



Leicester
City Council

Minutes of the Meeting of the
LICENSING (HEARINGS) SUB-COMMITTEE
(Teams Virtual Meeting)

Held: TUESDAY, 19 MAY 2020 at 10:00 am

P R E S E N T:

Councillor Hunter (Chair)

Councillor Cank

Councillor Fonseca

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12. APPOINTMENT OF CHAIR

Councillor Hunter was appointed as Chair for the meeting.

The Chair outlined the procedure for the meeting to be followed and led on introductions.

13. APOLOGIES FOR ABSENCE

There were no apologies for absence.

14. DECLARATIONS OF INTEREST

There were no declarations of interest made.

15. MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the meeting held on 1st May 2020 be confirmed as a correct record.

**16. APPLICATION FOR A REVIEW OF AN EXISTING PREMISES LICENCE:
THE PYRAMID LOUNGE (ANONYMOUS), 8-10 MILLSTONE LANE,
LEICESTER LE1 5JN**

The Chair confirmed with the Sub-Committee Members that the reports for the

meeting had been read and that CCTV footage and bodycam footage supplied by the Police had been viewed.

The Director of Neighbourhood and Environmental Services submitted a report requiring the Sub-Committee to determine an application for the review of an existing premises licence for The Pyramid Lounge (Anonymous) 8-10 Millstone Lane, Leicester, LE1 5JN,

The Sub-Committee noted that representations had been received which necessitated that the application for the review of an existing premises licence had to be considered by the Sub-Committee.

Mr Dale Murphy Premises Licence Holder (PLH) was present as was his legal representative Mr Ed Walters (Barrister), and Mr Rajesh Pabla (Solicitor). Mr Jagdeep Narll (Manager of the premise), Mr Peter Finch, (Security Manager of the premise), Mr Nigel Rixon (Licensing Manager, Leicestershire Police), PC Jeff Pritchard (Leicestershire Police), two Police witnesses referred to as Witness One and Witness Two, Licensing Team Manager (Policy and Applications) and Legal Adviser to the Sub-Committee were also present.

The Licensing Team Manager (Policy and Applications) presented the report and outlined details of the application. It was noted that an application for a review of the existing premises licence was received on 24 March 2020 from Leicestershire Police on the grounds of prevention of crime and disorder, public safety, the prevention of a public nuisance, and the protection of children from harm. The Police were concerned about a number of incidents of crime and disorder linked to the premises.

It was further noted that a representation was received on 26 March 2020 from Councillor Dr Lynn Moore, who recommended that the licence be revoked on the grounds of prevention of crime and disorder, public safety, and the prevention of public nuisance. Councillor Dr Moore was not present at the meeting.

Mr Rixon and PC Pritchard outlined the reasons for the submission of the review application and answered questions from Members, Mr Walters and Mr Murphy. The Police referred to a lack of cooperation from the management of the premises in reporting incidents and providing CCTV.

Two persons present as police witnesses were invited to outline their reasons for the application and answered questions from Members. They raised concerns over weekly brawls outside the premises, with door staff doing nothing to intervene. They reported that noise from the patrons of the premise was causing distress to them and other nearby residents, including young children.

It was at this point that Mr Walters, legal representative for Mr Murphy, requested that the meeting be adjourned to a later date. Mr Walters stated that Mr Murphy had not received enough notice of the relevant incidents before the hearing in order to properly investigate them. The Police objected to this

request for an adjournment, citing several meetings in December 2019 where Mr Murphy was informed of criminal activity at the premise.

Members of the Sub-Committee received legal advice from the Legal Adviser to the Sub-Committee. It was noted that should the meeting be adjourned it would be to a specified date.

In order to consider the request for an adjournment of the hearing, Members felt they should deliberate in private on the basis that it was in the public interest and as such outweighed the public interest of their deliberation taking place with the parties represented present. The Sub-Committee Members then withdrew from the meeting to consider the request in private deliberation. Members then returned to the meeting and announced their decision to continue with the hearing. Members cited the meetings with Police in December 2019 as evidence that Mr Murphy had had enough time to investigate the incidents that had taken place at the premise.

