

LICENSING SUB-COMMITTEE

Minutes of the meeting held at Time Not Specified on 22 June 2023

Present:

Councillor Kira Gabbert (Chairman)
Councillors Mike Jack and Simon Jeal

Also Present:

1 APPOINTMENT OF CHAIRMAN FOR THE MEETING

Council Kira Gabbert was appointed Chairman for the meeting.

2 DECLARATIONS OF INTEREST

Both Councillors Gabbert and Jack said they had several years ago visited Bridge Bar.

3 APPLICATION FOR A REVIEW OF THE PREMISES LICENCE AT THE BRIDGE BAR ,2/4 HIGH STREET, BECKENHAM, BR3 1AZ

The Case for the Applicant:

The review concerned events arising on 13th November 2022, 18th December 2022, 26th February 2023 and 18th March 2023 and subsequent visits to the business. The Committee was addressed by Counsel appointed by the police, Ms Bruce-Smith. She introduced her presentation by presenting CCTV evidence.

The grounds for the review related to incidents of crime and disorder in the High Street and also visits to the premises showing a failure by the business to comply with licensing conditions. The Police felt there was a particular concern in terms of public safety in having an entrance onto the High Street. They also felt there was a particular problem in terms of the door staff engaged at the premises, who were part of the difficulties. The written submissions made on behalf of the business before the review downplayed the seriousness of the incident that had occurred on 13th November 2022. A video seen on social media clearly showed the door supervisor using a knuckle-duster and not a vape, as claimed in the submissions.

The police were also concerned about a deliberate failure by the club to comply with conditions. The independent consultant, Mr Studd, advised that he had been informed that individuals who were regular customers and already had their details in the scanner, were not rescanned on entry. Not all of the CCTV cameras were working on 13th November 2022 or 18th March

2023 and no description of the fault was provided. By their own admission, three customers under the age of 21 were admitted in breach of conditions.

The police believed that revocation was the appropriate course for the Sub-Committee to take. If this was not agreed, then the Police asked for last entry time to be midnight and closing at 2am. In response to a question, the police said if that these hours were secured, a third party SIA accredited firm engaged to provide door staff and a change in management was effected, then they may reluctantly accept the imposition of conditions. However, they doubted that all of this would be possible with the current management and therefore asked for a revocation of the licence.

Submissions by the Responsible Authorities:

Mr Slaney, on behalf of the Licensing Authority, advised that the police from February 2023 had used condition 11 to restrict the entry time until midnight. The Licensing Authority had good relations with the business.

Mr White on behalf of the Public Health Nuisance Team confirmed that on 16th November 2022, he attended the premises with the police and advice was given that an external SIA accredited company should be employed.

Both Mr Slaney and Mr White supported the review application by the police.

The Case for the Premises Licence Holder:

The premises licence holder was represented by Mr Philip Kolvin KC, who in advance of the hearing, had submitted additional documents comprising the witness statement of Philip Trump, a witness statement of Jason Orris, a witness statement of Grant Brown, a witness statement of Joanne Simpson and a Crime and Disorder expert report prepared by Adrian Studd.

Mr Kolvin advised that the business accepted there had been errors and laxity and remedial measures were required. However, conditions were an adequate intervention and revocation would be disproportionate.

Mr Kolvin referred to the statutory Government guidance. At paragraph 11.20 the guidance states that in deciding which of the powers to invoke on a review, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

Mr Kolvin advised that although the premises had not initially agreed to appoint a third party SIA accredited company to provide its door staff, they had appointed an independent licensing consultant to advise. The business was now prepared to appoint a third party SIA accredited company. The business, on the previous day, was shown the CCTV evidence. It was now prepared to accept that the most creditable explanation for the incident on

13th November 2022 was that the door staff member had held a knuckle-duster. On a subsequent inspection, it was agreed that a vape had not been found. In spite of its written representations as to what the door staff member had held, the business took the matter very seriously and subsequently dismissed three members of staff whose behaviour had not been found to be acceptable.

Mr Kolvin emphasised the longstanding nature of the business. The DPS had some thirty years' experience including 15 years as the DPS. There were some 70 cameras at the premises and the business was always willing to assist the police, including providing the footage for incidents that happened elsewhere.

As a response to the events cited by the police, the business had converted the upper floor to a cocktail bar. This was to attract a more mature and hopefully calmer demographic. A smoking area would be provided upstairs immediately adjacent to the upper floor entrance. Condition 11 was regarded as an unusual condition and it was felt the last entry should be moved to 1.30am.

