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Licensing Sub-Committee

Monday, 27th April, 2009

PRESENT: Councillor G Wilkinson in the Chair
Councillors A Castle and D Hollingsworth

1 "The George" Application for the Review of a Premises Licence for the Premises Known as "The George" Great George Street, Leeds, LS1 3DL

Please refer to the attached decision letter

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Our Ref: A61/LP/George review DL hg
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Date 16TH June 2009

“THE GEORGE” 69 GREAT GEORGE STREET, LEEDS, LS1 3DL - REVIEW OF A PREMISES LICENCE FOLLOWING AN APPLICATION MADE UNDER SECTION 51 OF THE LICENSING ACT 2003

On 27th April 2009 the Licensing Sub Committee met to consider a Review of the Premises Licence currently held at the premises known as “The George” 69 Great George Street, Leeds LS1 3DL. The Review had been necessitated following application made by West Yorkshire Police under Section 51 of the Licensing Act 2003 having regard to all four licensing objectives for the City adopted in order to promote the prevention of crime and disorder, the prevention of public nuisance, promotion of public safety and the protection of children of harm.

This letter represents the formal decision of the Committee in respect of the Review.

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 for submissions.

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) and supporting

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evidence which included several witness statements supplied by WYP officers and officers Leeds City Council Licensing staff and Leeds General Infirmary Security Personnel

The Sub Committee was also in receipt of submissions from the Premise Licence Holder (PLH), submitted to all parties after the circulation of the Licensing Officers report, which included the following information:

- Lease between Punch Retail Limited and Martyn Glover and Jennifer Watts dated 9th May 2009
- Licence to Assign between Punch Taverns Limited (PTL) Martyn Glover and Jennifer Watts and Keung Kwong Chow dated 27th April 2005
- Correspondence received by Punch Taverns
- Responses from Punch Taverns to the police, Licensing Authority, etc
- Periodic Inspection report for an Electrical Installation dated 1st July 008
- Certificate of Inspection Fire Detection dated 15h April 2008
- Gas Safety Certificate dated 10th December 2008
- Letter from Police to the Designated Premises Supervisor (DPS) dated 1st April 2009 regarding test purchase pass
- Email to police (Sgt Rob Fullilove and Mr Bob Patterson) dated 22 April 2009

In Attendance

The Applicant

Mr. R. Patterson, WYP
Sgt. R Fullilove, WYP
Mr. D. Hudson, Leeds General Infirmary

Premise Licence Holder

Mr. D. Rowan, Operations Manager, PTL
Mr. G. Hodgson, Ford and Warren Solicitors
Mr. A. Gillen, Ford and Warren Solicitors

Observers

Mr. M. Warburton

The Hearing

In considering the Review, the Committee took into account the written submissions contained within the Licensing Officers report plus the verbal submissions made at the hearing by all parties.

The Sub Committee also had regard to the provisions of the Licensing Act 2003, guidance under Section 182 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 – 11:9	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

Members noted that the DPS Mr. Keung Kwong Chow was not in attendance and that Licensing Officers had received an email from Mr. Chow outlining his personal statement to the Sub-Committee. The email outlined that Mr. Chow believed that he would be represented

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by Ford & Warren Solicitors in his absence. The Sub-Committee were advised by Mr. G. Hodgson, Ford & Warren Solicitors, that he had been instructed by Punch Taverns Ltd (PTL) to represent them and not Mr. Chow. On 9th April 2009 there had been a meeting between PTL, Ford and Warren Solicitors, and Mr. Chow. Mr. Gillan, Ford & Warren Solicitors, had been in attendance at the meeting and there had been no indication given by either Ford & Warren or Mr. Chow that they would represent him. This fact was made quite clear to Mr. Chow. Some further correspondence between Mr. Coen of Ford & Warren Solicitors, and Mr Chow outlined the grounds of the review and proposed measures to be offered by PTL also indicated that Ford & Warren Solicitors would not be acting on behalf of Mr. Chow. The Sub-Committee resolved to proceed with the application in Mr. Chow's absence.

Reasons for the Review request

The grounds for the review brought by WYP were contained in the Licensing Officer's Report (The Report). The grounds for the Review were:

The George Hotel was subject of a large Inter-Agency operation in the early hours of Saturday 26th April 2008 when it was raided by the police, immigration officers, the Gambling Commission and Leeds City Council Licensing Officers, in answer to information received regarding illegal gambling, breaches of licensing laws and immigration offences being committed at the premises.

