

At a meeting of the LICENSING SUB-COMMITTEE held in the CIVIC CENTRE on , Monday, 29th November, 2010 at 10.00 a.m.

Present:-

Councillor P. Gibson in the Chair

Councillors Bell and D. Smith

Declarations of Interest

There were no declarations of interest.

Apologies for Absence

All Members of the Sub-Committee being present, there were no apologies for absence.

Licensing Act 2003 – Consideration of a Police Objection for a Temporary Event Notice – The Jolly Potter, High Street, South Hylton

The Executive Director of City Services submitted a report (copy circulated) concerning the above.

(For copy report – see original minutes).

On 16th November, 2010, the licensing authority received from you, Annie Ennis Young, a Temporary Event Notice ("the Notice") in respect of proposed temporary licensable activities due to take place between Friday, 3rd December, 2010 and Sunday, 5th December, 2010 at The Jolly Potter, High Street, South Hylton, Sunderland. The proposed licensable activities of the sale of alcohol and the provision of regulated entertainment are due to take place:-

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| Friday, 3rd December, 2010 | - | 15:00 to 00:00 |
| Saturday, 4th December, 2010 | - | 00:01 to 01:00 and 12:00 to 00:00 |
| Sunday, 5th December, 2010 | - | 00:01 to 1:00 |

The licensing authority have received an Objection Notice from the Chief Officer of Police under Section 104(2) that he is satisfied that allowing the premises to be used in accordance with the Notice would undermine the crime prevention objective. The Objection Notice has been given to the relevant licensing authority and to the premises user within the 48-hour period after the Chief Officer of Police was given a copy of the Temporary Event Notice.

The relevant licensing authority have arranged this hearing of its Licensing Sub-Committee to consider the Objection Notice in accordance with Section 105(2).

The Licensing Sub-Committee have considered the contents of the Police Objection Notice which states:-

RE: Application for a T.E.N., The Jolly Potter, South Hylton

Northumbria Police are in receipt of the above T.E.N. and wish to object on the grounds of crime and disorder and public safety.

As part of Operation Barracuda, The Jolly Potter has been inspected on seven occasions. On each inspection there have been issues identified at the premises, a spreadsheet has been attached to this document detailing each individual inspection.

One of the main concerns relates to the safety of the public on the premises. On two occasions when Police arrived at the premises it appeared closed as all curtains were closed and the metal front door roller shutter was pulled down. On closer inspection, music was heard coming from the premises. The roller shutter was prised up by the Police Officers and upon gaining entry customers were still inside. Whilst inside, it was identified that fire exits were padlocked shut and the only door in use was a rear exit through the kitchen.

On all inspections, breaches of licence have been identified, these issues have been raised with the Premises Licence Holders Punch Taverns and copies of the letters sent have been attached. Four letters have been sent on 22nd March, 2010, 27th March, 2010, 6th May, 2010 and 21st September, 2010, issues have still not been rectified.

Carol Parkes
Chief Inspector
Partnership & Criminal Justice
Sunderland Area Command

The letters referred to in the Notice do raise a number of issues regarding unlicensable activities including the sale of alcohol outside of hours, and to intoxicated persons, breaches of conditions regarding CCTV operation and retention. Evidence of the use of illegal drugs (Cocaine) was found in the toilets. In addition to this criminal activity, the letters mention issues of public safety which are not part of the consideration for this hearing.

In the hearing the Police and the Applicant Premises User have been given an equal opportunity to present any evidence, address the Licensing Sub-Committee question to the other party and sum up their position.

The Sub-Committee advised the applicant and Police that only evidence relevant to undermining the crime prevention objective will be considered.

In this case the Licensing Sub-Committee have also heard representations from Sarah Howson, Police Licensing Officer who has stated that the Police wish to object to the temporary event notice as they consider it necessary to do so for the promotion

of the crime prevention objective. The Police as the Sub-Committee are aware have been undertaking a number of operations at licensed premises including one Operation Barracuda which was designed to identify problem premises and behaviour and criminal activity associated with that premises. The Police have produced a spreadsheet identifying seven visits that have been made to the Jolly Potter as part of that operation these visits demonstrate the Police's concerns in regard to this application.

In the first visit on the 14th March this year they visited at 00.40 hours the attitude of the person in charge who was a personal licence holder Elsie Young was not helpful the premises is open for the sale of alcohol until midnight with twenty minutes drinking up time it was twenty minutes beyond that time that the Police visited they found the premises in darkness the fire exits were locked and shutters down when they did gain access there were approximately forty people in the pub a number very drunk and still drinking. There was evidence of drug use cocaine in both the male and female toilets there was excessive noise coming from the premises the till roll was ceased as this evidenced that alcohol was still being sold past the licensing hours. The second visit on the 20th March Sarah Howson said she attended herself the visit was at 00.30 hours ten minutes after the place should have been closed again the lights were off the shutter door was almost pulled to the bottom when the Police did gain access there was between forty and fifty people drinking the person in charge Elsie Young is described as being obnoxious and refused to co-operate with the Police again evidence of cocaine was found in the toilets there were no fire extinguishers available. Mrs. Young was drunk herself and had clearly been serving after time. The next visit on the 26th March the DPS Annie Young was in charge this visit was at 00.47 hours twenty seven minutes after it should have closed again the person in charge was not welcoming or helpful evidence of drug use was again found. The premises was next visited on the 24th April at 00.30 hours Mrs. Elsie Young was in charge there were approximately fifty people in the premises who were drunk and not happy when asked to leave a number of them were found to be attempting to leave by the side door when the Police entered evidence of drug use was again found in both the male and female toilets. The next visit on the 4th September took place at 00.20 hours Mrs. Annie Young was in charge she was again not co-operative there were fifteen to twenty customers in the premises with evidence of drug use again found in both the male and female toilets. There were two further visits one on the 2nd October and the other on 22nd October again the individuals in charge were unhelpful on the 2nd October the visit was at closing time 00.20 hours ten to fifteen people were still drinking after hours. The visit on the 22nd October took place at 11.50 ten minutes before closing time there were forty people in the premises again Mrs. Elsie Young was unhelpful to the Police.

