

## **LICENSING SUB-COMMITTEE**

**Wednesday 18th January, 2016 at 10.30 a.m.**

**In a Conference Room at the Council House, Walsall**

### **Present:**

Councillor Rochelle (Chairman)  
Councillor Sarohi  
Councillor Sears

### **In attendance:**

Hazel Powell	Senior Licensing Officer – Walsall MBC
Paul Green	Legal Services – Walsall MBC
PC Neil Gardiner	West Midlands Police
PC Lisa Fellowes	West Midlands Police
Hannah Finnan	Injured Party
Mr Heath Thomas	Harrison Clarke Rickerbys- Solicitor for the Pitch Bar
Mr Gurpal ShoWkar	Designated Premises Supervisor- Pitch Bar

### **Appointment of Chairman**

#### **Resolved**

That Councillor Rochelle be appointed Chairman of the Licensing Sub-Committee for this meeting only.

### **Councillor Rochelle in the chair**

#### **Welcome**

The Chairman extended a welcome to all persons present at the Licensing Sub-Committee which had been established under the Licensing Act, 2003.

#### **Apology**

An apology for non-attendance was submitted on behalf of Councillor Worrall.

#### **Declarations of Interest**

There were no declarations of interest.

**Application for a premises licence review under Section 51 of the Licensing Act, 2003- The Pitch Sports Bar and Grill, 1 Bridge House, Bridge Street, Walsall, WS1 1JQ**

The report of the Director of Public Health was submitted:-

(See annexed)

Councillor Rochelle explained the purpose of the meeting and requested the Senior Licensing Officer (Miss Powell) to explain the application.

The Senior Licensing Officer (Miss Powell) enlarged upon the report for the benefit of the Sub-Committee and indicated that the application for a premises licence review in respect of the Pitch Sports Bar and Grill, 1 Bridge House, Bridge Street, Walsall, WS1 1JQ had been made under Section 51 of the Licensing Act, 2003. The application had been made by the Chief Officer of West Midlands Police, a responsible Authority, under the terms of the Licensing Act, 2003. The review application had been received by the Licensing Authority on 22<sup>nd</sup> November, 2016 (appendix 3 refers) and it was for the Sub-Committee to determine what steps if any should be taken to promote the Licensing Objectives at these premises. Miss Powell reported that the current premises licence which included the operating schedule and premises plan was attached as appendix 1 to the report. The Premises License holder was Metro Bars Limited (effective from 1<sup>st</sup> February, 2016).

A street map showing the location of the premises was given as appendix 2 to the report and Miss Powell confirmed that the Chief Constable of West Midlands Police had requested a premises licence review on the grounds that the premises licence holder was not promoting the Statutory Licensing Objectives of the prevention of crime and disorder and public safety. An additional disclosure bundle, provided by West Midlands Police was given as appendix 4 to the report.

In accordance with prescribed regulation, following the submission of the review application, Officers arranged for a premises licence review notice to be displayed for 28 consecutive days at the premises, on the Council's website and at the Council's offices.

The period for further representations (of either a positive or negative nature) to be submitted from other responsible authorities and "other persons" closed on 20<sup>th</sup> December, 2016. On 23<sup>rd</sup> November, 2016 a representation was received from Walsall Council's safeguarding department, a responsible authority under the terms of the Act. (Appendix 5 refers). No further representations had been received from any of the other responsible authorities or other persons.

At the time of completing the report the premises licence holder had not provided any additional information in respect of the review

application. Finally, Miss Powell drew the Sub-Committee's attention to paragraph 4.2 of the report which contained the legal position.

There were no questions to Miss Powell on the report.

The Solicitor for the Pitch Bar and Grill (Mr Thomas) referred to the fact that criminal proceedings were ongoing between the injured party and the alleged aggressor and queried whether the meeting should be held in public or private. A member of the press was currently present.

P.C. Gardiner (West Midlands Police) indicated that, in his opinion, information would be divulged at the hearing which should not be cascaded to the general public at this time.

The Legal Representative (Paul Green) stated that he might need to take advice on this matter before making a ruling as to whether the hearing should be held in camera or not.

