

## Decisions of the Licensing Sub-Committee

13 July 2017

Members Present:-

Councillor Claire Farrier (Chairman)  
Councillor Alison Cornelius  
Councillor Zakia Zubairi

Officers:

Mariesa Connolly – Licensing Officer  
Daniel Pattenden – Responsible Authority  
Roxanne Patemen - Responsible Authority (Environmental Health)  
Baljeet Virdee – HB Public Law Legal Officer  
Paul Frost – Governance Officer

Also in attendance:

Vicky Wilcock - Metropolitan Police  
John Akers – Metropolitan Police

### 1. APPOINTMENT OF CHAIRMAN

Councillor Claire Farrier, seconded by Councillor Alison Cornelius nominated by Councillor Zakia Zubairi to preside as Chairman for the meeting.

### 2. ABSENCE OF MEMBERS (IF ANY)

None

### 3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY)

Councillor	Declaration
Alison Cornelius	Councillor Alison Cornelius declared a Non-Pecuniary Interest. She stated that she had visited the premises and also the other venue noted within the agenda report pack 'Istanbul restaurant'. Councillor Cornelius stated that this had taken place a number of years ago and therefore this declaration had not predetermined her ability to consider and determine the item. Councillor Cornelius took part in the consideration and voting process.

#### **4. LICENSING SUB-COMMITTEE HEARING PROCEDURE**

The Chairman explained the procedure that would be followed for the meeting.

#### **5. REVIEW OF PREMISES LICENCE – GUNS & SMOKE, CHURCH PARADE, BARNET, LONDON, EN5 4QS**

Prior to the consideration of this item the Sub-Committee were informed that the Licence Premises Holder was not in attendance. The Sub-Committee therefore opened the meeting and requested that that the Licensing Officer, Responsible Officer and the Applicant confirm:

- If the Licence Premises Holder was informed of the hearing taking place (today)
- If the above parties had been in communication with the Licence Premises Holder if regards to their attendance.

The Sub-Committee received confirmation that the Licence Premises had been notified of the hearing taking place and that they had been sent all relevant documentation. The Sub-Committee noted that the Licence Premises Holder had confirmed via written correspondence that they were not going to attend the meeting.

The meeting was adjourned at 10:48 in order for the Sub-Committee to consider and determine if the hearing should take place in the absence of the Licence Premises Holder.

The meeting reconvened at 11:03. The Chair stated that the Sub-Committee had noted the information presented to them in regards to the communication from between the Licence Premises Holder and all relevant authorities which was supplied verbally. The Chair stated that the Sub-Committee agreed that it was not in the public interest to defer the hearing. The Sub-Committee also agreed that the authorities had communicated effectively with the Licence Premises Holder.

Therefore the Sub-committee agreed to consider an application for a Review of Premises Licence for Guns and Smoke, Church Parade, Barnet, London, EN5 4QS together with submissions from the Licensing Officer, the responsible officer and the, Applicant (Police).

#### **6. MOTION TO EXCLUDE THE PRESS AND PUBLIC**

RESOLVED that in accordance with regulation 14(2) of the Licensing Act 2003 (Hearings and Regulations) 2005 be excluded from the meeting in order for exempt information be considered.

#### **7. DELIBERATION BY THE SUB-COMMITTEE IN PRIVATE SESSION**

The Sub-Committee deliberated in private session, accompanied by Officers from HB Public Law and the London Borough of Barnet Governance Service.

#### **8. RE-ADMISSION OF THE PRESS AND PUBLIC: ANNOUNCEMENT OF THE DECISION OF THE SUB-COMMITTEE**

The Sub-Committee, having considered the application and all verbal and written representations received, agreed unanimously **RESOLVED:**

This is an application for a review of the premises licence for Guns & Smoke, 1b Church Passage, Barnet, London EN5 4QS, under s.51 of the Licensing Act 2003. The application was made by the Metropolitan Police and relates to all four of the licensing objectives, namely:

- the prevention of crime and disorder;
- the protection from children from harm;
- public safety; and
- the prevention of public nuisance.

The premises licence holder was not in attendance and the Sub-Committee confirmed with the Licensing Officer and Responsible Authority that the papers for today's hearing, including the exempt papers, had been served on the Premises Licence Holder. The Sub-Committee were informed that the Responsible Authority had received an email to the effect that the Licence Holder would not be attending.

The Sub-Committee adjourned the hearing to decide whether or not to continue the hearing in the Licence Holder's absence and decided to do so, having not been convinced that the public interest would be best served by adjourning today's hearing.

The Sub-Committee has reviewed and considered the written and oral evidence and representations set out within the papers and put forward by the parties at today's hearing.

We have heard representations from the Police, the Responsible Authority, the Licensing Team.