Mr Murphy was given the opportunity to respond to the application and answered questions from Members and the Police. He informed the meeting that he did not know about the incidents occurring at the premise and stated it was his intention to part ways with the current management team and bring a new team in, and for the premise to remain closed for several months until a new management team and security staff were in place.

Mr Walters on behalf of Mr Murphy also put forward representation and asked questions of the Police and answered questions from Members.

Mr Narll and Mr Finch were also given the opportunity to respond to the points raised during the meeting and answered questions from Members.

All parties were given the opportunity to sum up their position and make any final comments.

The Sub-Committee received legal advice from the Legal Adviser to the Sub-Committee in the presence of all those present and were advised of the options available to them in making a decision. The Sub-Committee were also advised of the relevant policy and statutory guidance that needed to be taken into account when making their decision.

In reaching their decision, the Sub-Committee felt they should deliberate in private on the basis that this was in the public interest and as such outweighed the public interest of their deliberation taking place with the parties represented present, in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

The Chair announced that the decision and reasons would be publicly announced and confirmed in writing within five working days. The Chair informed the meeting the Legal Advisor to the Sub-Committee would be called to give advice on the wording of the decision.

The Chair then asked all but the Members of the Sub-Committee and Democratic Support Officers to disconnect from the meeting. The Sub-Committee then deliberated in private to consider their decision.

RESOLVED:

That the premises licence for The Pyramid Lounge (Anonymous), 8-10 Millstone Lane, Leicester, LE1 5JN be REVOKED.

It was noted that the hearing of the application was held virtually in accordance with the Local Authorities and Police and Crime Panels (Coronavirus)(Flexibility of Local Authority and Police and Crime Panel Meetings)(England and Wales)(Regulations) 2020 (The 2020 Regulations) and in accordance with the Council's own Remote Procedure Rules.

The Sub-Committee Members had been asked to determine an application for the Review of a Premises Licence. In reaching their decision, Members of the Sub-Committee had carefully considered the committee report presented by the Licensing Officer, the representations made by Leicestershire Police in support of the Application for a Review, the representations made on behalf the Premises Licence Holder (PLH) and the legal advice given during the hearing.

The Sub-Committee Members considered the licensing objectives to be of paramount concern and had considered the application on its own merits and in accordance with the licensing authority's Statement of Licensing Policy and guidance issued under Section 182 of the Licensing Act 2003. The current licensable activities which were the subject of the review were set out in paragraph 5.2 of the Licensing Officer's report to Committee.

Leicestershire Police had asked for a review of the premises licence because they were concerned the premises licence had failed to uphold the licensing objectives relating to the Prevention of Crime and Disorder, Prevention of Public Nuisance, Public Safety and Protection of Children from Harm.

The grounds set out for the Review application were:

- Incidents of crime and disorder linked to the premises
- Poor management and failure to report criminal activity
- Concern about under 18's events organised at the premises
- Failure to provide CCTV footage to the Police despite numerous requests
- Operating without a Designated Premises Supervisor (DPS) for a period of up to two months
- Breach of licensing conditions

In addition the Police stated they had been frustrated by a lack of engagement from all those associated in the running of the premises. In particular they pointed to the failure to provide CCTV footage to them with regards to serious criminal incidents, including a serious sexual assault where the victim was under 18 years old. The Police also stated that investigations were ongoing in relation to illegal abstraction of electricity and the presence of a nitrous oxide

gas cannisters at the premises. The Police requested the Sub-Committee revoke the licence because they said that despite meetings with the premises licence holder and a succession of managers there had been no improvements, and incidents of crime and disorder relating to the premises had increased.

