

Record of a Hearing of the Bradford Licensing Panel held on Monday 30 March 2009 in Committee Room 3, City Hall, Bradford

Procedural Items

DISCLOSURES OF INTEREST

No disclosures of interest in matters under consideration were received.

INSPECTION OF REPORTS AND BACKGROUND PAPERS

There were no appeals submitted by the public to review decisions to restrict documents.

Hearing

- 1. An application for a Review of the Premises Licence for Funkys, 14-18 Ivegata, Bradford (Document "P")**



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Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)



RECORD OF A HEARING FOR AN APPLICATION FOR A REVIEW OF THE PREMISES LICENCE FOR FUNKYS, 14-18 IVEGATE, BRADFORD (DOCUMENT "P").

Commenced: 1025
Adjourned: 1050
Re-convened: 1140
Adjourned: 1350
Re-convened: 1415
Concluded: 1550

Present:

Members of the Panel:

Bradford Licensing Panel: Councillors Hill (Chair), Pullen and Chadwick.

Parties to the Hearing:

Representing Responsible Authority Applicant for Review:

Mr Skelt, Barrister representing West Yorkshire Police
PC Dawson, West Yorkshire Police
PC Winterbottom, West Yorkshire Police
PC Bampton, West Yorkshire Police
PS Hearn, West Yorkshire Police

Representing the Interested Party:

Mr West, Bradford City Centre Residents Association (BCCRA)

Representing the Licensee:

Mr Thompson, representing the Licensee
Mr Greenaway, Designated Premises Supervisor and Licensee
Mr M Dibb, Promotions Manager
Mr Ashbourne, Titanium Security

Observers:

Mrs Day, West Yorkshire Police
Mr Tyson, West Yorkshire Police
Mr Warburton, West Yorkshire Police
PC Haveron, West Yorkshire Police
Mr Khan, Premises Owner
Mr Taiwo, Titanium Security
Mr Dyson, Titanium Security
Mr Parker, Bradford City Centre Manager
Ms Barclay, BCCRA
Mr Crewdson

Representations:

The licensing officer in attendance summarised the background to the application received for review including details of the current Premises Licence, the current licensing conditions, the grounds set out in the two review applications and the valid representations received as set out in the report.

The police's legal representative reported his intention to present images from a CD-Rom as evidence and that he would then call police officers to answer questions relating to that evidence.

The police Licensing Officer for Bradford South referred to a statement from a police officer dated 17 December 2008 relating to the employment of an unregistered doorman at the premises. It was reported that police objections to the variation of the Premises Licence had been withdrawn following the applicant's agreement to conditions to be placed on the licence which stipulated the required number of SIA door staff to be employed at the premises and restricting entry to those 21 or older only. The hearing relating to the application for variation of the licence had been conducted on 25 November 2008 and she was particularly concerned that the breach of the conditions had occurred only three days after that hearing.

At this point in the proceedings, with the agreement of the police and the representative of the Licensee, the Panel passed the following resolution in order to facilitate consideration of evidence to be presented by the police.

Resolved -

That, in accordance with paragraph 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, the public be excluded from the hearing (save for the representatives of the Police and the representatives of the Licensee) during the showing of a CD-Rom presented as evidence by the Police. The Panel considered that there was an overriding public interest in protecting the privacy and personal data of third parties who may be shown on the CD-Rom evidence.

At this point, 1140hours, the meeting resumed in a public session.

The police's legal representative called several police officers, on duty at the time of the incidents at the premises.

A police officer in response to her statement dated 2 February 2009 provided the following information:-

- She confirmed that she was the arresting officer for the incident reported on 1 February 2009.
- After arresting the person she went back to the venue; witnesses were requested as CCTV showed that a window had been smashed and a person had been attacked by a doorman.
- A suspect had been detained and she requested the security staff provide evidence. She was unable to identify the manager of the premises
- The doormen refused to provide a police statement. There were approximately four people in the doorway of the venue and they said they didn't give statements.
- She had identified the people at the scene as security staff because they were wearing yellow armbands.

The licensee's representative and the head of the security deployed provided the following responses to that statement:-

- Only one of the men identified at the incident was security staff employed by the licensee.
- Management had kept a record of the event which contained a statement of the incident. They were unaware that a statement had been requested by the police but had provided that information in response to the review application.

