



Ms S Clover
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Please ask for: Frederick Prout

Date 18 August 2020

My Ref

Your Ref

Dear Ms Clover

Application for the summary review of a Premises Licence – OMG, 11 The Parade, Plymouth.

Reference to the Licensing Sub Committee meeting held on the 18 August 2020 in respect of the above premises.

Prior to the commencement of the meeting on this Review, the Committee considered representations as to whether the meeting should be heard in private session, excluding members of the public and press.

Police legal representative's submissions on this point;

Should be heard in private incident in July was allegation of criminal and sexual nature and during the meeting some discussion on the events of that night are likely to be disclosed. Would also like to show CCTV of the incident and it is important to the ongoing investigation for those matters not to be in the public domain.

Premises Licence holder legal representative submissions on this point:

Default for hearings are to be held in public, hear the reason for private session, don't take a strong view on the point. It is very disappointing to hear the application for viewing of the CCTV as hoped we were going to discuss conditions. Will make representations about the viewing of CCTV in due course.

After considering these representations, the Committee decided that it would be in the public interest to exclude the press and public and to conduct the meeting in private so as not to prejudice the criminal investigation.

Review of premises Licence in respect of premises licence of OMG, 11 The Parade Barbican, Plymouth – 18 August 2020

The committee considered the content of the report by the Director of Public Health

The committee heard representations from the Police Representative and Police Licensing Officer as follows:

Police priority to assist the committee to make a just decision for this premises

Venue tends to attract patrons where they started evenings elsewhere, making correct and responsible management to seek admittance an imperative – opinion of the Chief Constable to expand and tighten the conditions of the licence by adding to it workable and enforceable conditions to promote the licensing objectives in the future.

Made representations about the showing of CCTV footage which showed 7 minutes sequence of inside premises; viewing of footage necessary but unable to view at first hearing as not released by investigating officers to the police licensing department; this was only released on the Thursday before this meeting and copy DVD sent out on Friday, Relevant for the committee to view the footage.

CCTV was from premises rather than other source so there could be no prejudice to the premises licence holder in viewing.

CCTV provides contemporaneous evidence of what happened, and is concerning from a Licensing point of view

CCTV informs the police view as to why conditions are necessary.

Police were concerned -

- that the incident was of young woman of 21 who was significantly intoxicated whilst on the premises and was vulnerable and engaged in sexual activity in the upstairs of the premises –
- what they understand off duty member of staff who eventually came up stairs with door supervisor – few minutes after incident began.
- she was intoxicated when she left in company of at least one of the men and that broadly inadequate care was taken to prevent that incident having taken place and then manage it

Set out the meetings that had taken place between the police licence officer and premises licence holder since the summary review meeting as detailed in the police licence officers statement regarding discussions of a number of conditions agreed to be added to the premises licence and that needed to be updated

Wished to ensure the outcome of this meeting to demonstrate commitment of promotion of licensing objectives and reduce risks of any such incidents in the future

Referred the committee to two incidents in July 2019, concerning underage drinker age 14 who had been in premises; and to one where a young female being on the premises in July 2019 not being ejected by the premises staff.

Police not suggesting there was not a persistent pattern of underage drinking but these incidents reinforce the police view conditions that will encourage good management as to who is admitted re the incident on July 2020.

Made representations about their proposed conditions –

- that they are appropriate and proportionate to be added to the licence
- training was important to reduce the risk of future problems

- premises may have had good training but this was not evidenced on the night of the incident
- training on issues of protection of vulnerable, such as Ask Angela
- need to keep proper records of training and to carry out refresher training
- incident in July 2020 highlighted that premises did not have someone at the premises adequately trained to respond; and someone should be nominated to be responsible for incidents if DPS is not on the premises
- important to have human vigilance on all floors
- appropriate to have ratios of door supervisors and staff specified and not leave to risk assessments
- wish door staff to be more visible and to wear high visibility clothing for ease of identification
- believed it correct to impose the full conditions proposed now as previous approach of agreeing a minor variation of licence conditions had been overtaken by the incident which triggered the Summary Review of the Licence

Heard from the Legal Representative for the Premises Licence Holder and from the Premises Licence Holder as follows:

- That the premises licence holder had been engaged in a co-operative exercise with the Police to review conditions, and to assist in updating the licences in the area
- The emails disclosed by Police show negotiations last year and into early part of this year
- Discussions during this time did not refer to the underage incidents outlined by the Police
- The summary review came out of the blue as there was no previous indication of any concern about the management of the premises
- The proposed conditions by police were not suitable as the Police seeking to micro manage through conditions;
- Premises licence holder the professional in managing to meet the licensing objectives.
- The Premises licence has a 99.9% track record of compliance.
- The incident was serious, but there is no causal connection with any previous lack of management
- These premises are not a night club, they are a bar; not only a late night premises
- Cater to LGBT clientele so manage clientele carefully and that the described migration from other premises that close earlier does not happen
- The three incidents described by the Police have nothing to do with opening hours
- Made representation about viewing of CCTV to be shown by the Police that it does not contain all camera angles it only shows footage from 2 cameras – whereas 3 cameras took footage and were concerned about showing footage as it had been edited and not disclosed in time for viewing by premises licence holder prior to meeting
- Not considered that the young woman in the July incident was intoxicated; she passed tests of walking up stairs and was outside queueing for a while before admittance and left the premises with no issues.
- Disputed adequate training of door staff and explained they had been asked by a Police Sergeant to leave their station to assist police with people control elsewhere
- Confirmed that the premises had completed the review training on Ask Angela and vulnerability that committee had asked for at the summary review hearing
- Premises has in-house trainers and HR departments so would not need to employ outside trainers; also have extensive policies covering the various issues identified in the proposed conditions of the Police
- Need to set conditions that are reasonable and proportionate and that stand the test of time and not need to be changed in the future

