

LICENSING SUB-COMMITTEE

MINUTES OF THE MEETING HELD ON TUESDAY, 24 SEPTEMBER 2019

Councillors Present: Jeff Beck, James Cole (Chairman) and Tony Linden

Substitute: Dennis Benneyworth

Also Present: Anne Marie Baird (Solicitor), Suzanne McLaughlin (Principal Officer - Governance), Amanda Ward (Lead Officer - Licensing) and Stephen Chard (Principal Policy Officer)

PART I

1 Declarations of Interest

There were no declarations of interest received.

2 Application No. 17/01614/LQN - The Vault Club, 4A The Kennet Centre, Newbury

The Sub-Committee considered a report (Agenda Item 2(1)) concerning a review of the premises licence (17/01614/LQN) held by Big Fish Clubs UK Ltd for The Vault Club, 4A The Kennet Centre in Newbury.

In accordance with the Council's Constitution, Amanda Ward (Licensing Officer, West Berkshire Council) and PC Simon Wheeler (Applicant) addressed the Sub-Committee on this application.

Ms Ward, in addressing the Sub-Committee, raised the following points:

- The Licensing Authority received the application for a review of the premises licence under section 51 of the Licensing Act 2003 on the 31st July 2019. This application had been recorded under reference number 19/00998/LQN.
- The premises operated as a Night Club providing regulated activities including Boxing and Wrestling, Live Music, Recorded Music, Performance of Dance, Late Night Refreshment and the supply of Alcohol. Regulated activity took place on the premises between the hours of 11:00 to 03:30 Monday to Sunday with the exception of Boxing and Wrestling which took place on the premises Friday and Saturday between 13:00 and 23:00.
- The premise licence was granted on 6th January 2018 to Big Fish Clubs UK Limited. The current Designated Premises Supervisor (DPS) was Mr Robert Anderson. Mr Anderson's Personal Licence was issued by Swindon Borough and Ms Ward confirmed that there had been no variation of the DPS or transfer requests since the licence was first granted.
- The Licensing Authority was satisfied that this application for review met the appropriate legislative requirements as set out within the Licensing Act 2003 and was therefore a valid application to be considered by the Panel.
- The 28 day consultation period ran from 1st August 2019 to 28th August 2019 and Ms Ward confirmed that the required site notices were placed at the premises by officers of the Public Protection Partnership and at the main entrance to the Council Offices on 1st August 2019.

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- During the statutory consultation period no relevant representations had been received from any other Responsible Authorities nor other parties to either support or object to the application for review.
- Ms Ward completed a Companies House search on Friday 20th September 2019 to establish the current status of the company Big Fish Clubs UK Limited. The current company status shows as Active – Active proposal to strike off.
- Ms Ward also confirmed that as of today's date, no communication had been received from the Premises Licence holder in response to the application for review.
- Contact had been made with the Kennet Centre Management company who confirmed that they had not seen anyone from the company for a long time (many months) and that the premises was not currently trading. There had however been no surrender of the licence.

PC Wheeler, in addressing the Sub-Committee, raised the following points:

- Thames Valley Police (TVP) recommended that the premises licence be revoked. This was primarily to prevent crime and disorder, but this request to review and revoke the licence applied to all four objectives of the Licensing Act. The others being public safety, prevention of public nuisance and protection of children from harm.
- PC Wheeler provided some background information relating to the premises. There had been concerns of crime and disorder at the premises under a previously held licence. This licence was also to have been reviewed but it was given up by the previous premises licence holder.
- TVP had been involved in lengthy discussions with the premises licence holder (Big Fish Clubs UK Ltd) in advance of their application for a licence. The premises licence was granted in January 2018 with robust conditions which had been agreed with by the licence holder.
- On 26 January 2018, a joint inspection of the premises was undertaken by TVP and the Licensing Authority to ensure conditions were being adhered to. The inspection found that the vast majority of the conditions were in breach including staff training and CCTV requirements. A full list of the breaches was contained in Appendix 12 of the TVP representation.
- A closure notice was issued requesting that CCTV requirements be abided by. The installation of CCTV would help to prevent crime and disorder. Further discussions followed, but nothing was done to ensure the conditions were complied with.
- Numerous crime and disorder incidents took place throughout 2018 and into January 2019. A further closure notice was issued in January 2019. The breaches were outlined in Appendix 23 but there were wholesale inadequacies. The CCTV condition was still not complied with and the ID scanner was not working.
- Attempts were made to meet with the premises licence holder but they did not attend.
- By June 2019, the premises licence holder had still failed to comply with the conditions of their licence. One of these conditions was a requirement to produce an event plan and risk assessment for any events. This condition was not adhered to for a boxing event that had been arranged for 15 June 2019 and the event was cancelled following objections being lodged to the event by TVP.
- PC Wheeler stated that the licence holder had done nothing to either promote the objectives of the Licensing Act or uphold the conditions of the licence. This was despite the many efforts made by TVP and the Licensing Authority to assist them. In

