

**NOTES OF MEETINGS OF THE STATUTORY LICENSING REGULATORY
BOARD SUB COMMITTEE**

5 April 2023

Present: Councillors Shepherd (Chair), Wilson and Clarke

1. Declarations of Interests

There were no declarations of pecuniary or non-pecuniary interest from Members in respect of items on the agenda.

2. Application to Vary a Premises Licence – The Pheasant, Cross Street, Monk Bretton, Barnsley

The Sub Committee considered a report on an application to vary a premises licence for The Pheasant, Cross Street, Monk Bretton, Barnsley.

After consideration of all the evidence presented and having listened to the representations made by all parties, the Sub Committee determined that the current licence should not be varied and it wholly rejected the application on the following grounds. The applicant had indicated that there had been no complaints, however there had been complaints. The Sub Committee felt that the noise management plan was inadequate and inappropriate. It considered that the application was vague and ambiguous, and that there was insufficient thought into the way the noise could be managed to ensure that local residents were not affected. The Sub Committee also considered the reduced hours proposed by the applicant would not satisfy the concerns raised regarding uncontrolled noise and so would not promote the licensing objective of prevention of public nuisance.

The decision of the Sub Committee was unanimous.

6 April 2023

Present: Councillors Hunt (Chair), Cherryholme and Stowe together with Councillor Green (Reserve Member)

1. Declarations of Interests

There were no declarations of pecuniary or non-pecuniary interest from Members in respect of items on the agenda.

2. Application for a Summary Review of the Premises Licence – Sugar Club, 7 Pitt Street, Barnsley

The Sub Committee considered a report on an application received from South Yorkshire Police for a Summary Review of the Premises Licence in respect of Sugar Club, 7 Pitt Street, Barnsley.

After considering all the evidence presented, together with the information provided and the representations made by the parties present, the Sub Committee determined that the licence be revoked on the following grounds:-

- Through legal representation, Mr Stockton had confirmed that his appeal in respect of the revocation decision made by the Statutory Licensing Regulatory Board Sub Committee on 19 December 2022 be withdrawn.
- The evidence presented which related to the 'Protection of Children from Harm' and the 'Prevention of Crime and Disorder' as detailed within the appendices to the report entitled 'Licensing Act 2003, Application for a Review of a premises licence – Sugar Club, 7 Pitt Street, Barnsley' which was submitted initially to the Sub Committee Meeting held on 19 December 2022 and was presented to the new Members attending the Sub Committee Meeting held today. The decision of the Sub Committee for that application was to revoke the licence which was subsequently appealed at the Magistrates Court.
- Historically, there have been several infringements of the Licensing Act 2003 which have been identified by South Yorkshire Police, following which, the parties had entered into an agreement in May 2022 to add conditions to the Sugar Club's Licence in order to promote and maintain the two licensing objectives. At which point, the Sugar Club had accepted that it was in receipt of legal advice in respect of its agreement for additional conditions to be imposed on the licence.
- An Action Plan had been agreed between the parties, and the details of South Yorkshire Police's officers had been given to the Sugar Club to be used in the event that support and guidance was required.
- Several breaches of the licensing conditions had occurred since May 2022, which had demonstrated that the management and owner of the Sugar Club were not promoting and maintaining those Licensing Objectives.

- The following breaches of the licence conditions had occurred:-
 - During several visits made by South Yorkshire Police, the ID Scanner was not working and the Violent Incident Protocol was not displayed when the premise was open to the public.
 - On at least one occasion, there had only been one security guard on duty where there should have been two. The security used had been without the correct accreditation.
 - Whilst the premise was open to the public, the security staff working at the venue had on more than one occasion not been equipped or wearing Body Worn Video.
 - The DPS, on at least one occasion, was unable to supply the required video footage claiming that they did not know how to download it.
 - On one occasion, the town link radio used to communicate between venues, which was linked to the CCTV Control Room, was switched off and not charged.

