

London Borough of Islington

Licensing Sub Committee D - 4 April 2019

Minutes of the meeting of the Licensing Sub Committee D held at Committee Room 4, Town Hall, Upper Street, N1 2UD - Islington Town Hall on 4 April 2019 at 6.30 pm.

Present: **Councillors:** Paul Convery, Vivien Cutler and Phil Graham.

Councillor Paul Convery in the Chair

36 INTRODUCTIONS AND PROCEDURE (Item A1)

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

37 APOLOGIES FOR ABSENCE (Item A2)

Apologies for absence were received from Councillors Nick Wayne and Marian Spall.

38 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Graham substituted for Councillor Wayne and Councillor Cutler substituted for Councillor Spall.

39 DECLARATIONS OF INTEREST (Item A4)

There were no declarations of interest.

40 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

41 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED:

That the minutes of the meeting held on 7 February 2019 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

42 THE SEKFORDE, 34 SEKFORDE STREET, EC1R 0HA - DESIGNATED PREMISES SUPERVISOR (Item B1)

The Sub-Committee noted the additional letter from the applicant circulated separately. This would be interleaved with the agenda papers.

The licensing officer informed the Sub-Committee that nothing had been received from the applicant regarding the change in designated premises supervisor prior to the 16 November 2018.

The police officer stated that the letter at page 17 of the agenda should be dated 21 November and not December. He accepted that the police did sometimes copy and paste documents but stated that the objection to the application was his own work and not that of the noise officer. He was impartial.

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The police officer considered that there were exceptional circumstances to object to the application due to the number of crime incidents. An application for the designated premises supervisor (dps) had been received in November 2018. The previous dps had left in December 2017. Not having a designated premises supervisor was an offence. If the application for dps had been made prior to November 2018 then why would the applicant re-apply for the same venue. There was no copy of the licence available. The noise officer had advised in May 2018 that a copy of the licence could be provided. No further correspondence had been received. The police had tried to engage through emails and the applicant had stated that he couldn't care less whether he was the dps or if it was Harry Smith. The police considered that the most appropriate person would be Harry Smith. The venue was prone to crime and disorder.

There had been reports of large groups of patrons outside the premises. There were police reports, one of a customer urinating in a stairwell, one report from Parkguard where a customer climbed up and placed a shoe in a lamp post, another incident where a male was quite drunk and he later informed Parkguard he was a manager. There was no relevance to the statement that police officers used the venue. The police had no confidence that the applicant would meet the licensing objectives. This meeting was being held as he had taken offence to the objection of him being dps. The applicant fell short of what would be expected of a dps.

In response to questions it was noted that there were crime reports from May 2018, July and August 2018. The shoe incident was detailed as the July incident on page 19 of the report. The police officer reported that he had been given delegation from the Commissioner of Police via the Borough Commander. A copy of the delegated authority was passed to the Licensing Sub-Committee. Information about an incident in February 2019 was received from a resident in an out of hours call. There had been numerous incidents from the anti-social behaviour team and licensing team and reports could be produced.

The applicant stated that he had asked to see the delegated authority which allowed the Police officer to make the objection but had not seen anything before this meeting. He stated that the position in law was that he was the dps until such time as the matter had been appealed. When the police asserted that there had been no dps that was incorrect. Why would he have accepted the lease, carried out the training and not then apply. He was the only person who could have been the dps. He had sent the application earlier but if it was not received the previous dps remained so in law or until an application was made to remove the dps. He stated that the objection from the police did look as though it had been cut and pasted. It had referred to him in the first person and looked to him as if it was made by an officer from the Council. It contained language used by Council officers. It had an unexplained reference. The applicant then referred to the review, stating there had been 31 people in support of the review and 71 against. The police did not make any objections at the review stage and they would have been involved in incidents at the stage of the review. The applicant stated that the Police must have exceptional grounds in order to object. The police officer stated that he could not locate a copy of the licence. This was false; he could not find it at the time but a copy of the summary was placed behind the bar. He did not consider that there was great substance to the objection.

