

Licensing Sub Committee C - 22 July 2014

Minutes of the meeting of the Licensing Sub Committee C held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 22 July 2014 at 6.30 pm.

Present: **Councillors:** Raphael Andrews (Item B1), Gary Poole (Item B2 and B3), Satnam Gill and Michelline Ngongo

Councillor Raphael Andrews in the Chair for Item B1
Councillor Gary Poole in the Chair for Items B2 and B3.

8 INTRODUCTIONS AND PROCEDURE (Item A1)

Councillor Andrews welcomed everyone to the meeting and asked members and officers to introduce themselves. He outlined the procedures for the meeting.

9 APOLOGIES FOR ABSENCE (Item A2)

None.

10 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Raphael Andrews substituted for Councillor Gary Poole for Item B1 – People's Social Club.

11 DECLARATIONS OF INTEREST (Item A4)

None.

12 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

13 MINUTES OF PREVIOUS MEETING (Item A6)

The minutes of the meeting held on the 25 February 2014 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

14 PEOPLE'S SOCIAL CLUB, 113 HOLLOWAY ROAD, N7 8LT - REVIEW OF PREMISES LICENCE (Item B1)

In response to a question from the licensee's representative, the Chair confirmed that he had received and read all the papers as he was aware that he would be substituting for Councillor Poole at an early stage.

The licensing officer reported that the police had some CCTV footage. The police representative stated that the police wanted the Sub-Committee to see the footage, but that it would need to be seen in closed session as it related to an incident that was the subject of current criminal proceedings. The licensee's representative agreed that the CCTV footage should not be in the public domain and objected to it being viewed at all as the footage showed a one off incident which would be seen out of context. He therefore objected to the showing of the footage.

The Sub-Committee considered that they would be able to consider the one off incident in context and agreed to hold an adjournment to see the CCTV footage in closed session with the police representative and the licensee and the licensee's representative present. Following this adjournment, the Sub-Committee agreed to a further adjournment in closed

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session to allow the licensee and his representative to put forward their version of events shown in the footage.

The Sub-Committee noted the witness statement from the licensee's representative following agenda despatch which would be interleaved with the agenda papers.

The police representative, Rory Clark, spoke in favour of the review. He reported that his evidence would be focused on crime and disorder. He referred the Sub-Committee to page 149 of the agenda. He reported that the Sub-Committee had seen a head-butting incident on the CCTV footage that was subject to criminal proceedings. He considered that it was not appropriate for members of the public to be assaulted whatever the provocation. The problems at the premises required a higher standard of management. A sexual assault in the venue had not been recorded or reported to the police. There had been a further head-butting incident. This indicated that there had been two head-butting incidents in twelve months and it was possible from the description that this was the licensee. The premises had been reviewed previously and conditions added. Management should have improved. At a visit on the 4 May, detailed at page 160 of the papers, it was noted that there were only two registered door staff present and not five as conditioned in the licence. Mr Clark also drew members' attention to a further incident detailed at page 167 of the agenda. He reported that the statement that had been circulated from Dadds had been the view of one person, over one evening, following the submission of the review. He asked that at the very least, hours be reduced to core hours outlined in the policy.

The noise officer reported that the disturbance to residents was acute but normally of short duration. Customers of the premises would leave the premises talking very loudly, as they had been talking above the sound of loud music inside. Due to the late operating hours, it was very difficult for the noise patrol to attend to residents complaints.

The licensing authority reported that, following the review in November 2012, an action plan had been put in place which had been working but things had changed in recent months. There was a nearby premise which had caused problems on the 11/12 July but this should not distract members from the problems caused to residents from this premises. The licensing authority had made recommendations on page 41 of the agenda but there were a number of other options available to the Sub-Committee.

Councillor Gary Poole reported resident's lives had been blighted. Residents were seeking revocation of the licence. A review had been submitted in November 2012 and conditions added regarding dispersal which had failed to remedy the situation. An unprecedented number of residents were attending this meeting and no financial inducement had been offered for them to attend. Other remedies had failed, conditions had proved inadequate and the Sub-Committee should not hesitate to take tough action.

