

City of Bradford Metropolitan District Council

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Record of a Hearing of the Bradford Licensing Panel held on Tuesday 25 August 2009 in Committee Room 1, City Hall, Bradford

Procedural Items

DISCLOSURES OF INTEREST

Councillor McCabe disclosed a personal interest in the hearing relating to the application for a premises licence for Zuu Bar, 90 Sunbridge Road, Bradford as he was a Thornton Ward Councillor and frequented the Black Swan public house in Thornton where the applicant was also the Licensee and as the interest was not prejudicial he remained in the meeting.

Action: Assistant Director, Corporate Services (City Solicitor)

INSPECTION OF REPORTS AND BACKGROUND PAPERS

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

Hearing

1. Application for a premises licence for Zuu Bar, 90 Sunbridge Road, Bradford (Document "D")
2. Application for review of a premises licence for Che Bar, Belfry House, 17 Chester Street, Bradford (Document "E")
3. Application for review of a premises licence for Penny Bank, 40 North Parade, Bradford (Document "F")



2006-2007
Improving Rural Services
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Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)



RECORD OF A HEARING FOR AN APPLICATION FOR A PREMISES LICENCE FOR ZUU BAR, 90 SUNBRIDGE ROAD, BRADFORD (DOCUMENT "D").

Commenced: 1015
Adjourned: 1040
Re-convened: 1055
Concluded: 1100

Present:

Members of the Panel:

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

Parties to the Hearing:

Representing the Applicants:

Mr Stell, Solicitor representing the Applicant
Mr Singh, Applicant
Mr Singh, Applicant's son

Representing Interested Parties:

Mrs Burns, representing Mr Chand
Mr Chand, local businessman

Observer:

Mr Fell

Representations:

The licensing officer in attendance summarised the background to the application and valid representations received as set out in the report.

The applicant's representative informed the Panel that the premises had previously been licensed and that it was proposed that the sale of alcohol would cease at 0430 on Monday to Saturday and 2330 on Sunday. He stated that a representation had been received from a competing business on the grounds of anticipated anti-social behaviour, noise and disturbance, however, the police had not objected to the application. Discussions had also been undertaken with the police and a number of conditions had been agreed as follows:

- That a CCTV system acceptable to the police be installed and any footage to be retained for 28 days.
- That the Designated Premises Supervisor participate in the City Centre Beat scheme.
- That a minimum of three SIA registered doorstaff be present on Thursday, Friday and Saturday from 2200 until the premises closed.
- That no one under the age of 18 to be allowed on the premises.

The applicant's representative added that a condition with regard to 'Challenge 21' was also acceptable. He reported that the applicant had been a licensee for over 10 years in the City and was also the licensee of the Black Swan public house in Thornton. The

applicant was familiar with running a licensed premises, he was a responsible person and also employed a number of staff that held personal licences. In conclusion the applicant's representative requested that the premises licence be granted.

In response to Members' questions regarding the premises and the proposed licence, the applicant's representative and the applicant confirmed that:

- the capacity of the premises was 200 people.
- adult dancing would only be permitted for private functions.
- the music would not be audible outside the premises and the applicant was happy for a condition to be placed on the licence.
- the 3rd floor of the premises was sublet and had been a gym. There was also a boxing area, however, the whole floor could be excluded from the licence.
- there was no intention to hold sporting events.

The Council's legal officer indicated that the Panel would need to determine whether adult entertainment was acceptable or if it should be removed from the licence. The applicant would also have to submit amended plans if the 3rd floor of the premises was to be excluded.

The objector's representative addressed the meeting and explained that she had previously been a licensee, still held a personal licence and was representing a local business man. With regard to the proposed hours of licensable activities, it was stated that there were issues relating to anti-social behaviour at other premises in the area between the hours of 0300 and 0500 that had been captured on CCTV. Incidents of anti-social behaviour had taken place on Ivegate, which was nearby and if the hours were granted as applied for it would place additional strain upon the service provided by the police. There were also potential problems in relation to criminal damage and alcohol sales to underage persons. The objector had a vested interest in the application as his business was in the nearby vicinity and could be under threat, therefore, it was requested that the licensable hours ceased at 0400.

The applicant's representative questioned whether the objector was acquainted with the applicant, if the objection was personal and if the conditions would assist in the proper management of the premises. The objector confirmed that he had been a business partner of the applicant, he did not personally object to the applicant and accepted that the proposed conditions would help maintain order in the premises.