- The documents presented referred to the Sub Committee meeting held on 19 December 2022 where the Environmental Health Officer had provided evidence in relation to Health and Safety Concerns regarding an unsecured cellar hatch in a corner of the public area, unsecured carbon dioxide cylinders and electrical cables that were unsafe. A prohibition notice had been issued to prohibit the use of the cellar hatch during opening hours. A tripping and slipping hazard for customers had been identified in the rear yard which was caused by poor drainage and uneven flooring. It had also been identified that the external beer drop located in the same area was unlocked and could have been accessed by members of the public. A referral had been made to South Yorkshire Fire and Rescue Service regarding the potentially unsafe means of escape in the event of a fire. Work had been undertaken to the cellar trap doors to remove the immediate risk and following a verbal assurance that the required work would be completed, it had been noted some four months after the initial visit that the tripping hazards remained and the electrical cables had not been secured and were still vulnerable to damage. The management of the Sugar Club had not carried out any effective risk assessments. After a further site visit in October 2022, it had been identified that some of the electrical alterations had been carried out, however no electrical report had been provided to demonstrate that the system and appliances were deemed safe. With regard to public safety, there was no evidence to suggest that all 6 items that were required within the original report had been completed. The Environmental Health Officer had expressed concerns in relation to the systems of management and the practices of the managers of the Sugar Club, as he considered them to be resistant to regulation, reactive rather than proactive regarding matters affecting public safety and generally dismissive of the role of the regulators. It had been highlighted that there had been a pattern of promises that had not been kept, partial solutions to concerns raised of assurances that works had been completed when they had clearly not been and the contesting of the necessity of control measures without precautionary action to protect the public.

- The evidence that had been presented at the Sub Committee held on 10 March 2023, where an interim expedited review hearing had been undertaken. Members had considered taking interim measures to address the

alleged offences that were linked to serious crime and disorder at the premises. Following the serious crime that had occurred on 5 March 2023 which had amounted to two arrests for the possession and supply of a Controlled Class A drug which constituted a serious crime for the purposes of the Licensing Act 2003 and associated guidance, in addition to a disorder which had occurred on 12 February 2023, and an incidence of violence that had occurred on 5 March 2023, and after careful consideration of any appropriate interim steps as set out at Section 53B (3) Licensing Act 2003 required to be taken immediately to prevent further serious crime and disorder at the premises, Members had unanimously agreed that it was necessary to take interim steps to suspend the licence pending a full review of the premises licence to be held within 28 days of the application having been received by the Licensing Authority.

- The Sub Committee took a very serious view towards the failure to promote the Licensing Objectives and towards the failure to take the concerns of South Yorkshire Police and the Environmental Health Officers seriously.
- Notwithstanding all of the above reasons, the Sub Committee further noted that although the appeal against the 19 December 2022 has been withdrawn on 6 April 2023 by Mr Stockton, it was very concerning that whilst there was an appeal pending, and the venue was able to remain open and continue to trade; that during this period, despite the number of attempts made by South Yorkshire Police to ensure that the premises complied with the licensing conditions and objectives, there were two further serious incidents namely on 12 February 2023 and 5 March 2023. These incidents were outlined in the witness statements submitted by South Yorkshire Police, alongside a number of various other incidents noted in the application made by South Yorkshire Police for the hearing held on 6 April 2023 in particular from 7 January 2023 to 25 February 2023, which led to the expedited review application by South Yorkshire Police, and noting the risk of future disorder at the venue, which goes against the licensing objectives of crime and disorder and the protection of children from harm.
- The Sub Committee noted the further evidence provided by the Environmental Health Officer and the representations made.

Given that the determination would not have effect until the end of 21 day period given for appealing the decision, or until the disposal of any appeal that was lodged, the Sub Committee further considered that for the promotion of the licensing objectives namely crime and disorder and protection of children from harm, the interim steps that were made on 10 March 2023 which was suspension was to remain in place. Therefore, the interim steps decision of suspension to further remain in place until:-

- a. The end of the period given for appealing against a decision made under Section 53c of Licensing Act 2003.
- b. If the decision under Section 53C is appealed against, the time the appeal is disposed of.

The decision of the Statutory Licensing Regulatory Board Sub Committee for both the revocation of the licence and the interim steps of suspension to continue as outlined is unanimous.