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## LICENSING SUB-COMMITTEE

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**MINUTES** of the Meeting held in the Committee Room, Swale House, East Street, Sittingbourne, Kent, ME10 3HT on Wednesday, 23 August 2017 from 10.00am - 5.23pm.

**PRESENT:** Councillors Tina Booth, Anita Walker and Ted Wilcox (Chairman)

**OFFICERS PRESENT:** Mohammad Bauluck, Jayne Bolas and Philippa Davies.

**ALSO IN ATTENDANCE:** Mr Colin Barrett (Respondent), PC Dan Hunt and PC Cossar (Kent Police) and Mr Paul Tapsell (Counsel for the Licence Holder).

### 171 FIRE EVACUATION PROCEDURE

The Chairman ensured that those present were aware of the Fire Evacuation Procedure.

### 172 NOTIFICATION OF CHAIRMAN AND OUTLINE OF PROCEDURE

The Chairman opened the meeting by introducing the Sub-Committee and officers present, and also representatives from Kent Police and the Respondents.

### 173 DECLARATIONS OF INTEREST

No interests were declared.

### 174 REVIEW OF PREMISES LICENCE UNDER THE LICENSING ACT 2003

Mrs Jayne Bolas, Solicitor, introduced the application as a review of the premises licence for the Ivy Leaf Bar, Sheerness. The review had been applied for by Kent Police, and had been adjourned on 8 August 2017 for narrowing dispute concerning evidence in further documents received from the Police, including CCTV footage. Mrs Bolas explained that two representations had been received in relation to public nuisance, and 14 representations in support of the premises, as noted in Appendices G and F to the report. She explained that Members should consider all evidence and determine what steps were appropriate and proportionate to promote the licensing objectives.

PC Dan Hunt, representing Kent Police, explained that the Police had requested a review, following an incident at the premises where an underage female had been served alcohol, over a period of four hours. The girl had subsequently been hospitalised and PC Hunt stated that the Ivy Leaf Bar had failed to promote three out of the four Licensing Objectives. PC Hunt considered it was important to note that the girl was only 16 years old, and he considered she looked and acted her age, and that she was young and impressionable.

PC Hunt reported that at 19.23 hours on 16 May 2017 Kent Police were contacted by a parent to state that the girl had been drinking at the Ivy Leaf Bar and she was concerned as she did not know the whereabouts of the girl. At 19.14 hours and

19.24 hours on 16 May 2017 calls were received about a disturbance at Bridge House, a short walk from the Ivy Leaf Bar. The girl was drunk, punching doors and walking around with no shoes. The Police and ambulance services arrived, and the girl had to be restrained and handcuffed as she was aggressive to officers. There were concerns for her health, so she was taken to hospital, rather than the Police Station. Police remained with the girl for three hours. PC Hunt visited the Respondent on 20 May 2017 and requested limited CCTV footage as it was not known when the girl had arrived at the premises. The Respondent had advised that there had been no-one drinking at the premises of the description that PC Hunt had given him, and suggested that the girl had been drinking on the beach. PC Hunt stated that further requests for CCTV footage were made and received. This showed that the girl had been in the pub from around 1400 hours. Whilst collecting CCTV footage at the premises, PC Hunt was asked to speak to the girl on the telephone. The girl had stated that she had been drinking at the pub, and had used her sister's ID. She and her friend had agreed to write a statement confirming this to the Respondent.

PC Hunt stated that the girl had been in the pub drinking from around 1400 hours to 1800 hours. The footage showed her purchasing alcohol, and also others buying drink for her. There was no clear evidence of any ID check being made. PC Hunt explained further that the girl was, in his view, becoming more intoxicated, and the footage showed that she had drunk pints of lager and shots. He also considered that she looked and acted younger than an 18 year old.

The Sub-Committee was shown a series of CCTV clips over the period of time that the girl was in the Ivy Leaf Bar, and PC Hunt gave commentary, as noted below, and Counsel for the Respondent, added comments and asked questions.

14:00 hours – girl enters bar  
14:03 hours – girl in bar, friend buys her a drink

Counsel for the Respondent observed that the friend had ordered the drink, the bar staff left, and then the girl drinks the drink.

14:05 hours – girl goes into garden  
15:05 hours – girl goes to bar  
15:07 hours – girl buys a pint of lager, no sign of ID

Counsel for the Respondent observed that it had not been clear which pump the drink had come out of.