In summation the objector's representative reiterated that the hours of licensable activities should not be granted until 0430 and that the proposal would be detrimental to the surrounding areas. It was acknowledged that the applicant was deemed to be responsible, however, people leaving the premises could not be controlled.

In conclusion the applicant's representative stated that the applicant was a responsible licensee who would work with the City Centre Beat initiative and had already liaised with the police and agreed conditions.

Members then questioned the applicant further in respect of the licensable hours and the employment of SIA registered doorstaff. In response the applicant's representative confirmed that the premises could close earlier than requested on Monday and Tuesday and that SIA registered doorstaff would be employed when required. The applicant agreed to a condition prohibiting adult entertainment.

Decision

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 grants the application subject to the following conditions:

- 1.1 That the hours of licensable activities be granted as applied for with the following exception:

Sale of alcohol

Monday and Tuesday 1100 to 0230

Provision of regulated entertainment and late night refreshment (from 2300)

Monday and Tuesday 1000 to 0300

- 1.2 That noise from amplified and non-amplified music, singing and speech from regulated entertainment at the premises shall not be audible at the nearest noise sensitive premises.
- 1.3 That prominent signs be displayed at all public exits to the premises requesting patrons to be quiet on leaving and entering.
- 1.4 That on days when alcohol is sold beyond midnight, three SIA registered door supervisors be employed at the premises from 2200 until the premises is closed and clear of customers.
- 1.5 That a CCTV system (with satisfactory internal and external coverage) be installed at the premises and be maintained in good working order and used at all times the premises remain open to the public for licensable activities. Any CCTV footage shall be kept for at least 28 days and be available to the Licensing Authority or a Responsible Authority on request.
- 1.6 That the licensee cooperates fully with the City Centre Beat initiative promoted by West Yorkshire Police.
- 1.7 That a 'Challenge 21' proof of age policy be implemented on the premises.
- 1.8 That free drinking water be available at all times on request from patrons.
- 1.9 That patrons shall not be permitted to leave the premises with bottles or glass receptacles.

Reason: In order to ensure that the Licensee takes all steps in their control to limit noise and disturbance to local residents from patrons using and leaving the premises – Prevention of Crime and Disorder Objective and to prevent the sale of age restricted products to underage customers – Protection of Children from Harm Objective.

- 2.1 That no dancing or other regulated entertainment of an adult or sexual nature shall take place on the premises.

Reason: In light of the proximity of these premises to the recognised “red light” area of the District it is not considered that it would be appropriate to allow adult entertainment to take place – Prevention of Crime and Disorder Objective.

The Panel also noted that the Premises Licence Holder had not applied for indoor sports and, therefore, no public indoor sports events would be permitted on the premises.

Chair

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

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THESE RECORDS HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER

RECORD OF A HEARING FOR AN APPLICATION FOR REVIEW OF A PREMISES LICENCE FOR CHE BAR, BELFRY HOUSE, 17 CHESTER STREET, BRADFORD (DOCUMENT "E").

Commenced: 1105
Adjourned: 1135
Re-convened: 1145
Concluded: 1150

Present:

Members of the Panel:

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

Parties to the Hearing:

Representing Responsible Authority Applicant for Review:

Mr Sharp, Fire Safety Manager, West Yorkshire Fire and Rescue Service
Mr Seekins, Fire Safety Inspector, West Yorkshire Fire and Rescue Service

Representing the Licensee:

Mrs Johnson, Solicitor representing the Licensee
Mr Muirhead, Operations Director, Town Centre Bars Ltd
Mr McCloughlin, Area Manager, Town Centre Bars Ltd
Mr Mercer, proposed Designated Premises Supervisor

Representations:

The licensing officer in attendance summarised the background to the application and valid representations received as set out in the report.

The West Yorkshire Fire and Rescue Service representative explained that the review application had been submitted due to concerns that the evacuation policy had not been followed when a decorative flag had caught fire at the premises. The incident had been a serious public safety matter and the Designated Premises Supervisor (DPS) had a duty to evacuate the premises. The incident could have led to tragedy and a quick reaction had been vital due to people being intoxicated.

A Member questioned what action the Fire Service had taken in response to the incident. The Fire Service's representative explained that they had been informed of the incident via an anonymous complaint after the event and the evidence had disappeared. It had been decided to submit a review application regardless of whether the Fire Service prosecuted the premises. The Council's legal officer indicated that the statutory guidance advised that the Fire Service should have used their own legislation to deal with the matter so as not to duplicate legislation. In response the Fire Service's representative stated that if they followed the advice to the letter, a review application would never be submitted. The evidence of the incident had disappeared and the premises had scored low in a recent audit. The Chair of the Panel explained that the review procedure should not be viewed as an area of last resort and that the element of public safety would be considered.

