

LICENSING SUB-COMMITTEE

MEETING, 25TH AUGUST, 2021

Present – Councillors Dean, Galloway and Grant

Supporting the Review of the Premises Licence

Mr S. Morris - Licensing Enforcement Officer, Bolton Council

Objecting to the Review of the Premises Licence

Mr C. Grunert – Solicitor - John Gaunt and Partners – Representing Trust Inns

Mr P Lysaght – Licence Holder - Trust Inns

Representatives in Support of the Premises Licence

Mr G. Kirby – General Manager – Unity Brook Inn

Councillor Heslop – Kearsley Ward Councillor

Mr P. Haworth – The Unity Kitchen

Mr Kopicki – Watch Manager - Greater Manchester Fire and Rescue Service, North Division

Also in Attendance

Ms P. Clyne – Principal Licensing Officer, Bolton Council

Ms L. Timmins – Senior Licensing Officer, Bolton Council

Mr M. Hope – Legal Advisor – Bolton Council

Mrs S. Bailey – Principal Democratic Services Officer, Bolton Council

Councillor Dean in the Chair.

1. APPLICATION FOR A REVIEW OF THE PREMISES LICENCE – UNITY BROOK INN, 452-454 MANCHESTER ROAD, KEARSLEY, BOLTON

The Director of Place submitted a report which provided details of an application to review the Premises Licence in respect of premises known as the Unity Brook Inn, 452-454 Manchester Road, Kearsley pursuant to the provisions of the Licensing Act, 2003.

The review had been brought by the Council's Licensing Enforcement Unit under the Licensing Objectives of the Prevention of Crime and Disorder and Public Safety following an incident on 6th November, 2020 where the premises had been open and had continued to operate as a licensed premises in breach of the Covid-19 restrictions in place at the time.

The report outlined the nature of the breach and advised that officers from Greater Manchester Police had attended the premises on 6th November 2020 in response to reports of people drinking inside. They had noted that the premises was open and operating as a public house by providing drink for consumption on the premises.

The matter had been reported to the Council's Licensing Enforcement Unit and a Fixed Penalty Notice had subsequently been issued on 16th November, 2020 to Mr Kirby for the offence. An appeal had been lodged against the Notice which had been dismissed.

The application stated that the breach had put the welfare of staff, customers, attending police, Council officers and the wider members of the public in danger of contracting a potentially fatal illness at a time when the UK had been placed into 'Stay at Home' measures and that the manner in which the premises had been managed by allowing people to drink on the premises in breach of the Government restrictions, fell short of what was expected for a licensee in promoting the Licensing Objectives.

A copy of the review application was attached to the report at Appendix 1.

No further representations from responsible authorities had been received.

A letter and supporting documentation had been received from Mr Kirby, copies of which were attached to the report at Appendix 2.

Since publication of the review notices, six representations of support had been received by the Licensing Unit, five from members of the public and one from a Ward Councillor. Copies were attached to the report at Appendix 3.

At this juncture, the Sub-Committee agreed that, prior to the submission of representations by the applicant and objector and, due to the nature of the evidence to be discussed and the bodycam footage, the remainder of the proceedings should be dealt with in the absence of the press and public.

2. EXCLUSION OF PRESS AND PUBLIC

Resolved – That, under Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, the public be excluded from the meeting for the following item of business on the grounds that the public interest in doing so outweighs the public interest in the hearing taking place in public.

3. APPLICATION FOR A REVIEW OF THE PREMISES LICENCE – UNITY BROOK INN, 452-454 MANCHESTER ROAD, KEARSLEY, BOLTON

Mr S. Morris from the Licensing Enforcement Unit attended the meeting and provided further details on the application to review the Licence. He stated that the premises had shown disregard for the Covid-19 regulations in place at the time and that the actions of Mr Kirby had put the public and officers carrying out their enforcement duties, at serious risk.

As part of his submission, police body cam footage of the incident was played to the Sub-Committee.

Mr Grunert attended the meeting and put forward representations on behalf of Trust Inns, the Licence Holder. He stated that Trust Inns owned the building and that Mr Kirby had been a tenant of the premises for the last nine years, without incident. The public house was well managed, had gained a good reputation and was valued by the community. Notwithstanding this, the Licence Holder had taken the breach of Covid regulations on 6th November, 2020 very seriously and had issued Mr Kirby with a Final Written Warning. Any further issues could result in his tenancy being removed. It was acknowledged that he had been fully briefed on the regulations in place at the time and that he should have known better than to supply alcohol for consumption on the premises. It was noted that he had not taken any money for it.

The Licence Holder had been working closely with Mr Kirby since the incident to ensure he was fully compliant with all subsequent Covid guidance. They believed that he had acknowledged his mistake and that this was an isolated incident that would not be repeated. He had realised that his actions could have compromised public safety and had recently paid the Fixed Penalty Notice.

Mr G. Kirby attended the meeting and put forward his submissions regarding the review. He expressed his sincere apologies and regret for his actions and acknowledged that he had breached the Covid regulations in place at the time. He realised he had made a mistake and that he had been irresponsible. He had been the tenant at the public house for nine years and had never had any issues prior to this and felt that he had let himself and others down. He explained that he was the manager of the premises and that he lived in the accommodation above. He had taken on additional jobs during the lockdown and the two other people in the bar when the Police had attended had been work colleagues. He hadn't realised at the time that he was breaching the regulations by serving them a drink and admitted that he should have known better. He had just finished work and was still in his work clothes when the Police attended the premises and he had initially panicked. The till was open and it was clear that no money had been taken for the drinks. He had informed the Licence Holder of the breach and had been issued with a Final Written Warning by them for his actions. He stated that he had recently paid the Fixed Penalty Notice and was working closely with Trust Inns since the incident to ensure that the premises were fully compliant with the Covid regulations as an example of good practice going forward. He assured the Sub-Committee that this was an isolated incident that would not happen again.

Councillor Heslop, Ward Councillor for Kearsley, attended the meeting to support the premises. He stated that the public house was the hub of the community and a great asset to the local residents with its fund-raising events and community spirit, particularly during lockdown. He confirmed that during the times he had attended the premises, the use of safety precautions and the wearing of masks was adhered to.

Mr P. Howarth, Unity Kitchen, attended the meeting and outlined his support for the premises. He was currently sub-letting the kitchen at the premises and was reliant on it for his livelihood. He also outlined the good work that the premises did for the

community including the provision of free meals to those in need and support to local residents, especially during lockdown.

The Sub-Committee also took account of two other letters of support that had been received including one from Mr S. Tonge, Kearsley Mount Methodist Church, who referred to the community initiatives that the premises organised and were valued by the people in the area, and one from Mr Kopicki, Watch Manager for Greater Manchester Fire and Rescue Service, North Division, who also supported the community work that Mr Kirby undertook and the many fund raising activities that he organised.

Decision

The Sub-Committee gave careful consideration to all the representations, evidence and submissions relating to the review.

In coming to its decision, the Sub-Committee took account of guidance relating to HM Government's Licensing Act 2003. The Sub-Committee specifically bore in mind the Licensing Objectives of the Prevention of Crime and Disorder and Public Safety and took account of Bolton Council's Licensing Policy and the Guidance published by the Secretary of State under Section 182 of the 2003 Act and the non-statutory guidance issued in respect of this type of application.

Resolved – That, in respect of the review of the Premises Licence at the Unity Brook Inn, 452-454 Manchester Road, Kearsley, no further action be taken.