

Bristol City Council
Minutes of the Licensing (Hearings) Sub-Committee
24th April 2017 at 12.30pm



Members Present:-

Councillors Clough and Eddy

Officers in Attendance:-

Ashley Clark (Legal Advisor), Michael Bonnick (Legal Officer), Abigail Holman (Licensing Policy Advisor), Wayne (officer), Louise deCordova (Democratic Services)

1. Election of Chair

The Sub-Committee Resolved:- that Councillor Clough be elected Chair for the duration of the meeting.

2. Welcome, Introductions and Safety Information

The Chair welcomed all parties to the hearing and requested that all parties introduce themselves.

3. Apologies for Absence

Apologies for absence were received from Councillor Jama.

4. Declarations of Interest

There were no declarations of interest received.

5. Public Forum

There was no public forum received.

6. Local Government (Miscellaneous Provisions) Act 1982 Application for the Renewal and Variation of a Sexual Entertainment Venue Licence made by Select Money Tree Limited in Respect of Premises Trading as Jack of Diamonds, 46 West Street, Bristol, BS2 0BH.

It was reported that the Sub-Committee had visited the site that morning and the following points had been noted and questions for the applicant had arisen from that visit, as follows:-

- CCTV cameras were gradually being replaced with HD cameras as they needed replacing
- CCTV had been installed in all booths
- There was a question as to whether the door to the dancers' changing area were covered by CCTV or whether this was a blind spot



- There was question as to the purpose of the curtain poles above the booths
- There was a query as to why the boiler room was unlocked and whether this area would normally be locked and if not normally locked could be a potential blind spot on the premises
- It was noted that there were 3 toilet cubicles, 2 in operation and 1 out of order and locked shut
- It was noted that since the previous visit the shower was now clean and in demonstrable working order
- It was noted that there was a flat roof accessible from the door of the management office, which required a fenced area, there was therefore a question as to how access was controlled to this area
- There was a question as to whether the toilet facility in the changing area was just for the use of performers

The Sub-Committee considered the report of the Director of Neighbourhoods and City Development presented by the Licencing Policy advisor and the proposed variation detailed at para.6. It was noted that no mandatory grounds for refusal applied.

The Licensing Enforcement Officer outlined the observations of the Licensing Enforcement Team as detailed from para.13 of the report, with regards to a number of issues identified in respect of compliance with the premises licence issued under Licencing Act 2003. Officers advised that members of the Sub-Committee give strong consideration to the views of the Police and Licensing Enforcement officers in respect of visits to the premises, and renewal and variation of the licence.

As there were no questions from councillors or the applicant the Licensing Enforcement officer left the meeting.

The Sub-Committee's Licensing Policy Advisor advised that there was CCTV footage in respect to Annex 3, condition 48 of the premises licence, as referenced by the Licensing Enforcement officer and asked the Sub-Committee if it was minded to view footage in a closed session of this meeting.

The Sub-Committee agreed to view the CCTV footage in a closed session.

7. Exclusion of Press and Public

The Sub-Committee Resolved:- That under s.100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item(s) of business on the grounds that it (they) involve(s) the likely disclosure of exempt information as defined in paragraph(s) 7 (respectively) of Part 1 of schedule 12A of the Act.

The Sub-Committee's Licensing Policy Advisor advised that whilst the footage was required to be viewed in exempt session as the individuals in the footage had not given their consent for the footage to be screened, the discussion around the footage could be heard in open session. The Sub-Committee resolved to return to open session.

The Sub-Committee Resolved:- That the press and public be readmitted to the meeting.

The Sub-Committee noted the following breaches evident from the CCTV footage:

- 00:12:00 – shots taken by performers and transferred to mouth of customer
- 00:12:37 – as above



- 00:13:41 – ice cubes placed down trousers of customer
- 00:14:43 – and other numerous incidents, whipping with belt
- 00:16:02 – performer encourages customer to touch her bottom
- A Member noted a customer in the bottom left of the screen using a phone or electronic device.

In addition, the Police noted:

- That a performer pulls the customer's hair
- That there was repeated touching
- That a performer lies across the customer's lap

The Chair asked the applicant's legal representative to address the Sub-Committee and the following points were raised:-

- Mandatory grounds for refusal did not apply
- There was little impact on the surrounding area or for people with protected characteristics
- On discretionary grounds the policy expected that the character of a locality was considered
- The premises did not attract people in large numbers
- The premises had been a longstanding venue of this type for at least 8 years.
- The clientele was mainly male and it was not uncommon to have limited numbers in attendance.
- Nuisance/risk of nuisance: Times of operation were limited and confined to Thursday-Saturday.
- There were no vulnerable premises in the near vicinity, however there were sex shops, massage parlours and a public house nearby.
- The premises had been deliberately adapted and configured for purpose, self-contained with a private driveway. It was open plan in nature, with comprehensive coverage of CCTV and facilities for smokers and performers.
- With reference to the applicant's suitability, there had been no suggestion that Mr Dulmeer had been convicted of an offence, or held any relevant convictions.
- The Licence Holder is Select Money Tree Limited and Mr Dulmeer is sole director of the company.
- Mr Dulmeer had experience of managing similar premises in Shoreditch and was based in London.
- It was noted that the LGMPA provides that Local Authorities may adopt their own conditions for premises of these nature, and there could be a degree of variation between local authorities.
- A manager had been employed at the premises until November 2016. The premises had been held for circa 18 months and Mr Dulmeer would visit once or twice a month.
- In respect of failings observed during the October 2016 visit, for context Mr Dulmeer confirmed that he had been acting as manager on that day and had not been the normal onsite day to day manager. Mr Dulmeer had not been able to operate the CCTV due to a new updated system having been put in place at that time. On that occasion the police hadn't required CCTV, but if CCTV footage had been required, he would have called the engineer and provided it.
- Documentation failings: Mr Dulmeer was employing a manager to manage this work at that time.