15:42 hours – girl returns to the bar. PC Hunt noted that it was clear how old she was in the footage by her actions, such as spinning on the chair. Her mobile phone was on and she showed this to staff. There was no sign of ID, only the screen of the mobile phone. The licence holder said that many adults spun on chairs. Counsel stated that the girl had said her sister's ID was with her telephone.

15:44 hours – the girl gets another drink. PC Hunt stated that it appeared to be a lager top. No ID check was made.

Counsel for the Respondent observed that the girl's friend had bought the drink and that the ID was on her phone. PC Hunt responded by stating that she showed the screen, not ID.

16:56 hours – girl arrives back into the bar. PC Hunt stated that there appeared to be something in her hand, and that she looked her age (16) and the bar manager chatted to her face-to-face, but no one challenged her. Something fell onto the floor, but it was not offered up or checked by staff. PC Hunt did not believe that an ID check was made.

Counsel for the Respondent observed that girls' dress code could make them look older, and that it appeared that she had her ID tucked into her bra strap.

16:57 hours – the girl was leaning on the bar and starting to look intoxicated. Drink bought by her friend, no ID requested.

16:58 hours – girl was unsteady, about to sit down, falls into chair heavily, and a nearby child falls to the ground.

Counsel for the Respondent observed that the child had been playing, and had got out from the gap between the chairs and the girl did not knock the child over.

16:59 hours – the girl tries to stand up, takes a drink, and sits down heavily.

Counsel for the Respondent observed that the girl was a heavy girl.

17:04 hours – girl sits at the bar, her mannerisms and her slumped demeanour suggested that she was intoxicated.

17:09 hours – girl has a pint in one hand and a shot in the other.

17:40 hours – further signs of the girl displaying her age, played with fidget spinner, and unsteady when she walked.

Counsel for the Respondent observed that adults also played with fidget spinners.

17:45 hours – girl was at the bar, sitting sideways on her chair, leaning on the bar, slips off stool.

17:52 hours – girl in the garden, being supported by friend, other customers watching her.

Counsel for the Respondent observed that she looked worse for wear, but there was a vast difference from the short time before.

17:58 hours – girl walks out of the premises.

Counsel for the Respondent considered that she was walking better than before.

PC Hunt stated that there had been breaches of the Licensing Conditions, particularly in relation to retaining training records, and documenting the age

verification policy. He considered that this showed a lack of understanding of the Licensing Objectives.

PC Hunt drew attention to the supplementary papers which provided an overview of further incidents that the Police wished to be taken into consideration. PC Hunt outlined the incidents which included: weapon use; concern with working practices when a male had been locked in a storeroom and alleged assault by staff. PC Hunt raised concern with the clientele that were visiting the pub, and stated that within a short space of time there had been three incidents which involved weapons, and these took place prior to 8pm when there could have been children present in the pub. PC Hunt reported that a drug operation had shown a high level of drug presence at the pub. There had also been an episode of stolen goods being dealt with at the pub.

PC Hunt explained that there was clear evidence that the Police were taking a stepped approach by attending the venue and trying to give advice and help to the Designated Premises Supervisor (DPS). He added that he felt that there was very little evidence that the Respondent had appreciated the seriousness and acted following the under age drinking incident, and it seemed to be 'business as usual'.

PC Hunt sought a revocation of the Premises Licence, or the removal of the DPS, suspension of the premises licence for a minimum 28 days and three additional conditions on having a personal licence holder present at all times when alcohol was sold, adoption of the Challenge 25 policy, and more details of an incident register/refusal book, as noted on page 10 of the Agenda.

There was a comfort break from 11.30 hours – 11.38 hours.

PC Hunt responded to questions from Counsel. He advised that he joined the Kent Police Licensing Section in February 2017, and explained that for the purpose of this review he had gone back two months in the history of incidents at the pub. The Ivy Leaf Bar had been on the Police 'radar', with regard to incidents that had taken place in April/May 2017, but the incident on 16 May was considered serious enough to request a review.

In response to further questions, PC Hunt explained that the girl had stated that she had later gone to a local supermarket to buy alcohol, but there was no CCTV footage to prove this. Counsel suggested that the girl was not a reliable source of evidence as she had contradicted herself.

There was some discussion as to why PC Hunt did not caution the girl when he spoke to her on the phone at the pub whilst he was collecting CCTV footage. He stated that he did not consider it to be an interview and Counsel stated that this was not the position in law. PC Hunt stated that the handwriting on the girl's statement was very similar to a staff member's statement, but added that no forensic checks had been made to confirm this and he also agreed that her signature was very different.

Counsel stated that the girl had shown ID, and PC Hunt disagreed with that statement.

