

Decisions of the Licensing Sub-Committee

22 August 2017

Members Present:-

Councillor John Hart
Councillor Claire Farrier
Councillor Agnes Slocombe

Also in attendance:

Officers:

Mr Daniel Pattenden – Licensing Officer
Mr Andrew Lucas – HB Public Law
Miss Abigail Lewis – Governance Officer
Mr Anthony Galicia – Governance Support Officer

Applicant

Mr Ardekani
Applicants Representatives

Responsible Authority:

PC Vicky Wilcox

1. APPOINTMENT OF CHAIRMAN

Councillor Claire Farrier, seconded by Councillor Agnes Slocombe nominated Councillor John Hart as Chairman of the meeting.

2. ABSENCE OF MEMBERS (IF ANY)

None.

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

None.

4. LICENSING SUB-COMMITTEE HEARING PROCEDURE

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

5. NEW PREMISES APPLICATION, WALLACE BAR, 1023 FINCHLEY ROAD, LONDON, NW11 7ES

The Committee considered the application for a new premises license for Wallace Bar, 1023 Finchley Road, London, NW11 7ES. The Committee heard submissions from the Licensing Officer, the Responsible Authority, the Applicant, the Applicants representatives and public residents objecting to the decision.

6. MOTION TO EXCLUDE THE PRESS AND PUBLIC

Councillor Claire Farrier moved a motion to exclude the press and public in order to discuss the exempt item. The motion was seconded by the Chairman.

RESOLVED that the parties be excluded from the meeting, together with the press and public, in accordance with regulation 14(2) of the Licensing Act 2003 (Hearings and Regulations) 2005.

7. RE- ADMISSION OF THE PRESS AND PUBLIC

The press and public were re-admitted to the meeting after discussion of the exempt item.

All parties were told that the Sub-Committee would deliberate in private session with the Legal Officer and Governance Officer.

The parties were informed that they would receive written notice of the decision within 5 working days.

8. DELIBERATION BY THE SUB-COMMITTEE IN PRIVATE SESSION

The Sub-Committee deliberated in private session with both the Legal Officer and Governance Officer present.

9. DECISION OF THE SUB-COMMITTEE

This is an application for a new premises licence in respect of The Wallace Bar, 1023 Finchley Road, London, NW11 7ES (hereinafter referred to as “the Premises”). The details are set out in the application form but in essence it requests both live and recorded music, and the sale of alcohol.

Objections were received from three responsible authorities: the Police, Environmental Health and the Licensing department of the London Borough of Barnet. Environmental Health and Licensing have withdrawn their representations having agreed with the Applicant conditions to be inserted in the operating schedule. It should be noted that as part of that agreement it is now a condition agreed by the Applicant that the only music to be played at the Premises is ambient background music and that neither live nor recorded music will be played at the Premises for the purposes of entertainment. The Applicant also agrees that sales of alcohol will be for consumption on the Premises only.

There have also been 27 objections to the Application from local residents and one representation in favour of the Application.

The Sub-Committee notes that the Premises licence was revoked on 9 November 2016 following a review at which various breaches of the licence conditions were cited. That decision is now subject to an Appeal to the Magistrate’s Court which is due to be heard on 5 September. This Application is not made by the current premises licence holder or DPS and must be treated on its merits.

It is clear however that the Premises has a chequered past. There have been persistent complaints from residents about noise emanating from the Premises; noise abatement notices were served and there have been attendances by Environmental Health that detected a statutory noise nuisance.

The Police refer to consistent breaches of the licensing conditions and the involvement of the applicant Mr Ardekani in the running of the premises during these breaches. They also refer to an incident on 18 February 2017 involving the Applicant and carried out at the Premises after he had consumed alcohol, for which the Applicant accepted a caution.

The objections from local residents are almost entirely on a template letter which has been signed by various objectors. There is one objection not using the template. The objectors refer to the problems with the Premises since 2005, including noise nuisance from music, customers drinking and/or smoking outside the premises and leaving the premises. There were fights late at night and intimidating crowds outside. Stricter conditions were imposed on the Licence in 2013 but the Objectors state that these conditions were often breached and that loud music could be heard inside their homes both before and after the music was supposed to have ended. Contrary to the conditions on the licence windows and doors have been left open enabling noise to escape and annoy residents. Customers have used the fire escape to drink, smoke and/or leave the premises causing late night noise. It seems that when the matter is referred back to the Committee such problems are resolved for a short period before resuming again.

Various dates have been noted by residents as being when a nuisance occurred. They range through April, May and June of this year.

Finally insofar as the Objectors are concerned they refer to the Applicant having been a director of Wallace Bar Ltd between 8 October 2014 and 22 March 2016, and since 4 April 2016 a director of Wallace Lounge Ltd, showing that he has been involved in the operating of the business during many of the breaches complained of. They argue that he cannot therefore be trusted to ensure that the premises are run properly and without causing a nuisance.

While the residents would much prefer the application to be refused they have set out their minimum requirements for conditions should it be granted.

