

Statutory Licensing Sub-Committee

Minutes - 1 April 2022

Attendance

Members of the Statutory Licensing Sub-Committee

Cllr Phil Page (Chair)

Cllr Keith Inston

Cllr Wendy Dalton

Premises Licence Holder

Mr Mohammed Khalil Ali

Mr Soran Rostam

Duncan Craig

Barrister

Responsible Authorities

Steph Reynolds

Aimee Taylor

Greg Bickerdike

West Midlands Police

West Midlands Police

Licensing Authority

Employees

Elizabeth Gregg

Donna Cope

Jas Kaur

Sarah Hardwick

Senior Licensing & Compliance Officer

Democratic Services Officer

Democratic Services Manager

Senior Solicitor

Observers:

Cllr Rashpal Kaur

Alison Oldfield

West Midlands Police

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 Variation of a premises Licence in respect of The Pendulum, Blaydon Road, Wolverhampton, WV9 5NP

An application for a variation of a Premises License in respect of The Pendulum, Blaydon Road, Wolverhampton, WV9 5NP was considered following representations made from the Licensing Authority, West Midlands Police and Other Persons.

The Chair welcomed all parties to the hearing and invited all those present to introduce themselves. All parties did so. 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. Mr Duncan Craig, Barrister representing the Applicant, confirmed that the summary was accurate.

The Chair invited the Applicant to present the application. Mr Craig, Barrister representing the Applicant, did so as per Appendix 1 of the report. He discussed the events leading up to the revocation of the licence and stated the following:

1. A number of other premises whose licences were revoked as a result of a breach of Covid Regulations had posed significantly more risk to the public yet were now operating as before.
2. Enough time had now passed since the incident and his client should not be punished indefinitely.
3. His client accepted that he was in the wrong to allow patrons in the premises contrary to Covid regulations and he was sorry.
4. If the application was granted his client would be in attendance at the premises at night. He was aware of the nuisance as he had previously run the premises and would immediately address any nuisance issues.

The Chair afforded all parties present the opportunity to question Mr Craig and his client in relation to his submission. Mr Craig and his client responded to questions asked.

The Chair invited the Licensing Authority to make representations. Greg Bickerdike, Licensing Manager, did so as per Appendix 3 of the report.

The Chair afforded all parties present the opportunity to question the Licensing Authority in relation to its submission. Greg Bickerdike responded to questions asked.

The Chair invited West Midlands Police (WMP) to make representations. Aimee Taylor and Sergeant Steph Reynolds did so as per Appendix 4 of the report.

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

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

West Midlands Police, the Licensing Authority and the Applicant's Barrister made a final statement.

Sarah Hardwick, Senior Solicitor, provided legal advice to the Sub-Committee and responded to questions asked.

Councillor Page, Councillor Dalton, 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 11.15 hours.

The Hearing reconvened at 12.25 hours.

Councillor Page, Councillor Dalton, 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:

The Statutory Licensing Sub-Committee had taken note of all the written concerns raised in respect of the application for the variation of the premises license in respect of The Pendulum, Blaydon Road, Wolverhampton, WV9 5NP. It listened to the arguments of those who had spoken at the hearing, both for and against the application.

The Licensing Sub-Committee (LSC) heard from the applicant that:

1. The premises licence of the Pendulum was revoked following review for breach of Covid regulations in 2020. The matter was appealed to the Magistrates Court and terms were agreed to allow them to re-open. The premises were now applying to remove a condition added following appeal that reads "The previous premises licence holder, Mr Soran Rostam, will have no involvement with the operation nor management of the business."
2. In relation to proportionality, reference was made to other premises whose licences were revoked as a result of breach of Covid Regulations. It was argued that these premises posed significantly more risk to the public, yet they were continuing to operate as before.
3. Enough time had now passed since the incident. Mr Rostam should not be punished indefinitely.