Counsel made reference to the supplementary papers and PC Hunt stated that he had no criticism of the way the staff had reacted to some of the cases, but raised concern with the type of character that was attracted to The Ivy Leaf Bar. Counsel suggested that if the pub was closed, the customers would then go elsewhere and effectively take the problem with them. PC Hunt considered the DPS needed to be responsible in refusing entry.

Counsel suggested that on at least two occasions ID from the girl was presented to staff, PC Hunt explained that the CCTV showed that it was not presented or examined. PC Hunt explained that it had not been appropriate to interview the girl on the phone, and as such he had not cautioned her. Counsel added that any suspicion should require a caution.

Counsel provided an overview of evidence in the case. He explained that ID had been shown, and that it only needed to be shown once; that the CCTV footage had shown the girl to be unsteady, not that she had been out of control or drunk. He considered the girl had not drunk a huge amount over the period of time and that the allegation was not sufficient to warrant revocation of the licence. Counsel stated that staff did all they reasonably could do in the circumstances.

The Respondent provided his evidence. He explained that he had been a Licence Holder for 15 years, 12 years at the Ivy Leaf Bar and had a lot of pub experience. He explained that there was a lack of Police presence in Sheerness, and the pub often dealt with issues on the spot. The Respondent outlined measures that he had undertaken to address issues at the pub. These included refurbishment; security gate at the side of the premises; staff retraining; and seeking another personal licence holder.

The Respondent explained that he relied on his day diary, which had worked up to now, and he had helped the Police when needed. He was hoping to get more trained staff at the premises, and he considered his staff controlled the area well. The Respondent outlined the effects that revocation or suspension of the licence would bring.

The Respondent considered the description of the girl was not good initially and that staff did not recognise it. Staff were unaware that she was under age. He made comments on the other incidents that had been submitted by the Police. He advised that staff did tell people to leave when necessary.

PC Hunt asked the Respondent questions. The Respondent outlined the measures that he considered taking to address issues at the pub, such as children not being in the bar area; re-training of staff; and electronic entry systems. He stated that the girl's ID showed date of birth, and agreed in hindsight, that the ID should have been checked more thoroughly.

The meeting adjourned from 13.37 hours to 14.30 hours to allow for lunch.

PC Hunt summed up. He stated that Kent Police made no apology for calling the review, with regard to the safeguarding of the 16 year old girl. He stated that from all the CCTV footage, it was clear that the 16 year old girl was drinking in the Ivy Leaf Bar for about four hours and she was intoxicated. PC Hunt explained that the

footage showed clear signs of intoxication and showed her age. He acknowledged that 18:00 to 19:00 hours was unaccounted for, and she could have had a drink or other substances elsewhere. The venue did not accept how they had contributed to her drinking, and she had had at least four pints, jagerbombs and shots. The CCTV footage had not shown that an ID check was made. He considered there were failings of the venue with regard to training and age verification policy. He had concerns that the Police were not always called to incidents, and so there could have been more serious incidents that the Police were unaware of. PC Hunt suggested that the effect of revocation of the licence should not consider other venues/businesses as it was important to take into consideration how the Ivy Leaf Bar was run. He raised concern as to whether the DPS's proposed improvement measures were achievable. Kent Police had had a stepped approach to work with the venue, and this had not worked, and now 'enough was enough'.

Counsel summed up. He considered there was not a persistent problem with under age drinking at the venue. Some ID was produced and staff had been satisfied with that. The premises did not have an issue of under age drinking. Counsel acknowledged that the ID was not checked thoroughly enough. The girl was drinking at a leisurely pace, she was unsteady on her feet and then was ok when she left the premises, and not in the state that she was an hour later. The girl was socialising, was not a small girl and might look older than 16 years old. Counsel did not accept the interpretation that she was out of control at an early stage. The girl had set out to deceive staff with her sister's ID.

Counsel reported that his client had taken the matter very seriously, and the premises were well run. He considered the evidence to be insufficient to justify revocation.

Members of the Sub-Committee adjourned to make their decision at 15:10 hours. Members of the Sub-Committee, Solicitor and the Democratic Services Officer returned at 17:15 hours, when the meeting was reconvened.

The decision, as set out at Appendix I to these minutes was announced.

***Resolved: The Sub-Committee resolved to suspend the Premises Licence for 14 days and add three conditions to the licence permanently, as set out in the attached Notice of Determination.***

## **Appendix I to Minutes**

### Chairman

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All Minutes are draft until agreed at the next meeting of the Committee/Panel