

Record of a Hearing of the Bradford District Licensing Panel held on Wednesday, 3 January 2018 in Committee Room 1 - 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

Hearings

Application for Review of the Premises Licence for Bijou Cocktail Bar, 10 Chapel Lane, Bingley

BIJOU COCKTAIL BAR, 10 CHAPEL LANE, BINGLEY

RECORD OF A HEARING FOLLOWING AN APPLICATION FOR A LICENCE REVIEW - BIJOU COCKTAIL BAR, 10 CHAPEL LANE, BINGLEY (DOCUMENT "H")

Commenced: 1630

Adjourned: 1825

Reconvened: 1920

Concluded: 1925

Present

Members of the Panel

Bradford District Licensing Panel: Councillor M Slater (Ch), Councillor Morris and Councillor B M Smith

Parties to the Hearing

Representing Responsible Authorities

P C Lord (West Yorkshire Police)

Licensee

Mr R Proctor

Representing Interested Parties

Bingley Town Councillor M Chapman

Bingley Town Councillor J Wheatley

Ms C Adou – local resident

Mr A Boggett - local resident

Representations

The Assistant Director, Waste, Fleet and Transport Services presented a report, **Document "H"** which explained that following an application for a summary review of the premises licence and an interim hearing on 8 December 2017 the Licensing Authority must consider a full review of the premises licence for Bijou Cocktail Bar.

The report revealed that, at the interim hearing, Members had resolved to suspend the Premises Licence with immediate effect pending full review.

The Panel had considered that evidence presented by the West Yorkshire Police, relating to the incident in November 2017 and the potential for future disorder at the premises, was compelling enough to justify the immediate suspension of the Licence, under the prevention of crime and disorder, prevention of public nuisance and promotion of public safety objectives. A copy of that decision was appended to Document H.

Members were advised that during the 10 working day representation period following receipt of the summary review application, the West Yorkshire Police had submitted further information regarding the premises for consideration by Members. West Yorkshire Police had requested the addition of several licence conditions and a reduction in permitted hours. A copy of the letter from West Yorkshire Police was also appended to the report.

It was also explained that letters of representation had also been received from local residents and from Bingley Town Council. The letter from a local resident (and former local business owner) had detailed incidents of alleged anti-social and criminal behaviour outside the premises between August 2015 and August 2017. A copy of the letter of representation was appended to Document H.

The representation from Bingley Town Council had, in the light of the incident occurring in November 2017 and other incidents of alleged criminal behaviour, requested consideration be given to revocation of the Licence. A copy of Bingley Town Council's letter of representation was also appended to the report.

Members were reminded that when considering the full review application, they may:

- a. reinstate the licence but modify the current conditions;
- b. reinstate the licence but exclude licensable activities from the scope of the licence;
- c. reinstate the licence but remove the designated premises supervisor from the licence;
- d. suspend the licence for a further period not exceeding 3 months;
- e. revoke the premises licence; or
- f. reinstate the licence on the existing terms.

A representative from West Yorkshire Police, PC Lord, addressed the meeting. He explained that the role of Bradford District Police in the review process was not to be judge and jury. The Police role was to keep people safe and to secure, preserve and present evidence to allow those in a position of authority to make an informed decision based on the four licensing objectives and the facts presented to them.

It was explained that when problems were identified at licensed premises the Licensing Act actively encouraged the Police to work with those premises, highlighting concerns or breaches with the aim of agreeing appropriate measures with the licence holder to be implemented at the premises to address those problems. The aim was to avoid the need for enforcement action such as prosecution or review but not to replace enforcement action when that was necessary.

An overview of the work which the police had conducted with Bijou Cocktail Bar since it opened in 2015 was presented to inform the panel of problems that had arisen and measures taken to address those issues.

