

Licensing Sub Committee

Tuesday 12 September 2017

PRESENT:

Councillor Dr Mahony, in the Chair.
Councillor Morris, Vice Chair.
Councillors Carson (Fourth Member) and Parker Delaz-Ajete.

Also in attendance: Ann Gillbanks (Senior Lawyer), Fred Prout (Senior Licensing Officer) and Helen Wright (Democratic Adviser).

The meeting started at 10.05 am and finished at 3.25 pm.

Note: At a future meeting, the committee will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

30. **Appointment of Chair and Vice-Chair**

The Committee agreed to appoint Councillor Dr Mahony as Chair and Councillor Morris as Vice Chair for this particular meeting.

31. **Declarations of Interest**

There were no declarations of interest made by Councillors in accordance with the code of conduct.

(Councillor Carson (fourth member) left the meeting).

32. **Chair's Urgent Business**

There were no items of Chair's urgent business.

33. **Review of Premises Licence: Dog and Duck, 15 Mutley Plain, Plymouth**

The Committee -

- (a) considered the report from the Director of Public Health;
- (b) heard representations from the Police as follows -
 - Mr Kelland had been the licence holder and Designated Premises Supervisor at the premises since May 2013;
 - the premises fell within one of the five cumulative impact areas of the City;

there were 10 licensed premises including the Dog and Duck on Mutley Plain and a mixture of residential and commercial businesses; Mutley Plain was a main artery leading to the north and City Centre with heavy traffic using the dual carriageway, situated near the premises was a Sainsbury Local which had a busy customer base;

- over the last six months incidents of anti-social behaviour, drunkenness and violent crime had occurred both within the premises and also associated with the premises; a time line of incidents was provided covering a period between 1 December 2016 to 20 August 2017; each incident was not presented in detail to the Committee, as the Police Representatives considered it would not be helpful to do so but rather they were included to evidence the lack of management of the premises when taken into consideration with the detailed information contained in the CCTV footage, shown at the meeting demonstrated the lack of management at the premises; footage of incidents which took place on 16 April 2017, 26 May 2017 and 9 June 2017 were shown to Committee;
- there had been several incidents of disorder reported over the last six months involving a doorman employed by the Private Licence Holder; the reports were that this doorman was unhelpful, abusive and aggressive;
- three particular incidents were identified and CCTV footage shown as detailed below; the door supervisor had recently been convicted of a public order offence that took place at the premises on 26 May 2017;
- the Police had repeatedly experienced difficulty in retrieving CCTV footage from the premises; any footage obtained lacked the required definition and quality;
- there had been meetings with the Private Licence Holder where the concerns regarding the activities of this doorman had been raised with a view to the Private Licence Holder managing the problem;
- other businesses within the area were suffering, as a result of the operation of these premises and their intoxicated patrons;
- the operation of the premises was having a negative impact on the following licensing objectives -
 - Prevention of Crime and Disorder;
 - Prevention of Public Nuisance;

- evidence showed the concerns that the Police had about the management of the premises; the doorman was no more than a symptom, as he had been allowed to work in a way that showed a lack of management of his actions; despite meetings there had been lack of engagement by the Private Licence Holder to confirm any action taken to alleviate the impact of Crime and Disorder and Public Nuisance upon the premises and local community; it was therefore considered that revocation of the premises licence would be the only appropriate remedy;
- three incidents recorded on CCTV were viewed as detailed below –
 - 16 April 2017: incident took place whereby a Police Officer witnessed a fight outside premises which had been dealt with by the doorman; when the officer asked the doorman what happened, he became abusive and aggressive and made offensive hand gesture; officers passing the location had been flagged down by people as some kind of altercation, by the time officers attended people had dispersed;
 - 16 April 2017: this showed an escalation of the above situation; one person came back with a hammer and the incident spread into the road and showed the doorman leaving the premises and crossing the road and fighting outside of Domino's Pizza; Police had to spray a number of people to contain the situation and had to threaten the doorman, as he was inflaming the situation; conflicting views of whether the doorman was inflaming the incident or whether he was assisting the Police; the officer was responding to an alleged incident of glassing but no evidence of glassing was found in relation to this incident;
 - 26 May 2017: CCTV showed footage outside of the premises that were very busy; a male left the premises with his partner with a full glass in his hand; there was a scuffle on the edge of the camera shot; the doorman retrieved the glass; the doorman pursued them outside of Café Sol and he moved down to KFC about 50m away and the doorman engaged in some sort of physical activity in KFC; the doorman was seen to have the male in a 'choke hold' outside of KFC; two Police Officers attended and one arrested the female and the doorman held the male whilst the other officer placed him in handcuffs;
 - 9 June 2017: CCTV footage from the premises – looking into the premises from the entrance off of Mutley Plain; footage showed a male who was the subject of a five year ban on Plymouth Pub Watch; he was with two females;

