

PRIVATE AND CONFIDENTIAL

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Date 17 July 2020

TAMESIDE MBC

Speakers' Panel (Liquor Licensing)
(Cllrs Sweeton (Ch), Carthey & Quinn)
16 July 2020

DECISION NOTICE**Summary review - interim steps hearing****Sections 53A-C Licensing Act 2003**

On the 16 July 2020 a Speakers Panel (Liquor Licensing) of Tameside Metropolitan Borough Council considered whether it was appropriate to take interim steps in respect of an application by Greater Manchester Police under the provisions of section 53A of the Licensing Act 2003 in respect of premises known as:

The Owd Joss, 81 Market Street, Hyde, Tameside SK14 2QT
(the hearing was held by remote video conference)

In attendance:**Tameside MBC:**

- Carolyn Eaton, Principal Democratic Services Officer, Tameside MBC
- Mike Robinson, Regulatory Services Manager, Tameside MBC
- David Joy, Solicitor, Tameside MBC

Greater Manchester Police:

- PC Martin Thorley, Police Licensing Officer, Greater Manchester Police

Licence Holder:

- Mark Knibbs, Area Manager, Hawthorne Leisure Limited
- Matthew Gurney, Operations Director, Hawthorne Leisure Limited

The Sub-Committee heard from/asked questions of:

Mr Mike Robinson, Regulatory Services Manager, Tameside MBC

Mr Robinson presented the report to the Panel. Additional information relating to the licensing history of the premises was referred to.

PC Martin Thorley, Police Licensing Officer Greater Manchester Police

PC Thorley presented the case for Greater Manchester Police.

A Certificate pursuant to s53A(1)(b) has been submitted to the Licensing Authority signed by Superintendent Jane Higham and dated 15 July 2020.

The Police submitted evidence of a serious crime having been committed at the premises on 13 July 2020.

At approximately 1630hrs on Monday 13th July 2020 an altercation occurred inside The Owd Joss, 81 Market Street, Hyde, between a male and another customer. The male offender was seen to punch the victim once to the face causing him to fall to the floor and lose consciousness. Whilst he lay unconscious on the floor the offender is seen to stamp on the head of the victim. Other customers stood by whilst this assault took place.

The offender was then seen to threaten customers and staff that "no-one needs talk about this and not to tell the police nothing" and that if calls are made to the Police he "will be back to tear the pub up and burn the pub down".

One 999 call was made to North West Ambulance Service informing them of the assault taking place. As a result of this call the Ambulance Service informed Police at 1644hrs that the Ambulance required assistance and that a 25 year old male was not conscious but was breathing. His injuries were unknown and the offender was believed to still be on scene.

Police Officers made their way to the premises during which time the offender to the assault fled the premises, having made threats to witnesses and staff.

Upon Police Officers arriving at the scene the victim was identified as a person who is currently banned from participating Pub Watch premises in Tameside until 09/07/23. There is a condition of the Premises Licence of the Owd Joss that the DPS will be a member of the Local Pub Watch. The DPS and /or staff have not attended any meeting and have refused to engage with Pub Watch.

The attending Police Officers approached and spoke with the lone member of bar staff and immediately formed the opinion that the staff member was extremely intoxicated, argumentative and obstructive. The member of staff was later sent home from duty and informed if she turned up for work after drinking any alcohol again, she would be dismissed immediately.

Requests were made by attending Police Officers to view the Covid 19 track and trace records for the premises in an attempt to identify the offender. There were no records at all in relation to any attending customer from opening until the Police attending.

The victim of this assault is believed to still remain in hospital and is being treated for his injuries. The victim refused to cooperate with Police and would not assist with any enquiries. Officers have viewed the footage of the CCTV at the premises which shows the assault taking place.

This investigation is currently in its infancy and police enquiries are continuing to trace a suspect for this serious incident. The offender is known to Police and has previously been linked to organised criminality. There is little doubt that the incident inside the premises is a serious assault resulting in potentially serious injuries.

There is a concern over the management of the premises and their capability to run a safe venue for members of the public to visit. The pub has failed to comply with guidelines in relation to Covid 19 and failed to safeguard the customers which lead to this assault taking place. The threats by the offender also make the premises vulnerable if it was to remain open.

