

REVIEW OF PREMISES LICENCE FOLLOWING AN EXPEDITED REVIEW - THE VICTORIA PUBLIC HOUSE

Committee	Licensing Sub-Committee
Officer Contact	Ian Meens, Residents Services
Papers with report	Part 1 - Appendices 4, 9, 10, 29 and 30 Part 2 - Appendices 5 - 8 and 11 - 28
Ward(s) affected	Botwell

SUMMARY

To carry out a review pursuant to Section (S) 53A of the Licensing Act 2003 in relation to the Victoria Public House, 32 North Hyde Road, Hayes UB3 4NE.

RECOMMENDATION

That the Licensing Sub-Committee considers the application by the Metropolitan Police for the review of the Premises Licence under S53A of the Licensing Act 2003 (the Act) granted to Rajbinder Sarai and Jasbinder Sarai of the premises known as The Victoria Public House, 32 North Hyde Road Hayes, UB3 4NE.

HISTORY

Under S53A of the Licensing Act 2003, as inserted by S21 of the Violent Crime Reduction Act 2006, the Chief Officer of Police for the area in which a premise is situated may apply to the Licensing Authority for a summary review of a premises licence where a senior police officer has issued a certificate that in their opinion, the premises was associated with serious crime or serious disorder (or both).

An application was received from Superintendent Des Rock, Hillingdon Borough Metropolitan Police on the 15th May 2014 (**Appendix 1**) accompanied by the Certificate at **Appendix 2**.

An initial expedited review hearing was held the same day. Evidence was given at the hearing by Inspector David George. The licence holders were not present and not represented.

The decision of the Sub-Committee was to suspend the licence and this decision is attached at **Appendix 5**.

In the above circumstance, the legislation permits that the licence holders can request a further interim hearing to re-consider the original hearing decision.

This request was received from the licence holders via their legal representatives and a second interim hearing was arranged and heard on the 23rd May 2014. Mr

Archangelo Power, Counsel represented the licence holders. The police were neither present nor represented at the hearing, due to the late receipt of the notification.

Following the hearing, the Sub-Committee decided that the original decision made on the 15th May 2014 to suspend the licence would continue. The decision notice is attached to this report at **Appendix 8**.

INFORMATION

A premises licence once issued remains valid unless it is specified to have effect for a limited period, surrendered or revoked.

The review of the premises licence

The licensing authority must hold a review of the premises licence within 28 days after the day of receipt of the chief officer's application. This must take place even if the chief officer asks to withdraw his application or representations.

At the hearing, the licensing authority must:

Decide what steps it considers 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 steps the licensing authority can take are:

- the modification of the conditions of the premises licence;
- the exclusion of a licensable activity from the scope of the licence;
- the removal of the designated premises supervisor from the licence;
- the suspension of the licence for a period not exceeding 3 months; and
- the revocation of the licence.
- take no action.

Matters for Consideration

The premises is a public house (PH) situated on North Hyde Road in Hayes and is licensed to provide regulated entertainment, in the form of live music, recorded music and performance of dance and entertainment of a similar description, late night refreshment and the sale of alcohol. The premises has the benefit of a Sexual Entertainment Licence but this is not the subject of this review.

The premises has been licensed under the Licensing Act 2003 and operated since 2005 by the current premises licence holders Mr R Sarai and Mr S Sarai.

At 9pm on the 14th May 2014 police entered The Victoria PH in large numbers in what was the culmination of a police undercover operation based on intelligence concerning serious crime. A number of persons were arrested and were charged with criminal offences.

Evidence before the Sub-Committee in the original interim application

Appendix 1 - Police application for a summary review of the Premises Licence.

Appendix 2 - Police certificate required under S53A (1) (b) of the act.

Appendix 3 - A supporting statement from Superintendent Rock.

Appendix 4 - The current premises licence.

Appendix 5 - Decision from initial review hearing.

Evidence before the Sub-Committee in the second interim application

Appendix 6 - Application in respect of the request for a secondary interim review.

Appendix 7 - Matters supporting the secondary interim argument.

Appendix 8 - Decision notice for secondary interim application,

Following the initial application by the police, the Authority placed legal notices at the Civic Centre and at the premises, indicating the process being undertaken.

Subsequent to the notices and information supplied to interested parties the Authority received two further letters of representations set out as follows:

Appendix 9 - Representation from Mr G O'Connell a local resident.

Appendix 10 - Representation from Enterprise Inns.

Further evidence submitted by the Police for the full review hearing

Appendix 11- Statement from PS Ian Wares introducing 8 further statements and re introducing the statement from Superintendent Rock, as already listed at Appendix 3.

Appendix 12 - Statement from Detective Inspector Richard Turner, the statement generally covering the police operation and the arrest of persons for drug offences.

Appendix 13 - Statement from Detective Sergeant John Price, the statement introduces a number of précis criminal intelligence entries relating to the premises and the licence holders.

Appendix 14 - Statement from PC Barry Cillia, the statement details various Computer Aided dispatch calls (CADS) received regarding the premises and two other local public houses in the area.

Appendix 15 -Statement from Christopher Lawrence, a police civilian firearms officer who gives evidence of firearms.

