

SPEAKERS PANEL (LIQUOR LICENSING)

23 July 2020

Commenced: 10:00am

Terminated: 5.25pm

Present: Councillors Sweeton (Chair), Bowden (Deputy Chair) and Welsh

In Attendance:

Present for Top End Bar, Ashton-under-Lyne	John Gregory Mike Robinson Margaret Warner James Mallion PC Thorley Tony Dales Anita Mistry-Jones Sanjay Mistry Nigel Thompson Simon Neild Gareth Fawcett	Head of Community Safety and Homelessness Regulatory Services Manager Legal Representative Consultant Public Health Greater Manchester Police Licensing Consultant Premises Licence Holder and Designated Premises Supervisor Brother of Anita Mistry-Jones Witness Witness Provider of supporting information
Present for the Billy Goat Public House, Mossley	John Gregory Mike Robinson Margaret Warner James Mallion PC Thorley PC Dench Victor Bowers Kathleen O'Neill	Head of Community Safety and Homelessness Regulatory Services Manager Legal Representative Consultant Public Health Greater Manchester Police Greater Manchester Police Premises Licence Holder Designated Premises Supervisor

1. DECLARATIONS OF INTEREST

There were no declarations of interest.

2. MINUTES

The Minutes of the proceedings of the previous meeting held on 25 February 2020, having been circulated were signed by the Chair as a correct record.

3. APPLICATION FOR A REVIEW OF A PREMISES LICENCE – TOP END BAR, 132-134 STAMFORD STREET CENTRAL, ASHTON-UNDER-LYNE OL6 6AD

Consideration was given to an application for a review of premises licence at the Top End Bar, 132-134 Stamford Street Central, Ashton-under-Lyne, OL6 6AD.

The Head of Community Safety and Homelessness outlined the procedure and the steps which could be utilised by the Speakers Panel (Liquor Licensing) in determining the application, the options available to the Panel were as set out in Section 18(4) of the Licensing Act 2003, namely:

- (a) To modify the conditions of the licence

- (b) To exclude a licensable activity from the scope of the licence
- (c) To remove the designated premises supervisor
- (d) To revoke the licence

The Regulatory Services Manager informed the Panel that the Top End Bar, 132-134 Stamford Street Central, Ashton-under-Lyne, had held a premises licence with Tameside MBC since 26 August 2008, and that Anita Mistry Jones, had been the Premises Licence Holder since 10 May 2019 and Designated Premises Supervisor since 28 April 2015.

It was reported that, on 20 March 2020, the Prime Minister announced that all pubs, bars, restaurants, and other specified premises, must close down in an effort to suppress the coronavirus outbreak. The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020, came into force at 14:00 hours on 21 March 2020. These regulations provided the Council with the necessary enforcement powers to ensure the closure of the specified premises.

On 3 April 2020, whilst carrying out checks that licensed premises were complying with the regulations, Greater Manchester Police and the Council's Licensing Department visited Top End Bar. At the time of the visit Mr Mistry, was present at the premises in the company of two members of the public. At the time of the visit, the front door of the premises was unlocked and appeared to be open for business. There were pint glasses on the bar and an open bottle of cider.

The CCTV was subsequently reviewed and showed that the premises were open and alcohol was being consumed, a direct breach of The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020.

The Regulatory Services Manager added that the Licensing Department had received 11 emails from members of the public in support of the premises. These letters had been circulated with the document pack for the meeting.

PC Thorley, Greater Manchester Police, then addressed the Panel and gave details of the visit to the Top End Bar on 3 April 2020, as above, when he accompanied Mr Robinson.

The Panel then determined that under Section 12A of the Local Government Act 1972 (as amended) the public be excluded for the next part of the meeting on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 1, 2 and 3 of Part 1 of Schedule 12A of the Act and in the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the information, because disclosure of the personal information contained would not be fair to any of the representatives and therefore be in breach of Data Protection principles.

