

Appendix 1

**SUNDERLAND CITY COUNCIL LICENSING AUTHORITY
LICENSING SUB-COMMITTEE HEARING
REVIEW HEARING**

**LICENSING ACT 2003
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

NOTICE OF DETERMINATION

Date of hearing and determination : Wednesday 18th July 2012

Committee members: [Chair] : Councillor Peter Gibson
Councillor Derrick Smith
Councillor Richard Bell

Officers: Jim Wotherspoon, Solicitor,
Ernie Humphrey Snr Licensing Officer

Police : Bill Sproates Licensing coordinator

Premise Licence Holder: Nightfree Limited John Kerr (new DPS)
Solicitor Judith Mackenow

On 25th May 2012 the licensing authority received an application from Northumbria Police under Section 51 of Licensing Act 2003 requesting a review of the Premises Licence of Banana Joe's 20/21 Vine Place, Sunderland stating that the application relates to the Prevention of Crime and Disorder and Protection of Children from Harm licensing objective(s).

The grounds stated for the review were:-

This premise has come to the attention of Northumbria Police due to incidents of crime and disorder and also incidents involving persons under the age of 18 years. Since January 2012 there have been 26 incidents recorded at the premises. Most of the incidents involve altercations in the premises, in all incidents the persons involved were intoxicated with many being arrested for D&D. The incidents are listed below:-

	Date	Time	Log	Comments
1	21/5/2012	0251	93	Unknown male approaches female in bar and punches and kicks her causing swelling to her jaw and bruised shin. Male arrested for Sec.47 assault.
2	13/5/2012	0258	250	3 males arrested D&D.
3	07/05/2012	0436	315	Fight reported by CCTV on Police arrival no complaints were made.

4	06/05/2012	0204	219	Female puts bag on table, offender approaches table and takes bag concealing up jumper. Offender detained by Police for theft.
5	05/05/2012	0212	167	2 males arrested D&D, one of the males found in possession of cannabis
6	30/4/2012	0236	71	Problems with male reported via CCTV. Male moved on by Police, doorstaff spoken to who were happy with response.
7	28/4/2012	0316	230	1 male arrested D&D
8	21/4/2012	0233	206	Female fallen over, ambulance called by doorstaff
9	21/04/2012	0219	206	Member of staff assaulted, 2 arrested for common assault. Victim was DPS of premises.
10	05/04/2012	0225	97	Trouble with female. On Police attendance doorstaff stated that the female had been extremely drunk inside the premises and slumped on the floor. When doorstaff tried to pick her up she has picked up a bottle in attempt to hit doorstaff. Lawful ejection.
11	25/03/2012	0425	290	Female collapsed, taken to hospital by ambulance
12	15/03/2012	0204	100	Female arrested, fail to comply with a direction to leave.
13	13/03/2012	0059	55	Victim separates fight in bar with 2 males, female jumps onto victims back and scratches face. Female arrested common assault. Victim is DPS of premises.
14	12/03/2012	0330	87	Doorstaff report theft on behalf of female who has had 2 mobile phones stolen in premises
15	04/03/2012	2302	1658	Male seen by doorstaff to pick up chair and slam onto floor causing damage. Male issued with penalty notice.
16	03/03/2012	0354	327	Trouble with female. Drunken female refused entry and arguing with staff, given advice by Police and moved on.
17	19/02/2012	0304	238	Male aged 17 making complaint that he was head butted in premises. After contact by Police male decided he was intoxicated and to take no further action.

18	09/02/2012	0020	23	Disturbance at premises. On Police arrival there had been an altercation inside the premises with 2 groups. Both groups left on Police request.
19	05/02/2012	0245	244	Report from caller that her daughter and two friends aged 16 years had just returned from premises. Doorstaff did not question their age, caller will be ringing the premises to complain, passed to Police for info only.
20	31/01/2012	2356	1312	Disturbance reported inside premises. On police arrival and viewing CCTV a male had been aggressive towards a group of males and a minor scuffle taken place. No complaints were made and the male was moved on by Police.
21	28/01/2012	0151	189	Disturbance reported. Scuffle had taken place but persons spoken to did not want to make a complaint.
22	23/01/2012	0117	55	Male head butted another male in the face, arrested for public order sect. 4.
23	23/01/2012	0051	44	Trouble with male. Male searched by Police and moved on.
24	18/01/2012	0504	142	Report of fight, female arrested D&D.
25	17/01/2012	0359	105	Fight breaking out. Nothing ongoing on Police arrival.
26	16/01/2012	2145	1176	Offender approached victim and spits in face. Male arrested for common assault.