Application to Adjourn

It was unfortunate that the Sub-Committee were not made aware at the outset of the Premises Licence Holder, Mr Murphy's intention to apply for an adjournment. The intention to apply was only brought to the attention of the Sub-Committee Members after the Licensing Officer had read the Committee report, the Police had finished giving their representation in support of the review application and Witnesses One and Two had given their evidence. Mr Walters representing the Premises Licence Holder informed the Sub-Committee that he had tried to draw the attention of the Chair to put forward the application to adjourn but that he may not have been heard. It was accepted that there was a miscommunication and that it was not due to anyone's fault. In the circumstances Mr Walter's was allowed to make an application to adjourn and set out his reasons. In making the application, Mr Walters reminded the Authority of its duty to ensure a fair hearing and informed the meeting that due the virtual nature of the meeting and the technology used it was not possible for him to take instruction from Mr Murphy. Mr Walters also complained that only the Sub-Committee Members and Council Officers could use the video facility whilst all the parties to the application were on the telephone. It was noted, however, that the main reason for seeking an adjournment for 21 days was that due to Mr Murphy being in self-isolation, he had been unable to properly investigate the incidents relied upon by the Police and to collate evidence from certain individuals. Leicestershire Police opposed the application and informed the Sub-Committee of the dates on which they had contacted Mr Murphy and sought to engage with him regarding the issues raised in the review application. The Police also pointed out that Witnesses One and Two had taken time off work to attend the hearing and could not be expected to attend a further hearing. The Sub-Committee received legal advice from the Legal Adviser to the Sub-Committee before retiring to consider their decision.

Having considered the application to adjourn, the Sub-Committee decided NOT TO GRANT an adjournment. The Sub-Committee were reminded of their discretion under Regulation 12 Licensing Act 2003 (Hearings) Regulation 2005 to adjourn a hearing to a specified date where it was considered to be necessary for consideration of any representations or notice made by a party. The Sub-Committee's reasons for not granting the adjournment were:

- The Sub-Committee Members were satisfied that Mr Murphy had been notified of the grounds now relied upon by the Police as early as 5th December 2019 quickly followed by a meeting on 18th December 2019.
- Members were satisfied that at a meeting on 5th December 2019 held in Mr Murphy's office, PC Pritchard had notified Mr Murphy and Mr Narll of

the suspected under 18 events held at the premises, suspected unlicensed SIA door staff working at the premises, of there being no DPS in place for two months, an inadequate CCTV system, criminal investigations being hindered by the lack of, or delays in providing, CCTV and a lack of management/ leadership at the premises. Although Mr Murphy stated that he did not have the same recollection, Members had accepted PC Pritchard's evidence set out in his Section 9 statement dated 18th April 2020 and supported by the Officer's notebook record for that date.

- Members had also accepted the chronology of subsequent contact with Mr Murphy, his managers and representatives set out both by the Police and the Council's Licensing department and were satisfied that Mr Murphy and his representatives had had more than sufficient time to make their enquiries and prepare their representations for the hearing.
- Mr Murphy and his representatives had failed to identify to the Sub-Committee what actual investigations needed to be undertaken and how the outcome of those investigations required necessary consideration at a further hearing. these points were considered particularly pertinent since Mr Murphy's principal position was that he played no part in the running of the premises and that because he had been let down by those he had trusted he wanted a fresh start with new management, who he would ensure would work with the Police
- Members were also satisfied that the hearing procedure adopted under the Coronavirus legislation had been fair given that all parties to the hearing had the same access by audio/ telephone and instructions could be taken during the hearing by using emails or messaging, or indeed asking for a short adjournment.
- Mr Walter's stated that he had on occasions lost connection, but when reflecting on the hearing as a whole the Sub-Committee did not believe that there was any unfairness , and Mr Walters was afforded every opportunity to put forward submission and representations on behalf of Mr Murphy. Members further noted that all the other participants, including instructing solicitor Mr Pabla and his client Mr Murphy, retained connection throughout the hearing which lasted over 4 hours.

