Leicester
City Council

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

Held: FRIDAY, 16 AUGUST 2019 at 9:30 am

P R E S E N T:

Councillor Hunter (Chair)
Councillor Cank Councillor Pickering

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6. APPOINTMENT OF CHAIR

Councillor Hunter was elected as chair for the meeting.

7. APOLOGIES FOR ABSENCE

There were no apologies for absence.

8. DECLARATIONS OF INTEREST

There were no declarations of interest.

9. MINUTES OF PREVIOUS MEETING

The minutes of the meeting held on 24 April 2019 were confirmed as a correct record.

10. APPLICATION FOR A REVIEW OF AN EXISTING PREMISES LICENCE, THE YELLOW DOOR, 34 BELVOIR STREET, LEICESTER, LE1 6HQ

The Director of Neighbourhood and Environmental Services submitted a report that required the Sub-Committee to determine an application for a review of an existing premises licence for The Yellow Door, 34 Belvoir Street, Leicester, LE1 6HQ.

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

The Mr Sukhcharan Kainth (Premises License Holder) and Mr Mitchell Humby (Designated Premises Supervisor) were present accompanied by a Solicitor.

Nigel Rixon (Licensing Manager for Leicestershire Police) and PC Jeff Pritchard (City Centre Licensing Officer for Leicestershire Police), the Licensing Team Manager (Policy and Applications) and the Legal Advisor to the Sub Committee were also present.

Introductions were made and the procedure for the meeting was outlined to those present.

The Licensing Team Manager presented the report and outlined details of the application. It was noted that an application for a review of a premises licence had been received from Leicestershire Police on 27th June 2019 which related to the licensing objectives of the prevention of crime and disorder, public safety and the prevention of public nuisance. The Police were concerned that there had been numerous incidents of crime and disorder related to the premises and that the venue had failed to take steps to uphold the licensing objectives and keep the public safe.

The Licensing Team Manager stated that representations had been received from a member of the public who wished to praise the response of the staff of the Yellow Door when they were assaulted in a nearby premises, and from the Noise Team who had requested that a condition be added to the premises licence requiring all amplified music be played through a noise limiting device set at a level agreed with the Noise and Pollution Team.

PC Pritchard from Leicestershire Police was given the opportunity to outline the reasons for the application and responded to questions from the Sub-Committee and the Solicitor for the Premises Licence Holder.

The Mr Kainth, Mr Humby and their Solicitor were then given the opportunity to outline their representation and answered questions from the Sub-Committee.

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

Prior to the Sub-Committee considering the application, the Legal Advisor to the Sub-Committee advised on the options available to them in making a decision, and 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 being present.

The Licensing Team Manager, Legal Advisor to the Sub-Committee, Mr Nigel Rixon, PC Jeff Pritchard, Mr Kainth, Mr Humby and accompanying Solicitor then withdrew from the meeting.

The Sub-Committee then gave the application full and detailed consideration.

The Licensing Team Manager, Mr Nigel Rixon, PC Jeff Pritchard, Mr Kainth, Mr Humby and accompanying Solicitor then returned to the meeting.

Those present were advised that the Legal Adviser to the Sub-Committee was called back to the meeting to advise Members on the wording of the decision.

RESOLVED:

That the Premises Licence for The Yellow Door, 34 Belvoir Street, Leicester, LE1 6HQ be REVOKED.

In reaching their decision, the Sub-Committee carefully considered the Committee report, all representations made by Leicestershire Police in support of the application for Review, the representation made by the Noise Team, the representations made on behalf the Premises Licence Holder (PLH), and the legal advice given during the hearing.

The Sub-Committee had been asked to determine an application for a Review of a Premises Licence. When considering the application, the licensing objectives were of paramount concern. The Sub-Committee 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 report.

Leicestershire Police had asked for a review because they were concerned that there had been numerous incidents of crime and disorder related to the premises and that the PLH had failed to uphold the licensing objectives and keep the public safe. Leicestershire Police said that they had identified a number of incidents of poor management and a failure to report criminal activity, and there was a high volume of crime and disorder incidents being committed by customers frequenting the premises. Leicestershire Police said that despite a meeting with the owner, and several meetings with the Designated Premises Supervisor (DPS) and the implementation of two action plans, they did not believe the premises could uphold the licensing objectives. They went further and said that the members of the public were being put at significant risk of harm if the premises remained open. The Police requested the Sub-Committee revoke the licence.

The Sub-Committee noted that a meeting was held by the Police on 11th January 2019 with the DPS and the owner of the premises. The Police put the premises on notice regarding the sheer volume of crime and disorder incidents at the premises and the ineffectiveness of the door staff. A six-week plan of action was issued which was signed by the PLH and DPS and returned to the Police. The plan was dated 25th January 2019. However, a significant number of crime and disorder incidents continued to occur both inside and immediately outside the premises. As a result, the action plan was extended for a further six weeks. A meeting was held on 10th April 2019 with the PLH and the DPS when the first action plan was reviewed, and agreement reached to extend it. The

second action plan was signed by the PLH covering the period of 16th April to 28th May 2019. However, incidents continued to occur inside and outside the premises and the police continued to have concerns about the commitment of those running the premises to promote the licensing objectives.

The Police in their application set out details of serious criminal incidents occurring at the premises between 1st February 2019 and July 2019. The application for a review of the premises licence was supported by witness statements from various police officers and further representations from the police.

