

Licensing Sub-Committee – Meeting held on Monday, 10th December, 2018.

Present:- Councillors B Bains (Chair), Davis and Strutton.

Officers Present:- Sinead Clifford (Legal Services), Tolani Idowu (Licensing), Shabana Kauser (Democratic Services) and Michael Sims (Licensing).

PART 1

28. Declarations of Interest

Agenda Item 4: Review of Premises Licence Bar H – Councillor Davis declared that he was a Member of the Sub-Committee that had considered a review of the premises licence in 2010 but would consider the matter with an open and clear mind. Mr Warne, Bar H's legal representative confirmed that he was happy for Councillor Davis to remain on the Sub-Committee.

29. Guidance on Predetermination/ Predisposition - To Note

Members confirmed that they had read and understood the guidance on predetermination and predisposition.

30. Minutes of the Last Meeting held on 25th June 2018

Resolved – That the minutes of the meeting held on 25th June 2018 be approved as a correct record.

31. Review of Premises Licence - Bar H, 254 High Street, Langley, Slough.

All parties were welcomed to the meeting and it was confirmed that they had received a copy of the paperwork. Prior to the commencement of the hearing, additional paperwork, regarding proposed conditions to be added to the premises licence, was distributed by the Licensing Manager and the Applicant also submitted a written statement. All parties agreed that the information be circulated.

Introduction by the Licensing Manager

Mr Sims, Licensing Manager, outlined that a review had been submitted by responsible authority - the Neighbourhood Enforcement Services team and related to the prevention of crime and disorder and public safety licensing objectives. The review had been brought following a number of complaints received by local residents regarding noise emanating from the Premises. Due to persistent noise complaints, the Housing and Enforcement Officer was recommending that the premises licence be revoked.

The Sub-Committee were reminded that the premises were subject to a review in 2010, which had been made by Thames Valley Police and that the

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premises licence was revoked. However, following an appeal against revocation in 2011 the premises licence was re-issued.

Members were also informed that no representations were received to the review application from any other Responsible Authority.

Options available to the Sub-Committee were highlighted, which included modifying the current premises licence with additional conditions, removing the designated premise supervisor, excluding a licensable activity from the scope of the licence, suspension of the licence or revocation.

Questions to the Licensing Manager

None.

Representations by the Housing and Enforcement Officer

Mr Stride detailed the reasons as to why a review of the premises licence had been submitted. Between January 2009 and September 2018 the Neighbourhoods Services department had opened 7 cases of noise related nuisance, that had been centred primarily around occupants and customers of Bar H. Due to the unacceptable levels of noise emanating from the premises, the Council issued a Noise Abatement Notice on 17th August 2018. However, further complaints of noise were received in the early hours of 21st August, 25th August and 31st August 2018, details of which were outlined for Members.

Officers met with the Premise Licence Holder and Designated Premises Supervisor in August to discuss the concerns raised by local residents and the possibility of a review of the premises licence. However, similar incidents of noise nuisance were also recorded during September 2018.

Referring to the proposed additional conditions to be added to the premises licence, Mr Stride stated that there were two conditions which had been submitted which the Premises Licence Holder had not agreed to namely – customers would not be permitted to take drinks into the smoking area at the rear of the premises or into the outside area to the front of the premise after 22:00 hours and a variation in the current operating hours. The proposal to reduce the hours of operation were being submitted due to the fact that the premises' were situated in a residential area and the numerous complaints received regarding noise nuisance caused by amplified music breaking out from the slow closure mechanism on the back door and from the behaviour of individuals standing outside the front of the premises.

The Sub-Committee heard submissions made by Mr Richard Palacio, Enforcement Team Leader, relating to his observations made on 31st August 2018. It was submitted that noise nuisance was caused by the loud amplified music that could be heard from the property and patrons congregating outside the front of the premises. Mr Palacio stated that in his opinion the groups of individuals congregating outside of the premises was intimidating.

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Questions to the Housing and Enforcement Officer

A Member queried why a noise limiter was not installed at the venue given that this was a condition on the current premises licence and requested details regarding provisions for litter in and around Bar H. The Applicant's legal representative, Mr Warne, explained that although a noise limiter had previously been installed at the premises it was currently out of order due to a fault. However, this was being replaced imminently (11th December 2018). It was clarified that the noise levels were set by the engineer and the applicants. It was noted that there were a number of bins located in the immediate area outside the property and regular patrols carried out by management.

Representations by the Applicant's Legal Representative, Mr Warne

Sub-Committee Members were provided with a written statement by Mr Ajay Jnagal which addressed a number of points raised in connection with noise nuisance, police incident reports and operating practises at the venue. The allegations of intimidation were strongly denied by Mr Warne on behalf of his client. This was supported by the number of residents and patrons of the Premises who made written representations and additionally attended the hearing to make oral submissions in support of the Premises.