In response the grounds set out in the review application, the PLH Mr Murphy had stated that he had no direct dealings with the premises, that had been let to Mr Narll on a lease, and that having heard about what had been alleged to be occurring at the premises he felt let down by Mr Narll and others. Mr Murphy had stated that he would now work with the Police and put in place whatever was necessary to comply with the Licensing Act 2003 and any other requirements set out by the Licensing Authority.

The Sub-Committee confirmed they had not taken anything put before them on face value and Members had spent a great deal of time scrutinising the representations put before them orally and in writing with due rigour, and had

considered each of the options available to the Sub-Committee.

As a result of what they had heard, Members were satisfied that the representations by the Police engaged all four licensing objectives and they concluded that it is appropriate and proportionate in light of Licensing objectives to revoke the licence

REASONS FOR THE DECISION

1. We believe that the cause or causes of the concerns which gave rise to the application for review was the poor management of the premises and the unwillingness of the PLH and his management team to promote the licensing objectives, particularly that relating to the prevention of crime and disorder.
2. The Sub-Committee found the failure to provide CCTV footage in relation to certain incidents, including those involving staff failings, to be extremely serious.
3. The Sub-Committee concluded that the PLH had full knowledge of the grounds which formed the basis of the application on 5th December 2019 and that when notified of the concerns Mr Murphy exercised control by ensuring a new Designated Premises Supervisor was appointed on the very same day. However, following that meeting, matters deteriorated with serious incidents continuing to occur at the premises between January and March 2020
4. The Sub-Committee had found the evidence of Witnesses One and Two compelling and accepted their evidence in relation to crime and disorder at the premises: The failure of the door staff to stop fights, the nuisance caused to them by those gathering outside the premises and the fear caused to them by the violence occurring at the premises. Members believed the Witnesses independent evidence corroborated all the evidence and information put before them by the police
5. Mr Murphy admitted that the management and other staff had been culpable of certain failings which led to the application for review. However, given Mr Murphy's lack of action and engagement in the period leading up to the review the Sub-Committee were not persuaded about his ability to bring about the changes necessary to uphold the licensing objectives.
6. The Sub-Committee were particularly disturbed by the incident involving an under 18-year-old who had been able to enter the premises in possession of a bottle of vodka and was subsequently the subject of a serious sexual assault. The failure to provide CCTV footage in relation to this matter left Members with no confidence in the PLH and his management team.
7. Members had also taken a dim view of the under 18 events held at the premises in breach of the licensing conditions and were appalled that the premises had used their social media to promote illegal drug use.
8. Members noted the Police had followed the statutory guidance by meeting with the PLH and his managers, and had attempted to work him and others to promote the licensing objectives through meetings. The Police had confirmed that no letters were sent to Mr Murphy following meetings and contacts with him, however Members were satisfied that Mr Murphy and his managers were aware of issues occurring at the premises.

9. Having carefully evaluated all the information and evidence both before them, the Sub-Committee accepted the submission put forward by the Police that the licence holder was unable to uphold the licensing objectives.
10. The Sub-Committee had given consideration to the other options available to them under Section 52 of the 2003 Act and concluded that the cause or causes of the concerns which led to the review application could not be addressed by a lesser measure than revocation as Members found that the premises had been trading irresponsibly in that it failed to cooperate with the Police in relation to incidents occurring at the premises, engaged in criminal activity namely abstraction of electricity, promoted drug taking through its social media, allowed nitrous oxide cannisters to be on the premises, failed to protect children from harm by holding under 18's events in breach of the licence conditions, allowing entry to under 18's and failed to cooperate with the police when an under 18-year-old was sexually assaulted in the premises.
11. Given the history presented to them by the Police the Sub-Committee had no confidence in the PLH's ability to uphold the licensing objectives, nor do they have confidence in his ability to bring about the major changes needed to get the premises to trade responsibly and comply with the requirement of the Licensing Act 2003.

The applicant would be advised of the right to appeal to the Magistrate's Court within 21 days.

17. ANY OTHER URGENT BUSINESS

There being no other urgent business the meeting closed at 2.07pm.