CCTV has been requested by Police for many of these incidents and although there has been no problem in obtaining the footage, the quality has not been to an acceptable standard. Cameras do not afford coverage of the entire licensed area and there are general gaps in the coverage that should be addressed, including the main front entrance. A key element is the ability to identify persons entering and leaving the premises. By recording large images at these 'pinch points', smaller image sizes and therefore wider coverage is likely to be acceptable at other parts of the building to provide sufficient evidence of what took place.

In February 2012, a male aged 17 was assaulted inside the premises.

Date	Time	Log	Age	Comments
19/02/2012	0304	238	17	17 year old male headbutted in premises. Victim decided not to prosecute.

Due to this incident on 23rd March 2012 a joint operation took place with Northumbria Police and Sunderland Trading Standards to carry out test purchases utilising test purchase operatives (TPOs). Two female TPOs who were both aged 16 years entered Banana Joe's. There was one door supervisor on the door who did not ask them for any identification. They approached the bar where they asked for two bottles of magners, the female staff member behind the bar stated they were not selling them so they requested 2 cans of strawberry cider. The female behind the bar did not ask for any identification. The female staff member has been issued with a £80 penalty ticket for the sale of alcohol to someone under 18. The DPS of the premises David Ridley was on duty at the time and was informed of the sale by the uniformed Police Officer who issued the penalty ticket.

Since this operation took place there have been six more incidents or crimes recorded attributable to the premises involving persons under 18 years.

Date	Time	Log	Age	Comments
01/04/2012	0561	1059	17	Theft of purse, victim aged 17 years.
09/04/2012	0243	200	16	2 females aged 16 engage in physical altercation at entrance to premises. 1 arrested public order sect.4.
09/04/2012	0337	240	17	3 males involved in fight, victim received laceration to eye. 2 males arrested one aged 17 for Assault S.47.
21/04/2012	0255	230	15	Female reported missing by children's services in Newcastle found in premises aged 15.
21/04/2012	0255	230	14	Female reported missing by children's services in Newcastle found in premises aged 14.
13/05/2012	0258	250	16	Male aged 16 arrested D&D.

Police have made contact with several staff who work or have worked at the premises and they report that the management of the premises by the DPS is poor:

- Staff receive no training for the role in relation to the sale of alcohol from the DPS of the premises.
- Staff are instructed that it is the doorstaffs responsibility to ask for ID so they are just to serve the customers.
- Many of the staff employed to serve alcohol are not themselves 18 and have been serving alcohol unsupervised.
- Staff have no contract and get paid cash in hand.
- Many incidents of violence inside the premises do not get reported to Police.

The Police have made attempts to contact the premises licence holder to speak to them regarding the failed test purchase, issues with under 18's in the premises and

also incidents of crime and disorder. Several phone calls have been made to the premises licence holder but none have been answered. Two letters have been sent inviting the premises licence holder into Gillbridge Police Station to discuss the issues, neither appointment was attended. These letters are attached to this review in Appendix 1 and 2.

Serious concerns exist with regard to the overall management structure of this premises, and the failure to promote the licensing objectives in respect of the Prevention of Crime and Disorder and Protection of Children from Harm.

Northumbria Police have considered all of the evidence presented and have no alternative but to request a review of the premises licence. With this in mind Northumbria Police request that the Licensing Committee attach the following conditions to the premises licence:

1. Removal of the DPS from the premises licence.
2. A CCTV system must be designed, installed and maintained in proper working order, to the satisfaction of the licensing authority and Northumbria Police. Such a system must:
 - Ensure coverage of all entrances and exits to the licensed premises both internally and externally.
 - Ensure coverage of such areas as may be required by the licensing authority and Northumbria Police.
 - Provide continuous recording for each camera to the Home Office Scientific Development Branch (HOSDB) standard for identification (CCTV Operational Requirements Manual 2009 No. 28/09). Such recording must be retained for 28 days and must be supplied to an Officer of the Council, Police Officers or Police Staff on request.
 - Be in operation at all times the premises are in use.
3. All members of staff at the premises including door supervisors shall seek credible photographic proof of age evidence from any person who appears to be under the age of 25 years and who is seeking to purchase alcohol. Such credible evidence must include a photograph of the customer, will either be a passport, driving licence or a proof of age card carrying a 'PASS' logo.
4. A staff training record shall be maintained at the premises:
 - All members of staff shall receive training on their responsibilities, with particular focus on issues surrounding age restricted products. Training will be given to all new members of staff before they are permitted to serve alcohol.
 - Staff shall be re-trained at least every 6 months.
 - A record of training shall be kept at the premises, retained for a minimum of 1 year and be available on request to an Officer of the Council, Police Officers or Police Staff.

