

EAST STAFFORDSHIRE BOROUGH COUNCIL
LICENSING ACT SUB-COMMITTEE

Minutes of the Meeting of the Licensing Act Sub-Committee held a virtual environment on Wednesday 28th April 2021 at 10.00am.

Present:

Councillors S Gaskin (Chairman), D F Fletcher and H Hall.

Officers Present:

Mrs A Wakefield (Solicitor), Mrs H Farman-McKenna, Mrs Andrea Davies (Principal Democratic Services Officer and Mrs Monica Henchcliffe (Senior Democratic Services Officer).

49/21 **DECLARATIONS OF INTEREST**

There were no declarations of interest at the commencement of the meeting.

50/21 **APPOINTMENT OF CHAIRMAN**

Resolved:

That Councillor S Gaskin be appointed Chairman for this meeting.

51/21 **URGENT BUSINESS**

There was no urgent business brought forward to the Licensing Act Sub-Committee pursuant to Rule 12.

52/21 **APPLICATION FOR THE REVIEW OF A PREMISES LICENCE – THE LOCOMOTIVE SPORTS BAR, 28 STATION STREET, BURTON UPON TRENT, STAFFORDSHIRE DE14 1AU**

(HoS) The report of Mark Rizk (Head of Service), regarding an application for the review of a premises licence was considered.

Present at the meeting were:

Chief Inspector Clare Langley (Staffordshire Police), Sergeant Jim Finn (Staffordshire Police), Ms Nicky Bills - Police Licensing Officer (Staffordshire Police) and Mr Kirk Hyland-Taylor (Customs Investigation Officer).

Ms Parmjit Kaur, the Premises Licence Holder, was accompanied by Mr Duncan Craig (Barrister), Mr Paul Lalli (Director) and Mr Matthew Shaw (Designated Premises Supervisor).

The sub-committee heard oral evidence from the following:

Mrs Helen Farman-McKenna (Licensing Officer)

Sgt Jim Finn (Staffordshire Police)

Ms Nicky Bills (Licensing Officer - Staffordshire Police)

Mr Duncan Craig (Counsel for the Applicant)

Mrs Parmjit Kaur (Premises Licence Holder)

Mr Matthew Shaw (Designated Premises Supervisor)

Mr Paul Lalli (Director)

Resolved:

The meeting of the Licensing Act Sub-Committee had been convened for the purpose of hearing an application by Staffordshire Police for the review of the premises licence at the Locomotive Sports Bar, 28 Station Street, Burton upon Trent. Members had read a comprehensive set of documents and witness statements in advance of the hearing. In addition, during the course of the hearing they heard lengthy submissions on behalf of the applicant and the premises licence holder and they viewed CCTV footage of a number of the incidents mentioned in the review application.

It was a matter of common ground between the parties that the premises licence was previously reviewed on 26th November 2018, also on the application of Staffordshire Police, and on that occasion the Sub-Committee revoked the premises licence. It was also a matter of common ground that the appeal was settled on 4th November 2019 on the basis that a range of additional conditions were added to the premises licence.

At the hearing on 28th April 2021 Miss Nicola Bills on behalf of Staffordshire Police took Members through the review application, in the process citing 27 incidents at the premises from 17th September 2019 to 31st October 2020. She also explained that measures implemented by the Government in response to the Covid-19 pandemic meant the premises was closed from 21st March 2020 until 4th July 2021, it closed once again on 5^h November 2020 and it had not reopened since then. Miss Bills also took Members through CCTV footage of a sample of those 27 incidents as well as explaining to Members a number of failings in record-keeping; an anomaly in the CCTV footage; and the discovery on the premises of shisha on which no duty had been paid. Miss Bills told Members that, in the view of Staffordshire Police, the operation of the premises was having a detrimental effect on the licensing objectives because of the manner in which it was being run.

