

# Licensing Act Sub-Committee

## Supplementary Agenda

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**Date:** Wednesday, 9th September, 2020

**Time:** 2.00 pm

**Venue:** Virtual

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3. **Application to review a Premises Licence at Thirsty Beak Café Bar, Unit 5c, Dukes Court, Mill Street, Macclesfield, Cheshire, SK11 6NN (Pages 3 - 12)**

The following documents were received following publication of the committee agenda:

Thirsty Beak Review Update August 2020; and  
Summary of Interview

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On 23<sup>rd</sup> January 2020 Ms Tracey Warne & [REDACTED] attended an interview under caution in relation to some alleged offences under the licensing act 2003 namely under S136(1) which relates to knowingly allowing or carrying on or attempting to carry on unauthorised licensable activities otherwise than in accordance with an authorisation. The offences relate to events that took place at Thirsty Beak Café Bar, Unit 5c Dukes Court, Macclesfield.

Due to the size of the document that records the interview this is a summary of the offences that Tracey Warne and [REDACTED] were questioned about.

Tracey Warne was asked how long she had held a personal licence – Tracey advised it was early 2000's when licensing was under the courts, which was prior to the Licensing Act 2003.

Tracey was asked if she considered herself to be experienced in the licensed trade, which she confirmed she did.

Tracey was asked how much influence she has over the bar the business and she replied that she has 100% if needed.

Tracey and [REDACTED] were asked when they were made aware that [REDACTED] had visited Dukes Court on 23<sup>rd</sup> August 2019 along with a number of other premises to see if anyone had any CCTV from 18<sup>th</sup> August that may help with their investigation into an incident early that morning. Neither Tracey nor [REDACTED] were at the premises when [REDACTED] visited and [REDACTED] left her card with staff at Beanies (which is also owned by Tracey & [REDACTED]) and asked if they could get one of them to contact [REDACTED].

Both confirmed that they were made aware of the visit on the same day; they were told a card had been left, but they never got it, it had been lost and they were not asked to call [REDACTED] as per the message that had been left.

[REDACTED] did contact [REDACTED] on 23<sup>rd</sup> August and after the conversation, [REDACTED] emailed Tracey & [REDACTED] a formal request for CCTV from 18<sup>th</sup> August, which both confirmed they received.

[REDACTED] chased the request on the 30<sup>th</sup> August as the CCTV still hadn't been made available.

Tracey was then invited into a meeting at the Police Station on 6<sup>th</sup> September 2019 however, Tracey did not attend [REDACTED] attended on her own.

Tracey was asked why she did not attend and she said she might have had a large funeral on that day for which she had to do flowers, so it was flower shop related why she could not attend.

At the meeting on the 6<sup>th</sup> September 2019, [REDACTED] advised both [REDACTED] that the footage was not available.

Following the request for CCTV, it had come to light that the premises CCTV was only recording for 11 or 12 days (the premises licence condition requires 28 days).

[REDACTED] was also asked for the footage from the courtyard cameras, which she manages on behalf of Selmar who she rents the premises from. [REDACTED] advised that the CCTV system is stored in a communal cupboard and someone had changed the password on the system, so she was unable to access the cameras to see if there was any footage from 18<sup>th</sup> August 2019. [REDACTED] advised that to remove the password the CCTV system had to be wiped clean so it could be started again so there was no way of playing anything back on it.

On 19<sup>th</sup> September 2019, [REDACTED] attended Dukes Court to meet with [REDACTED] who looks after the CCTV for [REDACTED] and Tracey. During the meeting Tracey came over to find out what was going on and it was on this day that Tracey was told by [REDACTED] that the CCTV at Thirsty Beak didn't comply with the conditions on the premises licence.

[REDACTED] also advised Tracey that there was evidence on the Thirsty Beak Facebook page that the DJ was playing music in the courtyard and this did not form part of the premises licence. Tracey confirmed that she remembered this conversation.

[REDACTED] advised that because they also own Harley's which had an outdoor music licence, they thought they could use that even though the bar wasn't open as they had some water leaks so couldn't open as it wasn't safe. [REDACTED] had not realised that there was a certain space designated for Outside entertainment on Harley's licence.

Tracey and [REDACTED] were shown the video from their Facebook page and they were asked if they would agree that the area the DJ was in was not the permitted area he should be in, both said yes they agreed that the DJ Booth was too far down the courtyard.

Tracey and [REDACTED] were also questioned about customers having drinks outside in the courtyard which is clearly shown on the video, their premises licence authorises supply of alcohol for consumption 'on' the premises. The courtyard is not included in the red line plan for their premises licence.