All parties withdrew from the meeting at 10.45am so that a decision could be taken as to whether the hearing should continue in public or in private.

Paul Green advised the Sub-Committee that the witness/ injured party would want to be able to explain what happened. He felt that this information should not be available in the public domain at this time as with criminal proceedings, it could prejudice the Police's case.

After discussion it was

### **Agreed**

That the hearing continue in private session.

### **Exclusion of Public**

### **Resolved**

That, during consideration of the review hearing, the Sub-Committee considers that the matters for consideration or exempt information for the reasons set out therein under Section 100A of the Local Government Act, 1972 and accordingly resolves to consider that item in private.

The member of the public present left the meeting.

P.C. Gardiner reported that West Midlands Police had asked for a review of the premises licence for the Pitch Bar and Grill following a sexual assault on a female by a male and security staff refusing to contact West Midlands Police when requested to by the injured party and she being told by security staff that she should not try to contact the Police herself as they would not attend the incident. He indicated

that he had worked closely with the management of the Pitch Bar and Grill and had drawn up five additional conditions which he would like to see added to the licence. These were:-

- (1) Door security staff employed directly or indirectly by West Midlands Security Limited are not to be employed to provide security at any entrances to The Pitch, 1 Bridge Street, Walsall.
- (2) CCTV to be fully operational and recording. A weekly test will be made by the DBS to ensure the CCTV is operational and recording. These checks will be documented. Any faults will be reported immediately.
- (3) All bar staff are to be fully trained in the use of recording and downloading of the installed CCTV system by a recognised CCTV company/ engineer. Training to be updated within a 12 month time frame. The DBS will document this training and make it available for any registered authority upon reasonable request.
- (4) An identification scanning device to be fully operational and working, recording every entry when door staff are employed. Scanning upon entry will be a condition of entry. Anyone not scanned will not be allowed entry. (This condition would save valuable Police time looking for the offender).
- (5) The rear smoking area is not licensed under the Pitch premises licence and forms part of a separate large car park area for various businesses along Bridge Street. It currently consists of an "area" cordoned off by waist height, yellow traffic barriers and is staffed by one door Supervisor at weekends to stop persons entering the premises from the car park. Alcohol is consumed in this area. We ask the Committee to consider the infringement and ask the premises licence holder to close this area immediately, and submit a major variation detailing a smoking area as per its licence.

He added that condition 5 had been dealt with in the variation application submitted by management which was currently being processed by the Licensing Authority.

P.C. Gardiner continued that on 9<sup>th</sup> December, 2015 a licensed premises intervention meeting had been held between himself, Sergeant Hale and Mr Showkar, the DPS of the Pitch Bar, because there had been 15 calls for Police assistance between 11<sup>th</sup> July and 6<sup>th</sup> December, 2015. The meeting gave the DPS the chance to explain what improvements were proposed to be made to remedy the situation.

7 further actions to be taken were agreed and Mr Showkar signed the document (see Police disclosure bundle appendix 4).

P.C. Gardiner indicated that things had improved after the intervention meeting but in May, 2016 following further disturbances; a crime/disorder improvement plan was drawn up. Actions to be taken and timescales for completion had been partially agreed and signed up to on 20<sup>th</sup> May, 2016.

In December, 2016 it was agreed that searches for drugs would be implemented but these had not been done. This had shown that the intervention meeting had been largely unsuccessful and the improvement plan needed amendments.

Mr Thomas sought the Sub-Committee's agreement to the CCTV footage of the sexual assault being shown as it would show the incident in a different light. P.C. Gardiner commented that this was a civil case not a criminal one and the CCTV footage belonged in the criminal arena. He felt that all that needed to be proved to the Sub-Committee was that the incident had taken place and had been dealt with incorrectly by the security staff. He added that it would be disrespectful and hurtful to the injured party to show the CCTV footage and added that she would leave the meeting whilst the CCTV footage was being shown.

P.C. Gardiner continued that the perpetrator of the assault had been charged with two counts of sexual assault but had only admitted to one. The matter would be heard at Wolverhampton Crown Court on 3<sup>rd</sup> February, 2017. He felt that the matter had been dealt with appallingly by the Pitch Bar's security staff.