Operation Dragon, as it was known, concluded with several breaches of licensing law identified and nine persons were arrested from the premises, including six suspected illegal immigrants and three persons who became disorderly with officers who were arrested for public order offences. Gambling offences could not be substantiated despite circumstantial evidence being present with respect to dice games on site in the public bar downstairs.

After the event WYP took more of an interest in the running of the premises and increased the number of visits to The George by uniformed Neighbourhood Policing Team officers to check compliance with licensing laws

This interest was amplified by a succession of complaints received from July 2008 onwards, from security staff at Leeds General Infirmary, part of which (notably ward 13) faces The George, about drunken, violent and abusive customers from the premises causing problems for security staff and patients alike when trespassing on hospital property.

Despite regular police visits to the premises and licensing officers' meetings with the DPS and area manager from PTL and confirmatory written communications regarding problems, offers of police assistance and intimations of further police action against The George, the problems had not abated. WYP suggested this stemmed from the inability of the DPS to control the premises properly, implement proper procedures when advised to do so, and ensure the premises are properly supervised in his absence.

WYP stated their main concerns had not yet been successfully addressed despite months of engagements with the premises and included:

- Under 18s being served in the premises
- Inadequate/nil door staff provision
- Alcohol being sold to persons already intoxicated
- Inadequate bar staff

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- Inadequate CCTV and associated procedures
- Inadequate display of the premises licence
- Inadequate drug safe provision
- Unacceptable behaviour of customers caused by their lack of sobriety.

All the above matters are the responsibility of the DPS and a responsibility vicariously shared by the Premises Licence Holder. WYP stated the response from both had been disappointing. The DPS had failed to inform the PLH that a section 19 Closure Notice had been served on the premises by the police in December 2008, now 3 months later that Notice is still in force.

WYP held the opinion that this application was necessary to uphold the four licensing objectives and direct some control over the premises to ensure it operated correctly, and without detriment to others.

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

The Sub-Committee first considered representations made by West Yorkshire Police (WYP). Mr. Patterson directed Members' attention to the additional information which had been circulated to Leeds City Council on the 24th April 2009. Members were advised that WYP had only received the information that morning and had only a limited amount of time to consider the information. Whilst WYP were happy for the information to be presented to the Sub-Committee for consideration Mr. Patterson felt that it was important to bring this concern to their attention.

Mr. Patterson introduced Sgt. R. Fullilove and Mr. D. Hudson who he intended to call as witnesses however there were a number of other witness statements contained in the Report some of which would be referred to during the hearing.

Sgt. Fullilove stated he had worked for WYP Leeds District Licensing Department for the last four years and had made the Review application on behalf of WYP. The Licensing Officers report outlined the reasons of the application in detail. Sgt. Fullilove felt that the police and other partner agencies had given the management of the premises sufficient time, more time than usual before instigating a Review, to get their house in order. The problems at the premises were not just limited to the DPS who in Sgt. Fullilove's opinion was the worst and most inept he had come across. The decision to grant a premises licence was an important decision and the PLH had a responsibility to ensure that the premise was run well even when tenants managed the premises. The evidence contained in the Report covered an 18 month period when the police and other agencies had tried to engage both with the PLH and DPS. There had been little co-operation and no steps had been taken to change and improve the premises.

He added that it was not only the police who were affected by the poor management of the premises. Hospital security staff of the nearby Leeds General Infirmary (LGI) had concerns regarding the security of both their staff and patients. Concerns at The George began just before Christmas 2006 when WYP received information in relation to illegal gambling. However following a visit to the premises there was insufficient evidence to proceed with any gambling related convictions as it was suggested that an old Chinese drinking game was being played.

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On 26th January 2008 there was a fire at The George due to an electrical overload. There also appeared to be evidence of smoking in the basement of the premises. The electricity to the premises was cut off as the premise was deemed to be a danger to both staff and customers. There were flats above the premises and Fire Officers were concerned that had the fire taken place during the night that there could have been a number of fatalities. It was also suspected that a number of foreign nationals escaped from the premises before the situation was brought under control. Following this incident Mr. Chow was convicted of fire safety offences.

