

Notice of Decisions

The following decisions have been taken by the Licensing Sub-Committee held on Wednesday, 30 November 2022

If you want to know more about an item, please contact the officer indicated.

	WARD	DECISION	OFFICER CONTACT
		<p>Licensing Sub-Committee 30 November</p> <p>The Sub-Committee made the following decisions:-</p>	<p>Democratic Services - Tel 023 9283 4870 Democratic@Portsmouthcc.gov.uk</p>
4	Charles Dickens	<p>Licensing Act 2003 - Summary Review of a premises licence</p> <p>DECISION:</p> <p>PORTSMOUTH CITY COUNCIL LICENSING SUB COMMITTEE APPLICATION FOR SUMMARY REVIEW - TOKYO JOE'S, 29 - 33 GUILDHALL WALK, PORTSMOUTH, PO1 2RY SUMMARY REVIEW HEARING, WEDNESDAY 30TH NOVEMBER 2022 All parties shall receive written confirmation of the decision and reasons.</p> <p><u>Decision</u> The Sub-Committee has had to determine whether the hearing ought to be held in private session, with the press and public excluded. It was directed to regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 and considered the public interest test set out therein. An email had been received from a local reporter expressing a view that it would be in the public interest, given the amount of detail already in the public domain and significant interest in the matter, to hold the hearing in public. The police indicated that a prosecution and investigation was ongoing and that it may hinder the hearing if certain matters could not be disclosed or conveyed freely. On balance, the Sub-Committee determined that whilst it was a default position in the Hearings</p>	

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		<p>Regulations that hearings be public, in this case the public interest in the proper investigation and prosecution of criminal offences outweighed the public interest in the hearing being publicised. However, the decision and reasons shall be published on the basis that they do not place sensitive data or information in the public domain.</p> <p>The Sub-Committee has considered very carefully the application for summary review of a premises licence at the Tokyo Joe's. It gave due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of licensing policy.</p> <p>The Sub-Committee considered the relevant representations, both written and given orally at the hearing, by all parties. Human rights legislation and the public sector equality duty has been borne in mind whilst making the decision.</p> <p>The Sub-Committee noted that on 7th November 2022 at 12.54pm Portsmouth City Council received an application for summary review from the chief officer of police for Hampshire Constabulary in relation to Tokyo Joe's including a certificate confirming the premises are associated with serious crime and serious disorder.</p> <p>On 8th November 2022 the Licensing Authority convened a sub-committee hearing to consider interim steps.</p> <p>At that hearing the Licensing Authority heard from the police in relation to the events leading to the application, namely an incident on 5th November involving a serious stabbing (in so far as several members of the public and staff were injured), an underage minor was on the premises at the time as well as suspected class A drugs on the premises. The severity of the incident and the lack of measures in place to prevent knives being brought into the premises at the time were of extreme concern.</p> <p>The Sub-Committee determined that it was necessary, given all the facts it had heard, that:</p> <ul style="list-style-type: none"> - The premises licence should be suspended (with immediate effect) pending the full review hearing 	

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		<p>In the event that the premises implemented:</p> <ul style="list-style-type: none"> - a policy of 100 % scanning of customers, with use of a metal-detecting arch - Documented training of this new equipment and policy - Measures to prevent migration between adjoining premises (particularly from Astoria to Tokyo Joes) without the same level of search procedures (to be documented by way of policy) to the satisfaction of Hampshire Constabulary, the suspension should be lifted. <p>On 9th November the premises had fully implemented the required steps and the premises licence was reinstated.</p> <p>As a result of publication of the summary review proceedings and the consultation process, a representation was received from one "other person", expressing concerns in relation to failings at the premises.</p> <p>After having heard all of the above evidence and considering all of the options set out within the legislation (ranging from taking no action to revocation of the premises licence) the Sub-Committee determined that the premises licence be modified by adding the following conditions:</p> <p>At the end of existing condition 13 (relating to the use of electronic identification scanning equipment), to add the following:</p> <p>“Even if a form of identification is produced which is successfully scanned, staff will be instructed to conduct random checks to require further proof that the form of identification relates to the person concerned such as (but not limited to) the production of a debit or credit card in the same name as the form of ID or the demonstration on a mobile device of a social media account in the same name.</p> <p>“If a customer is clearly over the age of 30 and is unable to produce a form of identification in accordance with this condition, the management of the venue shall have a discretion to permit admission to the premises provided that such an individual is able to provide a credit or debit card confirming their identity and an accompanying patron has provided ID</p>	

