

London Borough of Islington

Licensing Sub-Committee C – 14 January 2013

Minutes of the meeting of Licensing Sub-Committee C held at the Town Hall, Upper Street, N1 2UD on 14 January 2013 at 10.25 am.

Present: Councillors: Raphael Andrews, Marian Spall and Claudia Webbe.

Councillor Marian Spall in the Chair

164. INTRODUCTIONS AND PROCEDURE (ITEM A1)

Councillor Spall welcomed everyone to the meeting and asked members and officers to introduce themselves. The Chair outlined the procedures for the meeting.

165. APOLOGIES FOR ABSENCE (ITEM A2)

None..

166. DECLARATION OF SUBSTITUTE MEMBERS (ITEM A3)

None.

167. DECLARATIONS OF INTEREST (ITEM A4)

None.

168. ORDER OF BUSINESS (ITEM A5)

The order of business would be as on the agenda.

169. MYTHOPOLIS, 277 CITY ROAD, EC1V 1LA - APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B1)

The Sub-Committee received an update from the noise officer of events since the last meeting on the 29 November 2012. Correspondence between the designated premises supervisor and the noise team was tabled and would be interleaved with the agenda papers.

The Sub-Committee noted that two days after the last meeting, a further incident of loud music was witnessed and it had been necessary to execute the warrant and remove the noise making equipment. The noise team were not certain that works had yet been carried out to the satisfaction of the noise team.

Mr Makis, the designated premises supervisor, reported that four steps had been agreed with the noise team and only the works to the fire door remained outstanding. He reported that he needed his equipment returned in order that he could set the sound limiter.

In response to questions Mr Makis informed the Sub-Committee that he was not aware that he should not have played any music over the first seven days, which had been agreed by his barrister at the last meeting on the 29 November 2012. As far as he was concerned, there were only four jobs that he needed to carry out and the only requirement that had not been finished was work to the fire exit door.

The noise patrol had visited on the 8 January following a noise complaint at 01:14 hours. The complainant reported an alleged disturbance from music. The noise patrol reported that at the time of the visit they heard voices from the restaurant but no music. Mr Makis informed the Sub-Committee that the 8 January was a big diary event in the greek orthodox diary and the voices were from cleaners who were clearing up following closing time. There had been a small stereo in the premises at this time.

Licensing Sub-Committee C – 14 January 2013

It was noted that the noise team had not seen the in-ear system for approval. Mr Makis reported that the in-ear system had been removed by the noise officers when the equipment was removed. In response to a question regarding the level of music noise at the premises two days after the last hearing on the 29 November 2012, Mr Makis reported that he considered that the level of music was low enough on this occasion. The Sub-Committee informed Mr Makis that he could not think that the music levels were low enough as that would not solve the noise nuisance.

The Sub-Committee noted that an acoustic consultant would need to be present in order to determine the sound levels.

The Sub-Committee noted that a schedule of works, proposed as a course of action by the barrister at the meeting in November, for submission by the 10 January 2013, had not been submitted.

The noise officer reported that Mr Makis was aware of problems of noise nuisance from the premises in February 2011 but a noise consultant had not been appointed until October. Sound levels would need to be agreed with the acoustic consultant but there had been no contact from the acoustic consultant since the last hearing in November.

In summing up, the noise officer asked the Sub-Committee that all regulated and deregulated entertainment be prohibited until a scheme of sound insulation had been installed to the Council's satisfaction. Mr Makis informed the Sub-Committee that he had followed all instructions given and there would not be any problems with his system.

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

RESOLVED:

That, having considered all the oral and written evidence and submissions and having given 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 **Mythopolis, 277 City Road, EC1V 1LA** be revoked.

REASONS FOR DECISION

The Sub-Committee considered the submissions put forward by the responsible authorities, the interested parties and the applicant and licensee and balanced the conflicting needs of residents and the business interests of the licensee

The decision was taken in accordance with Licensing Policy No 38.

The grounds for the application for the review of the License were that the prevention of public nuisance. The allegation was that there was a public nuisance arising from the use of the premises.

. The pertinent existing conditions on the license provided inter alia that:-

- The premises shall be fully sound proofed
- Upon receipt of noise complaints, the applicant shall employ an acoustics consultant registered with the Institute of Acoustics or Association of Noise Consultants, to carry out a noise survey and prepare a scheme of sound insulation and noise control measures to prevent persons in the neighbourhood from being unreasonably disturbed by noise coming from or due to the venue. The scheme shall be submitted for approval for the council and the approved scheme fully implemented to the satisfaction of the Council within the specified time agreed with the council's noise team.

The evidence was that the above mentioned conditions were not complied with despite numerous complaints and correspondence between the council and the licensee between January 2011 to August 2012.

Licensing Sub-Committee C – 14 January 2013

The first hearing of the Sub-Committee meeting took place on 29 November 2012. At that hearing it was agreed by all parties that there was a noise nuisance emanating from the premises.

The designated premises supervisor and proprietor, Mr Makis, was represented by his barrister, Mr, Archie Madden. He proposed a three stage process of noise measures to be undertaken by the DPS which he submitted would ensure that the premises would operate with no noise nuisance. The proceedings were adjourned to 14 January 2013 to allow the DPS and proprietor to take the proposed steps and in particular to submit to the Council a schedule of proposed works for the council to consider.

The Sub-Committee heard on the date of the second hearing, 14 January 2013, that the proposed measures were not complied with by the DPS and with regard to the first measure (that over the next 7 days from 29/11/12 the business would not operate noise equipment), this was breached within those 7 days and the existing warrant was executed on 7 December 2012 and the live music equipment was seized by the council.

The existing conditions on the licence in relation to noise issues had still not been complied with by the DPS/Proprietor, some 16 months after the granting of the revised licence. Despite being given a further opportunity to comply with the existing conditions after 29th November, 2012, the Sub-Committee found that this had not been done by the 14 January 2013 and further that the DPS's own proposals had been breached.

The committee found that the complaints that have led to the review were serious.

Not complying with existing conditions of the licence and the inability of the licensee and business to deal with the noise problems and specifically the disregard in relation to the existing conditions are reasons for the committee losing confidence in the ability of the licensee/business to ever comply with the set conditions and to take steps to deal with the noise issue.

The committee accordingly revoked the license as the appropriate and proportionate decision in achieving the licensing objective of the prevention of public nuisance.

The meeting finished at 11:50pm.

CHAIR