It was explained that on the opening night of the club in August 2015 there were concerns which led the Police Licensing Officer, in post at that time, to look at the premises. From the onset there had been a number of complaints with regard to excessive noise reported by residents as well as breaches of licensing hours and conditions. In view of those issues the Council's Environmental Health Department had become involved and due to evidence which had been gathered a Noise Abatement Notice was served on the Premises Licence Holder on 10 September 2015. A police inspection was conducted on 15 September 2015 and a number of breaches of the Premises Licence were discovered. A Section 19 Closure Notice was served on the Premises Licence Holder with 30 September 2015 given as the deadline for works to be completed, whereby another inspection would take place. On 5 October 2015 a subsequent visit was completed and all breaches highlighted during

the previous visit had been rectified. The police licensing enquiries were completed and a 'Cancellation of the Section 19 Closure Notice' was served on the Premises Licence Holder. Necessary partner agencies were informed that the police enquiry had been closed.

On Monday 18 January 2016, due to an increased number of incidents, including assaults, wounding, underage drinking and alleged drug offences which could be associated with the premises, the Premises Licence Holder was called to a lengthy meeting with the Bradford Police Licensing team. He had been informed prior to the meeting that he was fortunate that he was not being reviewed and attended the meeting with his legal representative who also informed him that he needed to vastly improve the management of the premises. The premises were given a final warning and left with no doubt that should there be no improvements and incidents continued the next step would be review for suspension and the operating hours to be decreased. The warning was for six months during which time the premises would be monitored.

There was, for a time, significant improvements due to staff changes including door staff, however, a number of serious incidents became associated with the premises and in October 2016 the Premises Licence Holder was issued with a warning.

The Council's Ward Officer covering the Bingley area opened a problem solving occurrence to combat and address an increase in assaults and disorder allegedly linked to the premises in May 2017. Four assaults, one theft offence and further intelligence to suggest drug dealing was taking place had occurred in April 2017. There had also been an offence of public order. High visibility patrols were introduced and a request made for the Special Officers to assist. The head of the door staff was spoken to on one of the visits to the premises and it was suggested that consideration be given to placing entrance barriers up outside the club to channel customers as they queued to enter the premises to prevent them from milling around the area and making security checks easier. The use of barriers was implemented almost straight away and worked well.

In June 2017, following information that illegal door staff were being used by the premises, a visit was made to the premises by the Security Industry Authority (SIA) and the door staff were found to be compliant. The same month the Police Licensing Officer also conducted an unannounced visit to Bijou. The CCTV was found to be in working order and footage was demonstrated to show footage was retained for a period of 28 days. The Premises Licence Holder and one other staff member demonstrated that they were able to download footage. The door staff book and incident book showed that they were being utilised and a toilet attendant had been employed and, although not a condition of the licence, the situation would remain.

Around that same time the premises held a party for a 13 year old which went without a hitch. All alcohol was removed and the Premises Licence Holder stated that he refused, point blank, to serve alcohol. CCTV footage evidenced that staff had removed all sprits from behind the bar. Incident logs were checked and the police received no calls. The Premises Licence Holder was suitably and strongly advised of the consequences of holding such events and that any association with youths in the area due to such events could be taken into consideration for a possible review. The premises were not breaching the licence as possibly malicious reports were stating.

The problem solving occurrence was closed in July 2017 due to the drop in calls for service and reductions in reported incidents at, or related to, Bijou.

In the days following the incident in November 2017 an informal meeting was held with the Premises Licence Holder to discuss his intentions and what was deemed appropriate regarding his business in the short term. Further discussions have also taken place since that time.

The Police representative continued his statement with an overview of reported offences committed at the premises and a temporal analysis of the incidents.

It was reported that in 2015 there were 14 offences linked to Bijou; in 2016 there were 24 offences and in 2017 there had been 20 offences up to and including 17 December 2017. Of the 20 offences 14 had been assaults. In five of those offences it was stated that the complainant was inside Bijou Cocktail Bar or "the nightclub on Chapel Lane" at the time of the offence. In eight of the offences the complainant was outside the club and in one offence it was not clear whether the offence was in or out of the premises. It was explained that 13 of the offences had been committed between 00.00 to 03.31 hours which equated to 65% of the total incidents. The number of offences recorded on Chapel Lane which did not mention the premises but could possibly be linked were also presented and it was maintained that these had occurred in the early hours of the morning and at weekends.