The representations from the Metropolitan Police and the Authority set out numerous reports of breaches of the Licence and poor management since November 2014 that the Sub-Committee will not be setting out in detail here. Suffice to say that their position, which is broadly consistent with each other, can be summarised as being that there has been a consistent failure by the management to ensure full compliance with the Licence and to address any breaches in a quick and timely manner. Examples of these breaches include:

- a failure to ensure the Designated Premises Supervisor and/or a Personal Licence Holder was working on site whilst licensed activities were being carried out, which appears to include confusion by staff working at the premises as to who the DPS actually was at particular times;
- a failure to ensure a fully working and Licence compliant CCTV system was operating at the venue;
- a failure to ensure there were staff present who were able to work the CCTV system;
- a failure to ensure an incidents log book was kept and maintained;
- the continuation of licensed activities during times when they were prohibited from carrying out those activities;
- a failure to ensure the Licence was displayed on the premises; and
- numerous noise complaints, resulting in the issue of 3 Noise Abatement Notices on 24 December 2014, 11 December 2015 and 31 March 2017.

Upon being questioned by the Sub-Committee, the Police and Responsible Authority confirmed that the two people who they had been consistently dealing with since

November 2014 in respect of the management of the premises were Mr Rizwan Ali and Mr Rahil Majeed.

The Sub-Committee noted that the representations show that Mr Ali and Mr Majeed met with Emma Phasey and Daniel Pattenden of the Responsible Authority on the 21<sup>st</sup> February 2016 to discuss the variation application and noise nuisance complaints that had been received by the Council. Mr Majeed was also present at the premises when Mr Pattenden and the Police attended the premises on the 17<sup>th</sup> March 2017.

Mr Pattenden, also confirmed by way of oral representation in response to the Sub-Committee's questions, that Rahil Majeed is the same Rahil Majeed who is part of the current ownership of the premises, and is the same person he met when he first attended the premises on 13<sup>th</sup> November 2014. Mr Pattenden also confirmed that Mr Majeed was present with Mr Ali at Hendon Magistrates Court on 1 April 2017 regarding the Closure Notice that had been served on the premises on the 31<sup>st</sup> March 2017.

The numerous breaches and concerns regarding the management of the premises led to the Licence being amended on or around 14 December 2016, resulting in further conditions being placed on the Licence. The Sub-Committee has seen a letter from Michelle Rudland of Barnet's Licensing & Antisocial Behaviour Community Protection Team dated 16<sup>th</sup> June 2017, which encloses a summary of the incidents relating to the premises, including reported breaches of the Licence, in a Compliance and Enforcement Timeline that appears to have been produced by Daniel Pattenden, a Licensing Officer for Barnet. The letter also sets out the various Licence conditions that it is said have been breached since 22 March 2017.

There are also representations from Barnet's Environmental Health team that there have been numerous noise complaints relating to the premises and statutory noise issues from the premises, which resulted in 3 Noise Abatement Notices being issued under s.80 of the Environmental Protection Act 1990, the most recent of which was on 31 March 2017.

A summary of some of the incidents of statutory noise complaints, statutory noise nuisance witnessed by the Environmental Health team and the dates of the 3 Noise Abatement Notices is set out in the letter from Roxanne Pateman dated 14<sup>th</sup> June 2017. Other incidents are summarised and exhibited to the timeline document enclosed with Michelle Rudland's letter of 16<sup>th</sup> June 2017.

These include a failure to install an approved noise limiting device for the premises requiring Ms Pateman to remind the licence holders on the 27<sup>th</sup> March 2017 not to carry out licensed activities until an approved sound limiting device had been installed and set. Despite that, an advert was seen for a band who intended to play at the premises on 31 March 2017, which would have been a breach of the licence.

Further representations were made that following service of the latest Noise Abatement Notice dated 31<sup>st</sup> May 2017, there have been further noise complaints received by the Authority on the 13<sup>th</sup> and 15<sup>th</sup> May, the 30<sup>th</sup> June and the 1<sup>st</sup>, 2<sup>nd</sup> and 7<sup>th</sup> July 2017.

The representations from the Police and Barnet's Licensing Team are that even after the variation to the Licence in December 2016, breaches of the Licence continued to occur, particularly in relation to the failure to ensure a fully working CCTV system, ensuring there was a staff member at the premises who knew how to work the CCTV system, a failure to show a full copy of the Premises Licence. There are also reports of glasses

and glass bottles being taken outside of the premises, cutlery and steak knives remaining on the tables beyond permitted times, a refusals / incidents register not being properly maintained and continuing problems with the operation and capability of the CCTV.

More recently, the premises ran a drinks promotion in May 2017 in breach of their Licence.

It is noted that these events are in addition to the owners taking considerable time to get a variation to the premises licence approved, despite assistance and several reminders from Barnet's Licensing Team, and the Premises Licence being suspended due to non-payment of fees.

