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Our ref:
Date: 21 December 2010

SPELTHORNE BOROUGH COUNCIL

DECISION NOTICE

In accordance with the LICENSING ACT 2003 s.44

Date of Licensing Sub-Committee: 15 December 2010

Applicant: PPA Leisure Ltd.

Premises: Denims Sports Bar & Cheekes
Nightclub
Elmsleigh Road
Staines
TW18 4PN

**REASON(S)
FOR
HEARING:**

Relevant representation received from responsible authority concerning Crime and Disorder:-

- Applicant has applied on behalf of a company the Police believe to be a front; as one made by the individual himself would be looked upon unfavourably.
- Said-applicant has relevant convictions and is obstructive towards Police investigations.

DECISION

Refusal of the application, for the reasons set out below.

With effect from 15 December 2010.

REASONS FOR DECISION

1. The application is to transfer the Premises Licence at Denims Sports Bar & Cheekes Nightclub, Elmsleigh Road, Staines, TW18 4PN.

Attendance

2. One responsible authority attended the Sub-Committee hearing to make a representation:
 - Surrey Police, represented by Sergeant Iain Scott - Spelthorne Licensing Sergeant and PCs Sonya Hudson (of the Domestic Violence Team), Sam Coleman and Steve Ashley.
3. Mr Andrew Clark attended the hearing on behalf of PPA Leisure Ltd. He was not represented.

Evidence

4. The Licensing Sub-Committee considered all of the relevant evidence made available to it at the hearing and in doing so has taken into account the regulations and national guidance under the Licensing Act 2003 and Spelthorne Borough Council's Statement of Licensing Policy.
5. In particular, the Sub-Committee has regard to paragraphs 8.108 – 8.111 of the October 2010 guidance. Objections to transfer of licence on the grounds of crime and disorder are expected to be rare and there must be good grounds to believe that the transfer of the licence would undermine the crime prevention objective of the Act.

Responsible Authorities

6. Relevant representations were received from Surrey Police.
7. The officers in attendance at the hearing provided further insight into the representation, details of which are given below.

Application

8. An application has been made under section 42 of the Licensing Act 2003, by PPA Leisure Ltd, to transfer the Premises Licence at Denims Sports Bar & Cheekes Nightclub from the freeholder Elmsleigh Developments Ltd.
9. The application was received by the Licensing Team at the Council on 5 November 2010 but was unsigned until 18 November 2010, at which point it became valid.
10. This application sought immediate effect from the time of application so PPA Leisure Ltd was the current Premises Licence holder, pending the decision of the Licensing Sub-Committee.

EVIDENCE

Background

11. Elmsleigh Developments Ltd is the freeholder for the site of the Old Telephone Exchange at Elmsleigh Road, which consists of both a ground and first floor. The Premises Licence for this site, which has been known by various names over the years, has been held in the name of Elmsleigh Developments Ltd since August 2007.
12. On 16 April 2010, an application was made to vary the Designated Premises Supervisor to Andrew Clark for Denims Sports Bar, which occupies the ground floor of the premises.
13. Surrey Police objected to the variation which took immediate effect until decided by a Licensing Sub-Committee.
14. The part of the premises known as Denims Sports Bar opened on 21 April 2010.
15. The Licensing Sub-Committee heard the case on 25 May 2010 and refused the variation to name Andrew Clark as the DPS. On the same date a further application to vary the DPS at Denim's Sports Bar was received, this time in the name of Perry Wood.
16. On 4 June 2010, the first floor of the premises known as Cheekes Nightclub, opened. Elmsleigh Developments Ltd notified the Council on 30 November 2010 that it was currently negotiating terms for a commercial lease with its tenant Mr Andy Clark which would run from 1st October 2010 to 1st October 2012.
17. When the annual licence fee was requested in November 2010, Elmsleigh Developments contacted the Council's Licensing Manager who advised that in accordance with section 16 of the Licensing Act, the Premises Licence should be in the name of the person, and this includes a business, who is carrying on the business.
18. Elmsleigh Developments Ltd agreed to encourage the tenant to make the transfer application and confirmed they would consent to such an application.

