

REGULATORY COMMITTEE

At a meeting of the Regulatory Committee on Tuesday, 18 August 2015 in the Civic Suite, Town Hall, Runcorn

Present: Councillors K. Loftus (Chairman), Wallace (Vice-Chairman), Fry, P. Hignett, Howard, A. Lowe, McDermott, Nelson, G. Stockton and Wall

Apologies for Absence: Councillor Lea

Absence declared on Council business: None

Officers present: K. Cleary and J. Tully

Also in attendance: Ian Seville and Paul Draycott, Police Licensing Officers, Bill Seabury, Alcohol Licensing Enforcement Officer, Anthony Horne, Licensing Legal, John Farnan and Estelle Hall.

ITEMS DEALT WITH UNDER DUTIES EXERCISABLE BY THE COMMITTEE

Action

REG22 MINUTES

The Minutes of the meeting held on 17 June 2015 having been circulated were signed as a correct record.

REG23 REVIEW OF PREMISES LICENCE

An application ("the application") had been made by the Chief Officer of Police Cheshire Constabulary for the summary review of the premises licence at the Pulse Bar, 98 Victoria Road, Widnes, under section 53A of the Act (premises associated with serious crime). The application was received by the Council on 24 July 2015.

An interim steps consideration took place under Section 53A(2)(a) and Section 53B of the Act on 28 July 2015 before a Sub Committee of the Regulatory Committee comprising Cllrs Wallace, A Lowe and Wall. At that consideration the Police were represented by Ian Seville, Police Licensing Officer and Paul Draycott, Police Licensing Officer. The Premises Licence Holder, Pulse Bar Limited, was represented by Anthony Horne of Licensing Legal who was accompanied by Tom Farnan and John Farnan, representatives of Pulse Bar Limited.

Having heard representations from both parties the Sub-Committee resolved that:-

The Premises Licence be suspended with immediate effect.

The Council's reasons for making that decision were:

- The Council accepted the view of the Police that the premises were associated with serious crime in that evidence had been provided as detailed in Section 4 of the Police application;
- The interim steps referred to in Section 53B(3),(a),(b) and (c) were inappropriate to take in this matter;
- The interim step referred to in Section 53B (3)(d) was required and shall take effect immediately. As a result the premises licence for the venue shall be suspended immediately;
- This interim step was required in the interests of the licensing objective of prevention of crime and disorder;
- The Sub Committee of the Regulatory Committee expressed grave concerns in relation to the operation of an ineffective door management policy by the Licence Holder. It was also felt that there was poor management of the premises and general unawareness / non availability of the appointed Designated Premises Supervisor;
- The interim step would remain in force until the whole of the review process was completed.

Representations made in advance of the hearing

The licensing authority was under a duty to hold a hearing to consider the application and any relevant representations.

No relevant representations were received by the licensing authority prior to the hearing within the meaning of Section 53C of the Act. However, documents in support of the application and in support of representations to be made at the hearing by the parties were submitted.

The application comprised pages 1 to 9 of the bundle used at the hearing.

Five days prior to the hearing, the licensing authority

received from the Police the documents comprising pages 10 to 16 of the bundle.

Five days prior to the hearing, the licensing authority received two documents on behalf of the Premises Licence Holder. These were contained at pages 17 to 20 of the bundle used at the hearing. These were details of a security company and details of a potential designated premises supervisor.

On the evening of 17 August 2015 the licensing authority was emailed two documents on behalf of the Premises Licence Holder. One was a duplicate of pages 19 and 20 of the bundle and the other contained details of a second security company. This was added as document 21 to the bundle.

In the afternoon of 18 August 2015 the licensing authority was emailed four further documents on behalf of the Premises Licence Holder. This was too late to inform Members in advance and they were shown to the Members at the hearing. These were added to the bundle as documents 22 to 25.

The hearing

In accordance with Sections 53A (2)(b) and 53C of the Act, the review hearing was held on 18 August 2015 before the Council's Regulatory Committee in the Council Chamber, Runcorn Town Hall commencing at 6.30 p.m.

Ian Seville represented Cheshire Police and Pulse Bar Limited (Premises Licence Holder) was represented by Anthony Horne of Licensing Legal who was accompanied by John Farnan and Estelle Hall as representatives of Pulse Bar Limited.

The Chairman, Councillor Kath Loftus, introduced the Committee Members and the Officers present. The Council's Legal Officer, John Tully, then introduced the representatives of the parties, outlined the procedure to be followed and the order of speaking. He then summarised the background to the application and the purpose of the hearing as set out at Section 53C(2) of the Act.

Mr Seville, put forward the Police case in support of the application and Mr Horne put forward the case on behalf of the Premises Licence Holder. Mr Horne also asked Mrs Hall to provide further information.

The Committee asked a number of questions of the parties.

Prior to retiring to consider the matter, Mr Horne was asked to clarify his position regards bundle document page 22. This related to Section 53B(6) of the Act. Depending on the outcome of the review hearing Mr Horne had indicated that he would pursue representations against the interim step imposed on 28 July 2015, which would cause a hearing to be held into the continuance of the interim step. Having confirmed that this was the position Mr Tully referred to Section 53B(7), (8) and (9) with specific reference to the requirement for the licensing authority to give advance notice of such a hearing. Mr Horne and Mr Seville were asked if they accepted that they would agree to deeming that advance notice had been given and that the matter be further considered depending on the outcome of the review hearing. Mr Horne and Mr Seville confirmed that they agreed.

The Committee then retired to make its determination.

RESOLVED: That, having considered the application made by the Police and the case put forward by the Premises Licence Holder's legal representative (and having taken into account all other relevant considerations), the Committee resolved that the Premises Licence be revoked. This step was considered appropriate for the promotion of the following licensing objectives: the prevention of crime and disorder and the protection of children from harm.

Chief Executive

The interim step imposed on 28 July 2015 shall continue to apply until the coming into effect of the decision reached by the Regulatory Committee and shall then cease to have effect.

Reasons for the determination

1. The facts set out in the application and the rest of the bundle were accepted by the Committee;
2. There had been no real attempt by the Premises Licence Holder to try to resolve matters with the Police;
3. The recent proposed appointment of a new manager/designated premises supervisor and new security company was a wholly insufficient response to the application on the part of the Premises Licence Holder;
4. The Committee shared the serious concerns expressed by the Police in the application about the poor management of the premises by the Premises

Licence Holder;

5. The failure of the Premises Licence Holder to comply with the action plan agreed to with the Police on 25 June 2015 (Bundle pages 7 to 9) did not instil confidence that promises made at the hearing on behalf of the Premises Licence Holder would be kept;
6. No other steps would be appropriate; and
7. Even with the support of the Police (with specific reference to the action plan) the Premises Licence Holder could not manage the premises properly.

Following reading out of the determination and the reasons for the determination Mr Tully asked Mr Horne if he still wished to proceed with his application under section 53B(6) of the Act. Mr Horne confirmed that the application was withdrawn.

Time that the review decision shall take effect

This determination shall come into effect in accordance with section 53C(11) of the Licensing Act 2003, namely at the end of the period given for appealing against the decision or if the decision is appealed against, as soon as the appeal is disposed of.

Meeting ended at 8.57 p.m.