Sgt James Finn of Staffordshire Police explained to Members that the Police had attended 12 of the 27 incidents and that the intoxication levels of those leaving the premises was a factor in each case. Sgt Finn asserted that this was attributable to the management of the premises. Sgt Finn explained to Members the stepped approach adopted by Staffordshire Police's Licensing Team as standard practice when dealing with licensed premises throughout the county; he said that he and his colleagues would always work to resolve issues without recourse to the Licensing Authority where possible and he reminded Members that the steps taken in the current instance included the additional conditions already added to the premises licence. Sgt Finn reminded Members that the Police should usually be the authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. He submitted that there were no further conditions which could be added to the licence to address current issues and nor would it be appropriate to exclude a licensable activity: he said that problems at the premises were attributable to the sale of alcohol and that excluding that from the licence would be revocation by another name.

Members also heard from Miss Helen Morris, an officer in East Staffordshire Borough Council's Environmental Health team. Miss Morris explained that in her representation in response to the application she had listed all her dealings with the premises. In summary, the Environmental Health team had issued guidance to management on measures relating to the Covid-secure operation of the premises and Miss Morris' view was that those measures had been implemented.

Thirdly, Members heard from Mr Duncan Craig on behalf of the premises licence holder. Mr Craig made the overarching observation that a number of the issues brought to Member's attention were of some significant antiquity. Mr Craig acknowledged that Staffordshire Police were entitled to bring a review whenever they wished but he argued that the more

time that had elapsed since an incident then the less weight it should have. He stated that a remarkable amount of resources had been thrown at this matter by Staffordshire Police and said that a high degree of scrutiny and oversight had been directed towards the premises. By Mr Craig's estimation, this was his 7th attendance at a hearing of the Sub-Committee in respect of the premises. He said that the premises was heavily conditioned; he pointed out that the premises was in the middle of Burton, which he described as a challenging town to manage; and he said that at the time of the appeal in September 2019 the premises were very much on par with others in the vicinity, remarking that this was not a village pub, that the incidents described would be what one would expect of a premises in this location; and that whoever runs the premises would face a challenge.

Mr Craig summarised the premises licence holder's position in respect of the incidents outlined in the application and he invited Members to draw conclusions about Staffordshire Police's disposition towards the premises as well as from the fact that no criminal proceedings had been brought as a result of any of the matters relied upon in the review application. Mr Craig asked Members to take into account the challenging times within which the premises was operating saying too that the premises was not unique within Burton town centre. He said that the premises licence holder was compliant with the conditions of her licence and had been substantially compliant with Covid measures. He said that this was a time to look forward and argued that Members were being asked to take a person's business away when she had had a horrendous year. He reminded Members of the need for a targeted and proportionate response, saying that Members had the power to suspend the licence, to remove the designated premises supervisor (although he said that the DPS was doing a good job); and he cited the fact that the licence was already heavily conditioned and rightly so.

Members also heard from Ms Pam Kaur, the premises licence holder and Mr Matthew Shaw, the designated premises supervisor. Ms Pam Kaur told Members that even in the immediate vicinity of the premises there were limits on the degree to which security staff could intervene, both because of the security company's insurance policy and because of the duty of care owed to security staff by Ms Kaur. Mr Shaw had explained to Members that he had not always fully appreciated the conditions placed on this particular licence and he alluded to the fact that there was no instruction manual for him to consult in his role as DPS.

Having read all the papers, listened to all submissions and watched the CCTV footage, Members were persuaded that there were issues at the premises such that the licensing objectives were being undermined as stated in the review application. They were also persuaded by the argument put forward by Sgt Finn on behalf of Staffordshire Police that the problems at the premises were attributable to the high levels of intoxication of customers within the premises and on leaving the premises. Members were mindful of the fact that they must identify an appropriate and proportionate response in order to tackle the problems identified. Members took the view that there were no suitable additional conditions that could be placed on the premises licence. They also concluded that the problems identified were attributable to poor management, which, in this case, was a direct reflection of poor company practice or policy and that the removal of the DPS would therefore be an inadequate response to the problems presented. Members also found that suspension would be an inadequate response and they based this upon the fact that the premises licence holder had been given opportunities in the past to rectify issues and to ensure the premises were operated in a manner which would not undermine the licensing objectives. Having found all other measures were insufficient to remedy the problems, Members determined that they must revoke the premises licence.

Chairman