There are also concerns about the extent to which the Designated Premises Supervisor (DPS) is at the Premises whilst licensable activities are ongoing. There was also an incident on the 14<sup>th</sup> September 2016 when Mr Bulent Guler, the current DPS, contacted the Responsible Authority asking to be removed as the DPS for the premises unaware that the DPS on file for the Premises was actually Christian Scirocco. It is noted that Mr Guler was asked if he was in day to day control / management of the premises to which no reply was received. According to the Authority's representations a DPS variation licence to put Mr Guler on the premises licence was applied for a month later on 14 October 2016. The representations before the Sub-Committee also suggest that on their various visits to the Premises Officers from the Responsible Authority and the Police seldom saw Mr Guler at the Premises and staff working at the Premises did not always seem to be aware that Mr Guler was the DPS and it appears he was not there on a regular basis. Representations before the Sub-Committee were that Mr Majeed informed the Police on 17 March 2017 that Mr Guler was working at their restaurant in Finchley, called Istanbul. In fact, the representations from the Police and Responsible Authority were that in all their numerous visits they rarely came across the DPS at the premises and it is understood that Mr Guler is currently spending most of his time at another venue that is owned, in whole or part, by the current owner. If so, it appears that the Premises were carrying out licensable activities without a DPS being regularly present.

It is also noted by the Sub-Committee that due to the breaches of the Licence and failure by the owners to co-operate in dealing with the issues, there has been one Closure Notice served under section 79 of the ASB, Crime and Policing Act 2014 for the premises. This was subsequently cancelled following discussions with Licensing Authority and remedial action taken by the owners.

Representations from the Responsible Authority were that, despite continuous breaches, they had tried to assist the business to comply with its Licence and the provisions of the Licensing Act 2003 since November 2014 and that whilst the owners had taken steps to improve compliance with the Premises Licence from time to time, such compliance was often short-lived.

As a result, the Sub-Committee considers that these various and numerous breaches demonstrate a failure to promote the licensing objectives.

Section 11 of the guidance to the Licensing Act 2003 sets guidance for the Review Process and the Sub-Committee has had consideration of the same.

The Sub-Committee's role is to determine what steps should be taken in connection with the premises licence in order to ensure the licencing objectives are being met.

The Sub-Committee must consider whether the owners are able or indeed willing to comply with the legal requirements of holding a licence and what action is appropriate to promote the licensing objectives in view of the issues raised regarding these premises. What we have to consider however is not punishment, but how to promote the licensing objectives, namely the prevention of crime and disorder, the prevention of public nuisance, the protection of children from harm and public safety, in the interests of the wider community.

After hearing and considering all the evidence and the representations made by the parties today, we are not satisfied that the owners have shown over a period of time they are willing to comply with the conditions of the Licence or indeed licensing regulations. This is despite numerous visits and offers of assistance from the Police and the Licensing Authority and Barnet's Environmental Health Team. Therefore, the Sub-Committee now has to decide what action it considers appropriate to take.

The Sub-Committee accepts the representations in the papers and given today that Mr Rahil Majeed, who is part of the current ownership of the premises, is the same Rahil Majeed who has been involved in the management and running of the premises since November 2014.

The previous agreement to vary the licence in December 2016 has still resulted in the Licence being breached and therefore the Sub-Committee does not believe further modification of the Licence will result in any improvement. Similarly, the Sub-Committee considers that excluding licensable activities from the Licence will not assist as the owners have previously continued to act in breach of the Licence.

The Sub-Committee considers there is poor management of the Premises, which has resulted in times when the DPS has not been working at the Premises whilst licensable activities are being carried out and staff not being clear about who the registered DPS for the premises is. Therefore, removal of the DPS does not appear to the Sub-Committee to be an appropriate action.

If the licence were to be suspended for up to three months we do not believe that the licensee would promote the licensing objectives when the suspension expired.

The Sub-Committee were not satisfied that the other options that were available to it would allay their concerns and that the only option in the circumstances would be the revocation of the licence. The Sub-Committee were gravely concerned that the premises have failed to promote the licensing objectives over a period of time, and the premises licence holder had failed to comply with its obligations under the Licensing Act 2003 and were in breach of its licence conditions. The Sub-Committee viewed this non-compliance particularly seriously.

The Sub-Committee has therefore decided, taking the above in to account as well as the continuing and serious nature of the breaches to the Licence, that it is appropriate to revoke the premises licence for these premises in order to further the licensing objectives, namely the prevention of crime and disorder, the prevention of public nuisance, and public safety and therefore the Sub-Committee has resolved to revoke the licence.

Right of Appeal

Any party aggrieved with the decision of the licensing Sub-Committee on one or more of the grounds set out in schedule 5 of the Licensing Act 2003 may appeal to the magistrates' court within 21 days of notification of this decision.

**9. ANY OTHER ITEM(S) THE CHAIRMAN DECIDES ARE URGENT**

There were no urgent items.

The meeting finished at 1.55 pm