PC Thorley then displayed CCTV footage from cameras inside the Top End Bar on 3 April 2020. The footage evidenced the activity inside the pub as described by Mr Robinson and PC Thorley.

Mr Mallion, Consultant Public Health, also addressed the Panel and made reference to the Health Protection Regulations which came into effect on 21 March 2020 specifically requiring the closure of restaurants, cafes, bars and public houses. The rationale for this was to reduce the overall mixing of people in the community; and to avoid people gathering in enclosed indoor spaces where there may be a high risk of transmission of Covid-19, due to the transmission routes from respiratory droplets and other contact.

He explained that, during the period in question (late March – early April 2020), the R number for Covid-19 was estimated to be between 2 and 3. So for every person with the virus, 2 to 3 others were infected. In comparison, now that more protective measures were in place, which the majority have adhered to, the R number had reduced to an estimated 0.7-1.0 in the North West. During the time in question in early April, some of the protective measures that were now in place to reduce the risk of further spread, and reduce the R number, were not yet implemented including 'covid-safe' measures in public spaces, the wider use of face coverings (e.g. on public transport), the national

Test & Trace system and the Local Authority Outbreak Management plan. Due to the high R number of Covid-19 it was known that one infected person could pass this on to others, resulting in up to 400 further people being infected after 30 days, from a single case.

The Panel was informed that there was evidence of substantial asymptomatic spread which meant people who were infected were able to pass the virus on before their symptoms actually started; and therefore before they were aware they had it. Evidence from the World Health Organisation also suggested that large numbers of small outbreaks of Covid-19 that had been identified, had been linked to crowded indoor spaces.

In terms of the actual numbers in Tameside, it was noted that at start of April, the rate of infection was high with much higher levels of Covid-19 circulating in the population than was seen presently. During the 7 days leading up to Friday 3 April 2020, 94 people tested positive for Covid-19 in Tameside.

It was further explained that during early April, there was a much lower rate of testing taking place than there was now, with only the most severely ill patients who were admitted to hospital being routinely tested, so that figure of 94 was likely to only represent a small proportion of the actual number of people who were infected in Tameside at the time.

Mr Dales, Licensing Consultant, then addressed the Panel. Ms Mistry-Jones, Mr Mistry, Mr Thompson, Mr Neild and Mr Fawcett also addressed the Panel.

All parties were then afforded the opportunity to ask questions in relation to the representations made.

All parties were invited to provide a brief statement in summary.

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

The Panel took very seriously the concerns raised by the Licensing Authority, Greater Manchester Police and the Public Health Consultant.

In determining the application, the Panel had regard to relevant statute and both national guidance and the Council's own policy. The Panel were satisfied on the evidence provided that there was a breach of the Health Protection Regulations that came into force on 21 March 2020, as the Top End Bar was open on 3 April 2020. The law required draconian steps that non-essential premises were to close fully and licence premises needed to comply fully, particularly given the world wide pandemic. The Panel has a duty to promote the licensing objectives. The licensing objectives that were undermined were: Crime and Disorder (failure to comply with the legal requirement to close the premises) a breach of which is a criminal offence; Public (community safety) prevention and control of a virus at a potentially fatal virus in a pandemic); and nuisance (failure to close and risking the spread of the potentially fatal virus).

The Panel directed that the appropriate and proportionate way to deal with these incidents that had occurred was the modification of conditions of the licence and implementation of the following Licensing Conditions:

RESOLVED

- (i) **That, given the serious nature of the incidents detailed and viewed at the hearing, a period of suspension of 3 months was required, given the seriousness of the breach of the regulations; and**
- (ii) **That Sanjay Mistry be banned from the premises, with immediate effect and should have no further involvement and/or management of the premises.**

4. APPLICATION FOR A REVIEW OF A PREMISES LICENCE – THE BILLY GOAT PUBLIC HOUSE, 71 STAMFORD STREET, MOSSLEY. OL5 0JS.

Consideration was given to an application for a review of premises licence at the Billy Goat Public House, 71 Stamford Street, Mossley. OL5 0JS.

