

London Borough of Islington
DRAFT
Licensing Sub-Committee B – 20 November 2012

Minutes of the meeting of Licensing Sub-Committee B held at the Town Hall, Upper Street, N1 2UD on 20 November 2012 at 6.45 pm.

Present: Councillors: George Allan, Barry Edwards and Phil Kelly.

COUNCILLOR BARRY EDWARDS IN THE CHAIR

127. INTRODUCTIONS AND PROCEDURE (ITEM A1)

Councillor Barry Edwards welcomed everyone to the meeting and asked members and officers to introduce themselves. The Chair outlined the procedures for the meeting and informed the public that the procedures were on page 5 of the agenda papers.

128. APOLOGIES FOR ABSENCE (ITEM A2)

Apologies were received from Councillor Gary Doolan.

129. DECLARATION OF SUBSTITUTE MEMBERS (ITEM A3)

Councillor Phil Kelly substituted for Councillor Gary Doolan.

130. DECLARATIONS OF INTEREST (ITEM A4)

None.

131. ORDER OF BUSINESS (ITEM A5)

The order of business would be B2 followed by B1.

132. MINUTES (Item A6)

RESOLVED

That the minutes of the meeting held on the 27 September 2012 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

133. THE STAR OF KINGS, 126 YORK WAY, N1 0AX - APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B2)

Michael Sweeney, who had called for the premises review, drew members' attention to various documents which had been circulated after despatch of the agenda. He re-circulated larger versions of photographs of the premises and the surrounding area, which had been taken on various dates and times. He said that the premises had a large following around the UK and had advertised itself as a "lounge" and "rave cave" on the web, although the area surrounding the premises was described as "95% residential". He pointed out that four persons had withdrawn their names from the petition which had been circulating in the area, requesting that the Star of

Kings should revert to operation as a pub/club, with reduced hour of operation.

Mr Sweeney showed video footage from the premises from 25 August 2012 at 2.29am and 1 September 2012 at 3.00am, which included people on the greenspace next to the premises, in the courtyard directly outside the premises and also on the street, near to the main road. The footage from 1 September also indicated Mr Sweeney speaking to the manager about the large number of people outside the premises, making noise. Further footage from 27 August 2012, depicting people and the manager outside the premises at 12.03 and 2.21am, was shown to the Sub-Committee.

Lorraine Gibney, a local resident, spoke in favour of the review, pointing out that she had instigated a review of the premises a year previously due to persistent noise disturbances from the premises.

Councillor Paul Convery, a Ward Councillor and a witness called by Mr Sweeney in support of the review, drew attention to the "compelling" log of evidence of noise disturbance from the premises and stated that the premises was in an area of dense housing. He added that, although conditions had been added to the licence following the review in 2011, it appeared that they had not been adhered to.

The Service Manager (Commercial) drew attention to her written representation on page 70 of the agenda supporting the review application on the grounds of prevention of public nuisance.

The Principal Technical Officer (Noise Patrol) drew attention to the actions by the Council's Noise Team and ASB Team in response to calls about noise disturbance from the premises on various dates in the past 12 months.

Mr Juan Lopez, Counsel for the manager of the premises, stated that the characterisation of the premises as a nightclub with a large number of patrons, hosting rave events, was incorrect. He added that the video footage shown to the Sub-Committee was not representative of the way the premises was run. He acknowledged that dispersal of patrons from the premises on 24/25 August 2012 was inadequate and pointed out that the manager at that time had now left and that a new dispersal policy had been formulated for the premises. A new manager and SIA provider had also been appointed. The nature of the basement of the premises was expected to change to cater for an older clientele, providing a "quiet space".

The Licensing Officer pointed out that there were two licences operating at the premises.

Members of the Sub-Committee left the room to deliberate before returning to announce their decision.

RESOLVED:

- a) That, having considered all the evidence and having consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's licensing policy, the premises licence in respect of The Star of Kings, 126 York Way, N1 0AX be modified to restrict the hours:-
- i) To permit the premises to sell alcohol and late night refreshments from 10:00 to 00:00 on Monday to Thursday, from 10:00 until 01:00 on Friday and Saturday and to 00:00 on Sunday.
 - ii) The opening hours of the premises to end half an hour after the sale of alcohol and late night refreshments.

b) That the following conditions be applied to the licence:

i) Conditions of the current premises licences.

ii) The following modification to condition 2 – The maximum number of persons accommodated at any time in the premises shall not exceed 200 on the ground floor and 100 on the basement floor.

c) That the above conditions apply to both premises licences.