Mr Kolvin introduced Mr Adrian Studd, an independent expert witness, Mr Studd in his report, made recommendations concerning last entry times and the times for the sale of alcohol/closing times. He recommended last admission times on Monday to Thursday until 1am, on Friday to Saturday until 1.30am and on Sunday until 10pm. He also recommended the use of a third party SIA approved contractor for door staff.

Mr Studd felt it would be difficult to run a nightclub closing at 2am. He advised an external SIA accredited firm should be provided to provide door staff. He felt with a good door team, the proximity of the entrance to the upper floor to the High Street and its carriageway should not be a disproportionate risk.

Reasons for the Decision

Members considered the application, the written and oral representations, the Council's Statement of Licensing Policy and statutory guidance. Members were satisfied that in pursuance of the Licensing Objectives, further conditions should be imposed on the premises licence.

The police gave evidence that on 13th November 2022 a member of the club's door staff had used a weapon, namely a knuckle-duster. The Committee also noted the evidence from the Police, that on 18th March 2023, certain patrons were allowed to enter the venue, some of whom participated in disorder and either were not searched by the door staff or by passed the club scan. We also noted that an external CCTV camera was not working on 13th November 2022 (as confirmed by visit on 16th November 2022). On 18th March 2023, five minutes of crucial footage from a different camera was inexplicably not recorded and one must therefore assume that camera was not working correctly on that occasion either.

Police evidence indicated that this part of the High Street, during the early morning, suffered from serious incidents of crime and disorder. The seriousness of the incidents impacted on public safety. The police provided statements that failings in the management of the premises had been identified which had hampered the collection of evidence which would assist in bringing the perpetrators of the crime and disorder to justice. We found the incident involving the use of a weapon by a door supervisor and the inappropriate response by two other supervisors, was a clear indication that those existing arrangements were not adequate. The police also noted that on occasion the door supervisors were over familiar with some of the patrons, again giving cause for concern.

Had the business not changed their position and indicated they would engage an independent third-party SIA Approved Contractor Scheme (ACS) company for its door staff, the Committee would have considered there was little option but to suspend or revoke the licence to enable the business to reconsider its position.

The business, however, indicated it will now appoint a third party ACS accredited contractor for its door staff and will accept the imposition of a condition to that effect. The Committee therefore considered whether the introduction of this condition and other amendments to the conditions would suffice in furthering the licensing objectives.

In three of the four dates mentioned by the police, namely 13th November 2022, 18th December 2022 and 18th March 2023 the incidents occurred around 00.23 hours, 00.25 hours and 01.30 hours, respectively. It was only on the fourth occasion on 26th February 2023, namely 02.23 hours that the incident was nearer to the usual closing times. The Committee considered the evidence of Mr Studd that a closing time of 2pm might impact on the viability of the business making it difficult to run. The Committee noted the longstanding nature of the business and also felt that the club should be allowed to demonstrate that the business could continue to operate to the hours originally envisaged by the licence. The Committee felt that the closure of the entrance to the High Street in the early hours of the morning would be a proportionate and necessary step to provide a solution. The entrance would not be an incentive for trouble makers to remain in that part of the High Street.

The police had suggested that no new entry should take place at midnight and the business asked for 1.30am (though in a previous representation from Mr Orris, they requested 1am last entry time). Provided that the door to the High Street was shut at the 'no new entry time' with no possibility of access or egress (save in cases of emergency or ejections by security staff), it was felt it would be possible to move some way towards the position of the business. The Committee were prepared to agree to a no new entry time of 1am following Mondays to Saturday and 10pm on Sundays. However, the Committee was not persuaded that a smoking area on the upper floor would be possible after the no new entry time. To avoid confusion, it was felt it would be better for the smoking area after this time to be in the basement floor only

and that it would need to be adequately supervised to ensure it did not become a weakness in the measures to control access to the club.

The Committee felt it would be necessary to strengthen condition 35 to make clear that all patrons entering the premises are to be searched and on re-entry. We also felt condition 36 should be strengthened to make clear that all patrons should be scanned on entry and re-entry (except for those remaining in the supervised smoking areas).

It was noted that the business had introduced a cocktail bar on the upper floor. The Committee considered this might assist in introducing a more mature demographic in terms of patrons. The Committee agreed to the suggestion that the description of the business in the Licence should be amended to reflect this change (and the that off premises sales be removed from the licence as this is already not occurring and is not requested by the premises). However, the Committee did not consider it would be practical or necessary to impose any condition requiring the basement floor and upper floor to be operated as separate businesses.

