

LICENSING SUB COMMITTEE

Minutes of a meeting of the Licensing Sub Committee held in the Council Chamber, County Hall, Ruthin on Monday, 15 January 2024 at 10.00 am.

PRESENT

Councillors Bobby Feeley, Hugh Irving and Delyth Jones

ALSO PRESENT

Legal Adviser (CL), Public Protection Business Manager (IM), Senior Licensing Officer (NJ), Licensing Officer (ES) and Senior Committee Administrator (KEJ)

WELCOME

All parties were welcomed to the meeting and all present introduced. The hearing procedures had been circulated previously to all parties and copies of the Statement of Licensing Policy had been made available at the meeting.

1 APPOINTMENT OF CHAIR

Councillor Bobby Feeley was appointed Chair for the meeting.

2 DECLARATION OF INTERESTS

No declarations of personal or prejudicial interest had been raised.

3 LICENSING ACT 2003: REVIEW OF A PREMISES LICENCE - THE MILLBANK, GRANGE ROAD, RHYL, DENBIGHSHIRE LL18 4RD

A report (previously circulated) was submitted upon –

- (i) an application having been received from the North Wales Police for the Review of a Premises Licence in respect of The Millbank, Grange Road, Rhyl held by Mr. Parmvir Singh Bisla;
- (ii) the grounds for review as stated on the application being as follows –

“The premises has failed to promote the Licensing Objectives: the prevention of crime and disorder, the prevention of public nuisance and the protection of Children from Harm.

On 1st September 2023 North Wales Police received a call reporting an incident of common assault – A140763

On 29th October 2023 North Wales Police received a call reporting an incident of public disorder at the premises – A173302

On 5th November 2023 North Wales Police received a call reporting an incident of common assault at the premises – A176556”

full details of the Review Application having been attached as Appendix 1 to the report but in summary related to three separate incidents of disorder –

- 1 September 2023 – report of common assault involving a member of staff who had grabbed a customer by the neck and threatened them (Appendix B within the Review Application)
 - 29 October 2023 – report of a public order incident involving members of staff and customers. Police attending the incident witnessed a number of intoxicated people and two males (one unconscious and bleeding from a head wound) on the floor outside. On reviewing CCTV footage Police considered disorder by both staff and customers had taken place and force used by all parties to be excessive with no defence for the use of said force. Police also considered the Manager and their family had acted extremely aggressively to customers with further concerns one customer, being 17 years old, was repeated assaulted; one other person sustained a broken arm in two places. Police believed the disorder was initiated over a dispute relating to drinks at the bar between staff and customers and escalated to the point where three customers and staff/family members were all fighting, with no control over the situation by the management (Appendix C – E within the Review Application and CCTV evidence of the incident)
 - 5 November 2023 – report of a fight inside the premises between staff and customers and that one person had been strangled and punched by a member of staff. Further investigation had found the Premises Licence Holder had removed four customers and had assaulted them outside, resulting in one customer sustaining a sprained wrist and another a broken finger (Appendix F – G within the Review Application);
- (iii) in view of the seriousness of two of the incidents associated with the premises, North Wales Police submitted that the premises was not appropriately managed and that the Premises Licence Holder and existing staff had been party to the incidents and the level of disorder associated with them. Consequently, the Police requested consideration be given to revocation of the Premises Licence due to the failure to adhere to the Licensing Act 2003, specifically the failure to promote the Crime and Disorder and Protection of Children from Harm objectives;
- (iv) there having been no further representations received from Responsible Authorities or members of the public in response to the requisite public notice of the Review Application;
- (v) the need to consider the Review Application taking due account of the Council’s Statement of Licensing Policy; Guidance issued by the Secretary of State; other relevant legislation and representations received, and

(vi) the options available to the Sub Committee when determining the application.

The Senior Licensing Officer summarised the report and facts of the case.

APPLICANT'S (NORTH WALES POLICE) SUBMISSION

Mr. Aaron Haggas, Police Licensing Officer for Conwy and Denbighshire was in attendance on behalf of the North Wales Police.