Another police officer referring to a statement dated 9 March 2009 provided the following information:-

- It was ascertained that a female was refused entry and an argument and scuffle between customers and security staff began. The security staff refused to attend the police station to provide statements but appeared irritated and concerned that no action would be taken against the customers. It was explained that as she was the only Police Constable present and without a statement no further action could be taken. She was accompanied by Police Community Support Officers (PCSOs) whose role must be non-confrontational.
- The doormen were annoyed with the police presence and when police pursued a person armed with a hammer they began to clap.
- Following an incident when a door man hit another male the door man was told he could be also arrested.

The Licensee commented that the security staff were allowed, within reason, to defend themselves against assault.

A Police Sergeant explained the rationale behind the organisation of Operation Grid Iron and provided the following information about problems in the Ivegate area.

- Operation Grid Iron was instigated to provide high visibility police presence and to reduce disorder on Friday and Saturday nights. Its focus was the West End area where there was a high concentration of bars and clubs. A minimum of 12 officers were employed until 0300 hours after which time the 24 hour team took over responsibility for that area.
- Operation Grid Iron was permanently deployed in the West End area, however, following incidents occurring outside of Funkys the team had, since 13 February 2009, dedicated four officers to police the area outside of the premises on a Friday and Saturday night.
- The deployed officers brief was to specifically monitor activities in the vicinity of Funkys and to observe the Centenary Square area. There were problems with the resources available when officers from other areas had to be deployed outside of Funkys to deal with incidents there and it was difficult to provide such substantial police presence until 0600 hours when the premises closed.
- It was believed that problems in the Ivegate area were a result of Funkys operating each weekend. Following a permanent deployment of four officers in the area the problems had reduced.
- It was not felt that it was the responsibility of the police to concentrate resources exclusively on one club.
- Patrols and checks were undertaken with other venues in the city. Checks were conducted in these premises to ensure that licensing conditions were adhered to; good relationships between security staff had been developed and communication could be made with police officers via the beat radio.

In response to the Police evidence the licensee's representative made the following comments:-

- The West End area had high levels of visible police presence and if that same police presence was available in other areas the crime rate would reduce.
- Ivegate was classed as an entertainment area and received over 2,000 customers each weekend.
- The applicant had requested a regular police presence in the area.
- No incidents occurred inside of the premises.
- The police presence had only increased followed the application for review of the premises.
- It appeared that financial considerations were a factor in assessing the police resources available to patrol the area.

Operation Grid Iron police officers gave details of the police presence deployed outside of the premises during February and March 2009. It was explained that there were insufficient resources available, without taking officers from other areas, to permanently patrol the area. The decision on where to provide police cover was made by senior officers. Officers often had to run down from the West End to attend to incidents in Ivegate.

The licensee's representative continued to question the police witnesses and, in response to those questions, the following responses were provided:

- There had been no consultation with management following the breach of licensing conditions and, in view of the history of the premises, a decision had been taken to apply for review of the licence.
- Discussion on specific premises was not undertaken at the pub watch meetings. An Inspector attended those meetings and would undertake one to one discussions if appropriate.
- The information statement relating to an incident of disorder submitted by a member of the doorstaff was only submitted following the application to review the licence and was not sufficient to process through the criminal justice system. The statement was not received until 23 March 2009.

A representative of Bradford City Centre Residents' Association (BCCRA) addressed the meeting. It was explained that BCCRA had been established to provide the residents of the city centre with a means of dialogue between the Council and other organisations in the city. He referred to the population and demographic constitution of the area. In response to questions it was confirmed that members of the organisation's steering group lived in the proximity of Ivegate. It was maintained that the group was not a negative organisation; they were supportive of the regeneration of the city including a thriving night time economy and wished to see well run establishments which did not interfere with the lives of residents.

Members had received a letter which provided a commentary on events depicted in CD-Rom evidence which they intended to present. It was claimed that the incidents depicted on the CD-Rom were occurring on a regular basis and the Panel were requested to revoke the licence because they believed their evidence showed that all four licensing objectives were being contravened at the premises.

At this point in the proceedings, with the agreement of the representatives of the residents and the Licensee, the Panel passed the following resolution in order to facilitate consideration of evidence to be presented by the residents.

