

LICENSING SUB-COMMITTEE
12th February, 2018

Present:- Councillor Ellis (in the Chair); Councillors Beaumont and Taylor.

14. LICENSING ACT 2003 - REVIEW OF A PREMISES LICENCE - THE BUNGALOW COMMUNITY CENTRE, TENTER STREET, ROTHERHAM

(1) The Sub-Committee hearing representations about the premises licence review

Consideration was given to an application for the review of a premises licence made under Section 51 of the Licensing Act 2003, in respect of the premises known as the Bungalow Community Centre, Tenter Street, Rotherham.

The Licensing Authority received representations made by the Local Authority's Enforcement Unit and by the South Yorkshire Police, which had not been withdrawn, and the Sub-Committee considered those representations.

At the beginning of the hearing, the premises' licence holder and her representative referred to the short period of time available for them to consider and assimilate the bundle of documents under consideration at the hearing. After discussion, the Sub-Committee offered the premises' licence holder and her representative the opportunity to adjourn the hearing and to reconvene on a future date, thereby affording them a longer time to prepare for the hearing. In response, the premises' licence holder and her representative stated that they had spent many hours during the weekend studying the bundle of documents and preparing for this hearing and were therefore content to proceed with the hearing as scheduled.

The Sub-Committee heard representations from Mr. C. Burnett (Principal Officer of the Local Authority Licensing Enforcement and the applicant for the premises licence review), Licensing Officer Mrs. Helen Cooper (on behalf of South Yorkshire Police) and from Ms. T. Munetsi (Premises Licence holder and Designated Premises Supervisor) who was represented by Mr. M. Mazorodze (a corporate lawyer and member of the community centre). In addition, both Ms. Munetsi's partner Francis Lungha and another member of the community centre, Mr. N. Sirong, were also present at this hearing.

The subject premises were a bungalow situated within an industrial area a short distance away from the Rotherham town centre. The premises licence permitted the sale by retail of alcohol, from 1000 hours to midnight (Sunday to Thursday) and from 1000 hours to 0300 hours (Friday and Saturday), for consumption only on the premises. Although situated within a predominantly industrial area, immediately adjacent to the subject

premises at Tenter Street was a building now used as a day and play centre for young children and that building also included a residential apartment situated on the first floor.

Members were informed of the details of the specific concerns in respect of the management of these premises:-

(a) The premises was effectively licensed as a public house (pub) but appeared to operating instead as a community centre and/or a private members' club.

(b) The premises did not appear to be managed and operated in accordance with the conditions of the premises licence, particularly : the prolonged absences of the Designated Premises Supervisor leaving the premises without effective management control; noise nuisance from the premises at unsocial hours after the time when the premises should have been closed; instances of anti-social behaviour and public disorder outside and in the immediate vicinity of the premises requiring the attendance of the South Yorkshire Police; and the failure to install and operate a correctly-working Closed Circuit Television (CCTV) system within the premises.

(c) The persons responsible for the operation of the premises have sometimes not co-operated properly with officials of the Licensing Authority and of the South Yorkshire Police; in on example explained by the South Yorkshire Police representative, Police officers inspecting the premises had felt intimidated by the reactions of the person within the premises (some of whom had been intoxicated at the time of the inspection).

(d) The absence of a CCTV system was a specific breach of the conditions of the premises licence and there had been no response to the Licensing Authority's repeated requests, made over a prolonged period of time, for such a system to be installed. When, eventually, a CCTV system was installed, no-one at the premises was able to operate the system correctly and consequently there was no recording of film ever made; furthermore, there was a burglary at the premises soon after installation of the CCTV system, when the computer hard-drive of the system had been stolen.

(e) The premises had been the subject of a temporary closure in May, 2017, pending refurbishment after a Food Hygiene inspection by the Local Authority.

(f) The Authorities had deemed it necessary, during the Summer 2017, to serve a Closure Notice on the premises in accordance with the provisions of Section 19 of the Criminal Justice and Police Act 2001.

(g) Evidence in support of residents' complaints about noise nuisance emanating from the premises and disturbance outside the premises was available on film (and such film viewed by the Sub-Committee and by all other persons present at the hearing).

(h) The premises were shown to be operating outside the permitted hours, including the sale of alcohol

(i) Empty bottles and cans, containing alcoholic drink, had littered the garden area outside the bungalow for a number of days and the Designated Premises Supervisor had been unable to provide a satisfactory explanation as to why these containers had been left there and not cleared away.

(j) The Challenge 25 scheme (relating to the sale of alcohol) was not being operated at these premises; there were no signs displayed about this scheme, no refusals log, nor maintenance of staff training records.

(k) The overall standard of record-keeping and book-keeping at the premises was considered to be unacceptable.