It was maintained that the Police had already submitted its concerns at the summary licence review hearing on 8 December 2017 and these and the recommendations for consideration were based on the four licensing objectives.

Due to the on going investigation it was explained that there were some details which could not currently be disclosed. Once the investigation was completed into the incident on 25 November 2017 any further licensing offences or breaches would be followed up and investigated.

The Police had worked closely with the Premises Licence Holder since the club first opened. There had been issues, some of which were recurring, but the Premises Licence Holder had co-operated with the Police regarding recommendations and action plans. The tragic accident which had led to the review had sparked a great deal of public outcry but it was believed that the Police had presented the facts in an open and fair way so that the Panel could make a sound judgement based on the representations and statements of other interested parties.

If the Panel were to decide that Bijou Cocktail Bar retained its premises licence it was recommended that the changes to the conditions of the licence which the Police had requested and which were contained in Document "H" were accepted. The Premises Licence Holder had indicated that he was willing to accept most, but not all of the conditions requested, and the Police would work with the premises to rigorously enforce those and the existing conditions until they were fully embedded.

Following the representative of the police's presentation a number of questions were received from Members, interested parties and the licensee to which the following responses were provided:-

- It was acknowledged that the suggested condition to require the Designated Premises Supervisor (DPS) to be present at all times could require that person to work a seven day week. The police would be happy for it to be a condition that the

DPS was present on the premises at all times during licensable activity on Friday and Saturday.

- It could be confirmed that there had been more assaults occurring at other premises in the area than at Bijou Cocktail Bar. PC Lord was new to his role but did not believe that, although other premises had received police warnings, they had not required the same level of police intervention and activity.
- At a visit to the premises on 15 September 2015 it had been highlighted that there were three CCTV cameras which were not fit for purpose. When the Police had revisited the situation had changed and eight cameras were in use.
- It was not possible to provide crime statistics, for comparison purposes in the area, prior to opening of Bijou Cocktail Bar.
- A temporal analysis from the beginning of 2017 revealed that 65% of offences attributable to the premises occurred between 00.00 hours and 03.00. The exact times when those offences occurred were not available so it was not possible to demonstrate how a reduction in hours of licensable activity to 03.00 hours would reduce the number of offences.

A representative from Bingley Town Council addressed the meeting to clarify the representations they had made and which were appended to Document "H". It was explained that prior to the current review the Town Council did have concerns about the premises and had made representations to West Yorkshire Police in relation to incidents occurring at those premises.

The Town Council had spoken to businesses in the locality and had been advised that prior to the suspension of the licence there had been disorder in the area; delivery companies visiting the local bakery had been frightened to enter the area and several tenants had moved out. It was maintained that customers of nearby licensed premises had felt intimidated by Bijou's clientele and had, on occasions, witnessed drug dealing and intervened to stop fights.

Concerns were expressed about under age drinking at the premises; the lack of involvement by the DPS; 'discrepancies' about the door staff; the lack of co-operation with the local pub watch scheme; and a disregard for the zero tolerance to drugs. It was maintained that the Town Council and local residents were requesting the revocation of the licence but should that not be agreed the hours of licensable activity should cease at 00.00 hours.

The representative of West Yorkshire Police pointed out that there were similar problems to those reported occurring at other premises and the issues were not specific to Bijou Cocktail Bar to which the Town Council maintained that the incidents had increased since the club had opened.

In response to the statement made by Bingley Town Council representative a number of questions were received from all parties and the following responses were provided:-

- The Town Council could confirm that they agreed with the suggested police conditions, except for the suggested hours of operation, if the licence was not revoked. If the licence was reinstated or revoked and further applications were

made they were of the view that licensable activity should cease at 00.00 hours.

- The local bakery required deliveries to be made early in the morning. The Town Council had been advised by that business that those making the deliveries felt intimidated by people in the area.

In response to a statement by the premises licence holder that the premises operated a Challenge 25 scheme and that customers who used fake ID to enter the premises were the ones who were acting fraudulently it was suggested that the staff at the premises had not been trained to challenge customers. Underage drinking had been raised by Bingley Town Council with the police in 2016.