Resolved -

That, in accordance with paragraph 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, the public be excluded from the hearing (save for the representatives of the residents and the representatives of the Licensee) during the showing of a CD-Rom presented as evidence by the Residents Association. The Panel considered that there was an overriding public interest in protecting the privacy and personal data of third parties who may be shown on the CD-Rom evidence.

At 1415 hours the meeting resumed in a public session.

In response to questions from the Licensee's representative and the representative from BCCRA provided the following information:-

- Disturbance from the premises affected residents in Prudential Buildings; Ivegate House and apartments in Sunbridge Road.
- The BCCRA representative had not personally made any complaints to Environmental Health but it was believed that residents had tried all methods to alleviate the problems they were experiencing.

In summary the BCCRA representative reported that people had been suffering from unruly behaviour in the area on a regular basis. It was maintained that this was unacceptable and Members were requested to help residents alleviate the situation.

The licensee's representative addressed the meeting and referred to the lack of advice and consultation which was indicated was available in the application for review. It was maintained that security staff had not been requested to provide statements by the police and that the licensee had endeavoured to work with the police. It was acknowledged that, on one occasion, the employment of an unregistered security man had occurred and apologies were provided for that error. He called upon the Promotions Manager and Head of Security to address the issues shown on CD-Rom and by the police and BCCRA representatives:-

The Promotions Manager

- The nature of entertainment provided at the premises was usually fancy dress themed evenings such as foam or pyjama parties.
- The premises did not promote "4 x 4" style dance music or "gangster" style baseline music. A series of CD's had been provided to the Police's Licensing Officer to evidence the type of events being held.
- The club was well run; problems did not occur inside of the premises but were as a result of people being ejected or refused entry and a lack of police presence in the area.
- Incidents on the CD-Rom occurred after security staff had been subject to extreme provocation.
- Drinks shots were served in 10ml measures as opposed to the 25ml volume available at other licensed premises.
- Two first aid staff were available to customers

- CCTV cameras covered internal and external areas.
- More than the stipulated numbers of security staff were employed at the premises.

The Head of Titanium Security

- It was maintained that the incidents involving security staff were because they were being used to 'police' the area. They wanted to work along side, not as substitutes for, the police. The employment of an unregistered person had occurred in error. The person had provided a security registered number but claimed he had lost his badge. Since that time he had not been employed by the club. The status of all security personnel was now checked seven days prior to their employment.
- Video evidence provided did not reveal the true picture. The images depicting an incident showing a person unconscious on the floor had been edited before it revealed a security staff going to his assistance.
- A security person depicted in one incident was not employed by the premises and it was that person who had refused to provide a statement. The Licensee wished to be co-operative and work alongside the police and would assist wherever possible to develop good relationships.

Licensee/Designated Premises Supervisor:-

- All security staff were 'logged in' when they arrived for work. If security badges were not in evidence contact would be made with Titanium Security.
- Unruly behaviour was not tolerated and those customers who were barred were barred for life.
- All drinking receptacles were plastic; binge drinking was not encouraged and drinks promotions never held.
- Footage which appeared to show a prostrate customer left unattended did not reveal that the customer had suffered an epileptic fit. She had been assessed by paramedics as OK and was left whilst they attended to another customer.
- The doorman involved in a kicking incident had been issued with a full and final warning.
- An incident of fighting was between a customer and his 'friend'. Security staff were not involved in that incident.
- Regular contact was previously made with the Police Licensing Officer to ascertain any problems the police had experienced.
- The under 21 only policy had resulted in problems when entry was refused to customers who were visiting the club. All other venues in the location had an over 18 policy and confrontation was caused when those customers could not gain entry to Funkys.
- Funkys, The Cube, Candy's and Lingards were all located in the Ivegate vicinity. A proper police presence was required in the area. The success of Funkys was resulting in visitors to Bradford from other towns.

In response to questions by the Panel, the Police and BCCRA representative, the licensee's representative provided the following information:-

- The age and behaviour of customers was checked at the door. A further check was also maintained by bar staff that would ensure service was refused to anyone who appeared drunk, underage, or poorly behaved.
- Security staff undertook the SIA four day training course but this did not include

instruction on control and restraint. Customers were asked to obey instruction three times before the door manager would be called to the incident. Procedures to be developed in-house on measures to avoid confrontation were being developed.