- In respect of the February visit: it was noted improvements had been made between visits and Mr Dulmeer had met with the Licensing Enforcement Officer to discuss the necessary disclaimer form and implement this with employees.
- The practice noted in the CCTV incident had been inherited by Mr Dulmeer and he had therefore understood it to be acceptable. In addition, working in other areas may have influenced what he had thought was acceptable. The practice has now been stopped.
- Door Staff: Mr Dulmeer had passed on information that had been provided by the assistant manager and it had not been intended to mislead. A member of staff had previously been SIA registered, but the registration had lapsed. There was a letter from assistant manager to confirm this.
- Shower: Officers had tested the shower, and the issues had been addressed straight away.
- Police representations referred to an incident on 13.06.16 where a member of staff had been assaulted with attempted kidnap. Mr Dulmeer had not been the operational onsite manager at that time. Despite enquiries with his staff, he has not been able to shed any light on this incident and does not believe there was a dancer that left at that time, and no one else can shed any light.
- Multiagency visit: it was confirmed in the report that Mr Dulmeer took over as DPS on 3 November 2016.
- In the three months since he had taken over he had taken on board the suggestions.
- The business provided work and employment for a number of people. Without a licence the business would not exist.
- Mr Dulmeer is on a steep learning curve
- This is not the type of premises that had been subject to a high level of incidents and therefore it would not be proportionate to refuse to renew the licence.
- Variation: Mr Dulmeer is a businessman and had no objection to three door supervisors working on Friday and Saturday. The capacity limit of the premises is 100. Mr Dulmeer had been SIA trained. Normally a 1:100 ratio would be acceptable on other types of premises.
- On Tuesday-Thursday he requests that there is a requirement for 2 supervisors only, with an agreement to accept a limit of 25-30 persons in the premises at any one time. The upstairs bar not to be used on these occasions. Any private dance, must be booked through reception by the dancers and would be accompanied by one of the two supervisors.
- The request for topless pool was driven by customer demand and by request of the performers. This would be cash generative for the performers, with no unsupervised games.
- The request for topless bar staff was driven by suggestion, rather than an actual request.

In response to members questions the following points were raised:

- The boiler room had not been locked during the visit. The applicant could install a lock by Friday.
- Mr Dulmeer was the only person with unaccompanied access to the office
- A CCTV camera was activated once someone stepped through the Digi lock door to access the performer's changing area, and would therefore be caught on CCTV.
- There were around 25 performers overall, with between 6 and 10 at any one time, this would vary from week to week
- The changing area toilets facilities were just for performers but they were occasionally used by Mr Dulmeer.
- There were currently only female performers



- Only Mr Dulmeer or accompanied person had access through the door to the flat roof:
- There was access to CCTV in the office.

The Chair asked the police to address the Sub-Committee and the following points were raised:-

- The approach taken would always be to try to work with applicants. SEVs have an additional level of scrutiny and therefore the thresholds they are held to, are higher. The police would expect to see immediate results, and it was not clear that was the case in this instance
- Safeguarding is a driving factor for the police and therefore a top priority. It is known that objectification of women is a driving factor for incidents of sexual assault
- It was important to consider the potential impact and actual effect of the licensing breaches. These breaches are not minor. They can have very serious safeguarding issues.
- The Police summarised the incidents. There had been a full investigation of the assault and attempted kidnap but the person had not been able to be identified. With respect to this incident, the risk of not being able to download CCTV or provide details of doorstaff could be the difference between making an arrest or not.
- Having viewed the CCTV footage of the February visit, 9 incidents of breach of the SEV licence had been noted in 8 minutes. The conditions are there to protect the performers at the premises. The footage demonstrates a general lack of control from the management, and lackadaisical attitude to the conditions. The Officer statement noted that there had been no attempt to disguise what was happening, and referenced the applicant's statement. *'mates want to see him humiliated. It is tradition'*. Effectively, that kind of behaviour was being endorsed by poor management.
- The applicant had a duty to know what the conditions of his licence were. Police worked with applicants, but it was not acceptable to run premises inappropriately and out of line with the conditions.
- With respect to the paperwork breach, this identified a serious human element of concern, as generally there was strong evidence to suggest trafficking played a big part for some women to work in these types of venues.
- The police had been disappointed to see additional lapses of conditions not being adhered to.
- The venue may appear anonymous from the outside. However, it was understood to be a well-known and well-advertised premises, and on showcase bus route. There were significant police concerns regarding the massage parlour in the vicinity and it was not a good thing to have that nearby.
- With respect to proportionality, officers summarised an incident that had taken place on 25.03.17. The police had attended with respect to a member of staff being stabbed by a patron. A suspect had been charged with GBH. It was a current and ongoing case. The offence had taken place on stage; there had been significant amounts of blood with injuries alleged to have been caused by a Stanley knife.
- There was a poor approach to management adhering to conditions, and the potential that this had led to two serious incidents. Despite working with the premises, additional breaches have been faced. The police were not willing to risk another serious incident, when the next one could result in a person's death. There did not appear to be any progress towards being compliant for safeguarding of individuals in and around the premises.
- With respect to the variation, the police noted that the applicant had admitted and already appeared to have reduced the number of compliant doorstaff on the premises. It was not clear