Regarding the issues, he stated that in May 2018 a customer left the public house and urinated in the stairwell. Staff could not have anticipated this and his nephew cleaned the area five times. Regarding the shoe incident, he had apologised and invited the resident for lunch. He stated that the resident did not blame him but considered that Harry could have dealt with the incident better. His manager/friend had been aggressive but that should not reflect badly on him as he was not aware of the incident. The incident in February 2019 was due to a male on the phone and the manager asking him not to use his phone outside a residential premises. The male became aggressive and he was told to leave. He

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considered that this should not be a criticism of him. He stated that he didn't care whether or not Harry or himself was the dps. He didn't mind but he didn't want to be pushed around. He agreed that his manager would be a better dps than himself. He stated that this may be down to his stubbornness.

There was no crime and the issues the residents had complained about were in relation to noise. He conceded that it had been very loud and very noisy at times from the number of people which stood outside. At no stage was there criminal conduct. It was not a crime to make too much noise and he considered the refusal of the application was from obvious hostility from within the Council.

In response to questions he stated he did not mind who was the dps although he had concerns that if the public house closed following the appeal his manager would look for a job elsewhere. This was an improper objection with no good reason. He stated that his manager was there at the February incident. There were no defined duties for a dps. If his manager had been the dps it would have made no difference as he was carrying out his duties in any event. He asked if there were grounds of objection on the basis of crime?

A member of the Sub-Committee considered that management should put preventative measures in place for issues of crime and disorder rather than reactive. The number of incidents were indicative of a management issue. There were a high number of anti-social behaviour calls which should be prevented in the first place. In response the applicant stated that the anti-social behaviour team came often but it was quiet. During August and September there were very few incidents. The complaints of neighbours had mainly been in relation to noise and issues had not gone beyond this. His manager was the person that the police wanted as the dps. Security cameras were used, his business partner was present in the evening, there had been no crime and people were kept as quiet as possible. He considered that the pub was extremely well run and there were a large number of people who had opposed the review. He stated that he had assumed the first application form for him to be the dps had been received by the local authority. He did not think to check this. Regarding the authorship of the police objection, the applicant stated that the letter looked as if it had been cut and pasted, the reference on top of the letter was not his own and the objection included language used by the noise officer. The police had taken no part in the review and it had seemed highly suspicious.

The licensing officer advised that the reference on the objection was generated by Islington and was the application number. The applicant was advised that the police had access to the licensing system and took everything into account. The applicant considered that the incident regarding urination would be the only one that was a criminal offence. The other incidents were breaches of the peace which would not carry a criminal conviction. He also stated that these incidents would have happened whoever was the dps at the time as no-one could have anticipated them.

In summary, the police officer stated that the position remained the same. They had tried to engage with the applicant. There had been disorder at the premises and the police had no confidence in the applicant. He stated that the applicant should spend as much time trying to resolve the issues at the premises as he did pointing out spelling and differences in the font in the objection letter.

The legal advisor reported that an application for dps would take immediate effect until such time as the police filed an objection and it was determined.

The applicant stated that he could not help being suspicious, he had received no response about the delegated authority until this day. There had been no incident that was a criminal offence. The police considered that Harry was suitable but had criticised him as much as

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the applicant. It would not make any difference who was the dps and he stated that if it had not been for the insulting response from the police he would have made Harry Smith the dps. He did all he could to prevent crime. In response to a question he stated that from 7 – 7.30 am he would get up and be in the flat above the premises. His manager would update him at 11am and then the manager would go back to look after the premises. He would spend two or three nights a week talking to customer and friends in the pub and would retire at 11pm. He stated that he had an app on his phone and you could see the CCTV at the premises at all times on the app. He did not pretend this was his full time job. He would probably have made the manager his dps but he was concerned that he would not stay there forever. If he was removed from being the dps he considered it was fanciful that this would do something for crime.

The Sub-Committee left the room to deliberate. Prior to the decision being read out, the legal officer advised that should the application be refused the post would cease immediately and the applicant would not be the dps pending the outcome should there be an appeal. The licensing officer reported that the previous dps had formally resigned in November 2018.