It was Sgt. Fullilove's belief that the DPS and the PLH should have showed more concern for the situation at the premises. Sgt. Fullilove had made a number of visits to the premises and written a number of letters and emails to both the DPS and PLH to ensure that the premise was well managed.

Following the incident on the 26th January 2008 the electricity was reconnected and The George began to operate again. On the 26th April 2008, WYP obtained a warrant from the Magistrates Court to conduct a multi agency search of the premises due to intelligence received in relation to drugs, illegal immigrants and of illegal gambling at the premises. This led to three arrests in relation to public order offences and 6 people were later identified as illegal immigrants or over-stayers. There were also a number of licensing offences identified.

WYP had also received a number of complaints from the local NHS Trust regarding drunken customers from The George and the police had assistance from the security officers at the LGI site. The complaints which had been made to the security staff mostly related to the patients and staff on the wards facing The George and to the nearby doctors residence. A record had been kept by Mr. Hudson and was contained in the Licensing Officers Report.

There had been a number of licensing visits to the premises and Mr. Chow had not been at the premises for these visits. More licensing offences were noted at the premises which led to Sgt. Fullilove writing to both Mr. Chow and PTL advising them that problems at the premises were getting out of hand. The letter extended the offer of help to improve the premises but no response was received from with either PTL or Mr. Chow. Sgt. Fullilove wrote again and the minutes of a subsequent meeting held on 23rd October 2008 with Mr. Chow were contained on page 129 to 131 of the Report. The Sub-Committee noted that Sgt. Fullilove felt that Mr Chow's attitude had not been particularly helpful. Mr. Chow had argued with the officer, raised doubts over the nine arrests which had taken place at the premises and insisted that the problems in the area involved drunks from other areas in the city centre who were then refused entry to The George. Mr Chow appeared to agree with the recommendations that Sgt. Fullilove had made however these had not been put into practice. Mr. Chow was advised at the meeting that if matters did not improve, an application to Review the premises licence would be made. A letter confirming this was sent to both Mr. Chow and PTL. Mr. I. Morley, area manager for PTL had not been in attendance at the meeting as Sgt. Fullilove believed he was on holiday.

Sgt. Fullilove had advised Mr. Chow at the meeting that if the Review took place; WYP would seek at a minimum the reduction of the hours at the premises to 00:00 hours (midnight) for all areas of the premises and a change in management.

A licensing visit to The George had been arranged for the 14th November 2008 and again Mr Chow was not present. The officer involved with the visit was concerned that there appeared

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to be no drugs safe on the premises and there appeared to be some young drinkers on the premises who, all but one, did not have identification. There were a number of other licensing concerns outlined on page 37 of the submitted Report.

Another visit took place at the premises on 7th December 2008 where Mr. Chow was present but no door staff had been employed. A fifteen year old was found on the premises but WYP did not have sufficient evidence to suggest that any offences had taken place in relation to this person. Several breaches of licensing legislation were identified, there was no evidence of a drugs safe being in use and the beer garden was in use after 23:00 hours. This led to a section 19 Closure Notice being issued and Mr. Chow failed to advise PTL that this had happened.

The Closure Order was still in place as WYP were not satisfied that the reasons for the Closure Order had been dealt with. Sgt. Fullilove required a sustained improvement at the premises if the Order was to be removed. A meeting was convened for the 9th January 2009 with Mr Morley and Mr. Chow (minutes contained on page 134 to 136 of the bundle). Sgt. Fullilove was disappointed that despite Mr. Morley's offer of door staff being employed there appeared to be none. The offer was a good idea but Sgt. Fullilove still advised both parties that unless there was a significant improvement further action would be taken.

Co-incidentally there was a visit to the premises at around 01:00 hours on 17th January 2009. There was CCTV working and a drug safe at the premises. There appeared to be no other significant compliance issues. There was one member of door staff present who had just started working however it had been noted that as WYP arrived; a group of youths exited the premises at another entrance and WYP were unable to confirm that these youths were under 18. Both Mr. Chow and the bar manager were present and they were advised that 01:00 hours was too late for a member of door staff to start working. Officers were of the opinion that the one member of door staff starting at 01:00 hours was a token gesture. A fire exit was blocked and there was evidence that under 18s had been served alcohol at the premises. A letter was written for Mr. Morley (page 137 of the report) and Sgt. Fullilove also spoke to Mr. Morley on the phone to re-enforce the point that PTL had to take steps to improve the premises and to remove Mr. Chow as DPS. Mr. Morley informed Sgt. Fullilove that it would be difficult to remove Mr. Chow from the premises due to contractual obligations. He also added that Mr. Chow was the tenant at the premises and it was his responsibility to deal with the problems. Mr. Morley requested that it would help him if the officer could put in writing that he felt that Mr. Chow needed to be removed as DPS which Sgt. Fullilove did. In a letter dated 5th February Sgt. Fullilove gave PTL a final warning in relation to the premises and gave them three weeks to remove Mr. Chow as DPS.

