

LICENSING SUB-COMMITTEE
2nd July, 2021

Present:- Councillor Ellis (in the Chair); Councillors Jones and Clark.

CONSIDERATION OF AN APPLICATION (MADE IN ACCORDANCE WITH S.51 OF THE LICENSING ACT 2003) TO REVIEW THE PREMISES LICENCE IN PLACE AT THE BUNGALOW COMMUNITY CENTRE, THE BUNGALOW, TENTER ST, ROTHERHAM, S60 1LB

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.

On 27th April, 2021, the Licensing Service (acting in its role as a Responsible Authority under the Licensing Act 2003) submitted an application to review the Premises Licence following the serving of a Fixed Penalty Notice in response to a failure of the licence holder to comply with nationally imposed requirements introduced to control the spread of Coronavirus/Covid-19 within the United Kingdom. In addition, the applicant cited a number of concerns regarding poor compliance at the premises along with poor management that undermined the licensing objectives:-

- Disorder and anti-social behaviour associated with the premises
- A lack of effective management control in relation to the operation of the premises
- A general failure of the licence holder to adhere to the conditions attached to the Premises Licence.

Following submission of the review paperwork, 2 additional responses were received in relation to the review:-

Environmental Health

- An apparent failure to comply with legislation regarding the service of food and alcoholic/non-alcoholic drinks in hospitality venues
- Lack of effective controls in place to ensure that customers and staff are adequately protected from Coronavirus/Covid-19

South Yorkshire Police

- A number of reports recorded on Police systems that made reference to The Bungalow Community Centre
- Interactions between the Designated Premises Supervisor and Police Officers/Police staff

The Sub-Committee heard representations from Mrs. K. Ladlow (Principal Officer of the Local Authority Licensing Enforcement Unit and the applicant for the premises licence review), Police Sergeant Neil Windle (substitute for Helen Cooper, South Yorkshire Police), Ms. R. Williams (Licensing Enforcement Officer) and from Ms. T. Munetsi (Premises Licence Holder and Designated Premises Supervisor). In addition, Ms. Munetsi's partner Francis Lunga, Mr. W. Mwale and Mr. G. Gumba were also present at this hearing as well as Mr. B. Smith, Yorkshire MESMAC who used the premises.

The premise was a medium sized bungalow consisting of several separate rooms on one level and a converted kitchen with a serving hatch to form a bar area. The premise was licenced for the sale of alcohol for consumption on the premises only and had been in place since October 2013.

The current Designated Premises Supervisor of the premises was the Premises Licence Holder Ms. T. Munetsi.

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

Licensing Service

(a) On 30th October, 2020, the Licensing Service had been notified by Environmental Health that The Bungalow Community Centre had been issued with a Fixed Penalty Notice for breach of Regulation 6(1) of The Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020. Specifically that on 23rd October, 2020, the premises were observed by an Environmental Health Officer to still be open at 22.17 hours. The Regulations in force at that time required licences premises to close at 22.00 hours

(b) Ms. Munetsi had received a written warning on 15th October, 2020, after 2 visits to the premises were undertaken during the evenings of 13th and 14th October when officers observed practices at the premises that were in breach of the Coronavirus Regulations in force

(c) The Licensing Service had also been made aware of an incident at the premises on 5th July, 2020, when South Yorkshire Police had been notified by a member of the public that a large fight was taking place with weapons being used and vehicles being driven at other involved persons who were on foot.

(d) Officers from the Licensing Service and Food, Health and Safety, had visited the Premises alongside a South Yorkshire Police Licensing Officer on 9th July, 2020 as a result of the incident at (c) above. A licensing compliance check was undertaken with Ms. Munetsi requested to provide a copy of the premises licence conditions agreed as part of a Consent Order following a previous licencing review in February, 2019. Ms. Munetsi had not been able to locate a copy of the conditions, however,

agreed to discuss each one using documentation provided at the time by Licensing Officers.

(e) Ms. Munetsi stated that the premises CCTV system had been stolen during a break-in on 30th May, 2020 and not been replaced until 7th July, 2020. The premises licence contained a condition requiring installation and operation of a CCTV system at all times.

(f) Ms. Munetsi stated that the event on 5th July was a private party hosted for a member of the community who regularly frequented the premises. She held a list of persons attending. A DJ had been hired to play at the event who had advertised the party on social media resulting in attendees who had not been invited. As it was a private party Ms. Munetsi had not believed a CCTV system to be essential.