Responsible Authorities

19. Firstly, Sergeant Scott referred to a conversation he had with Mr Clark on 14 December 2010 regarding Surrey Police's representation attached to the agenda. As a result of this conversation, Sergeant Scott agreed to amend two points: -
 - i) any references to Perry Wood should be disregarded, as this hearing was to determine whether or not Mr Clark was suitable to be the holder of a Premises Licence so it did not concern Mr Wood; and

- ii) the third paragraph, which specified that Mr Clark had a number of licensing convictions dating back to 3 May 2010 should be amended to read '3 May 2007'.
20. Sergeant Scott then went on to reiterate the sentiments provided in his written representation, asking the officers in attendance to describe in further detail the occasions on which Mr Clark had been obstructive towards Police investigations.
 21. PC Sonya Hudson described for the Sub-Committee how Mr Clark's obstructive behaviour had hampered Surrey Police's investigation into a kidnap incident which was reported on 13 June 2010.
 22. She advised that Surrey Police requested CCTV footage from the club's system, which they intended to use as evidence for a prosecution four times before Mr Clark gave it to them.
 23. The first request was made by PC Avery on 13 June 2010. This was followed-up on 22 June 2010 and 24 June 2010, when Mr Clark was given a USB hard-drive to put the footage on.
 24. When PC Hudson again requested the footage on 4 July 2010, Mr Clark refused to give it to her. At the time he was accompanied by three other males, who surrounded PC Hudson - which she found intimidating. It was also noted that one of the males in question, the DPS at the premises, was verbally aggressive regarding the situation - telling Mr Clark to "just give her the fucking CCTV".
 25. Mr Clark finally produced the footage on 11 July 2010, just two days before the CPS decision was given as to whether or not the charge would be pursued. PC Hudson felt that this was unacceptable as Mr Clark's obstructive behaviour meant that Surrey Police had difficulty in presenting the full evidence to the CPS for it to make its decision.
 26. PC Hudson also commented that on one occasion Mr Clark had said to her that alleged victims of domestic abuse were usually liars.
 27. She also had a concern over Mr Clark's failure to co-operate with Police requests to view the site of the break-in to the club, in respect of the suspect involved in this incident. Mr Clark had initially told the Police he believed the man had entered the premises by a fire door on the third floor which had been propped shut using a piece of furniture. It was claimed that the man then made his way down to the second floor, where he had "kicked-in" a door in order to gain access to the residential part of the building. At the time of the incident, the Police were unable to see either door because Mr Clark claimed he had forgotten the keypad code to access these floors. When they returned a couple of weeks later and did gain access to these parts of the building, it would appear that any damage that had been done by the suspect had been fixed. As a result, they were unable to use this as evidence in their case. Mr Clark

- declined to make a factual statement about damage done to the premises on the basis that he had not seen anything of the alleged kidnap that night.
28. Sergeant Scott then detailed that Thames Valley Police had requested that Surrey Police issue a harassment warning to Mr Clark on 6 September 2010.
 29. He then called upon PC Coleman to detail instances where Mr Clark had been disruptive at Staines Town Centre Pubwatch meetings. PC Coleman said that she had been at every Staines Town Centre Pubwatch meeting in 2010 and that Mr Clark's behaviour at the meetings was disruptive enough that she felt the need to report it to Surrey Police's Licensing Officers for action.
 30. Upon receipt of this report, Sergeant Scott attended a Staines Town Centre Pubwatch meeting to witness Mr Clark's behaviour first-hand, and he fully agreed with what PC Coleman had told him.
 31. Both officers commented on Mr Clark's persistent questioning of why one of the other members of the Police's Licensing staff had not been in attendance at these Pubwatch meetings. Sergeant Scott pointed out that the member of staff in question had no obligation to be at the meetings and that Mr Clark had been advised of this on more than one occasion.
 32. Sergeant Scott then advised the committee that on 11 November 2010, Mr Clark had been asked to produce CCTV footage from the club system, in respect of a report that a person on Staines Town Centre Pubwatch's banned-persons list had been seen at Cheekes.
 33. PC Ashley had seen Mr Clark in Staines High Street on 17 November 2010 and approached him with a view to following up this request. When he did so, Mr Clark stopped in his tracks and asked "You're not here to nick me are you? Because if you are, I'm going to run." When PC Ashley did not reply to this, Mr Clark repeated himself. PC Ashley did not feel that Mr Clark had made this comment in jest.
 34. Sergeant Scott then said that the CCTV had never materialised, and he had subsequently been advised by an engineer that the CCTV had not been working for four or five days and this incident had consequently not been recorded.
 35. The racially aggravated assault detailed in Sergeant Scott's was then presented to the Sub-Committee in further detail. They were advised that this was actually the result of two incidents involving one of the Council's parking attendants, nearby to Denims and Cheekes itself.