RESOLVED

The Licensing Sub-Committee was given a copy of the delegated authority from the Commissioner of Police to the Borough Commander authorising the Borough Commander to deal with licensing matters on the Commissioner of Police's behalf. The Police officer informed the Licensing Sub Committee that the Borough Commander had delegated that authority to himself and other licensing officers located at Islington Council offices. The Licensing Sub-Committee was satisfied that officer Loizou had the requisite delegated authority to oppose Mr. Lonsdale's application under section 37(5) Licensing Act 2003.

The Sub- Committee decided that it was established on a balance of probabilities that the exceptional circumstances of the case were such that the granting of the application would undermine the crime prevention objective.

The Sub-Committee therefore decided to refuse the application to specify Mr. David Lonsdale as designated premises supervisor for The Sekforde Arms, 34 Sekforde Street, EC1.

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 application was for a variation of the Designated Premises Supervisor (DPS) under the provisions of Section 37 of Licensing Act 2003. The Applicant was the owner of the premises, Mr. David Lonsdale.

It was common cause that the previous DPS was a Mr. Richard Madigan who had not been at the premises since December 2017. The applicant submitted that he had made an application under section 37 Licensing Act 2003 in December 2017. The Licensing Authority disputed this and stated that they had never received such an application. The Licensing Authority averred that the premises had been operating in contravention of the provisions of the Licensing Act without a DPS from December 2017 to November 2018 when the current application was submitted.

Mr. Lonsdale agreed that he had not received any response to his December 2017 application from the Licensing Authority and that he had not followed this up with them.

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It was also common cause that following a discussion between Mr. Lonsdale and the Noise Team Officer in May 2018, he had been informed that he could obtain a copy of the premises licence for a £10 fee. No application was made for a copy of the license by Mr Lonsdale and no copy was displayed at the premises.

The Licensing Sub Committee took the following factors into account in coming to their decision, namely that:-

- There had been many incidents of anti-social behaviour outside the premises which were documented in the Parkguard Reports for the 2018 period including a report of a man urinating down a stairwell. In August 2018 there was an incident with large groups of people in the street shouting and glasses being broken. An intoxicated man claiming to be the manager/business partner approached the Park Guards in an aggressive manner. There was a further report from Parkguard of anti- social behaviour in the street.
- In February 2019 Parkguard reported a further incident. A resident returned home and found a man leaning on the gate of his property. Harry (who the applicant stated he would actually like to be the DPS) emerged from the premises to resolve the matter and then permitted the man in question to return to the premises where he was served another drink.
- Mr. Lonsdale conceded that the incidents set out above were totally unacceptable. In relation to the shoe on the lamppost incident he thought that it was childish behaviour and said he had taken some steps to resolve issues with a neighbour and had invited her to lunch at the premises.
- Mr. Lonsdale was not at the premises most of the time and had gone to bed when these incidents occurred.
- Mr. Lonsdale submitted that residents in the area complain about noise emanating from people outside the premises and his concession that it had been quite noisy for neighbouring residents.
- Mr. Lonsdale did not want to be DPS for the premises and that he stated *"I don't care less if it's me or Harry Smith. I don't mind but I don't like to be pushed around. I agree that Harry Smith would be a better DPS than me. It may be down to my stubbornness"*
- In Mr. Lonsdale's summing up at the end to the Committee he stated *"But for the insulting response from the Police, I would have made Harry Smith the DPS"*.

The Licensing Sub-Committee concluded that Mr. Lonsdale had been reactive rather than proactive in relation to crime and disorder. His submissions revealed that he lacked a coherent approach/plan to tackle disorder and potential crime. He exhibited little regard for procedures and legal requirements in relation to his licence and specifically whether the premises were operating without a DPS since December 2017. He intimated that others were to blame for problems at the premises.

Taking all the above-mentioned facts and conclusions into account the Licensing Sub-Committee decided that there were exceptional circumstances relating to this particular applicant and application and granting the application under these circumstances would undermine the crime prevention objective and that it was accordingly appropriate to reject the application in accordance with s 39(3)(b) of Licensing Act 2003.

43 **CULINARY LAB, UNIT 3, 156 OLD STREET, EC1V 9BW - NEW PREMISES
LICENCE APPLICATION (Item B2)**

The Sub-Committee noted that this item had been withdrawn from the agenda as conditions had been agreed with the responsible authorities.

The meeting ended at 8.10 pm

CHAIR