

Record of a Hearing of the Bradford, Keighley and Shipley Licensing Panel held on Monday 26 October 2009 in the Saville Room, 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. Application for a review of a premises licence for The Fleece, Clayton Lane, Clayton, Bradford (Document "I")**
- 2. Application for a review of a premises licence for the Cobbydale Social Club, 5 Hayhills Road, Silsden (Document "K")**



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Suzan Hemmingway, Assistant Director Corporate Services (City Solicitor)



RECORD OF A HEARING FOR A REVIEW OF A PREMISES LICENCE FOR THE FLEECE, CLAYTON LANE, CLAYTON, BRADFORD (DOCUMENT "I").

Commenced: 1010
Adjourned: 1100
Re-convened: 1105
Concluded: 1110

Present:

Members of the Panel:

Bradford Licensing Panel: Councillors Hill (Chair), L'Amie and Ferriby.

Parties to the Hearing:

Representing the Interested Party Applicant for Review:

Miss Marshall, Joint Applicant
Miss Parkin, Joint Applicant

Representing the Licensee:

Mr Hodgson, Solicitor representing the Licensee
Mr Cooney, Designated Premises Supervisor
Mrs Cooney

Observers

Mrs Bloom, Local Resident
PC Dawson, West Yorkshire Police

Representations:

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

The Licensee's representative outlined to Members that a variation to the licence had been approved and the licensable hours should be Sunday to Wednesday until 2300, Thursday until Midnight and Friday and Saturday until 0200.

The Joint Review applicants informed the Panel that they were concerned with regard to the noise and disturbance caused by customers of the premises. They pointed out that many of the people who had signed the petition in support did not live in the vicinity and were not affected by the premises. They claimed they had been accused of having a vendetta against the premises and had been verbally abused whilst taking a picture of the public notification of the Review. They explained that they had to be up early for work and that the premises did not close until 2am. They had not been informed of the variation to the licence and other neighbours had indicated that they had also not been made aware of the extension to the licensable hours. Following the submission of the review application, the Joint Review applicants stated that the Designated Premises Supervisor (DPS) had written to local residents requesting that complaints concerning the premises were reported to him. The Joint Review applicants indicated that the Review Notice had been

placed in an obscure place and that 11 houses in the vicinity of the premises were affected.

In response to questions from the Council's legal officer, the Joint Review applicants confirmed that:

- They had not contacted the police since the new DPS had taken over the management of the premises, however, they had contacted them in the past. The DPS had also stated that he would control the noise from the premises.
- There were three other public houses in the area that did not have a late licence and so more people frequented the premises.
- The noise disturbance was from customers arriving at and leaving the premises and the general anti-social behaviour of patrons of the premises. The smoking ban also added to the noise outside. They were not making any complaint about noise escaping from the premises from entertainment taking place inside.

The Joint Review applicants responded to questioning from the Licensee's representative as follows:

- That until the Review Application had been submitted they had been subjected to people knocking on their door, people walking past their property with glasses, the passageway at the side of their property being used as a toilet and their cars being vandalised.
- That the above mentioned incidents occurred randomly and were still taking place.
- That they had witnessed people using the passageway as a toilet, but had not seen where they had come from.
- That since the Review Application had been lodged the situation had improved.

The Licensee's representative argued that what was relevant to the Review hearing were the steps taken by the Licensee to address the concerns of residents since these had come to his attention. Many of the concerns, it was argued, seemed to be relating to issues raised from the past before the current DPS was responsible for the premises. It was also claimed that many of the complaints of anti-social behaviour could not be evidenced to the premises or its customers. The DPS had not received any complaints in respect of the use of the premises.

The DPS was then called as a witness and made the following comments:

- That he had been at the premises for 3 years and had a 10 year lease.
- That he had applied for a variation to the licensable hours and the notice had been placed in the Telegraph and Argus paper and placed in the windows of the premises. The variation had been granted with no objections.
- That the premises was subject to a condition that no glasses were allowed outside after 2200. The outside area was monitored every 10 minutes and glasses had been removed from people outside the premises. He believed that customers outside the public house further down the road caused the disturbance and two other premises in the vicinity had late licences.
- That the majority of his customers were aged between 25 – 55 years old.
- That the police had not visited the premises and no complaints had been received from Environmental Health.
- That he had only received 1 complaint since taking over the lease.
- That an incident where cars had been vandalised on the street had happened whilst the pub had been closed.
- That the joint applicants had not previously complained to him about the premises.

