

London Borough of Islington

Licensing Sub Committee C - 17 July 2014

Minutes of the meeting of the Licensing Sub Committee C held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 17 July 2014 at 6.30 pm.

Present: **Councillors:** Gary Poole (Chair) and Satnam Gill (Vice-Chair) and Angela Picknell.

Councillor Gary Poole in the Chair

1 INTRODUCTIONS AND PROCEDURE (Item A1)

Councillor Gary Poole welcomed everyone to the meeting and asked members and officers to introduce themselves. He stated that the procedure for the meeting was in the printed agenda.

2 APOLOGIES FOR ABSENCE (Item A2)

Apologies were received from Councillor Michelline Ngongo.

3 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Picknell substituted for Councillor Ngongo.

4 DECLARATIONS OF INTEREST (Item A4)

None.

5 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

6 MARATHON, 193A CALEDONIAN ROAD, N1 1EF (Item B1)

The licensing officer tabled a map of the area which would be interleaved with the agenda papers.

The police representative, Rory Clark, reported that there had been a number of violent incidents both inside and outside the venue. He invited the Sub-Committee to consider all options open to them but stated that, at a very minimum, they would recommend that hours be reduced to restaurant hours and that a condition be added to the licence so that alcohol was ancillary to table meals.

He highlighted the incidents on page 9 of the agenda and it was noted that conditions had been imposed in June 2012 following a review hearing. Following the review in June 2012, the licensee was invited to a Licensing Officer Panel in November 2012 where he told the panel that he had not completed the membership scheme as his customers were reluctant to give their details. A review was again lodged in May 2014 following a strong record of problems and breaches of conditions. This included a record from one visit from the police noting that only one person acting as door supervisor was present at the premises whose SIA licence had expired, when three were conditioned.

Mr Tesfa had not made any changes since the previous review. A proposal for a membership scheme had only been submitted to the Sub-Committee and the police on the day of this meeting. This would be interleaved with the agenda papers. The intention of the membership condition imposed after the review in June 2012 had been to limit the club to members and to trace and control the patrons entering the venue. It was suggested that the

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continual failure of management meant that revocation was an option for the Sub-Committee.

The noise officer reported that the noise team had visited in November 2013 to watch customers leaving the premises and in January 2014 to measure sound levels. At the visit in January 2014 the sound limiter had been disconnected, which was a breach of condition.

The Licensing Authority reported that an action plan had been drawn up and a way forward suggested in order that the licensing objectives be promoted. The licensee had provided details of the membership scheme but nothing had actually been implemented. There had not been a proactive approach to management that was expected for this type of premises. It would be part of management responsibility to ensure that door supervisors carried a current licence. It had been suggested that hours be reduced to restaurant hours through the submission of a minor variation, but this had not been progressed by the licensee.

Mr Aylott, representing the licensee, reported that there had been no crime in the area for the past 7 months. There was nothing to say that all crime was linked to the premises. With reference to CAD NI/1056 he reported that the troublemakers had not been customers of the premises and the police had been called to help remove them. The police have been asked to assist with problems on the premises as it was considered that all responsible authorities had a collective responsibility. Regarding the incident on the 4 August 2013, four males had pushed against the door wishing to enter the venue. There had been no incident inside the venue. The victim did not wish to press charges.

Mr Aylott considered that there was no proper reference to the membership scheme in the conditions and condition 2 of Annex 3 would mean that 3 door supervisors should be at the premises for 24 hours. He stated that this would be ridiculous. He stated that there was no fight on the 17 November 2013. On the 13 August 2012 there had been nothing recorded on the CCTV and there had been no prosecutions even though it had been open to the police to do so. He stated that conditions needed to be tightened up. A review should be based on the undermining of the licensing objectives and a breach of conditions did not mean there had been an undermining of them. He referred members to 11.17 of the Home Office s.182 guidance. He considered that there was no evidence to support a reduction in hours and it would close the business. Crime occurred at 1.30am at the earliest and to suggest midnight for licensable activities was arbitrary. It was accepted that causes for concern should be identified and dispersal and membership rules considered. He reported that the licensing officer was aware that there had been a membership scheme in operation for one year. Mr Tesfa reported that he could not manage with the door supervisor condition.

In response to questions, Mr Tesfa stated that he'd had a membership scheme for a year, however the licensing officer reported that when she had been shown the scheme it was not fit for purpose. Mr Aylott stated that he did not consider seven incidents over a two year period a great number and that the designated premises supervisor could be removed if the Sub-Committee considered that conditions had not been complied with. The licensing officer informed the Sub-Committee that the conditions added at the review hearing in June 2012 were those proposed by Dadds and this was reflected in the minutes of the review hearing. Mr Tesfa did not consider he was a bad manager. Mr Aylott stated that Mr Tesfa deserved a slap on the wrist. The Sub-Committee considered that the review hearing on the 14 June 2012 had been a slap on the wrist.