Local residents addressed the meeting in support of the representations they had made and explained that they had operated, as DPS and Premises Licence Holder, a local bar prior to February 2017. It was questioned if the panel had visited the area and they were advised that the Members were provided with detailed maps of the location and its proximity to other licensed premises.

The local residents referred to a letter sent to the Chief Executive of the Council in October 2017 raising issues about the planning and premises applications made for Bijou Cocktail Bar. The letter was appended to Document "H" and included a timeline of incidents occurring at the facility. CCTV footage of security staff chasing fighting customers was referred to and it was explained that the footage had been retained and could be viewed on request.

It was maintained that residents, who had previously operated licensed premises in the area, had witnessed fights and drug issues and had become so uncomfortable in the area they asked for an early release from the lease of their premises. It was maintained that there had been no issues arising prior to the opening of Bijou and it was believed that there was a clear correlation between the opening of that club and increasing incidents in the area. It was reported that the residents had called the police, via 999, on numerous occasions regarding the club and on an occasion when a man had been knocked unconscious in the area the police had not checked their CCTV footage of the incident.

The residents felt that conditions on the licence had made no difference to operations at the club and referred to the serious incident taking place at the premises in November 2017 when underage customers had been found in the bar.

Following the local residents' statement the Premises Licence Holder maintained that the CCTV footage which had been referred to was from 2015/16 and that measures had been put in place since that time. The Premises Licence Holder also referred to contact he had made to the residents regarding a possible purchase of their premises and his belief that the representations being made were vexatious.

The Premises Licence Holder addressed the meeting. He referred to CCTV footage of the night of the incident and maintained that the grounds of review were because of an incident in the premises. He believed that the CCTV footage would show that the incident did not take place inside of the premises. The Council's legal advisor explained that the production of new evidence would require the consent of all parties. The Premises Licence Holder and representative of West Yorkshire Police left the meeting and following their discussions it was reported that the footage would be described and that the police could collaborate the statements made.

The Premises Licence Holder maintained that the grounds for the review were because of an incident on the premises and that the CCTV footage revealed that the incident occurred outside of the building. He believed that the representations made by the local residents were not relevant and could not be substantiated. He explained that the premises worked closely with the police to ensure the safety of customers and those statements to the contrary were biased.

He explained that the premises operated an identification (ID) camera which recorded in real time with day and night vision. If customers presented valid ID which bore their resemblance they must be admitted to the premises. He had been told that the premises were unable to confiscate fraudulent ID and this resulted in customers using that ID elsewhere. If challenged he could show that customers were producing ID and maintained that he was willing to look at ways that he could bolster that procedure.

He acknowledged that he had not been present on the night of the incident which gave rise to the review but stressed that his licence did not require him to be present at all times. He had requested the Bingley Ward Officer to attend the meeting to witness that he was on the premises for 90% of the time. It was explained that in their absence the DPS would elect a representative. It was reported that the DPS representative had been present when the incident in November 2017 had occurred.

It was claimed that the temporal evidence presented by the police revealed that the majority of offences occurred when other premises were open and the premises always complied with the rules whilst others did not. It was explained that the premises were a late night venue and a typical customer would have been drinking prior to arrival at their premises. Bijou Cocktail Bar was often the last place they were served a drink and then those premises were held responsible for their behaviour. People who were refused entry would be outside of the premises and calls to service, such as the police, were then seen as the responsibility of the facility although many of the issues had not arisen at the premises.

The Premises Licence Holder maintained his belief that he had not breached the conditions of his licence but, to be responsible, he would agree to remove the current DPS and to ensure the new DPS was on site on Thursday, Friday and Saturdays during hours of licensable activity and on Bank Holiday Sundays. It was explained that the proposed DPS had qualifications and nine years experience in the industry and a first aider would be on site. It was reported that the proposed DPS would install a 'refusal' book; facilitate staff confrontation training and removal procedures for door staff and introduce a no re-entry policy.