- That the emptying of bottles late at night had ceased.
- That residents had been informed that they could park their cars in the premises' car park.
- That the smoking area was to the front of the premises and the area was patrolled every 10 minutes.
- That customers were gradually dispersed from the premises at closing time and the amount of noise disturbance had decreased.
- That Clayton Cricket Club utilised the premises as they were impressed with the way it was managed.
- That the conditions on the licence were sufficient.
- That there was a problem with youths in the area and noise emanating from a property opposite the premises.
- That customers had requested that the premises applied for a late licence.
- That residents had been written to asking them to report any problems to him in order that they could be resolved.

In response to questions the Licensee's representative and the DPS advised Members:

- That there were powers within the lease to stipulate how the premises were operated and any breaches would need to be based upon strong evidence.
- That the premises had tried to co-operate with the police in relation to Pubwatch, however, other publicans in the area were not interested. Therefore an agreement had been reached that the police could be contacted via the meetings in the village hall.
- That bottles were now disposed of the following day.
- That the Licensee would be aware of any issues at the premises. The police had not complained about the premises and until the Review had been submitted no other complaints had been received.

In summary the Joint Review applicants reiterated that their concerns were in relation to noise and disturbance. They acknowledged that the situation had improved since the Review had been applied for and the DPS had policed the premises.

The Licensee's representative concluded that the premises could not be identified as the cause of the disturbances. The incidents raised had been historic and the current DPS could not comment upon them. He stated that it would have been better if both parties had communicated with each other to try and resolve the issues before a Review was submitted. There was not an issue with the use of the premises, its activities or noise from inside and the DPS was happy to resolve any problems. The conditions on the licence were sufficient and there was no direct evidence that the concerns raised related to the premises.

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 required to arrange regular meetings with invitations to representatives of the local residents (including the review applicants) to discuss and agree steps to resolve areas of concern that may arise from time to time.**

1.2 That the disposal of waste bottles in to externally located receptacles shall not take place between the hours of 2300 and 0700 on any day.

Reason: In order to ensure that the Licensee takes all steps in their control to limit and takes steps to address issues of noise and disturbance to local residents from patrons using and leaving the premises – Prevention of Public Nuisance.

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 A REVIEW OF A PREMISES LICENCE FOR THE COBBYDALE SOCIAL CLUB, 5 HAYHILLS ROAD, SILSDEN (DOCUMENT "K").

Commenced: 1115
Adjourned: 1225
Re-convened: 1250
Concluded: 1255

Present:

Members of the Panel:

Keighley and Shipley Licensing Panel: Councillors Hill (Chair), L'Amie and Ferriby.

Parties to the Hearing:

Representing the Interested Party Applicant for Review:

Mr Allan, Joint Applicant
Mrs Allan, Joint Applicant

Representing Responsible Authorities

Mr Farmer, Environmental Health
Mr Fairclough, Environmental Health

Representing the Licensee:

Mr Cullen, Licensee

Observers

PC Dawson, West Yorkshire Police
Mr Burks, Local Resident

Representations:

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

The Review applicant addressed the Panel and alleged that the premises had been breaking the conditions of the licence since March 2009. The premises had also received warnings from Environmental Health and had been advised on many occasions. He stated that the Designated Premises Supervisor (DPS) and the patrons of the premises had been vindictive towards him and he had not received an apology for their behaviour. Since the Review had been submitted he stated that he had suffered abuse and he therefore requested that the licence be revoked as the premises could not be trusted to comply with the conditions. The Review applicant added that he lived near to a number of other premises and they had never caused him any problems.

