

**Minutes of the Licensing Sub-Committee 2
Tuesday, 11th October 2022 at 10.00 am
In the Council Chamber, the Council House, Dudley**

Present:

Councillor K Razzaq (Chair)
Councillors P Drake and E Taylor

Officers:

S Smith – Team Manager (Licensing and Waste Enforcement) (Directorate of Public Realm), R Clark – Principal Solicitor and K Buckle – Democratic Services Officer (Directorate of Finance and Legal).

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 held on 12th July 2022, be approved as a correct record, and signed.

14. **Application for Review of a Premises Licence – Cocktails and Dreams, 19 Bilston Street, Sedgley**

A report of the Director of Public Realm was submitted on an application for a review of a premises licence in respect of Cocktails and Dreams, 19 Bilston Street, Sedgley.

The following persons were in attendance, at the meeting:

Ms D Jenkins – (West Midlands Police)
Ms K Turley – (West Midlands Police)
Sergeant Andrews – (West Midlands Police)
Mr C Bates – (Premises Licence Holder)
Mr N Slym – (Licensing and Waste Enforcement)
Ms K Mullings – (Licensing and Waste Enforcement)
Ms C Vaughan – (Environmental Health and Trading Standards)

Following Introductions, the Team Manager (Licensing and Waste Enforcement) presented the report on behalf of the Council.

Ms C Vaughan then outlined the reasons for the application for a review of the premises licence, referring to the ongoing problems with noise disturbance, and a failure to uphold the licensing objective to prevent public nuisance.

Initially the premises had operated on a Temporary Event Notice (TEN) in early April 2022. Environmental Health and Trading Standards had advised the licence holder and manager of the premises Mr Bates, on numerous occasions of concerns in relation to noise disturbance and agreed operating parameters to address those issues. However, despite this, Environmental Health and Trading Standards had continued to receive complaints in this regard, in particular from residents regarding disturbance throughout the night from loud music and person generated noise.

The TEN in April 2022 permitted licensable activities until 02:00 hours; video footage from residents had evidenced noise from music and people leaving the premises until approximately 04:30 to 05:00 hours. Subsequently Environmental Health and Trading Standards had discussed at length with Mr Bates the measures to take to responsibly operate a licenced premises at the location in question.

The current licence forms part of an old restaurant licence for 19 Bilston Street and consequently the licence did not include any form of regulated entertainment or any standard conditions that would typically be applied to a premises licence for a late-night drinking establishment.

Despite several warnings the premises had failed to implement steps to address concerns in relation to noise which continued to give rise to complaints from residents.

Closed Circuit Television (CCTV) had been requested from the premises for two of the occasions whilst the premises were causing noise disturbance late at night outside the hours permitted, however to date that had not been provided with the premises reporting that there were technical difficulties in relation to CCTV.

Concerns had also been raised with Mr Bates regarding children being present late at night and collecting glasses. Referrals had been made and the premises licence holder had been provided with advice in relation to planning consent and the need to obtain a pavement licence.

Environmental Health and Trading Standards submitted an incident log with the review application together with a video recording of patrons drinking after hours posted on Saturday 6th August 2022 at 23.46pm from the facebook-live page of Cocktails and Dreams. That demonstrated recorded music, people dancing and drinking, and drinking at 23.46pm both inside and outside to the fore of the premises.

It was also noted that there were no door staff to the fore of the premises, the music was not background music, the front of the premises was used as an extension to the premises and the partial planning application submitted by Mr Bates had been returned due to the need for additional information.

It was reported that progress had been made as far as the West Midlands Fire Service were concerned.

There followed a request to impose the conditions suggested by Environmental Health and Trading Standards and West Midlands Police on the Premises Licence, in order to uphold the licensing objectives.

During their submissions West Midlands Police stated that they supported the removal of Ms J Glover as the Designated Premises Supervisor and the closure of the premises for a limited period of time.

It was reported that Ms J Glover, Designated Premises Supervisor, had only attended the licensed premises twice and did not have an active role in running the premises responsibly.

In relation to the TEN's granted for the event in early April 2022, Mr Bates stated that this had been applied for following the death of his son to celebrate his birthday and the younger children referred to had left the premises at 9:00pm being transported by cars parked to the rear of the licensed premises.

Representatives from West Midlands Police stated that they supported the application made by Environmental Health and Trading Standards and referred to a disorder that had occurred on 5th August 2022 outside the licensed premises that culminated in a serious assault resulting in the male victim undergoing emergency surgery. There remained the objection to tables and chairs being placed outside the front of the business premises and it was confirmed that no pavement licence had been applied for. There was no CCTV footage, no door staff and a fire alarm should be installed for public safety.