There is an additional concern that the premises will become a focal point for repercussions and reprisals giving rise to further incidents of serious crime and disorder and putting the safety of members of the public at risk.

The incident of serious crime which occurred is a section 18 Assault - GBH and the Police are satisfied that the conduct constitutes an offence for which a person aged 21 years of age or over with no previous convictions could reasonably be expected to be sentenced to imprisonment for 3 or more years as per section 81(3) Regulation of Investigatory Powers Act 2000 (RIPA 2000).

The Police have considered all powers available under the Licensing Act 2003 and feel that:

- A Closure Order under Section 160 of the Act is inappropriate due to the limited 24hr closure not being sufficient to protect the public.
- Section 161 of the Act is inappropriate as further action is deemed necessary in order to promote the licensing objectives and a 24 hour closure would not be sufficient.
- Section 51 of the Act, in addition to the above, is inappropriate due to the incident of serious crime and my immediate concerns over the welfare and safety of members of the public and patrons attending or in the vicinity of the premises. The standard review provisions are insufficient presently as immediate action is required with a full review within 28 days to deal with all concerns for the premises.

The Police submitted that the powers contained under Section 53A of the Licensing Act 2003 are appropriate to be exercised, due to the above previously mentioned powers being inappropriate for the purposes of this review. There are real, serious and immediate concerns for the safety of members of the public and patrons visiting the premises.

In the interim, Greater Manchester Police, whilst noting the voluntary actions taken by the licence holder, requested that the Licensing Authority consider suspension of the premises licence until the full review is heard before the Panel.

Licence Holder

The following submissions were made by Mr Knibbs and Mr Gurney on behalf of the Licence Holder:

Covid – 19 measures had been set up across all their licensed premises. This included additional staffing. There was an acknowledgement that a minimum 2 members were required in the premises during operating hours. Other measures included the restriction of activities in the premises including sports/entertainment/tv etc.

Track and trace for Covid 19 was in place at the premises although it was accepted that there was a reduced level of compliance up to 13/7/20

The premises were not connected to gang related crime.

Due to the non-engagement of the DPS in Pubwatch scheme and the acceptance that the member of staff on duty at the time of the incident on 13/7/20 was intoxicated, the Licence holder had removed/dismissed the DPS. Steps were now being taken to replace a suitable replacement. Mr Knibbs was relatively new to his role and would be responsible for finding a suitable DPS for the premises and would work with the police in this regard.

The premises had been voluntarily closed and will remain closed pending a new DPS being appointed.

The Licence Holder will also work with licensing/GMP regarding possible additional conditions that might be imposed as part of a review of the licence.

The Licence holder submits that it is not necessary in the circumstances for a formal suspension to be imposed particularly given the recent Covid related closure.

DECISION/REASONS

In determining this matter, the Panel took into account all oral and written evidence, and also considered 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 (including the specific Guidance issued in relation to s53A), and the licensing objectives.

The Panel was satisfied that there was clear evidence that there had been a violent incident (1x offence- s18 Offences Against the Person Act 1861) on the premises which resulted in injuries being sustained by the victim. The Panel was satisfied that the incident on 13 July 2020 constituted a serious crime for the purposes of s53A.

The Panel welcomed the voluntary steps taken by the Licence Holder, namely, removal of the DPS and voluntary closure of the premises pending the appointment of a new DPS.

However, having regard to the circumstances of the incident and the continuing threat the Panel considered that it was necessary, in order to promote the crime and disorder objective, to take an interim step pending determination of a review of the premises licence.

The Panel considered all available options and concluded that the appropriate and proportionate interim step in this matter was that the premises licence be suspended pending a review of the premises licence (to be within 28 days after the day of receipt of the s53A application).

And that the suspension should take effect immediately and remain in force until the determination of the review (and the outcome of any appeal in relation to the review decision)

NOTE:

For the purposes of section 53B(5)(b) of the Licensing Act 2003 immediate notice of this decision was given orally to all parties at the hearing (with a written decision with reasons to follow).

The premises licence holder was advised of its continuing right to make representations against the interim steps.

Yours faithfully,



Carolyn Eaton
Principal Democratic Services Officer

PC Thorley, GMP
Mike Robinson, Regulatory Services Manager, Tameside MBC
David Joy, Solicitor, Tameside MBC