Another visit took had taken place at the premises on 14th February 2009 where Mr. Chow was not present and neither were any members of door staff as had previously been agreed. There was also concern that alcohol had been served to a group of 16 year olds although there was no evidence to support this. A further visit which took place on 28th February 2009 found there were no door staff present. Officers were advised that door staff were due to start work on the following Friday. Whilst Sgt. Fullilove acknowledged that this was a positive step it represented yet another visit where no door staff were present despite offers to employ them and after PTL and Mr. Chow had been warned. There was also a concern that the beer garden was still in use at 05:00 hours.

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A test purchase was conducted at the premises on 7th March 2009 and a Chinese member of staff served a 13 year old male and a 15 year old female two units of alcohol. Officers were only able to start to issue the member of staff with a Fixed Penalty Notice as the member of staff 'nipped behind the bar' and disappeared. It was suspected that this person was an illegal immigrant or an over-stayer. Two arrests took place at the premises and the people arrested were either illegal immigrants or over-stayers. There was still an issue with the beer garden being in use after 23:00 hours.

Sgt. Fullilove added that Mr. Chow and PTL had plenty of opportunities to get their house in order and had failed to do so. There was also a real concern for the patients and staff at the LGI. In his initial submission Sgt. Fullilove had requested that the Sub-Committee consider the removal of Mr. Chow as DPS and to reduce the hours at the premises to 00:00 hours. However as problems at the premises had continued to deteriorate, he felt he had no choice but to ask for a revocation of the premises licence. This request was made in consideration of the issues discussed at the premises, the concern for the health and safety of staff and patients at the LGI and to ensure compliance with all four of the Licensing Objectives.

Sgt. Fullilove noted the removal of a premises licence was a serious step however he felt there was little more WYP could do to ensure that the premises and the management fulfilled their obligations.

The following issues were addressed in questions to Sgt. Fullilove:

- Mr Chow had taken over as DPS in 2005 and there was no record of any problems at the premises prior to 2006.
- Mr. Chow had been generally co-operative at any meetings he had with WYP but he appeared unable to accept any directions or guidance. It was not usual for a DPS to refuse to accept advice when the premises licence was at threat of Review. It was usually the case that the DPS would accept any offer of help and to comply with recommendations.
- Sgt. Fullilove felt it was the joint responsibility of both the PLH and the DPS to manage the premises. Sgt. Fullilove had not received responses to some of the letters which he had sent despite their importance. At a meeting which Mr. Morley had attended he did not say very much only to offer door staff.
- Sgt. Fullilove was not aware whether the premises served food.

The Sub-Committee then considered evidence submitted by **Mr. Hudson, LGI Security Officer**. Mr Hudson stated he had worked for the Leeds Learning Hospital Trust for 9 years. The LGI security office was located directly opposite The George. Since Mr. Chow had arrived in 2005 the security staff had noticed deterioration at the premises. Mr. Hudson had previously been a customer of the premises before Mr. Chow had taken over however the atmosphere at the premises had deteriorated since. Mr. Hudson was mostly concerned that anti-social behaviour had increased in the area which was outlined in his evidence contained in the Report.

Mr. Hudson stated his role at the Leeds Teaching Hospitals was as a Security Officer and he covered both night and day shifts. As a security officer at both the St. James and LGI site his first priorities were to prevent fire and anti-social behaviour on the premises and to create a safe environment for staff and patients. The impact of the poor management of the George meant that he felt powerless to improve the health and safety of the staff and patients at the LGI. There was a duty of care to ensure that patients had the rest they needed to recover

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which was affected by loud music from the premises and anti-social behaviour from customers at and leaving the premises. Initial complaints had been made to the licensing compliance officers and WYP who had requested that a log was kept of all the incidents relating to the premises and this was included in the Report. Mr. Hudson stated he was of no doubt that the list of incidents recorded in the log related to The George as the LGI security office was located near The George and he had often witnessed incidents involving those who had left The George and then returned to the premises after the incidents.