West Midlands Police referred to the number of conditions they proposed be put onto the premises licence including that no drinking vessels be taken outside the licensed premises.

Mr Bates responded stating that there was no CCTV outside the licensed premises, however CCTV had been installed inside the premises, but it had become evident that the hard drive was faulty, and a new hard drive was installed in September 2022. Cameras were now operating inside the premises downstairs in the bar area, dance floor, front door and at the back of the premises. He indicated that CCTV was now constantly recording, and he reviewed the footage each day. It was also confirmed that a fire alarm had now been installed.

Mr Bates also responded in relation to the assault, stating that he had been with the victim following the assault and had called an ambulance. It was confirmed that no children were in attendance at the Licensed premises with the victim and the assault had not taken place on the licensed premises.

West Midlands Police raised a concern relating to a 13 year old present at the premises until 11.00pm and no Security Industry Authority (SIA) door staff being present.

The Licensing Enforcement Officer in her submissions referred to a compliance visit to the premises on 6th October 2022 and the concerns of the licensing authority that were discussed with Mr Bates together with the restrictions on his current licence.

Mr Bates had been advised to pursue the variation of the planning application.

It was stated that West Midlands Fire Service had issued a Notice for Improvement to limit the capacity in the licensed premises to 60, however that capacity would require monitoring by SIA door staff.

It was again stated that no application had been submitted for a pavement licence and gatherings outside the premises were causing problems for local residents.

Mr Bates had informed the Enforcement Officer that he carried out training with his staff and he produced a spreadsheet, however that training had related to the use of machinery at the premises for example a cocktail machine and not with regard to the sale of alcohol. Further advice was relayed to Mr Bates in relation to the provision of training records. It was also suggested that it may be beneficial for some members of staff to complete a Personal Licence course.

The Enforcement Officer had questioned a member of staff in relation to acceptable Identification (ID) checks and that had been answered satisfactorily.

Mr Bates had also produced health and safety and fire safety policies, together with an incident reporting book and a refusals register. Some zero tolerance signs had also been purchased which were to be displayed around the premises.

When questioned regarding how staff had been instructed to promote awareness to monitor consumption of alcohol on the premises, it was indicated that a token system was in operation in order that staff knew how much patrons had had to drink.

Mr Bates was advised that his staff must be aware of the law in relation to selling alcohol to a person who was incapacitated due to alcohol consumption, as that was a criminal offence and that he should consider introducing that as part of staff training.

The Enforcement Officer had requested Mr Bates to demonstrate the use of the CCTV system, he indicated that he had purchased a new hard drive, however he was unable to demonstrate this to the Officer as he indicated that due to the closure of the premises for a month there was no current footage to view.

The Licensing Authority supported the conditions to carry out compliance with the licensing objectives and to the condition that no alcohol be served on the Licensed premises after 23:00 hours with a terminal hour of 23:30 hours.

Mr C Bates stated that in relation to person generated noise, the complaints were always on Sundays, and alleged that the noise was generated from the Bulls Head Public House in Bilston Street and not from his premises.

In response, Environmental Health and Trading Standards stated that they had had no complaints about noise from the Public House and that the complaints were at weekends but not always Sundays. The Bulls Head was four to five doors away and the nearest neighbour was approximately 30 feet from the rear door of Mr. Bates's premises.

In responding to questions from Members, Mr Bates stated that: -

- a) He had self-employed SIA door staff throughout the full week and the number of patrons each night was approximately 30 to 40.
- b) The maximum capacity was 60 for the premises.
- c) Training records would be in place for his staff by the end of the week.
- d) The CCTV was fully operational and could be viewed by all relevant authorities.
- e) The Designated Premises Supervisor was currently ill and was unable to attend the meeting.
- f) Following the renovations to the licensed premises shop frontage, the application for a change in use of the business premises should proceed.
- g) His younger child had helped to collect glasses initially however that had now ceased.
- h) Identification was required at the bar and there was a zero tolerance policy in place in relation to underage drinking.
- i) The residential DJ at the premises had been a one-time event.

Following the opportunity for all parties to sum up their cases, all parties withdrew from the meeting to enable the Sub-Committee to determine the application.