The injured party was invited to present her case and indicated that she lived in Solihull and, on the night in question, was visiting her friend in Pelsall who had passed her Chartered Accountancy examinations and was celebrating that event. They had arrived at the Pitch Bar at 12.15am and were in the vicinity of the bar area when she was assaulted by a male. She had confronted him and security staff had intervened and he was ejected from the premises. She had asked the security staff to call the Police so that she could report the incident but they had refused to do so. She had then gone outside the club and called the Police herself. The Police arrived within a few minutes and after discussions with bar staff and security staff went to the cocktail bar next door to the Pitch Bar and arrested the defendant. This had taken about 30 minutes. The injured party added that she thought she should have been given additional support by The Pitch Sport Bar's personnel and put in a safe room until she had recovered from her ordeal.

P.C. Gardiner reported that security staff did not have to call Police, that was for the injured party to do, but they had received SIA training so should have acted more diligently. Sending the injured party into the

street to phone the Police when the attacker could still be in the vicinity was, in his opinion, wrong.

The injured party stated that she felt she had received no safeguarding measures and felt very vulnerable and unsupported. She had had to call the Police herself and they had responded promptly. From her call to the arrest had taken about 30 minutes and in that time the perpetrator could have got clean away. P.C. Gardiner commented that to add insult to injury it had taken two weeks to get the CCTV footage of the incident from the Pitch Bar which had delayed the judicial action resulting in the defendant having to be re-bailed at additional costs to West Midlands Police.

Referring to the request for an identification scanning device, P.C. Gardiner stated that the machine would record everyone entering the club and flag up anyone who had previously been barred. He felt that if such a device had been operating on 24<sup>th</sup> September, 2016 then the perpetrator of the assault could have been apprehended much more quickly as a name and description could have been circulated faster. He continued, that in his opinion, the security staff had been ineffectual and had lacked due diligence and added that if the existing security staff were retained then more trouble would arise.

Mr Thomas asked a number of questions of P.C. Gardiner and, referring to the events of December, 2015 and May, 2016 which P.C. Gardiner had referred to, asked why P.C. Gardiner had not supplied police logs of those incidents. P.C. Gardiner replied that he had not provided police logs of those incidents because he was not putting much weight on them.

Mr Thomas asked if P.C. Gardiner had viewed the CCTV footage of the sexual assault. P.C. Gardiner replied that he had not. Mr Thomas asked if P.C. Gardiner could recall that he had asked P.C. Gardiner to review the CCTV footage with him. P.C. Gardiner replied that Mr Thomas had made that request but it had not been taken up.

Mr Thomas explained that Mr Showkar had been the Pitch Bar's DBS for two years. He asked how many meetings the Police had had with Mr Showkar during this time. P.C. Gardiner replied that the Police had held monthly meetings with Mr Showkar because of the size of the establishment and the number of people using it.

Mr Thomas referred to the intervention meeting in December, 2015 and to the 15 calls for Police assistance. He stated that a third of these calls did not relate to the Pitch Bar at all but were in the vicinity or outside the premises as the Pitch Bar was a well known landmark. P.C. Gardiner replied that the landmark logs had been filtered out.

Mr Thomas then asked a number of questions to the injured party about her statement to the Police. The injured party became upset at this point and the Legal Representative (Paul Green) asked if she

would like to leave the meeting. She indicated that she wished to leave and withdrew from the meeting at 11.30am.

Mr Thomas indicated that he had no further questions for P.C. Gardiner or the injured party.

Councillor Sears asked if all security staff employed by the Pitch Bar were SIA approved. P.C. Gardiner replied yes.

Mr Thomas asked if P.C. Gardiner had reported the Pitch Bar's security staff to the regulatory body. P.C. Gardiner replied no.

Councillor Sarohi asked if the Police had asked for a reduction in the opening hours of the Pitch Bar to midnight. P.C. Gardiner replied that he had made that request but it was not accepted by the Pitch Bar's management. He added that the Police were not requesting a reduction in hours at today's meeting.