One representation in favour of the Application has been received from the gentleman living above the Premises. He states that since the Applicant has been running the Premises there has not been any problem with noise either for him or other residents.

In his written statement the Applicant states that although he worked part time at the Premises for the previous licence holder, usually on Friday and Saturday evenings, this was so he could continue to live above the Premises. The Applicant says that the previous licensee and his bar manager ran the Premises and the Applicant never had anything to do with this. The Applicant goes on to say that he was never trained by the bar manager or the previous licensee and that he was not aware of the ongoing breaches of the Licence. The Applicant further states that Wallace Bar Ltd never traded and that Wallace Lounge Ltd was set up in anticipation of buying the business from the previous Licensee. The Applicant states that he has only been responsible for running the Premises since 1 May 2017.

At the meeting of the Sub-Committee, on the Applicant's behalf, it was submitted that on the main issue, being the proposed later closing hour on Fridays and Saturdays and seasonal variations, the Applicant and Objectors were only an hour apart from being agreed. The main conditions that the Applicant had agreed with Environmental Health and Licensing were explained to the Sub-Committee. The Applicant offered to reduce the hours on Friday and Saturday night to 11.30pm for the sale of alcohol with the Premises closing at midnight. The Applicant also said that the Sub-Committee could impose a time

limit on the licence so that it expired in say 18 months or two years, at which point the Applicant would need to apply for a new premises licence. This time limited licence would, in effect, be a trial period for the Applicant and the Premises.

In their submissions, the Police emphasised the previous poor running of the Premises, the Applicant's involvement in the limited companies relating to the Premises and that the Applicant had had an opportunity to run the Premises without complaint and he had not done so. The Police said that they did not see how the Applicant could comply with the conditions proposed.

Mr Paul Alter and Ms Cecelia Peruad, two of the objecting residents, attended the meeting of the Sub-Committee. They noted that no-one was denying that there had been problems with the Premises. They said they wanted strict conditions that were properly enforced. Mr Alter emphasised that the Applicant had been involved with the Premises, since it began trading as 'Wallace', was known locally as someone connected to the Premises and that as a director of a company he had responsibilities to make sure it complied with all relevant laws. Mr Alter conceded that there had been some recent improvement in the way the Premises was being run, notably that it was closing on time, but submitted that as recently as 7 July there had been an extremely loud party that had caused a nuisance.

The Sub-Committee heard that the Applicant had allowed a number of pre-arranged parties to take place after he had taken control of the Premises. Although the Applicant told the Sub-Committee that he felt he had to honour these pre-existing commitments, the Sub-Committee were of the view that the Applicant must have known that these events would cause nuisance and annoyance and disturb local residents. Despite the precarious licensing position, the Applicant had chosen to host the parties anyway. The Sub-Committee put weight on this. It would have been reasonable to expect the Premises to have quietened down pending the hearing of the Appeal against the revocation of the previous Licence but instead there have continued to be problems.

The Sub-Committee put weight on the fact that the Applicant had no previous experience of running similar premises, his background being in owning a supermarket. The Sub-Committee took the view that this was a difficult premises to run, particularly for someone with no prior experience of running similar premises. The Sub-Committee noted that on the Applicant's own case until 1 May 2017, he had only worked at the Premises on a couple of evenings each week and had not been involved in any matters relating to the licensing or the management of the Premises.

Notwithstanding his claimed lack of involvement in the running of the Premises prior to 1 May 2017, the Sub-Committee were concerned by the Applicant's lack of intervention in the previous breaches of the Licence. This was when he was an officer of a company connected to the management of the Premises. The Sub-Committee were concerned that the Applicant would display the same attitude to any licence that he was granted which could cause the Licensing Objectives to be undermined.

The Sub-Committee also put weight on the fact that when they asked the Applicant what reassurance they had that things would be different at the Premises this time, the Applicant only promised that he would abide by the conditions of the Licence. The Applicant did not offer any explanation of what steps he had already taken to support the licensing objectives or what new practices he had put in place. The Sub-Committee put weight on the fact that the Applicant had not managed to establish any relationship with

the residents despite them being the main objectors to the Application and the Applicant having run the Premises since 1 May 2017.

The Sub-Committee also put weight on the incident that the Applicant had been involved in in February. Although this incident was of a personal nature, it had taken place at the Premises and involved the consumption of alcohol. The Applicant would continue to have access to both and the Licensing Objectives could be undermined should a similar incident occur involving a customer or a resident.

The Sub-Committee concluded that they did not have any faith in the Applicant being able to uphold the Licensing Objectives. They concluded that the matters to which they had given weight outweighed the proposed conditions proposed by the Applicant and no licence would be granted.

Right to appeal

Any party aggrieved with the decision of the Licensing Panel on one or more of the grounds set out in Schedule 5 to the Licensing Act 2003 may appeal to the Magistrates' Court within 21 days of notification of this decision.

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

None.

The meeting finished at 11.40am