

Licensing Sub Committee D - 16 August 2022

Minutes of the meeting of the Licensing Sub Committee D held at Committee Room 4 on 16 August 2022 at 6.30 pm.

Present: **Councillors:** Valerie Bossman-Quarshie, Phil Graham and Angelo Weekes.

Councillor Angelo Weekes in the Chair

1 INTRODUCTIONS AND PROCEDURE (Item A1)

Councillor Angelo Weekes welcomed everyone to the meeting and officers and members introduced themselves. The procedure for the conduct of the meeting was outlined.

2 APOLOGIES FOR ABSENCE (Item A2)

Apologies for absence were received from Councillors Asima Shaikh and Joseph Croft.

3 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Valerie Bossman-Quarshie substituted for Councillor Joseph Croft and Councillor Phil Graham substituted for Councillor Asima Shaikh.

4 DECLARATIONS OF INTEREST (Item A4)

There were no declarations of interest.

5 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

6 CLUB BONBON, FIRST FLOOR, 1 NAVIGATOR SQUARE, N19 3TD - PREMISES LICENCE REVIEW (Item B1)

The licensing officer reported that additional papers had been circulated to the members of the Sub-Committee. The Sub-Committee confirmed that they had seen a video showing customers entering the venue and the victim leaving.

The legal representative for the applicant stated that conditions on a licence were attached to ensure that the licensing objectives were upheld. In this instance the prevention of crime and disorder, public safety and the protection of children from harm licensing objectives were not upheld. When conditions were complied with risks were mitigated. There were no issues to the changes of the conditions as proposed by the licensee but they did not get to the heart of the problem. There had been three main failings. The premises had allowed an underage customer to enter the premises and be served alcohol, she was allowed to become intoxicated

and was then assaulted whilst in a vulnerable state. Although this was a trigger incident for the review, there have been other incidents and the police had engaged with the premises for a long time. The police had met at the end of the 2021 with the licence holder, the designated premises supervisor and the fire brigade over management concerns. This led to the engagement of a new door team, a new designated premises supervisor and new solicitors being engaged. These changes are similar to those being proposed again today. Police had tried to ensure compliance but despite these changes there were still organisational failings and it was considered that only revocation would solve the issues.

Firstly, there were failings at every level from the top to the bottom. This had been accepted by the nightclub. A letter from the Director and previous designated premises supervisor, had stated that his best was not good enough and procedures had not been followed. The current designated premises supervisor was removed and replaced, staff at the venue did not scan or check ID when serving alcohol. The culture of the organisation was not up to scratch. It was considered that it would be necessary for a new licence holder to submit a new application that could be properly scrutinised. The police would be very wary of a transfer application. The failures have been widespread and the correct thing would be to revoke the licence and ask for a new application and not accept the word of the Director that the new team would be better.

Secondly, the Sub-Committee could consider deterrence. This incident was a crime of the utmost seriousness and revocation would send a strong message to all other licence holders that all conditions should be complied with all of the time. This was one incident that justified sending that message.

In response to questions, it had been noted that there had been three designated premises supervisors in the past three years. It had been made clear to the Director that this was his last chance. He had not been able to make the changes necessary. He was always pleasant and agreeable to change. He had stepped back and appointed a new designated premises supervisor and security team but things had not changed. The police were unable to make recommendations regarding which SIA team should be appointed.

The trading standards officer stated that these were the worst failings that he had ever come across. He did not consider that the decision to only ID scan male customers was an SIA decision alone. Management stated that they had delegated Challenge 25 to the door team. Challenge 25 was simple to operate but this had not been done. He said that a new company was formed last year with the same trading name as the nightclub and he considered that this did not appear as though there was a clean break with management.

The Licensing Authority stated that the application from the police was fully supported. There had been many dealings with the premises over the years and the licence holder had always been involved. His role had been to manage the property, the air bnb, the club and the pub. There had been several licensing panels from 2019 about the conditions and overcrowding. There had been 400 people in the premises when only 200 were allowed and it had been seen to be overcrowded again this year. It was considered that the Sub-Committee should

Licensing Sub Committee D - 16 August 2022

have complete confidence in management and if the Sub-Committee considered suspension the licence holder should have no connection with the premises. He was currently employed to look after the premises by the freeholders.