Although it was felt that the door staff employed at the premises had been impeccable and they did operate at other venues in the area, he would agree to employ an approved door staff team. He reported that he would agree to door staff using body cameras but would prefer to invest that financial outlay on upgrading cameras to high definition and installation to the side of the premises. It was claimed that the only issue was with the requested hours of licensable activity and the later opening hours were the unique selling point (USP) of the business. Other businesses in the area operated until 04.00 hours and to reduce Bijou Cocktail Bar to 03.00 hours would be detrimental to the business and could not be justified.

It was maintained that the alleged criminal behaviour referred to by Bingley Town Council

could not be substantiated and that only two licenced premises in the area closed at 00.00 hours. It was felt that the Town Council were against the premises and had never approached the licensee to resolve the issues to which they referred. During discussions about the definition of a 'quiet zone' it was clarified that this was defined in UR3 of the Council's Replacement Unitary Development Plan but its validity in the current discussions was not known. It was claimed that there were other licensed premises located much closer to residential properties than Bijou Cocktail Bar.

Following presentation of his statement the Premises Licence Holder was questioned by the representative of the Town Council. It was agreed that the premises were not the only premises which had been the subject of concerns by the Town Council but it was maintained that no direct approach had been made to the premises. In response the representative of the Town Council reported that the concerns had been raised with the police who, they had been told, had raised them with the premises on the Town Council's behalf.

In response the Premises Licence Holder maintained that the complaints were unsubstantiated.

The Premises Licence Holder was questioned about the temporal analysis findings that 65% of offences occurred between 00.00 and 03.00 hours and he replied that this could be because there were 12 other premises open at that time.

In response to Bingley Town Council's belief that, should the licence be reinstated closure at 00.00 hours was fair as prior to the opening of the premises there had been no issues in that locality, it was maintained that there had always been issues in the Bingley area and that these had increased due to additional businesses operating in that location. It was not accepted that incidents occurring outside of the premises were attributed to the club and it was claimed that there was no evidence to suggest that was the case.

The Premises Licence Holder claimed that Bingley Town Council were victimising the premises. In response the representative of the Town Council maintained that they would also deal with any issues arising at other premises.

The number of venues operating until 0300 hours was questioned. The Premises Licence Holder believed that there were many, however, the local residents claimed that there was only one other premise open that late.

Details of the hours of licensable activity at other licensed premises were provided to the Panel by the Council's Licensing Manager.

The meeting concluded with closing statements from all interested parties.

The representative of Bingley Town Council reported that they stood by their initial statement of representation. Members were asked to consider the impact of Bijou Cocktail Bar since it opened on Chapel Lane and the number of incidents which had arisen since that time. It was stressed that businesses and residents had raised their concerns and Members were asked to revoke the licence. If Members felt unable to revoke the licence it was suggested that the requested police conditions be imposed with the exception of the hours of licensable activity which it was requested should be no later than 00.00 hours on any day.

Local residents, in summation, supported the Bingley Town Council request for revocation

and reiterated their historical representations made on 15 February 2017.

The Premises Licence Holder concluded by stating that he would agree with four of the five conditions requested by West Yorkshire Police. He believed that the restriction on hours of licensable activity was unfair. He maintained that he had complied with the conditions on his licence and stressed that only two representations had been received. He reiterated that he worked with the police and was willing to work with Bingley Town Council and that he was responsible in all he did. He stressed that he had already sourced a proposed DPS and he questioned if he should have been brought to review.

The representative of West Yorkshire Police said that the police had considered all options. It was felt that from the evidence they had that the requested conditions were required and that it was recommended that licensable activity should cease at 03.00 hours.

Resolved –

That having considered the evidence supplied by the Police, the licence holder and interested parties in relation to the application for a review of the premises licence for Bijou Cocktail Bar the licence be revoked.

Reason: That, in light of the evidence presented, the Panel feel that the conditions suggested by West Yorkshire Police do not address their concerns about the previous breaches of the Licence and believe that the continuation of the licence will undermine all four licensing objectives.

Chair

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