(l) The drawing/plan of the interior of the premises showed the location of the kitchen; this room was in fact used as the bar area of the licensed premises.

The Sub-Committee also considered written representations from the person living in the apartment within the neighbouring building, which related to noise nuisance and also to open bottles and cans containing alcoholic drinks being left unattended around the garden area of the bungalow, sometimes for several days. This latter issue caused particular concern because of the very young children attending the day and play centre, next-door to the bungalow.

During the hearing, filmed footage (with sound audible) was viewed by everyone present, showing activity within the premises (including the sale of alcohol outside permitted hours) and also the extent of the noise nuisance and an example of public disorder outside the premises.

The premises licence holder and her representative explained that Ms. Munetsi had initially obtained a Personal Licence (per the Licensing Act 2003) in 2013 and since that time had gained experience in the operation of licensed premises in Sheffield. The Afro-Caribbean community had decided to establish the bungalow at Tenter Street as a place where people from this minority ethnic community could meet socially and in safety. Ms. Munetsi had been recruited as a person with experience as a Designated Premises Supervisor. Later, during 2016, Ms. Munetsi's partner had suffered an accident abroad and Ms. Munetsi had become pregnant. These factors led to the decision to employ another person to manage the premises whenever Ms. Munetsi could not be present. Ultimately, most of the issues being reported by the Licensing Authority

and by the South Yorkshire Police had occurred when this other person had been in charge of the premises.

Both the premises licence holder and her representative explained that the premises were used as a community base, sometimes in the evenings and mostly at weekends and that the actual hours of opening and operation did not coincide with the opening hours of the adjacent day and play centre for children. The centre would sometimes host private parties (eg: for christenings) when there would be no sales of alcohol, although it was clarified that anyone attending such events who had not been invited would be expected to pay for any alcoholic drinks they consumed.

It was also explained that the bungalow was endeavouring to raise funds for the installation of a CCTV system and that there had been an apparent misunderstanding about the possibility of the Local Authority itself offering to install a CCTV system. The community had no-one with the requisite knowledge to operate a CCTV system and there had also been the theft of the computer hard-drive. These factors meant that it had not been possible to record any film of activities within the centre. The premises licence holder and her representative did also challenge the authenticity of some of the footage viewed by the Sub-Committee, which had been taken from the property adjoining the bungalow.

It was also confirmed that the persons alleged to have intimidated the Police officers during an attempted inspection of the bungalow had now been debarred from attending the premises.

The bungalow was a valuable meeting place for members of this minority ethnic community and most of the clientele were respectable, family-oriented people largely within the 35 years to 50 years age group. The premises tended to open at around 8 o'clock in the evening, long after the adjoining day and play centre for children had closed. There had been no complaints received about the operation of the premises during the early years of operation from late 2013 until 2016. The complaints seemed to escalate from 2016 onwards and it was conceded by the premises licence holder that this would have coincided with the engagement of another person to manage the premises when the premises licence holder herself had important other commitments.

Because of the value of the premises to the community, it was important that the bungalow should continue in operation and the suggested conditions now submitted by the Licensing Authority and the South Yorkshire Police were acceptable. Increased efforts are now being made to comply with all of the licence conditions and to ensure the correct level of record-keeping and staff training. Therefore, the premises licence holder and her representative asked the Sub-Committee to make a decision in favour of the premises licence continuing.

(2) The reconvened Sub-Committee decision-making stage

After hearing all representations and all persons making those representations had departed, the Sub-Committee adjourned the decision-making part of the meeting and reconvened at 3.30 pm on Tuesday, 13th February, 2018 (with only the Elected Members and support staff present) for determination of this premises' licence review.

Consideration was given to a list of suggested additional conditions to be attached to the premises licence, as submitted by the Licensing Authority and the South Yorkshire Police during the hearing, in the event that the decision of the Sub-Committee would permit the premises licence to continue.

Members concluded that the premises' licence holder did not appear to be appraised of the full extent of her role as Designated Premises Supervisor and would often leaving the premises under the control of person(s) who did not have the necessary expertise nor understanding to manage licensed premises. There had been the failure to comply with the conditions of the premises licence, most notably by not installing a correctly-working CCTV system and by allowing the premises to continue in operation outside the permitted hours. Furthermore, there had been instances of responsible personnel at the premises being non-co-operative with officials of both the Licensing Authority and the South Yorkshire Police, as well as noise nuisance and disturbance caused by people using the premises.

The Sub-Committee considered the application for this review of the premises licence and the representations made specifically in the light of the following Licensing objectives (as defined in the 2003 Act):-

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance;
- The protection of children from harm.

Resolved:- That the premises licence in respect of the premises known as the Bungalow Community Centre, Tenter Street, Rotherham, be revoked with immediate effect.