stated that Mr Shalo was currently working as a bar man in the premises and that if Mr Tate was not present and an issue arose, it would be the Deputy Manager, Mr Norcup who would assume responsibility. Members were informed that the capacity of the premises was 300-400

The Sub Committee then heard from WYP, with Sgt Shaw making reference to the links between Miss Tomlins, Wildcard Leisure; Mr Shalo and the premises known as La Boheme

Sgt Shaw raised concerns about the ability of Miss Tomlins to fully undertake her responsibilities as a PLH of Tails and Spirits in view of her other commitments; questioned the extent of her experience in the Licenced Trade and stated the view that it would be Mr Shalo who would be controlling operations at this venue, just as he had at La Boheme and therefore WYP had genuine concerns about crime and disorder at Tails and Sprits in view of the incidents which had occurred at La Boheme

Reference was made to the incident which had occurred on 29<sup>th</sup> March – the opening night – at the premises where an assault had been reported, with the Police Officer who attended concluding that it was Mr Shalo was in charge, with Mr Tate deferring to him. Members were informed that the incident related to the alleged non-payment of a promoter, something which had been a feature of incidents at La Boheme. Sgt Shaw stated that as Mr Shalo was unable to hold a premises licence, the application had been made in Miss Tomlin's name

In relation to the incident of serving beyond licensable hours on the Saturday night/Sunday morning when British Summer Time commenced, CCTV footage would show that Mr Shalo was serving alcohol at 3.20am, way beyond the additional hour which had been attributed to an error caused by the clocks changing. As Miss Tomlins did not dispute this had occurred, the Sub Committee stated they did not wish to view the DVD evidence at this time. Regarding the terms of the licence, Sgt Shaw stated the licence for the premises was compact, running to 3-4 pages in length and there was no excuse for not knowing the obligations of the licence

Regarding the use of sheesha on the premises, the Deputy Manager had been questioned about this on the enforcement visit and after 11.20pm, which was beyond the time permitted for outside use of the premises

Sgt Shaw then asked Ms Longfellow, LCC Enforcement Officer to provide information on the enforcement visit to the premises which she had participated in. Ms Longfellow stated that having spoken to the Deputy Manager, she was informed that the sheesha was coal rather than electric and would be taken to customers' tables, even if they were seated in the upstairs bar. Another colleague of Ms Longfellow's had asked a member of staff at the premises about the use of sheesha and was told it was for use outside. In view of this discrepancy, Ms Longfellow queried this with the Deputy Manager who advised it could be smoked inside but that he had now indicated he had not said this. Ms Longfellow stated that the premises were clearly trading beyond permitted hours; that a copy of the premises licence and conditions had been downloaded as a request was made on 29<sup>th</sup> March 2014 for an extension to the licensable hours for that weekend, which was refused due to the short notice

Sgt Shaw then summarised the concerns raised by WYP as outlined in their submission

Miss Tomlins confirmed that although working behind the bar currently, Mr Shalo would not be working at the premises once the organisation was up and running. She stated that WYP and BTP had made assumptions about the application and that on visits, Mr Shalo had been asked for by name, rather than 'the manager'. Miss Tomlins stated that she took the licensing objectives very seriously and acknowledged that help was needed to ensure these were promoted.

With reference to the DVD footage of Mr Shalo serving after permitted hours, Miss Tomlins advised that this was not a transaction but that Mr Shalo was serving a drink to a friend. The incident of serving beyond licensable hours had been an error and that sheesha had not been smoked inside the premises and was no longer available. Her willingness to work in partnership with the Police and Local Authority was reiterated

The Sub Committee then asked to view the DVD evidence which had been supplied by WYP

Following this, both parties were asked to leave to enable the Sub Committee to deliberate on the application

The hearing resumed with the Sub Committee's legal adviser indicating that Members wished to attach conditions to the licence. Mr Patterson advised this could not be done in this case as what was being considered was an interim application

Both parties were again asked to leave the room to enable clarification to be sought

Following further deliberation and clarification of the point raised by Mr Patterson the Sub Committee:

**RESOLVED** - That exceptional circumstances in this case had been established in relation to the crime and disorder licensing objective to reject the application as it was not possible to attach conditions to the licence as the Sub Committee would have liked to have done. Had Members been able to grant the licence with conditions these would have related to limiting the presence of Mr Shalo at the premises to unlicensed hours only and that Miss Tomlins and her DPS should meet at least monthly with WYP for at least six months and that Miss Tomlins be advised to attend a suitable, accredited training course

**256 Application to vary a premises licence held by Tails And Spirits, 4 Sovereign Place, Leeds, LS1 4SP to specify an individual as designated premises supervisor**

In view of the decision to reject the application for the transfer of a premises licence at Tails and Spirits, 4 Sovereign Place LS1, this application was not considered by the Sub Committee