

London Borough of Islington

Licensing Sub-Committee 'D' – 18 November 2013

Minutes of the meeting of Licensing Sub-Committee 'D' held at the Town Hall, Upper Street, N1 2UD on 18 November 2013 at 6.30 pm

Present: Councillors: Raphael Andrews, Gary Poole and Phil Kelly

COUNCILLOR GARY POOLE IN THE CHAIR

197 INTRODUCTIONS (Item A1)

Councillor Gary Poole welcomed everyone to the meeting and officers and members introduced themselves. The procedure for the conduct of the meeting was outlined and those present were informed that the procedure was detailed on pages 5 and 6 of the agenda.

198 APOLOGIES FOR ABSENCE (Item A2)

Councillors Troy Gallagher and David Wilson.

199 DECLARATION OF SUBSTITUTE MEMBERS (Item A3)

Councillor Gary Poole substituted for Councillor Troy Gallagher and Councillor Phil Kelly substituted for Councillor David Wilson.

200 DECLARATIONS OF INTEREST (Item A4)

Councillor Poole declared a personal interest in that he once worked in William Hill and that he had an online account with William Hill.

201 ORDER OF BUSINESS (Item A5)

The order of business would be as per the agenda.

202 ABCAT CINEMA, 72 CALEDONIAN ROAD, N1 9DN – APPLICATION FOR A PREMISES REVIEW (Item B1)

The licensing officer reported that Doug Love, Trading Standards was unable to attend to present his case but his representation detailed his concerns.

The licensing authority reported that their representation related to crime and disorder and included the case summary which outlined the conditions that had been breached. Following an unsatisfactory visit a warning letter was sent in August 2012. There were two further unsatisfactory visits in January and February 2013. The licensee had pleaded guilty to two counts of breaching conditions at the Magistrates Court. The licensee had not contacted the licensing team about how he intended to improve the management of the premises. Mr Champkin, the licensee, had previously stated that he was not the owner and did not manage the business and officers raised concern about who did own and manage the business and why they had not contacted the council. Poor management undermined the licensing objective of crime and disorder.

Stephen Gilchrist, representing the licensee Kenneth Champkin stated that the premises had been licensed since 1994 and the council had not had cause for concern during this time up until the breaches in 2012/13.

The police officer reported that he considered that the licensee had disregard for the conditions and continued not to enforce them despite warnings. The licensee had been invited to attend an interview and at this interview could have put forward his case but did not attend on the legal advice of his previous solicitor. The police supported the review of the licence.

Stephen Gilchrist explained that the licensee did not attend the interview as it was under caution and could have been used in a prosecution. The licensing authority stated that the interview would have provided an opportunity for the licensee to share due diligence mechanisms. Different mechanisms were used to interview licensees depending on specific circumstances and the

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licensee had had an opportunity to have an informal discussion with the licensing officer at the pre-planned visit.

David McGillivray and David Wolfe provided witness evidence. David McGillivray was a local writer who had also worked on the history of erotica. He regarded Abcat cinema as an institution in Kings Cross and stated that it was a credit to the area. He referred to significant support on facebook when he had disclosed that he was attending the meeting and stated that the cinema provided a service for a small number of quiet, respectable clientele who enjoyed adult entertainment with like-minded individuals. David Wolfe was a resident who had not visited Abcat cinema but had visited other similar cinemas in London and abroad. He stated that people visited such cinemas to watch films to stimulate sexual activity. He expressed the view that the sexual behaviour witnessed by the licensing officer was not a breach of the licensing condition as it was not a crime, was not indecent, offensive or an annoyance or nuisance to others. The cinema had provided a service for many years and if it was closed it would be a loss to the area and this part of London.

The licensee stated that he had held a licence since 1996 and before this was a publican. The police had never been called to the premises and there had never been any trouble inside or outside the premises. The licensee accepted that there had been a failure of management and he stated that he had been there so long he had become lazy. At one point he only visited the premises once a fortnight. There was a supervisor but no other members of staff. The opening hours of the premises were 11am to 7pm. There was much repeat custom and there was never any trouble or complaints. All work resulting from council inspections e.g. building inspections was undertaken immediately. The licensee produced copies of membership documents dating back to March 2013 and stated that the premises was now being properly run. As the licensing authority had not scrutinised them and they had not been produced in court, the Sub-Committee did not view the documents although the fact of their production was noted. The licensee stated that notices to customers had been put up, application forms and signing in sheets were being used and, the person who offered for sale the R18 DVD had been reprimanded and he assured the Sub-Committee that the breaches would not happen again. Stephen Gilchrist stated that the licensee understood where errors had been made and had learnt from his mistakes.

