

SPEAKERS PANEL (LIQUOR LICENSING)

7 November 2023

Commenced: 10.00 am

Terminated: 2.35 pm

Present: Councillors Drennan (Chair), Bowden and Quinn

In Attendance:

Mike Robinson	Regulatory Services Manager (Licensing), TMBC
James Horton	Regulatory Compliance Officer (Licensing), TMBC
Ashleigh Melia	Legal Representative, TMBC
James Mallion	Assistant Director of Public Health, TMBC
PC Craig Foley	GMP
Ian Whittaker	Premises Licence Holder
Andrea Forrest	Forrest Solicitors, Legal Representative for the Premises Licence Holder
Chris Badawed	Witness for the Premises Licence Holder

6. DECLARATIONS OF INTEREST

Councillor Bowden declared, on the grounds of public interest, that she was acquainted with PC Foley through a mutual family acquaintance and she was also acquainted with Mr Whittaker. She further declared that this did not prejudice her professional integrity in hearing the Review and reaching a decision with Panel Members.

7. MINUTES

RESOLVED

That the Minutes of the meetings of the Speakers' Panel (Liquor Licensing) held on 15 August and 22 August 2023 were approved as a correct record.

8. REVIEW OF A PREMISES LICENCE - BACK TO THE 80'S, 37 - 39 MARKET STREET, STALYBRIDGE, SK15 2AA

Mr Robinson, Regulatory Services Manager, presented the report and identified the steps available to the Panel in determining the Review, under Section 52 (4) of the Licensing Act 2003. He informed the Panel of the background to the Review, as set out in the report, and summarised the six representations received. He advised the Panel that CCTV footage from two separate incidents at the premises would be shown during the Hearing and that one of the CCTV footage sequences would need to be viewed in private due to it being part of an ongoing investigation.

PC Foley addressed the Panel and stated that the representation from GMP had been submitted by Inspector Cesarz as PC Foley was unavailable at the time. He explained that the representation related to a serious incident on 24 July 2023 and an expedited review had been considered with a suspension of the licence. Due to the severity of the incident, GMP met with the Premises Licence Holder, Mr Whittaker and Mr Robinson, Regulatory Services Manager on 26 July 2023 in order to ensure effective promotion of the licensing objectives. Following the meeting, PC Foley stated a Review was required to ensure the premises was run safely and the Premises Licence Holder had agreed to a number of amendments in relation to how the venue would operate in the interim period before the Review took place.

PC Foley outlined to the Panel that there were frequent issues at closing times on Saturdays and Sundays regarding issues with customers, drugs and door staff. There was a log of incidents between August 2022 and July 2023, which was appended to the report.

There was opportunity for all relevant parties present to ask questions of GMP's representation.

PC Foley then requested that the Hearing go into private to view the CCTV footage from 24 July 2023.

At this juncture, with reference to Schedule 12A of the Local Government Act 1972 (as amended) and Regulation 14 of the Licensing Act 2003 (Hearings) regulations 2005, the press and public were excluded on the grounds that, having applied the public interest test, the hearing or part of it, being in public was outweighed by the public interest in the hearing or part of being held in private.

Following the viewing of the CCTV footage from 24 July 2023 and an opportunity for questions, the Hearing returned to public and the press and public were readmitted to the meeting.

The CCTV footage from the incident in June 2022 was then played. Mr Whittaker stated that the perpetrator was the best friend of the victim in this incident and had just been released from prison for a serious assault however, nobody at the premises was aware of this at the time. Mr Whittaker explained that the door staff attended to the victim after the assault and it was confirmed that the injury suffered by the victim was due to the victim wearing braces and his lip had caught the braces during the assault.

There was an opportunity for all relevant parties to ask questions on the CCTV footage from June 2022.

