

## **LICENSING SUB-COMMITTEE**

Minutes of the proceedings at a meeting of the Licensing Sub-Committee held in the Bindloss Room - Kendal Town Hall, on Friday, 17 January 2020, at 10.00 a.m.

### Present

#### Councillors

Kevin Holmes

Suzie Pye

David Webster

### Officers

Una Bell

Case Management Team Leader

Sean Hall

Principal Specialist (Health & Environment)

Josie Smith

Legal, Governance and Democracy Specialist

Also in attendance at the meeting were representatives of the Responsible Authorities, Inspector Paul Latham, PC Rebecca Hunter and PC Victoria Haley from Cumbria Constabulary and a supporter of the proposed new Designated Premises Supervisor.

### **LS/13 ELECTION OF CHAIRMAN**

RESOLVED – That Councillor David Webster be elected Chairman for the meeting.

### **LS/14 APOLOGIES AND RECONSTITUTION OF MEMBERSHIP**

There were no apologies and there were no changes in the membership of the Sub-Committee and, therefore, no reconstitution was necessary.

### **LS/15 DECLARATIONS OF INTEREST**

RESOLVED – That it be noted that no declarations of interest were raised.

### **LS/16 LOCAL GOVERNMENT ACT 1972 - EXCLUDED ITEMS**

RESOLVED – That the item in Part II of the Agenda be dealt with following the exclusion of the press and public.

### **LS/17 INTRODUCTIONS**

The Chairman made introductions.

### **LS/18 PRESS AND PUBLIC**

RESOLVED - That, under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12 A of the Act as amended by the Local Government (Access to Information) (Variation) Order 2006 by virtue of the paragraphs indicated.

LS/19

**APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY INDIVIDUAL AS PREMISES SUPERVISOR (CTTEE REF: LO3-19/20)**

- *Paragraph 1, 2, 6a, 6b, 7 - Information relating to any individual.*
- *Information which is likely to reveal the identity of an individual.*
- *Information which reveals that the authority proposes to give under any enactment a notice under or by virtue of which requirements are imposed on a person*
- *Information which reveals that the authority proposes to make an order or direction under any enactment.*
- *Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.*

The Principal Specialist (Health and Environment) presented a report which outlined an application submitted by a Premises Licence Holder to vary a premises licence to specify a new individual as the Designated Premises Supervisor, as provided in section 37 of The Licensing Act 2003. The Principal Specialist outlined further requirements of the Licensing Act 2003 in particular, as required by Section 34(4) of The Act, that notice of the application must be given to the chief officer of police for the police area in which the premises was situated. He advised the Sub-Committee that this had been undertaken on 19 December 2019 and a response had been received, from the Police Inspector, on 20 December 2019. The Police Inspector's response stated that they were of the opinion that the appointment of the proposed individual may undermine the licensing objective which promoted the prevention of crime and disorder.

Police Inspector Paul Latham addressed the Sub-Committee and outlined Cumbria Constabulary's objections to the proposed variation to the premises licence.

The proposed individual addressed the Sub-Committee and responded to comments made by Inspector Paul Latham.

The Chairman of the Sub-Committee and the Legal, Governance and Democracy Specialist asked the proposed individual to concentrate their address to the Sub-Committee in regard to the application and in relation to the objectives of the Licensing Act 2003.

At this stage in the proceedings and with the permission of the Chairman, the supporter of the proposed Designated Premises Supervisor addressed the Sub-Committee and then left the meeting.

The proposed individual responded to questions raised by members of the Sub-Committee and the Principal Specialist (Health and Environment).

Police Inspector Latham made a closing statement to the Sub-Committee.

The proposed individual made a closing statement to the Sub-Committee.

*Note – The Sub-Committee passed a resolution to adjourn the meeting to exclude the press and public in making its decision, pursuant to Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 by virtue of the paragraph indicated:-*

*Paragraph 5 – Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.*

The Sub-Committee, supported by the Legal, Governance and Democracy Specialist then withdrew to consider the application.

The meeting was reconvened at 12.57 p.m. and the Chair of the Sub-Committee asked the Legal, Governance and Democracy Specialist to communicate the Sub-Committee's Decision.

The Legal, Governance and Democracy Specialist explained that the Licensing Sub-Committee had carefully considered all of the information provided and had taken account of all the representations made to it. The Sub-Committee had had regard to the Licensing Act 2003, its Regulations, revised guidance issued under Section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy whilst making a decision to promote the licensing objective of prevention of crime and disorder that was appropriate and proportionate. In particular, the Licensing Sub Committee had had regard to the following facts:-

The notice given by Cumbria Constabulary under s37(5) of the Licensing Act 2003, and further information provided by way of representation and the premises licence which requires incidents of crime and disorder which occur on or near to the premises to be communicated to the Barwatch committee in line with the Barwatch constitution.

The Sub-Committee had also had regard to the Council's Statement of Licensing Policy and, in particular to:

Section 5.12 - *'following a police representation the Licensing Authority may refuse an application or remove a DPS where:.....A proposed DPS cannot demonstrate their suitability for the licensed premises'; and*

Section 5.4, *'the controls the licensing authority and responsible authorities will expect to see where relevant:*

*Prevention of Crime and Disorder*

- *Participation in pub/club watch schemes and attendance to meetings*
- *Provision of a means of communication to other venues and the Police'.*

The Sub-Committee was concerned at how successful communication would be, at this time, between the proposed individual and the responsible authorities as required by section 5.4 of the Council's Statement of Licensing Policy. The Sub-Committee was concerned the proposed individual had confirmed the inability to work with Barwatch, unless certain conditions were met and active participation in the scheme, with a view to preventing crime and disorder, would be affected.

The Sub-Committee was not satisfied with the limited measures the proposed individual had offered to put in place to ensure that there would be no negative impact on the licensing objectives. No further measures or satisfactory assurances were given during the meeting despite questioning on the point.

The proposed individual had failed to allay the concerns of the Sub-Committee as to their ability to work in a constructive manner with Cumbria Constabulary, as required by section 5.4 of the Statement of Licensing Policy, and the proposed individual had not demonstrated that there would be no negative impact upon the licensing objectives as a result of the proposed individual's previous involvement with Cumbria Constabulary.

17.01.2020

Licensing Sub-Committee

RESOLVED – That the application to vary a licence to specify a new Designated Premises Supervisor be refused.

The Parties were informed of their right to appeal to the Magistrates' Court within 21 days of notification of the decision.

The meeting ended at 1.01 p.m.