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

RESOLVED:

That the premises licence in respect of Abcat Cinema, 72 Caledonian Road, N1 9DN be revoked.

REASONS FOR DECISION

The Sub-Committee heard evidence from the licensing authority that the licensee had breached the licence conditions by not operating a bone fide membership scheme. On 16 August 2012 the licensing authority sent a warning letter to the licensee. In January 2013 an officer visited the premises posing as a customer and was able to view R18 films without being a member and was offered for sale an R18 DVD. The officer also witnessed indecent behaviour. The Sub-Committee heard evidence from the licensing authority that the licensee had been prosecuted for two breaches of the licence and that at the magistrates court the licensee's solicitor told magistrates that the licensee was not the owner of the premises and did not manage the premises.

The licensee stated that he had held a licence since 1996 and that he had never had any trouble inside or outside the premises. The licensee accepted that there was a failure of management as he had been there so long he had got lazy. The licensee produced copies of membership documents dating back to March 2013 and stated that the premises was now being properly run. The licensee stated that the person who offered for sale the R18 DVD had been reprimanded but he assured the Sub-Committee that the breaches would not happen again.

The Sub-Committee heard evidence on behalf of the licensee from David McGillivray and from David Wolfe. David McGillivray stated that there was an enormous amount of support for the premises which had quiet and respectable clientele and caused no trouble in the area whatsoever.

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Mr Wolfe questioned whether the behaviour in the premises had caused a nuisance or annoyance to anyone and stated that the premises gave a valuable and valued service.

The Sub-Committee considered that the standards of management at the premises did not promote the licensing objectives. The licensee accepted that at one point he was only visiting the premises once a fortnight and that he simply accepted the supervisor's reports that everything was satisfactory without checking this. The Sub-Committee were concerned with staffing levels at the premises. The Sub-Committee were concerned that this level of management was insufficient to ensure that the licence conditions were being met, particularly the condition relating to the keeping of good order. Although the licensee had produced documents suggesting that since March 2013 the licence conditions had been complied with, the Sub-Committee were not satisfied that the licensee would not simply allow management standards to fall again once the threat of action against him had passed. The Sub-Committee considered that the offer of an R18 DVD for sale without a sex establishment licence, and the behaviour witnessed at the premises by the licensing officer showed that the licensing objectives, particularly the prevention of crime and disorder had been undermined.

The Sub-Committee were not satisfied that the addition of further conditions would promote the licensing objectives as the licensee had shown his previous disregard for conditions. The Sub-Committee noted that the licensee did not contact the authority following the warning letter of August 2012 and that no steps had been taken to remedy the breaches in between the warning letter and the visits in January and February 2013.

The Sub-Committee were concerned that the problems of management at the premises were so deep that the licensing conditions would be undermined by the continued operation of the premises and that only revocation was sufficient to promote the licensing objectives.

In reaching this decision the Sub-Committee took into account Licensing Policy 30 in relation to reviews and the Home Office guidance, particularly Chapter 11 relating to reviews.

203 OSCARS, 42 NORTHDOWN STREET, N1 9BP – APPLICATION FOR A PREMISES REVIEW (Item B2)

The licensing officer reported that Doug Love, Trading Standards was unable to attend to present his case but his representation detailed his concerns.

The licensing authority reported that their representation related to crime and disorder and included the case summary which outlined the conditions that had been breached. Membership records had been submitted for the period from 1999-2004 but not since then and in August 2012 and January 2013 warnings were sent to the licensee. In January 2013 on a visit, a membership scheme was still not in place, an officer was sold an R18 DVD and witnessed sexual behaviour on the premises. The licensee had pleaded guilty to two counts of breaching conditions at the Magistrates Court. The licensee had not contacted the licensing team about how he intended to improve the management of the premises. Poor management undermined the licensing objective of crime and disorder.

Stephen Gilchrist, representing the licensee George Papworth stated that the premises had been licensed since 1994 and the council had not had cause for concern during this time up until the breaches in 2012/13. The licensee's previous solicitors had engaged with the council with regards to whether Mr Papworth would attend an interview under caution.

The police officer reported that based on the evidence submitted, the police supported the review. Management standards were not of the standard expected.