The Police have now considered all of the evidence they have collected and have submitted a review application and will be seeking Mrs. Ann Young to be removed as DPS there are serious concerns with regards to drug use and public safety in these premises in particular on the visit on 20th March when doors were locked and shutters were down one customer was in a wheelchair and would have not been able to exit safely or quickly from the premises. The Police have written to the licence holders Punch Taverns after each of the visits detailed already but are yet to receive any response from them. The Police believe that allowing this temporary event to take place is likely to lead to further illegal drug use and the potential sale of alcohol to

already intoxicated persons therefore the Police believe the prevention of crime objective will not be promoted if the event is allowed to take place.

Councillor Gibson then asked in respect of the spreadsheet it states in respect of Annie Young licence not available what does this mean. Sarah Howson replied that this was referring to the fact that she did not have her personal licence with her. Councillor Gibson also asked if any response had been received from Punch Taverns and was told no.

The applicant Annie Young has made the following representations in support of the application:-

Mrs. Young stated that she put her hands up to the first incident referred to but would take issue with some of the information provided since then she stated the Police have not mentioned the large number of occasions when they have visited the premises on other occasions and found no problems. She disputes that after the first visit any of the doors were locked this is not the case they are fire exits and could be opened by simply pushing the door. She stated that the side door was closed after 10.00 pm at the request of the Council to keep the noise in. She stated that the information that there was no fire extinguisher was not correct that is in place and they have had a fire inspection since then. Mrs. Young when questioned acknowledged that the shutters to the doors to the premises had been pulled down but they were not locked and could be pulled up and this is how the Police gained entry. She stated that in her view every pub in Sunderland would have evidence of drug use in the toilets they do inspect the toilets if they find any evidence of drug taking the people involved will be asked to leave. She stated she has recently had a temporary event notice which the Police did not object to though they did visit twice and no evidence of drug use was found. Mrs. Young stated it is not correct that she did not know how to work the CCTV this is evidenced by the fact that on the 24th August Police Officers had come in asking about her serving a drunk driver they had picked up she was able to identify on the CCTV that this individual had been refused service and provided a copy of this to the Police. She stated she has operated bars for a number of years and knows how to deal with customers it is always difficult at last orders to get people out there is the twenty minutes but she would rather give them five or ten minutes more to get them to leave quietly than cause problems by trying to take the drinks off them. They are all fully aware that they will not be served any more alcohol after closing time. Mrs. Young was asked by Sarah Howson if she could explain what the licensing objectives were and how the granting of the temporary event notice would promote these. Mrs. Young responded that she did not know what was meant she had to have the four licensing objectives stated to her and then responded that she knew all of that and knows how to run a bar. Mrs. Young summed up by saying that before she took over the pub had a bad reputation for bother now the Police never get called for problems of this nature she produced a letter from a person who she claimed to be a serving Police Officer, Joseph Dow who stated that he is a regular in the premises and that he has never seen any problems and that Mrs. Young was extremely strict in observing the licensing hours.

The Sub-Committee sought information as to the previous temporary event notice and were told that it had been allowed without Police objection on the 12th, 13th and 14th November this year.

The Licensing Sub-Committee have considered the representations, having taken into account the requirement of Sections 100, 101, 104 and 105 of the Licensing Act 2005. It has also considered paragraphs 7.2 to 7.4, 7.14 to 7.19 and 7.26 to 7.30 of the Government Guidance issued under Section 182 of the Act.

The Committee have decided that granting the Temporary Event Notice will breach the crime prevention objective. The seven visits to the premises since March this year have identified breaches and likely breaches of the Criminal Law especially in respect of illegal drug usage. It is our opinion that granting this Temporary Event Notice would undermine the crime prevention objective. The Committee were surprised to find that the Police on knowing the information they have provided today did not object to the earlier temporary event but it does not alter our view that granting the notice would undermine the crime prevention objective.

1. RESOLVED that in this case the Sub-Committee are going to give a counter notice. The issuing of the counter notice will render the carrying on of the licensable activity an unlicensed activity. The applicant has the right to appeal the decision to the Magistrates Court within 21 days of receipt of the Notice.

In the case where the Licensing Sub-Committee decides not to give a Counter Notice this Notice of Determination will be provided to the Police and Applicant Premises User giving the reasons for the decision.

(Signed) P. GIBSON,
Chairman.