4. Mr Rostam accepted he was in the wrong to allow patrons in the premises contrary to Covid regulations, but he was sorry and showed genuine remorse.
5. Representations had been received from a local councillor and residents in respect of nuisance at the premises. The Premises Licence Holder had confirmed he was not able to be at the premises in the evening and if the application was granted Mr Rostam would be in attendance at night. Mr Rostam was aware of the nuisance, he had previously run the premises, and accepted he would immediately need to address any nuisance issues.
6. Mr Rostam admitted his licensing knowledge could be improved and would be prepared to do further training

The Licensing Sub-Committee had not taken into account submissions relating to other premises, not the subject of this application. The decision today was made on evidence presented in relation to the Pendulum only.

The Licensing Sub-Committee heard from and considered written submissions made by the Licensing Authority as Responsible Authority that:

1. They made relevant representations in respect of this application under the Licensing Objective Prevention of Crime and Disorder.
2. On 20 May 2020 the Wolverhampton City Council Statutory Licensing Sub-Committee revoked the premises licence of The Pendulum following a failure to comply with the law and Regulations enacted as a result of the Coronavirus pandemic.
3. The Premises Licence Holder appealed this decision to the Wolverhampton Magistrates Court. Terms of settlement were agreed between the parties which would allow the premises to operate in furtherance of the Licensing Objectives, to include the condition that “the previous premises licence holder, Mr Soran Rostam, will have no involvement with the operation nor management of the business.”
4. It was for members to decide whether the application should be granted and whether the condition should remain in place.

The Licensing Sub-Committee heard from and considered written submissions made by the West Midlands Police as Responsible Authority that:

1. They made relevant representations in respect of this application under the Licensing Objective Prevention of Crime and Disorder.
2. On 20 May 2020 the Wolverhampton City Council Statutory Licensing Sub-Committee revoked the premises licence of The Pendulum following a failure to comply with the law and Regulations enacted as a result of the Coronavirus pandemic. At that time the Premises Licence Holder, and therefore the person responsible for the management of the premises, was Mr Soran Rostam.
3. On appeal to the Wolverhampton Magistrates Court terms of settlement were agreed between the parties. West Midlands Police believed the condition stating that “the previous premises licence holder, Mr Soran Rostam, will have no involvement with the operation nor management of the business” should remain.

4. Given the issues in 2020, they had no trust or confidence in Mr Rostam's ability to be involved in management of the premises.
5. Mr Rostam had volunteered to undertake further training, but the police argue he was aware and did understand his obligations in 2020 as at the time the country went into complete lockdown. At that time, Mr Rostam as Premises Licence Holder, was notified by relevant authorities of provisions under general law relating to closure of premises and how he was required to comply.
6. They appreciate the Premises Licence Holder may need assistance in the evening, but this does not have to be provided by Mr Rostam.
7. There was also concern from local residents.
8. West Midlands Police believed the condition was still relevant and therefore believed the application to vary should be refused.

Relevant representations had been received from a number of other persons by way of written submissions only. Those persons were not in attendance at the hearing but had confirmed that:

1. Cllr Roberts had confirmed that she had received complaints about the Pendulum from residents who had witnessed loud music played until 1am with persons arguing outside the premises on Friday and Saturday Nights. This was causing disruption to residents' sleep.
2. Residents local to the premises had confirmed that they do not want any change to any condition that will result in further nuisance or disturbance at the weekends.

The Licensing Sub-Committee had attached limited weight to representations made by way of written submission only as those making the representations were not in attendance at the hearing and therefore could not be questioned about submissions made.

The jurisdiction of the Licensing Sub-Committee here today was limited to considerations relating to licensable activities only.

It was noted that the applicant had offered to undertake further training however, the Licensing Sub-Committee believed that he should have had the relevant knowledge when issues occurred in 2020 yet he still failed to uphold provisions of the general law. Based upon this and other evidence presented and outlined above, the Licensing Sub-Committee are satisfied that to grant this application, would undermine further the Licensing Objectives.

Based upon the above and in accordance with Section 35 of the LA 2003 the Sub-Committee decided that the application to vary the premises licence should be refused.

It was considered that the above decision was in support of all the licensing objectives.

Written confirmation of the Sub-Committee's decision would be forwarded forthwith.

All parties had a right of appeal to the Magistrates Court within 21 days of receipt of the decision.