The Licensee stated that at the suggestion of Environmental Health, he had arranged for an independent sound survey to be undertaken and he questioned the applicant to confirm he had refused to cooperate. In response the review applicant reported that he had been

informed by Environmental Health that a sound survey would be undertaken. When the engineer had arrived the Review applicant stated that he had believed that he was undertaking the survey on the wrong remit and had asked him to clarify this. He stated that he had not refused the engineer entry to his property. The Licensee then questioned the Review applicant whether he believed that his property was the nearest audible premises. The Review applicant replied that if his house was not the nearest, then questions should be raised as to how loud the noise was that emanated from the premises.

The Environmental Health representative informed Members that he had contacted the Licensee on 27 February 2009 in relation to problems regarding the regulated entertainment at the premises. The Review applicant's property was near to the premises and was most susceptible to noise. On 9 May 2009 a wedding reception had been held at the premises that had become a statutory nuisance and a notice had been served. The Environmental Health representative confirmed that the premises had been visited in respect of its compliance with the licence and he acknowledged that there were unresolved issues in relation to noise from the premises. Information had been supplied to the Licensing Team and he recommended that noise limiters be installed at the premises due to the lack of robust noise control.

In response to questions the Environmental Health representative reported that:

- Noise problems from a rock band had been witnessed at the premises. The genre of music was an issue as the noise could penetrate the building and cause persistent problems. Even with noise limiters there would still be a problem.
- Solo performers did not attract complaints, however, there had been several complaints in relation to recorded and dance music. The noise limiters had not been fitted at the premises as yet, but complaints may still be received once in situ.
- Complaints had been received in relation to all types of music played at the premises.
- Some noise breakout would always be audible outside the premises.
- It was possible to achieve a level where noise was not audible outside the premises. Noise limiters had been recommended to see if this would ameliorate the problem although it was recognised that they may not be ultimately successful in achieving that.
- The condition on the licence regarding audibility at the nearest noise sensitive premises was open to interpretation.
- The Environmental Health Department had witnessed breaches of the conditions and had taken the premises to Court.
- The Licensing Team would be able to report how many breaches of the licence had occurred.
- The noise limiters were proposed to be fitted at the end of October 2009.
- The independent noise surveyor had visited the review applicant on 19 May 2009.
- The Environmental Health Department had been in contact with the Licensee since May 2009, however, no decision had been made as to the level at which to set the noise limiters. The noise limiters would need to be fitted and tests undertaken.
- No other official complaints had been received.

The Licensee then addressed the meeting and reported that the breaches which had occurred whilst the previous DPS was in charge had been resolved in Court. He had taken over the role of DPS at the premises on 29 September 2009 and there had not been any problems since this date. The ongoing noise problems were acknowledged and had been discussed with Environmental Health. As a result the premises had been reorganised and noise solutions fitted. In relation to the land outside the premises, he indicated that he believed it to be Council owned. He stated that Pear Tree Cottage was

not the nearest noise audible property to the premises, however, he was aware of problems that needed to be resolved. The Licensee confirmed that he was working in conjunction with Environmental Health and was confident that the premises could comply with the Section 80 Notice. An independent noise consultant had been employed and had carried out work on the premises to restrict the emanating noise. He explained that the premises relied on the regulated entertainment provided on Friday and Saturday evenings and he was now pursuing an older clientele. Snooker and games nights were now held and local organisations used the venue.

With regards to the picnic tables on the grassed area outside the premises, the Licensee reported that they had appeared on Silsden Gala Day and had now been removed and stored on land owned by the premises. He commented that the Review applicant had objected to the Charity BBQ which had taken place on Gala Day and stated that other premises had organised events on that day.

In relation to the conditions on the Licence, the Licensee argued that door staff were employed and that customers who flouted the conditions were not allowed back into the premises. The premises had limited outside space and it was sometimes difficult to enforce no drinking outside from 2000. He explained that it was impossible to control customers from other premises who brought glasses with them, though he endeavoured to comply with the regulations. The police had not been called to the premises and he was also a member of Pubwatch. It was argued that the premises had been established for a long time and used to own the surrounding properties. The Licensee stated that the premises was no longer promoted as a late night venue and live bands were not booked to play. The Council's legal officer questioned whether the Licensee would accept a condition prohibiting live bands as regulated entertainment at the premise. In response the Licensee confirmed that this would be acceptable if other performers were allowed.