REASONS FOR DECISION

The Sub-Committee considered the submissions put forward by the responsible authorities, the interested parties and the licensee.

In reaching their decision, the Sub-Committee took into particular consideration licensing policy 023 regarding the location of the premises, character of the area, views of the interested parties and the proposed hours of operation and licensing policy 010 regarding the protection of the amenity of residents and business in the vicinity of licensed premises. The Sub-Committee also took into account licensing policy 20 in relation to outside facilities and licensing policy 22 in relation to operational hours.

The Sub-Committee heard evidence from the applicant and a local resident, and saw dvd evidence which showed large numbers of people congregating in the outside space of the premises and on the pavement and the adjoining greenspace, in the early hours of the morning. The local resident stated that noise disturbance from patrons of the premises was frequent and that the noise consisted of screaming, shouting, fighting and cabs pulling up. The resident stated that the security at the premises was “a joke” and that “they just stand around and nothing is done”.

The Sub-Committee was informed, on behalf of the licensee, that the characterisation of the premises as a nightclub, with a large number of patrons, was wrong. The Sub-Committee heard that the management of the premises had formulated a new dispersal policy, changed their SIA provider and that they intended to change the way in which the basement area was used to attract an older clientele.

The Sub-Committee considered that, based on the evidence of the local residents, there clearly had been noise disturbance caused by patrons of the premises.

The Sub-Committee noted that, at a review on 14 December 2011, further conditions had been added to the licence which did not appear to have stopped the noise disturbances to date. The Sub-Committee was not confident that the management of the premises was able to manage the problems associated with a licensed premises in a residential area. The Sub-Committee considered that a reduction in operational hours would promote the licensing objectives.

The Sub-Committee did not believe that the licensing objectives would be promoted solely by the addition of further conditions to the licence.

The Sub-Committee was not satisfied that, even with the new dispersal policy, the management of the premises could effectively deal with 400 people in the event that they exited from the premises at one time. The Sub-Committee considered that the licensing objectives would be

promoted by the reduction in the maximum capacity of the premises to 300.

134. **PEOPLES SOCIAL CLUB, 113 HOLLOWAY ROAD, N7 8TL - APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B1)**

Mr Dadds, legal representative for the licensee, Mr Hassan, requested the Sub-Committee to consider an adjournment of this case for the following reasons:

(a) The representation for a review from the Licensing Authority related to an alleged breach of CCTV conditions. The report of 18 November 2012 from Dan Whitton and Simon Gallacher on their visit to the People's Social Club, which had been circulated to members of the Sub-Committee on the preceding day, were not related to environmental health issues and therefore not an amplification of the original representations, as required by paragraph 11.10 of the Home Office Guidance, so should not be permitted as evidence.

(b) The gathering of that information could not be considered as an acceptable separation of powers as required by paragraph 9.17 of the Home Office Guidance. Mr Dadds maintained that there had been a fundamental breach of the separation of officer roles, since Dan Whitton, who had been acting as the Council's main contact for the premises licence, had now been involved in observing the premises as an investigating officer to produce this latest report.

(c) In order for the licensee to have a right to a fair hearing, Mr Dadds stated that he had not had time to consider the report from the visit to the premises on 18 November 2012. He had received the report only on the preceding day and had other cases for which he was responsible and had not had sufficient time to consider this latest report.

(d) Members of the Sub-Committee had had the report in advance and that prejudiced a fair hearing. He suggested that the report of 18 November 2012 should be removed and that a different Sub-Committee should hear the case.

He urged the Sub-Committee to adjourn this case as there had been no separation between the different functions of the local authority, as required by the Home Office Guidance.

In response, the Council's Legal Officer stated that:

(i) The original representation concerned CCTV and agreed that the report of 18 November was not an amplification of that information. However, the latest report mentioned safety and levels of management at the premises. It was a matter for the Sub-Committee to take a view as to whether or not the latest report should be admitted as evidence.

(ii) It was the Council's position that there was a separation of functions in accordance with paragraphs 9.17 and 9.18 of the Home Office Guidance. The Assistant Director (Commercial) was the responsible authority and separate from the day to day running of licensing. This was a matter for the Sub-Committee to decide.

