

## COUNCIL MEETING – 15 APRIL 2014

### REPORT OF THE LICENSING SUB-COMMITTEE

11 March 2014

Present: Councillors Waters (Chairman), Emerson and Maguire.

Also present: Mr G Hollands, Solicitor, District Law, Mrs A Wilcox, Principal Health Protection Manager (Licensing Manager) and Mrs C A Mundy, Democratic Services Officer.

(Councillors Hawkes and Simmons also attended as observers.)

(The hearing commenced at 10.15am.)

#### 1. APPOINTMENT OF CHAIRMAN

**RESOLVED** that Councillor Waters be appointed as chairman for this sub-committee meeting.

#### 2. APPLICATION FOR REVIEW – PALM BEACH BAR AND CLUB

The chairman welcomed everyone to the meeting and introduced the sub-committee members. He then asked the licensing manager to present her report.

The licensing manager explained how the meeting would proceed and outlined her report, which was for a review of a premises licence under the Licensing Act 2003 for Palm Beach Bar and Club situated at 3 Commercial Way, Wellingborough. The review had been requested by Northamptonshire Police who were concerned that the licensing objectives of the prevention of crime and disorder and the protection of children from harm were not being met. The licensing manager asked the applicant if he wished to present his reasons for bringing the request to the sub-committee.

PC 1048 Murphy and PS 1046 Wildman on behalf of Northamptonshire Police informed the meeting of the concerns that they had over the current licence holder complying with licensing objectives. Incidents had taken place on various dates since November 2012, culminating with two further incidents in January 2014 which were of particular concern. They reported their findings to the sub-committee.

The club had been hosting 'event' nights. In November 2012, a guest appearance by DJ Tim Westwood had resulted in a large number of people from outside the borough attending. A risk assessment had been carried out, prior to the event, following information obtained from other forces and licensing officers when similar events had been held. During the event a knife arch had been in operation, manned by the police, because of the concern of gun and knife crime at this type of event. In the early hours of the morning a

fight had broken out which had resulted in a male being injured. He refused to make a complaint or seek medical attention.

In February 2013 the police had been informed that Pubwatch had excluded the club due to non-payment of their subscription.

In June 2013 a theft of a wallet from the club had been reported and a 16 year old male, under the influence of alcohol, had been apprehended. He informed the police that he had drunk a litre of vodka.

In July 2013 a temporary event notice was in place to allow a 'resident DJ birthday party' to continue until 6.30am. At the premises the police had found disgruntled door staff who complained that they needed at least one additional member of staff to comply with the licence conditions. The police approached Mr Haye, the designated premises supervisor, about this and he decided that he would provide cover; however, this was prohibited as he was not trained and licensed to carry out the function.

A passive drugs dog operation had also taken place across licensed premises in the town. On entering Palm Beach, the smell of cannabis had been so strong that the drugs dog could not work properly.

In August 2013 another guest DJ, Mr Vegas, appeared at the club. Additional police had been drafted in and again there were a large number of visitors from out of town in attendance. At the end of the evening there were fights between local and visiting groups which resulted in officers being deployed from elsewhere in the county to assist in bringing the situation under control.

There was a report of assault and criminal damage on 7 December 2013 which had taken place in the toilets. The victim was uncooperative and would not identify his attackers.

In January 2014 two private parties were held at the venue including an 18<sup>th</sup> birthday party with people who were over 18 and under 18 in attendance. Prior to the event the police expressed concern over the potential for the sale of alcohol to under 18s. The club informed the police that staff had been reminded about Challenge 25; had been told to issue only one drink at a time and only on production of a valid ID; a record would be kept of any attempted purchase by under 18s; door staff would be informed not to allow anyone under the influence of alcohol into the premises and to stamp any over 18s hand to make it easier for bar staff. On the night police found a very strong smell of cannabis present inside the club along with a number of children who had consumed alcohol. Bottles of alcohol were seen on tables which had not been cleared. People were being allowed to exit the club and return without being checked for ID. Youths were witnessed leaving the club carrying bottles of alcohol which was not permissible as the club was in a designated public place order zone. The bottles could also have been used as a weapon. Two women, talking to Mr Haye, were witnessed smoking inside the premises. Inside the club a fight began between two girls which moved outside and encouraged a crowd to form. Nobody from the club intervened to stop the fight. The party had been due to finish at midnight but at 12.30am there were

200 people still in the club. At 12.50am the music stopped and 200 people vacated the premises. There was general public disturbance and further incidents continued throughout the town including criminal damage to a taxi office and general drunk and disorderly behaviour. Investigations established that the offenders had been at the club where alcohol had been purchased despite them being underage.