Mr Thomas referred to the five amendments to the licensing conditions proposed by West Midlands Police in the review application. Regarding the request to remove door security staff, Mr Thomas indicated that his clients did not agree to it. With reference to the CCTV being fully operational and recorded, his clients would agree to that. The request for all bar staff to be trained in the use of the CCTV equipment was agreed in principal but only the DPS and the general manager should have access to it not all bar staff. The request for the identification scanning device was declined and the rear smoking area was being addressed in the variation application currently being considered by the Licensing Authority.

With regard to the grounds for review submitted by P.C. Gardiner (page 4 of the review application document refers) on 24<sup>th</sup> September, 2016, Mr Thomas referred to the reference to a serious sex offence. He felt that it was not a serious sexual assault because there had been no penetration. He stated that, in his opinion, the Police were over embellishing the incident and continued that P.C. Gardiner had refused to examine the CCTV footage of the assault. He added that his clients denied that their actions had led to a delay in the perpetrator being arrested.

Mr Thomas referred to the fact that Police Constable Gardiner had referred to crimes associated with the Pitch Bar but had not produced the incident logs to support them. As a result no weight should be attached to them and they should be disregarded. He continued that the provision of the scanner was inappropriate as it was usually provided when there was a preponderance of underage customers or where there was a gang element involved. As neither of these applied to the Pitch Bar, a scanner was not necessary.

With regard to the request to remove the door security staff, Mr Thomas indicated that there was no evidence to suggest that there

were any crime issues associated with them so this also should be disregarded.

The reference to the fact that security staff had refused to call Police was also denied. He added that Police Constable Gardiner had not carried out his role properly as he had not provided evidence of any meetings other than the intervention meeting in December, 2015 and the improvement plan meeting in May, 2016.

Mr Thomas referred to the fact that the perpetrator of the sexual assault was well known to Police for the possession of drugs and violence so when Officers arrived at the Pitch Bar and began to ask questions of the bar and door staff, it quickly became apparent who they needed to apprehend and staff were able to advise Police Officers of his whereabouts leading to a speedy arrest.

Mr Thomas asked how Police Constable Gardiner could describe the incident accurately when he had not seen the CCTV footage. P.C. Gardiner stated that only the injured party had spoken to him and her account was that after the assault, when she had returned from the rear garden area to remonstrate with the perpetrator about his behaviour, he had become aggressive and tried to grab her again but was held back by his friends. This was incorrect as the CCTV footage would clearly show. He continued that P.C. Gardiner's version of events was that the security staff witnessed the sexual assault but did nothing. This again was incorrect. He agreed that they had ejected the perpetrator after they had been informed of the incident by the injured party and her friend which was the correct course of action. P.C. Gardiner had stated that the injured party had gone to security staff after the assault asking for help and had received none. This again was refuted.

Referring to the incident of violence on 6<sup>th</sup> August, 2016 involving a member of the Pitch Bar's security staff, Mr Thomas reported that West Midlands Police had taken no further action over this matter.

With reference to the delay caused to Police by the delay in accessing the CCTV footage of the incident, Mr Thomas reported that this was exacerbated by the fact that the Police had tried to download the information onto a corrupted memory stick. The equipment had been incompatible as a result. The delay was not intentional as suggested. The training already agreed with the Designated Premises Supervisor would correct this.

The CCTV footage of the incident was then shown to the Sub-Committee after the Legal Representative (Paul Green) had taken legal advice as to whether it should be shown. He indicated that it would be for the Sub-Committee to decide what weight should be given to the evidence revealed in the footage.

Mr Thomas stated, that in his opinion, the Police had over embellished the case against his clients and had not checked the information



supplied by the injured party carefully enough. The CCTV footage clearly showed that it was the injured party who had confronted the perpetrator and not the other way around. His friends had been blocking her from attacking him not the way she had described the scenario in her statement. The security staff had gone out to the rear garden area to see if assistance was required and were therefore acting correctly.

