

Statutory Licensing Sub-Committee

Minutes - 25 February 2021

Attendance

Members of the Statutory Licensing Sub-Committee

Cllr Alan Bolshaw
Cllr Jonathan Crofts
Cllr Keith Inston

Premises Licence Holder

Onkar Singh Basra
Antony Schiller

Premises Licence Holder
Solicitor

Review Applicant

Charlotte Rose

Service Lead – Covid Business Support

Responsible Authorities

Aimee Taylor
Gurjinder Bans
Greg Bickerdike

West Midlands Police
Public Health
Licensing Authority

Officers

Elizabeth Gregg
Sarah Hardwick
Donna Cope
Jas Kaur
Rachel Turley
Debra Craner

Senior Licensing & Compliance Officer
Senior Solicitor
Democratic Services Officer
Democratic Services Manager (host)
Graduate Management Trainee (observing)
Section Leader Licensing (observing)

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 a Review of a Premises Licence in respect of The Glassy Junction, 131 Willenhall Road, Wolverhampton, WV1 2HR

An application for a review of a Premises Licence in respect of The Glassy Junction, 131 Willenhall Road, Wolverhampton, WV1 2HR, had been received from the Service Lead – Covid Business Support, Environmental Health.

The Chair welcomed all parties to the hearing and listed all those in attendance. He outlined the procedure to be followed and all parties confirmed that they understood the procedure.

Elizabeth Gregg, Senior Licensing and Compliance Officer, provided an outline of the application. Charlotte Rose, Service Lead – Covid Business Support (applicant), confirmed that the summary was accurate.

The Chair invited the Service Lead – Covid Business Support to present her application. Charlotte Rose, Service Lead – Covid Business Support did so as per Appendix 3 of the report. The Service Lead stated that there had been a flagrant disregard by the Premises Licence Holder (PLH) to uphold the licensing objectives and ensure that the premises were COVID-secure by continuing to flout the requirements set by law during the emergency period. She further stated that patrons had unnecessarily been put at risk due to a clear lack of management and that revocation of the premises licence was requested.

The Chair afforded all parties present the opportunity to question the applicant in relation to her submission. Charlotte Rose, Service Lead – Covid Business Support, provided responses to questions asked.

The Chair invited the Premises Licence Holder to make representations.

Antony Schiller, Solicitor representing the Premises Licence Holder, stated the following:

1. His client, Onkar Singh Basra, the Premises Licence Holder and Designated Premises Supervisor (PLH/DPS), had taken over the premises in 2017. He had spent money improving the premises and had made it more family orientated.
2. There had been no concerns with the premises between 2017 and the incidents in 2020 resulting from the Covid pandemic.

3. Since March 2020 a raft of new Covid regulations had been introduced that were continually changing and were difficult to follow.
4. The PLH had done his best to comply with the new regulations and thought he was doing everything correctly.
5. On 10 October 2020 a wedding had not taken place at the premises.
6. On 14 November 2020 the premises had been serving takeaway food and drinks only, where orders were collected or delivered. There had been seven members of staff present, including the delivery driver, and five customers collecting orders. It had been towards the end of the evening and those present had been given a drink to celebrate Diwali.
7. There had been no firework display and the fireworks identified were for Mr Basra's private use.
8. The PLH had a good compliance history and no deliberate mischief had been intended.
9. The takeaway service had continued with no further incidents.
10. Revocation of the premises licence was not appropriate,

The Chair invited all parties present to question Mr Schiller in relation to his submission. Mr Schiller and Onkar Singh Basra, (PLH) provided the following responses to questions asked:

1. Mr Basra had tried his best to comply but had got it wrong.
2. He had a good compliance history.
3. Only two incidents of non-compliance had occurred.
4. Covid safety systems were in place and staff training had been given
5. The risk assessment had been updated.

The Sub-Committee adjourned at 12:14 hours.

The Hearing reconvened at 12:35 hours.

The Chair invited West Midlands Police to make representations. Aimee Taylor did so as per Appendix 5 of the report.

1. They had significant concerns regarding the premises which had undermined the licensing objective of Public Safety by breaching The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020.
2. On 23 August 2020 West Midlands Police (WMP) received a complaint from a member of the public that COVID regulations were being breached.
3. On 10 October 2020 WMP received a complaint that an event, allegedly a wedding, was occurring in the function room at the premises, attended by about 50 people. WMP attended and discovered about 20 people onsite, dressed up and the room was decorated suggesting there was a wedding taking place.
4. On 14 November 2020 WMP attended the premises following a complaint. They couldn't initially gain entrance as premises was locked but on entry people were inside eating and drinking. Others were seen leaving and Mr Basra had told WMP that those present were his friends to whom he was giving free food.
5. On 24 November 2020 a complaint had been received from the public of a large gathering at the premises. WMP were unable to attend.