Appendix 16 - Statement of PC Nicholas Stevens an images recovery officer regarding CCTV evidence viewed from the premises CCTV.

Appendix 17 - Statement of PC Matthew Bond CCTV video at premises.

Appendix 18 - Statement from Sergeant David Preece, recording an incident in October 2012.

Appendix 19 - Statement from Sergeant Ian Wares regarding officers attending the premises.

Appendix 20 - A second statement from PC Barry Cillia regarding the submission of six statements following house-to-house enquires set out at Appendices 20a,b,c,d,e,f, and g.

Appendix 21 - A further statement from PC Nicholas Stevens exhibiting a compilation CD from the internal CCTV gathered from the Victoria PH.

Appendix 22 - A Statement from PS Ian Wares exhibiting covert CCTV camera recordings that have not been served but which the police are making available for inspection.

Appendix 23 - A statement from undercover Police Officer 'Joe' relating to events on 14th May 2014.

Appendix 24 - Five statements from undercover Police Officer 'Jay' set out at appendices 24a,b,c,d,e regarding events on 25th February, 28th February, 4th March, 1st May and 14th May 2014.

Appendix 25 - Four statements from undercover Police Officer 'Matt' set out at appendices 25a,b,c,d relating to events on 25th February, 11th March, 1st May and 6th May.

Appendix 26 - Commissioners delegation of authority.

Appendix 27 - CAD reports.

Appendix 28 - Crime reports.

Appendix 29 - Image of the premises from North Hyde Road.

Appendix 30 - Plan of the immediate area.

LEGAL IMPLICATIONS

Following an application by the Chief Police Officer for summary review of a premises licence under section 53A of the Licensing Act 2003 the licensing authority must convene a hearing and determine a review licence within 28 days of receipt of that application. Owing to the tight timescales to commence the hearing, normal notice periods for the hearing are suspended. The review is required to be advertised for a period not less than seven consecutive days starting with the day after the application was received.

The Licensing Sub-Committee is required to consider:

- the application for review and any relevant representations by the applicant for review;
- representations by the premises licence holder; and
- any other relevant representations made.

Relevant representations are those that relate to one or more of the licensing objectives, have not been withdrawn and are made within the period of 10 consecutive working days beginning on the date the notice was first published.

Members must take such steps (if any) as they consider appropriate for the promotion of the licensing objectives. The Licensing Sub-Committee may:

- Modify the conditions of the licence (this includes the power to omit or alter existing conditions and add new conditions)
- Exclude a licensable activity from the scope of the licence
- Remove the designated premises supervisor
- Suspend the licence for a period not exceeding three months
- Revoke the licence.

The Sub-Committee must also secure that from the coming into force of the determination of the review, any interim steps having effect pending that determination cease to have effect (except so far as they are comprised in steps taken by the Sub-Committee in the review). However, any interim steps may have effect until after the review decision has come into effect, either after the expiry of a period of 21 days after the parties are notified of the review decision, or if the decision is appealed, once the appeal has been dispensed with by the Magistrates' Court (*93 Feet East Ltd v Tower Hamlets LBC [2013] EWHC 2716 (Admin)*).

Conditions

Members are also referred to the Secretary of State's guidance on conditions, which states that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises. Conditions should be determined on a case by case basis and standardised conditions which ignore these individual aspects should be avoided. Conditions will not be necessary if they duplicate a current statutory requirement.

Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

Reasons

If the Sub-Committee determines that it is necessary to take any steps in relation to the premises licence, it must give reasons for its decision.

The Role of the Licensing Sub-Committee

Members should note that the Licensing Sub-Committee is meeting on this occasion solely to perform the role of licensing authority. The Sub-Committee sits in quasi-judicial capacity, and must act impartially. It must offer a fair and unbiased hearing of the application. In this case, Members should disregard the Council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon licensing law, relevant guidance and the Council's Statement of Licensing Policy. As a quasi-judicial body the Licensing Sub-Committee is required to consider the application on its merits. The Sub-Committee must take into account only relevant factors, and ignore irrelevant factors. The decision must be based on evidence, that is to say, material which tends logically to show the existence or non-existence of relevant facts, the occurrence of which would be relevant.

The Licensing Sub-Committee must give fair consideration to the contentions of all persons entitled to make representations to them.

The Licensing Sub-Committee is entitled to consider events outside of the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for the same to be relevant. However, if such events are not properly attributable to the premises being open, then the evidence is not relevant and should be excluded. Guidance is that the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activity in the area concerned.

Under the Human Rights Act 1998, the Sub-Committee needs to consider the balance between the rights of the licence holder and those making representations when making their decision. The Sub-Committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the Borough.

Appeals

Responsible Authorities, persons making relevant representations and the licence holder will have the right to appeal the decision of the Sub-Committee to the Magistrates' Court within a period of 21 days beginning with the day on which the applicant was notified by the licensing authority of the decision to be appealed against.

BACKGROUND DOCUMENTS:

The Licensing Act 2003

Guidance under Section 182 of the Licensing Act 2003

Home Office Summary Review Guidance

The Council's Statement of Licensing Policy