

LICENSING SUB-COMMITTEE

MEETING, 29TH JULY, 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

Ms S. Banks - Licence Holder (Hawthorns)

Mr P. Warne - TLT Solicitors

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 – WAGGON AND HORSES PUBLIC HOUSE, 170 CHORLEY ROAD, WESTHOUGHTON, 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 Waggon and Horses Public House, 170 Chorley Road, Westhoughton 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 23rd November, 2020 where the premises had continued to provide alcohol on the 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 23rd November 2020 in response to reports of people drinking inside. Officers observed through the window that there were three people inside, two of who were seen to be seated at a table with alcoholic drinks in front of them and Mr McNamara. The officers then observed one of the men moving towards the rear of the premises.

The front entrance to the premises was locked and officers had gained entry to the premises via the back doors. They spoke to Mr McNamara who was in charge of the premises at the time. He claimed that there had only been one other person with him in the bar area and that he had been undertaking some manual work for him and had now left. Following a search of the premises, the Police found one male hiding in the toilet. On being questioned, Mr McNamara admitted that he had served alcohol to the two males and that it had been consumed on the premises but that he had not charged them.

A Fixed Penalty Notice had subsequently been issued to Mr McNamara for the offence which he had appealed. The appeal had been dismissed and the Penalty Notice remained unpaid and was now the subject of judicial proceedings.

The report further stated that prior to the breach, Licensing Officers had visited the premises on 20th November, 2020 in response to complaints received from concerned members of the public that people were being permitted to drink in the premises in breach of the Government 'Stay at Home' restrictions. Officers had spoken to Mr McNamara who had been managing the premises at the time and who was also the tenant and reminded him of the need to adhere to the restrictions.

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.

Mr S. Morris from the Licensing Enforcement Unit attended the meeting and provided further details on the application to review. He stated that the premises had shown disregard for the Covid regulations in place at the time, despite Mr McNamara being reminded of them only 3 days before the incident. His actions 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. Three still photographs had also been extracted from the footage and were also submitted.

Mr P. Warne, TLT Solicitors, attended the meeting and made representations on behalf of the Licence Holder. He stated that the Licence Holder had not been notified of the breach by the Licensing Unit or the tenant and had been unaware of the circumstances leading up to it and the issue of a Fixed Penalty Notice to Mr McNamara. The matter had only been brought to their attention when the application to review the licence had been served. Had they been notified earlier, action could have been taken sooner to address the problem.

Mr Warne advised that for various reasons, including the Covid breach, Mr McNamara had been removed from the Tenancy and had left the premises on 28th

June, 2021. New tenants had been identified and were waiting to take over the management pending the outcome of this review.

Ms S. Banks also attended the meeting and made representations on behalf of the Licence Holder, Hawthorn. She explained that Mr McNamara had been fully briefed on the Covid regulations in place at the time but had chosen to breach them. He had also broken the conditions of the Tenancy agreement by not informing the Licence Holder of the matter. Mr McNamara had since left the business on 28th June, 2021 and was no longer the Tenant.

Ms Banks also stated that the premises was currently closed and had been secured although it was suffering from vandalism and squatting. Repairs were being undertaken and rubbish removed with a view to re-opening with a new partner. Discussions with an experienced publican were taking place who was keen to take on the premises and bring it back as a community led local public house, with food offer. It was anticipated that the premises would be ready to re-open at the end of August, 2021.

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 Waggon and Horse Public House, 170 Chorley Road, Westhoughton, Bolton, no further action be taken.