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Our Ref: A61/HG/Puro review DL hg
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**“PURO” (FORMERLY THE FRUIT CUPBOARD) 50A CALL LANE, LEEDS, LS1 6DT -
REVIEW OF A PREMISES LICENCE FOLLOWING AN APPLICATION MADE UNDER
SECTION 53A OF THE LICENSING ACT 2003**

On 28th August 2009 the Licensing Sub Committee met to consider a Summary Review of the Premises Licence currently held at the premises known as “Puro” 50A Call Lane, Leeds, LS1 6DT in accordance with Section 53C of the Licensing Act 2003. The Review had been necessitated following application made by West Yorkshire Police, with the support of British Transport Police, under Section 53A of the Licensing Act 2003. Both Police Forces believed the premises was associated with serious crime and serious disorder.

This letter provides an outline of the matters considered at the hearing and provides the detail of the formal decision of the Sub Committee in respect of the Summary Review.

Background

Members were aware of the outcome of an Interim Steps Hearing associated with this Review which had been dealt with by another Sub Committee on 24th July 2009.

Furthermore, this Sub Committee had previously met on the 18th August 2009 to deal with the Summary Review however had adjourned the matter due to the amount and timeliness of documentation submitted by the parties.

Members had taken the opportunity to set a deadline for the receipt of submissions from all parties as 4.00 pm on Monday 24th August 2009 after which the agenda and papers for this hearing were despatched.

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In Attendance

The Applicant – West Yorkshire Police
Sergeant R Fullilove
Inspector G Alderson – British Transport Police

Mr B Patterson – Licensing Officer WYP

Premise Licence Holder – Truereason Ltd
Mr A Lyons – solicitor
Mr K Dolecki – Designated Premises
Supervisor at Puro and Operations Manager of
Truereason
Mr C Edwards – CEO of Truereason

Observers

Nicola Ellis – member of the public

Preliminary Procedural Issues

The Sub Committee considered preliminary matters of a purely procedural nature. No declarations of interest were made. The Sub Committee decided that the procedure for the hearing would not be varied except that they did not set a time limit for submissions and agreed to allow both parties 5 minutes in which to sum up.

The Sub Committee also considered if the public should be excluded from any parts of the hearing. The Sub Committee decided to exclude the public from that part of the hearing where Members would deliberate on submissions and evidence presented. This would allow them to have a full and frank discussion on all matters put before them and this fact outweighed the public interest in not doing so.

Prior to the hearing the Sub Committee had considered the Licensing Officers Report containing a copy of the application as made by West Yorkshire Police (WYP), supported by British Transport Police (BTP). Appended to the report were two bundles of documents submitted by WYP and Truereason Limited, the Premises Licence Holder respectively prior to the 24 August 2009 deadline. The contents were as follows:

WEST YORKSHIRE POLICE	TRUE REASON LTD
Statement of Insp G Alderson, BTP Statement of Sgt R Fullilove Statement of Sgt M Jackson Statement of Sgt R Pedley Statement of DI David Boldison Letter to Mr Dolecki from PC Arkle 3 Anonymous witness statements 2 anonymous letters Various Newspaper cuttings 1 anonymous e-mail Letter to WYP from Mr M Cunliffe of TWG 52 to end – Puro's incident report log WYP also submitted 2 DVD's (GLA01 and GLA02) with CCTV footage showing 2 incidents they wished to refer to within their verbal submission	Statements of Mr K Dolecki Statements of Mr C Barrow Statements of M C Edwards Various letters and e-mail correspondence between Mr K Dolecki and WYP and/or BTP Action Plan for Puro drafted by BTP Notes made by Mr Lyons of phone calls to WYP and/or BTP Policies – search, drugs, music, Glass, dispersal, queue and entry etc Analysis of evidence submitted by WYP/BTP Various news items from YEP/WYP/ BBC websites record of drugs seizure proposed "Boudoir" entertainment details of the CCTV set up email from "Call Lane" and emails/letters from other operators of Call Lane Anon e-mail & letter to WYP 2 e-mails of support

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The Legal Adviser explained that further information had been submitted by Truereason Ltd after the agreed 24th August deadline and sought to clarify whether this documentation would be accepted by WYP and the Sub Committee. This additional submission included a supplementary statement from Mr Dolecki; a condensed timeline of events leading up to the Review and a DVD showing CCTV footage.

Mr Lyons agreed the additional statement could be dealt with verbally during his submission. He maintained his request that the timeline and DVD be tabled. In response, Sgt Fullilove stated his objection in principle to the late submission of the documents after the agreed deadline, however he agreed in the interests of fairness to accept the timeline and DVD.