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

Resolved

- (1) That, following consideration of the information contained in the report submitted and presented at the meeting, the premises licence in respect of Cocktails and Dreams, 19 Bilston Street, Sedgley, be suspended for a period of three months, or until such time as the following conditions on the premises licence have been complied with (whichever be the sooner), and compliance has been confirmed by the Licensing Authority: -
 - (a) That the Closed Circuit Television (CCTV) be positioned at all entrances, exits and external areas, providing complete visibility of who is entering and exiting the licensed premises, and away from light sources to provide a clear view. Should the fore of the premises be used for patrons to smoke or in the event, that a pavement licence was granted, CCTV to cover that area.
 - (b) That a camera be positioned to cover the bar and dance areas, and any other area where licensable activity takes place.
 - (c) That the CCTV must record for a minimum of 28 days. One person on duty at all times that the premises was open to the public would be able to view and download any footage and produce it on a USB or Disc to any of the responsible authorities within 24 hours.
 - (d) That the CCTV hard drive be retained at the premises in a secured area.
 - (e) That daily checks be carried out to ensure that the CCTV system is working and recording, and this check will be entered in a separate book which will be signed and dated by the person carrying out the check. This book will remain on the premises at all times and be available for viewing immediately upon request by any of the responsible authorities.
 - (f) That any breakdown of the CCTV system, will be dealt with immediately and a replacement system will be sought if need be to enable the premises to continue operating.
 - (g) That any CCTV hard drive/system that has been replaced will be retained at the premises for a minimum of 30 days and made available to any of the responsible authorities upon reasonable request.

- (h) That the premises shall employ a minimum of two SIA registered Door Supervisors, through an SIA regulated firm, from 21:00 hours on a Friday and Saturday night until close. Door staff will ensure that all patrons entering the premises are subject to a bag and body search, along with identification checks. One member of door staff when required will monitor any outside drinking/smoking areas until close. Door staff will also be employed at the premises on any Sunday evenings prior to Bank Holiday Monday, and also on Bank Holidays, including Christmas Eve and New Year's Eve.
- (i) That one member of door staff at all times will wear a body cam, and will ensure that it is recording at all times when carrying out their duty.
- (j) That a Door Staff register will be kept at the premises, and at the beginning of each tour of duty, names and addresses of all door staff and badge numbers will be entered, these will be checked and countersigned by a manager on duty. This register will be available to any of the responsible authorities upon request.
- (k) The door Supervisors will ensure when on duty that capacity levels are not exceeded as per the premises own Fire risk Assessment.
- (l) That all drinking vessels will be removed from any outside area as soon as the contents have either been drunk or are empty. No glass wear will be taken outside onto the front pavement area, unless it is deemed unbreakable.
- (m) That all instances of crime and/or disorder that cannot be dealt with by the venue staff/door Supervisors, will be reported to the Police as soon as possible.
- (n) That the premises will operate a challenge 25 policy at all times.
- (o) That no children under the age of 18 will be allowed in any area of the premises without being accompanied by an adult. Any accompanying children will not be allowed inside the premises after 21:00 hours on any night of the week.
- (p) That the supply of alcohol be permitted from 17:30 to 23:00 hours Monday to Sunday and on public holidays.
- (q) That the premises shall be closed and vacated by customers no later than 23:30 hours each day.

- (r) That the premises will not host at any time any performance by a DJ, including a DJ mixing tracks and the use of a DJ to play recorded music.
- (s) All windows and doors to the premises will be kept closed during the playing of any recorded music for entertainment purposes (until 23.00 hours) with the exception of the external front door which can remain open to indicate to customers that the premises is trading.
- (t) A self-closer device will be fitted to the rear door and remain in use at all times.
- (u) That the premises shall not permit any access or egress to the premises by members of the public via the rear gate situated on Brick Street, with the exception of any emergency situation.
- (v) The rear gate on Brick Street shall be used for deliveries and collections between the hours of 07.00 to 19.00 Monday to Saturday only. There shall be no deliveries to or collections from the premises via the rear gate on Brick Street on Sundays.
- (w) That the external rear yard to the premises shall be closed to customers at 20:30 hours each day and after this time customers will not be able to gain access to the rear yard, with the exception of any emergency situation.
- (x) That no drinks will be permitted to be taken outside of the premises after 20:30 hours.
- (y) After 20:30 hours smoking by customers will be in a designated area at the front of the premises only. This smoking area must be clearly barriered or demarked in some way to ensure that no obstruction is caused to the public footpath and must comply with any requirements stipulated in a pavement licence if required.

2. That Ms J Glover be removed as the Designated Premises Supervisor.

The meeting ended at 12.34pm

CHAIR