Applicant

36. Mr Clark was then invited to make his representation. He began by addressing the issue discussed last by Sergeant Scott in his oral and written submissions regarding the racially aggravated incidents. He advised the Sub-Committee that, having spoken to his solicitor, it seemed unlikely that this charge would go

anywhere due to lack of witnesses. Moreover, he did not feel that it was of any relevance to him holding a Premises Licence.

37. He then reiterated what Sergeant Scott had reported regarding his licensing convictions, reminding the Sub-Committee that they actually dated back to 2007 - not 2010 as detailed in the agenda. Mr Clark commented that he felt he had been punished for these offences already and to penalize him further by preventing him from holding the Premises Licence would be unfair.
38. Next, Mr Clark referred to the Licensing Act 2003, specifically quoting that the person operating the business at a premises should be the holder of the licence. He pointed out that in the eight months the premises had been operating under his control; there had been no reports of incidents to the Police. He said that being the holder of the Premises Licence placed more responsibility on him in this respect, and that is why it was not his intention that this track record would change.
39. He suggested that none of the points raised by Sergeant Scott in his representation were relevant and that he had not breached a single licence condition the whole time he had been at the club.
40. He felt the point the Sergeant Scott had made regarding the CCTV was unfair and also incorrect, as he had not been aware the system was not working. In fact, he claimed that four or five days had passed since the Police's request for CCTV footage and that it was whilst the engineer was present at the club retrieving this footage for them that a problem occurred with the power supply - causing a loss of data. As soon as he became aware of this problem, he contacted Dawn Morrison - Spelthorne Licensing Manager. He had been unaware that he needed to advise the Police of this as well.
41. He then went on to point out that during all the Police licensing visits, he had not breached any of his licensing conditions and that he felt this point should be given some weight during the Sub-Committee's decision.
42. He repeated that he had not had any need to call the Police to the venue in the past eight months.
43. He also mentioned that Scotland Yard's Counter-Terrorism Unit had visited the club recently and commended him and his staff on anti-terrorist measurements they had in place at the premises.
44. Mr Clark stated to the Sub-Committee that he had never condoned domestic violence.
45. He then asked Dawn Morrison if there had been any licensing breaches that she was aware of.
46. Dawn Morrison commented that she had been aware of the issue of the CCTV and that the only other thing she could think of was that Mr Clark had recently

lost his personal licence, but had phoned her office and arranged for a replacement to be issued quickly.

