

Decisions of the Licensing Sub-Committee

1 November 2016

Members Present:-

Councillor Alison Cornelius
Councillor Brian Salinger
Councillor Jim Tierney

Also in attendance

Officers:-

Daniel Pattenden – Licensing Officer
Harinder Dhaliwal – HBPL Legal Officer
Naomi Kwasa – Governance Officer

Licensee:-

Javid Iqbal – Licensee
Imran Mahmood – Relative

Responsible Authority:-

PC Vicky Wilcock
PC Francesca Downes

Apologies for Absence:-

None.

1. APPOINTMENT OF CHAIRMAN

RESOLVED: That Councillor Brian Salinger be appointed as Chairman.

2. ABSENCE OF MEMBERS (IF ANY)

None.

3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY)

None.

4. LICENSING SUB-COMMITTEE HEARING PROCEDURE

The Chairman noted the procedure following an introduction of the members of the sub-committee, the officers, responsible authority and the licensee.

5. FINE FOODS FINAL REVIEW

The Sub-committee considered a Review of the Premises Licence for Fine Foods, 78 Colindale Avenue, London, NW9 5ES, together with submissions from the Licensing Officer, Licensee and Responsible Authority.

6. MOTION TO EXCLUDE THE PRESS AND PUBLIC

RESOLVED: That the parties be excluded from the meeting, together with the press and public, in accordance with regulation 14(2) of the Licensing Act 2003 (Hearings and Regulations) 2005.

7. DELIBERATION BY THE SUB-COMMITTEE IN PRIVATE SESSION

The sub-committee retired to deliberate in private session, accompanied by the council's legal and governance officers, to consider the facts of the application and the measures necessary (if any) to ensure the promotion of the licensing objectives.

8. RE-ADMISSION OF THE PRESS AND PUBLIC: ANNOUNCEMENT OF THE DECISION OF THE SUB-COMMITTEE

The parties to the application were readmitted to the meeting and the Chairperson conveyed the Sub-Committee's decision as follows:

This was an application for a summary expedited review of the premises licence for Fine Foods, 78 Colindale Avenue, London, NW9 5ES. The application for the review of the premises licence under section 53A of the Licensing Act 2003 was made by the Metropolitan Police due to the premises being associated with an alleged serious crime. In particular, the necessity for an expedited review was as a result of an alleged serious crime that took place on the evening of Thursday 29th September 2016 at 23:10 hours.

Under section 53A of the Licensing Act 2003, the licensing authority was required to hold a hearing within 48 hours of receipt of the senior officer's application, and consider whether it was necessary to take interim steps pending determination of a review of the premises licence. An interim hearing was held at Hendon Town Hall on Wednesday 5th October 2016 at 13.00 hours in order for a licensing sub-committee to determine what interim steps should be taken to prevent serious crime recurring at the premises. The Sub-Committee's view was that immediate measures were necessary to prevent serious crime recurring as well as to promote the licensing objectives of the prevention of crime and disorder. The Sub-Committee agreed that in the circumstances, the only measure that would promote the licensing objective of the prevention of crime and disorder and in addition serious crime and serious disorder from recurring at the premises was the immediate suspension of the premises licence. The suspension would take immediate effect pending the determination of any review.

Pursuant to section 53A of the Licensing Act 2003, a full review of the premises licence must be held within 28 days of receipt of the application. At this hearing, the licensing authority were required to consider what steps it considered appropriate for the promotion of the licensing objectives; and decide which interim steps (if there are any) cease to have effect altogether or become the subject of any steps which it considers are appropriate when making its determination on the review.

The review hearing took place on Tuesday 1st November 2016. At the outset of the hearing, Mr Iqbal requested an adjournment on the grounds that his solicitor was unable to attend today's hearing and that he had only been notified of the hearing date on

Saturday 29th October 2016. The Sub-Committee retired to consider this request and following legal advice this request was refused. Under regulation 11 and 12, the licensing authority may adjourn a hearing to a specified date where it considers this to be in the public interest. However, this general rule is subject to regulation 13 which states that an authority may not exercise its powers under regulations 11 and 12 in such a way that the effect will be that it would fail to reach a determination on a review under section 53A (summary reviews on application of senior police officers) within the period specified in subsection (2) (b) of that section. Hence, the hearing proceeded as this was the last date that the hearing could take place to comply with the legislation.

Representations were made by PC Downes and PC Wilcock concerning the serious incident that took place on 29th September 2016, where police were called to a disturbance at the premises. During the telephone call, it was heard that someone was getting a hammer. Upon arrival to the incident, there were signs of a disturbance and droplets of blood that were seen inside the premises. The police stated that it was suspected that the member of staff had used a hammer to assault a customer and this was corroborated by an eye witness. This resulted in the member of staff in question being arrested on suspicion of GBH.

The Sub-Committee noted that the police were hindered in their investigation of the crime by the absence of CCTV. The police stated that there was no footage from the period before the morning of 30th September 2016 and that was either because the footage had been deleted or that the CCTV had not been working properly. The Sub-Committee noted that this was in contravention of the licence condition relating to the maintenance of CCTV in a good working order. The Sub-Committee noted that as a result of a breach of this licence condition, the investigation into a serious crime was significantly hindered. The Sub-Committee also noted that there had been further breaches of the licence conditions. In particular, a visit was conducted by licensing officers on 3rd October 2016 and it was found that condition 8 relating to the sale of alcohol above 5.6% ABV had not been adhered to. Several brands of high strength alcohol were seen on sale during the course of this visit. The police did not believe that the licensing objectives and in particular the prevention of crime disorder and public safety were being promoted. The police did not believe that the premises were being managed in a responsible manner.

Representations were also received by Mr Javid Iqbal, the premises licence holder on the grounds that he was unwell on the night of 29th September 2016 and that his son Mr Adam Iqbal and another staff member Mr Rizwan Ali were working on the premises. Mr Iqbal stated that as a result of the seriousness of the allegations and also the breaches of the licence conditions, he had taken action against the two staff members and that they would no longer be working at the premises. Mr Iqbal also stated that the staff members on duty were not able to operate the CCTV and in addition that Mr Rizwan Ali was not aware that there was a condition on the licence preventing the sale of alcohol above 5.6% ABV.

Having fully considered the written and oral representations from all of the parties, the Sub-Committee discussed the matter. The Sub-Committee was gravely concerned about the serious incident that took place on 29th September 2016 and the lack of CCTV to assist with the investigation. The Sub-Committee was also concerned that the premises were not being managed in a responsible manner and in accordance with the promotion of the licensing objectives. The Sub-Committee were not satisfied that the continued operation of the premises licence would promote the prevention of crime and disorder and public safety licensing objectives and so decided to suspend the licence for

a three month period. In addition, the Sub-Committee also decided to add a condition to the licence to exclude Mr Adam Iqbal and Mr Rizwan Ali from the premises indefinitely.

The Sub-Committee also made a recommendation that the premises licence holder provides all members of staff with training to ensure compliance with all of the licence conditions.

The Sub-Committee believes that the measures taken above are appropriate and proportionate in the circumstances to promote all the licensing objectives.

There is a right of appeal to the magistrate's court within 21 days of notification of this decision.

9. ANY OTHER ITEM(S) THE CHAIRMAN DECIDES ARE URGENT

None.

The meeting finished at 13:54