The Legal Adviser also sought to clarify the position with regards to the DVD footage submitted by both parties, noting that the Members of the Sub Committee had not viewed the footage. Mr Lyons stated his objection to the contents of GLA02 which he stated contained CCTV footage gleaned from the CCTV system of another premises on Call Lane – namely Revolution. He submitted the proprietors of Revolution had not given consent for this footage to be used for the purpose of this hearing and therefore this would not be a lawful use of the material under the terms of Article 2 of the Data Protection Act which required material to be used only for the purpose it was commissioned for. The Sub Committee received advice that Sections 34 & 35 of the Data Protection Act did provide exemptions to the terms of Article 2 – in that material could be used for the purposes of the prevention of crime and disorder. The Sub Committee determined the CCTV footage on GLA02 was admissible as this hearing would consider matters to prevent incidents of crime and disorder.

The Hearing

In considering the Review, the Committee took into account the written submissions contained within the Licensing Officers report plus the verbal submissions and DVD evidence given at the hearing by all parties. The Sub Committee also had regard to the provisions of the Licensing Act 2003, guidance under Section 182 (3rd issue) of that Act and the Council's own Licensing Policy and in particular Section 13 (Enforcement and Reviews).

The Sub Committee then went onto consider the Section 11 the Guidance (Reviews) as the Sub Committee took the view the following paragraphs had bearing on the application:

11:1 – 11:10	The Review process
11:15 -11:21	Powers of a Licensing Authority on the determination of a Review
11:22 – 11:27	Reviews arising in connection with crime

Reasons for the Review request

Both WYP and BTP had served a Certificate, given by a senior member of each police force, because in their opinion Puro was a premise which was associated with serious crime or serious disorder or both. That Certificate accompanied the application.

The grounds for the Review brought by WYP were detailed in the Licensing Officer's Report and can be summarised as:

- For some time both forces had been concerned about the level and severity of violent crime at Puro and intelligence that controlled drugs were freely available inside the premises with club staff taking little or no action against some or all of the dealers operating within.

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- The police believed that the actions of the door staff or lack of them, as detailed in the evidence submitted, made Puro an environment where offenders were free from the consequences of committing a violent or seriously criminal act as they knew there was little likelihood of them being detained by club staff and being subsequently prosecuted.
- The police believed there was a positive link between increases in serious violent crime with the dealing and consumption of Class A Drugs in any licensed premises, not just Puro. The physical and cerebral side-effects of drug consumption distort the mental capacities of those who use such substances and cause violent behavioural changes increasing the risk of conflict, and in some cases they render users vulnerable to their own actions and those of others. In addition, the organisers of the illegal distribution of drugs are often violent criminals with a single-minded intent to protect their income and "territory". Habitually these persons will carry weapons to enable them to do this.
- The management of Puro had not satisfied police that they were capable of, or willing to take proactive steps to rectify matters surrounding the issues raised by the police with them. They had not displayed the level of co-operation expected of such an organisation.
- The police maintained that there was an overall management attitude of denial of the existence of the causes of concern in the club and an obvious reluctance to rectify them.
- An Action Plan had been imposed on the club by the BTP in April 2009 after many months of failure to gain co-operation by voluntary means. The Action Plan revolved around searching of customers, incident book and door staff issues relating to the detention and apprehension of suspects who commit assaults and violent crime, CCTV and the use of polycarbonate drinking vessels when the club is in operation.
- During the period of the Action Plan test purchase operations had led to undercover officers being sold drugs in the premises and officers had witnessed drug taking in full view of staff in the premises
- In addition the police had serious concerns about juveniles being admitted to Puro and the requirement to protect children from harm.

Interim Measures

A previous Licensing Sub-Committee had met on 24th July 2009 to consider whether it was necessary to take interim steps pending a Summary Review. The Sub-Committee's decision was: *"That the premises remain closed until such time that a decision made under Section 53C at the Summary Review is made; or that a decision made under Section 53C at that Summary Review has been appealed and that appeal has been disposed of."*

Submissions and Evidence on behalf of the applicant – West Yorkshire Police

Sgt R Fullilove presented the case on behalf of WYP with additional information provided by Insp. G Alderson of BTP. The matters highlighted at the hearing – over and above the written submission - can be summarised as follows:

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- Both police forces had concerns about the level and severity of violent crime at Puro and intelligence that controlled drugs were freely available inside the premises with club staff taking little or no action against some or all of the dealers operating within and also about the impact of the music and clientele of the premises on the Safer Leeds initiative
- Puro was generally felt by both BTP and WYP to be an environment for criminal activity and both forces felt action was necessary due to evidence of the following matters which were described in detail at the hearing:
 - violent crime and the link between alcohol and violent crime
 - Class A drugs use,
 - under age persons within the premises,
 - excessively drunk customers;
 - the ineffective management and ineffective leadership at the premises, the lack of concern displayed by the management and their lack of co-operation with the police
 - ineffective staff and particularly the previous DPS Mr S Moore;
 - issues with the door staff team which were found to be rude and unhelpful to customers, did not attempt to detain suspects/violent criminals or assailants and were felt to be manipulative of the management of the club; door staff failed to deal with the drugs problems

DVD Evidence - All parties viewed the DVD evidence GLAO1 and GLAO2 as part of the police submission.