Mr. Hudson explained there were a number of residential units near The George and the LGI Security Office used by Doctors some of who were required to carry out operations and needed to be near the hospital. Residents had made complaint regarding the premises as had staff and patients of those wards which faced onto the premises. Officers within the LGI security office first noted the loud music and noise coming from the premises but the noise and loud music could also be heard inside the wards. Staff in the wards had been reluctant to complain as they had felt that the noise was part of being in the city and that they had to put up with it.

Mr. Patterson then went on to outline details of the other witness statements contained in the Report including letters and statements from Carmel Brennand, LCC Senior Licensing and Enforcement Officer. Ms Brennand's statements supported what had been stated by Sgt. Fullilove and especially WYP concern regarding the weak management at the premises. The Report also contained a number of letters written to the DPS from Ms. Brennand expressing her concerns.

The Sub-Committee allowed Mr. Hodgson for the PLH to ask questions through the Chair and the following issues were discussed:

- The NHS trust which ran the LGI had not made the Review application as a responsible authority but did support the WYP application.
- Sgt. Fullilove had received formal complaints from the LGI which were outlined in his statement.
- Either Mr. Hudson or one of his colleagues had completed the incident register. The majority of the incidents recorded took place after 02:00 hours.
- Mr. Chow had attended meetings at Millgarth Police Station when requested however Mr. Morley was not always able to make the appointments. Sgt. Fullilove acknowledged that whilst there had been some correspondence received from PTL he had not received responses to all his letters.
- Mr. Hodgson noted that Mr. Chow had raised his concern that many of the problems in the area were caused by other local premises and St. George's Crypt. Sgt. Fullilove responded there were no other premises in the immediate area of The George and that he had not received any complaints regarding St. George's Crypt.
- Sgt. Fullilove was aware Mr. Chow had also stated that many of the incidents were related to drunken people being refused entry to the premises. Whilst Sgt. Fullilove accepted that these people could account for a small percentage of those causing incidents, he did not feel that all of the incidents could be attributed to this.
- Sgt. Fullilove confirmed that at the meeting on the 9th January 2009 Mr. Morley was not aware that the premises had been subject to a section 19 Closure Order. The Closure Order had not been issued by Sgt. Fullilove.
- WYP wished to see a continued period of sustained improvement at The George. WYP maintained concerns that a number of conditions had not been adhered to including the level and coverage of the CCTV at the premises.

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- Sgt. Fullilove had suggested that door staff would alleviate some problems however Mr. Chow had employed the door staff to work only from 01:00 hours which was not satisfactory. The proposed decreased hours could possibly alleviate problems however Sgt. Fullilove remained concerned that problems would persist if Mr. Chow was to continue at the premises. He added that most problems occurred between Thursdays and Sundays
- Mr Hodgson addressed the chronology of events referred to in the statements provided by WYP and noted that no evidence had been found to support WYP belief that persons under the age of 18 had been sold alcohol.
- Mr Hodgson referred to an e-mail sent by Mr Coen, Ford & Warren, containing suggested measures to be put before the Sub Committee including the removal of the DPS, suspension of the Premises Licence for a period of 4 weeks and reduction of the terminal hour for the sale of alcohol. Sgt Fullilove responded that that he had not addressed in his verbal submission and he stressed that no agreements had been reached.

Submissions and evidence of Mr Hodgson on behalf of the Premises Licence Holder

Mr Hodgson began by stating that Punch Taverns Limited (PTL) as PLH had looked at all the evidence and did not accept the case for revocation, nor the evidence of the degree of contact between PTL and the DPS. With regards to the reported effect on hospital patients and staff, Mr Hodgson stated that no formal complaint had been received from patients, doctors, the Trust or security staff that he could see.

Mr Hodgson referred to the written open letter offering to remove the DPS from the premises and noted the present Review application suggested suspension and reduction of the operating hours. He suggested this was relevant when considering the evidence. The evidence log showed no problems until 02:00 hours; however the evidence produced had prompted events. A Section 146 Notice – forfeiture notice – had now been served on Mr Chow. The success of this was dependant on the evidence from WYP. Suspension of the Premises Licence for one month would result in no income to pay rent which in turn would lead to further proceedings against Mr Chow.