- It was accepted that the licensee was responsible for the immediate vicinity of the premises but incidents such as the occurrence of a customer brandishing a hammer were outside of the managements' control.
- People arrived at the premises between 2300 and 0500. If two or three thousand people are in the area without a police presence there may be problems.
- The person depicted on the CD-Rom being ejected from the premises was ejected by another customer. That customer was then ejected from a rear doorway to prevent further confrontation.
- Security staff depicted were from other premises located on Ivegate.
- Security staff being restrained were reacting to an incident when a customer had spat in their faces three times.
- Bradford leisure provision was deteriorating. People need to be able to unwind in safety.
- It was believed that BCCRA members objected because of an obsessive interest in the premises by a resident who wished to see the venue closed.
- The Police objection was based on finances. If demand on resources increased so would the cost. The premises would be prepared to pay towards policing costs in the area.
- Staff had not intervened in an incident when a person was unconscious in the area because this occurred after the premises had closed and the door security staff were not on duty.
- It was not accepted that security staff were frequently involved in street brawls. The volume of people in the area made it difficult for them to police the whole area but when they had the benefit of a police presence the security of the area worked well.
- The police statement that behaviour at Funkys caused more problems than the other venues in the area was refuted.
- Titanium Security staff were also employed at The Cube and one other small venue.

In summary, the Police's representative requested that the Panel considered the concerns which had been raised and the incidents of violence and violent behaviour occurring in the area. It was maintained that the security of the premises was conducted in an unprofessional manner and such behaviour could escalate violent incidents in the vicinity. It was believed that the use of unregistered security staff demonstrated a lack of care by the management of the premises. The licensee had claimed that the premises were managed correctly, however, the CD-Rom evidence showed to the contrary. It was claimed that the drain on public resources was disproportionate and if the behaviour was replicated at other venues the area would be uncontrollable. It was believed that the management of the premises had not acknowledged that problems in that area were instigated by the premises and that previously agreed conditions had not been adhered to.

In summary the licensee's representative maintained that the premises had operated for some years. He believed it was unfair that other venues in the city had adequate police presence whilst their venue did not. The owners had voluntarily agreed not to operate throughout the day and organised an outside smoking area at the rear of the premises to prevent nuisance in the area. It was maintained that the Designated Premises Supervisor was well respected in the licensed trade and the Promotions Manager regularly liaised with the Police Licensing Officer to discuss the suitability of the music. The business employed approximately 20 people. It was suggested that people not being allowed admission after 0300 hours may assist the Police and local residents. The removal of the over 21 only condition was requested to avoid confrontation from customers who were refused entry.

The licensee's representative reminded Members that CCTV was in operation; signing in books were used and staff training to include monthly management meetings with the Police and Council officers were being developed. The Licensee was prepared to employ a different security firm if requested by Members and would work closely with licensing consultants.

Resolved -

That having considered all valid representations made by the parties to the hearing; valid written representations received during the statutory period, the published statement of licensing policy and relevant statutory guidance; the Panel finds as follows:

- 1. That the premises licence be suspended for a period of 28 days.**

Reason: Having regard to the compelling evidence, presented by the West Yorkshire Police review applicant and the interested party relating to breaches of the licence conditions relating to use of unregistered Security Industry Authority (SIA) registered door staff and evidence of aggressive conduct by door staff and lack of control by the Licensee in the prevention of serious incidents of crime and disorder in the direct vicinity of the premises; the Panel considers suspension of the Licence is justified in order to address serious issues related to the Prevention of Crime and Disorder and Public Nuisance and promotion of public safety.

- 2. That on expiry of the suspension period no licensable activities shall resume at the premises until a management plan is submitted and approved by the Licensing Authority, in consultation with West Yorkshire Police, that deals effectively with ensuring proper customer care and prevention of crime and disorder both inside and outside the premises. The approved management plan shall in particular address appropriate numbers, deployment and the training of SIA registered door staff and measures to ensure effective communication with West Yorkshire Police in order to anticipate, prevent, ameliorate and respond to any incidents of disorder.**
- 3. Any management plan that may be approved in accordance with 2 above shall be implemented at all times during licensable activities as a condition of the licence.**

Reason: To ensure that the management and prevention of any unruly behaviour which could occur at the premises is addressed in a co-ordinated method and taking into account resources and the guidance of West Yorkshire Police and that measures undertaken are conducted in an appropriate and fitting manner.

Chair

Note: This record is subject to approval as a correct record at the next meeting of the Licensing Committee.