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light of this, PC Wheeler felt that the only viable option available to the Sub-Committee was the immediate revocation of the licence.

- PC Wheeler next drew attention to the relevant sections of the Secretary of State's Section 182 Guidance. He specifically highlighted:
 - Paragraph 11.10 which stated that it was good practice to give licence holders early warning of concerns and the need for improvement. PC Wheeler reiterated that early warnings were given to the licence holder and attempts made to resolve issues on many occasions.
 - Paragraph 11.22 stated that the removal of the DPS might be an inadequate response if the issues being encountered related to poor company practice.
- PC Wheeler followed this by highlighting aspects of the Council's Licensing Policy that were all relevant to this review:
 - Paragraph 2.7 – 'Conditions shall be proportionate and appropriate to achieve the promotion of the licensing objectives, and shall be tailored to suit the circumstances and premises.' Proportionate and appropriate conditions were in place but not adhered to.
 - Paragraph 5.1 – 'Good management and practice procedures in licensed premises can make an important contribution to lessening the impact that consumption of alcohol can have on crime and disorder.' Such procedures were not apparent.
 - Paragraph 5.3 – 'Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and event.' This had not been demonstrated.
- The revocation of this licence was supported by the relevant case law documentation included in the agenda papers. There was evidence to show that the premises licence holder for The Vault had undermined the Licensing Act's objectives.
- PC Wheeler closed by stating that the premises licence holder failed to promote the objectives of the Licensing Act and undermined them. They had failed to adhere to the conditions of the licence. The only reasonable and proportionate action was to revoke the licence.

Questions to the Applicant

Councillor Jeff Beck noted that the licence holder did not attend a meeting with TVP on 22 February 2019. He queried if efforts were then made to reschedule the meeting. PC Wheeler explained that attempts were made to contact the DPS, but it became impossible to do so via any of their contacts. A meeting could not be arranged and the licence holder had not attended this sub-committee. His understanding was that The Vault ceased trading some two to three months ago. They had been extremely difficult to engage with.

In response to a question from Councillor James Cole, PC Wheeler clarified that the DPS was the licence holder and the company owner.

Councillor Cole noted there was a gap in incidents being reported between June and November 2018. He queried why this was the case. PC Wheeler explained that the trading of The Vault had been extremely sporadic. There had been periods where there had been very little activity beyond the holding of random events (such as the cancelled boxing event).

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PC Wheeler added that an under 18s event had been advertised for approximately three weeks ago. This was contrary to the conditions of their licence and the event was cancelled at very short notice.

Members then sought further details on the chronology of events. PC Wheeler confirmed that the door staff were Security Industry Authority (SIA) regulated. Incidents relating to door staff could be disclosed to the SIA, but this was generally only in cases where a criminal offence was being investigated. This process was handled by local police teams. If there was no charge or criminal proceedings then the individuals would not necessarily be suspended by the SIA.

It was noted that the DPS had been assaulted (10/03/18). The Police attended but on arrival were informed that the assailant had been let go because the manager had told them he did not want Police at the premises. Councillor Cole queried this course of action. PC Wheeler felt this was another example which proved that the objectives of the Licensing Act were not being promoted. PC Wheeler was of the view that this suggested that the premises was not recording the number of incidents that had been occurring. Not wanting the Police on the premises suggested they were hiding incidents and wanting to avoid scrutiny of their operations/their licence. This type of situation occurred when a premises was not complying with the conditions of its licence.

Councillor Cole queried if there had been periods of compliance. PC Wheeler explained that licences were considered fairly. There had been periods of compliance that related to the conduct of the door staff employed at that particular time who had made good decisions in handling situations on an individual basis. However, this did not stem from the actions of management who had done nothing to support the objectives of the Licensing Act.

