

Meeting Commenced:	10:42
Meeting Adjourned:	10:56
Meeting Recommended:	11:02
Meeting Adjourned:	12:40
Meeting Recommended:	13:19
Meeting Finished:	15:20

GENERAL LICENSING SUB-COMMITTEE

24 July 2018

Present: Councillors Barker, Pegg and Potter
Officers: Lucie Keeler (Legal Services), Sandra Mansell (Licensing Team Leader), Olu Idowu (Head of Legal Services), Ann Walker (Senior Environmental Health Officer) and Alex Hough (Democratic Services Manager)

06/18 Appointment of Chair

Resolved to appoint Councillor Barker as Chair of the General Licensing Sub Committee.

07/18 Apologies

There were no apologies for absence.

08/18 Late Items to be Introduced by the Chair

There were no late items.

09/18 Declarations of Interest

There were no declarations of interest.

10/18 Application for a review of a premises licence at: The Hairy Dog, Becket Street, Derby, DE1 1HT

An application for a review of a premises licence was received by Derby City Council's Licensing Team from a representative of the Licensing Authority in respect of The Hairy Dog, Becket Street, Derby, DE1 1HT on 27 May 2018. Further to the application for review, the Licensing Team had received one relevant representation from Derbyshire Constabulary as a responsible authority.

The Chair welcomed all parties to the hearing. It was reported that additional evidence had been received by the Licensing Team on the afternoon of the 23 July 2018 from both a legal representative of the premises and Derbyshire Constabulary. It was noted that as the additional evidence had been received less than 24 hours prior to the hearing, it could not be considered without the agreement of all parties.

Ms Katie Buckley, the legal representative of Derbyshire Constabulary, considered that legal opinion provided by Mr Sam Skinner in relation to Derbyshire Constabulary's Licensing Practices did not constitute matters of fact and requested

that the document was withdrawn. Ms Sarah Clover, representing the licensee, stressed the relevance of the committee considering closing submissions in relation to an application for a new premises licence for the Hairy Dog heard by the Sub-Committee on 18 January 2016.

The Sub-Committee was adjourned to consider the additional evidence. Upon reconvening, the Chair accepted all additional evidence provided by both the licensee and Derbyshire Constabulary, with the exception of the legal advice provided by Mr Sam Skinner. Nevertheless, the Chair emphasised that the Sub-Committee only wished to consider relevant evidence dating from January 2016 onwards when making its determinations.

Ms Sandra Mansell, Licensing Team Leader, addressed the Sub-Committee and presented the report. Current licensable activities for the premises were detailed and it was noted that the current Premises Licence Holder (PLH) was HKB Enterprises Ltd. and that the Designated Premises Supervisor (DPS) was Mr Paul Keenan.

It was noted that the Sub-Committee was obliged to determine the application with a view to promoting the licensing objectives, which were the prevention of crime and disorder; public safety; the prevention of public nuisance; and, the protection of children from harm. It was further noted that Sub-Committee was obliged to have regard for national guidance issued under Section 182 of the Licensing Act 2003 and the Council's own Licensing Policy.

It was reported that the Sub-Committee could decide to:

- modify the conditions of the licence;
- 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.

Mr Olu Idowu, Head of Legal Services, addressed the Sub-Committee on behalf of the Licensing Authority. It was stated that the Licensing Authority had lost confidence in the ability of the Premises Licence Holder and the DPS to enforce the licensing objectives. Ms Ann Walker, Senior Environmental Health Officer, detailed evidence from the bundle in relation to unlicensed wrestling events which had taken place on 2 June 2017, 1 September 2017 and 6 October 2017. The Sub-Committee questioned Ms Walker with regards to the evidence presented. It was noted that Mr Keenan had pleaded guilty to charges in relation to these events and had been fined in excess of £6,000 by the Southern Derbyshire Magistrates Court and HKB Enterprises Ltd. had pleaded guilty to one offence on 6 October 2017.

Ms Katie Buckley, the legal representative of Derbyshire Constabulary, was invited to address the Sub-Committee. Ms Buckley drew the Sub-Committee's attention to the licensing objectives and expressed concern in relation to the premises with regards to the prevention of crime and disorder. The Sub-Committee reviewed video footage from internal CCTV at the premises and from social media in relation to a disturbance that took place in the early hours of Sunday 15 April 2018.

PC Mark Dunn, Derbyshire Constabulary Licensing Enforcement Officer, addressed the Sub-Committee in response to questioning from Ms Buckley. Also present, but offering no evidence, were PC Mark Paternoster and Inspector Richard Keene.

