

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Wednesday, 23rd April, 2014, 8.30 am

Councillors: Manda Rigby (Chair), Patrick Anketell-Jones and Gerry Curran

Officers in attendance: Alan Bartlett (Principal Public Protection Officer), Terrill Wolyn (Senior Public Protection Officer) and Shaine Lewis (Principal Solicitor)

129 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

130 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

131 DECLARATIONS OF INTEREST

There were none.

132 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

133 SUMMARY REVIEW PROCEDURE

The Chair drew attention to the procedure for the meeting.

134 EXCLUSION OF THE PUBLIC

The Chair said that the Sub-Committee had the power to go into closed session in accordance with the provisions of section 100(A)(4) of the Local Government Act 1972, and would give due consideration to any request from the parties to do this.

135 LICENSING ACT 2003: INTERIM STEPS FOLLOWING SERVICE OF SUMMARY REVIEW APPLICATION IN RESPECT OF THE STONES CROSS, 2 NORTH ROAD, MIDSOMER NORTON, BA3 2QD

Applicant for Review: Chief Officer, Avon and Somerset Police, represented by Inspector Shirley Eden

Licence Holder: Chings Company Ltd, represented by Mr Yotjai Potjakapong (Designated Premises Supervisor)

The Senior Public Protection Officer presented the report. She explained that an application had been received the previous day from the Chief Officer of Police calling for a Summary Review of the premises licence of these premises in accordance with section 53(A) of the Licensing Act 2003. Upon receipt of such an application the Licensing Authority must:

1. within 48 hours consider whether it is necessary to take interim steps to prevent serious crime, serious disorder or both occurring at the premises;
2. within 28 days (starting the day after the application is received by the Licensing Authority) hold a hearing to determine the review application.

The Sub-Committee was invited to consider today whether any interim steps were necessary to prevent serious crime, serious disorder or both from occurring at the premises in the period prior to the review hearing.

Inspector Shirley Eden stated the case for the Police reading from and expanding on the Police application. She explained that there were some 12-15 licensed premises in the small town of Midsomer Norton, and that groups of young people tended to migrate from one establishment to another during the course of an evening. Alcohol-fuelled anti-social behaviour had been a long-standing problem in the town. About eighteen months ago a Community Alcohol Partnership had been established, since when crime levels, though still remaining high, had fallen. Over the past twelve months about 60 intelligence reports relating to the Stones Cross had been received. A covert policing operation had been run at the premises between 2/11/2013 and 08/03/2013, during which there were many drug deals with undercover officers involving Class A, B and C drugs and 2 incidents of handling stolen goods. Local residents had given witness statements about the adverse impact that crime associated with the premises had had on them. There was particular concern because of the skate park in the town, which acted as a magnet for young people from a wide area.

Intelligence indicated that the License Holder and Manager had been involved in the handling of stolen goods. He had been arrested and charged the previous week. When Police had visited the premises on 14th November last year, following a complaint from a customer, there had been a strong smell of cannabis, unacceptable levels of aggression had been shown to officers and there had been a total lack of support for officers by staff.

There were 20 suspects who had sold drugs within the premises and an additional 3 suspects who had sold drugs within the immediate vicinity. There had been a total of 24 arrests the previous week.

In reply to questions from Members, she stated:

- intelligence received had come from members of the community; it was very much a community-led initiative
- Mr Potjakapong was the DPS, but the premises were managed on a daily basis by Mr Ching
- because of the serious nature of the offences the Police were requesting that the licence be suspended

Mr Potjakapong represented the licence holder. He said that the Police notice had been served at 4.30pm the previous day, and that he had had no time to prepare a case. In response to questions from Members he stated

- he had been entirely unaware of the extent of illegal activity revealed by the Police today although he knew that drugs were sometimes used on the premises he did not know that drug dealing was taking place
- he could not comment on the alleged lack of support from staff for the Police on the 14th November 2013
- he did not spend a lot of time at the premises, because he had another job
- he had been DPS ever since the new licence was granted
- he could not say why the situation at premises had come to the state revealed in the evidence from the Police

Mr Potjakapong did not wish to make a closing statement.

In her closing statement, Inspector Eden repeated that the Police believed that suspension of the licence would be the appropriate response to the seriousness of the situation at the premises.

Following an adjournment, the Sub-Committee **RESOLVED** to suspend the premises licence.

Reasons

Members have today determined whether to take interim steps following an application made by Avon and Somerset Constabulary for a summary review of a premises licence at The Stones Cross, 2 North Road, Midsomer Norton. In doing so they have taken into consideration the Licensing Act 2003, Statutory Guidance, Home Office Guidance on Summary Reviews, the Council's Licensing Policy and Human Rights Act 1998.

