

Licensing Sub-Committee

Minutes - 17 December 2015

Attendance

Chair Cllr Alan Bolshaw (Lab)

Labour

Cllr Ian Claymore
Cllr Rita Potter

Conservative

Employees

Linda Banbury
Rob Edge
Sarah Hardwick

Democratic Support Officer
Section Leader - Licensing
Solicitor

Item No. Title

1 Apologies for absence

There were no apologies for absence.

2 Declarations of interest

There were no declarations of interest.

3 Licensing Act 2003 - Application for an Expedited Summary Review of a Premises Licence in respect of Malones Bar, 35a Lichfield Street, Bilston

In Attendance

For the Premises

Mr P Adams – Applicant

Mr T Madani – Business Partner of Mr Adams

Responsible Authorities

Sargeant Jake Flanagan – West Midlands Police

PC Mitch Harvey – West Midlands Police

The Chair introduced the parties and outlined the procedure to be followed at the meeting.

The Section Leader (Licensing) outlined the report submitted to the meeting and circulated to all parties in advance.

At this juncture PC Harvey outlined the application for an expedited summary review of the premises licence due to the evidence of serious crime at the premises. He indicated that the first incident was in the original review application and was evidenced on CCTV footage but, due to technical difficulties, could not be viewed at this hearing. PC Harvey advised that the footage related to between 0200 and 0230 hours real time and showed gentlemen pulling up to the premises in a taxi and knocking on the door of the premises, which were only licensed until 12 midnight. The victim approached a male in the bar (people, including the Designated Premises Supervisor were smoking and drinking alcohol) and following a very brief conversation with a male named Gareth Batth (GB), the victim was being kicked, punched and robbed. The victim then runs out of the bar followed by GB and others. Mr T Madani stood in the doorway and watched what was happening. The offenders are allowed back into the premises and continue drinking (0208 hours). Sargeant Flanagan advised that the offender was seen on the CCTV footage as openly dealing drugs. This and the taking of drugs, as witnessed via the CCTV footage, takes place within metres of premises staff and continues unchallenged. There are ash trays on the table and most people are smoking. The staff appeared to have no regard for the licensing objectives and made no attempt to contact the emergency services.

PC Harvey drew attention was drawn to the statement of PC Shearer which alluded to the fact that the premises were trading beyond the licensed hours a week after the incident. A transfer application was made in March 2013. The Police objected on the basis of reports of late night drinking at the premises and the application was refused. The Police interviewed the Designated Premises Supervisor, who worked with Mr T Madani and Mr M Madani, on 30 November 2015 and it was claimed that the a customer birthday party was being held on the evening of 6 November although, given that it carried on until the early hours, no application for a Temporary Event Notice (TEN) had been made. The DPS resigned a few days following g the incident and the Police believed he was merely a name on a piece of paper and had been unable to quote any of the licensing objectives.

The Police had made extensive inquiries into the current DPS and had ascertained that he is an illegal immigrant currently awaiting deportation and had no permission to work.

In view of the above, the West Midlands Police were seeking an immediate suspension of the premises licence.

Responding to questions PC Harvey indicated that the attack appeared to be entirely unprovoked, that the offender clearly knew the victim and acknowledged him across the bar. He stated that Mr Mohammed Madani was described as working at the premises. He confirmed that the victim got out of the taxi with his father and a female. Inspector Flanagan indicated that the objection to the Designated Premises Supervisor had been made because he was a personal licence holder with Sandwell Council and had supplied an incorrect date of birth, which it was believed was a method to prevent any checks being made. With regard to patrons entering the premises, Inspector Flanagan indicated that most entered via the rear of the property in the evening, which would be unusual for a premises which was operating legitimately. He confirmed that some of the illegal activity, i.e. the robbery, wounding and supply of drugs could lead to imprisonment in excess of three years.

At this juncture the Premises Licence Holder was afforded the opportunity to respond. Mr Adams indicated that he was unable to comment as he was not at the premises on the night in question.

Mr Madani advised that Mr Adams had suffered a minor stroke and that he had been in charge of the premises for some four to six months. He stated that he had provided information to the Police that the victim had sworn at BG, was unaware of what had happened outside the premises and had let the people back in. The birthday party had continued at the premises as a favour for the Premises Licence Holder for the Greyhound. He stated that he did not witness the assault, that the victim was with his father and girlfriend and that an ambulance had picked him up some 300 yards from the premises.