47. Mr Clark then went on to point out that he felt the points made about him being obstructive at Staines Town Centre Pubwatch were unfair. He pointed out that there was no legal obligation for him to attend Pubwatch, but that he did so because he felt it was a good use of his time. He said he had done so for many years and felt it was a good “open forum” for publicans to air their opinions. He admitted that he had been outspoken at said-meetings, and agreed that if participation made him guilty of being disruptive, then he had been disruptive. However, in his personal opinion he did not feel he had been disruptive and he felt that the minutes of the meeting which failed to note any disruption backed up this point for him.
48. In response, Sergeant Scott pointed out how brief the minutes were and maintained his opinion that from what he had seen, Mr Clark had indeed been disruptive.
49. Mr Clark went on to claim that he did not believe Sergeant Scott was responsible for this representation and that another unnamed individual working for Surrey Police had a personal grievance with him and was intent on causing him problems.
50. At this point in the hearing, in order to ensure that the Sub-Committee had heard “both sides of the story” fully the Council's legal adviser, the Head Of Corporate Governance Michael Graham, advised Mr Clarke that he ought to address the issue of general obstruction outlined in Sergeant Scott's representation, the incidence in Staines High Street with PC Ashley, being intimidating towards PC Hudson on 5 July 2010, and why it had taken him so long to produce the CCTV for the alleged kidnap incident reported to the Police on 13 June 2010.
51. Mr Clark started by pointing out that the incident in Staines High Street with PC Ashley had been a misunderstood joke. He advised the Sub-Committee that there were numerous members of the public in earshot and the comment had been made in jest. He apologised to PC Ashley for the misunderstanding.
52. With regards to PC Hudson's claim that she had been intimidated on 5 July 2010, Mr Clark pointed out that the DPS at the premises had been frustrated at the time and had lost his temper, but his anger had not been directed PC Hudson. He did not feel that he and his staff had been intimidating towards her.
53. He then went on to address the issue surrounding his failure to produce the CCTV for the Police in good time with regards to the kidnap incident. Mr Clark said that on numerous occasions he had called the Police with the CCTV ready for them to collect, but they had failed to attend agreed appointments to pick it up. With reference to PC Hudson's comments regarding a break-in on the third-floor, Mr Clark advised that this was not the case and that the suspect - who had previously been a tenant in the residential space of the building - had accessed it by use of a key, which he still had at the time.

54. With reference to the request of CCTV for the incident where that person was later seen at the club despite being on Pubwatch's banned-list, Mr Clark advised that he asked the Police on four occasions who he was supposed to be looking for and only found out at yesterday's Pubwatch meeting.
55. The Police pointed out that he didn't need to know and that he only needed to produce the CCTV for them so that their officers could observe the footage at the time in question. PC Coleman pointed out that Mr Clark was told the times of the incident, and PC Ashley elaborated that he had even advised Mr Clark which cameras they needed this evidence from.

Discussion

56. The matter was then opened up for discussion and members were invited to ask questions to clarify any points necessary.
57. They asked numerous questions with regards to finances and operations in order to ascertain the role of PPA Leisure Ltd. in the running of the business role, as well as to clarify queries surrounding the kidnapping incident in June.
58. During the course of these questions, it came to light that Mr Clark was indeed the sole owner, Director and Shareholder of PPA Leisure Ltd.
59. Mr Clark denied that making the application in the name of PPA Leisure Ltd. was a device and pointed out that he had never made any secret of the fact that PPA Leisure Ltd. was his company. He advised that he was happy for the Sub-Committee to make a decision based upon the assumption that he himself was making the application.
60. Mr Clark commented that he appeared reluctant to help the Police investigation into the alleged kidnapping, because he knew the victim and was aware that she had bipolar disorder - which caused her to fabricate and exaggerate stories. He accepted that in this instance she had been forced from the club against her will, but pointed out that she had been seen with the suspect a couple of days later. For this reason he did not feel it was worth bothering to make a statement. Moreover, he did not feel he could add anything to the Police's investigation which they wouldn't have got from the CCTV footage.
61. He advised that his behaviour at Pubwatch had been the result of frustration at the way the meetings were being run – which he alleges was not in accordance with national guidelines. However, he maintained that he had not been disruptive.
62. He agreed that any person on Staines Town Centre Pubwatch's banned-list should not be allowed on his premises regardless of his personal opinion of them, but commented that the person in question during the incident in November 2010 was the same person suspected of the kidnapping earlier in the year. He did not agree this man should be on the banned persons list as a result of that kidnapping. PC Hudson pointed out that the suspect had also

assaulted other members of Denims and Cheekes staff, and suggested that this might have been why the Pubwatch members had voted to have him added to the banned-list. Mr Clark was unaware of this.