Submissions and evidence of the Premises Licence Holder

Mr A Lyons began his submission on behalf of Truereason Ltd, the Premise Licence Holder by presenting the DVD evidence provided by Truereason as part of their submission. This DVD contained CCTV footage taken from Puro's own CCTV system on 4 July 2009.

Mr Lyons then presented the case with additional information given by Mr K Dolecki and Mr C Edwards as appropriate. The matters highlighted at the hearing – over and above the written submission - can be summarised as follows:

- Truereason Ltd operated other premises within the City and wished to continue to operate this premises in a different way.
 - Rights of doorstaff to detain persons
 - The number, type and relevance of assaults listed within WYP submission
 - The difference between allegations and actual crimes committed
 - The alleged prevalence of drugs at the premises
 - The timeline of events from the serving of the Action Plan on 8 May 2009 to the commencement of Review proceedings
 - The agreements made by Mr Dolecki having regard to the Action Plan including to employ a female door staff member, to change the door staff team (although not the supplier) to use plastic glasses on student nights, to the CCTV measures proposed by BTP with a better recording facility and to instigate searches on entry to the club.
 - The music offered at the venue and the problems associated with it
 - The proposed re-branding of the premises to a burlesque style showbar
 - The Policies drawn up by Truereason Ltd for the premises
 - Offer to reduce the terminal hour from 06:00 hours to 04:00 hours

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The Sub Committee then afforded both parties 5 minutes in which to sum up.

Decision

Sub-Committee Members considered this matter very carefully. The decision was not an easy one.

Following the guidance, the Sub Committee considered what the cause or causes of the problems were. They found that the door staff had not been supervised adequately or at all, licence conditions had not been complied with and action taken to address the problems was far too late in the day.

Members considered whether this was a failure of Mr Moore as the Manager or a more systemic failure. They found that it was a more systemic failure up to and including Mr Edwards, CEO of Truereason Ltd. By way of example, the Sub Committee found that Mr Dolecki did not use his experience within the industry to adequately maintain control of Mr Moore and the door staff at the premises.

Having found these facts, Members considered what steps it was appropriate to take in relation to the premises. Revocation was an option that was considered very seriously in this case. Members were concerned that adding extra conditions to the licence may not make a difference to the situation. They considered the existing licence, which already had a number of conditions relating to door supervision, glasses, notices to patrons etc, and yet they noted that we found ourselves here in this Review talking about serious crime and drugs supply, which were very serious matters. They noted that Sgt Fullilove said that the Police had not mentioned revocation, and that he was not sure this was the way to go, but had doubts about the assurances that were being given. Members shared those doubts.

However, on balance they had been persuaded to allow a further chance for the venue to operate in the new style, which had been proposed during the Review Hearing. This should be seen very much as the last chance for this venue, effectively a yellow card for the premises.

Members also considered whether the removal of licensable activities from the licence was necessary. They considered that removing the activities would be akin to revocation, and since they had decided that revocation was not appropriate, they also rejected the removal of activities as an option.

Members did, however, decide to remove Mr Dolecki as the DPS. They noted that it had been indicated that Mr Dolecki would not be operating as the DPS in the new venue in any case. However, they did not want any prospect of the premises re-opening with Mr Dolecki as DPS. Taking this action prevented that and also allowed the Police to object to proposals for a new DPS before the premises re-opened, should that be necessary.

In relation to conditions, Members decided to impose a condition on the licence that the premises will operate search, queue and entry, drugs, dispersal, music and glass policies as set out in Truereason Ltd's representations to the Sub-Committee Review Hearing. The condition will further state that these policies may not be changed without the agreement of

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West Yorkshire Police. A further condition would be imposed that staff must be trained in relation to the above policies.

Members also considered that it was necessary to reduce the hours of operation in the premises so that the premises would in future close at 4.00 am and not 6.00 am.

In accordance with Section 53C (2) (c), Members indicated that the interim steps would cease to have effect once this decision came into force. Effectively, therefore, the premises stay closed in accordance with the interim steps until this decision has effect. This decision has effect in accordance with Section 53C (11), which is when the period for lodging an appeal against this decision expires or, where an appeal is lodged, the appeal has been dealt with.

As the interim steps will continue as set out above, Members considered that there was no need to impose a further suspension of the licence as a deterrent.

Appeals should be addressed to the Magistrates Court at:

Clerk to the Justices

Leeds Magistrates Court

Westgate

Leeds

LS1 3JP

Appeals should be accompanied by a copy of this decision letter and the court fee of £400.00 if you are the premises licence holder and £200.00 for all other parties. Cheques should be made payable to HMCS.

Appellants should be aware that the Magistrates have the power to award costs against any party as a result of any appeal proceedings.

Yours Faithfully

Helen Gray

Clerk to the Licensing Sub Committee

Governance Services