Mr. Haggas confirmed that North Wales Police had put forward the Review Application with the suggestion of a possible revocation. Three incidents had been included as part of the application. The concern of the Police focused on the incident of 29 October 2023 where customers had been confrontational towards the premises management and staff. It was believed the altercation had stemmed from a drink being served which had been allowed to escalate. Standard customer service procedure would be to step back, assess the situation and look to reach an amenable outcome for all parties. Given the licensee and their staff were in a position of responsibility the expectation was for them to utilise their knowledge and training and behave accordingly. The premises management did not take appropriate action in their response and chose to get involved with the customers, moving within their personal space and a fight had ensued which resulted in a 17-year-old child being assaulted; a female suffering a broken arm, and a male being rendered unconscious. The incident also involved an attack on the Sikh religion of the family, and a member of staff had suffered a severe personal attack. None of those actions could be condoned and it was considered a very serious incident. Having reviewed the incident revocation had been proposed.

In December 2023 the licensee had requested a meeting with the Police where the incident and concerns/challenges were discussed. At that time no valid mitigation was provided, or measures proposed to address concerns and no compromise or agreement had been reached. However, prior to the hearing consideration had been given to alternatives to revocation which Mr. Haggas set out as follows –

- suspension of licensable activities for a period of 8 – 10 weeks to allow the premises to undertake certified conflict resolution management training
- introduction of an incident log and refusal book to highlight any incidents including any hate related incidents against the family to be reported to Police
- provision of an enhanced CCTV system and improved footage of outside areas
- a robust and diligent approach to customer management and for the Police to be utilised when needed
- implementation of Challenge 25
- cessation of licensable activities at midnight.

Mr. Haggas stated that it was not acceptable for any person to go to work to suffer hate related or any other crime and be victims of such heinous and disgraceful customer behaviour. However, licensees needed to take a responsible course of action and had a duty to promote the four licensing objectives. The incident on 29 October 2023 showed the failure by the premises management on that account.

Members put questions to Mr. Haggas, who responded as follows –

- elaborated on the reasoning behind the altercation which was believed to be over customer service and a dirty glass, and the inappropriate response of the premises management and racist remarks from the customer
- the Police had not been called to the premises outside of the reported incidents and it had not been a problem premises for the Police with the focus for the Police purely on the one incident of 29 October 2023
- whilst the premises initially engaged well with the PubWatch Scheme, it had not been engaging as well as the Police would have liked more recently. However, the Rhyd PubWatch Scheme could not be deemed reliable
- whilst the Police focus was on the main incident on 29 October 2023 which highlighted there was a problem at the premises, the two incidents either side of that incident suggested the premises was struggling to deal with customers
- members had viewed the CCTV footage and if they were satisfied that was sufficient for the purpose of the hearing there would be no benefit in replaying it
- clarified the expectations of the Police in the circumstances relating to the incident where it was accepted that customers could be challenging, with it being reasonable to refuse service, step back and ask the customer to leave but if they persisted and remained on the premises then to contact the Police
- prior to the incident the premises had engaged well with the Police with no problems in that regard, being a nice, quiet family, always willing to provide CCTV and were very open; the concern focused on the seriousness of the one incident on 29 October 2023 with staff and customers being harmed
- although the premises opened after midnight, given the nature of the business, with around half its trade being food, and its location outside of the town centre, door supervisors would not usually be a requirement.

PREMISES LICENCE HOLDER'S REPRESENTATION

Mr. Parmvir Bisla, Premises Licence Holder was in attendance and represented by Mr. Surendra Panchal of Personal Licence Courses UK Ltd.

Mr. Panchal clarified that he had been in discussions with Mr. Haggas prior to the hearing and concluded that the two incidents relating to 1 September 2023 and 5 November 2023 were to be disregarded as they had not been investigated by the Police and had not taken place. [Mr. Haggas confirmed that those two incidents had only been reported to the Police but not investigated.] On that basis, the witnesses in attendance in respect of the two reported incidents were no longer required and the focus of the hearing related to the one incident on 29 October 2023. Mr. Panchal thanked Mr. Haggas for the meaningful discussions which had taken place and confirmed the premises management were co-operating with the Police.

At this point, Mr. Panchal called Miss. Kirsty Garrett as a witness in relation to the incident on 29 October 2023. Miss. Garrett had been present prior to the incident and would give her impression of the couple involved in the subsequent altercation.

Miss. Garrett stated that she regularly ate out at the premises, usually with her children but on 29 October she had been on her own and ordered her meal. She had noticed the couple quietly arguing and becoming aggressive with each other.

