



To be submitted to the Council at its meeting on 29th July 2021

LICENSING SUB-COMMITTEE

9th April 2021 at 10.30 a.m.

Present:

Councillors Cairns, Green and Hasthorpe.

Officers in attendance:

- Rob Close (Scrutiny and Committee Support Officer)
- Adrian Moody (Licensing Manager and Environmental Protection Manager)
- Eve Richardson-Smith (Deputy Monitoring Officer)
- Kate Todd (Licensing Enforcement Officer)

Others in attendance:

- Lee Collins (Designated Premises Supervisor)
- Ian Lester (Hawthorn Leisure Community Pubs Ltd. – Premises Licence Holder)
- Andrew Petherbridge (Legal representative of Humberside Police)
- Gary Pullen (Former Premises Employee)
- Alison Saxby (Licensing Officer - Humberside Police)
- Piers Warne (TLT Solicitors – Legal Representative of the Premises Licence Holder and Designated Premises Supervisor)

LSC.14 APPOINTMENT OF CHAIR

Councillor Hasthorpe was appointed as Chair for this meeting.

COUNCILLOR HASTHORPE IN THE CHAIR

LSC.15 DECLARATIONS OF INTEREST

There were no declarations of interest received in respect of any item on the agenda for this meeting.

LSC.16 APPLICATION TO REVIEW A PREMISES LICENCE – “MARINERS REST” ALBERT STREET EAST, GRIMSBY

The Chair introduced himself, the other members of the sub-committee, and the officers present.

Mrs Richardson-Smith explained the procedure for the hearing and ensured that everyone in attendance had copies of the agenda. Mr Warne noted that the second page of Mr Collins' statement was missing from the agenda papers, however he offered to communicate the content to the sub-committee during his submission.

The purpose of the meeting was to hear and determine an application to review a premises licence – “Mariners Rest” Albert Street East, Grimsby.

Mr Moody summarised the application and he explained that representations were received from Public Health, Mr Collins, and Hawthorn Leisure Community Pubs Ltd.

The Chair invited Mr Petherbridge to address the sub-committee on behalf of the applicant.

Mr Petherbridge opened his statement by explaining that through the evidence submitted, he hoped to demonstrate to the sub-committee that he considered it appropriate for them to use their powers as part of this review as Humberside Police consider the Crime and Disorder Licensing Objective had been undermined by these premises. Further, that the matters were so serious that the sub-committee should consider revocation in the first instance.

On 13th February 2021, Humberside Police received complaints that people were drinking alcohol in the premises during a COVID-19 pandemic national lockdown. He reminded the sub-committee that hospitality venues were legally required to remain closed. He went on to reference a statement recorded by PC Cooksey which stated that approximately six white males were observed behind the premises bar drinking from, what appeared to be, pint glasses. Female voices were also observed in PC Cooksey's statement. In addition, a statement was submitted by PC Godfrey, who arrived after PC Cooksey. Her statement corroborated the statement of PC Cooksey as she also observed numerous people drinking inside the premises. Further in her account, PC Godfrey reported seeing people running out of the rear of the property. After entering the property, the Police Officers encountered a male, Mr Pullen, who identified himself as an employee of the establishment. Upon further questioning, Mr Pullen clarified that he was a DJ and he had been asked to attend the premises that evening by the Designated Premises Supervisor (DPS), Mr Collins. Mr Pullen also stated that Mr Collins had provided him with keys to access the building. Mr Petherbridge added that Mr Pullen wasn't obstructive when Humberside Police sought contact with the DPS, by making attempts to call Mr Collins and providing police officers with his address. Since that initial account

made to Humberside Police, the Premises Licence Holder (PLH) had provided the sub-committee with a statement from Mr Pullen claiming that in fact, Mr Collins was not aware of the premises being opened on 13th February 2021. Mr Petherbridge suggested that the sub-committee must consider which one of the conflicting accounts was accurate, adding that the amended statement was submitted after review proceedings commenced. In addition, the amended statement from Mr Pullen gave no account of alcohol being present at the incident that occurred on 13th February 2021. This was in direct contradiction to police officers' accounts and their supporting body cam footage. PC Hullet's statement referenced alcoholic beverages being scattered around the bar area and in the fridge. Following the incident on 13th February 2021, Mr Petherbridge stated that Humberside Police Licensing Officer, Ms Saxby, visited the premises. During this visit, Mr Collins confirmed that the alcohol in the fridge was his and some appeared to have been consumed.