In response to Councillor Cole's next question, PC Wheeler explained that the CCTV requirements had still not been adhered to. This was not acceptable as it meant that incidents were not recorded, there was no means to check CCTV footage when incidents were reported and footage could not be used to pursue investigations.

A serious sexual assault had been reported (19/01/18). PC Wheeler explained that while this took place away from the premises, the individual had been ejected from the premises in an extremely intoxicated and vulnerable condition. Concerns were raised at the time at the amount of alcohol served to the individual who had also preloaded alcohol prior to arrival. No measures were put in place to secure her safety after she was removed from the premises.

Councillor Tony Linden queried if there had been incidents of underage drinking. PC Wheeler stated that an underage event had been held. Two young people had been found in possession of illegal drugs. It was also found that only a random search had taken place for the event and not 100%. The holding of such an event was not permitted by the licence in any case.

Councillor Linden next queried the TVP view on removing the DPS from the licence. PC Wheeler stated that as the DPS was the licence holder and the sole company director, the licence should be revoked. A change to the DPS would still leave the club operating under the same company.

In terms of other options available, aside from revoking the licence, the premises licence holder had already proven that they could not comply with conditions and so a modification of the conditions would make no difference. A three month suspension of the licence was only feasible if the licence holder was willing to engage – they were not. They had failed to comply for over 12 months.

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Questions to the Licensing Officer

Councillor Cole noted the minimal operation at the premises, but queried if the revocation of this licence would have a negative impact on the night time economy of Newbury Town Centre. Ms Ward confirmed that the premises had not been open for many months and customers were going elsewhere.

The Sub-Committee retired at 10.30am to make its decision.

Having taken the representations into account, the Licensing Sub-Committee **RESOLVED** that the premises licence held by Big Fish Clubs UK Ltd for The Vault Club, 4A The Kennet Centre in Newbury be revoked for the following reasons:

The Sub Committee heard evidence from PC Wheeler that the Premises Licence was issued on the 12th January 2018 after lengthy consultations with Thames Valley Police to establish a suitable operating schedule that contained what was hoped to be sufficient conditions to ensure the premises would promote the licensing objectives.

However since the licence has been in operation, a number of incidents have occurred at the premises ranging from public order incidents, assaults, vulnerability of customers, inconsistencies in door supervision and concerns regarding under 18's and boxing events.

In addition, Thames Valley Police as a Responsible Authority, had undertaken two licensing inspections, on the 16th January 2018 and the 9th February 2019 respectively, which demonstrated inherent failures to comply with the conditions attached to the premises licence. Examples provided related to the quality and provision of CCTV, usage of the Newbury radio system, and ID scan equipment.

Two Section 19 Closure Notices had been served on the premises licence holder, neither of which has led to any greater compliance.

On the 22nd February 2019, Thames Valley Police arranged a performance meeting to be held with the premises licence holder, however neither the premises licence holder nor did any representative attend the meeting. Thames Valley Police did not receive any communication from the premises licence holder nor a representative to explain the reasons for non-attendance.

The Sub Committee found the evidence from PC Wheeler to be both reliable and credible. The Sub Committee noted that the oral representations made by PC Wheeler were substantiated by documentation which had been submitted with the Sub Committee Licensing Hearing Pack and which the Sub Committee took into account in their deliberations.

The Sub Committee noted that the Premises Licence was granted on the 12th January 2018, and on the evening of the 12th January 2018 an assault occurred on the premises.

In addition the Sub Committee noted that on the 10th March 2018 Thames Valley police were required to attend the premises as a male had assaulted the premises licence holder and had been detained. When the police arrived, they were informed that the detained male had been let go as the premises licence holder did not want the police at his premises.

The Sub Committee noted that the premises licence holder had not attended the performance meeting on the 22nd February 2019 organised by Thames Valley Police, nor

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had the premises licence holder made any representations nor attended the review hearing on the 24th September 2019.

The Sub Committee determined that there was deliberate non-cooperation by the premises licence holder with Thames Valley Police as a Responsible Authority and that the premises licence holder had been provided with ample opportunities to comply with the conditions placed on the premises licence but had taken very few steps to comply.

The Sub Committee, in considering whether any steps were appropriate for the promotion of the licensing objectives- and in particular the prevention of crime and disorder- concluded that the only step that was appropriate was to revoke the premises licence.

(The meeting commenced at 10.00am and closed at 10.30am)

Name

Date of Signature

Name

Date of Signature

Name

Date of Signature