She had commented to the female on the weather who then joined her table and started a conversation. The male then started to make crude comments which made her feel anxious, and he became rude and aggressive and made racist remarks about the staff. As she had eaten her meal she decided to leave because she felt something was brewing between the couple who were very argumentative towards each other. It was not long after she had left that the incident happened. Miss Garrett responded to questions put by Mr. Panchal advising that she had been a customer at the premises since before the Bisla family took it over and thought they were a lovely family and it was normally trouble-free. It was a family pub where she often took her children for meals and in her opinion was well managed.

In response to questions from members, Miss. Garrett –

- advised that she had found out about the incident the following day as she was a regular customer and had noticed the window had been smashed
- explained she had offered to be a witness because it was her local pub, everyone knew each other, and it would be hard for the area if it closed
- confirmed her description of the atmosphere leading up to the incident and that she had not been a witness to the incident itself
- clarified that she had not heard racist remarks being made directly to the family but that the male had been using racist language openly in conversation
- confirmed that as a regular customer she had seen the couple at the premises previously and they were generally quite loud
- advised that she had left the premises earlier than usual on that day because the situation with the couple had made her anxious and uncomfortable.

In summing up, Mr. Panchal stressed that it was against the Sikh religion if a turban was either touched or pushed around and was a racial attack and one of the reasons that the situation had escalated in the way that it had. Following discussions with Mr. Haggas there was an understanding of the situation and conclusion that the way forward was not revocation of the premises licence.

Mr. Panchal submitted his views on the way forward for members' consideration –

- that the Designated Premises Supervisor undergo a Level 3 course
- a shorter suspension period than suggested by the Police be considered given that it was a local pub whose closure would impact on the local community
- that the Designated Premises Supervisor undertake a conflict management course with training as to how to tackle such matters as they arose
- improved CCTV coverage outside of the premises.

The Chair sought further clarification from Mr. Haggas on the Police's position.

Mr. Haggas explained that all three incidents had been reported to the Police, but the focus had been on the incident of 29 October 2023; the incidents either side of that date may have happened but at the same time could have been malicious. For the purpose of the hearing, he was happy to focus on the one incident on 29 October 2023. In terms of the way forward he had been pleased that Mr. Bisla had since secured a representative who could offer training and guidance to ensure

there was confidence and an ability to be more diligent with customer management which made the option of alternatives to revocation feasible.

Members raised questions with Mr. Panchal who responded as follows –

- Mr. Bisla was both the licensee and the Designated Premises Supervisor
- explained a person could be both Premises Licence Holder and Designated Premises Supervisor providing they held a Personal Licence and elaborated on the provisions within the Licensing Act 2003 in terms of those responsibilities
- confirmed that Mr. Bisla was on the premises at the time of the incident
- elaborated on the measures to be introduced since his involvement with the case to provide a vast improvement and give confidence including training provision and records, immigration and right to work in the UK checks, increased use of posters asking patrons to be considerate of neighbours, improved CCTV system and coverage, move from Challenge 21 to Challenge 25, use of an incident book, improved refusals book, customer service training
- the premises had been operating successfully for three years without problems
- provided an overview of the work of Personal Licence Courses UK Ltd and explained Mr. Bisla had been in touch with the company initially to obtain his Personal Licence and then again 2/3 weeks ago asking if they could represent him at the hearing of his licence review.

APPLICANT'S (NORTH WALES POLICE) FINAL STATEMENT

Mr. Haggas explained that some time had been taken before the hearing to discuss concerns and he had nothing further to add in terms of a final statement.

ADJOURNMENT TO CONSIDER THE APPLICATION

At this juncture (10.50 am) the Chair closed the meeting to all other parties and the Licensing Sub Committee retired to consider the application in private session.

DECISION AND REASONS FOR THE DECISION

RESOLVED that the Premises Licence be suspended for a period of ten weeks and that the following conditions be added to the licence –

1. CCTV

- a) A CCTV system will be installed at the premises and be in operation at all times the premises are open.
- b) The CCTV system will have cameras monitoring all entrances to the premises to the premises and all internal areas where the public have access to.
- c) The external CCTV system should have the capability to have clear images at night
- d) The CCTV system will be of a standard capable of providing images of evidential quality and capable of facial recognition in all lighting conditions.
- e) The CCTV system will have a facility to record the images from all cameras and these images will be retained for a minimum of 30 days.