A local resident from Furlong Road stated that this was a quiet residential area but, up until 7.30am, patrons sat outside in their cars, drinking, smoking, shouting. Residents heard car doors slamming and car horns. Gardens were treated as urinals, were used for sexual activity and as litter bins. Residents felt imprisoned and could not have guests to stay. Anti-social behaviour was now accepted as the norm and the resident asked that the licence be revoked.

Mr Aylott, Dadds solicitors, representing the licensee, asked that he be directed to the pages for the representation from the local resident that had just spoken. The Chair reported everybody had read the papers.

A resident from Crane Grove reported that the licensee had tried but was unable to eliminate the impact of the premises. A new club would not receive a licence with these

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same hours. The club was a drain on council resources and impacted on crime and disorder and the health of local residents. He asked that the licence be revoked.

Mr Aylott asked that he be directed to the pages for the representations from the local residents that had spoken. The Chair reported that all papers should have been read by Mr Aylott. Mr Aylott suggested that there had been perhaps an element of bias and asked for a short adjournment so that he might seek instructions from his client.

A short adjournment was granted, following which Mr Aylott requested a formal adjournment of the case for a new Sub-Committee as he did not consider the applicant would receive a fair hearing. The Chair heard submissions from the police representative regarding this request. At this point the licensee withdrew from the meeting. The police authority considered that there were no grounds for an application for an adjournment.

The Sub-Committee adjourned the meeting to further consider the request for an adjournment and to further consider their options.

Following the adjournment, the Chair reported that they would continue with the meeting. The Sub-Committee was satisfied that they were not biased and considered that the licensee would receive a fair hearing. It was noted that, during the adjournment, the licensing officer had advised Mr Aylott of the pages as detailed in the agenda of local resident's representations and that following consultation with his client, Mr Aylott stated that he would not be taking any further part in proceedings as they did not consider it to be a fair hearing. The Sub-Committee took legal advice and decided to continue with the meeting in the licensee's absence.

In summary the police stated that, despite intimidation, the Sub-Committee should not be deterred from making the right decision. He reported that the behaviour of the applicant at the hearing showed the type of person that the police were dealing with and it was a shame that he had not taken his opportunity to give his view at the hearing. Councillor Poole stated that the outburst from the licensee indicated what residents were living with and revocation was the only measure that would adequately deal with the situation.

RESOLVED

That the premises licence in respect of the People's Social Club, 113 Holloway Road, N7, be revoked.

REASON 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 heard submissions from the police and the licensee's representative as to the viewing of CCTV footage. The Sub-Committee decided that the footage would be viewed in closed session and heard from the licensee as to the incident shown on the footage, also in closed session. The Sub-Committee considered the CCTV evidence along with all the evidence in the committee papers and submissions.

The Sub-Committee heard from the police representative that the review had been brought on the grounds of crime and disorder and public safety and was referred to page 149 for a summary of the incidents upon which the police relied. The Sub-Committee heard from the police representative that the most recent incident that prompted the review was a head-butting incident that is presently the subject of criminal proceedings. The police representative expressed concerns about a sexual assault in the venue. The Sub-

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Committee heard that, although the victim did not substantiate the allegation to police, the police were concerned that staff in the venue failed to report the incident to the police. The police also expressed concern about a head butt on a member of the public believed to be by a member of staff. The Sub-Committee heard police concerns about the management's engagement since a previous review in November 2012. The police were concerned that the management should be on their 'best behaviour' following the last review and yet they were back before the Sub-Committee. The Sub-Committee was referred by the police representative to a witness statement at page 160, setting out police concerns regarding the number of door supervisors, and a further witness statement at page 167, concerning noise at the premises.