Mr Thomas referred to the injured party's allegation that the perpetrator had been watching her and had made her feel uncomfortable. He stated that this was not borne out by the CCTV footage. He asked the Sub-Committee to consider whether the sexual assault was as serious as the Police alleged. P.C. Gardiner commented that, in his opinion, the Sub-Committee should consider the assault to be a serious incident.

Mr Thomas asked if the actions taken by the Designated Premises Supervisor at the time were correct. The Designated Premises Supervisor (Mr Showkar) stated that, in his opinion, the Police had been lied to. If security staff had been asked to call Police then they would have done so. He added that the CCTV footage clearly showed the injured party speaking to the security staff but it did not appear that she was asking for their help.

Paul Green asked if the injured party had spoken to the security staff inside the premises or outside. Mr Thomas replied inside. She had made a complaint to staff that she had been groped by the male and he had been ejected by security staff. The Police had attended, spoken to door staff who had told them where to find the instigator of the assault, and he was arrested.

Mr Thomas continued that the CCTV footage showed the perpetrator being escorted from the premises by security staff. There was no aggression and he could be seen shaking hands with security staff before heading for the cocktail bar. The injured party was not ejected from the premises and was asked by security staff if she was okay.

The women left the building a few minutes after the male was ejected and the injured party was seen speaking on her mobile phone. She was then seen waiting outside the premises in full view of the door staff and chatted to them. She remained outside with the door staff until the Police arrived at 1.24am. The women then went over to the Police vehicle and spoke to the Police Officers. A few minutes later they got into the Police vehicle and were driven away. A few minutes after that, two more Police Officers arrived at the Pitch Bar and spoke to door staff about the alleged incident. The door staff directed them to the cocktail bar where the attacker was found and arrested.

Mr Thomas thanked the Sub-Committee for agreeing to view the CCTV footage of the incident and for allowing him to make his representations in such detail. He reiterated the fact that the evidence supplied by the CCTV footage did not bear out the injured party's version of events and

reminded the meeting that he had asked P.C. Gardiner to review the CCTV footage with him but P.C. Gardiner had refused to do so.

Referring to the Police request to have the existing security staff replaced, Mr Thomas reported that West Midlands security looked after several premises in the town centre. He added that they were employed there because they knew the town centre well and who the troublemakers were. He felt that it was not necessary to remove them as they were doing an excellent job.

The parties present were invited to put questions to Mr Thomas.

P.C. Gardiner felt that it was a massive assumption on Mr Thomas' part to assume that the injured party was calling the Police when she was seen using her mobile phone outside the Pitch Bar on the CCTV footage. She could have been contacting a friend. Mr Thomas replied that, in his opinion, the CCTV coverage completely contradicted the Police version of events.

P.C. Gardiner commented that if someone called the Police on a Friday or Saturday night, it would take time for them to arrive because of the high demand on the service at those times. He referred to the injured party's phone call and to her discussions with door staff outside the premises and indicated that the actions were appropriate but Mr Thomas reminded the meeting of the CCTV footage which had shown the perpetrator grabbing the injured party inside the premises as she walked past towards the rear garden area. She returned a few seconds later and tried to attack him and had to be restrained by her friends- not the other way around as attested to in her statement of the incident. He added that after Police arrived at the venue, security staff worked with them to find the perpetrator. He added that the injured party's allegation that security staff had failed to assist her and prevented her from calling the Police was untrue.

P.C. Gardiner asked if the incident amounted to a serious assault. Mr Thomas replied that it was not as serious as P.C. Gardiner had suggested in the review application. However, he agreed that a sexual offence had been committed and security staff employed by the Pitch Bar had dealt with it accordingly, in his opinion. He added that the female was not left alone as she claimed, nor was she left in a vulnerable position. She was upset and angry, that much came across clearly in the CCTV footage but P.C. Gardiner's presentation of the case had been over embellished.

P.C. Gardiner referred to the member of the Pitch Bar door team bailed for an incident of violence on 6<sup>th</sup> August, 2016. Again, Mr Thomas stated that P.C. Gardiner was guilty of only telling half of the story as the Police had taken no further action after investigating the incident.

P.C. Gardiner had no further questions for Mr Thomas.