whether this was intentional. However, it was considered by police that the day of the week and number of patrons would not make a difference.

- The police asked members to consider refusing the renewal and deny the variation.

In response to questions from the Sub-Committee the following points were noted:-

- After the incident on CCTV had been witnessed live by the officer, the footage had been requested for evidence, but no further hours had been viewed.
- All the breaches in the footage were all under the licence.
- The Police were not satisfied with the explanation given by applicant with respect to the lack of documentation. The police considered that there is a reactive quality about the applicants responses. It should not be for the LA or police to consistently point out breaches, the premises should be run properly. In addition, the potential for someone not to be identifiable is a trafficking risk. There was no confidence that application was consistent in respect of documentation.
- Even without the incident that took place on the 25 March, it was noted that the police would still have had these concerns. The premises had already been ranked as a red status premises amongst a multiagency group across the city for almost 6 months and the group had been looking at options around renewal and potential review of the premises licence.

In response to questions by the applicant's representative the following points were raised:

- It was confirmed that the incident of assault and attempted kidnap could not have occurred at the venue at 07.18am as the venue had been closed, however the police confirmed that the incident had been reported at 07.18am.
- The Police confirmed that improvements had been made by the applicant since the visit in October and since the applicant had taken over as DPS on 3rd November.
- The Police confirmed that the CCTV of the GBH incident was of a suitable quality to facilitate the investigation, but noted the preference for measures which would have prevented the offence.
- The Police confirmed that the staff had been cooperative in respect of investigation.

The Chair of the Sub-Committee asked the applicant's representative to sum up:

- The Officer had clearly expressed justifiable concerns.
- The applicant had been open and honest throughout.
- Members had received the applicant's explanation regarding the door supervisor, and had not intended to mislead. There had been some naiveté and misunderstanding by the applicant, but credit should be given for his honesty.
- Members to note the need for proportionality in their decision. There were many pages of conditions for the applicant to absorb, and other legal considerations.
- There had been breaches, but the applicant had reacted to these, and amended processes. Going forward, the applicant intended to improve and eradicate any future issues.
- Members were asked to consider how much weight that could be given to the recent GBH incident, as full information was not available for consideration. Mr Dulmeer had been reactive to his credit, and had made some mistakes, but within a short timescale.

There were no further questions so all parties withdrew for the Sub-Committee to deliberate.



The Sub-Committee Resolved:- that the renewal of the Sexual Entertainment Licence for Jack of Diamonds be refused.

- **Members determined that it would be inappropriate to grant either this application for renewal or application for variation due to discretionary ground a) *That the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;***
- **Members gave great weight to the evidence of the police and licensing enforcement officers. Members had concerns about the ongoing breaches at the premises combined with two serious incidents. Whilst they recognised that one incident was subject to an ongoing investigation and therefore the full details were not available, they found that the information the police were able to provide, in particular that the assault took place in the premises, by a customer, on a performer and with an offensive weapon, was sufficient to give them added cause for concern as to the management's ability to control and manage the premises.**
- **This combined with the other numerous breaches has led members to have concerns about the following factors:**
 - **relevant observations or findings by public authorities, including licensing authorities, in connection with the conduct of the person or their ability to manage and control premises;**
 - **information germane to the person's ability to, among other things:**
 - **ensure the safety and wellbeing of performers;**
 - **ensure the proper protection of the public;**
 - **ensure the suitability of employees, performers and others using the venue;**
 - **understand and adhere to conditions imposed on any licence granted and ensure they are observed by others on the premises;**
- **Members witnessed a number of breaches of both the LA03 licence and SEV licence in the CCTV provided to them and heard from officers that on each visit made, breaches of the licence were witnessed. They recognised that the applicant had taken some steps to rectify these errors but were concerned that additional breaches had then occurred. They agreed with the police that these types of premises constitute a higher risk and therefore a higher expectation of compliance is placed on them. They were disappointed that whilst appearing to engage with the council on each visit the applicant showed a reactive rather than proactive approach to the licences and could not therefore be satisfied that the addition of conditions would be effective in controlling the issues that have been raised.**



The application for renewal and variation is therefore refused.

The meeting finished at 3.15pm.

CHAIR _____