(iii) It was a matter for the Sub-Committee to decide whether the licence holder had been prejudiced by the fact that members had read the report of 18 November 2012, which had been submitted as further evidence. Members would have to decide whether there had been sufficient time for the licence holder to have considered the points raised in that report, to allow a fair hearing.

(iv) In relation to whether members had prejudiced their position by having read the report of 18 November 2012 in advance, members would have to decide whether they felt able to set the latest report aside during their consideration of written evidence in this case.

The Assistant Director (Commercial) stated that she was the Service Manager for Licensing and other areas and had to separate functions on a case by case basis. She stated that she had dealt with the representation and that the Licensing Officer, Dan Whitton, had no involvement

with the representation from the licensing authority acting as a responsible authority. She was not responsible for his supervision, as that was the Service Director's responsibility. It had been appropriate for Dan Whitton, a Licensing officer, to visit and monitor this premises. His report was factual.

She referred to the representation from a local resident on page 38 of the agenda, for which Mr Whitton's report of 18 November 2012 could be regarded as amplification.

Members of the Sub-Committee left the room to deliberate the points raised by Mr Dadds concerning the report of 18 November 2012 from Dan Whitton and Simon Gallacher, before returning to announce their decision.

RESOLVED:

(a) That, in light of the representations from Mr Dadds, the report of 18 November 2012 from Dan Whitton and Simon Gallacher be excluded and the application to adjourn the hearing be refused.

(b) That it be noted that the Sub-Committee was satisfied that its members had the necessary skills and experience to take no account of the report of 18 November 2012 in hearing the review.

The Police representative described the incidents leading to their request for a review of the premises licence.

The Sub-Committee viewed CCTV footage from an Islington street camera, from outside the premises, on 7 April 2012.

Mr Dadds described events of 7 April 2012 from the perspective of the licensee, maintaining that the "victim" was in fact an aggressor and not a customer of the premises. He had been attacked by an unidentified white male and not by a member of the door staff of the licensed premises. In fact, door staff had administered first aid to the injured man and had called the emergency services.

The Sub-Committee viewed film of the same events on 7 April 2012 from a mobile phone held by Mr Dadds on his iPad.

Mr Dadds pointed out that the local resident who had made a written representation was not present and that their representation was general in nature.

Members of the Sub-Committee left the room to deliberate before returning to announce their decision.

RESOLVED:

a) That, having considered all the evidence and having consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's licensing policy, the premises licence in respect of Peoples Social Club, 113 Holloway Road, N7 8TL be modified.

b) That the following conditions be applied to the licence.

i) Conditions of the current premises licence;

ii) The Dispersal Policy, which is to be agreed with the Police, and the Crime Scene Management Policy as submitted to the Sub-Committee on 20 November 2012, must be complied with;

iii) No drinks purchased on the premises to be taken off the premises.

REASONS FOR DECISION

The Sub-Committee considered the submissions put forward by the responsible authorities and the licensee.

In reaching their decision, the Sub-Committee took into particular consideration Licensing Policy 028, regarding the highest standards of management and licensing policy 001 regarding high standards of management and appropriate licence conditions.

The Sub-Committee heard evidence from the Police, including CCTV in relation to two incidents outside the premises in April 2012. The Police expressed concern that the door staff of the premises were involved in one of the incidents and that poor management of the premises had contributed to the second incident. The Police also expressed concerns that the condition of the licence relating to CCTV in the premises had been breached. The Police were also concerned that, following the attack in the first incident, staff from the premises could be seen cleansing the crime scene.

The Sub-Committee heard on behalf of the licensee that the door staff had acted appropriately. Evidence was given by a doorman present during the first incident that he had called the emergency services. The licensee's representative produced alternative footage of the first incident. The Sub-Committee also heard that the premises were closed at the time of the second incident and that those involved were not patrons of the premises. The CCTV footage produced by the Police was not clear as to the identity of the perpetrators of the attack in the first incident. The Sub-Committee heard that staff of the premises cleansed the crime scene not to destroy evidence but to protect the public from glass that had been broken during the incident.

The Sub-Committee were shown a copy of the premises' new Dispersal Policy and Crime Scene Management Policy and heard that the premises no longer served beer, lager, or spirits in glass bottles.

The Sub-Committee considered that, with the additional conditions, the licensing objectives would be promoted.

Note of the Sub-Committee

The Dispersal Policy, in particular numbered paragraph 1, conflicted with existing licence conditions. The licensing conditions must be complied with.

The meeting ended at 11.35 pm

CHAIR