The Licensee responded to questioning from the Panel, the Council's legal officer and the Review applicant as follows:

- The doors and windows had not been kept open since he had taken over on 29 September 2009.
- He had been monitoring the outside area.
- The premises had been re-organised. Games were now undertaken in the upstairs room, regulated entertainment took place in the main part of the building and a television had been placed in the Club Room.
- All functions that were due to be held in the Club Room had been cancelled due to the complaints regarding noise.
- The updating to the double glazing to eliminate noise had only been completed in the last few weeks.
- There was a fan extraction ventilation system and noise limiter covers had been fitted.
- The downstairs windows were sealed and it was proposed that an acoustic air conditioning system be fitted in the premises.
- There were inner doors beyond the main entrance/exit.
- He had taken control of the premises at the end of February 2009 in order to establish whether it was a viable concern before the licence had been transferred into his name.
- He had been made aware of the conditions by Environmental Health.
- The previous DPS had been appointed to manage the premises, but he could not recall the date.
- He had been appointed the DPS on 8 October 2009 and the previous breaches of the conditions had been dealt with by the Court prior to this.
- He did not recall the events of 13 June 2009.

- Charity events were still subject to the licensing conditions.
- The emergency door was alarmed and kept locked.
- In the past customers had drunk outside after 2000.
- The former DPS of the premises had been dealt with by the Courts for the breach of the licence and he now ensured that customers did not drink outside after 2000.
- The previous owners had promoted the premises as a late night venue, but this had now ceased.

In summary the Review applicant reported that the reasons for the Review were clear. The Licensee had knowingly breached the conditions of the licence and had been made fully aware that he had broken the law and caused a disturbance to residents. There had been 21 occasions of the licence being breached and Environmental Health had issued the premises with 15 warnings. He stated that the independent sound surveyor had visited his premises 5 months ago and nothing had been done as yet. The proposal to install noise limiters would not resolve the issues and no solution to the problem of controlling the behaviour of patrons of the premises had been offered. The Review applicant stated that he believed that the problems would commence again once the good weather returned and he hoped that the Panel would realise that the Licensee was not fit to run the premises.

The Environmental Health representative indicated that they were at a stage where there was a lack of consistency in relation to noise from the premises. He stated that the issues were for the Licensee to resolve and that Environmental Health were primarily concerned with the noise aspect.

In conclusion the Licensee reiterated that the former DPS was no longer employed at the premises and the breaches carried out under his management had been dealt with by the Courts. He had become the DPS of the premises on 8 October 2009 and the issues regarding noise disturbance and ventilation would be addressed. He stated that he had taken great efforts to ensure that there was no drinking outside the premises at 2000 and that he was willing to progress and resolve the issues raised.

The Chair of the Panel questioned what the Review applicant would accept as a reasonable level of noise from the premises. In response the Review applicant indicated that he was not unreasonable, however, he was aware that entertainment could take place in the premises with no disturbance to his property. He believed that the Licensee was not properly managing the premises, therefore, he stated that no noise disturbance would be reasonable.

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 the premises licence be suspended for a period of 14 days.**

Reason: Having regard to the compelling evidence, presented by the review applicant and the interested party relating to noise arising from regulated entertainment from the premises particularly during the period when the licensee has had an interest in the premises and evidence of breach of licence conditions, the Panel considers suspension of the Licence is justified in order to address serious issues related to the prevention of public nuisance.

- 2.1 That on expiry of the suspension period no regulated entertainment shall resume at the premises until satisfactory noise attenuation measures have been undertaken (including the fitting of noise limiters and suitable ventilation) and approved by the Licensing Authority, in consultation with Environmental Health.**
- 2.2 That regulated entertainment shall cease at midnight on Friday and Saturday.**

Reason: In order to ensure that the Licensee takes all steps in their control to limit noise and disturbance to local residents from the noise of entertainment provided at the premises, by patrons using the premises and from the provision of entertainment – Prevention of Public Nuisance 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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