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		<p>that has successfully been scanned and certifies that individual is over 18. The reason(s) for exercising this discretion shall be documented in writing.”</p> <p>Insert an additional condition immediately after condition 13 as follows and subsequent conditions be re-numbered:</p> <p>“Metal detecting arches shall be installed at all customer entrances to the premises. This shall include any entrance from any adjoining premises (i.e. the premises known as Astoria which is separately licenced), unless those premises have themselves installed metal detecting arches at all customer entrances which are then in use in accordance with the following conditions.”</p> <p>“At all times when door staff are on duty after 20:00 hours, customers entering or re-entering the premises will be required to pass through the metal detecting arch unless they can satisfy staff that they are medically exempt (such as having being fitted with a heart pacemaker or other implant) or have a disability (such as being in a wheelchair).</p> <p>Any person who activates the detector will only be admitted to the premises if they consent to a search for any concealed weapon. Those who are exempted from passing through the detector will be subject to an appropriate level of search before being admitted. In both cases, the further search will be by the use of a metal detecting “wand” if that is appropriate.</p> <p>“All staff involved with admission of customers to the premises shall be trained in the use of the detectors and the requirements of this condition and such training will be documented. Documentation shall be kept at the premises and made available for inspection by responsible authorities upon request.</p> <p>“Any failure or malfunction of any of the metal detecting arches shall be rectified as soon as possible, noted in writing and notified to the police licensing team as soon as practicable. When an arch is out of use due to any failure or malfunction, staff will be instructed to use metal detecting wands in their place.”</p> <p>The Sub-Committee reviewed the interim steps previously imposed and has determined that they</p>	

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		<p>ought to remain in place pending the 21-day period for appeal or until any appeal, if lodged, is determined. When that period expires the licence amendment as decided today takes full effect. This is considered relatively uncontroversial given the steps are already in place.</p> <p><u>Reasons</u> The Sub-Committee considered very carefully the representations of the police, who are identified in the statutory guidance as being the lead authority for the crime prevention licensing objective. The police view and evidence is that the premises have co-operated and implemented the required steps allowing the premises to reopen. It was noted that the guidance expressly requires consideration of any changes in circumstances since interim steps are imposed.</p> <p>The Sub-Committee considered the representation from one "other person", as defined by the Act - the mother of the alleged perpetrator of the stabbing incident, who claimed the premises is associated with drugs, violence and rapes. Further, that the door staff failed to search patrons or request ID properly and that they used excessive violence when dealing with the stabbing incident. It was asserted this ought to lead to the closure of the premises. The lengthy representation set out the sensitive circumstances of the defendant.</p> <p>The Sub-Committee must assert that its function is not to determine the guilt of the alleged offender but to establish whether the premises are undermining the licensing objectives in its operation and, if so, what steps are appropriate to address those concerns. That such a serious incident should occur on licensed premises is of considerable concern but on balance the Sub-Committee is not satisfied that this incident, whilst exceptionally serious, should lead to a revocation of the licence in this instance. Police evidence confirmed this is an isolated incident of such severity and that there has been significant co-operation before and since, as would be expected from a responsible licence holder. Given the length of time that the licence has been in place, the number of patrons visiting the premises and the number of incidents (even incidents of lesser concern) it was not felt that this premises is one that attracts those carrying knives.</p>	

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		<p>The Sub-Committee formally extends the licensing authority's thanks to the SIA door staff who acted to restrain an individual armed with a knife and prevented further likely incident.</p> <p>The premises should be commended for acting swiftly to implement the required steps and the history and past performance stands it in good stead despite this unfortunate incident, which the police and this authority are bound to address.</p> <p>There is a statutory right of appeal which must be lodged at the Magistrates' Court within 21 days of receipt of formal notification of this decision. In the meantime the interim steps remain in force and it is noted that this does require the scanning of 100% of patrons for that period. This is considered appropriate to deter further incidents whilst training and policies are implemented and bedded-in. A stricter approach for the short term is considered appropriate to deter further incident following publication of this decision.</p>	