Mr Hodgson highlighted the fact that the premises was leased to a tenant and it was the tenant who ran the business. Mr Chow was the tenant and also the DPS. To support the lessee an area manager provided support and guidance. Mr Morley had been the manager but following a reshuffle Mr Rowland was now Operations Manager with Mr D Watson as the BRM. Mr Morley had put forward suggestions and tried to secure the support and help of WYP to improve the premises. Mr Hodgson suggested that Punch Taverns had taken appropriate steps and; prior to taking forfeiture proceedings against Mr Chow; had sought evidence from WYP.

The Sub Committee sought clarity on who made the appointments to vacancies. Mr Hodgson responded the Premise Licence Holder would appoint a replacement DPS. He stated it was very difficult as PTL wished to treat Mr Morley fairly and responsibly and not to put pressure on him. The Sub Committee commented that Punch Taverns as the PLH did have some responsibility (to The George premises) but felt that Mr Hodgson seemed to suggest that Mr Morley alone had been responsible for the business. Mr Hodgson responded by asking the Sub Committee to look at the evidence before them from PTL including the recent case study showing no vicarious liability for DPS.

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Mr Patterson was allowed to make a comment at that point and stated that WYP did have clear evidence of nuisance caused and it was irrelevant for Mr Hodgson to say there had been no formal complaints from patients, a fact which Mr Hodgson then refuted.

The Sub Committee then allowed both parties to sum up:

Mr Patterson referred to his written response to the e-mail from Mr Coen which contained additional information in which he responded to the 3 suggestions made on behalf of PTL. In relation to removal of DPS he stated that all would be disappointed if the DPS was not removed. He noted that this issue had been covered by Mr Hodgson but noted that removal of the DPS would not take affect until 21 days after Review furthermore he expressed concern that Mr Chow may continue to live at the premises as a Section 146 Notice involved a 2 month process

Mr Patterson reminded the Sub Committee that as well as addressing the licensing objectives there were other matters to consider, such as the illegal immigrants and there would be further opportunity for problems during the 21 days when the respondent could appeal the Sub Committees decision.

He then dealt with the offer for the suspension of the Premises Licence for 4 weeks which he took to be a genuine offer from the PLH and he was aware the PLH had indicated they would not appeal this course of action, should the Sub Committee choose to take it. This was confirmed by Mr Hodgson

Mr Patterson continued that WYP consistently recommended a terminal hour of 00:00 should be adopted particularly on Fridays and Saturdays. Evidence consistently showed breaches of the licence and evidence shows that there were still breaches. He recommended that the internal and external hours of operation were unified. In conclusion he stated that he concurred with the evidence of Sgt Fullilove that the premises was not satisfactorily managed and was a crime and disorder hotspot and that the effect of the George on hospital staff and patients could not be under estimated.

Mr Hodgson was then allowed to sum up. He stated the position at a Review was that those who called the Review had to prove their case. This case involved Mr Chow as DPS and Punch Taverns Ltd as the PLH. Mr Hodgson reminded the Sub Committee that he represented PTL only. He stated that to assist the promotion of the Licensing Objectives and the Guidance it was a fundamental requirement to take into consideration all proven offences.

This Review hearing would have an impact on PTL and Mr Chow if the Licence was suspended. Mr Hodgson therefore asked the Sub Committee to consider whether the provision of doorstaff could help achieve the licensing objectives. Mr Hodgson suggested that this, along with a reduction to the hours of operation would achieve the objectives and address the two key areas of concern expressed by WYP.

Mr Hodgson stated that PTL accepted the situation had gone past a "warning" stage and agreed that the measures outlined by WYP to Mr Chow should not have been matters that had taken so long to resolve. However he noted the WYP evidence included reports of illegal immigrants at the premises; however Mr Chow had said these visitors actually staying to visit other people. He noted that only a public order offence had been committed at the premises. He stated that the Health Authority had not provided evidence of the reported inconvenience

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and detrimental affect on patients at the hospital. Furthermore, no formal charges had been brought against Mr Chow and only one Fixed Penalty Notice had been served on a member of staff regarding the successful Test Purchase. Mr Hodgson did concede that there was direct evidence of technical breaches of the Premises Licence; but he reiterated this belief that there was no evidence of breaches of the licensing objectives in terms of crime and disorder. He suggested that Sgt Fullilove had made a lot of the time and effort put in by WYP to help Mr Chow.