(g) Upon request to view the premises incident register and refusal register, a ring bound book was produced in which there were no consecutively numbered pages. The incident book did not contain a record of the 5th July incident.

The premises licence had an Annex 2 condition to have such book with consecutively numbered pages in which all incidents involving anti-social behaviour, injury and ejections must be recorded. It was further requested recording of the date, time and location of the incident with full details of the nature of the incident and details regarding Police attendance.

Ms. Munetsi had taken the refusals register home. It was a requirement to have the refusals register on site at all time in accordance with Annex 2 condition of the premises licence.

(h) When asked to produce records of staff training, an Annex 2 condition of the premises licence, it was stated that refresher training had been undertaken, however, the training record was at Ms. Munetsi's home.

(i) When asked if the premise was operating an age verification policy, it was stated that it was operating Challenge 25, however, officers noted that signage displayed showed Challenge 21. Ms. Munetsi was aware of the Annex 2 condition to operate Challenge 25, however, between 2018 and the visit she had not got round to changing the displayed challenge scheme posters.

(j) The premises licence had an Annex 2 condition for clear signage at the entrance/exit doors reminding customers to leave the premises quietly and have consideration for neighbouring residential properties. One sign was found, adjacent to a door leading to an area which customers had no access.

(k) The incident on 5th July, 2020, should have had 20 people in attendance. A fight broke out amongst a group of individuals outside the premises which Ms. Munetsi had not been aware of until the Police arrived. The individuals were not invited to the event and had attempted to gain entry. She stated that no disorder had taken place inside the premises.

(l) Mr. Lunga stated that the premises were permitted to re-open on 4th July following a change in Coronavirus Regulations and they had agreed to host the party due to restrictions on people congregating inside residential properties. The host of the party had supplied all the alcohol and a DJ for the event. He accepted that a fight had broken outside of the premises but stated that the individuals were not customers from inside the premises or attendees at the party. He was reminded that Annex 2 condition of the premises licence prohibited customers from entering the premises with vessels containing alcoholic products.

Environmental Health

(a) A joint visit with the Police made to the premises on 9th July, 2020, following the incident on 5th July. The paved floor of the rear yard had yellow taped directional arrows as part of their Covid-19 measures, signs encouraging people to wash their hands and observe social distancing by staying 1 metre apart. However, inside the premises the signs advised people to stay 2 metres apart. There were more yellow directional signs inside the premises.

In the hallway there was a sign displaying operation of a Challenge 21 Policy with a sign next to it stating 'no drugs'. Within the individual rooms there were various types of seating close together.

(b) The conditions attached to the licence agreed at the previous Court hearing were discussed in numerical order with Ms. Munetsi and Mr. Lunga as well as discussion of the Covid-19 related issues. The discussion took place in the bar areas of the premises which had a physical barrier in place and drinks served through a hatch-style opening. Numerous issues were noted in terms of compliance with the conditions as well as some mandatory ones.

(c) Condition One of the licence stated there must be a certain standard of CCTV present that recorded for 28 days and was capable of being downloaded. The CCTV had been stolen on 30th May, 2020, therefore, no 28 days of footage available to check. The Information Commissioner had also not been informed

(d) A ringbound book with no consecutively numbered pages had been produced as the incident register with no note of the 5th July incident. There was mention of the break-in, however, it was a simple one sentence with no signatures to suggest review by management. There also a list of banned persons from the premises consisting of a date and name; 2 entries had a first and surname and 2 just had a first name

(e) Ms. Munetsi was unable to produce the refusal register as she had taken it home. It had also been requested to see who had been nominated in writing to act in place of the Designated Premises Supervisor when the premises were conducting licensable activities. Again Ms. Munetsi advised that it was at her home as were the records relating to staff training for underage sales, drug awareness, serving to persons in drink etc. as part of the Court agreed conditions.

(f) Ms. Munetsi confirmed that they operated the Challenge 25 scheme even though the signage indicated Challenge 21.

(g) There were no signs relating to public nuisance or signs asking customers to leave the premises quietly at the entrance and exit doors. The only notice was inside the kitchen area leading to the CCTV room where customers were not allowed.