5. An incident reporting system must be in place at the premises.
 - Such a system should document all incidents at the premises relating to the public and staff members.
 - Documentation should be retained for a minimum of 1 year and be available on request to an Officer of the Council, Police Officers or Police Staff.
6. The Premises Licence Holder, DPS or suitable management representative will attend all city centre Pubwatch meetings.

The licensing authority considered the application was made in accordance with the provisions of Sections 51(4) and (5) and have not rejected the application.

Having accepted the application the licensing authority advertised the application for review on, at, or near the premises by displaying a notice inviting representations from responsible authorities and interested parties for the 28 day statutory period which started on the 28th May 2012.

As a result of this advertisement no representations were received.

The review hearing was arranged in accordance with the hearings regulations which require the hearing takes place within 20 working days beginning with the day after the end of the 28 day period for making representations.

Notice of the review hearing date has been given to those specified in the regulations. In addition they have been provided with a copy of the procedure used in such hearings.

Hearing

At the hearing all parties were given equal time in which to make representations.

The Sub-Committee heard representations from the Police (Bill Sproates) and Premise licence holder's Solicitor Judith Mackenow to the effect that the Police concerns were acknowledged and the Premise Licence holder was in agreement to all the changes that the Police were requesting and they have submitted a minor variation application to that effect.. The changes have been made staff trained; a new security company Graham Security Limited has taken over the door staffing, The CCTV is being updated

Councillor Smith asked if a member of staff will always be on the premises who is able to operate the CCTV system and access recording for Police and officers from the Council. Mr Kerr confirmed this. Bill Sproates mentioned that this had already happened as the premises were burgled last night and access to CCTV used.

The Sub-Committee have considered all of the information and representations having regard to the Act, Guidance, regulations and the Council's own statement of licensing policy.

It has had regard to the causes of concern and the requirement for the decision reached to be appropriate and proportionate to the issues raised.

There are powers available to the Sub-Committee under Section 52(4) which can be exercised in determining the review where they consider it appropriate to do so for the promotion of the Licensing objectives. These powers include to:-

- (a) modify the conditions of the licence;
- (b) exclude a licensable activity from the scope of the licence;
- (c) remove the designated premises supervisor;
- (d) suspend the licence for a period not exceeding three months;
- (e) revoke the licence.

The Sub-Committee have decided that in view of the acceptance of the need for the changes requested by the Police and the submitting of the Minor variation application no further action is needed at this stage. Having considered all the evidence presented in the written review application by the Police it is clear that the premises was not operating as it should, even in a busy vertical drinking establishment such as this there should not be the number and type of incidents which are recorded.. Many of these incidents should have been caught on CCTV but some of the pictures were not clear because of the poor quality system. CCTV is widely used and very useful in both the prevention and detection of incidents and crimes. It is clear that the system here needs to be updated to cover all areas particularly the entrances and exits. The Failure of the premises in the test purchase exercise and other incident involving under age young persons being in the premises demonstrate that the protection of children from harm objective has not been promoted. It is the Sub Committees view that all staff do need more training regarding under age sales and access to the premises. It is also apparent from the evidence that no or very little training has be provide, with some staff being under 18 themselves and none have been told of the need to ask for ID. Indeed some being told this is solely the door-staff's responsibility. There are serious concerns with the day to day running of the premise by the DPS and we concur that a new DPS is needed and happy to note this has been done. The other proposed changes deal with adopting a challenge 25 scheme and improving and recording all staff training, adopting an incident reporting system and the new DPS attending all city centre Pub watch meetings. All of the measures listed 1 to 6 above in the Police representations are required and appropriate for the promotion of the Licensing Objectives. In view therefore of these changes the Sub Committee have decided no additional measures are required at this time.

Signed [Chair]

Date