The application was made by Police on the basis of concerns about serious crime associated with and being carried on at the premises namely dealing Class A, B and C drugs and handling stolen goods. Members heard that as a result of on-going operations incidents of drug dealing in and around the premises were occurring, for example, on 42 occasions drugs were purchased on the premises by covert officers and on 11 occasions drugs purchased in the immediate vicinity. In total there were 77 incidents of drug deals, 2 incidents of handling stolen goods and intelligence showed that the premises licence holder and manager was involved in handling stolen goods. In total 20 individuals have been arrested having sold drugs inside the premises with the type of drug sold predominantly being cocaine; a Class A controlled drug. Members noted that the Police had on occasions provided advice to the Designated Premises Supervisor on the control of the premises, however, the situation had not changed and as a result of an operation carried out resulted in the arrest of 24 people 8 of which have been remanded in custody.

Whilst the Authority is aware that it may determine the application without the premises licence holder being present the premises licence holder had been notified and the DPS attended the hearing. The DPS stated he did not have any case to

present at this time given the circumstances. He did state, however, that he was aware that during his time as DPS drugs were being used on the premises although he was not aware of the extent of the criminal activity described by the Police.

Members having listened carefully to the representations from the Police and DPS considered it appropriate and necessary to take the interim step of suspending the licence pending review they having considered no other step would address the situation as the premises are having such a detrimental impact on the licensing objective of the prevention of crime and disorder. This detrimental effect was demonstrated by the evidence presented by the Police of extensive drug and criminal activities carried on, at and in the immediate vicinity of the premises.

The suspension is to take immediate effect.

136 LICENSING ACT 2003: INTERIM STEPS FOLLOWING SERVICE OF SUMMARY REVIEW APPLICATION IN RESPECT OF WUNDERBAR, 2 HIGH STREET, MIDSOMER NORTON, BA3 2LE

Applicant for Review: Chief Officer, Avon and Somerset Police, represented by Inspector Shirley Eden

Licence Holders: Mr James Bull (also DPS) and Miss Lucy Milner

The Senior Public Protection Officer presented the report. She explained that an application had been received the previous day from the Chief Officer of Police calling for a Summary Review of the premises licence of these premises in accordance with section 53(A) of the Licensing Act 2003. Upon receipt of such an application the Licensing Authority must:

1. within 48 hours consider whether it is necessary to take interim steps to prevent serious crime, serious disorder or both occurring at the premises;
2. within 28 days (starting the day after the application is received by the Licensing Authority) hold a hearing to determine the review application.

The Sub-Committee was invited to consider today whether any interim steps were necessary to prevent serious crime, serious disorder or both from occurring at the premises in the period prior to the review hearing.

Inspector Shirley Eden stated the case for the Police, reading from and expanding on the Police application. She explained that the Wunder Bar was located in the same area as the Stones Cross in Midsomer Norton. There were a large number of licensed premises in the town and groups of young people between the ages of 18 and 35 tended to migrate from one establishment to another in the course of an evening. Because of the level of alcohol-fuelled crime and anti-social behaviour in the town, a Community Alcohol Partnership had been established about 18 months ago. A large number of intelligence reports had been received and there had been an undercover Police operation, which had revealed a great deal of drug dealing the town. Wunder Bar was one of the premises about which intelligence had been received, though most related to other premises. Undercover officers had purchased drugs on 9 occasions inside the premises and on 3 occasions in the immediate vicinity and on a further 10 occasions in High Street,

Midsomer Norton. The drugs predominantly supplied were MDMA and Cocaine, both Class A controlled drugs. There were 6 suspects who supplied drugs within the premises and a further suspect who supplied drugs in the street outside the premises. The possible impact of this illegal activity on young people was a concern, because of the presence in the town of the skate park, which was not in full public view and could provide cover for drug dealing. The Police were requesting the suspension of the licence, or if the Sub-Committee was not minded to do this, the attachment of 9 conditions to the licence.

In response to questions from Members Inspector Eden stated

- all suspects had been charged; some of them were on remand, others on strict bail conditions
- open drug dealing had taken place in the premises, and in the opinion of officers staff had been aware of this activity
- there were intelligence reports relating to 4 or 5 premises, but the only ones at which drug dealing were found were Stones Cross and Wunder Bar

Mr Bull asked on what dates drug dealing had taken place. Inspector Eden said that she did not have this information with her, but could provide Mr Bull with it. It would be provided in the papers for the full review hearing. He asked her how she could be sure that drug sales made in the street were associated with the premises. She replied that it had been observed that deals agreed on the premises were then transacted in the street.

The Chair asked why the Police were requesting suspension of the licence. Inspector Eden replied that the offences were serious and revealed a significant failure to further the licensing objectives. She was unable to provide full information at this preliminary hearing, but she believed that the evidence obtained by the Police justified suspension.

