

Licensing Sub-Committee

Friday, 11th December, 2009

PRESENT: Councillor B Selby in the Chair

Councillors A Castle and L Rhodes-Clayton

1 Election of the Chair

RESOLVED – Councillor Selby was elected Chair for the hearing

2 Late Items

There were no formal late items of business. The Sub Committee was however in receipt of the following supplementary information

- Copies of photographs submitted by West Yorkshire Police of items seized during a raid undertaken by the police
- Copies of photographs of the premises and publicity material submitted by the Premise Licence Holder

3 Declarations of Interest

The following Members declared personal/prejudicial interests for the purposes of Section 81(3) of the Local Government Act 2000 and paragraphs 8 to 12 of the Members Code of Conduct :

Councillor A Castle – declared a personal interest as a local authority appointed member of West Yorkshire Fire and Rescue Authority. The documentation submitted in respect of the review of the Premises Licence held at Kerbcrawler included a Notice served by WYFRA although it should be noted that Councillor Castle had no personal involvement in the decision making process.

(a) "Kerbcrawlers" - Review of a Premises Licence Interim Steps Hearing - Kerbcrawlers, Unit F, Aquatite House, 175 Water Lane, Holbeck, Leeds LS11 9UD

Further to the decision of the Licensing Sub Committee on 8th December 2009 to take interim steps pending a Summary Review of the Premises Licence currently held at the premises known as "Kerbcrawlers", the Assistant Chief Executive (Corporate Governance) submitted a report on representations received from the Premise Licence Holder (PLH) in response.

The Interim Steps Hearing on 8th December 2009 had been necessitated following receipt of an application served under Section 53A of the Licensing Act 2003 from West Yorkshire Police (WYP) for the Summary Review of the Premises Licence as the police believed that the premises was associated with serious crime. That Sub-Committee resolved, with immediate effect, that 'The suspension of premises licence was necessary in this case until such

time that a decision made under section 53C at the Summary Review Hearing is made; or that a decision made under Section 53C at the Summary has been appealed and that appeal has been disposed of.'

Prior to this Representations Hearing the Sub-Committee had considered the Licensing Officers Report which contained copies of the following:

- A copy of the application as made by WYP on 7th December 2009 and relevant Certificate signed by Chief Superintendent M Milsom as a senior member of the WYP stating his opinion that the premises were associated with serious crime;
- A copy of the decision letter following the Interim Steps Hearing dated 8 December 2009
- A copy of the existing Premises Licence
- A copy of the representation received from the PLH dated 9 December 2009
- A copy of a Prohibition Notice served by West Yorkshire Fire and Rescue Authority (WYFRA) served 8 December 2009.

The Sub-Committee considered preliminary matters of a purely procedural nature. The Sub-Committee set the procedure for the Representations Hearing having regard to the accepted procedure for Review Hearings. Members set a time limit of 15 minutes for submissions.

The Sub-Committee also considered if the public should be excluded from any parts of the hearing and 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.

In considering the Representations, the Sub-Committee took into account the written submissions contained within the Licensing Officer's 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, as amended through the Violent Crime Reduction Act 2006 and the Guidance on expedited/summary licence reviews issued by the DCMS. Members were also familiar with the Council's own Licensing Policy; in particular Section 13 (Enforcement and Reviews) and Section 11 of the DCMS Statutory Guidance (Reviews).

The Sub-Committee firstly considered the representations made by Mr Thompson on behalf of the PLH and from Mr Cairney the Designated Premises Supervisor

Mr Thompson suggested WYP had not satisfied the grounds required for a Summary Review in respect of the seriousness of the alleged crime at the premises as any sentences handed down after such alleged incidents would not fall into the categories listed in the Guidance as being serious enough to warrant this type of expedited review.

Mr Thompson challenged the evidence submitted by WYP with regards to:

- The number of persons within the venue at the time the raid was undertaken
- The amount of suspected Class "A" and "B" drugs found at the premises both disregarded on the floor and concealed around the premises

Mr Thompson referred to the previously unblemished track record of the venue and offered to put the following measures in place which he stated would address the concerns raised by WYP and allow the premises to continue to trade:

- Revised search policy to ensure that all patrons were searched and to employ a sniffer-dog with handler
- Change the door staff company
- All staff to attend drug awareness training
- To establish regular meetings with the police

The Sub Committee then heard from Sgt Fullilove on behalf of WYP who addressed the verbal submission made by the PLH. Sgt Fullilove expressed concern over the competency of the management team at the premises and referred to the police raid undertaken. He stated the premises were associated with serious crime due to:

- The amount of suspected Class 'A' and 'B' Drugs found at the premises both disregarded on the floor and concealed around the premises.
- Evidence that there was drug dealing at the premises.
- The fact that sniffer dogs had identified that a high percentage of patrons had been connected with illegal substances.

The Sub-Committee confirmed that the grounds for requesting a Summary Review had been satisfied by WYP.

The Sub-Committee considered the content of the application and the Certificate as well as the verbal representations made at the Representations Hearing in respect of the Interim Steps already put in place.

Members noted the disputes between the parties with regard to the value of the drugs found on the premises and the number of patrons at the premises at the time of the raid by WYP. Members found as fact that a substantial amount of drugs were found at the premises during the raid and this was supported by the contents of the Certificate issued by WYP, the findings of the visits undertaken by observers and the warnings given to the management of Kerbcrawlers in March 2009. Members noted that whilst the debate on the disputed evidence may be ongoing, the proper forum for that discussion would be at the Review scheduled for 4 January 2010

Members considered that Interim Steps were necessary based on the contents of the Certificate and also the photographs tabled at today's Representation hearing

The Sub Committee noted the measures offered by the PLH including staff training and changing the Door Staff team however Members did not consider these steps sufficient to allow the premises to operate without undermining the licensing objectives. In any event the Sub Committee would require the premises to remain closed to allow time for the training and change of doorstaff team to be undertaken.

In light of the seriousness of the issues raised and WYP submission regarding the management of the premises the Sub Committee did not feel the premises could operate between this date and that of the Review in a manner that would promote the Licensing objectives

RESOLVED: That it was not appropriate to withdraw or modify the Interim Steps taken.

Therefore the suspension of premises licence remains in place as necessary until such time that a decision made under section 53C at the Summary Review Hearing is made; or that a decision made under Section 53C at the Summary has been appealed and that appeal has been disposed of.

All parties noted the Summary Review Hearing date was agreed as 4th January 2010. Arrangements had previously been made for the submission of all documents from all parties no later than two working days prior to that hearing.