

# Notice of Decision



## of the Licensing Sub Committee

<b>Date of Meeting:</b>	13 February 2024
<b>Determination Date:</b>	13 February 2024
<b>Notice of Decision:</b>	23 February 2024
<b>Members:</b>	Cllr L Farley (Chair) Cllr S Holroyd-Case Cllr D Seary
<b>Legal Officer:</b>	Robert Brown, Principal Legal Officer
<b>Committee Clerk:</b>	Debbie Oldham
<b>Licensing Officer:</b>	Matthew Nelson, Principal Licensing Officer
<b>Premises:</b>	The Three Legs Hotel, 9 The Headrow, Leeds, LS1 6PU
<b>Application:</b>	Summary Review: Interim Steps
<b>Attendees:</b>	P.C. Andy Clifford (West Yorkshire Police) Jim Outhwaite (Greene King Brewing & Retailing Limited) Deborah Fountain (Designated Premises Supervisor ("DPS")) Piers Warne, TLT Solicitors (Licence Holder's Representative)

West Yorkshire Police having made an application for summary review of the premises licence of The Three Legs Hotel, 9 The Headrow, Leeds, LS1 6PU, pursuant to section 53A of the Licensing Act 2003, the Council's Licensing Sub-Committee (herein referred to as "the Committee") met to consider whether it was necessary to take interim steps pending the determination of the substantive application.

Members of the Licensing Sub-Committee had been provided in advance with a copy of the Report of the Chief Officer Elections and Regulatory. Appended to that Report were copies of the following:

- A copy of the premises licence
- An application submitted by West Yorkshire Police for a summary review of the premises licence

- A certificate under s.53A(1)(b) of the Licensing Act 2003 from a senior officer of West Yorkshire Police that in the opinion of that officer the premises are associated with serious crime and serious disorder
- A copy of the Summary Review Guidance under the Statutory Guidance issued under Section 182 of the Licensing Act 2003

P.C. Clifford addressed the Committee. He said that an application for summary review of a premises licence was not a step that he took lightly. He added that the process was usually only used in instances of knife crime. He said that there had been two stabbings at the premises on 2 February 2024.

P.C. Clifford said that an aggravating factor was the level of drunkenness. He said that he had seen CCTV footage taken from the premises and that this indicated that there had been a buildup of aggression between two customers, with finger pointing and nose to nose confrontation over a period of 30 to 40 minutes. He said that there had been an opportunity to address the conflict before it had escalated. After the violence broke out, both males had been ejected from the premises, the apparent perpetrator of the stabbing leaving first, followed by the victim.

P.C. Clifford said that there is a bus stop outside the premises and members of the public were present and witnessed further violence. He said that the original suspected perpetrator then apparently becomes involved in an altercation with a third male. At present, it was unclear whether or not that third male had been inside the premises earlier. P.C. Clifford said that the premises has a reputation, including for trouble.

In response to questions from the Committee, P.C. Clifford said that he cannot be sure that a knife was used. He said that the CCTV footage shows one of the males taking something shiny from his pocket and that could be a knife or other sharp object. He said that the first victim's injuries are consistent with a bladed article having been used.

Mr Warne addressed the Committee on behalf of the DPS and the licence holder. He said the Committee has the potential to remove livelihoods; he said there are a number of people whose livelihoods would be impacted if the licence were to be suspended.

Mr Warne said that it had taken the Police some time to come back to the operator. He said that the shiny object seen being taken from a pocket might have been a key and was not a large knife, albeit he said he was not discounting that it might have been a knife.

Mr Warne said that the two males involved in the first incident were in close proximity to each other and that this might have been because the karaoke music was very loud. He said that the fight itself was very quick. He said that regular customers are adamant that the third male had not been within the premises earlier. He said that at this stage there is no evidence that he was.

Mr Warne said that the summary review process is not expected to be used for a single incident. He said that this was a single incident and the premises has a significant history of not having issues and there is an ongoing relationship between Ms Fountain and the Police. She had made sure that the CCTV was ready for the Police. Mr Warne said that as soon as the male was observed to have a wound, the manager called the emergency services.

Mr Warne referred to the interim conditions which his clients were offering, and which were set out in paragraph 22 of his skeleton argument. He said that since the incident electronic wands have been used and all customers have been searched and there have been no weapons found. He said that there has been no reduction in the number of customers and that was, he submitted, an indication that customers did not feel unsafe. He said that 186 people have signed a petition supporting the continued operation of the premises.

In response to questions from members, it was suggested that the incident had taken place between 21:00 and 22:00 and not at closing time.

Ms Fountain said that in the past she had had meetings with P.C. Arkle of West Yorkshire Police.