- Committee bound by statutory guidance and any steps have to be evidence based and based upon the incident which is the basis of the summary review
- Not appropriate for door staff to have high visibility clothing; such clothing would not promote the correct image for club and not necessary as the door staff identifiable by the suits they wear and the high visibility arm bands which would be visible on CCTV should the need arise

Members considered all of the above

In relation to the representations to show the CCTV footage:

Considered that as there is no dispute that the incident occurred; they are not here to decide on whether an incident happened or not; or to decide on the criminality of the incident; this is something for the criminal investigation.

The Committee's role today is to make a determination on the appropriate measures to ensure the promotion of the licensing objectives in the licensing and future management these premises.

Having considered the representations that this CCTV does not show all available footage, the committee have decided it would not be appropriate to view.

Had the footage been agreed between parties before the meeting this might have been a different decision.

With regard to the representations made by the Police and the Premises Licence holder:

Considered the representations from all parties.

They noted that there was a difference as to the level of intoxication of the young woman involved in the incident.

They considered that it was not within their remit to make a determination as to whether the lady was intoxicated or not, or what happened during the course of the sexual act, but to reach a determination as to what steps were appropriate and proportionate to prevent any future incidents and to promote the licensing objective.

They considered that the Police had not produced any evidence by way of training records not being completed; or training not being carried out; to support the submission about the need for the detailed proposed condition on training

The noted that the Premises Licence Holder had provided extensive copies of their training for bar staff and front of house and also from the Inspire Security Solutions to demonstrate training requirements for door staff.

They noted the representation that conditions need to be able to adapt for the future and that the way to do that was to have a comprehensive set of policies that could be updated as things change; rather than a very detailed condition that may only last a couple of years.

They noted the representation about removing the current conditions on the premises licence to substitute for the new proposed conditions.

The committee considered that the young woman did leave the premises allegedly unable to support herself and was not offered assistance by the premises by being allowed to leave in a potentially intoxicated state thereby not being protected by the premises.

The Committee agree that the premises licence holder has training policies in place to manage such incident but consider that this training has failed for this incident.

The committee do not consider that it is necessary to impose the conditions suggested by the Police and do not consider that this review is the appropriate place to revise the full premises licence conditions and would expect the Police and the premises licence holder to meet separately on this point to agree any changes by variation

The committee agree that in the absence of being provided with any other persuasive evidence that it is proportionate and appropriate to impose one additional condition on the licence at this time which is as follows:

“All staff to be trained in procedures and safety relevant to their role, and to receive refresher training in relation to licensing conditions and all policies once every 6 months. Such training to be evidenced in training records”

After making this decision the committee considered the need for the interim decision imposed and agreed that the on-going costs of maintaining this requirement would not be proportionate in the long term, and were satisfied that the condition imposed about training above would satisfy any further requirement on this point so considered it appropriate to agree that this condition could extinguish upon the end of any appeal period.

You have the right to appeal by virtue of Schedule 5 Part 1 paragraph 8A of the Licensing Act 2003 which states:

- (1) This paragraph applies where an application for a review of a premises licence is decided under section 53A(2)(b) (review of premises licence following review notice).
- (2) An appeal may be made against that decision by –
 - (a) the chief officer of police for the police area (or each police area) in which the premises are situated,
 - (b) the holder of the premises licence, or
 - (c) any other person who made relevant representations in relation to the application.
- (3) In sub-paragraph (2) “relevant representations” has the meaning given in section 53C(7).

General provision about appeals under this Part is contained in Schedule 5 Part 1 paragraph 9 of the Licensing Act 2003.

- (1) An appeal under this Part must be made to a magistrates’ court.
- (2) An appeal under this Part must be commenced by notice of appeal given by the appellant to the ‘designated officer’ for the magistrates’ court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.
- (3) On an appeal under paragraph 2(3), 3(2)(b), 4(3), 5(2), 6(2), or 8(2)(a) or (c), the holder of the premises licence is to be the respondent in addition to the licensing authority.
- (4) On an appeal under paragraph 7(3) or (3A) the person who gave the interim authority notice is to be the respondent in addition to the licensing authority.

For the purposes of an appeal, you will be deemed to have received this notice within two working days of this letter.

Your application and any fee payable should be sent to the Magistrates’ Court within the time limit stated. You should contact the Court for details of the fee payable.

If you have any queries in respect of the above please contact me on the above telephone number.

OFFICIAL

Yours sincerely

A handwritten signature in black ink that reads "F. T. Prout". The signature is written in a cursive style with a horizontal line under the name.

Frederick Prout
Senior Licensing Officer