Tracey and [REDACTED] were asked if they would agree that there had been a direct breach of the licence conditions in relation to continuous recording and the storage of CCTV footage.

Both agreed that there was a problem with the technology that they weren't aware of and unfortunately yes if that breaches a condition of the licence, but it was rectified immediately and we now know its fully functioning.

Tracey and [REDACTED] were asked about training on the system and when the changes were completed to make it compliant. [REDACTED] pointed out that the last time they had licensing visits it had been compliant.

[REDACTED] advised that [REDACTED] trained them on the CCTV and when Officers [REDACTED] carried out a check, it was working fine. [REDACTED] pointed out that when [REDACTED] had visited on 27/09/2019 the CCTV still was not recording and wasn't set to save sufficient footage to meet the licence condition. In addition, there was no one on the premises who could operate the CCTV and [REDACTED] had to be called.

On 25/10/2019 Further licensing visits were made and again it was found the CCTV only recorded for 18 days.

On 28/11/2019 [REDACTED] visited the premises and on this visit the CCTV was compliant with the conditions on the licence.

Tracey and [REDACTED] were asked about how they employ their door staff. At the meeting on 6<sup>th</sup> September 2019, [REDACTED] provided names of the door staff they use. [REDACTED] advised that they employ door staff through Pioneer Executive Security, which is managed by [REDACTED]. When asked about how the door staff were paid [REDACTED] advised that sometimes she pays them directly and other times she is invoiced by [REDACTED]. She advised that [REDACTED] sometimes ask her to pay a door supervisor an extra £100 so [REDACTED] asked if this is taken off the invoice.

██████ also asked whether Tracey or ██████ check the SIA badges to ensure that the staff working for them are appropriately licensed. ██████ advised that because they mostly have ██████ working for them, they know all their details and when their badges are due to expire. ██████ advised anyone else they do not know who they will be sent and they assume that ██████ will have done the checks, as it is his company and their using his insurance.

Tracey & ██████ were asked about the insurance for the door staff and they said that ██████ provides the insurance, they provided a copy of a document which was emailed to ██████ at the Bubbleroom, which ██████ said is what ██████ forwarded to her, he was supposed to provide a proper PDF copy but that was all she had.

When ██████ visited on the 27<sup>th</sup> September 2019, they observed the doors to Thirsty Beak open with loud music playing and the excuse that was given to officers at the time was that the doors had been kept open because customers slam the door and break the glass.

Tracey and ██████ were asked if they were aware of the condition on their licence, regarding the door being closed, which both said they were and Tracey acknowledged that yes it was a breach of the condition.

Tracey and ██████ were challenged about serving alcohol to persons when they were intoxicated, they denied doing this and were advised that during an incident at the premises a police officer had noted on the incident that the person involved was very intoxicated.

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Cheshire Police Licensing Department

**Police vs Thirsty Beak Café Bar**

Unit 5 Dukes Court  
Mill Street  
Macclesfield  
SK11 6NN

**Request for Review of the Premises Licence**

The police made the application to review the premises licence on 14/02/2020, with the consultation period ending as the Country entered lockdown due to the COVID-19 pandemic thus delaying the committee hearing.

During this time, an application was received on 09/07/2020 from Ms Kate Homer to transfer the premises licence.

At the time of the transfer Ms Homer and her partner a [REDACTED] were not aware of the pending application to review the premises licence as when they agreed the sale of the business with [REDACTED] & Tracey Warne they did not disclose this information.

The police licensing officer – [REDACTED] has made a number of attempts to contact the new premises licence holder Ms Homer both during the transfer process and since with the hope that it would be possible to work together to find a solution to avoid the need for a hearing.

On 20/07/2020 [REDACTED] sent an email to Ms Homer detailing what conditions and hours the police would be seeking should the Committee choose not to revoke the premises licence. Ms Homer was asked if she would agree to vary the licence in accordance with those conditions and in return the police would withdraw their review.

Ms Homer has not acknowledged this email, she has not responded to any voicemail messages left and she has not engaged with the police at any time, which gives further cause for concern regarding how she will manage this premises, going forward.

It is also worth noting that although the licence has been transferred, Ms Tracey Warne is still the DPS for this premises and it was Ms Warne who was in charge of the premises when the licensing offences occurred, leading to this request to review the premises licence.

Due to Ms Homers lack of engagement with both the police and the council and the fact that Ms Warne is still involved in the business, the police are still seeking revocation of the premises licence.