In general the officers believed that the club had breached the following conditions:

- (i) insufficient door staff – the required number is two Security Industry Authority (SIA) door staff for the first 100 persons and one for each additional 100 or part thereof;
- (ii) smoking areas that may be utilised at the front of the premises – smoking was permitted inside;
- (iii) No glass or bottles shall be taken outside of the premises.

There was also considerable concern around the sale, and consumption, of alcohol to children. Northamptonshire Police were calling for the licence to be revoked.

The chairman thanked the officers for their detailed explanation of the incidents that had taken place. He asked his colleagues if they wished to ask any questions of clarification.

Councillor Emerson asked the officers if they had been trying to work with the club over the issues raised.

PC Murphy clarified that he had been trying to work with Mr Haye to resolve the problems and had regularly met with him to give advice on how to improve the running of the premises.

Councillor Maguire asked why only two breaches had been included on the application rather than all four licensing objectives.

PC Murphy responded saying that he could have included all four objectives but had decided that the prevention of crime and disorder and the protection of children from harm were of most concern.

Councillor Maguire also asked if the police officers knew of the cost implications of policing of the venue and whether these were paid by Northamptonshire Police or the club.

Officers said that there had been a large resource issue in policing the club which the police had funded. Officers' shifts had been changed or they had to do overtime which had a knock on effect on other officers and the general level of policing elsewhere. Northamptonshire Police would pay for any planned policing, which is what this was.

The chairman asked what procedure was in place around identification of 18 and overs.

Officers responded stating that there were a number of schemes. One was a pass card which had the details of the person, date of birth and photograph. This had to be purchased. Novelty IDs could however be purchased on the internet. Also driving licences or passports could be used as ID.

The chairman asked Mr Haye's legal representative, Mr Colin Hobbs, if he wished to ask any points of clarification.

Mr Hobbs asked the officers a number of points of clarification as follows:

Over the two years that the club had operated had Mr Haye been co-operative with the police?

PC Murphy confirmed that Mr Haye had been co-operative and that there had been no issues in dealing with him. The police had been trying to give proactive advice but in his opinion he believed Mr Haye to be 'out of his depth' with dealing with the issues raised.

At the 'DJ Tim Westwood' event how many people had been on the premises?

PC Murphy said that the club had capacity for 728 people and he was aware that 100 had been turned away because of full capacity. He also informed the sub-committee that the capacity was no longer included on the premises licence and the involvement of the police was no longer required. It was included on the operator's fire risk assessment.

The chairman then asked if Mr Taylor from Pubwatch wished to address the sub-committee.

Mr Taylor informed the sub-committee that he had recently been chairman of Pubwatch, which was a group of licensees who would meet monthly to discuss issues, to promote safety and growth in the night time economy. He also explained the policy of Pubwatch and how members were expected to be active.

Palm Beach Bar and Club had been a member of Pubwatch and had attended monthly meetings. Mr Haye had been offered assistance and guidance as he had little previous experience on how to run a venue like this.

The club had failed to pay their annual subscription despite an initial request, a recorded delivery letter, and a couple of text reminders and had been excluded from Pubwatch at the March meeting.

Pubwatch had general concerns about the events that were being held and the problems with fights and anti-social behaviour because of the knock-on effect on the other pubs in the town. Major incidents at the club meant that the police were diverted from the hub of the town.

The criteria to be a member of Pubwatch was to attend meetings on a regular basis pay the fee of £50 or £100 for a new member. Members could join on two occasions each year, either August or January. Members needed to be active.

The reason the club had been excluded was because they had not paid the fee.

The chairman thanked Mr Tailor.

The chairman then asked Mr Hobbs if he would like to address the sub-committee.

Ms Hobbs explained that the premises licence had been issued to Palm Beach Plaza Ltd with the designated premises supervisor being Khavan Lord Antonio Haye. Mr Haye along with his sister Natoyah Williams and his mother Doreen Jones ran the club. Mr Haye had a passion for music, whilst his sister and mother both had experience working with young people and in managing staff.