(h) The public nuisance condition also stated that no persons other than the Premises Licence Holder, Designated Premises Supervisor and employed staff should remain on the premises once closed. Ms. Munetsi disclosed that the party organiser had stayed behind after closing to help clean up. The condition also stated that the outside area should not be used after 23:00 hours except for people who wished to smoke and that there should be signs indicating such. Ms. Munetsi stated that the smoking area was at the back of the premises, however, there were no signs to indicate this.

(i) The premises licence summary was on display albeit set back from the serving hatch area and, therefore, very difficult to see. There was also no drinks price or size lists on display. Ms. Munetsi was not able to show the full premises licence as it was at her home.

(j) Due to concerns that several conditions were not being adhered to, a second visit was conducted on 18th August, 2020. It was clear that significant improvements had been made with it being noticeably cleaner, erection of the correct Challenge Scheme signage and the smoking area designated by signs. The refusals book was present in a bound book, pages numbered by hand and refusals included. Challenge 25 refusals were on printed sheets placed in a clear plastic wallet and an incident register but not in a bound format. The CCTV system was checked and found to be working.

South Yorkshire Police

(a) There was no evidence that the Designated Premises Supervisor or Premises Licence Holder had taken active steps to get people out of the premises. It had been a third party who had rung the Police and not anyone from the event.

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(b) Call to the Police with regard to disturbance/fighting at 02:17 hours on 8th March, 2020. Unknown male fighting at the venue as refused to serve him. Officers attended.

(c) Designated Premises Supervisors reported burglary at the premises on 3rd May at 11:00 hours. Alcohol and the CCTV system stolen.

(d) 5th July, 2020 at 01:15 hours report of large number of persons (between 15-20) with weapons including knives fighting in the street.

Police body worn footage (with sound audible) was viewed by everyone present at the meeting showing activity outside and within the premises on the night in question.

(e) Visit to the premises on 9th July, 2020, where building work was underway. The incident on 5th July was discussed and reminded that the Consent Order clearly stated that the outside area could only be used until 23:00 hours; there were still people outside at 01:15 hours.

(f) Telephone call to Designated Premises Supervisor on 21st July, 2020 informing Ms. Munetsi that the Police body worn footage had been viewed where it was apparent that approximately 50 people had been present at the party. The lack of social distancing was also raised.

The Designated Premises Supervisor and Premises Licence Holder informed the Sub-Committee:-

(a) Footage was shown to the meeting, downloaded from the CCTV onto a memory stick, of a visit to the premises by Mr. Cattell, Environmental Health Officer, on 23rd October, 2020.

(b) The Bungalow had been closed since the Covid-19 restrictions had come into place last year not allowing the opening of places that sold liquor that was consumed on the premises. She had been surprised to receive an email from the Licensing Service stating that they needed to review the premises licence due to the failure to meet the licensing objectives i.e. the prevention of crime and disorder, public safety and the prevention of public nuisance.

(c) The documents supplied dated back to 2020 and Ms. Munetsi felt that the reasons for review were not justified as they did not relate to any issues or concerns that had been raised or discussed before to which she had failed to resolve.

(d) Ms. Munetsi had asked members of the public in the locality if the premises were a problem to them; no-one had raised any issues. She could not understand why issues from the past were being raised as they had been dealt with. A number of improvements had been made to the building and things had changed.

(e) The Bungalow was the only African community centre in Yorkshire and was vital for the community to come together and meet.

(f) The Fixed Penalty Notices for breach of Covid-19 Regulations had been paid without appeal for fear of receiving a criminal conviction.

(g) Ms. Munetsi acknowledged that the rules surrounding Covid-19 had changed on such a frequent basis it had been difficult to keep abreast of what was required at any given time.

(h) Due to the renovation works taking place at The Bungalow, all the paperwork had been removed for safekeeping.

(i) The Licensing Department had not been notified of the stolen CCTV equipment due to the premises being closed.

(j) Acknowledgement that the Challenge 21 signage was wrong but was awaiting completion of the renovation work before the correct signage was displayed.

(k) Acknowledgement of the licence condition regarding not being able to bring your own alcohol to the premise but as it was a private party Ms. Munetsi did not think it was a problem.

(l) On the night of the party (5th July, 2020), Ms. Munetsi was of the opinion that the premise was Covid-19 compliant with the provision of sanitiser, posters and directional arrows on the floor.

(m) A particular gentleman had turned up for the party with whom there was an incident. He was asked to leave and no longer attended the premises.

(n) The incident had happened outside the premises; Ms. Munetsi had not seen it and why she had not reported it to the Police.

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.