A request to vary the DPS to Mr Collins was received by Humberside Police on 12th August 2020. At the time of that application, there were a number of restrictions that had been placed on hospitality venues as a result of the COVID-19 pandemic. On 18th September 2020, Humberside Police and North East Lincolnshire Council conducted visits to a number of licensed premises to ensure compliance with these regulations, one of these being the subject premises. Upon their approach to the premises, officers reported hearing music being played and patrons dancing inside. This was in contravention of what was permitted under COVID-19 regulations at the time. At the time of the incident, Mr Collins was advised of the breaches, before a formal warning letter was delivered to the premises on 23rd September 2020 reiterating the breaches and offering advice on compliance to regulations. A copy of the letter was also sent to Hawthorn Leisure Community Pubs Ltd. On 2nd October 2020, Humberside Police sent an email to a number of licensed premises, one of those being the subject premises, detailing how premises could remain compliant following changes in restrictions. On 29th October 2020, a further visit was made to the property following further allegations of COVID-19 regulation breaches. Complaints submitted to Humberside Police alleged that a wake was held at the premises, which resulted in a number of patrons and staff not wearing face coverings, patrons being served at the bar, and free movement throughout the premises. Officers requested to view CCTV footage of the events, however, were told that their request wasn't possible due to a system fault. This was a breach of the premises' licensing conditions. Again, words of advice were given to Mr Collins about these alleged breaches. During that visit, officers noted a lack of necessary signage, resulting in further advice being offered. Given that Mr Collins had been advised of what was required of the premises to comply with necessary regulations, Humberside Police felt that the situation was unacceptable. Further formal warnings were given.

Officers became aware that the premises was still host to patrons past 10.00 p.m. on 31st October 2021, despite a clear requirement that

premises close by 10.00 p.m. No follow up action was taken following the DPS's decision to voluntarily close the premises.

In summary, Mr Petherbridge reflected that, even if Mr Collins knew nothing of the incident that occurred 13th February 2021, there was a clear pattern of consistent breaches of COVID-19 regulations despite support from Humberside Police and North East Lincolnshire Council. He reiterated that the sub-committee should give serious consideration to revocation of the premises licence. Adding that, if the premises continued to operate, the sub-committee couldn't be assured that the licensing objectives would be promoted by these premises.

The sub-committee sought clarity on the number of people observed by Humberside Police officers on the 13th February 2021 incident. Mr Petherbridge confirmed that between 5 and 15 people were reported in officers' accounts.

Appreciating the extensive COVID-19 regulation breaches alleged by Mr Petherbridge, the sub-committee sought confirmation on the specific number of breaches. Mr Petherbridge explained that the first alleged breach occurred 18th September 2020, the second alleged breach was the events that occurred at the wake in October 2020, the third alleged breach being the 31st October 2020, and the final alleged breach occurring 13th February 2021. Totalling four distinct breaches.

The sub-committee took a vote to exclude press and public from the following part of the meeting to view material presented by the applicant.

RESOLVED – That the press and public be excluded from the remainder of the meeting on the grounds that discussion of the following business was likely to disclose exempt information within paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972 (as amended).

After viewing the bodycam footage, the sub-committee, officers, the applicant, and representatives returned to the meeting.

The sub-committee sought further clarification on the number of patrons refusing to leave the premises on 31st October 2020. Mr Warne explained that there were four guests still inside the premises when Humberside Police Officers arrived, in addition to premises staff.

The Chair invited Mr Warne to address the sub-committee on behalf of the respondent.

Mr Warne explained that Mr Collins took over the operation of the premises on 28th August 2020 as was advertised in a local press article. He added that credit should be awarded to Mr Collins for undertaking such a venture during such unprecedented times.

Referring to the first alleged breach on 18th September 2020, Mr Warne noted that the letter sent to Mr Collins by Humberside Police clearly

stated that failure to follow COVID-19 secure guidance would not constitute breaking the law, however, it may later on. Mr Collins was aware of the excessive music volume at the time and intended to address this, but Humberside Police officers arrived first. Although cooperating fully, Mr Collins objected to the suggestion that patrons were dancing on the tables. There had been no further complaints of loud music since then. Given the lack of any actual crime and any further noise complaints, Mr Warne didn't consider this incident worthy of a licensing review.

Mr Warne noted the second alleged breach which occurred in mid-October 2020, which was witnessed by one anonymous source, had no evidence to support the allegations. He appreciated the lack of CCTV footage wasn't helpful, but he stressed that the condition required CCTV to be maintained but no specification for recording retention. Mr Collins took a booking for a party of 30 for a wake, to comply with COVID-19 regulations he split them into two groups of 15. He appreciated that this wasn't the correct judgement, however, Mr Warne noted the regulations in question were, in his opinion, particularly opaque. For this alleged breach, and the previous on 18th September 2020, neither Mr Collins nor the Hawthorn Leisure Community Pubs Ltd., received any improvement notices or fines from Humberside Police or North East Lincolnshire Council. Any issues appeared to have been dealt with at the time. Again, Mr Warne stated Mr Collins made efforts to work with Humberside Police officers to resolve the situation.

