

Decisions of the Licensing Sub-Committee

5 June 2018

Members Present:-
Councillor Alison Cornelius (Chairman)

Councillor Claire Farrier

Councillor Wendy Prentice

Also present:
Ms Victoria Seifert – HB Public Law
Mr Dan Pattenden – Licensing Officer
Ms Naomi Kwasa – Governance Officer

1. APPOINTMENT OF CHAIRMAN

RESOLVED that Councillor Alison Cornelius be appointed as Chairman.

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 at the meeting.

5. REVIEW OF PREMISES LICENCE – LOUNGE 404, 26-28 CRICKLEWOOD LANE, LONDON, NW2 1HB

The Sub-Committee heard detailed submissions from Licensing as the Responsible Authority, the Licensing Officer, and in addition have read their report and the licensee's written representations. The Sub-Committee heard representations from the Licensee, Mr Karshe Mohamed and his agents; Graham Hopkins and Linda Potter, Duty Licensing Consulting.

6. MOTION TO EXCLUDE THE PRESS AND PUBLIC

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. DELIBERATION BY THE SUB-COMMITTEE IN PRIVATE SESSION

The Sub-Committee deliberated in private session, accompanied by the Officer from HB Public Law and the Governance Officer.

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

This is an application for a review of the premises licence in respect of the Lounge 404, 26-28 Cricklewood Lane London NW2 1HB (hereinafter referred to as “the Premises”) pursuant to s.51 of the Licensing Act 2003.

A written objection was received from the Licensing Department of the London Borough of Barnet in relation to:

- The Prevention of Crime and Disorder
- The Prevention of Public Nuisance.

A representation has also been received from the Food, Health and Safety Team in relation to contraventions to the smoke free legalisation that have been witnessed at the premises, breaches of Health and Safety Legalisation are relevant to the licensing objectives of Prevention of Crime and disorder and Public Safety. There was also a written representation from the Police Licensing Team.

The Sub-Committee have also had due regard to the letter from Environmental Health dated 17 April 2018 concerning breaches of Health and Safety Legislation on 26 October 2017, 12 February 2018 and 15 February 2018 in relation to shisha pipes and the fact that a Prohibition notice under the Health and Safety at Work etc Act 1974 was served on Mr Karshe Mohamed.

Mr Karshe Mohamed, the DPS has also submitted a written representation dated 3 May 2018. He obtained a personal licence on 11 January 2018 and became the designated premises supervisor on 21 February 2018. In his representations he conceded his mistake about the shisha pipes and has taken steps to ensure that it does not happen again, he explained that the problems with breaches of the operating hours occurred when he was out of the country attending to his mother’s health. He states that it is his intention to convert the premises into a restaurant. He also exhibits an email from the Cricklewood Groves Residents’ Association dated 30 April 2018, which highlights improvements since he took over the licence, but still raising concerns about incidents of the groups lurking around after closing, premises being open after permitted hours and shisha smoking indoors. The Sub-Committee gave due regard to the continuing concerns of local residents.

During the panel hearing, the Sub-Committee heard from Mariosa Connolly, the licensing officer who presented her report on behalf of the authority. Mr Dan Pattenden gave evidence on behalf of the responsible licensing authority and proposed to the Sub-Committee numerous conditions which he wanted the Sub-Committee to consider if they were minded to allow the licence to continue.

Mr Mohamed attended and was represented by Graham Hopkins from GT Licensing Consulting. Mr Hopkins made representations on his clients’ behalf and Mr Mohamed answered questions from the sub-committee. Mr Hopkins stated on behalf of Mr

Mohamed that his client would be prepared to agree to all of the conditions proposed by the responsible authority. It was noted by the Sub-Committee that responsible authority's conditions were virtually the same as the conditions which had already been proposed by Mr Mohamed in his representations, save for the fact that it was proposed that the licensable activity of playing recorded music and performance of dance should be removed from the licence.

The Sub-Committee gave due regard to the fact that in oral evidence Mr Mohamed stated that the premises were currently closed for refurbishment and that they were due to open up in the next two weeks as a café/bar. Mr Hopkins gave reassurances that it would now be table service only.

They also gave due regard to the fact that Mr Mohamed no longer proposed to allow the smoking of shisha at all at the premises.

The Sub-committee, took note that during the period that most of the complaints had been made Mr Mohamed had been distracted by his sick mother and had taken her to Dubai for medical treatment. However they were concerned that he was in the country when he spoke to Mr Pattenden on the telephone on 22 December 2017 when he was informed that the current method smoking of shish pipes was in breach of the smoke free legislation, he was present and had allowed the smoking of shisha pipes to continue on 31 December 2017, when the police attended. They were therefore concerned that Mr Mohamed had not in the past appeared to take his responsibilities as a DPS sufficiently seriously, especially in light of the fact that it had taken him a significant length of time to qualify as a DPS after taking over the premises in May 2017 and becoming the Premises Licence Holder on 25 August 2017. The Sub-Committee took note of the fact that there had been two noise nuisance complaints since Mr Mohamed had taken over the premises.

The Sub-Committee were also concerned that there was not presently any other Personal Licence Holder. They noted that Mr Mohamed's wife was intending to become one but there was no indication as to when this would be. The Sub-Committee were concerned about how the premises would be managed if Mr Mohamed needed to leave the country in the future for any reason.

They were also concerned about further noise nuisance at the premises.

The role of the Sub-Committee is to determine what steps should be taken in connection with the premises licence, namely the prevention of public nuisance and the prevention of crime and disorder.

The Sub-Committee must consider whether the owner or any DPS is 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 problems at this premise.