Mr Warne highlighted the fact that no police representations had been received in respect of crime and disorder and as such it would be difficult to class the Premises and/or its patrons as intimidating. Furthermore, no representations had been received from the Environmental Health team. Mr Warne submitted that the Premises had worked hard with residents since the complaints were received in March 2018 to resolve the issue of noise nuisance. He further submitted that a number of allegations were unsubstantiated and importantly no audio recordings of noise from resident's properties to evaluate the noise level were produced.

Mr Warne highlighted that there have been no complaints in the last 6 weeks. In addition, the Premises Licence holder had taken a number of steps to limit the noise emanating from the Premises including:

- a) Installation of a noise limiter at 11am on 11th December 2018.
- b) Rear door had been sound proofed.
- c) Installation of an acoustic lobby to the front of the Premises in January 2019.

Mr Warne made submissions in respect of whether the additional conditions proposed by Mr Stride were proportionate. He submitted that by enabling the DPS/manager to risk assess events held at the premises and where deemed necessary will not permit customers to take drinks outside for times specified in the risk assessment would enable better management of the Premises and give better protection. Additionally, to reduce the operating hours would have a detrimental effect on the business of Bar H and was wholly disproportionate given the proactive steps taken by the Premises Licence holder to reduce the impact of noise on local residents.

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He submitted that there was no case to answer in respect of reducing the operating hours and the reduction of the same would be disproportionate in the circumstances. He submitted that the reduction of hours would serve no other purpose than to penalise the business.

Questions to the Applicant's Legal Representative, Mr Warne

A Member queried whether the risk assessment should be carried out by the Designated Premises Supervisor (DPS), as suggested by the Applicant. Mr Warne responded that the DPS was best suited to make an assessment and ensure that the appropriate number of staff were there if required. Mr Jnagal confirmed that there was currently no limit on the number of people permitted to the outside area of the premises.

Members raised the possibility of introducing fingerprint identification for larger events. However, Mr Warne submitted that this was not a feasible option as it raised a number of issues regarding data protection.

Submissions by Interested Parties

The Sub-Committee heard submissions from two local residents who made representations in support of Bar H. It was submitted that they had not experienced any issues regarding noise nuisance and that Bar H continue to operate in accordance with its current premises licence.

Decision

Having carefully considered the representations of all the parties, the Sub-Committee discussed the matter and

Resolved –

- a) To amend condition 15 on the current premises licence to read, "Noise limiter to be installed and set at a level agreed by the SBC EHO noise officer and to be monitored and maintained regularly. Maintenance records to be made available on request. In the event of the noise limiter failing, the issue to be resolved as soon as possible."
- b) The following conditions to be added to the Premises Licence:
 - 1) The external areas shall be managed as far as practicable to ensure that customers do not behave in a manner that is likely to cause a public nuisance. For the avoidance of doubt, this condition does not seek to prevent customers from engaging socially as would be expected at premises, but requires a degree of management of customers should their behaviour become overly loud or deemed to be offensive. If customers behaviour is not able to be managed and is causing a nuisance then the Police will be called for assistance.

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- 2) At least two prominent signs will be displayed in the front external area and one to the area to the rear of the premises reminding customers to respect the fact that there are residents living nearby.
- 3) The smoking area to the rear of the premises will be closed to customers from 22:00 hours.
- 4) A complaints log will be maintained by the DPS ('the log'). The log will be used to record any complaints made by residents in relation to the operation of the premises. The log will record the date, time and nature of the complaint, along with the name of the person making the record and any action taken in relation to that complaint. A dedicated telephone number will be made available to residents during trading hours.
- 5) A dispersal policy setting out the management practices to be used to ensure as far as practicable the quiet and effective dispersal of customers upon leaving the premises is to be drawn up and implemented. This policy is to be reviewed annually and made available to the responsible authorities on request.
- 6) At the commencement of live or recorded music played within the premises, the DPS or designated manager will undertake noise checks at the boundary of the nearest noise sensitive properties surrounding the premises to ensure that the music levels will not amount to a public nuisance. Levels will be turned down if they are deemed to be likely to cause a public nuisance and further checks undertaken until the levels are deemed to be appropriate for compliance with this condition. A record of the checks will be maintained at the premises and shall be available for inspection by licensing and other responsible authority officers.
- 7) Doors and windows will not be permitted to be opened during live or recorded music (excluding incidental background music), except for access and egress. Signs will be displayed on fire exits asking customers not to open them and signs displayed on any doors used for public access and egress reminding customers to close the door after use. Self closing mechanisms will be fitted to the doors to the rear external area. Regular checks will be made during regulated entertainment to ensure as far as practicable that this condition is being complied with.
- 8) Customers will not be permitted to take drinks onto the pavement at any time and a notice will be displayed to that effect.
- 9) All staff shall be trained in relation to the conditions on the premises licence and in relation to the law in relation to the service of alcohol to intoxicated persons as required for the proper

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undertaking of their roles. Such training shall be recorded as having been given and kept as part of the employees records

- 10) An incident book ('the book') will be kept and maintained at the premises. All incidents and refusals of sale of alcohol will be recorded in the book. The following details will be recorded: date, time and details of incident/ refusal, name of person making record and action taken as a result of the incident/ refusal.
- 11) The DPS or manager will ensure as far as practicable that the external areas of the premises are kept clear of rubbish and that bins are properly secured.
- 12) Customers will not be permitted to take drinks into the smoking area at the rear of the premises or into the outside area to the front of the premises after 22:00 hours.