Of particular note were:

a) Statements from PC Marsh and PC Pritchard giving evidence of unregistered SIA individuals working at the premises and failure in one instance when the DPS failed to take action expected of a person in that position when confronted with an incident involving a former SIA registered door staff's ex-girlfriend; and
b) Three Police statements submitted in relation to an incident on 7th July 2019 when a non-SIA registered door man was arrested following an assault.

In answer to the application for the review, the Sub-Committee had received substantial representation made on behalf of the PLH. In summary the representation made on behalf of the PLH was that:

- In relation to a licensing visit conducted by PC Marsh on 1st June – the PLH stated that there was only one badged doorman on shift because another doorman was delayed. There were only 30 customers in the bar at the time.
- In relation to the incident on 2nd June 2019 involving XX the PLH stated that the incident seemed to be a very upset ex-girlfriend of XX. The PLH stated that Yellow Door had no control over XX or his ex-girlfriend. The incident was said to occur outside the premises. The DPS was said to have instructed door staff and radioed through to City Watch regarding an irate female outside. CCTV monitored the situation and the police arrived to deal with the incident. The PLH also stated that XX did not work at the premises and the fact that the PLH got into a car with him did not suggest that there was a connection between them, and the PLH was entitled to get a lift home. It was true that XX was an ex-doorman. He was described as 6'8'' tall and was not the case he could be missed on any CCTV or that the PLH was trying to be underhand.
- Generally due to the premises location and its high night time economy footfall, the area inevitably had a greater number of incidents, was not the only premises facing these problems, and in recent months police presence had significantly reduced.
- Since the last action plan the PLH submitted that any incidents had been fully managed; they had worked with the Noise Team and changed their sound systems and complied with all health and safety measures.
- The PLH felt that the police were setting them up to fail and that if the premises were shut it would affect staff and their families. They stated there

were other premises that were having trouble and Yellow Door felt that they were being treated unfairly. They did not feel that they were failing to promote the licensing objectives, and they believed they had strong leadership and a willingness to work with the police to ensure licensing objectives were upheld.

The Sub-Committee confirmed that they had not taken anything put before them on face value and had spent a great deal of time scrutinising the evidence in detail and with due rigour.

The Sub-Committee considered each of the options available to them in reaching a decision.

The Sub-Committee stated they were satisfied that the representations by the Police engaged three of the four licensing objectives and concluded that it was appropriate and proportionate in light of the licensing objectives to revoke the premises licence.

REASON FOR THE DECISION

The Sub-Committee gave the following reasons:

1. The Sub-Committee believed that the cause of the concerns which gave rise to the application for review was the poor management of the premises and the unwillingness of the PLH to promote the licensing objectives particularly that relating to the prevention of crime and disorder.

2. Annex 3 of the premises licence set out conditions attached to the licence following a previous hearing.

Included in the conditions was the following:

The licence holder will employ sufficient registered door staff to deal with any likely contingency. Each such individual must be licenced by the Security Industry Association

The Sub-Committee found that the police had produced compelling evidence to show that the licence holder had repeatedly breached the condition despite efforts to gain compliance.

3. The Sub-Committee found that the incident on 7th July 2019 particularly troubling. It was reported a non-SIA registered individual was working at the premises and was arrested following a report of an assault. The Sub-Committee accepted the police evidence that staff at the premises were obstructive and by their actions undermined the licensing objective relating to the Prevention of Crime and Disorder. The Sub-Committee noted that none of the written representations made on behalf of the PLH addressed the incident or the action of staff on that day.

4. The Sub-Committee noted the very recent steps taken by the PLH to

comply with the requirements set out in the two action plans. However, the Sub-Committee did not feel that adequate steps had been taken to ensure public safety.

5. The Sub-Committee noted that the Police had followed the statutory guidance by meeting with PLH and attempted to work him to promote the licensing objectives through meetings, by issuing both formal and informal warnings and by putting in place action plans.

6. Having carefully evaluated all of the information and evidence before them, the Sub-Committee accepted the submission put forward by the Police that the PLH was unable to uphold the licensing objectives.

7. What the Sub-Committee took most seriously was the Police's assessment of risk to members of the public. The Police stated that members of the public would be put to significant risk of harm if the premises remained open.

8. The Sub-Committee stated that the high number of crime and disorder incidents, the continued use of Non-SIA registered staff, the use of unreasonable force, the failure to actively manage incidents together with unwillingness to work with responsible authorities such as the Police left in no doubt that the premises were trading irresponsibly and that members of the public were being put at significant risk.

9. The Sub-Committee noted guidance which urged to, as far as possible, seek to establish the cause or causes of the concerns identified by the Police's representation and that having done that any remedial action should be directed at those causes and should always be no more than an appropriate and proportionate response to address the causes. However, the guidance stated that where premises were found to be trading irresponsibly, licensing authorities should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and where other measures were deemed insufficient, to revoke the licence.

10. The Sub-Committee listened carefully to what the PLH said to them in answer to the representations made by the Police. The Sub-Committee had no confidence that the Licence holder would be able to address all that he needed to promote the licensing objectives.

11. The Sub-Committee had considered all the measures available to them and concluded that the most appropriate course of action was to REVOKE THE LICENCE. The Sub-Committee deemed that the other measures were insufficient to deal with the causes for the concerns which gave rise to the review of the premises licence.

11. ANY OTHER URGENT BUSINESS

There being no other urgent business the meeting closed at 11:50am.