Mr Hodgson said that PTL accepted that the operating hours should be modified and the letter sent on behalf of PTL included within the documentation which suggested the removal of the DPS and the suspension of the licence was offered without prejudice. He added that PTL as PLH could not control the behaviour of patrons once they left the premises but the employment of doorstaff would address any such problems. Furthermore, the suspension of the licence would also help to resolve lease issues at the premises for PTL. Mr Hodgson however put forward his view that it would not be proper to revoke the Licence. In answer to a comment by WYP regarding liaison, he stated that PTL had attended and had responded promptly to correspondence; phone calls and e-mails.

Decision

The Sub Committee heard evidence from Mr A Gillan as an employee of Ford & Warren who told the Sub Committee that he attended a meeting on 9 April 2009 with Mr Chow at which Mr J Coen of Ford & Warren was present. Mr Gillan says that Mr Coen made it very clear to Mr Chow that he and his firm acted for Punch Taverns Plc, the Premises Licence Holder, and that neither would act for Mr Chow. Mr Gillan stated that Mr Coen had been unequivocal in what he said.

The Sub Committee was satisfied that notwithstanding his e-mail of 27 April 2009, Mr Chow had no reasonable grounds to believe that he would be represented by Mr Coen at this hearing. It was clear that Mr Chow was aware of this Review hearing and in the circumstances; the Sub Committee had decided to proceed.

The Sub Committee heard from Mr B Patterson on behalf of WYP who in turn called Sgt R Fullilove and Mr D Hudson to give evidence. Mr Hudson is Head of Security at Leeds General Infirmary (opposite The George) and St James's Hospital. The Sub Committee also had the benefit of reading documentation provided by WYP contained in the report before them. Members heard details of incidents recorded at The George since 2005 when Mr Chow became the Designated Premises Supervisor. These incidents included noise and disturbance to patients and staff at the LGI as well as incidents inside the licensed premises which were documented within the statements to which Members were referred.

The Sub Committee also heard from Mr Hodgson on behalf of Punch Taverns Plc, the Premises Licence Holder. Mr Hodgson submitted that it would not be proportionate to revoke the Premises Licence. He did however concede that the position was such that some action would be appropriate and proportionate in the circumstances.

The Sub Committee considered whether the Premises Licence should be revoked and decided that this would not be necessary to promote the licensing objectives as there was no evidence of significant problems at all times when the premises were open.

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The Sub Committee did consider that some action was necessary to promote the licensing objectives, in particular but not exclusively, the prevention of public nuisance.

The Sub Committee firstly considered that, having heard the evidence, Mr Kwong Keung Chow is not a proper person to the Designated Premises Supervisor.

- Members resolved that Mr Kwong Keung Chow be removed from the position of DPS

Members were satisfied from the written and verbal evidence that there was a problem with noise from the premises and accordingly the Sub Committee imposed a condition that

- Noise be inaudible at the nearest noise sensitive premises after 23:00 hours

The Sub Committee paid careful attention to what both parties said regarding door staff and Members resolved to impose the following condition

- There should be at least one Security Industry Authority door person on duty at the premises between 20:00 hours and closing time on Friday and Saturday nights

The Sub Committee heard from Mr Hodgson that he conceded that the terminal hour should be reduced and noted he had suggested 02:00 hours as the appropriate time. Members agreed that the hours should be reduced, but imposed a terminal hour of 00:00 hours (12 midnight) – except for Sunday when the terminal hour shall be 23:30 hours. This is subject to an extra hour on the Bank Holidays specified in Appendix A of the Premises Licence which was contained at page 7 of the Licensing Officers' report

The Sub Committee noted there were already conditions in the Premises Licence relating to the beer garden (included at page 21 of the report); a Check 21 scheme (page 20) and CCTV (page 20) and Members considered that these existing conditions were sufficient

There is a right of appeal to the Magistrates Court should you be dissatisfied with the decision made by the Sub Committee. You must make this appeal within 21 days of this letter reaching you.

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.

Yours Faithfully

Laura Pilgrim
Clerk to the Licensing Sub Committee
Governance Services