

Minutes of the Licensing Sub-Committee 1

Tuesday 9th December, 2014 at 10.35 am
in the Council Chamber, The Council House, Dudley

Present:-

Councillor D Russell (Chair)
Councillors C Perks and E Taylor

Officers:-

R Clark (Legal Advisor), M Hanson (Licensing Clerk), B Hughes (Licensing Enforcement Officer) and K Buckle (Democratic Services Officer) – All Directorate of Corporate Resources and D McNaulty (Manager) – Directorate of Public Health.

Also in Attendance:-

PC A Baldwin and PC S Cheema – West Midlands Police, A Evans – Counsel for West Midlands Police and N Aston-Baugh – Fire Safety Officer, West Midlands Fire Service.

12 **Declarations of Interest**

No Member made a declaration of interest in accordance with the Members' Code of Conduct.

13 **Minutes**

Resolved

That the minutes of the meeting of the Sub-Committee held on 25th November, 2014, be approved as a correct record and signed.

14 **Application for Expedited Licence Review – PULSE Nightclub, Brierley Hill**

A report of the Director of Corporate Resources was submitted on the expedited licence review in respect of the premises Licence for PULSE, 17 Dudley Road, Brierley Hill. DY5 1HA.

The Chair advised that Mr Simpson the Designated Licence Holder of PULSE Nightclub had surrendered his Licence today however, the Licence could be revived by an Application to Transfer by any interested party within 28 days from the date of surrender. The Chair invited Counsel for West Midlands Police to make representations.

Counsel for West Midlands Police advised of the unusual situation relating to the expedited review which had arisen from the fact that the Police had serious concerns that there was a risk of serious injury or fatality should the premises Licence not be revoked. Counsel referred to the surrender of the Licence which had resulted in the Licence lapsing, however advising that the Licence could be revived should an interested party make an application for transfer with interim immediate effect within 28 days from the date of surrender.

Given the unusual situation Counsel advised that it was unclear whether the Sub-Committee were bound to deal with the review hearing today, as Section 53(a) to (c) of the Licensing Act 2004 was silent on the point as to whether a surrendered licence would have to be reviewed within 28 days from the date of the original suspension of the premises licence.

Counsel requested the Sub-Committee to order that the interim steps remain in force for a further 28 days as the original intent of the Sub-Committee was that the premises remain closed until a review was held.

In responding to a question from the Legal Advisor, Counsel advised that there were concerns in relation to the period between the Licensing Authority transferring the Licence to an interested party with immediate effect and the Police becoming aware that the transfer had taken place and taking any action.

Counsel referred to the close association of the Pulse Night Club with serious organised crime, the four reported incidents during the year and incidents ranging from disorder to stabbings. There were also concerns that in relation to the culmination of events on 2nd November, 2014 there had been an element of certain clientele on the premises who were positively associated with three of the gangs who were associated with serious organised crime within the West Midlands. It was noted that the Police had serious concerns that should the Pulse Nightclub continue to operate this would result in a fatality.

Counsel advised that the Pulse Nightclub was tainted with organised crime and fear with the premises being known to have a tolerance with organised gang members and it was therefore important that the premises had a reasonable break in trading.

In responding to a question from a Member, Counsel stated that although it could not be pinpointed as to which particular gangs attended particular Urban events when those events occurred they were attended by those relatives or friends affiliated with various gangs and in addition to being fuelled with alcohol that had culminated in serious violence and harm being inflicted and the only method of controlling those problems would be for the premises owner to have zero tolerance.

Counsel advised that the closed circuit television at the premises had not been in operation since July, 2014 and staff at the premises had failed to assist the Police with their investigations in relation to the incidents of violence at the premises which had impacted on securing convictions of the perpetrators.

In responding to a question relating to capacity, PC A Baldwin stated that the Pulse Nightclub had a capacity of 1200 people. The Fire Safety Officer, West Midlands Fire Service added that for the purposes of fire safety this was controlled under the occupiers own fire safety risk assessment and it was believed that fire officers had previously attended the premises and expressed concerns in relation to fire safety and as a result of that a consultation was continuing regarding reducing the capacity of the premises.

Photographs of the interior of the premises were circulated to Members in order to illustrate the fire risks which had raised concerns.