32. Exclusion of the Press and Public

Resolved – That the press and public be excluded from the remainder of the meeting as the items to be considered contained exempt information relating to individuals as defined in Paragraph 1 of Part I of Schedule 12A to the Local Government Act 1972 (as amended).

33. Private Hire Driver Conduct Hearing (Appellant Reference 01-18)

The following is a Part 1 summary of the case.

The Appellant was welcomed to the meeting who was in attendance with his brother. It was confirmed that they had received a copy of the paperwork. The procedure for the hearing was outlined by the Chair.

The Licensing Manager introduced the report and it was noted that the Appellant had held a Private Hire Vehicle (PHV) Licence since February 2016 which was due to expire on 30th July 2019. The matter had been referred to a hearing following an email received from Thames Valley Police (TVP) advising that the Appellant had been witnessed driving without due care and attention. Options available to the Sub-Committee were highlighted which included suspension or revocation of the PHV licence.

The Appellant detailed the circumstances relating to the matter referred to in July 2018 and apologised for the error in judgment. It was confirmed that he had undertaken a TVP driver awareness course. Responding to why he had not reported the incident to the Licensing Team within seven days, the Appellant stated that this had been an oversight and he would ensure full compliance with the terms and conditions of his PHV licence in future.

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Both parties were given an opportunity to provide a brief summary following which they left the meeting. The Sub Committee considered both the written and verbal information provided and -

Resolved – That Appellant Reference 01-18's Private Hire Driver Licence be suspended for four weeks.

34. Private Hire Driver Conduct Hearing (Appellant Reference 02-18)

The Following is a Part 1 summary of the case:

The Licensing Sub-Committee was asked to consider whether Private Hire Driver (Reference 02-18) was a fit and proper person to continue to hold a Private Hire driver licence in Slough.

The Licensing Manager summarised the background to the case and discussed the relevant Policy and Legislative considerations. He advised Members that the Sub-Committee could only allow an Applicant to hold a Licence if it was satisfied that the applicant was a 'fit and proper' person to do so.

The Sub-Committee was advised that the Driver was the current holder of both a Private Hire Driver and Vehicle Licence, issued by Slough Borough Council. The matter had been referred to a hearing following two email complaints from members of the public regarding a motor vehicle altercation, involving the Appellant, where it was submitted that he had been aggressive and verbally abusive. The Licensing Manager reminded Members that this was the second incident of a similar nature that had been reported to the Licensing Office, the previous matter which took place in February 2010. Options available to Members were also highlighted.

The Appellant addressed the Sub-Committee, and presented evidence in mitigation. Allegations of being verbally abusive were strongly denied and it was submitted that he was the victim having received verbal abuse from the other parties involved. It was further stated that after the initial incident in October 2018, the Appellant was stopped in November 2018 by the partner of the complainant and an altercation followed. The Appellant stated that he had felt threatened and in his opinion had been targeted because he was a private hire driver.

A Member asked whether the matter in November 2018 had been reported to the police. The Appellant stated that he did not wish to escalate matters but the incident had been witnessed by an individual, who was also present at the meeting and outlined details for Members information.

The Sub-Committee carefully considered all the evidence at its disposal.

Resolved – That Appellant 02-18's Private Hire Driver licence be suspended for six months.

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35. Private Hire Driver Conduct Hearing (Appellant Reference 03-18)

The Following is a Part 1 summary of the case:

The Licensing Sub-Committee was asked to consider whether Hackney Carriage Driver (Reference 03-18) was a fit and proper person to hold a Hackney Carriage licence in Slough. The Driver was represented at the hearing and circulated a witness statement.

The Licensing Manager summarised the background to the case and discussed the relevant Policy and Legislative considerations. He advised Members that the Sub-Committee could only allow an Applicant to hold the a Licence if it was satisfied that the applicant was a 'fit and proper' person to do so.

The Sub-Committee was advised that the Licensing Team had received an email complaint and photographs from a member of the public of something of a sexually explicit nature displayed on the infotainment system on the vehicle's dashboard.

Members sought clarification as to whether the video was playing when the customer entered the vehicle and the Appellant confirmed that although he had watched a clip of the video this was prior to the customer entering the vehicle.

The Licensing Manager reminded the Sub-Committee that it had the power to revoke, or suspend the Licence, Issue a Warning or take no further action.

In summary, the Appellant acknowledged that he had watched the video but argued that apart from this particular incident there had no been complaints regarding his conduct as a hackney carriage driver and that he had held his licence for over 20 years.

The Sub-Committee adjourned to reach its decision and carefully considered the evidence.

Resolved - That the Hackney Carriage Driver's (ref 03-18) Licence be revoked.

Chair

(Note: The Meeting opened at 10.12 am and closed at 2.16 pm)