

NORTH DEVON COUNCIL

Minutes of a meeting of Licensing and Community Safety Sub Committee A held in the Barum Room - Brynsworthy on Monday, 15th November, 2021 at 10.00 am

PRESENT: Members:

Councillor Tucker (Chair)

Councillors Gubb and Hunt

Officers:

Legal Officer, Licensing Officer and Public Protection Manager

12. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Henderson and L. Spear.

13. DECLARATIONS OF INTEREST

There were no declarations of interest made.

14. TO AGREE THE AGENDA BETWEEN PART 'A' AND PART 'B'

Agreed

15. DETERMINATION OF APPLICATION FOR A REVIEW OF A PREMISES LICENCE, RUMOURS, 42 BOUTPORT STREET, BARNSTAPLE, DEVON, EX31 1SE

Also Present: Mr Andrew Richards (Designated Premises Supervisor, (DPS)), Mr John Dunkley (Solicitor of DPS), Mr Nigel Angrave (Person who had made a representation), Inspector Andrew Wills (Devon and Cornwall Police), Paul Butler (Devon and Cornwall Police) and Sergeant Dave Curtis (Devon and Cornwall Police).

The Chair introduced himself and invited everyone present to introduce themselves.

The Legal Officer outlined the hearing process.

The Licensing Officer outlined his report. The Fire Authority had submitted a representation but were unable to attend the hearing. The premises is situated in the centre of Barnstaple where there was a mixture of residential and other business properties. The Licensing Officer made clear that the offences listed at paragraphs 4.41, 4.4.2 and 4.4.3, related to Public Health and which currently was not a Licensing Objective. The relevant Licensing Objectives were listed at paragraph 5.1. The Fire Service had been in attendance at an unrelated incident in Boutport Street when they observed several intoxicated persons outside the premises which led

them to have concerns over safe evacuation of the premises in the event of an emergency. The relevant statutory guidance considerations issued under section 182 of the Licensing Act 2003, and published by the Home Office, April 2018 were listed at paragraph 7.4.

The DPS's Solicitor outlined his case and gave the Members the following points:

- The premises had been licensed for the last 17 years. The club was next door to the Horse and Groom Pub and outside the premises was a fairly wide pavement. Other licensed pubs nearby were listed as The Panniers, Marshalls, Lush further down Boutport Street and when open the Rising Sun opposite. The pavement was a very busy thoroughfare and not used solely by the clientele of Rumours.
- During the months of Lockdown 2 other premises in the area were not operating
- In May 2020 when restrictions were lifted and activities were resumed the police saw a spike in their logs this could be due to the increase in customers to the premises as nowhere else had reopened
- The problems that had occurred in May early June had been resolved. A new CCTV system had been purchased and installed and was subsequently found to be of inferior quality so had been further upgraded
- At 2pm today a Safety Inspection was due to be carried out by the Fire Service
- The alarm system had been fully reviewed and was due to be reviewed again in November 2021
- SIA door staff were provided with counter clickers and had always been used
- They planned to join in on the town management radio link up system
- There was a clear policy of no drinks/bottles to be taken outside but the clientele had found inventive ways to take drinks outside
- Incident log reporting did happen and all staff were now trained and a document detailing the training that had been undertaken would also be kept
- Any young person who looks to be under 25 was asked for identification
- Any incidents involving customers whereby a ban was given this ban was for life
- New clientele had started to frequent the club but they weren't the type of clientele the club wanted there and so were banned and could no longer gain access to the premises
- Being a premises in the centre of town there will always likely be issues that won't go away

Mr Angrave had nothing further to add to the letter he had submitted (circulated previously).

16. EXCLUSION OF PUBLIC AND PRESS AND RESTRICTION OF DOCUMENTS

RESOLVED:

- (a) That under Section 100A (4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item as it involved the likely disclosure of exempt information as defined in Paragraph 7 Part 1 Schedule 12A of the Act (as amended from time to time), namely information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime;
- (b) That all documents and reports relating to the item be confirmed as “Not for Publication”.