A Member requested details of the images captured outside the Pulse Nightclub on 2nd November, 2014 and PC S Cheema advised that as investigations in relation to the incident were ongoing these could be viewed by Members in private and confirmed that the images had captured the post events and parts of the incident which occurred outside the Nightclub on the opposite side of the road.

Mr B Hughes, Licensing Enforcement Officer advised that Licensing strongly supported the Police advising that the conditions of the Pulse Nightclub Licence had been breached and that a robust, strong management team were required at the premises.

Counsel advised that there had been six conditions of Licence breached and that this was the second review of Licence in relation to the premises as there had been historic problems at the premises and Mr Simpson the now former premises licence holder had been aware of the historical problems.

Mr B Hughes, Licensing Enforcement Officer advised that the Security Watchdog had grave concerns in relation to the security firm who had been employed at the premises as none were SIA registered staff and PC A Baldwin advised that there would be a full investigation of the Company who provided the security staff at the Pulse Nightclub.

Counsel advised that the Sub-Committee were being requested to revoke the Premises Licence and confirm that the interim step taken in relation to the now surrendered licence remain in force for a further 28 days or until the conclusion of any appeal against the decision to allow the interim step to continue to take effect, upon the basis of all of the representations made today both those which were historic and those incidents which had occurred whilst Mr Simpson was the Premises Licence holder, in order to prevent the risk of further crime and disorder.

The parties then withdrew from the meeting in order to enable the Sub-Committee to determine the application.

The Sub-Committee having made their decision invited the parties to return and the Chair then outlined the decision.

Resolved

That, following careful consideration of the information presented at the meeting,

- (1) The premises licence in respect of the Pulse Nightclub, 17 Dudley Road, Brierley Hill be revoked with immediate effect.
- (2) The the suspension of the now surrendered Licence shall remain in force for a further 28 days or until the conclusion of any appeal against the decision to allow the interim step to continue to take effect.

Reasons for Decision

This is an expedited review of the Premises License of the Pulse Nightclub, Brierley Hill, brought by the West Midlands Police. The Licensing Authority convened a meeting on 14th November to consider whether it was necessary to take any interim steps prior to the full review, in order to promote any of the licensing objectives. It took the step of suspending the license, and this step was appealed by the Premises License Holder at a hearing on 19th November. The sub-committee heard evidence from the Premises Licence Holder and decided to uphold the interim step. However, this is a full review, with new and full evidence and the sub-committee recognises that this is a very different hearing to the meeting that considered the need for any interim steps.

The Sub-committee learned this morning that Mr. Simpson the Premises Licence Holder had surrendered the Premises Licence this morning by handing it to the Licensing Authority, and having communicated that he intended to do this by e mail on 8th December 2014.

Therefore, since the Premises Licence has been surrendered today, the sub-committee has to decide whether it has to or should continue with the review. The statute states that a review must take place within 28 days, but does not make it clear what the process should be in the circumstances of the Premises Licence being surrendered. The Sub-committee therefore concludes that it must proceed with the review of the premises licence today. Mr. Simpson has not attended, believing that having surrendered his licence, he has no further role to play in the review.

The Sub-committee is satisfied that the Pulse Nightclub has gained a reputation for gang affiliated crime, and as a club that tolerates gang activity and serious crime. The police evidence is that there have been four serious incidents of crime there in the last year, including a shooting which is being pursued through the courts and the double stabbing on 2/11/14, which also saw a man assaulted with a glass and further assaults. This reputation goes beyond the specific management of the premises by the previous Premises Licence Holder Mr. Simpson, and it is clear that the club itself has gained a reputation which attracts members from at least three major gangs based outside Dudley, and has become a venue for violence and serious crime. For these reasons, the sub-committee revokes the premises licence today. It does this on the basis that it believes that it must hold this review despite the fact that the premises licence has been surrendered. There is a right of appeal from this decision, which must be exercised within 21 days.

The sub-committee also considers the position of the licence in the event that it should not have proceeded to review a surrendered premises licence. It is mindful that an application for transfer of a surrendered licence can be made by an interested party. In the light of the findings made about the reputation of the nightclub for serious gang related crime and disorder, the sub-committee confirms that the interim step taken in relation to the now surrendered licence (its suspension) shall remain in force for a further 28 days or until the conclusion of any appeal against the decision to allow the interim step to continue to take effect.

The meeting ended at 12.10pm.

CHAIR