The Noise Team fully supported the police review. The officer stated that the licensee had not given any information regarding the condition around the sound limiter or provided the dispersal policy.

The licensee's representative stated that there had been dialogue with the police but concerns had not been resolved. He thanked the police for their fair presentation and their dialogue with him. It was accepted that a 17 year old entered the nightclub and there were failings with the ID scanning and management failings in supervision. It was accepted that the 17 year old customer was allowed to drink alcohol. He queried whether the alcohol had been purchased for her, however, the police confirmed that the victim had stated that she had bought the alcohol for herself and this was detailed in a statement made by the police in the report. The young female had been directed to the bus stop by the door staff. The licence holder was not able to attend the Sub-Committee but he had accepted the blame. It was accepted that 1) management and the DPS were not good enough 2) the SIA team had not enforced the conditions 3) the management was not fully operating Challenge 25 and opportunities to prevent the incident were missed. The licence holder would step completely away from the premises. He was a freeholder lessee and previously used to run the nightclub and the pub on the ground floor but now just the nightclub. The conditions on the previous licence had been conflicted and the licence was now in a workable format. He had volunteered a condition that he would not be involved in the business, or be a Director or a shareholder. It would be a clean break. It was proposed to have a reputable DPS who had a reference from a former police officer. He was in attendance at the Sub-Committee. A suspension of the licence was proposed to allow management changes, to make a clean break for the new company and to undertake other measures to ensure they were bedded in. The previous SIA company had been dismissed. An interim security company had been found and had been running the premises since June. Interviews were being held with other SIA firms and the premises were happy to liaise with the police regarding the company used. A dispersal policy was available. The customer had shown door staff the ID from her cousin and it was reasonable to assume that they looked similar. It was accepted that it had not been scanned. A suspension would allow all measures to be bed in and was considered to be appropriate and proportionate.

In response to a question, it was stated that there was no evidence of an instruction given by management to only scan males entering the premises. It was not known why the security company would do this. The proposed DPS assumed that it may have been to move the queue through quickly and the safer option would be to scan the males. The security company had since been removed. Clickers would have been used to check the number of people in the building. The DPS stated that he was barely aware of the venue until 6 or 7 weeks ago. He had now spent time watching how it operated and was assessing solutions. He was not involved in the company, was not a director, secretary, did not hold shares and

would not wish to. He would be acting as the DPS and he had made it clear that he would have the final say on decisions made. He had no involvement with the current incumbent. He had carried out site visits and stood near the door entrance. He had not announced visits and was looking to ensure the door staff were following procedure. When he had been in the venue he had not seen the licence holder at any time. It was part of the package that the licence holder would not be involved and this was being formalised. He'd had meetings with him as part of the company handover. ID scanners could be slow and there was a current lack of good SIA guards. The security used at the time of the incident used different people on different evenings and there was no consistency. This had led to a communication breakdown. There was now a licence for the upstairs and a separate licence for downstairs. The licence holder would step away entirely. The licensee's representative advised that previous incidents were caused by an out of date premises licence and he had worked closely to make it fit for purpose. Compliance had been reasonably good under the new licence and moving forward there would be a complete change. The proposed DPS stated that there may have been a view that if the ID scanner was present they would not have to check ages at the bar. If he should take over he would keep a full training log. He would be at the premises first and leave last and ensure that the dispersal policy was followed. There would also be female door staff.

In summary, the police stated that if the Sub-Committee considered that the problems and management failings were serious then the licence should be revoked and a new application invited. The transfer of the licence to a new company agreed to by the person overseeing incidents should not be endorsed. Multiple failings should be dealt with by revocation and if the licence was revoked it would be clear to all licence holders that breaches of conditions could result in revocation.

The Licensing Authority supported the police in their recommendations and she questioned whether the new DPS was a friend of the licence holder.

The trading standards officer considered that the proposed DPS stated that he could admit failings but had then contradicted himself and said the failings were down to the SIA door team. He raised concerns about the new company.

The noise team stated that he had not received a response from the licensee about the two conditions that he had detailed in his representation.

In summary, the licensee's representative stated that he had never been asked for a copy of the dispersal property. The noise limiter had been set five years ago and the noise team were very welcome to observe to see if it had been set properly. He did not accept that a clean break required revocation. He raised concerns that any new applicant would struggle to get a premises licence for a nightclub in the Borough. The proposed DPS stated that he was not trying to suggest that the door staff were to blame. He accepted that all responsibility started at the top of management.