17. **DETERMINATION OF APPLICATION FOR A REVIEW OF A PREMISES LICENCE, RUMOURS, 42 BOUTPORT STREET, BARNSTAPLE, DEVON, EX31 1SE - TO RECEIVE EVIDENCE FROM THE DEVON AND CORNWALL POLICE. LOG (ATTACHED).**

The Solicitor for the DPS then gave responses to the representations made by the member of the public, and the Fire Service as follows:

- Response to Person who made a Representation:
- The underage drinkers seen on the street could not be linked to Rumours as there was a pub immediately next door whose clientele also stood on the pavement outside
- The rear of the currently closed Rising Sun pub backed onto Church Walk which was a dark area and unfortunately subject to people urinating. It was denied that clientele from Rumours were urinating in the street as there were facilities at the premises
- Not aware of drug activity at the premises, known drug users do not frequent the premises
- Response to the Fire Service:
- The first bullet point was a very general remark
- The second bullet point was denied and found to be a generalised remark
- The third bullet point the records were available to be produced on request
- The fourth bullet point relates to people milling about on the pavement, the entrance to Rumours was the width of the door, the intoxicated individuals seen outside could not be linked to Rumours. It was denied that ID was not checked. It was possible that clientele seen entering without a check had already been in and out many times and the doorman had checked ID once earlier

Paul Butler, Licensing Officer with Devon and Cornwall Police then gave points from his report (circulated previously), as follows:

- The Police had been trying to resolve the issues with the Licensee over the last 15 months it was unfortunate that a resolution had not been found
- In May 2021 a request for an Action Plan from the DPS was made which was to detail how further infringements of the Licensing objectives could be met
- It was reported door staff, when asked about the DPS, replied that they did not know what that meant

- Young persons were gaining entry without being asked for ID and there was no order to the queue at the door
- Concerns of a report of underage youngsters being served alcohol and obviously drunk being allowed on the premises. The staff were under the impression that youngsters under the age of 18 were allowed in the premises until 9 pm
- Despite several interventions by the Police there had been no change to the behaviour of the clientele
- A change of management to a more experienced person had not worked out as they had found the situation too difficult to manage
- The DPS had never been present at the premises when visited by the Police
- The underlying issue causing the problems was over intoxication of alcohol
- No other premises in the town had the same numbers of offences registered
- Clientele leaving the premises showed signs of heavy drinking, the loss of inhibition this causes leads to either the person being left very vulnerable or turning violent and causing public order offences
- It was the view of the Police that even with a change of Licensee the habits of the clientele at this premises could not be changed and that the licensing objectives were not being met. The owner would not be able to find a suitable manager and poor due diligence on the owner's part meant that he would not find a good manager
- The number of minutes logged for time spent recording the logs did not include travel time to the premises or further CID investigations

Inspector Wills gave the Members a summary of points from an email sent to Paul Butler regarding an incident that took place September 2021 (circulated previously) as follows:

- Although no log related to the incident on 5 September 2021 there was a call from CCTV about an incident of street disorder outside Rumours
- At the scene Inspector Wills had activated his Body Worn Video to record the scenes that took place outside Rumours
- Inside the premises youngsters of 16 and under were present and drunk, they had arrived earlier than the door men started their shift and that was how they gained entrance
- Residents living in the vicinity had been disturbed by the incident, as well as signs of fighting occurring and a broken window
- In a follow up visit to the premises to meet the DPS, who was not present, they met the owner who indicated that there had been a change of DPS.

In response to a question from the Chair about whether incidents had been logged at this premises prior to the Covid lockdown. Mr Butler agreed yes there had.

Mr Dunkley requested that this information relating to the period July to December 2020 was not given consideration as this information did not form part of the agenda pack at the hearing today.

The Chair confirmed this information would not be taken into consideration when making decision but only the information presented in the agenda pack.

Solicitor for DPS indicated an acceptance that there had been a significant number of incidents in May/June which were particularly bad although these incidents had diminished.