Given that shisha is now to be banned from the premises and the whole character of the premises is due to change. The Sub-Committee do not intend to revoke the licence but will accept the conditions proposed by the responsible licensing authority (a copy of these continues will be provided with these minutes), with the following additional clauses:

- That no glasses, bottles or drinks may be taken outside the premises at any time. This includes the outdoor patio area.
- The number of the local cab firm shall be displayed and a message stating that staff will call a cab for any customer wanting one. During permitted opening hours customers waiting for a cab shall be asked to wait inside the premises.
- A personal license holder should be at the premises at all times that licensable activities are taking place.
- All doors and windows shall be closed after 23.00 hours except for entry and exit.

Full details of the agreed conditions will be included within the minutes which will accompany this decision, when published (Appendix A).

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.

Appendix A

The licensing authority asks that the following be considered for the promotion of the 4 licensing objectives:

Remove the licensable activities of playing of recorded music and performance of dance (faculties no longer exist as activities) from the licence.
Remove non-standard variation times from all activities.

Replace conditions 7-26 with the following:

- A CCTV system will be installed that complies with the following specifications:
 - a) Digital recording CCTV comprising a multi camera system.
 - b) The head unit (recorder) for storing the images will store such data on a hard drive or similar quality medium.
 - c) A CD or DVD burner will also form part of the system to facilitate making copies of the images.
 - d) If the head unit (recorder) is kept on the premises it must be located in a secure cabinet or other secure area, preferably out of the sight and reach of the public. The unit must be further secured by physical means to prevent anyone from merely picking up and removing the unit, e.g. a secure metal boot, or metal case strap, bolted to an immovable object like a wall or floor.
 - e) The quality of the images must be of a sufficiently high standard to allow identification of the subject matter.
 - f) Cameras will cover key areas identified by the operator and Police. These

- will include clear head shots of persons entering the premises, any bar areas, the till point.
- g) Images must be retained for a period of 31 days before overwriting.
 - h) The images will be made available on demand by the Police and Authorised officers of the London Borough of Barnet with the minimum possible delay.
 - i) At all times when the premises are open there shall be at least one person who is capable of operating the CCTV system if required to do so by the Police or authorised of the London Borough of Barnet.
 - j) This system will be fully maintained at all times to ensure correct operation
- This condition relates to activities during deregulated hours and further hours permitted by the licence:
 - a) No live music inside or outside of the premises at any time.
 - b) No recorded music inside or outside of the premises at any time.
 - c) There will only be background music, which is at a level for ambience and not for entertainment.
 - A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport / Holographically marked PASS scheme identification cards.
 - The premises will publish a phone number to the local Residents Association and any local resident or business requiring it for them to call with any concerns. All complaints will be investigated by the Premises Licence Holder, DPS or Manager nominated by the Premises Licence Holder. Details of all complaints including the outcome will be recorded in the Incident Book.
 - Drinks (glass or any other container) are not to be taken outside the premises at any time.
 - No noise is to emanate from the premises that give rise to cause a statutory noise nuisance to residents.
 - An Incident Book shall be kept at the premises (in an A4 hard bound book) which shall be produced to Police or Authorised Officers on request and record the following:
 - a) All crimes reported;
 - b) Lost property;
 - c) All ejections of customers;
 - d) All complaints received;
 - e) Any incidents of disorder;
 - f) All seizures of drugs or offensive weapons;
 - g) Any faults with the CCTV system or details of all work undertaken on the system;
 - h) Any refusal in the sale of alcohol;

- i) Any visit by a responsible authority or emergency service;
 - j) If Police are called the CAD number shall be obtained and recorded.
- Relevant notices shall be prominently displayed by the entry / exit doors and bar as appropriate that shall advise customers:
 - a) That CCTV is in operation;
 - b) That Challenge 25 is in operation as the proof of age policy;
 - c) The provisions of the Licensing Act regarding underage and proxy (third) party sales;
 - d) The permitted licensed hours and opening hours;
 - e) That no glasses, bottles or drinks may be taken outside the premises at any time;
 - f) That no shisha is available at the premises and that it may not be smoked on the premises or patio at any time.
 - g) Asking customers to respect local residents leave the premises & area quietly, not to loiter outside and not asking that customers going to their cars do so quietly, do not rev car engines or play loud music outside residential properties.
 - h) The number of the local cab firm shall be displayed and a message stating that staff will call a cab for any customer wanting one.
 - During permitted opening hours customers waiting for a cab shall be asked to wait inside the premises. The cab office phone number will be clearly displayed and staff shall call a cab for any customer wanting one.
 - Two SIA Licensed Door Supervisors shall be employed at the premises from 21.00 to 02.00 Friday & Saturday nights. Door Supervisors shall record their full details in the Incident Book including name & phone number, SIA Licence number, dates and times of attendance and if employed by an agent the name and phone number of the company.
 - A written dispersal policy shall be prepared by the Premises Licence Holder and submitted to the Police and Council Licensing Teams.
 - On nights when Door Supervisors are on duty at least one of them shall be tasked to stand by the door to remind departing customers to leave the premises and area quietly ensuring (as far as is reasonably possible) that they do so, that guests loitering outside are politely asked to move away from the area and that no glasses or bottles are taken outside the premises. The second Door Supervisor shall be tasked to be outside the premises to proactively check that customers do not linger outside the premises or in Elmsgrove directing them to the local bus stops or cab office.
 - When all customers have left the premises both Door Supervisors shall be outside the premises to proactively check that customers do not linger outside the premises or in Elmsgrove directing them to the local bus stops or cab office.

- On nights when Door Supervisors are not on duty a member of staff shall be tasked to stand by the door to remind departing customers to leave the premises and area quietly ensuring (as far as is reasonably possible) that they do so, that guests loitering outside are politely asked to move away from the area and that no glasses or bottles are taken outside the premises.

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

None.

The meeting finished at 13:11 hrs.