The Licensee's representative addressed the meeting and outlined the following points:

- Town Centre Bars Ltd took their responsibilities very seriously and had nothing to gain by not doing so.
- There was a comprehensive policy within the premises.
- The DPS on the night had failed to comply with the company policy.
- 'Fire eaters' had been employed as a cabaret act at the premises, a flag had caught fire and started to smoulder. The DPS had extinguished the fire and undertook the decision not to evacuate the premises.
- Town Centre Bars Ltd ensured that managers followed policy.
- The DPS in question had been moved to a junior position and had undertaken a Fire Safety course.
- Any entertainment involving 'fire' had been banned.
- The staff at the premises had been retrained in fire safety and Town Centre Bars Ltd now ensured that all managers undertook a Fire Safety Training for Managers Course.
- The Fire Safety Manager had been informed that a policy was in place at the premises.
- Managers of Town Centre Bars Ltd premises had been contacted and informed that company policy must be followed or disciplinary action would be taken.

In response to questions from the Panel, the Licensee's representative confirmed that:

- previous training had been provided in-house.
- liaisons were undertaken with the Fire Authority.
- the Company's fire evacuation policy was very clear.
- the policy did state that a fire should try to be extinguished, however, this would only be when appropriate and the person involved would have to be trained.
- the DPS had been trained.

In light of the responses received, the Fire Service's representative informed the Panel that as well as being trained the person would need to know how and what type of equipment to use in order to extinguish the fire. The information they had received indicated that another person, not the DPS, had put out the fire and that an incorrect extinguisher had been used.

In conclusion the Fire Service's representative reiterated that the issue had been one of public interest and safety. The Fire Service's representative was questioned as to whether the Service were content with the action taken by Town Centre Bars Ltd and if regular meetings between the two were undertaken. In response the Fire Service's representative confirmed that the steps taken were positive, however, refresher training would be required. The possibility of regular meetings could also be looked at.

In summation the Licensee's representative confirmed that flags or entertainment involving fires were no longer permitted on their premises. Staff turnover was high, but fire training was covered at the induction training and Town Centre Bars Ltd expected policies to be adhered to. The Licensee's representative requested that the Panel accepted that the Licensee had taken remedial action and everyone was now aware of their responsibilities. It was noted that the Fire Service could take measures against the premises under their own powers, however, it was hoped that the Review application would be considered on its merits.

Decision

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:

- 1.1 That the Licensee be formally warned as to future conduct with regard to the admitted serious incident of breach of the premises fire safety policy and the need to ensure proper precautions are taken at all times to secure the safety of patrons. The Licensee is warned that if further breaches are subject to review the Panel will give serious consideration to suspension or revocation of the licence.**

Reason: It is the responsibility of holders of premises licences to ensure compliance at all times to ensure the safety of patrons to their premises – Promotion of Public Safety Objective.

- 2. That no entertainment shall take place in the premises involving the use of smoke machines; fog generators; pyrotechnics, including fireworks; real flame; firearms; explosives and highly flammable substances.**

Reason: In order to ensure that the risk to patrons is minimised from use of equipment or materials that could pose a fire safety risk - Public Safety Objective.

Chair

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

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RECORD OF A HEARING FOR AN APPLICATION FOR REVIEW OF A PREMISES LICENCE FOR PENNY BANK, 40 NORTH PARADE, BRADFORD (DOCUMENT "F").

Commenced: 1150
Adjourned: 1225
Re-convened: 1240
Concluded: 1245

Present:

Members of the Panel:

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

Parties to the Hearing:

Representing Responsible Authority Applicant for Review:

PC Dawson, Licensing Officer, West Yorkshire Police
Special Constable Gatherum, West Yorkshire Police, Witness
Mrs Charles, West Yorkshire Trading Standards, Witness
Mrs Bagheri, West Yorkshire Trading Standards, Witness

Representing the Licensee:

Mr Blackburn, Solicitor representing the Licensee
Mr Kilgallon, Designated Premises Supervisor
Mr Burts, Bar Manager

Representations:

The licensing officer in attendance summarised the background to the application and valid representations received as set out in the report.