Mr Bull stated his case. He said that he had been profoundly shocked by the evidence of drug dealing presented by the Police. When Sergeant Cannon had raised concerns about drugs at the premises in January this year, he had referred only to cannabis and there had never been any previous suggestion from the Police that Class A drugs had been involved. Mr Bull said that he had complied with all the measures that Sergeant Cannon had suggested. He believed that closure of the Wunder Bar was unnecessary, now that the perpetrators had been charged and would only exacerbate problems in the town, as displaced customers would simply crowd into other premises. One establishment had already been trashed, because the Police had been unable to control an outbreak of disorder. It would be better for customers to be accommodated inside their usual haunts, where they could be monitored. He emphasised that the Wunder Bar was not just a drinking establishment, but provided a variety of entertainment, including comedy evenings. In response to questions from Members, he and Ms Milner stated

- The Wunder Bar could accommodate 40 customers inside

- the bar was in the centre of the premises, which allowed a panoramic view of customers, so that CCTV was not really necessary inside; the back garden was a blind spot, so CCTV would be useful there
- one of them was always present when the premises were open
- the back gate to the garden had been locked to prevent people bringing in their own drink
- people thought to have drugs were escorted off the premises
- serious disorder had occurred at one music event, which had been a promotion of local DJs, because of the sheer number of people who had arrived at the premises
- it was still sometimes reported that two drunken 15-year old girls had been served at Wunder Bar; this was not true, they had in fact been refused service

Mr Bull said that he felt that he had “let the side down” by not knowing about drug dealing on the premises. He said he would take more effective measures against drugs in future. He would put up signage and install a CCTV camera and make it clear to customers that there were to be no drugs on the premises. The Senior Public Protection Officer asked why he had not taken action about the blind spot in the garden before; had he not been aware of the smell of cannabis? He replied that he had not.

In his closing statement Mr Bull said that the revelations about drug dealing had come as a great shock and acknowledged that he and his fellow licence holder had to accept responsibility for it.

In her closing statement Inspector Eden said that the Police believed that a suspension of the licence was appropriate.

Following an adjournment, the Sub-Committee **RESOLVED** to modify the premises licence.

Reasons

Members have today determined whether to take interim steps following an application made by Avon and Somerset Constabulary for a summary review of a premises licence at Wunder Bar, Midsomer Norton. In doing so they have taken into consideration the Licensing Act 2003, Statutory Guidance, Home Office Guidance on Summary Reviews, the Council’s Licensing Policy and Human Rights Act 1998.

The application was made by Police on the basis of concerns they had that serious crime was associated with and being carried on at the premises namely drug use and dealing of class A, B and C some of which was in full view of bar staff at the premises and witnessed by covert police officers. For example on 9 occasions drugs were purchased on the premises by covert officers and on 13 occasions drugs purchased in the immediate vicinity mainly cocaine and MDMA. As a result of the

police operation 6 people suspected of having supplied drugs within the premises and 1 person suspected of supply in the immediate vicinity of the premises have been arrested all of whom have been charged and a number remanded in custody. The Police, however, suggested a number of conditions in the event Members do not suspend the licence.

Whilst the Authority is aware the matter may be determine without the premises licence holder being aware the premises licence holder was notified and attended the hearing this morning. It was stated that whilst the management were shocked by the allegations they felt a suspension was not the answer particularly as they are a small business looking to ensure this does not occur again and those involved have been arrested. The management also stated that most of the incidents related to a garden area which was a blind spot and the incidents occurred unknown to them. It was suggested that suspension will lead to more problems elsewhere in the town but that if the premises remained open with conditions matters could be controlled and more closely monitored.

Members have listened carefully to the representations made by the Police and premises management. Members considered it was not necessary to suspend the licence, however, considered it appropriate to take the interim step of modifying conditions as suggested by the Police and accepted by the management. Members determined that modified conditions are appropriate, necessary and proportionate to address the seriousness of the situation highlighted by the Police and modify the conditions as follows.

1. CCTV shall be installed to the satisfaction of the police and maintained in good working order. All cameras shall record continuously during trading hours and for one hour afterwards. The time and date shall be displayed on the recordings. Recordings shall be maintained for a period of 31 days and made available to the police or licensing authority for evidential purposes on request. If the CCTV equipment fails, the police and licensing authority must be informed as soon as possible and immediate steps shall be taken to effect a repair. A notice shall be displayed at the entrance to the premises advising that CCTV is in operation.
2. There shall be 2 SIA registered door supervisors on duty, from opening time until closing time, when the premises are open to the public and 2 other members of staff shall also be on duty. During these times one shall be female.
3. Checks will be made of the male and female toilets on the premises every 15 minutes by door supervisors or other members of staff while the premises are open, a written record of such checks will be maintained at the premises and will contain the name of person carrying out such checks. This record will be available to the police and licensing authority on request.
4. A register will be kept on the premises showing the full name, full SIA badge number, time on duty and time off duty of each door supervisor. The register will be retained for 12 months and made immediately available for inspection to the police or licensing authority.

5. An incident book shall be maintained at the premises with all incidents of crime and disorder and any ejections by door supervisors shall be recorded. The incident book shall be completed on a daily basis regardless of whether any incidents have taken place. The incident book shall be retained on completion for 12 months and shall be made available to the police and licensing authority.
6. A personal licence holder shall be at the premises during all opening hours.
7. All staff will be regularly trained in matters concerning illegal drug use and sale of alcohol and records kept of such training. The records will be made available to the police or licensing authority on request.
8. All persons entering the premises will be searched for drugs, weapons or other illegal items on entry or re-entry.

These conditions are to take immediate effect.

The meeting ended at 10.44 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services