In summary, Rory Clark, stated that the incidents were a result of the failure of management. If Mr Tesfa was removed as a designated premises supervisor he would still be involved in the business. For the licensee to say conditions were improperly worded was abdicating his responsibility. Mr Tesfa had stated that he was unable to afford three door supervisors. Mr Clark stated that, if this was the case, Mr Tesfa should have applied for a

minor variation. The Sub-Committee could take paragraph 11.18 into account when making their decision. He asked that there should be either be a total change in style for the premises in line with restaurant core hours as detailed in the licensing policy or a revocation of the licence.

The licensing authority asked the Sub-Committee to consider the totality of evidence from the police, noise team, residents and the licensing authority when making their decision with the promotion of the licensing objectives in mind.

Mr Aylott reported that a change in hours would close the business. The conditions on the licence had not been robust enough. A membership scheme was in place and this was something that could be worked on together. The Sub-Committee would need to consider what was proportionate or appropriate.

RESOLVED

That the premises licence in respect of Marathon, 193a Caledonian Road, N1 1EF be revoked.

REASONS FOR DECISION

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The Sub-Committee took into consideration the fact that since the last review of the premises licence in June 2012; there have been various incidents of violent crime reported at and/or outside the premises:

- 13th August 2012- serious fight within the venue
- 7th October 2012- common assault in the area
- 4th November 2012- serious fight within the venue
- 4th August 2013- serious assault started inside the venue
- 13th October 2013- serious criminal incident inside the venue
- 29 December 2013- serious assault inside the venue.

The Sub-Committee also took into consideration the submissions of the applicant's and respondents' representatives and specifically that the licensing conditions had been breached consistently.

On various occasions when the premises were inspected, the requisite number of trained SIA door supervisors was not present. This was not disputed by the respondent's representative but what he did submit was that the conditions (Annex 3) on page 26 of the application papers were in his opinion too vague. The implication of his submissions was that the requirement that there be "a minimum of 3 SIA trained door supervisors on Friday and Saturday" could perhaps be interpreted that the 3 didn't have to be present at the same time. The Licensee stated further that one of the reasons why he had ignored the door supervisor condition was due to the cost thereof.

This was rejected by the Sub-Committee. In fact the actual conditions that the respondent's representative referred to were added at the request of the respondents legal representatives (Dadd's, the same solicitors as representing the respondent in the present review proceedings).

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The Sub-Committee further considered the fact that the respondent had not complied with the condition that there had to be a membership system and membership rules and that no persons could be admitted to the premises other than to members and their guests.

The respondents failed to establish a proper membership system in breach of the conditions and shortly before the hearing provided a two page document for consideration of the committee. The Sub-Committee took into consideration the representations from the Licensing Authority that this proposal fell well short of what was required. The actual proposed scheme envisaged each member being able to have 5 guests who are not members. Such a provision would defeat the object of having a membership system.

There were further breaches of the conditions in that the CCTV system was not operated properly and in accordance with the licensing conditions.

The respondent's representative asked for the respondent to be given a slap on the wrist and for more robust conditions to be added to the licence.

The licence has been previously reviewed and further conditions added at the specific request of the respondent. This was on 14 June 2012. This was after the licensee attended a panel to discuss breaches of his licence, including at that time a failure to have door supervisors at the premises and a door supervisor log.

Since then there have been many reports of violent crime in the premises and outside them.

The licensee failed to have his address on the licence changed despite moving from his former premises 8 months before.

In October 2012, the licensee attended a Pub Watch meeting and requested that the membership scheme be removed.

A month later in November 2012, he attended a Licensing Officer Panel, he had still not completed the required membership scheme and the panel advised him to comply with his conditions.

The Sub-Committee took the above into consideration which clearly demonstrated that the licensee has had repeated warnings and has ignored them and the consequences thereof.

The Licensee has failed to operate and manage the business in accordance with the provisions of licensing policies 9 and 10. The Sub-Committee was of the opinion that the evidence produced demonstrated a lack of commitment to high standards of management.

The previous review of the licence was on grounds that are substantially similar to the grounds for review specified in the 2012 application.

Paragraph 11.18 of the Guidance states “ *where a responsible authority such as the police..... have already issued warnings requiring improvement- that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate*”

The Sub-Committee in deciding what action was proportionate took the above facts into consideration.

Despite repeated warnings and engagement with the licensee, including a previous review with added conditions, the breaches and criminal behaviour had continued.

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The Sub-Committee held that revocation of the licence was accordingly the proportionate decision to promote the licensing objectives.

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MENELIK, 277 CALEDONIAN ROAD, N1 1EF (Item B2)

The Sub-Committee noted that this item had been adjourned.

The meeting ended at 8.15 pm

CHAIR