- f) *The CCTV system will include a facility whereby the correct date and time are included within the images recorded.*
 - g) *The CCTV system will have a facility whereby images can be downloaded onto some form of removable media.*
 - h) *Images from the CCTV system will be made available to Police or Local Authority officers on demand.*
 - i) *Weekly checks of the operation of the CCTV system will be made at the start of business each day – any defects in the system will be addressed immediately. Records of those checks and the steps taken to rectify any defect will be produced to Police and Local Authority officers on request.*
2. *Prior to being permitted to undertake the sale of alcohol Mr. Parmvir Singh Bisla or the current Designated Premises Supervisor will be required to complete the BIIAB Level 3 Award for Designated Premises Supervisors.*
 3. *Prior to being permitted to undertake the sale of alcohol all staff without a personal licence, including any unpaid members of staff, family members and casual persons who may be involved in the sale of alcohol at the premises, will be trained in their responsibilities under the Licensing Act 2003 and any subsequent amendments to that Act – in particular they will receive training with regard to the service of alcohol to persons who are drunk, conflict management, customer management and Challenge 25.*
 4. *Refresher training in relation to the initial training at 3) above will be undertaken by all members of staff involved in the sale of alcohol every six months.*
 5. *Records of the initial training received and subsequent refresher training will be maintained and will be produced to Police or Local Authority officers on request.*
 6. *The premises will operate a Challenge 25 Policy.*
 7. *Incident and Refusals Book – an incident and refusals book (with the pages numbered sequentially) must be kept on the premises and be made available for inspection by responsible authorities. The incident and refusal book must be used to record the following –*
 - *Any incident of violence or disorder on or immediately outside the premises*
 - *Any incident involving drugs (supply/possession/influence) on the premises*
 - *Any other crime or criminal activity on the premises*
 - *Any refusal to serve alcohol to persons who are drunk*
 - *Any refusal to serve alcohol to under 18s or anyone who appears under 18*
 - *Any call for police assistance to the premises*
 - *Any ejection from the premises*
 - *Any first aid/other care given to a customer*

The Chair conveyed the Sub Committee's decision to all parties and the Legal Adviser read out the conditions to be attached to the licence and reported on the reasons for the decision as follows –

The Licensing Sub Committee had carefully considered the report and oral submissions during the hearing together with the responses to questions. The Sub Committee heard from both parties that the incidents of 1 September 2023 and 5 November 2023 referred to in the Review Application were not to be taken into account as they were reported to the Police but not investigated. That meant that the Sub Committee agreed to only take into account the incident on 29 October 2023. The Sub Committee had also taken into account the relevant law and guidance as part of their deliberations.

The Sub Committee heard from the Police that in view of the actions taken by the Premises Licence Holder in appointing a representative to provide training and guidance, an alternative to revocation was a viable option open to the Sub Committee. The Premises Licence Holder, who was also the Designated Premises Supervisor, had agreed to 1) undertake additional training to include BIIAB Level 3 Award for Designated Premises Supervisor, conflict management training, 2) implement an improved incidents and refusals book, and 3) provide an improved CCTV system to include the external areas.

The Sub Committee gave the Police's application serious consideration and noted that the incident referred to on 29 October 2023 was completely unacceptable in terms of the force used and demonstrated a significant failure of the approach of the premises management which led to a serious incident of violence which included a minor. This was contrary to the Prevention of Crime and Disorder and Protection of Children from Harm licensing objectives. However, the Sub Committee also noted that reference was made by all parties to the fact that during the incident the Premises Licence Holder and his family had been subject to racially motivated abuse which had caused the altercation to escalate. The Sub Committee considered the addition of the conditions as referred to above to be a fair and proportionate response in order to promote the licensing objectives and provide a more robust and diligent approach to customer management and address the failings in the management of the premises. Therefore, the Sub Committee decided that it was appropriate to suspend the licence for a period of ten weeks and to add to the licence the conditions as referred to above.

There was a right of appeal against the Licensing Sub Committee's decision to the Magistrates' Court within twenty-one days.

The meeting concluded at 12.15 pm.