one accompanying female clearly unhappy with male as seen by hand gesture and shuffling; no one intervened to prevent this escalating; another view of the premises showed an incident by the pool table where a female was arguing with the male (on the Pub Watch ban) and another female threw a glass at her causing a laceration of her right eyebrow; the banned male was seen trying to give first aid to his girlfriend; then CCTV footage showed the banned male snapping a pool cue and running out onto Mutley Plain; there was no CCTV footage of the next action but he threatened the female; the person who reported this incident to the Police was the banned male and not a member of staff from the premises;

(c) heard from the Premises Licence Holder and his solicitor as follows -

- he had been a publican for 25 years and a Designated Premises Supervisor for only the past few years but he had a hands on approach to management;
- he was fully conversant with the licensing objectives and was a founder member of the Pub Watch scheme and would send a substitute to any meetings he could not attend;
- had regularly engaged with Jock McIndoe of the Police Licensing Department and provided information leading to arrest of violent criminal behaviour;
- had attended meetings recently with the Police and had asked questions concerning the incidents;
- had more door supervisors than was required on Friday and Saturday and accepted that there were issues with the doorman identified by the Police during the process of this meeting; the doorman in question was no longer employed on the premises;
- he did not directly employ door staff as they were sent by an agency;
- regarding the comments of the increase in crime on the premises, commented that violent crime across the City had been reported to be up by 35.6% this was a trend and could not be attributed to the running of the public house;
- problems were dealt with by removing patrons as quickly as possible and calling the Police;
- a publican had no duty to disperse patrons on the public highway; the Police were unable to patrol on Mutley Plain;

- usual opening hours were 10am weekdays and 11am Sunday and generally close at 2am each evening;
 - employed one member of bar staff up to 7pm each night; two bar staff from 7pm until closing and on Friday and Saturday evenings employed one member of door staff and that all staff were trained in the prevention of crime and disorder;
 - had a radio link to the doorman in the Junction Pub who could attend the Dog and Duck to assist if necessary;
 - the Private Licence Holder had engaged with the licensing objectives and had followed procedures and removed offenders from the pub; Mutley Plain had various professions, trades and housing; the Dog and Duck clientele tended to be young and boisterous;
 - the Private Licence Holder had embarked on a refit and the doorman involved in the incidents presented was no longer employed; the Private Licence Holder would be willing to increase door staff and engage another Designated Premises Supervisor and was sure that he could engage with the Police to come up with an alternative solution;
- (d) in response to the CCTV footage shown by the Police made the following comments (and the Committee viewed the footage provided from inside the premises for the incident which occurred on 16 April 2017), as follows -
- 16 April 2017: footage showed two males in the pub becoming troublesome and the doorman removed them from the premises; one of the males punched the doorman and the doorman put one of the males on the floor; they squared up to him again and fight him; he goes back out of their way not to provoke the situation; the doorman was trying to protect the door to not allow the male back in;
 - the footage showed doorman asking for assistance from a passing Police van but it drove away ignoring the incident; the males disappear from view but because they see the Police disinterested they return, one with a hammer, one with a glass; the opinion of the Private Licence Holder was that because the initial approach to the Police resulted in no action it gave the males the impression that the Police were not interested so came back with a hammer and a bottle that resulted in the affray outside of Domino's Pizza; had the Police reacted when requested to the whole incident would not have happened; the footage showed two doormen, one from the Junction and one from the Dog and Duck;