Mr Hobbs passed to the sub-committee updated policies that had been drawn up for the approval of the police and subsequent adoption by the club. A copy had also been passed to the police.

The chairman asked PC Murphy if he had managed to review the bundle of documents. He confirmed that he had looked at them but had not managed to do so in great detail.

The club provided party nights for under 18's, people with disabilities, wedding receptions, cultural events and popular DJ nights. They were also planning to extend the kitchens to provide a 'diner-style' area, which was the subject of a planning application.

Mr Hobbs asked that it be noted that the conditions suggested by the police, should the licence not be revoked, would be detrimental to his client's business. His client had booked onto an enhanced designated premises supervisor training course for 23 May 2014. It would be difficult to hold the current functions if conditions were imposed where under 18s were not allowed on the premises. The club had an improved drug policy in place and would ensure that a more proactive search policy would be implemented. With regard to the condition regarding details of a 'promoter' being obtained, often the promoter was Mr Haye himself.

Mr Hobbs asked questions of his client regarding the incidents that the police officers had referred to. Mr Haye confirmed that prior to the events that were held there had been a risk assessment carried out, he had bought metal wands for the doormen to use and had been surprised when the police turned up with a knife arch. Six doormen had been on duty and searches had been carried out of people entering. With regard to the Pubwatch scheme, Mr Haye confirmed that he had attended all the meetings and that he would have been able to pay the money at the March meeting had he not been asked to leave.

He did not believe that the 16-year-old who had been arrested for stealing a wallet had drunk the alcohol on his premises. Mr Haye clarified that he had not attempted to act as a doorman; he had in fact been the DJ that night. He did not want drugs in his club and there was a zero tolerance policy at the club. He welcomed any deterrent such as the use of the drugs dog to stop it happening.

Mr Hobbs then addressed Mrs Williams who had been acting as bar manager on the night of the two parties. She explained that she had fully briefed her staff on the need to be vigilant when serving drinks. They had been reminded of the Challenge 25 policy and of the need to ask for ID as well as to check the stamp on over 18s hands. There was only one drink per customer to be served and glass/bottle collectors were told to remove half full bottles and asked to be vigilant and observe and report any underage drinking. There was also a log of anyone who was refused alcohol. The door supervisors also walked through the club to check that under 18s were not drinking alcohol.

Mr Hobbs then asked Mrs Jones to describe what her involvement was with the club. She said that she was the driving force behind the club; she was an experienced mother of three successful children and had been a child minder and youth worker. She currently worked as a youth worker with the youth offending team dealing with children with challenging behaviour. She ensured that children under 18 who attended parties at the club were escorted to their parents' car and checked that they were collected by the appropriate person. She was well respected in the community and had a good rapport with young children. Safeguarding children was of paramount importance

The chairman thanked everyone for their input into the meeting and asked if each speaker wished to sum up what had been said.

The chairman adjourned the meeting at 12.40pm and the councillors and Mr Hollands left the council chamber.

On their return to the council chamber the chairman reconvened the meeting at 1.35pm.

**RESOLVED** that the sub-committee exercise its powers under the Act by adding further conditions to the licence as follows:

**1. Decision:**

- (i) all staff employed at the premises during opening hours will be trained in respect of current licensing and smoke free legislation and records of the training will be kept and made available to the police and officers of the licensing authority forthwith upon request;
- (ii) a pro-active drugs policy shall be formulated, documented and approved by Northamptonshire Police and the licensing authority forthwith. This must include the identification of risk areas and a door staff patrol plan;
- (iii) the designated premises supervisor or duty manager will maintain a register with the following information:

- (a) the name of the person in charge of the management of the premises at all times the premises are open to customers;
  - (b) the full name and complete SIA registration numbers of all door staff on the premises;
  - (c) particulars of every incident reasonably construed as affecting the four licensing objectives, namely criminal behaviour in the premises, public safety, public nuisance and the protection of children from harm. Such particulars shall include the time of the incident, short particulars, the names of the principal persons concerned or in default a brief description;
- (iv) Such register will:
- (a) be produced to the police or the licensing authority forthwith upon demand;
  - (b) be accurate and up to date by 6am on every day;
  - (c) be bound and every such incident recorded shall be separately numbered;
  - (d) retained in a safe place on the premises for a minimum of 12 months after the date of the last entry, or such longer period as the police or the licensing authority shall, by notice, require.