6. On both occasions when WMP had visited the premises, the allegations of Covid breaches had been true.
7. Revocation of the premises licence was recommended

The Chair afforded all parties present the opportunity to question West Midlands Police in relation to its submission. Miss Taylor responded to questions asked.

The Chair invited Public Health to make representations. Gurjinder Bans, Senior Public Health Specialist did so as per Appendix 6 of the report. During her submission she reported a typographical error on page 44 of the agenda pack, confirming that it should state *The Health Protection (Coronavirus, Restrictions) (No. 4) (England) Regulations 2020*.

The Chair invited all parties present to question Public Health in relation to its submission. Miss Bans responded to questions asked.

The Chair invited the Licensing Authority to make representations. Greg Bickerdike, Service Lead - Licensing, did so as per Appendix 7 of the report.

The Chair invited all parties present to question the Licensing Authority in relation to its submission. Greg Bickerdike, Service Lead Licensing, provided responses to questions asked.

The Chair invited all parties present to make their final address.

The Licensing Authority, West Midlands Police, Solicitor representing the PLH, and the Service Lead – Covid Business Support all made a final statement.

Councillor Bolshaw, Councillor Crofts, Councillor Inston, the Senior Solicitor and Democratic Services Officer, withdrew from the meeting to enable the Sub-Committee to determine the matter.

The Sub-Committee adjourned at 13.55 hours.

The Hearing reconvened at 15.00 hours.

Councillor Bolshaw, Councillor Crofts, Councillor Inston, the Senior Solicitor and Democratic Services Officer re-joined the meeting.

The Chair advised all parties of the decision of the Sub-Committee, which was read out by the Senior Solicitor.

Resolved:

At the hearing to review the Premises Licence, the Statutory Licensing Sub-Committee carefully considered all representations, listened to those who had spoken at the hearing and considered all the evidence presented.

The Licensing Sub-Committee heard from Charlotte Rose, Service Lead – Covid Business Support, applicant for review, that:

1. On the 22 September 2020, The City of Wolverhampton Council's Environmental Health department visited the premises to carry out a COVID 19 premises review of procedures and control measures to prevent transmission of the virus, and to undertake compliance checks against the Government guidance and associated Regulations. A Senior Environmental Health Officer had made recommendations and provided advice following this compliance check. The COVID Pub business questionnaire (dated the 22nd September 2020) had been completed and an advisory email was sent to the premises dated the 28 September 2020.
2. Onkar Singh Basra, the Premises Licence Holder and Designated Premises Supervisor (PLH/DPS), submitted a copy of his amended COVID-19 premises risk assessment which identified several areas requiring attention.
3. On the 12 October 2020, the Council's Environmental Health department were notified by West Midlands Police that an event had taken place at the premises, a wedding party which was not permitted pursuant to The Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020).
4. On 10 October 2020 PC Hudson and PC Monger of West Midlands Police had attended the premises at approximately 15:20 hours and observed approximately 20 persons located at the premises, with vertical drinking and no social distancing measures in place. No one in attendance was wearing a face covering. The PLH/DPS was not present, however staff members were spoken to.
5. On the 16 November 2020, West Midlands Police notified the Council's Environmental Health department that the premises had allowed consumption of both food and drink on the premises contrary to The Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020.
6. On the 14 November 2020 a West Midlands Police Civilian Licensing Officer had attended the premises and confirmed that approximately 15 persons were observed inside, some eating and drinking at the table and bar area. Fireworks were laid out in the rear yard area implying they were to be used. The PLH, Onkar Singh Basra was served with a Fixed Penalty Notice for a breach of the regulations.
7. On the 20th November 2020, Service Lead – COVID Business Support, and Section Leader Licensing Compliance met with the PLH. The purpose of this meeting was to discuss breaches observed by West Midlands Police, COVID control measures, and to serve a Prohibition Notice requiring immediate closure of the premises, or part(s) of the premises, in which food or drink were provided for consumption on the premises; and to cease providing food or drink for consumption on the premises.
8. On the 22 November 2020 the Service Lead – COVID Business Support sent the PLH a warning letter in relation to the above visits and included details with regards to advice and operating safely during the emergency period.
9. There had been a flagrant disregard by the PLH to uphold the licensing objectives and ensure that the premises were COVID-secure by continuing to flout the requirements set by law during the emergency period. Patrons had been unnecessarily put at risk with a clear lack of management.
10. There was no confidence in the ability of the Premises Licence Holder to ensure the licensing objective of public safety was complied with.
11. In the circumstances, revocation of the premises licence was requested.