Findings

63. As a preliminary matter the Sub-Committee disregards two elements of the Police case. We understand that the Police have brought these matters to the attention of the Sub-Committee to provide the fullest possible picture. However there is nothing that the Sub-Committee can do about them and so it is right that they should be disregarded. The first is the warnings which have been given by Thames Valley Police. We have no background to these matters and we can't make any comments on the suitability of a person under the Act on the basis of a mere warning alone. Therefore the Sub-Committee has not taken this matter into account.
64. The second matter is the offence of racially aggravated assault. Mr Clark has not been convicted of any offence and therefore we presume innocent until proven guilty and do not take this matter into account.
65. The Council has to come to a view on who is running the establishment. This is because the Licensing Act 2003 requires the person "carrying on" the business to have the relevant permission, in this case the Premises Licence. It is clear that Elmsleigh Developments Ltd have had nothing to do with the running of this bar and have no interest in the venture whatsoever. The sole interest of the company is as freeholder of the building and they have a tenant in Mr Clark. To all intents and purposes Mr Clark is running the business and it is therefore right that the Licensing Manager advises that this position should be regularised.
66. The Police say that Mr Clark knows that he has a poor reputation and that having been convicted of offences under the Licensing Act previously, and having lost an application to be the DPS, he was unlikely to be considered favourably for a Premises Licence. For this reason the application is in the name of a company. The Sub-Committee is aware of the usual law on the incorporation of a company and is careful not to go behind the veil of incorporation unless there is some allegation of fraud in which case it would be right for the Sub-Committee to examine this.
67. Mr Clark started this business on a very tight budget using HP agreements, credit and a loan from Perry Woods's mother to fund the opening of the business. All of these arrangements were done in a personal capacity and PPA Leisure Ltd was not involved. The fabric of the building was in a good enough condition not to warrant any extensive refurbishment or make over and therefore the preparations for opening the business earlier this year were limited.
68. Mr Clark has another business which is PPA Taverns Ltd which is responsible for his pub in Wraysbury. Mr Clark wishes to run his two different ventures

through company structures. The Sub-Committee notes that this is an entirely common occurrence in business.

69. Mr Clark is responsible for all the current financial and operating costs of the business. PPA Ltd has no responsibility for staff wages, utilities, business rates, rental agreements and the like. There is no registration for VAT at present. The Sub-Committee found there were a number of arrangements in place which Mr Clark had set up though the common feature was that PPA Leisure Ltd was not taking any responsibility for the normal outgoings and liabilities of the business venture. It is a shell company and although Mr Clark has an intention to run Denims and Cheekes though the company he is not doing so at present.
70. Mr Clark is the only person who has an interest in the profits of the business. Mr Woods is involved in the running of the business and works there as DPS and is physically in attendance every other weekend. Mr Clark treats Mr Woods as a business partner but he appears to have limited investment and expectation in the profits of running the business.
71. PPA Leisure Ltd has one Director and one shareholder and was set up in July 2010 after the opening of both Denims and Cheekes. The only person who can answer for Cheekes is Mr Clark and this is relevant for the Sub-Committee. Even if all aspects of the business were to transfer to PPA Leisure Ltd, then as Mr Clark conceded during the hearing, he would still have to be the person accountable under the licence. This is a crucial factor for the Sub-Committee because were PPA Ltd to be granted a Premises Licence Mr Clark cannot divorce himself from the responsibilities of the Act.
72. The Sub-Committee is satisfied that there was no device intended by Mr Clark in submitting the application in the name of the company but as Mr Clark accepted, the Sub-Committee must look at his record in the involvement of running Denims and Cheekes.
73. Mr Clark submits that he has abided by the licence conditions and the requirements of the Act in the eight months that the business has been opened. The Sub-Committee finds that Mr Clark has failed to meet the licensing objective on the prevention of crime and disorder and a licence should not be transferred to any business where he is responsible for discharging the duties under the Act, particularly in relation to crime and disorder.
74. Mr Clark was required by the Police to assist them with enquires into a kidnap from the residential quarters associated with Cheekes. Mr Clark persistently failed to provide the sort of assistance which the Sub-Committee believes is fitting and proper for a Premises Licence Holder. Mr Clark evaded the opportunity to hand over crucial evidence. He had it in his possession and despite being asked a number of times to provide it, he did not do so. He put obstacles in the way of the officers, insisting that they provide him with a memory stick when such things are freely and cheaply available from many stores. He had the opportunity to hand this in to the Police Station at any time after the Police gave him notice that they wanted it. He refused to do so. He

argued with officers as to whether it was necessary for their enquiries and sought to substitute his judgement as to what was the right and proper way to conduct a Police enquiry of this nature. In answer to all questions, Mr Clark displayed an attitude that "he knew best". He did not appreciate that Police Officers have a job to do and that his role was to support that.