Mr Horton, Regulatory Compliance Officer, then addressed the Panel and made reference to the representation he had submitted on behalf of the Licensing Authority. He outlined that there had been many incidents at the premises and that the Licensing Authority had tried to work with Mr Whittaker to prevent further incidents and to promote the licensing objectives. Mr Horton explained that in relation to the incident on 24 July 2023, GMP initially considered an expedited review and that, following the meeting with Mr Whittaker, the Licensing Authority and GMP on 26 July 2023, the following conditions were agreed:

- **Sale by retail of alcohol**

Thursday – Saturday 21:00 – 03:00
Sunday 21:00 – 00:00

- **Opening Hours**

Thursday – Saturday 21:00 – 03:30
Sunday 21:00 – 00:30

- **Door Staff**

A minimum of 3 SIA registered door supervisors shall be employed at the premises on Thursday, Friday, Saturday and Sunday nights from 9.00 pm until 20 minutes after the premises closes. Door supervisors will wear high visibility armbands.

Mr Horton stated that the Licensing Authority had lost faith in the premises and recommended that either the licence be revoked or a number of conditions be placed on the licence including a reduction in hours, ASC door staff and metal detector wands to be used.

In response to questions from Ms Forrest on behalf of Mr Whittaker, Mr Horton stated that he had received information from GMP that a knuckle-duster was involved in the serious incident on 14 June 2022 to which Ms Forrest clarified that there was no knuckle-duster and the injury was sustained via the braces that the victim was wearing on their teeth. Mr Horton confirmed during

questioning that there had been a total of 3 serious incidents over the past 2 years in November 2021, June 2022 and July 2023, which he considered to be a lot. He also confirmed that there were other venues in the area with similar opening hours.

Mr Mallion, Assistant Director of Public Health, read out his representation on behalf of Public Health, as set out at Appendix 8 of the report, and there was opportunity for all relevant parties to ask any questions.

Ms Forrest, Forrest Solicitors, then addressed the Panel on behalf of Mr Whittaker explaining that The Licensing Act 2003 was not a piece of legislation to punish; it was remedial in its nature and not punitive. She highlighted that the purpose of the Act was to secure compliance with the licensing objectives and that the Panel had to decide what the outstanding causes of concern were, what measures had already been taken, or needed to be taken, which were reasonable or proportionate to remedy the issues.

She reminded the Panel that GMP had decided against an Expedited Review and had instead applied for a Review of the licence following the incident on 24 July 2023, which she stressed occurred outside the premises after it had closed for business and the shutters were down. She expressed regret on behalf of Mr Whittaker over the incident and his desire for the perpetrator to be suitably punished. She quoted statutory guidance, which stated that an individual was responsible for their own behaviour and the Premises Licence Holder could not be held accountable for an incident that had happened down the road. She emphasised that Mr Whittaker had been in attendance at the premises earlier on in the evening that the incident took place.

She stated that Mr Whittaker took a series of immediate remedial actions when he was notified of the incident the morning after, on 25 July 2023, which included the removal of the Designated Premises Supervisor.

Ms Forrest queried the accuracy of the incident log that had been submitted by GMP, which detailed a list of incidents dating back to August 2022, and she advised the Panel to give little weight to this in their decision-making. She told the Panel that there were 30 incidents in the space of one year and a lot of these were unrelated to the premises. She emphasised that for a late night venue in a town, an average of 1.6 incidents per month was not excessive, especially given some of the incidents related to lost property or the confiscation of drugs, which staff at the premises had reported. She stressed that it would be ideal for there to be no incidents in a perfect world but that it was unrealistic for there to be no incidents at all for a busy area.

She outlined the business model of the premises, which was a late night venue that did not typically get busy until approximately midnight, and stated that a reduction in hours was not necessary due to this. She stated that the presence of door staff from 9pm was also not necessary due to a lack of customers at this time. She also highlighted the compliance of Mr Whittaker following the meeting that took place on 26 July 2023 between Mr Whittaker, GMP and the Licensing Authority, where a number of temporary arrangements were implemented by Mr Whittaker pending the outcome of the Review Hearing.

Ms Forrest referred to various paragraphs of the Guidance under Section 182 of the Licensing Act 2003 and informed the Panel of the matters that the Panel should consider.

Mr Whittaker then addressed the Panel and quoted from the door attendant's supervision book, which he had brought to the Hearing, stating that checks were made and logged every half an hour. The book also contained how many people entered and exited the premises and he gave examples of the number of customers during the weekend. He highlighted that the premises could only hold a maximum of 160 people and the suggested ratio of customer to door staff was 1 to every 200 people. He therefore believed that to have 3 door staff on duty was not necessary and was excessive.