The offer of a new condition concerning dress code was felt to be helpful, particularly in ensuring that CCTV evidence would not be obscured by clothing. The Committee felt the condition concerning the maintenance of a dedicated phone line had not turned out to be needed and could be removed. However, we felt the club should resume the quarterly meeting with residents which had been interrupted by COVID.

The business should be under no illusion as to the loss of confidence by the police in the operation of the business, which in the opinion of the Committee was justified through recent events. If problems persisted, then the police would be entitled to call a further review. As a confidence building measure, the Committee have conditioned an audit by an independent licensing consultant as to compliance with licensing conditions to take place every six months for the next two years. The Committee hoped this would be a helpful measure and enable the business to demonstrate the progress being made and provide the Police with renewed confidence that compliance with licence conditions continues to be taken seriously by the business.

The Committee therefore concluded that the grounds for the review application had been made out. In considering what appropriate and proportionate steps should be taken the Committee did not consider it necessary to revoke or suspend the licence. The problems did not seem to be attributable to one individual and it was not considered necessary to remove the designated premises supervisor. We felt that the harms that had been identified could be addressed by the imposition of conditions.

Decision

The description of the operation of the premises in the General section of the premises licence shall be changed from "This premises shall operate as a nightclub with both on and off sales" to "This premises shall operate as a

nightclub in the basement floor and a cocktail bar on the upper floor.” The off-site sale of alcohol shall be removed from the description of activities.

Condition 11 on the Premises Licence shall be replaced with the following condition:

No patron shall be admitted to the premises after 1am following any Monday to Saturday or following any Sunday which precedes a bank holiday until the closing time for that day. No patron shall be admitted to the premises after 10pm on any other Sunday until the closing time for that day. A prominent notice must be displayed at each entrance stating these restrictions on admission.

Condition 35 on the Premises Licence shall be replaced with the following condition:

All customers entering the premises are to be searched whether or not they have previously been admitted. These searches are to include the customer’s person, wallets, purses, bags, and any other item carried by them. All searches to be conducted in sight of a CCTV camera. A handheld metal detector must be available for use by staff as needed. If any person is found in possession of drugs, weapons or items prohibited by the venue, these items must be seized, and the person excluded. Police will be called in all cases where weapons are recovered. Any person not submitting themselves to a search must be refused entry. The requirement to search customers applies to those customers who have left the premises to smoke.

Condition 36 on the Premises Licence shall be replaced with the following condition:

A photographic, ID computer-based entry system (club scan) is to be installed/maintained. The system is to be capable of sharing information with other venues. It will also be able to identify the authenticity of identity documents to a reasonable standard. The system will be in operation at all times that the venue engages in licensable activities. All patrons that enter or re-enter the premises (unless they re-enter from a supervised smoking area) will have their ID documents ‘scanned in’ or may have ‘biometric’ fingerprint membership once their details are recorded on the system. The details shall be stored for a minimum of 31days and be made available on request of a Police Officer for the purposes of detecting or investigating crime.

The following new conditions shall be added to the premises licence:

Only SIA door supervisors provided by a third party accredited under the SIA Approved Contractor Scheme are to be employed at the premises.

Any smoking area shall be cordoned off and supervised so that it is not possible for non-smokers to gain access. No smoking area will be provided on the upper floor after the last entry times.

After 1am following any Monday to Saturday or after 1 am following any Sunday which precedes a bank holiday egress from the premises shall not be permitted from the upper floor and all exits shall only be from the basement floor. The door from the upper floor to the High Street shall thereafter be closed and only used in cases of an emergency or where required by security staff for ejections from the premises.

The premises shall operate a dress code with the minimum requirements that no person will be admitted wearing sports clothing such as a football related shirt, a hoodie, a cap or other hat.

The premises shall engage an independent licensing consultant to conduct an audit as to the operation of the business and prepare a report concerning its compliance with the conditions as amended that are attached to the premises licence. The audit shall be commenced every six months from the review (22nd June 2023) for the next twenty four months and the results of each audit sent to the Police and Licensing Authority in writing no later than three months after each audit.

Condition 28 shall be removed from the Licence.

Informal recommendation:

The Sub-Committee recommends that the licence holder engage with the Safer Neighbourhood Ward Panel and also with the Local Pub Watch.