The Sub-Committee heard from the licensing authority that there was another premises in the area that had caused some problems, the most recent being on the 11/12 July. The licensing authority stressed that although there are other premises, this did not distract from the problems caused by these premises and there have been problems at times when the other premises were not operating. The Sub-Committee heard from the licensing authority that following the last review, an action plan had been put forward that had seemed to work but that this had changed in recent months.

The Sub-Committee heard from Councillor Poole that the lives of residents had been blighted for a sustained period and that residents lived in dread before each weekend as to what time they were going to be awoken from sleep. The Sub-Committee heard from Councillor Poole that residents were seeking revocation. The licensee had been reviewed previously and remedies had failed. Two other local residents spoke in favour of the review and expressed concerns regarding the behaviour of patrons outside the premises which included shouting, door slamming, drinking, using drugs and littering. The residents complained that patrons used their streets as the clubs private car park, toilet and litter bin and that residents had continuous sleepless nights. Concerns were raised that the premises supervisors could not control patrons.

The Sub-Committee heard submissions from the licensee's representative requesting an adjournment. The licensee's representative requested that a new Sub-Committee be formed to hear the application as he considered that there was an element of bias and that the licensee would not get a fair hearing. The Sub-Committee heard submissions from the police representative against the adjournment request. He submitted that there were no grounds to believe that there had been bias and that the proceedings had been conducted very fairly. The police representative drew the Sub-Committee's attention to the large number of members of the public in attendance.

The Sub-Committee left the room to deliberate and decided to continue with the hearing. The Sub-Committee considered the submission that there was an appearance of bias but did not agree. The Sub-Committee were satisfied that the licensee would have the opportunity to speak and they would fairly consider his submissions. The Sub-Committee also noted the large number of residents present.

The Sub-Committee noted that by this point the licensee had left the meeting and his representative stated that they would not be taking any further part in the meeting. The Sub-Committee decided to continue in the licensee's absence.

The Sub-Committee considered the volume of residents' complaints concerning public nuisance. The Sub-Committee considered the witness statement received from Dadds solicitors dated 16 July 2014, but noted that this referred to one visit on one night compared to the frequent incidents reported by residents. The Sub-Committee was of the view that the residents' submissions evidenced an undermining of the licensing objectives on numerous occasions.

The Sub-Committee was concerned that the evidence showed that the management of the premises was not at the high standard required and that the behaviour of patrons of the premises could not be controlled, leading to crime and disorder inside and outside the premises and public nuisance. The Sub-Committee noted the representations in support of the premises but reached the view that when considering all of the evidence, from the responsible authorities and residents as well as those in support, it was clear that the premises had caused continuous disturbance to residents.

The Sub-Committee noted that the premises had been subject to a review in 2012 and that further conditions were added to the licence as a result. The Sub-Committee noted that these conditions had not been sufficient to promote the licensing objectives and end the disturbances.

The Sub-Committee was of the view that the licensee had failed to demonstrate his ability to properly manage the premises and promote the licensing objectives.

The Sub-Committee was not satisfied that the addition of further conditions would promote the licensing objectives. There was no evidence to suggest that a reduction in hours would do anything other than change the time of the disturbance. No evidence was submitted to suggest that management practices were to be changed. The Sub-Committee formed the view that the seriousness of the disturbances caused by the premises and the criminal incidents that had taken place meant that a revocation of the licence was proportionate.

The Sub-Committee took into account Licensing policies 9 and 10 regarding standards of management and policy 30 in relation to reviews. The Sub-Committee also took into account the home office guidance particularly paragraphs 11.18 to 11.23.

15 **7 DAYS FOOD AND WINE, 93A STROUD GREEN ROAD, N4 3PX - APPLICATION FOR NEW PREMISES LICENCE (Item B2)**

The trading standards officer had no objection to the application with the proposed conditions attached. He stated that he would commend the applicants and they had followed advice given. The applicants had agreed the wording of the condition regarding underage sales.

The police stated he agreed with the recommendation from the trading standards officer. He considered that the applicants had taken on a difficult venue but had followed advice and despite their inexperience were keen to be successful.