PC Dunn stated that the Hairy Dog was an asset to Derby but that the Police had lost confidence in the management of the premises based on the evidence presented. The Sub-Committee questioned Ms Buckley and PC Dunn in relation to the employment of door-staff at the premises and queried whether any arrests had been made following the incident. It was confirmed that two arrests had been made, but that the individuals in question were subsequently de-arrested.

Ms Clover addressed PC Dunn in relation to the access provided to CCTV by the premises. It was noted that no member of staff was available to access the system at the time of the incident, however a commitment was made to provide the footage later that morning; it was further noted that PC Dunn did not return to collect the footage until Tuesday 17 April. Ms Clover also questioned an alleged discrepancy between the statements of PC Meakin and PC Fowler in relation to entries in the incident log of the premises.

The Sub-Committee heard evidence from Ms Clover on behalf of the premises. It was emphasised that the Hairy Dog was a grass-roots music venue with a loyal clientele; it was noted that HKB Enterprises had held the Premises Licence since 2014.

In relation to the unlicensed wrestling events held at the premises, it was noted that the DPS had already been duly punished by the Magistrates Court. Moreover, it was argued that the events were well organised and that public safety had not been endangered. With regards to incidents of crime and disorder, Ms Clover suggested that the Police were seeking to capitalise on the review sought by the Licensing Authority, which signalled the limited extent of their genuine concern.

Ms Clover reviewed the evidence in relation to the disturbance on Sunday 15 April and stated that it represented an isolated incident at a comparatively trouble-free venue. Ms Clover also stated that the 'Licensing Infringement Notice' included in the evidence bundle by the Police had no basis in statute.

The Sub-Committee questioned Ms Clover; Ms Helen Butler on behalf of HKB Enterprises as the Premises Licence Holder; and, Mr Keenan as the DPS. Mr Keenan addressed the Sub-Committee in relation to fire safety at the premises; the employment status of door-staff and the upkeep of the incident log. Ms Butler responded to questions from the Licensing Authority in relation to her day-to-day involvement with the management of the premises.

Further to the proceedings against The Hairy Dog, Ms Clover reported that Mr Keenan had stated his intention to retire and that an application had already been submitted to replace him in his role as DPS; Mr Keenan confirmed this to be the case.

The Chair invited all parties to sum-up.

The Licensing Authority stated that revocation of the licence was appropriate and proportionate, given the alleged disregard for legal authorities demonstrated by the DPS. Moreover, it was argued that replacement of the DPS would not have the desired effect of enforcing the licensing objectives as they believed Mr Keenan would likely remain involved with the business. Derbyshire Constabulary endorsed the recommendation to revoke the premises licence, citing poor management during and following the incident of 15 April 2018 and on other occasions.

Ms Clover argued that revocation of the licence would be draconian and would have no effect in upholding the licensing objectives. It was further stated that Mr Keenan had already been duly punished for breaching his licensing conditions by the Magistrates Court and that he had been otherwise compliant with the responsible authorities. In relation to the incident on 15 April 2018, it was stated that this constituted an unusual event in a comparatively trouble free premises. It was reiterated that replacement of Mr Keenan as the DPS was the appropriate course of action and that an application to this effect was already in process.

The Chair suggested that the Sub-Committee consider its decision and communicate the outcome in writing within five working days, to which all parties agreed.

DECISION

In making its decision, the Sub-Committee had regard to the Derby City Council Licensing Policy, the guidance issued under section 182 of the Licensing Act 2003 and the Human Rights Act 1998, and carefully considered all the evidence presented to it.

The Sub-Committee made its decision to promote the four Licensing Objectives namely:

- a) Prevention of Crime and Disorder;
- b) Public Safety;
- c) Prevention of Public Nuisance; and
- d) Protection of Children from Harm

The General Licensing Sub-Committee resolved to revoke Premises Licence PL10551179 in respect of The Hairy Dog, Becket Street, Derby, DE1 1HT.

The reasons for the decision were as follows:

Having taken into account the four licensing objectives, the guidance issued under section 182 of the Licensing Act 2003, the Council's licensing policy and the Human Rights Act, the Sub-Committee sought to balance the interests of the Premises Licence Holder against the severity of the impact of the representations made by the Licensing Authority and Derbyshire Constabulary in their capacity as a Responsible Authorities and the evidence presented to the Sub-Committee, including representations made on behalf of the Premises Licence Holder and the supporting documentation provided.

The Sub-Committee had no confidence that the licensing objectives would not be undermined without revocation of the Premises Licence in this case, given the evidence presented. Lesser sanctions were considered, but discounted, by the Sub-Committee as being either wholly inappropriate or ineffective, given the findings made.

MINUTES END