

## **Licensing Sub-Committee**

**17 December 2015**

Present: Councillor T Mulvenna (Chair)  
Councillors D Drummond and John Hunter

### **LSQ16/12/15 Appointment of Chair**

**Resolved** that Councillor T Mulvenna be appointed Chair for this meeting.

### **LSQ17/12/15 Declarations of Interest and Dispensations**

There were no Declarations of Interest or Dispensations reported.

### **LSQ18/12/15 Review of a Premises Licence – Caprice Hotel (Echo Bar), 14-16 South Parade, Whitley Bay (Whitley Bay Ward)**

The sub-committee met to consider an application made by the Chief Officer of Northumbria Police for a review of an existing Premises Licence held by Mr J Proud in relation to Caprice Hotel (Echo Bar), 14-16 South Parade, Whitley Bay. The application was submitted on the grounds of the prevention of crime and disorder. The Council had received one further representation in relation to the review, received from the Council's Environmental Health Department on the grounds of public safety and the prevention of crime and disorder.

Following introductions, the sub-committee's legal advisor, P Rowbottom, set out the procedure to be followed during the course of the hearing.

The Council's Licensing Officer, D Frankland, presented details of the application, the representation received and the options available to the sub-committee.

The following parties were present at the hearing; J Proud, the licence holder, Sergeant D Foy, Sergeant L Henderson and N Kirkpatrick from Northumbria Police and M McGowan from the Council's Environmental Health Department.

With reference to a series of incidents Sergeant Foy described how he felt that the premises were not fit for purpose, did not promote the licensing objectives and therefore the licence should be revoked.

In September 2012 a Section 19 Closure Notice had been issued as no records had been kept in the door supervisors and the bar staff's refusals registers and a summary of the premises licence was not on display. On 24 May 2014 a striptease performance had taken place at the premises when Mr Proud had not notified the local authority. Two weeks later the Police again found sexual entertainment taking place when there were no door supervisors present, as required by the conditions on the licence. There should have been one calendar month between performances. A Section 19 Closure Notice was issued. At 12.10am on Sunday 15 June 2014 the Police found there were no door supervisors on duty and glassware was discovered both outside and inside the premises. Both were contraventions of the conditions on the Premises Licence. When the Police had met with Mr Proud on 17 September 2014 he had been more concerned about relaxing the conditions on the licence and reducing costs rather than promoting the licensing objectives.

When the Police had searched the premises in May 2015, full and apparently unused bottles of spirits had been discovered with broken seals. The Council's Environmental Health Officers had been called which led to Mr Proud being cautioned for two offences under Section 15 of the Food Safety Act 1990 because bottles Gin and Rum had been falsely described.

M McGowan, explained and he and a colleague had dip tested a number of bottles of spirits with loose lids. The tests returned adverse results in relation to Gordon's Gin and Bacardi and these results were later verified by the Council's appointed public analyst. Mr Proud subsequently accepted a caution for having in possession for sale food bearing a label which falsely described food under Section 15 of the Food Safety Act 1990.

J Proud explained that there had been many visits by the Police and the Licensing Authority when there had been no problems and he expressed surprise that issues over a five year period were now being used as grounds for a review because he believed the issues had been resolved at the time.

J Proud explained the circumstances surrounding each of the incidents referred to by the Police and the action he had taken to resolve each issue. He had taken the omissions in the refusals registers very seriously and had addressed the matter with the door supervisor company. J Proud stated that the Premises Licence had always been displayed behind the bar. The premises hosted only a few striptease performances and only if a group of guests requested it. As these performances were organised at short notice it was not possible for him to notify the authorities in advance but he would notify the authorities on the following Monday. J Proud no longer allowed striptease performances at the premises and did not envisage any in the future. J Proud believed that the incident on 7 June 2014 involving another striptease had been satisfactorily resolved at the time. He was shocked that the incident now formed part of a review of his licence. When the Police had visited on 15 June 2014, 4 residents had been sitting in the bar when the Police had raised concerns that there were no door supervisors on duty. J Proud was sure his premises had not served any drinks in glassware and believed these glasses may have come from passers by.

Following discussions with the Police regarding the future operation of the premises J Proud had wanted to operate as a traditional pub for older customers and as part of this he wanted to allow patrons to stand at the bar, to enable them to use glassware and to reduce the required number of door supervisors. J Proud stated that he had never had cause to call the Police and there had never been any trouble at the Premises.

J Proud had been shocked and appalled at the results of the Gin and Bacardi testing. He believed Aldi products had accidentally been mixed with the Gordon's and Bacardi when staff had been consolidating bottles. This practice had been stopped and he was sure it would not happen again.

Sergeant Foy, M McGowan and J Proud were given the opportunity to sum up their respective submissions.

The sub-committee withdrew from the meeting to make its decision in private. The sub-committee returned and the Chair announced its decision.

**Resolved** that (1) none of the options available to it under Section 52(4) of the Licensing Act, including revocation, be acted upon; and  
(2) Mr J Proud be advised that as licence holder, that he must work with the Police to promote the licensing objective concerned with the prevention of crime and disorder.

Reasons for Decision:

Having heard the oral representations, having taken into account the written representations, and having had regard to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003, North Tyneside Council's Statement of Licensing Policy and the licensing objectives which underpin the Licensing Act 2003, the sub-committee concluded that:-

- a) it would be inappropriate to modify the existing conditions or add new conditions to address the sale of falsely described goods because this was already a requirement set out in Section 15 of the Food Safety Act 1990;
- b) the exclusion of the supply of alcohol from the licence would in effect amount to a revocation of the licence;
- c) to remove Mr Proud as Designated Premises Supervisor would achieve little, if anything, because he is the licence holder and would remain responsible for the management of the premises;
- d) as there were no conditions being attached to the licence and no other action needed to be taken by Mr Proud in any given period of time, it was not appropriate to suspend the licence; and
- e) the revocation of the licence was neither appropriate or proportionate because the falsely described Gin and Bacardi had been dealt with by way of a caution and none of the incidents referred to by the Police during 2014 had been considered sufficiently serious to trigger a review of the licence.