**2. Warning:**

Whilst not a formal part of the decision the premises licence holder is reminded that failure to comply with all of the conditions of the licence, including those imposed by this decision is a criminal offence. Furthermore such a failure of further incidents of the kind admitted is likely to result in an application for a further review of the premises licence. Without in any way fettering the discretion of a licensing sub-committee hearing such a further review the sub-committee considers that it would be likely that evidence at such a further hearing of consumption of alcohol by children or the use of illegal drugs would result in the sub-committee exercising its powers to revoke the licence.

**3. Information provided to the Licensing Sub Committee:**

- (i) the report of the licensing manager of the council, including statements from Police Sergeant 1046 Wildman and other police officers, a report from Police Constable 1048 Murphy responsible for licensing functions, and relevant representations from Wellingborough Pubwatch;
- (ii) Oral testimony from PC Murphy, PS Wildman and PS Williams of Northamptonshire Police;
- (iii) Oral testimony from the premises licence holder Khavan Haye, Natoyah Williams and Doreen Jones being persons involved with the control and management of the premises. That testimony included their intentions to improve management of the premises and detailed written particulars (provided to the police prior to the hearing) of how they proposed to do that;
- (iv) Representation on behalf of the premises licence holder by Mr Colin Hobbs of the solicitors First Law partnership of Wellingborough.

**4. Reasons for the decision:**

In arriving at its decision the committee noted the following undisputed facts:

- (i) On 10 November 2012 a fight occurred outside the premises at 4am;
- (ii) On 15 June 2013 a theft of a wallet occurred in the bar area of the premises;
- (iii) On 22 August 2013 there was a fight in the premises;
- (iv) Another fight subsequently occurred outside the premises on the same date after closing time;
- (v) On 12 October 2013 drugs were found in a vehicle near the premises;
- (vi) On 7 December 2013 an assault occurred in the male toilets;
- (vii) The premises licence holder attended a meeting with PC Murphy on 15 January 2014. The police accept that at that time and all other times Mr Haye has co-operated with the licensing section of Northamptonshire Police;
- (viii) On 25 January 2014 several persons under the age of 18 were found by PS Wildman consuming lager in the premises during a private party at which adults were also present. It was plain that systems for preventing the sale of alcohol to children had failed. Other incidents also occurred.

**5. The premises licence holder disputed the following facts:**

- (i) That cannabis had been smoked in the premises on 18 August 2013.
- (ii) Whilst noting the reports by the police of what several young people had said about incidents in the premises the sub-committee was unable to draw any firm conclusions from this evidence having regard to its hearsay nature.
- (iii) It also noted testimony from the police that other incidents of drug use had occurred outside the premises, but it had to take note of guidance that the premises licence holder should not be held responsible for activities taking place away from the premises licensed.
- (iv) It also noted that the incidents at 4.1, 4.4 and 4.5 above did not occur on the premises.
- (v) Nevertheless it was quite plain that serious incidents of violence had occurred on the premises on at least two occasions and those systems for the prevention of underage drinking had wholly failed on 25 January 2014.
- (vi) Furthermore whilst being unable to conclude that drugs had been sold or used on the premises, it noted the concerns of the police.
- (vii) Accordingly it was necessary for action to be taken to uphold the licensing objectives of the prevention of crime and protection of children from harm by way of the consumption of alcohol.
- (viii) In considering what action to take the sub-committee noted.
  - (i) the police accepted that the premises licence holder had at all times co-operated with its officers.
  - (ii) the detailed proposals of the premises licence holder and Natoyah Williams for taking steps to prevent the possibility of the sale of alcohol to children at future events.

- (iii) The representations of the premises licence holder that restricting the premises to persons over the age of 18 or forbidding any event where adults and persons under the age of 18 were both present would seriously affect the viability of the premises.
- (ix) The sub-committee concluded that having regard to these matters, the guidance under section 182 of the Licensing Act 2003 and its own licensing policy, that revocation of the premises licence was not warranted. After careful consideration it also believed that it was inappropriate to exercise its powers to suspend the licence. However, action was certainly necessary to uphold the licensing objectives. The proposed management changes offered by the premises licence holder were important particularly in relation to the prevention of underage drinking and criminal drug use. It was also necessary for these to be backed up by appropriate conditions as set out above.

Chairman

The meeting concluded at 1.45pm.