The Legal Officer asked Mr Warne whether he would accept that *R (on the application of Lalli) v (1) Commissioner of Police for the Metropolis and (2) Council of the London Borough of Newham [2014]* was authority for the proposition that an association with serious crime or serious disorder might be established on the basis of a single incident. Mr Warne said that particular case involved a serious assault carried out by the husband of the licensee and was not therefore comparable. The Legal Officer read out paragraphs 73 and 74 of the judgment in *Lalli*<sup>1</sup> and suggested that those included general principles that were not limited to the specific facts of that case. The fact that *Lalli* is frequently cited as authority for those principles indicates that they are indeed principles of general application, albeit each case must be decided on its own merits.

## Decision

Having carefully considered the available information and having deliberated in private session, the Licensing Sub-Committee unanimously resolved, with immediate effect, to modify the conditions of the licence so as to incorporate the conditions set out in paragraph 22 of the Licence Holder's Skeleton Argument or Submissions, pending the substantive hearing of the review application, subject to the following:

- No alcohol shall be served before 10:00am (as per the opening hours currently being operated)

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<sup>1</sup> "73. A summary review of a premises licence that authorises the sale of alcohol under the 2003 Act is not a penal sanction nor are its consequences "draconian". It is a process designed to enable such a licence to be reviewed swiftly, and interim steps taken pending the determination of that review, by the relevant licensing authority with a view to promoting the licensing objectives. The provisions governing a summary review are compatible with the licensee's rights under article 6 of, and article 1 of the First Protocol to, the Convention for the Protection of Human Rights and Fundamental Freedoms.

74. A summary review may be invoked by an application made by the chief officer of the relevant police force that has to be accompanied by a certificate by a senior member of that force stating that in his or her opinion the licensed premises are associated with serious crime or serious disorder or both. That requires there to be a connection or link between the premises and serious crime or serious disorder that could be relevant to the regulation of such premises under the 2003 Act. Parliament has decided not to define or to limit the nature of any such association but has decided instead, given that the connection or link may take various forms and occur in potentially unpredictable circumstances, to leave it to the opinion of a senior member of the relevant police force whether such an association exists. There is no requirement that the licensed premises must be persistently associated, or that they have been repeatedly associated or associated more than once, with serious crime or serious disorder. They may be associated with serious crime or serious disorder on the basis of a single incident of serious disorder or a single serious crime."

- Condition C to be amended so as to read:

*“A search policy in accordance with the policy attached at Appendix 3 modified as set out below to be implemented and all door supervisors to be trained in the policy.”*

The first bullet point to read:

*“All persons entering the premises are to be searched for weapons.”*

The third bullet point (being rendered superfluous by the new first bullet point above) to be deleted.

### Reasons

While some of the details surrounding the incidents at the premises are currently still unclear, it appeared to be the case that a fight had taken place within the premises, that following their ejection this may have continued or resumed outside. At some point one of the combatants had been stabbed. A further altercation had then taken place outside the premises and a second individual had apparently also been stabbed. The manager had called the emergency services.

The livelihoods of staff were cited as a reason not to suspend the licence. However, the Committee took the view that the contractual relationship between the licence holder and its staff – and whether the licensee continued to pay its staff – was a matter for them. The Committee’s primary concerns were for the licensing objectives; in particular the prevention of crime and disorder and the safety of the public.

The Committee accepted that *Lalli* is authority for the proposition that a single incident can justify the suspension of a premises licence. However, at this stage the Committee’s task was to consider whether it was necessary to take any of the steps under section 53B(3) pending the hearing of the substantive application.

The Committee decided to modify the conditions of the licence as set out above. In doing so, the Committee took into account the information currently available, the conditions offered by the licence holder and the fact that the operator has already started to search all customers. The Committee did not consider that random searches or targeted searches as proposed by the licensee were sufficient at this time. It was not an onerous requirement for all customers to be searched on entry pending the full hearing and it would help ensure that all customers and staff were safe from knife attacks within the premises.

The temporary modification of the hours was also considered by the Committee to be sensible, appropriate, proportionate and necessary in the circumstances.

The Committee hoped that the Police and the licence holder would use the period before the substantive hearing to hold discussions with a view to addressing the concerns.

### Right of Appeal

There is no right of appeal at this stage of the summary review process. However, the legislation permits a premises licence holder to make representations against the interim steps taken by the licensing authority.

On receipt of such representations the licensing authority must (if the representations are not withdrawn) hold a hearing within 48 hours of their receipt.

Further information on making a representation against the interim measures can be found in the Guidance issued under section 182 of the Licensing Act 2003.