75. It makes no difference to this finding that the premises were closed at the time of the kidnap and the kidnap was not from the licensed part of the premises. What matters is that in his role as a person in charge of the business Mr Clark had every opportunity to help the Police with their enquiries and he thought better of it.
76. When a female PC attended the premises to get the memory stick from him, he and his staff were intimidating to her. The DPS used abusive language in the presence of the PC. Mr Clark did not think there was anything wrong with this. Mr Clark was given the opportunity to comment to the Sub-Committee about this instance, but the point was lost on him. He did not care what impact he or his staff had on the Police Officer. He did not think that there was anything untoward or wrong with Perry Woods's behaviour. Certainly there has been no come back since in terms of warning or disciplinary action against the DPS for his unacceptable behaviour to a Police Officer in the line of her duties. Mr Clark did not seek to distance himself from the comments or behaviour of Perry Woods in the Sub-Committee; he said that the words were directed to him, as if that made Woods conduct acceptable, which it is not.
77. When Mr Clark was requested to show the premises where there was possible damage following the kidnap, he should have done so straight away. The Sub-Committee does not believe that Mr Clark forgot the code to the keypad. That is an incredible excuse to offer. Mr Clark ought to have made a statement when requested and afforded the Police the opportunity to see any part of the premises that they required. Again this is evidence of Mr Clarks' poor attitude to the Police.
78. When PC Ashley saw Mr Clark in town, Mr Clark made a comment about running from arrest. Whilst this is trivial in some respects, it does tend to show that Mr Clark has a peculiar attitude towards Police Officers. He felt it appropriate to joke on one occasion. PC Ashley did not see it as a joke. On any other occasion the Sub-Committee would likely strike such an incident from its consideration, but the Sub-Committee finds in this case that it is indicative that Mr Clark has a problem with Police Officers; he finds it difficult to deal with them as people who are responsible for regulating his business. He does not afford them the respect which the Sub-Committee feels is appropriate for a Premises Licence Holder to demonstrate.
79. The same finding is made in relation to Mr Clark at the Pubwatch meetings. The Sub-Committee heard accounts from Sgt Scott and PC Coleman which differed to that of Mr Clark himself. The Sub-Committee prefers their version of events to that of Mr Clark. The Sub-Committee formed the impression that Mr Clark was likely to have been domineering and challenging at these meetings rather than co-operative, professional and respectful. Mr Clark submitted that

the meetings were for publicans and were voluntary. This is true, but they are also a key opportunity for the licensed trade in this town to work together with the Police to ensure that crime and disorder is prevented and where possible detected. The Sub-Committee expects a premises licence holder to take his duties seriously towards Pubwatch and the officers attending. It finds that Mr Clark was more than likely to be obstructive and unhelpful pursuing his own agenda and complaints against Police staff rather than co-operating with Police to make their jobs as easy as possible in the town centre.

80. Mr Clark submits that he has run the premises without incident in the last eight months and has had regard to all requirements of the Act. He said that he had not had cause to call the Police in all the time that he had run the business. The Sub-Committee is not convinced by these assertions. Given his poor attitude to the Police the Sub-Committee finds that Mr Clark is more than likely to take any opportunity to keep the Police away from his premises. He has a view as to how things should be run and it is clear that he does not defer in any way to Police advice or authority. The Sub-Committee finds that this attitude is likely to colour all future dealings with the Police and affect the running of the business since Mr Clark will not seek to involve the Police appropriately unless there is no other option open to him.