The Head of Community Safety and Homelessness outlined the procedure and the steps which could be utilised by the Speakers Panel (Liquor Licensing) in determining the application, the options available to the Panel were as set out in Section 18(4) of the Licensing Act 2003, namely:

- (a) To modify the conditions of the licence
- (b) To exclude a licensable activity from the scope of the licence
- (c) To remove the designated premises supervisor
- (d) To revoke the licence

The Regulatory Services Manager, Mr Robinson, informed the Panel that The Billy Goat Public House, 71 Stamford Street, Mossley, had held a premises licence with Tameside MBC since the inception of the Licensing Act 2003, and that Kathleen O'Neill, the Designated Premises Supervisor (DPS), had been in place at the premises since the 25 March 2013.

It was reported that, on 20 March 2020, the Prime Minister announced that all pubs, bars, restaurants, and other specified premises, must close down in an effort to suppress the coronavirus outbreak. The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020, came into force at 14:00 hours on 21 March 2020. These regulations provided the Council with the necessary enforcement powers to ensure the closure of the specified premises.

Mr Robinson explained that at 14:30 hours on 21 March 2020, Greater Manchester Police attended the Billy Goat and observed that the premises were open and trading, although the front door of the premises was locked, entry could be gained using the back door. When the Police arrived there were approximately 30 customers inside.

The DPS was told by the Police Officers to get the customers out of the pub and close the premises. However, the CCTV in the premises recorded that once the Police Officers had left, the DPS began serving again. The Police returned after 25 minutes and the pub was still full of customers. As a Police car pulled into the car park customers began to leave. The Police Officers entered the pub and ensured that all customers left, however, the family of the DPS remained on the premises. The CCTV records that once the Police left for the second time, the DPS began to serve more drinks to those people left on the premises

The CCTV shows that the premises was open from 12:08 on 21 March 2020, as customers entered the premises via the back door. The CCTV clearly shows customers paying for drinks between 12:08 and 15:00 when the Police leave for the second time.

Mr Robinson further explained that it is a condition of the premises licence that CCTV should be provided to a representative of a Responsible Authority immediately upon request. The Police requested CCTV on 3 separate occasions, before eventually seizing the hard-drive following failure to provide the requested footage.

The Police received a further complaint from a member of the public that the premises were open and trading on 25 March 2020. Following a review of the CCTV footage, there was no evidence to suggest that any payment was received for drinks and according to the premises licence holder, the alcohol was consumed by occupants of the Billy Goat.

On 16 June 2020, Mr Robinson, on behalf of the Licensing Authority, submitted an application to review the premises licence. The review was served on the grounds that the licensing objectives, namely Prevention of Crime and Disorder, Public Safety and Prevention of Public Nuisance, had been seriously undermined.

The Panel was informed that the Licensing Department had received historic complaints regarding disorder and antisocial behaviour associated with the premises. Following an incident which occurred on 31 March 2019 and required Police attendance, representatives from Licensing met with the premises licence holder in April 2019. Licensing Officers worked with the premises licence holder to agree conditions and reduce the licensable hours to ensure the licensing objectives were being promoted. A minor variation application was received on 10 May 2019 to attach the agreed conditions.

The Regulatory Services Manager added that the Licensing Department had received 24 letters from members of the public in support of the premises. These letters had been circulated with the document pack for the meeting.

PC Dench, Greater Manchester Police, then addressed the Panel and explained the events of 21 March 2020, when he had attended at the Billy Goat Public House, as outlined by Mr Robinson.

The Panel then determined that under Schedule 12A of the Local Government Act 1972 (as amended) the public be excluded for the next part of the meeting on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 1, 2 and 3 of Part 1 of Schedule 12A of the Act and in the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the information, because disclosure of the personal information contained would not be fair to any of the representatives and therefore be in breach of Data Protection principles.