Mr Warne felt that the body cam footage from 31st October 2020 aptly displayed that the premises suffered from some awkward customers who were refusing to leave. There was no allegation made that alcohol was served after 10.00 p.m. He noted that Humberside Police officers and the premises door staff shared an understanding of the difficulties of managing intoxicated people. From previous experience, Mr Warne stressed that the changes in regulations caused common problems across the country. Mr Collins decided to close voluntarily on 5th November as a result of this and further non-compliance from customers. Mr Warne saw this as an example of how seriously Mr Collins took this situation and the good management of the premises.

Following the three incidents up to 31st October 2020, Mr Warne stated that he had been in discussions with Ms Todd to arrange the licence to be updated. Mr Warne advised that this would have been the appropriate response to the issues that this premises was host to, not, as Mr Petherbridge suggested, to revoke the premises licence entirely.

Four pieces of primary and secondary legislation were imposed during the COVID-19 pandemic that affected the licensing trade, in addition to more than double the changes in guidance. Mr Warne suggested that it had been estimated there had been over 64 changes to the rules between May 2020 and January 2021. It was widely accepted that central government communicated wrong, or at least misleading, advice. In addition, authorities often acknowledged the confusion arising from

guidance. What Mr Warne felt the sub-committee should be considering, was how much Mr Collins had endeavoured to work with authorities to comply with the ever-changing COVID-19 guidance. The breaches committed by Mr Collins were not opportunistic, indeed he attempted to behave within the boundaries of the rules as they changed.

In addition, Mr Warne felt that Mr Collins should be given credit for bringing an unused venue back into the community, in doing so spending £24,000 of his own money. Throughout the pandemic, Mr Collins had to take additional employment to support himself.

Mr Pullen was given a set of keys to undertake odd jobs at the premises, hence his access to the building on the 13th February 2021. The fridges weren't stocked with much alcohol and there wasn't any beer in the premises whatsoever. Since closing to the public previously, the bar room hadn't been touched, resulting in some disorder. Mr Warne stressed that Mr Collins didn't at any time instruct Mr Pullen to open the premises for any other reason than to occasionally clean the lines and generally tidy up. The complaints made to Humberside Police came from anonymous sources, and, given the extent of the allegation, Mr Warne would have expected to see more if the premises had opened to illegally trade. Mr Collins was unavailable for contact that evening as he was spending a quiet night with his partner. The next day, Mr Collins dismissed Mr Pullen, before making attempts to retrieve the premises keys from Humberside Police. After 10 days of attempts, Mr Collins finally retrieved the premises keys but, by that point, he had changed the locks. At that time, Mr Collins still hadn't been requested to give an account of the incident that took place 13th February 2021. This led to Humberside Police offering him a formal apology for failing to meet their service standards. On 22nd February 2021, Mr Collins had his first meeting with Humberside Police officers, five days after review papers were served to him. At the meeting, Humberside Police officers raised concerns that the CCTV footage wasn't available. Mr Warne confirmed that, as the premises wasn't trading, the unavailability of footage wasn't a breach of licensing conditions. Mr Collins actually invited Humberside Police officers to view the CCTV footage captured from the adjacent garage. Ms Saxby's statement supported the account that Mr Collins wasn't aware that Mr Pullen was using the premises as he did. In addition, Mr Collins was in the process of buying the premises from Hawthorn Leisure Community Pubs Ltd., so offered to assist Humberside Police officers in any way he could. Mr Collins' account remained consistent throughout this incident.

Mr Warne stated that the bodycam footage from 13th February 2021 clearly showed Humberside Police officers identifying that the alcohol at the premises had likely been brought in externally. In addition, the fridges were clearly not stocked. Mr Warne took exception with the statement submitted by PC Critten which suggested Mr Pullen was intoxicated. After viewing the body cam footage, Mr Warne stated that PC Critten's account was clearly not the case. In addition, Mr Warne stressed that Humberside Police commenced the review of the premises without

interviewing Mr Pullen. No evidence was submitted to suggest that the premises was open to the public. Mr Pullen attended the meeting today in support of his written submission. Mr Warne commented that Humberside Police made no attempt to fully establish the facts before commencing the review process. This was a textbook case of failing to properly investigate a matter prior to bringing a review, and indeed breached the human rights of Mr Collins and Hawthorn Leisure Community Pubs Ltd. Mr Warne also registered his surprise in the rush for review from Humberside Police.