Should the committee choose not to revoke the licence then the Police would ask that the committee consider imposing the following change in hours and new conditions:

Reduce hours for Playing of Recorded Music – Monday to Sunday 11:00 to 00:00

Reduce hours for Sale and Supply of alcohol to – Monday to Sunday 11:00 to 00:00

Reduce Provision of Late night refreshment to – Monday to Sunday 23:00 to 00:00

Reduce hours open to the public to – Monday to Sunday 11:00 to 00:30

**Amend the existing conditions relating to CCTV, Door Staff and Challenge 25 to the below:**

**Prevention of Crime & Disorder**

A CCTV system shall be used and shall be designed and installed in accordance with the Cheshire Constabulary's CCTV guidance document called 'CCTV in Licensed Premises – An Operational Requirement'. This system shall be in operation at all times when licensable activities are taking place.

Recorded CCTV images will be maintained and stored for a period of twenty-eight days,

A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member shall be able to provide a Police officer or an authorised officer of the licensing authority data or footage upon request. All requests for footage are to be provided within a reasonable time scale.

Designated supervisors will need to demonstrate that their CCTV system complies with their Operational requirements. They will need to be able to demonstrate the following:-

- Recordings are fit for their intended purpose,
- Good quality images are presented to the officer in a format that can be replayed on a standard computer
- The supervisor has an understanding of the equipment/training,
- Management records are kept,
- Maintenance agreements and records are maintained,
- Data Protection principles and signage are in place.

SIA registered Door Supervisors shall be employed from 22:00 until the close of the premises on both Friday and Saturday evenings, along with Bank Holidays, Christmas Eve and New Year's Eve, to such a number as the management of the premises consider are sufficient to control the entry of persons to the premises and for the keeping of order in the premises when they are used for a licensable activity.

A written record shall be kept on the premises by the Designated Premises Supervisor of every person employed on the premises as a door supervisor in a register kept for that purpose. That record shall contain the following details:-

- The door supervisor's name, date of birth and home address;
- His/her Security Industry Authority licence number;
- The time and date he/she starts and finishes duty;
- The time of any breaks taken whilst on duty;
- Each entry shall be signed by the door supervisor.
- Record of all incidents taking place in the venue

That register shall be available for inspection on demand by an Authorised Officer of the Council, the Security Industry Authority or a Police Constable.

The premises shall maintain an Incident Log book and will record all incidents in this book, where the police are called the log entry should also record the incident number.

The incident book shall be available for inspection on demand by an Authorised Officer of the Council or a Police Officer.

### **Protection of Children from Harm**

A "Challenge 25" policy shall be operated at the premises at all times.

The only forms of ID that shall be accepted (at the discretion of the Management) as proof of age are a valid passport, a valid photographic driving licence, a PASS approved proof of age card, HM Services Warrant Card or other reliable photo ID (that has been approved for acceptance by the Police or an Officer of the Local Authority)

Publicity materials notifying customers of the operation of the "Challenge 25" scheme shall be displayed at the premises.

The Designated Premises Supervisor or Premises Licence Holder shall operate and maintain an up-to-date Register of Refusals of Sale of Alcohol, indicating the date, time and reason for refusal which shall be made available for inspection by Local Authority Officers and the Police.

The DPS or other responsible person shall check and sign the register once a week.

Alternatively an electronic point of sale refusals log shall be kept.

A documented training programme shall be introduced for all staff in a position to sell, serve or deliver alcohol. A written record for each member of staff shall be kept of the content of such training and shall be made available for inspection at the request of Local Authority Officers and Police.

The DPS or Premises Licence Holder shall conduct six monthly training reviews with all members of staff authorised to sell, serve or deliver alcohol in order to reinforce the training and to promote best practice. A written record for each member of staff shall be kept of the content of such reviews and shall be made available for inspection at the request of Local Authority Officers and Police.

A list of persons authorised to sell alcohol shall be kept on site and made available for inspection at the request of Local Authority Officers and Police.

Clearly visible signage is to be displayed at the entrances and at points of sale indicating it is illegal to sell alcohol to people under the age of 18.

\*\* Remove condition 7 regarding attendance at Pubwatch as this is not enforceable.

If the new owners wish to continue to use the courtyard area for customers to drink, then this is to be included in the premises licence plan, so that conditions relating to the outside area can be applied as appropriate.

**Suggested conditions relating to outside:**

All furniture shall be removed and stored away by 22:00 hrs each day

Only polycarbonate or plastic disposable vessels and bottles will be used in the outside area. All drinks in glass bottles must be decanted into such vessels before being allowed into this area.