The Sub-Committee left the room to deliberate. Upon return the legal officer stated that she had advised the Sub-Committee to disregard the comments made by the Trading Standards officer regarding the proposed premises licence holder.

RESOLVED

That the premises licence, in respect of Club Bonbon, 1 Navigator Square, N19 3TD, 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.

Two local residents and three local businesses had made representations in support of the premises. Three local councillors and the Better Archway Forum had made representations in support of the review. None attended. The premises licence holder was attending a wedding and was unable to be there. His solicitor attended with his proposed DPS.

The police had brought the review recommending revocation and the review was supported by Trading Standards, the Licensing Authority and the Noise team.

The Sub-Committee heard evidence that a 17 year old female had entered the premises without her ID being scanned and she was in possession of false ID. It was noted from the video that the SIA door supervisors were scanning ID from males but not from females. Councillors questioned whether Challenge 25 should have operated at that stage given the apparent age of the females entering the premises. It was queried whether the failure of the door supervisors to scan females ID was the result of management orders. However, the solicitor explained that the door supervisors were trying to shorten the time spent queuing. It was accepted that management were responsible for this breach of condition. Home Office guidance, April 2018, states at paragraph 2.7, that licence holders have a responsibility to ensure the safety of those using the premises. It was noted from the video that the female victim appeared to be sober when she entered the premises.

The underage female was able to purchase sufficient alcohol to render her incapable of walking on her own. The sale of alcohol was in breach of Challenge 25 and she must have been served when she was intoxicated. The opportunities for ensuring her safety on the premises had been missed by clear breaches of conditions. The female had confirmed to police that she had purchased her own drinks. It appeared that staff assumed that everyone on the premises was over 18 years of age so did not operate Challenge 25. Home Office guidance states at paragraph 2.23 'the Government believes it is completely unacceptable to sell alcohol to children'.

Home Office guidance, paragraph 2.10 states that licence holders should make provision to ensure that premises users safely leave their premises. The video showed the female being supported down the steps by a male while a door supervisor watched. It was said that the door supervisor helped her to the bus stop with the male but did nothing further to ensure her well-being. Outside the premises, the male companion took her to a secluded spot and subjected her to a serious sexual assault.

The Sub-Committee considered that there were serious failures of management at all levels and this had been a catastrophic incident, involving public safety, failure to protect children from harm and crime and disorder. The Sub-Committee accepted that conditions existed on the premises licence that should have prevented this happening but they had not been complied with. Adding or amending conditions would not have been sufficient. The licence holder, in a letter, had admitted fault.

The licence holder's solicitor proposed a new package of conditions, policies, the removal of the premises licence holder from all licensable activities and management of the premises, a new DPS and a new owner/lessee of the premises, Club Bonbon Ltd. This company had already been formed and it was proposed that the licence should be transferred to the new owner.

The police gave clear evidence that they had tried everything previously. The premises licence holder had been pleasant to work with and willing to make changes. In the past few years the DPS had been changed three times. A new SIA team had been employed. However, they considered that the premises licence holder did not have the ability to manage the premises, comply with conditions and the problem was the culture of the premises with failings at all levels. There was a history of non-compliance and serious incidents at the premises. The only possibility was revocation. Given the serious nature of what had occurred on this occasion a clear message had to be sent out.

The Sub-Committee concluded that revocation was appropriate to the licensing objectives, proportionate and in the public interest.

7 EXCLUSION OF PRESS AND PUBLIC (Item C)

RESOLVED

That the press and public be excluded during consideration of the following item as the presence of members of the public and press would result in the disclosure of exempt information within the terms of the Local Government Act 1972 for the following reasons:-

Category 1 – Information relating to any individual.

Category 2 – Information which is likely to reveal the identity of an individual

Category 7 – Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

- 8 **EXEMPT APPENDIX - CLUB BONBON, FIRST FLOOR, 1 NAVIGATOR SQUARE, N19 3TD - PREMISES LICENCE REVIEW (Item D1)**
RESOLVED that the appendices to the report be noted.

The meeting ended at 7.45 pm

CHAIR