

REVIEW OF PREMISES LICENCE FOLLOWING AN EXPEDITED REVIEW - BLUE LAGOON PUBLIC HOUSE.

Committee	Licensing Sub-Committee
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Papers with report	Part 1 - Appendices 2-5 Part 2 - Appendix 1
Ward(s) affected	Botwell

SUMMARY

To carry out a review pursuant to Section (S) 53A of the Licensing Act 2003 in relation to the Blue Lagoon Public House, Wood End Green Road, Hayes UB3 2SB.

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 Mahadev Pubco Ltd of the premises known as Blue Lagoon, Wood End Green Road Hayes, UB3 2SB.

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 Detective Chief Superintendent Nicholas Downing, Hillingdon Borough Metropolitan Police on the 2nd December 2014 accompanied by the Certificate and statement contained in the Licensing Sub Committee Report at **Appendix 1**.

This was supported by statement from the Police Licensing Officer, Acting Sergeant Ian Wares, also contained within **Appendix 1**.

An initial expedited review hearing was held on the 4th December 2014. Evidence was given at the hearing by Acting Sergeant Wares and Sergeant Nick Davies. The licence holders were represented by the director of Mahadev Pubco Ltd Mrs Poona Patel and her husband Mr Prashant Patel.

The decision of the Sub-Committee was to impose a number of interim steps onto the premises licence namely the addition of conditions as shown in the Decision Notice at **Appendix 2**.

INFORMATION

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.

The review consultation period ended on 16th December 2014.

During the consultation period, the Authority received a letter of representation on behalf of the Licensing Authority. This is attached as **Appendix 3**.

Matters for Consideration

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

The premises is a public house (PH) situated on Wood End Green 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. A copy of the current premises licence is included in **Appendix 1**.

The premise has been licensed under the Licensing Act 2003 since 2005. The current premises licence holders transferring onto the licence in August 2013 and the current DPS going onto the licence in September 2014.

At 7pm on the 21st November 2014 there was a large disturbance involving violent public order at the premises which resulted in a number of persons being attacked by a group of customers. Two of the victims were assaulted by a male who was supported by many others in the attack whereby the group were armed with knives, and various other items. The initial victims sustained serious facial cuts following being slashed by a knife. A further female victim received cuts and other injuries brought about by kicks and being stamped on by the said group.

Following the incident the police sought to impose 10 voluntary conditions to be undertaken in the premises and received the licence holders consent to these on the 28th November 2014. (As referred to in A/PS Wares Supporting Statement in **Appendix 1**.)

There followed a further assault on the 30th November 2014 whereby a youth of 17 years was assaulted with a bottle whilst at the premises.

Evidence before the Sub-Committee

Appendix 1 - Full Report in respect of the Expedited Review Hearing on 4th December 2014

Appendix 2 - Decision Notice from the Expedited Review Hearing on 4th December 2014

Appendix 3 - Representation from the Licensing Authority

Appendix 4 - Image of the premises from Wood End Green Road

Appendix 5 - 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.

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.