PC Thorley and PC Dench then displayed CCTV footage from cameras inside and outside of the premises. The footage evidenced the activity inside and outside of the pub as described by Mr Robinson and PC Dench.

Mr Mallion, Consultant Public Health, also addressed the Panel and made reference to the Health Protection Regulations which came into effect on 21 March 2020 specifically requiring the closure of restaurants, cafes, bars and public houses. The rationale for this was to reduce the overall mixing of people in the community; and to avoid people gathering in enclosed indoor spaces where there may be a high risk of transmission of Covid-19, due to the transmission routes from respiratory droplets and other contact.

He explained that, during the period in question (late March 2020), some of the protective measures that were now in place to reduce the risk of further spread, and reduce the R number, were not yet implemented including 'covid-safe' measures in public spaces, the wider use of face coverings (e.g. on public transport), the national Test & Trace system and the Local Authority Outbreak Management plan. Due to the high R number of Covid-19 it was known that one infected person could pass this on to others, resulting in up to 400 further people being infected after 30 days, from a single case.

The Panel was informed that there was evidence of substantial asymptomatic spread which meant people who were infected were able to pass the virus on before their symptoms actually started; and therefore before they were aware they had it. Evidence from the World Health Organisation also suggested that large numbers of small outbreaks of Covid-19 that had been identified, had been linked to crowded indoor spaces. In the circumstances around this review, the fact that it was reported there were around 30 people on the premises on 21 March 2020 in a relatively small space suggested that there would be a large degree of close contact and risk of transmission.

In terms of the actual numbers in Tameside, it was noted that during the time in question, late March 2020, the rate of infection was high with much higher levels of Covid-19 circulating in the population than was seen presently. During the 7 days leading up to Friday 27 March 2020, 40 people tested positive for Covid-19 in Tameside. This compared to 18 people who tested positive during the 7 days leading up to Friday 10 July 2020. It was noted that during late March, only a relatively small number of tests were being conducted in the hospital on those patients who were severely ill with Covid-19 symptoms. Therefore this number likely reflected only a small proportion of the actual rate

of infection at the time. As the number of tests being done, and the infection rate increased, these numbers continued to rise to 94 people testing positive in the 7 days up to Friday 3 April and a peak of 178 people testing positive in the 7 days up to Friday 22 May 2020.

Mr Bowers, Premises Licence Holder, then addressed the Panel. Ms O'Neill, Designated Premises Supervisor also addressed the Panel.

All parties were then afforded the opportunity to ask questions in relation to the representations made.

All parties were invited to provide a brief statement in summary.

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

The Panel took very seriously the concerns raised by the Licensing Authority, Greater Manchester Police and the Public Health Consultant.

In determining the application, the Panel had regard to relevant statute and both national guidance and the Council's own policy. The panel was satisfied, on the evidence provided, that there was a serious and flagrant breach of the Health Protection Regulations that came into force on 21 March 2020, as the Billy Goat Bar, was open, and trading at the time to a group of approximately 30 people within an enclosed licensed premises. The law required draconian steps that non-essential premises were to close fully and licence premises needed to comply fully, particularly given the world wide pandemic. The Panel has a duty to promote the licensing objectives. The licensing objectives that were undermined were: Crime and Disorder (failure to comply with the legal requirement to close the premises) a breach of which is a criminal offence; Public (community safety) prevention and control of a virus at a potentially fatal virus in a pandemic); and nuisance (failure to close and risking the spread of the potentially fatal virus).

The Panel were of the view that, given the serious nature of the incidents detailed and the history of issues at the premises, you were not able to provide the Panel with the necessary assurances that you could operate the premises in a way which complied with the licensing legislation or which promote the licensing objectives. Therefore it was:

RESOLVED

That the licence is revoked.