A series of questions from all parties present were satisfactorily answered by Ms Forrest and Mr Whittaker.

The Panel heard brief closing submissions from all parties with the Premises Licence Holder and their representative given the final say.

Members of the Panel then retired to carefully consider the written submissions, representations and questions and answers during the hearing in addition to all of the information provided. The Panel were accompanied by the Legal Representative and the Senior Democratic Services Officer, who provided legal and procedural advice only and took no part in the decision making process.

DECISION/REASONS

In determining the matter, the Panel had due regard to:

- the report to Panel
- the application and representations received
- all oral and written evidence and submissions
- the Council's Statement of Licensing Policy
- the relevant sections of the Licensing Act 2003 and Regulations made thereunder
- the Guidance issued by the Secretary of State under Section 182 of that Act.

The Panel determined the Review pursuant to Section 52(3) of the Act having regard to the relevant representations and the requirement to take such steps as it considered appropriate to promote the licensing objectives.

The Panel identified that the key points to the Review were as follows.

1. The Panel acknowledged the remedial action taken by Mr Whittaker since the incident on 24 July 2023.
2. The Panel acknowledged that the list of incidents detailed in Appendix 5 of the report, were not solely a list of incidents that had happened at the premises and that some of these incidents had been reported by the premises. However, the Panel felt that some of the incidents that did occur on the premises were concerning and felt they could give weight to this list; it was provided by GMP and they had the power under Regulation 18 of the Hearing Regulations to take into account documentary or other information provided by a party in support of their representation.
3. The Panel were concerned that the incidents happened whilst door staff employed by the SIA were on duty and were of the view that ASC credited door staff should be employed.
4. The Panel acknowledged that the opening hours had been reduced and felt that the reduction of hours would promote the licensing objectives.
5. The Panel acknowledged that 3 door staff was excessive when the premises was empty and felt that fewer door staff should be on duty earlier in the evening; they felt that 1 door staff between 9-11pm would be appropriate and 3 door staff from 11pm until 20 minutes after the premises closing would be reasonable to promote the licensing objectives.
6. The Panel agreed that metal detection wands should be used and that the Designated Premises Supervisor or Personal Licence Holder should be on the premises at all times.

STEPS TAKEN PURSUANT TO S52(4) LICENSING ACT 2003

On balance, after carefully considering all available options, the Panel considered the appropriate steps to promote the licensing objectives was to impose the following conditions on the licence:

Sale of Alcohol

Thursday to Saturday – 21:00 to 02:00

Sunday – 21:00 to 00:00

Opening Hours

Thursday to Saturday – 21:00 to 02:30

Sunday – 21:00 to 00:30

Door staff

Thursday, Friday, Saturday and Sunday

Between the hours of 21:00 to 23:00 – a minimum of one ACS registered door supervisor

From 23:00 until 20 minutes after the premises closes – a minimum of three ACS registered door supervisors

Door supervisors must wear high visibility armbands.

Metal detection wands to be used by door staff upon customer admission

Personal Licence Holder/Designated Premises Supervisor

The Personal Licence Holder and/or the Designated Premises Supervisor must be on the premises at all times licensable activities are taking place.

The Panel thanked those who had attended the Review Hearing for their contribution and assisting the Panel in reaching its decision.

RESOLVED

That the following conditions be added to the Licence:

- (i) **Sale of Alcohol**
 - Thursday to Saturday – 21:00 to 02:00
 - Sunday – 21:00 to 00:00
- (ii) **Opening Hours**
 - Thursday to Saturday – 21:00 to 02:30
 - Sunday – 21:00 to 00:30
- (iii) **Door staff**
 - Thursday, Friday, Saturday and Sunday
 - Between the hours of 21:00 to 23:00 – a minimum of one ACS registered door supervisor
 - From 23:00 until 20 minutes after the premises closes – a minimum of three ACS registered door supervisors
 - Door supervisors must wear high visibility armbands.
 - Metal detection wands to be used by door staff upon customer admission
- (iv) **Personal Licence Holder/Designated Premises Supervisor**

The Personal Licence Holder and/or the Designated Premises Supervisor must be on the premises at all times licensable activities are taking place.

CHAIR