The applicant reported that they had followed advice from the Police. They had opened a few months previously without an alcohol licence and had come to know their customer base but needed a premises licence in order to sell alcohol.

In response from questions they stated that they would have the licence from 10am if it was considered necessary but as there was a local Tesco nearby they would prefer to trade from 8am.

RESOLVED

a) That the application for a new premises licence in respect of 7 days Food and Wine, 93a Stroud Green Road, N4 be granted:-

- i) To supply alcohol for consumption off the premises from 08:00 to 23:00 on Monday to Sunday.
- ii) To agree the opening hours of the premises from 07:00 to 02:00 Mondays to Sundays.

b) Conditions as outlined in appendix 3 as detailed on pages 194/5 of the agenda shall be applied to the licence.

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 noted that trading standards had no objections to the grant of a licence with conditions proposed. Trading standards commended the approach of the applicant and commented that the applicant had sought and followed advice from the responsible authorities.

The Sub-Committee heard evidence from the police that a meeting with the applicants had been both positive and negative in that the applicants had been keen to take advice but were inexperienced and showed some naivety in taking on a difficult venue.

The Sub-Committee heard from the applicant that they tried other ways of getting trade without a licence and got to know their customer base but they needed the alcohol licence. The applicant reiterated a willingness to take advice. In response to a question the applicant stated that they would consider a 10am start time but that as there was a Tesco nearby, with an earlier start time, they would prefer to trade from 8am.

The Sub-Committee took into consideration Licensing Policy 9 and 10 regarding high standards of management and policies 7 and 8 in relation to hours and policy 4 in relation to shops selling alcohol.

The Sub-Committee was satisfied that with the proposed conditions the grant of the licence would promote the licensing objectives.

16 A AND B FOOD AND WINE, 72 AUBERT PARK, N5 1TS - REVIEW OF PREMISES LICENCE (Item B3)

The Sub-Committee noted the additional documents that were circulated separately from the agenda. These would be interleaved with the agenda papers.

The trading standards officer summarised the events that had led to the review. In November 2012 and December 2013 there had been failed underage test purchases. An officer panel had been held in December 2012 following the first test purchase and this was followed by the further underage sale in December 2013. It was noted at this time that no training records were being kept. There had been a lack of engagement by the licensee. He did not attend the officer panel and there had been no response to a letter sent to the licensee in December asking him to provide evidence of improved management. The licensee had stated that he had not received the letter. However, he had made no contact with trading standards since the review application in March 2014.

In response to questions from the Sub-Committee, the trading standards officer reported that no explanation had been given as to why the licensee failed to attend the officer panel and the licensee had made no contact with trading standards despite a series of correspondence.

The police officer stated that they were in full support of the review. He stated that they had failed to inform customers of the DPPO. He asked the Sub-Committee to place the

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additional conditions listed in the police representation on the licence if revocation was not agreed.

The licensing authority also asked that if the decision of the Sub-Committee was not revocation, they impose a condition on the licence regarding the sale of alcohol on match days.

Archie Madden, counsel for the licensee, informed the Sub-Committee that there was no excuse for the failed test purchases which were a breach of the licensing objectives. He stated that this would normally not trigger a review but for other concerns that trading officers had. Conditions that had been proposed by the responsible authorities were fully accepted. He accepted that there had been a failure to engage. The licensee understood that the premises were located in a sensitive area. The designated premises supervisor was very experienced and worked at the premises for five to six hours a day and ran his own business out of the area in the evening. The problems had arisen when more junior members of staff had been on duty. He informed the Sub-Committee that staff would attend training as proposed by trading standards and in addition a new member of staff would be employed for when the designated premises supervisor was not in the shop.