As no evidence was presented that Mr Collins was involved in the incident on 13th February 2021 beyond a retracted statement, Mr Warne suggested it would be a leap to take away someone's livelihood. He referenced the proposals made for amendments to the Premises Licence which had been circulated prior to the sub-committee. In addition to a suggested suspension of the licence until 17th May 2021, allowing for a full risk assessment and management plan. Mr Collins even suggested he may not open until June to allow for appropriate preparations.

The sub-committee asked Mr Warne how many, if any, breaches of the COVID-19 Regulations the PLH acknowledged occurred. Mr Warne noted that October 2020, the incident at the wake, a breach technically occurred because of the misinterpretation of the rules. Again, the incident on 31st October 2020 also was acknowledged to be a technical breach as four customers were still present at the premises. In terms of the incident on 13th February 2021, a COVID-19 breach did occur, however, Mr Warne's submission was that it couldn't be linked to any licensable activity because the premises wasn't open for sales of alcohol. Humberside Police's evidence didn't contradict this submission.

The Chair invited Mr Petherbridge to make a closing statement on behalf of the applicant.

Mr Petherbridge registered his concern with the suggestion that the breaches of the COVID-19 regulations were merely technical. The fact was these premises were host to numerous clear regulation breaches. He took exception to the insinuation that Humberside Police rushed into review proceedings without engagement with the PLH or the DPS, Mr Collins had been spoken to and Hawthorn Leisure Community Pubs Ltd. had been sent a letter. Humberside Police could not be criticised for dealing with the matters that occurred in 2020, in an unproportionate way. The regular intervention from Humberside Police suggested that these premises had problems. Regardless of Mr Warne's comment that no alcohol was served after 10:00 p.m. on 31st October 2020, Mr Petherbridge stressed that the premises shouldn't have been host to patrons at that time. In addition, officers came across the premises on 31st October 2020 as part of a routine patrol, no call was made by the premises to Humberside Police to assist in the removal of patrons. This suggested that the premises were being managed inappropriately, particularly when Mr Pullen's initial account was taken into consideration. In conclusion, Mr Petherbridge stressed that the responsible authorities

had sought to work with the premises to resolve the difficulties in adhering to regulations in vain. The only way to be sure that the licensing objectives weren't undermined would be to revoke the licence.

The Chair invited Mr Warne to make a closing statement on behalf of the respondent.

Offering some clarity, Mr Warne stated that he didn't suggest a stepped approach wasn't taken. The stepped approach that was considered in November 2020, was the approach being suggested now. Mr Pullen was not the subject of this review; he would face proceedings personally. This review considered the premises licence held by Hawthorn Leisure Community Pubs Ltd. and that was operated by Mr Collins. He reiterated that no evidence had been put forward that could confirm that Mr Collins or Hawthorn Leisure Community Pubs Ltd. had anything to do with the events of 13th February 2021. If Humberside Police were going to ask the sub-committee for someone's livelihood to be taken away, Mr Warne stressed that should have been investigated properly. The proportionate and appropriate response as detailed in guidance, policy, and law, was to amend the operating schedule and a short suspension to ensure everything was in place so that Mr Collins could operate the premises properly.

The sub-committee withdrew to deliberate. After an interval, the subcommittee returned to advise of their findings.

The Chair advised that the sub-committee carefully considered all oral and written information submitted by each party and the report provided by officers. The sub-committee noted the proposals made by the PLH but agreed that the suspension of licensable activity be extended until 14th June 2021. The sub-committee had considered the removal of Mr Collins as DPS, but were prepared to give him the benefit of the doubt and did not wish to see a business, which should be a community hub, close down, particularly in today's economic climate. However, they noted, if further breaches come before this sub-committee, revocation would most certainly be a major consideration and, or, removal of the DPS. Due to the concerns over the availability of Mr Collins on the 13th February 2021, the sub-committee respectfully suggested that a deputy DPS be appointed to ensure contact can be made at all times. It was also made clear that in making this decision, the sub-committee did indeed consider that there had been breaches of COVID-19 regulations and these were taken very seriously. The sub-committee agreed that the proposed amendments to the Premises Licence conditions would be appropriate to promote the licensing objectives moving forward.

RESOLVED – That the premises licence conditions be amended as per the submission of the Premises Licence Holder, with the following amendment:

1. That the premises licence be suspended until 14th June 2021, to allow for a full risk assessment and management plan to be drawn up prior to re-opening.

There being no other business, the Chair thanked those in attendance for their contributions and concluded the meeting at 12.54 p.m.