The Sub-Committee heard from the Premises Licence Holder, represented by Mr Antony Schiller that:

1. The Glassy Junction was a family run premises that re-opened in 2017.
2. There had been no concerns with the premises between 2017 and the incidents in 2020 resulting from the Covid pandemic.
3. Since March 2020 a raft of new regulations dealing with life during the pandemic had been introduced that were continually changing and were difficult to follow.
4. The PLH had done his best to comply with all new regulations.
5. On 10 October 2020 there was no wedding at the premises, and they don't not hold religious ceremonies.
6. On 14 November 2020 the premises had been serving takeaway food and drinks only. Customers would collect orders or it was delivered. On this occasion there were seven members of staff present to include the delivery driver and five customers collecting orders. This was towards the end of the evening and those present were given a drink to celebrate Diwali.
7. There had been no fireworks display.
8. The PLH thought he was doing everything correctly.
9. The PLH had a good compliance history and had just got it wrong. It had not been deliberate, and no mischief was intended.
10. Revocation of the premises licence was not appropriate.

The Sub-Committee heard from West Midlands Police (as Responsible Authority) that:

1. They supported the request for a review of the premises in furtherance of the public safety licensing objective.
2. They had significant concerns regarding the premises which had undermined the licensing objective of Public Safety by breaching The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020.
3. On 23 August 2020 West Midlands Police (WMP) received a complaint from a member of the public that COVID regulations were being breached.
4. On 10 October 2020 WMP received a complaint that an event, allegedly a wedding, was occurring in the function room at the premises, attended by about 50 people. WMP attended and discovered about 20 people onsite, dressed up and the room was decorated suggesting there was a wedding taking place.
5. On 14 November 2020 WMP attended the premises, couldn't initially gain entrance but on entry people were inside eating and drinking. Fixed penalty notices were issued.
6. On 24 November 2020 a complaint was received from the public of a large gathering at the premises. WMP were unable to attend.
7. Revocation of the premises licence was recommended

The Sub-Committee heard from Gurjinder Bans, Public Health (as Responsible Authority), that:

1. Public Health supported the request for a review of the premises in relation to furtherance of the public safety licensing objective.

2. As a Responsible Authority, they expected any business licensed to sell alcohol to act responsibly at all times and promote the key objectives of the Licensing Act 2003.
3. Due to the reported failings to comply with the licensing conditions, and promote the licensing objectives, and in relation to the public health risks associated with the non-compliance with The Health Protection (Coronavirus, Restrictions) (No. 4) (England) Regulations 2020), no reassurance was offered to Public Health that the business is operating in adherence with the Licensing Act.
4. Public Health supported the request for revocation of the licence

The Sub-Committee heard from Greg Bickerdike, Licensing Authority (as Responsible Authority), that:

1. The Licensing Authority supported the request for a review of the premises in relation to furtherance of the public safety licensing objective.
2. The current management at the premises had failed to promote and uphold this objective.
3. There had been non-compliance with the Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020.
4. The Licensing Authority had concerns as the evidence provided by Environmental Health indicated that the PLH/DPS was not upholding the licensing objective of public safety and therefore putting the public at risk.
5. We heard that the PLH did his best but this resulted in breaches of the COVID regulations.
6. The PLH had received expert advice from trained professionals which to a large extent he failed to act upon. He had not updated the risk assessment taken in May 2020 despite the changing legal landscape.
7. The evidence showed a repeated and blatant disregard for public safety by the Premises Licence Holder, Designated Premises Supervisor and the management.
8. The Licensing Sub-Committee may conclude from the evidence, that in order to promote the licensing objectives there was no alternative but to revoke the premises licence.

The Licensing Sub-Committee were satisfied, that for the purpose of the COVID Regulations, consumption of food and drink were not allowed on the premises and the number of people allowed to gather was limited. The Sub-Committee were further satisfied that the PLH allowed consumption on the premises and gathering of more than the permitted number of persons. When asked, the PLH/DPS was unable to confirm to the Sub-Committee what the four licensing objectives were.

On the balance of probabilities, there was evidence that there had been a serious failure to comply with requirements of the Regulations. These actions did not promote the public safety licensing objective.

The s182 guidance is clear that the review procedure and its outcome can be used as a deterrence to ensure compliance more widely across the City's area.

Therefore, based upon the evidence presented and having regard to the application, the relevant representations made, guidance issued under section 182 of the

Licensing Act 2003 and the Council's own licensing policy, the Sub-Committee decided to revoke the licence in accordance with Section 52 of the Licensing Act 2003.

This was considered appropriate and proportionate action for the promotion of the public safety licensing objective.

Written notice of the determination would be given to the holder of the licence, the applicant, and any other person who made relevant representations.

An appeal may be made to the Magistrates' Court against the decision, by the applicant, the holder of the premises licence, or any other person who made a relevant representation, within 21 days from the date of receipt of written notice of the decision.