Responding to questions, Mr Madani stated that he let the people out, but his concerns lay with those still on the premises. The door was locked because it was a private family party, following a request made between 2020 and 2100 hours that evening. He stated that he let the victim in as the girl worked at the Greyhound. Mr Madani stated that he was a business partner with Mr Adams and he had added his brother's name on the licence pending the seeking of a new Designated Premises Supervisor in the New Year. He stated that the victim had urgently requested to be let out of the premises and was seen running down the road; he then let three more people out but did not witness any assault outside the premises. Mr Madani accepted that people were smoking on the premises, that ash trays were provided as it was a private party and it would not be allowed any other time. He indicated that people used the rear entrance to the premises to use the toilet, but were not let in via the rear entrance. He did not let people regularly use drugs on the premises. He advised that GB had now been barred from the premises. He did not let people regularly use drugs on the premises. He advised that GB had now ben barred from the premises.

Mr Madani confirmed that he was a Personal Licence Holder and when asked to quote one of the four licensing objectives, stated that the premises did not serve prostitutes. He was unable to quote any of the licensing objectives. He stated that Mr McDonald had been employed to assist at the premises due to Mr Adams' health condition and the fact that he perosnally had hospital appointments. He stated that he had not called the emergency services as he had not witnessed the assault outside the premises but was informed of it by someone else. He stated that his brother was not formally employed at the premises, that he was unpaid and being trained. He was probably at the premises whilst this hearing was taking place, but would probably be helping his daughter and not actually working. Although Mr Madani was a personal Licence holder, he stated that he was training his brother, they helped each other and he provided food for his brother.

Mr Madani stated that after hours drinking had only taken place on one occasion over a two and a half year period and that it was a private party, although drinks were paid for. On a point of clarification, the Section Leader (Licensing) indicated that the transfer application made in March 2013 had been refused due to drinking after hours on three occasions and that on two of the instances the Police had attended the premises. The need to apply for Temporary Event Notices had been explained at that time.

Responding to a question from PC Harvey, Mr Madani stated that he did not feel it necessary for his brother to be present at this hearing as 'two gaffers' were in attendance.

All parties were afforded the opportunity to make a final statement. Sargeant Flanagan stated that, given evidence of illegal activities at the premises and the blatant disregard of the licensing objectives, that the Sub-Committee consider a suspension of the premises licence with immediate effect.

4 Exclusion of press and public

Resolved:

That in accordance with Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business as it involves the likely disclosure of exempt information falling within paragraph 3 of Schedule 12A to the Act relating to the business affairs of particular persons.

5 Deliberations and decision

The Sub-Committee discussed the issues which had been raised during consideration of the expedited review of the premises licence and the Solicitor advised them of the options open to them in determining the matter.

6 Re-admission of press and public

The parties returned to the meeting and were advised of the Sub-Committee's decision as follows:

7 Announcement of decision

An application was received from the West Midlands Police on 16 December 2015 for an Expedited Summary Review of Malones Bar, 35a Lichfield Street, Bilston. The review application cited serious crime and disorder associated with the premises.

The Chief of Police had given a certificate under Section 53A (1) (B) of the Licensing Act 2003, stating that in her opinion the premises are associated with serious crime and disorder and requested that interim steps be applied to the premises licence pending a full review hearing.

The Licensing Sub-Committee has heard from the West Midlands Police that:

1. On 7 November 2015 an incident occurred at the premises between 0208 and 0210 hours, during which a gentleman was assaulted inside and outside the premises and robbed by a man known as Gavin Bath. Staff ignored the incident and did not call the emergency services.
2. That on this occasion the premises were operating beyond hours allowed by the premises licence.
3. Gavin Bath has also been clearly witnessed supplying of drugs at the premises.

4. Mr Mohammed Medani, the proposed Designated Premises Supervisor who currently runs the business, is awaiting deportation as he is illegally in the UK and has no permission to work in the country.

Home office guidance relating to Section 53A Licensing Act 2003 summary reviews states that a serious crime constitutes an offence for which a person could reasonably be expected to be sentenced to imprisonment for three years or more and it involves the use of violence. The West Midlands Police have confirmed that offences of robbery, wounding and supply of drugs have occurred on the premises, all of which attract a sentence of three years or more.

The Sub-Committee is satisfied that a serious crime has occurred at the premises. Serious disorder is to be given its plain ordinary meaning and as such the Licensing Sub-Committee is satisfied that serious disorder has occurred on the premises.

The Licensing Sub-Committee has heard from the Premises Licence Holder and his business partner in attendance that:

1. They did not witness the incident on 7 November or notify the police.
2. The reason for operating outside the hours of the licence was to facilitate a private party which had been arranged at short notice and therefore the premises had failed to serve a Temporary Event Notice (TEN).
3. Ashtrays were evident at the premises as this was a private event.
4. They could not name any of the four licensing objectives.

Based on the evidence presented, consideration has been given as to whether it is appropriate to take interim steps pending determination of the review (Section 53C of the Local Government Act 1972). In accordance with Section 53 B (3) (d) of the Licensing Act 2003, the decision of the Licensing Sub-Committee is to suspend the premises licence pending the full review hearing.