Councillor Sears asked if the Security Officer was charged by the Police after the incident on 6<sup>th</sup> August, 2016. Mr Thomas replied that the Police had taken no further action against the Security Guard over the alleged assault. He reminded the meeting that the guidance stated that the Committee should defer to the Police's evidence unless that evidence was shown to be unsound as was the case here.

Councillor Sears asked if Mr Thomas was attempting to trivialise the sexual assault which had been carried out on the injured party. Mr Thomas replied that this was not his intention but the Police had tried to make the allegation into something it was not. He reminded the meeting that the Police had not reviewed the CCTV footage of the incident, nor, in his opinion, had they given a balanced view of what had occurred. He agreed that the sexual assault had taken place but it was not as described by the injured party. It had certainly not lasted for 20 minutes as was alleged, and the club's employees had acted correctly in dealing with the incident as they had. He asked the Sub-Committee to make its decision on the evidence provided which the Police Officer himself had indicated did not need any additional weight attached to it.

Councillor Rochelle asked if the injured party could have spoken to the security staff at the rear of the premises and been told not to involve the Police then. Mr Thomas replied that this was unlikely as the statement stated that discussions were held with door staff outside the front of the premises.

Councillor Sarohi asked if the sexual assault had been observed by security staff. Mr Thomas replied that the security staff had not seen the assault. They had been called to the rear of the building to speak to the injured party then had apprehended the perpetrator and removed him from the premises.

Councillor Sarohi asked if security staff could call the Police if it was felt necessary. Mr Showkar replied that the Pitch Bar was part of the Walsall Town Centre radio link which could be used to summon the Police and security staff also had mobile phones so they could use them to call the Police if necessary.

Mr Thomas referred to the fact that since the incident the club had had a busy Christmas period without incident so their security was working correctly.

Councillor Rochelle asked if the identification scanning device referred to by Police was used in any other town centre nightclub other than Religion. Mr Thomas replied that it was unlikely as he understood that it was notoriously difficult to operate. Walsall did not have a history of heavy underage drinking or gang related violence so it was not appropriate. Mr Showkar added that as all clients did not carry identification it was unlikely the scanner would be fully effective.

Councillor Sears asked if doormen were known not to contact the Police because the calls would be logged against the premises. Mr Thomas replied that this was unlikely. He felt that the security staff had acted correctly. CCTV had shown the security staff escorting the perpetrator from the premises without any problems and then assisting the Police with his whereabouts when they came to arrest him later.

Mr Showkar reminded the meeting that he had had regular meetings with the Police in the run up to Christmas to ensure that there would be no problem over the festive period.

P.C. Gardiner confirmed that Police Officers had held monthly meetings with Mr Showkar to discuss the situation. Mr Showkar added that he felt he had a good working relationship with West Midlands Police.

There were no more questions to P.C. Gardiner and the Chairman then called upon all parties to briefly summarise their representations, following which, he asked if all parties were satisfied that they had had ample opportunity to air their views. This was confirmed and the parties withdrew from the meeting at 2.20pm.

The Licensing Sub-Committee carefully considered all the evidence submitted and the representations made during the hearing and it was

### **Resolved**

- (1) That there be no change to the security staff currently employed at the Pitch Bar (Councillor Sears voting against);
- (2) That CCTV is fully operational and recording and weekly tests be made by the Designated Premises Supervisor to ensure it is working correctly. These checks to be documented and faults reported immediately;
- (3) That the Designated Premises Supervisor and the General Manager be trained in the use of, recording and downloading of the installed CCTV system and training be refreshed on a 12 monthly basis. The Designated Premises Supervisor to document the training and make it available to responsible authorities upon request;
- (4) That the provision of an identification scanning device be not required (Councillor Sears voting against); and
- (5) No action be taken on the rear smoking area as this is being dealt with in the variation application currently being considered by the Licensing Authority.

All parties were re-admitted to the meeting at 3.08pm and informed of the Licensing Sub-Committee's decision. The parties were advised of their right of appeal to the Local Magistrate's Court within 21 days of receipt of the determination.

**Termination of Meeting**

The meeting terminated at 3.12 p.m.

Chairman.....

Date.....