- 9 June 2017: the person who was banned on the pub watch scheme, this person regularly changed his appearance so was not immediately recognised but when the Private Licence Holder did recognise him he was asked to leave;
- on this occasion he came into the pub and was served; a glassing event was rare; this occasion showed there was an altercation between two females where a glass was thrown which caused a cut on an eyebrow of one female; she was taken into the back office to administer first aid; the Private Licence Holder radioed the incident and showed the CCTV to the Police Officer who attended; the officer said there was nothing he could have done;
- 26 May 2017: incident of affray and common assault; the doorman radioed the Police regarding the incident; the doorman was on duty; male and female initially calm and normal but they had a row and started getting vocal, doorman asked them to leave; when they got outside of the premises they started trying to assault the doorman both spitting at him, female carried riot gas canister which she tried to deploy at the doorman, the male had a glass in his hand; not the policy to allow glasses to be taken outside; the doorman wrestled with the male with the glass, gets the glass and through it at the ground, so it could not be used as a weapon.

The Committee had considered the representations from both parties and the difference of opinion on interpretation of events shown in the CCTV footage of the three incidents.

With regard to the management of the door staff, the Committee noted that in the incident of 16 April 2017 it showed the doorman joining into the incident where Police were involved outside of Domino's and that he was joined by the doorman from the Junction. Members were concerned that his left the premises exposed as being without security. The arrangement for assistance to be provided by calling upon the door staff from the Junction to assist also concerned Members as this was evidence of insufficient management of door staff working alone.

The Committee –

- (e) also noted the actions of the doorman on 26 May 2017, in leaving the premises to retrieve the glass from the male that removed it from the premises; however they were concerned that he then followed the male into KFC and assaulted him; it was noted that the doorman was convicted for assault and had his SIA Licence suspended; this action was aggressive but in relation to these proceedings, was also in

breach of the licensing objectives by leaving the premises unprotected;

- (f) also noted the CCTV footage of the incident on 9 June 107 which showed that there was an escalation of behaviour between a number of individuals taking place in the bar area and the bar person made no attempt to intervene to prevent this; this was evidence of a lack of management of the premises to take action to avoid this escalating;
- (g) was concerned that this incident occurred at 6.45pm when only one member of staff was present and before the door staff were on duty;
- (h) was also concerned that the incidents occurred at these premises were having an impact on the wider environment of Mutley Plain and did not consider that the removal of the doorman who was involved in these incidents presented would totally resolve the issues at the premises.

As a result, the Committee agreed that it is appropriate in relation to the promotion of the licensing objective of crime and disorder and to address the problems with the management of the premises to impose the following conditions –

- (1) the Private Licence Holder shall provide door supervision on the following basis -
 - one door supervisor between the hours of 18:00 hours to 20:00 hours and then two door supervisors between the hours of 20:00 hours until closing time on Friday and Saturday evenings;
 - one door supervisor between the hours of 18:00 hours until closing time for the rest of the week;
- (2) the Private Licence Holder shall provide training on the following basis -
 - all staff to be fully trained for their job functions in the operating standards required under the Licensing Act 2003 to include dealing with disorderly behaviour and evidence training to be recorded in documentary format and must be provided to the Council's Licensing Officers as soon as possible and not later than three months from now;
 - training will be repeated at least every six months thereafter and will be recorded in documentary format that will be kept at the premises and be available for inspection at the time of a request by a member of any relevant authority; the records will be retained for at least 12 months.

