

NOTTINGHAM CITY COUNCIL

SPECIAL LICENSING PANEL

RECORD OF PROCEEDINGS

1. **Date of hearing** - 24 February 2014
2. **Panel**
 - Councillor Brian Grocock (Chair)
 - Councillor David Smith
 - Councillor Michael Wildgust
3. **Legal advisor** - Ann Barrett
4. **Note taker** - Mark Leavesley
5. **Application** - Summary Review
6. **Applicant** - Nottinghamshire Police
7. **Premises under Review and Premises Licence Holder**

Bar Bleu
Basement
19 Stoney Street
Nottingham
NG1 1LP

Premises Licence Holder : Soccerassociation.com
Premises Licence Number: 037393

8. Parties present

- (1) For the Applicant - Mr Malcolm Turner, Deputy Head of Legal services, Nottinghamshire Police accompanied by the following who were given permission to speak:
 - Temporary Chief Superintendent Cooper;
 - Helen Guest – Senior Licensing Enforcement Officer;
 - Inspector 896 Ellis;
 - Sergeant 3101 Shaw;
 - Constable 2912 Cobb;
 - David Browitt – Licensing Enforcement Office;
 - Constable Sarah Stables - Police observer.
- (2) For License Holder - Mr Nick Walton, Poppleston Allen Solicitors.

Persons refused permission to speak and reason why

None.

9. Parties not present and reason why

The Premises Licence Holder was not in attendance and Mr Walton confirmed that the licence had been surrendered on 21 February 2014. Mr Walton confirmed that he was not instructed to make any representations on behalf of the premises licence holder or

indeed to contest the application for revocation of the licence. Apologies were offered to both the Police and the Panel for the amount of time they had had to devote to dealing with the expedited review. Having given this information Mr Walton left the hearing.

10. Applications and decisions on ancillary issues eg requests for adjournments, determinations whether to proceed in absence, directions etc.

Where a summary review was commenced, section 53A(2)(b) required the Panel to review the licence within 28 days of receipt of the application and reach a determination on it. In addition, section 50(3) made provision for the lapsed licence to be capable of being transferred and re-instated within 28 days of surrender. On that basis the Panel determined that the hearing to review the licence should proceed.

Mr Turner, on behalf of the Police made an application that the matter be heard in private under Regulation 14 of the Licensing Act 2003 Hearings Regulations 2005 as the application involved reference to matters which were the subject of ongoing police investigations and the disclosure of that information to the public or reporting of those incidents might prejudice ongoing investigations and/or subsequent court proceedings. The panel determined that the public interest in excluding the press and public from the meeting outweighed the public interest in the hearing taking place in public for that reason.

11. Supplementary material taken into consideration other than that which was contained within the agenda

309 Page bundle of documentation submitted by Nottinghamshire Police. This bundle had been read by all members of the Panel before the hearing commenced and the panel were shown relevant extracts of CCTV footage.

12. Facts/Issues in dispute

Whether it was appropriate to take any of the following steps in order to promote the prevention of crime and disorder, public safety and the licensing objectives:

- modifying the conditions of the licence permanently or for a temporary period of up to 3 months;
- exclude a licensable activity from the scope of the licence permanently or for a period of up to 3 months;
- remove the designated premises supervisor;
- suspend the whole Premises Licence for a period of up to 3 months;
- revoke the licence.

13. Decision

The Panel listened to all the evidence put before it and also took into account the contents of the application and all supporting documentation and submissions made in relation to it.

The Panel accepted the uncontested evidence submitted by the Police and noted that the Premises Licence Holder also did not contest the application for revocation.

Conclusions

The Guidance (June 2013) at paragraph 11.24 stated that the role of the Licensing

Authority when determining a review is not to establish the guilt or innocence of an individual but to ensure that the crime prevention objective is promoted. The Panel therefore focused on the management of the premises and the various breaches of conditions which themselves potentially amounted to criminal offences.

The Guidance stated, at paragraph 11.20, that when reviewing a licence, the Licensing Authority should seek to establish the causes of the concerns which the representations identify, and that any remedial action taken should be directed at the causes and be no more than an appropriate and proportionate response. Here there were several causes of concern arising from the Premises Licence Holder and DPS' apparent inability to manage the premises appropriately including:

- Inadequate management and supervision of entrance and exit from the premises;
- Use of drugs within the premises and their use for drugs dealing;
- Numerous breaches of licence condition especially in relation to the use of CCTV, keeping of good order and use of door supervisors;
- Ineffective procedures for determining the occupancy of the premises;
- Inadequate searching of customers and intervention in incidents by both door supervisors and staff;
- Failure to prevent the removal of bottles from the premises or their use as weapons;
- Failure to adhere to police advice and methods of operation which had been voluntarily agreed with them.

In addition, the premises seemed to attract clientele with known connections to gangs and/or crime, with the management taking little action to deter their attendance at the venue or control their behaviour whilst in it.

The Guidance at paragraph 11.17 indicated that when considering any action which may be necessary on the review of a licence that Licensing Authorities should consider the use of warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted. Here, however, a number of verbal and written warnings had previously been issued. The Panel was therefore satisfied that a warning was not an appropriate or proportionate response to the issues that had arisen at the premises nor to ensure the continued promotion of the licensing objectives given the seriousness of the issues involved and that previous warnings had been disregarded.

Of major concern was the nature of the clientele resorting to the premises and management of that clientele. Removal of the DPS would not mean that the premises had to close for other licensable activities or address the apparent lack of involvement of the premises licence holder, who had been made aware of problems at the premises. Removal of the Designated Premises Supervisor alone would not therefore appropriately address these problems nor be an appropriate solution.

There had been a long history of incidents and problems at the premises since the premises licence holder had taken over in December 2011. Numerous conditions of the existing licence had been breached in that time, particularly in relation to the operation of CCTV, failure to maintain good order and failure to maintain door supervisor records. Existing conditions of licence had been breached and, in addition, the conditions and method of operation which had been agreed with the premises licence holder and DPS on 5 June 2013 had not been adhered to. On this basis it was not considered that the imposition of any new conditions would be an appropriate solution nor would it address the cause of the problems identified at the premises.

As the terms and conditions of the licence which had been breached related to general management of all of the licensable activities authorised by the premises licence, it was not considered that removal of one or more of the licensed activities would prove an appropriate response to the concerns raised in the application. Suspension of the licence for a temporary period was considered inappropriate since the holder of the premises licence (and person ultimately responsible for the premises management) would remain the same.

Paragraph 11.23 of the Guidance indicated that any detrimental financial impact that may result from a Licensing Authority's decision should be appropriate and proportionate to the promotion of the licensing objectives. However, it also stated that where premises were found to be trading irresponsibly, the Licensing Authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises, and where other measures are deemed insufficient, to revoke the licence. Here, however, the licence holder had already surrendered the licence and was not contesting its revocation. Having considered the overall standard of management, the history of the premises, the failure to adhere to the conditions of the licence and the serious consequences of those breaches, the Panel held that it was appropriate and proportionate to revoke the premises licence in the interests of the wider community.

The licence was therefore revoked in order to promote the prevention of crime and disorder and public safety objectives.

The decision outlined above shall take effect in accordance with the provisions of section 53C (11) of the Licensing Act 2003 and the interim steps imposed by the licensing authority on 6 February 2014, namely the suspension of the licence, shall cease to have effect on the coming into effect of this decision.

Signed: Councillor Brian Grocock (Chair)

Dated: 24 February 2014