

## **MINUTES OF LICENSING SUB-COMMITTEE**

Tuesday, 20 April 2021  
(6:30 - 8:24 pm)

**Present:** Cllr Faraaz Shaukat (Chair), Cllr Peter Chand and Cllr Glenda Paddle

### **15. Declaration of Members' Interests**

There were no declarations of interest.

### **16. Private Business**

It was resolved to exclude the public and press for the remainder of the meeting by reason of the nature of the business to be discussed which included information exempt from publication by virtue of paragraphs 1, 2 and 7 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended).

### **17. Review Application (The Ship and Shovel, Ripple Road, Barking IG11 0SN)**

The Council's Licensing Officer, Ms Samena Baloch, presented a report in respect of an application made by the Metropolitan Police for a review of the premise licence in respect of the Ship and Shovel Public House, Ripple Road, Barking IG11 0SN, under the Licensing Objectives of 'the Prevention of Crime and Disorder', 'Public Safety' and 'the Protection of Children from Harm'.

The review had been requested as a consequence of the premises' Designated Premises Supervisor (DPS) hosting a party on the premises during the Covid-19 restrictions period. The Metropolitan Police also objected to an application to transfer the premises licence to Individual A, under the licensing objective of the 'Prevention of Crime and Disorder'.

The Licensing Officer outlined the background to the review and the reasons as to why it was before the Sub-Committee. Submissions were outlined by both the Police's legal representative and Counsel representing the Premises Licence Holder (PLH) on the agenda order, as a consequence of which it was agreed that item 6 (Review Application) should be heard before item 5 (Transfer Application) as, dependant on the outcome, the Metropolitan Police might decide to withdraw their objection to item 5.

The Sub-Committee then heard from both the Licensing Authority Responsible Authority Officer and the Police Legal representative, both submissions of which were set out in the published agenda.

Finally, the Sub-Committee heard from Counsel for the PLH and the DPS. Counsel stated that there appeared to be some confusion as to who was responsible for the various functions within the public house business. It was explained that Individual B owned the freehold, which should be considered akin to a pub chain, insofar as they held the premises licence, but that day-to-day management was carried out by the DPS. Individual C was the leaseholder, and the Ship and Shovel was their

business. The leaseholder deputised day-to-day running to the former DPS.

Whilst it was recognised that the party hosted by the former DPS was a breach of Covid-19 lockdown regulations, and that no excuse could be offered up, this was entirely due to the actions of the former DPS. Furthermore, the leaseholder had returned to Lithuania due to a family illness and was not aware nor should be held responsible for the former DPS' irresponsible actions.

It was accepted that, at the time, the former DPS had been disingenuous to the Metropolitan Police and that a child had been present, but it remained that the party was held without the knowledge or consent of either Individuals A, B or C.

Insofar as there had been history of previous action taken by the Sub-Committee on two occasions in relation to the Premises Licence and DPS, that action had related to a previous DPS who had subsequently been removed from the post and before the current leaseholder had taken over the lease.

It was repeated that the party was entirely the doing of the former DPS and that they had been subsequently removed and had no further involvement in the business. Individual A was proposed to be the new DPS, having previously been the bar manager since February 2020.

Insofar as there appeared to be confusion about who completed the application to appoint Individual A as the DPS, as set out in the Police submission, it was confirmed that they were fully aware that they were being appointed. As English was not their first language and the application had been completed on their behalf by a colleague, it would be wrong to refuse a licence for an administrative error.

The Sub-Committee then received corroboration of the events surrounding the transfer application from the Ship and Shovel's licensing consultant and was reminded by Counsel for the PLH that its decision should be fair and proportionate.

The Sub-Committee retired to consider its decision at 7.48pm and reconvened at 8:21pm.

## **Decision**

The Sub-Committee expressed concern over what appeared to be an ineffective management structure. The PLH was distant, with the business owner leaving the day-to-day running of the pub to the DPS. Whilst this could be viewed as an acceptable arrangement, this was the third time the premises had been before the Sub-Committee and the second time in consequence of acts or defaults by the DPS.

Having listened carefully to Counsel's submissions, the Sub-Committee remained unconvinced of the background of the application to make Individual A the DPS. There were concerns as to why the form was incorrectly completed, when considering that their colleague had been trusted to complete it on their behalf, as they had a better understanding of English. It noted that the Individual A was the bar manager, but that they had only inherited that role in February 2020. The venue had been closed due to Covid since March 2020 and this lack of management experience further concerned the Sub-Committee.

There was little before the Sub-Committee, in light of a serious Covid breach, to

evidence that there was a proper management structure in place. The Sub-Committee was also mindful of the guidance issued under the Licensing Act 2003, Subsection 11.22, that allowing a series of DPS in consequence of defaults was not an appropriate remedy.

Giving all the circumstances and considering the breach of Covid restrictions, the Sub-Committee **RESOLVED** to revoke the premises licence and, in doing so, refused the transfer of the premises licence application.

Parties were reminded that they had a right of appeal of the decision to the Magistrates Court within 21 days.