The West Yorkshire Police representative explained that the review had been submitted following underage sales of alcohol at the premises and proceeded to highlight the background to the case. The Panel were informed that a joint initiative between West Yorkshire Police and West Yorkshire Trading Standards had taken place over a number of weeks. On 14 March 2009 a sale of alcohol was made to underage Test Purchasers which had resulted in the Manager being informed and the bar being closed. The Licensee and Designated Premises Supervisor (DPS) were notified and a meeting took place with the Licensee where an Action Plan was accepted. On 15 May 2009 another sale was made to underage Test Purchasers and the Manager was notified in the absence of the DPS. A further meeting was arranged with the Licensee to take place on 29 May 2009, however, another operation organised by the police resulted in a further Test Purchase at the premises on 23 May 2009. The police's representative reported that the DPS had not been present at the premises on any of the occasions where Test Purchases had been carried out. The premises had not been placed on final warning as the third underage sale had occurred prior to the meeting scheduled, with the Licensee, to take place on 29 May 2009. It was confirmed that two underage sales had taken place within a 7 day period and three sales had occurred within 3 months. The police's representative explained that as the DPS had not been present during the sales, he could not be prosecuted and, therefore, fines had been issued to those present. The premises were

currently still trading.

The Council's legal officer queried why an officer present had formed the opinion that customers in the premises were underage. In response the officer in question confirmed that he had witnessed patrons running out of the back door.

The Licensee's representative questioned the police's representative in relation to the status and validity of the final warning dated 29 May 2009. In response he was informed that circumstances had been overtaken by the third Test Purchase at the premises. The Licensee's representative indicated that in his opinion the review was not appropriate. He then queried whether the police or Trading Standards had visited the premises since 23 May 2009 to which both parties confirmed that they had not.

The Licensee's representative addressed the meeting and reported that the premises had opened as a small traditional public house in June 2006. The DPS had held a personal licence since 2006 and lived on the premises. It had a jukebox, pool table, darts board and held the occasional party. It was noted that a 21st birthday party had taken place on 14 March 2009 at the premises when the first Test Purchase incident had occurred. The Licensee's representative stated that the premises did not appeal to underage persons and was a well run establishment that did not have any problems with disorder or cause a nuisance for the police. He stated that the Licensee accepted full responsibility for the underage sales, acknowledged that issues had not been acted upon with the urgency that was required and conceded that this was not acceptable. The Licensee's representative confirmed that the problem could be easily remedied by staff exerting more control and vigilance with regard to sales of alcohol. Those involved were aware of the consequences of the review and people's livelihoods were at stake.

The DPS responded to questioning from the Panel and the Council's legal officer as follows:

- That until recently he had not spent a great deal of time at the premises as he managed 6 flats within the building. He did not condone the underage sales and would be present more often in order to be with the staff.
- That staff were told to ask for age identification of customers.
- That the role of the DPS was to comply with the licensing objectives.
- That he accepted that the premises was his responsibility and would like to retain his licence.
- That the members of staff who had allowed the underage sales were no longer employed at the premises.
- That the premises did not attract young people and the staff were not prepared for this eventuality. More emphasis had been placed upon keeping the premises trouble and drugs free.

In summation the police's representative reiterated that the premises had failed three Test Purchases, which had involved Trading Standards. On the third occasion 8 premises had been involved in the Test Purchase operation and two had failed, one being the premises in question.

The Licensee's representative stated that the DPS was aware of the action that could be taken against him and that the agreed Action Plan could be reintroduced if allowed. He acknowledged that serious breaches of the Licensing Objectives had occurred, however, no other regulations had been contravened and he requested that the premises were given a warning.

Decision

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 Mr Kilgallon be removed as Designated Premises Supervisor from the licence forthwith.**

Reason: Having listened to Police evidence of Mr Kilgallon's apparent lack of proper control over activities taking place at the premises; the Panel considers that his continuing as Designated Premises Supervisor would seriously prejudice the prevention of crime and disorder objective.

- 2. That the premises licence be suspended for a period of 84 full days.**

Reason: The incidents outlined by West Yorkshire Police, including evidence of the Licensee's seeming inability to prevent serious incidents of crime and disorder taking place, justifies suspension of the licence.

- 3. That on expiry of the suspension period no licensable activities shall resume at the premises until a written policy for the training of staff in the implementation of a 'Challenge 25' Policy at the premises is approved to the satisfaction of the Licensing Authority, in consultation with West Yorkshire Police.**

Reason: To prevent the sale of age alcohol to underage persons – Protection of Children from Harm Objective.

Chair

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

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