Decision

81. The Sub-Committee has concluded that the transfer of the Premises Licence from Elmsleigh Developments Ltd to PPA Leisure Ltd should not be granted.
82. The reasons for this decision are as follows:
83. The Sub-Committee accepts that PPA Ltd is not really carrying on the business of Denims and Cheekes. It asked a lot of questions to come to a view on whether or not Mr Clark is running the business and the extent of the involvement of others. Mr Clark accepts that as he is the only Director and shareholder of PPA Leisure he is the only person who can answer for its activities. Not all of the business activities are undertaken by the company and Mr Clark accepts that he is liable in a personal capacity for some of the business activities. This is relevant for the Sub-Committee, notwithstanding the usual rules on company identity, because if a licence is to be granted then there is no other person who can answer for the company or control its activities. Sergeant Scott asked us to consider whether this application was a device to get round the usual rules of licensing applications. Although we have some contradictory answers from Mr Clark, we can't say for certain that this is the case. However it is important for the purposes of the Sub-Committee to know the extent of involvement of Mr Clark with the business in order for us to consider the Premises Licence properly and the duties which the Premises Licence Holder must perform, especially in relation to the prevention of Crime and Disorder.
84. Mr Clark is not a person who can be relied upon to assist Police in relation the prevention of Crime and Disorder, he has shown by his actions and his attitude

that he is unwilling to perform the most basic of requests. He is unlikely to be co-operative and is unlikely to call Police to his premises unless as a last resort.

85. Mr Clark has unspent convictions for failing to comply with the requirements of the Licensing Act 2003 and these are still relevant considerations for the Sub-Committee to determine if he is likely to be able to comply with the licensing object on prevention of crime and disorder. Mr Clark believes that he has complied with all the Licensing Act requirements over the last 8 months but the Sub-Committee believes that there is an obligation on all Premises Licence holders to conduct themselves in accordance with the overriding aims of the act and to co-operate with the Police in order to prevent crime and disorder and meet licensing objectives.
86. The Sub-Committee finds that Mr Clark was obstructive to Police investigations into an alleged kidnap. He was obstructive to requests for CCTV footage. He refused to make a statement to the Police when requested to do so. He and his staff intimidated a Police Officer and when the DPS was rude, aggressive and verbally abusive in the presence of the Police Officer, no action was taken. A responsible Premises Licence holder would not tolerate in this unacceptable behaviour.
87. Mr Clark has been disruptive at Pubwatch meetings. The Sub-Committee has heard differing accounts from Mr Clark and PC Coleman and Sergeant Scott. In so far as their accounts differ, the Sub-Committee prefers the account given by the officers.
88. Mr Clark failed to provide CCTV footage in November 2010 when requested by the Police. The requirements on the licence to Elmsleigh Developments Ltd, to which Mr Clark said he had adhered, required him to tell the Police as soon as CCTV was inoperative. This did not happen.
89. The view of the Sub-Committee is that the transfer of the licence to PPA Leisure Ltd would undermine the crime prevention objective of the Licensing Act 2003 and for all these reasons the Sub-Committee considers that a refusal in this instance is warranted under the guidance and is a necessary and proportionate response in all the circumstances of the case.

Decision

90. The Sub-Committee therefore confirms that the application is refused. This is the decision of the Sub-Committee. You have the right to appeal against this decision to the Magistrates Court within 21 days of receipt of this decision notice.

Cllr Kevin Flurry - Chairman
Cllr Natalie Hyams
Cllr David McShane

Date of Decision: 15 December 2010

Date of Issue: 21 December 2010

RIGHT TO APPEAL

You have a right to appeal against this decision, which must be made to the Justices Chief Executive at the Magistrates court for the area in which the premises concerned are situated and within 21 days of receipt of this decision notice.

Extract from Licensing Act 2003 (Full text of the Act is available at <http://www.opsi.gov.uk/acts/acts2003/20030017.htm>)

Appeals against decisions of licensing authorities

1. Schedule 5 (which makes provision for appeals against decisions of licensing authorities) has effect.
2. On an appeal in accordance with that Schedule against a decision of a licensing authority, a magistrates' court may –
 - (a) dismiss the appeal,
 - (b) substitute for the decision appealed against any other decision which could have been made by the licensing authority, or
 - (c) remit the case to the licensing authority to dispose of it in accordance with the direction of the court,

and may make such order as to costs as it thinks fit.