Mr Dunkley then responded to the log numbers listed on pages 42 to 53 of the agenda on the whole disputing and/or denying the logs. He also went through the list of Minor Variation to the Premises Licence as put forward by Mr Butler, pages 107 to 109. The majority of conditions were agreed by Mr Dunkley as acceptable to the DPS and he indicated where there was already a policy in place it was agreed a review of those policies was required to bring them up to standard. They would dispute the need for 4 SIA door supervisors on duty every night as well as disputing the issue of sound levels as this had not been raised as a problem. Mr Dunkley mentioned that conditions should be proportionate and would not agree if speculative. The request for conditions to be placed on the premises licence had to be of the least onerous to the Licence holder, of the options available, least draconian sanction. He indicated that these were being followed now.

Members then asked questions. Mr Dunkley (Solicitor) and Mr Richards (DPS) gave the following responses:

- There was an alternative fire escape route, not just the main entrance
- The under 25 year of age ID request was in place all day
- They used their own person security doormen
- They were keen to sign up to the town management radio link system and were prepared for that to be an additional condition on their licence
- Buying 45 shots for £45 as a one off purchase was not an offer they provided
- They couldn't explain why they had not joined the town radio link up system before
- In response to question regarding not putting Action Plan in place and if it had been in place a lot of police logs may have been avoided there was an indication that the plan had been implemented and logs went down

The Police gave the following in their summing up:

- The demands placed on Police time was unworkable in relation to this premises and this had been the reason for this review
- Despite very good representations being made by the DPS the reasons for the now diminished numbers of logs was due to other premises being open
- The comment about underage clientele not being asked for ID due to the early hour of their arrival, ahead of door staff being on duty was very concerning
- Every time they had reached out to the DPS he had not been present at the premises
- Barnstaple needed to be safe and respectfully submit that the level of demand required by the Police to this establishment cannot continue

Mr Dunkley (Solicitor) gave his summing up as follows:

- As a fundamental point they do not agree with all the points raised and the list of conditions set out were acceptable and entirely appropriate to put into place (where those conditions had been accepted as appropriate)
- Logs had diminished
- Citing case law for proportionality R v Secretary of State for Health ex p Eastside Cheese and for least onerous sanction R v Minister for Agriculture, Fisheries & Food and Secretary of State for Health ex p Fedesa

In his summing up the Licensing Officer referred to the list of options available to the Sub-Committee as set out at paragraph 8 on page 14 of the agenda.

RESOLVED that everyone be excluded from the meeting with the exception of Members, the Legal Officer and Corporate and Community Services Officer in order for the Sub-Committee to receive legal advice in accordance with paragraph 5 of Schedule 12A of the Local Government Act 1972.

RESOLVED, that everyone be re-admitted to the meeting.

The Chair requested that the Corporate and Community Services Officer read the proposed decision, which was voted upon and agreed.

RESOLVED that the Premises Licence, in respect of Rumours, 42 Boutport Street, Barnstaple, Devon, EX31 1SE, be revoked.

The Sub-Committee had listened to all the evidence supplied today on this Premises review and have very grave and serious concerns. The Sub-Committee unanimously decided to revoke the Premises Licence with the following reasons:

- 1) Having considered the evidence supplied by the Police and having heard the mitigation from the DPS's Solicitor it was noted that all the evidence, including causal evidence was of grave and serious concern. The DPS admits significant problem and the Sub-Committee remain of the opinion that the prevention of crime and disorder would continue to be a real and present issue
- 2) The Sub-Committee heard evidence to say that the Premises were penalised and that this was not related to the management of Rumours with which the Sub-Committee disagree entirely and remain of the opinion that incidents outside of the premises stem from the establishment Rumours contrary to the prevention of public nuisance
- 3) If the DPS had prioritised public safety then the Sub-Committee considers he would have worked more closely with the Police in all aspects of door staff and being present at Rumours himself
- 4) The Sub-Committee was also seriously concerned there was evidence from the Police of underage drinking of alcohol and the only evidence contrary to this was the use of fake ID's which the Sub-Committee finds unacceptable. This was in breach of the Licensing Objective to protect Children from harm
- 5) The Sub-Committee and North Devon Council believe that the removal of Mr Richards as DPS would in this instance be an inadequate response to the problems presented, as per guidance taken from paragraph 11.22 of Revised Guidance issued under Section 182 – of the Licensing Act 2003.

Chair

The meeting ended at 1.00 pm

NOTE: These minutes will be confirmed as a correct record at the next meeting of the Committee.