Mr Deeley, licensee of King Charles I pub near the cinema, Mr Rasheed, owner of a grocery shop next door to the cinema, David McGillivray, local writer who had also worked on the history of erotica and David Wolfe, a resident who had not visited Oscars but had visited other similar

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cinemas in London and abroad, provided witness evidence. Mr Deeley and Mr Rasheed stated that the premises had never caused them or their customers any problems. David McGillivray regarded Oscars cinema as an institution in Kings Cross and stated that it was a credit to the area. He referred to significant support on facebook when he had disclosed that he was attending the meeting and stated that the cinema provided a service for a small number of quiet, respectable clientele who enjoyed adult entertainment with like-minded individuals. If the cinema was closed down there would be a loss of diversity. David Wolfe expressed concern that the sexual behaviour witnessed at the premises was classified by the council as disorderly conduct but that in this context, it was not indecent or disorderly.

In response to a question about membership records prior to 2005, the licensee stated that the premises was firebombed in 1996. Membership information was submitted to the licensing officer but the licensing officer had emailed George Papworth stating that the paperwork was incomplete.

The licensee reported that all work resulting from council inspections e.g. building inspections was undertaken immediately.

The licensee accepted that there was a failure of management and he stated that he had let management standards slip. Most customers were returning customers and the management knew customers. There were on average between 12 and 20 customers a day. After a visit from the licensing officer, measures were put in place to comply with the conditions. The licensee produced copies of membership documents dating back to March 2013 and stated that the premises was now being properly run. In the future the licensee would manage the premises.

The licensing authority expressed concern about Stephen Gilchrist having stated in court that George Papworth was paid £60 to be the licensee but was not the owner of the premises and did not manage the premises. George Papworth stated that he had let someone else run the premises following his move to Southend in 2003 after which time he visited the premises two or three times a week for a period and this then reduced to once a week. He was however in daily telephone contact. He was now more involved in the running of the business.

George Papworth stated that at the time he was not aware that the breaches were taking place and had not supervised the way in which the supervisor contacted his duties. He assured the Sub-Committee that the breaches would not happen again and the premises would be properly maintained in the future. Stephen Gilchrist stated that the licensee understood where errors had been made and had learnt from his mistakes.

The licensing authority suggested that if the Sub-Committee decided to, they could modernise the wording of the conditions where appropriate.

Stephen Gilchrist stated that the premises was discretely run and considered revocation to be disproportionate to the problems. The licensee had become lackadaisical after running the premises for many years. The behaviour witnessed was not high on the spectrum of sexual conduct. If the Sub-Committee took the view that this behaviour should not be taking place, it would not. Measures had been put in place to stop sexual behaviour and ensure compliance with the membership conditions. It was in the licensee's interests to have improved standards of management.

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

RESOLVED:

That the premises licence in respect of Oscars, 42 Northdown Street, N1 9BP be revoked.

REASONS FOR DECISION

The Sub-Committee heard evidence from the licensing authority that the licensee had breached the licence conditions by not operating a bone fide membership scheme. On 16 August 2012 the

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licensing authority sent a warning letter to the licensee. A warning email was also sent on 12 September 2012 following receipt of membership records for the period 1999-2004. In January 2013 an officer visited the premises posing as a customer and was able to view R18 films without being a member and purchased an R18 DVD. The officer also witnessed sexual behaviour. The Sub-Committee heard evidence from the licensing authority that the licensee had been prosecuted for two breaches of the licence and that at the magistrates court the licensee's solicitor told magistrates that the licensee was not the owner of the premises and did not manage the premises.

The licensee stated that he had held a licence since 1994 and that he had never had any trouble inside or outside the premises. The licensee accepted that there had been breaches and that he had let someone else manage the premises. The licensee stated that at one point he was only visiting the premises once a week and that at one point he stopped visiting although he maintained that he had contact every day. The licensee stated that he was not aware of what was going on downstairs in the club. The licensee produced copies of membership documents dating back to March 2013 and stated that the premises were now being properly run as he was taking back over the premises himself.