He reported that a review should identify problems in order that they can be solved. If junior members of staff were properly supervised this would have solved the underage sale problems. The licensee had attended the officer panel but misunderstood that he needed to attend the meeting. He reported that the licensee had been ill which had hindered his ability to concentrate. The licensee had not received the letter although it was accepted that it had been sent. He considered that the football fans from Germany would be unaware that this was a DPPO area but he accepted that the licensee had not informed customers. A revocation of the licence would mean that it would be very difficult for the shop to survive and residents will lose a retail outlet. All conditions proposed were accepted.

In response to questions, the designated premises supervisor informed the Sub-Committee that staff were asked not to read the paper or talk on the telephone or be distracted when serving customers. The Sub-Committee had concerns that staff were not being properly supervised and that the conditions proposed by the responsible authorities were not already in place. The licensee stated that he had attended the officer panel but did not go into the meeting as he was not aware that he should. As the designated premises supervisor was not in attendance all day the applicant reported that there would be an additional trained member of staff if required.

In summary, the trading standards officer reported that these suggestions had been made very late. He would have been less concerned if there had been contact made months ago. He asked that a long suspension be given if the licence was not revoked.

The applicant stated that he accepted the proposals made by the responsible authorities. This was a small business with a very experienced designated premises supervisor.

RESOLVED

That the premises licence in respect of A and B Food and Wine, 72 Aubert Park, N5 1TS 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.

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The Sub-Committee heard evidence from Trading Standards that there had been an underage sale in 2012 and a further underage sale in December 2013, which had prompted the review application. Trading standards expressed concerns that the business was not treating underage sales as a priority. The Sub-Committee heard evidence that staff appeared to be trained but that nevertheless, the underage sale still occurred. The trading standards officer stated that the licensee had failed to engage properly with responsible authorities since the underage sale and that there had been no evidence of management improvements. The Sub-Committee noted that trading standards would not normally seek revocation for two failed test purchases however, in this case there were other problems. The trading standards officer was unable to say anything positive about the business.

The Sub-Committee noted that the police were in full support of the review. The Sub-Committee was referred to the police evidence at page 215 of disregard for the DPPO on Arsenal match days.

The Sub-Committee noted that the Licensing Authority was also concerned about the premises selling alcohol on match days.

The Sub-Committee heard from the licensee's representative on the subject of the underage sales. He recognised the seriousness of the offences but submitted that this was a problem that could be solved improved training for the licence holder and junior members of staff. It was submitted that the business had a very experienced designated premises supervisor. The licensee's representative offered a condition that all staff would attend an approved training course and suggested that a new, trained, member of staff could be recruited immediately if necessary.

The Sub-Committee noted that the designated premises supervisor worked at the premises five to six hours per day and that he ran his own business away from the premises in the evenings.

The Sub-Committee heard evidence that the licensee had been ill and that this hindered his ability to concentrate on matters although it was accepted that the licensee should have been in contact with the responsible authorities. The Sub-Committee noted the submission that there had been a misunderstanding as to who should attend the officers' panel meeting. The Sub-Committee noted that the licensee had accepted all of the proposed conditions made by the responsible authorities.

The Sub-Committee was concerned that the granting of the new licence would undermine the licensing objectives. The Sub-Committee was not confident that the management of the premises met the high standards required. The Sub-Committee was concerned that the designated premises supervisor, although very experienced, was not on the premises for a sufficient amount of time to ensure the smooth running of the business. The Sub-Committee was concerned about the lack of engagement with responsible authorities following the underage sale and the lack of responsible management on match days.

The Sub-Committee concluded that revocation was a proportionate response to the review application. Although conditions had been accepted the Sub-Committee was not satisfied that these would promote the licensing objectives. Nor was the Sub-Committee confident, in light of the lack of engagement, that a period of suspension would resolve the clear management failings at the premises.

The Sub-Committee took into consideration Licensing Policies 9 and 10 regarding standards of management and police 30 regarding reviews of premises licences.

17 **EXEMPT MINUTES - 22 JULY 2014 (Item D1)**

That the confidential minutes of the meeting on the 25 February 2014 be confirmed as an accurate record and signed by the Chair.

The meeting ended at 10.15 pm

CHAIR