The Sub-Committee heard evidence on behalf of the licensee from Mr McGillivray, David Wolfe, Mr Deeley and Mr Rasheed. Mr McGillivray stated that there was an enormous amount of support for the premises which had quiet and respectable clientele and caused no trouble in the area whatsoever. Mr Wolf questioned whether behaviour described as kissing and fondling could be called disorderly conduct or indecent behaviour in the context of the premises and stated that if the premises closed this would be a loss to the diversity of the area. Mr Deeley stated that he was the licensee of a nearby pub and confirmed that customers of the premises were quiet and well behaved and that he had no trouble from them. Mr Rasheed stated that he was the proprietor of a grocery next door and that the premises created no problems for him or his customers.

The Sub-Committee considered that the standards of management at the premises did not promote the licensing objectives. The licensee accepted that someone else managed the premises and that he did not always know what was going on downstairs and that he had been lackadaisical. The licensee indicated that no membership scheme was in place as the premises had regular customers who were known to staff. The Sub-Committee were concerned that this level of management was insufficient to ensure that the licence conditions were being met, particularly the condition relating to the keeping of good order. Although the licensee had produced documents suggesting that since March 2013 the licence conditions had been complied with, the Sub-Committee were not satisfied that the licensee would not simply allow management standards to fall again once the threat of action against him had passed. The Sub-Committee considered that the sale of an R18 DVD without a sex establishment licence, and the behaviour witnessed at the premises by the licensing officer showed that the licensing objectives, particularly the prevention of crime and disorder had been undermined.

The Sub-Committee were not satisfied that the addition of further conditions would promote the licensing objectives as the licensee had shown his previous disregard for conditions. The Sub-Committee noted that the licensee did not contact the authority following the warning letter of August 2012 and that no steps had been taken to remedy the breaches in between the warning letter and the visits in January and February 2013.

The Sub-Committee were concerned that the problems of management at the premises were so deep that the licensing conditions would be undermined by the continued operation of the premises and that only revocation was sufficient to promote the licensing objectives.

In reaching this decision the Sub-Committee took into account Licensing Policy 30 in relation to reviews and the Home Office guidance, particularly Chapter 11 relating to reviews.

204 WILLIAM HILL, 51 JUNCTION ROAD, N19 5TH (Item B3)

Mr Taylor, representing the licensee Brian Minihane stated that William Hill sought to relocate to the new premises from its current office across the road from which it had been operating since

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1989. William Hill was moving premises as the lease was ending and the company wanted to remain in the area to serve its local customers. The proposed William Hill would be smaller than the existing one and the current licence would be surrendered.

Mr Taylor provided detail about the training given to staff. This included training on vulnerability and social responsibility. The police had not put in a representation. Crime and disorder was not an issue and the current premises had only called the police once in the last six months and that was due to an angry customer who refused to leave the premises.

In response to members' questions about fixed odds betting terminals, staffing levels, staff safety and the risk of money laundering, Mr Taylor stated that the number of fixed odds betting terminals would be four; the same as in the current premises. He referred to William Hill being well managed and would prefer that staffing levels were not prescribed in the conditions. This would enable William Hill to ascertain the appropriate staffing level based on the level of custom at particular times. Security measures were in place in all William Hill premises and the security of staff was of paramount importance. The risk of money laundering was significantly lower than it was in banks and building societies.

RESOLVED:

- a) That a new premises license in respect of **William Hill, 51 Junction Road, N19 5TH** be granted.
- b) That the following conditions would apply to the licence:
 - 1. Conditions as outlined in appendix 3 as detailed on page 111 of the agenda.

REASONS FOR DECISION

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

The Sub-Committee noted that the applicant had responded to the licensing authority's concerns regarding the application. The Sub-Committee heard evidence from the applicant that the applicant already held a premises licence for nearby premises where they have operated without incident since 1989. The Sub-Committee heard that the current premises were due to be redeveloped and that this application was 'one for one' in that if this application was granted, the applicant would surrender the nearby licence. The Sub-Committee heard evidence as to the applicant's training programme, staffing levels and security levels and it was confirmed that the number of fixed odds betting terminals would not increase from the number in the nearby premises.

The Sub-Committee were satisfied that with the conditions attached the grant of the application would be in accordance with the Codes of Practice and guidance issued by the Gambling Commission and would be consistent with the licensing objectives.

In reaching their decision, the Sub-Committee gave due regard to the Council's Gambling Policy 2013-2016 paragraphs 10 - 13, 32 - 34, 44 – 53.

205 ARDA 2, 156A SEVEN SISTERS ROAD, N7 7PL (Item B4)

RESOLVED:

That the item be withdrawn from the agenda.

The meeting ended at 8.50pm

CHAIR