

## **Decisions of the Licensing Sub-Committee**

4 February 2021

Members Present:-

Councillor John Marshall (Chairman)  
Councillor Lachhya Bahadur-Gurung  
Councillor Barry Rawlings

### **1. APPOINTMENT OF CHAIRMAN**

RESOLVED – that Councillor John Marshall be appointed Chairman for this Licensing Sub-Committee

### **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. REPORT OF THE TRADING STANDARDS & LICENSING MANAGER - REVIEW OF PREMISES LICENCE: RED & BLACK RESTAURANT, 682 HIGH ROAD LONDON N12 9PT**

The sub-committee considered a Review of the Premises License for Red & Black Restaurant, 682 High Road, N12 9PT (“the Premises”).

### **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 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

This is an application for a review of the premises licence for Red & Black restaurant, 682 High Road, London N12 9PT ("**the Premises**"). The Premises licence holder is Mr Stefan Gega.

The sub-committee members had reviewed all the representations and were present throughout the remote hearing and could see and hear everything.

Prior to the commencement of the hearing the sub-committee was informed that Mr Gega was not in attendance and the Licensing Authority had not received any communication from Mr Gega in relation to the review application, the representations that had been made or whether or not he was going to attend or wanted to attend the hearing or anything else explaining his non-attendance. Mr Gega was still not in attendance when the hearing began.

The sub-committee considered the issue of whether or not to adjourn the meeting, balancing the public interest in ensuring a person has a right to a fair hearing and to have an opportunity to respond to the representations that had been made. On the other hand, there was the public interest in proceeding with the hearing in the absence of Mr Gega due to the serious allegations made in the review application in regards to the use of the Premises. It was also noted that the representations indicate a general lack of engagement by Mr Gega with the Licencing Authority. On balance the sub-committee was of the view that the public interest lay in favour of continuing with the hearing in the absence of Mr Gega. It was noted by members that the Licencing Authority, the police, a Ward councillor and a member of the public who had also made a representation were all in attendance.

Turning to the review application, this was submitted by the Licencing Authority following numerous complaints of reported breaches of the premises licence. The application was made on the basis of the prevention of crime and disorder, the prevention of public nuisance and public safety. The representations with supporting statements and evidence are set out in full in the Agenda documents and allege numerous breaches of the licence.

In summary, the premises licence has been suspended from 30<sup>th</sup> November 2019 due to the non-payment of the licence renewal fee due by that date and there was also no Designated Premises Supervisor ("**DPS**") for the Premises from 29<sup>th</sup> November 2019 due to the DPS asking to be removed from the premises licence. Therefore, all bar a few of the reported incidents set out in the representations occurred when the premises licence was suspended and there was no DPS in place. Even if the premises licence and a DPS were in place, the incidents reported in the representations set out numerous breaches of the licence conditions such as reports of remaining open beyond permitted hours, playing music beyond licenced hours, playing music at loud volumes such as to cause a nuisance. These are set out in full in the Agenda documents.

In addition, it is also reported that numerous gatherings of people have been seen at the Premises at various times since late 2019, 2020 and January 2021 and during times when coronavirus regulations were in effect and restricted the number of people allowed to gather indoors. It is also alleged that the Premises were open or at least occupied when coronavirus regulations required the Premises to be closed.

The representations also report an event during the early hours of Saturday 9<sup>th</sup> January 2021 when the police were notified of a reported lock-in at the Premises. Upon arrival the front of the Premises appeared shut, with shutters and blackout curtains closed, but

upon going to the rear of the Premises they saw someone inside and asked him to open the door. For reasons explained in PC Johnson's statement, the Police were eventually required to force entry in to the Premises and required the assistance of the Fire Brigade to breach a steel door that was in place, and after eventually gaining access over an hour later they found around 30 people inside the Premises who were smoking and had alcoholic drinks on the table and claiming to be there for a birthday party. This was again during a time when the premises licence was suspended, there was not DPS and the coronavirus regulations restricted the gathering of people from different households indoors and required the Premises to have been closed. Even if the premises licence had not been suspended and these events happened between 1.50am to 3.07am so after the end of any licencing hours that would otherwise have been authorised, and during a time when the Premises were required to be closed under coronavirus regulations.

The representations set out in the agenda, such as the statements of Emma Phasey and John Oliver, describe dealings with Mr Gega and also suggest a general disregard by him in relation to the licencing objectives in general. These include non-payment of the premises licence renewal fee, thereby suspending the licence, and an apparent disregard of a prohibition notice attached to the Premises on the 12th of April 2020, following which there was reported to be loud music coming from the Premises later that very same day. Mr Gega also failed to attend a PACE interview on the 11<sup>th</sup> March 2020 that the Licensing Authority had sought to arrange with him to discuss the reported licencing breaches.

The statement of Mr Oliver refers to attempts to meet with Mr Gega on Tuesday 5th May 2020 for the purposes of conducting a PACE interview. He states that he attended an address that Mr Gega had confirmed to Ms Phasey as being his current address but upon attending that address he was informed by the occupant that Mr Gega did not in fact live there and seemed to have left around August 2019. Mr Oliver states that when Ms Phasey contacted Mr Gega he again stated the same home address he had previously given, until he was told that the Licensing Officers were at that address and speaking with the current tenant, following which Mr Gega agreed to meet the Licensing Officers. Upon meeting Mr Gega later that same day he was personally handed a copy of the prohibition notice when they met and he was cautioned by Mr Oliver. From Mr Oliver's statement, Mr Gega acknowledged receipt of the prohibition notice, that he attended the Premises every day, believed he had lost his licence and therefore seemed to believe he could do what he liked. It was also pointed out to Mr Gega that he had failed to provide the Licensing Authority with his current address and Mr Gega eventually stated he was living with his brother but refused to give that address. Mr Gega said he uses the Premises for family and some friends and acknowledged he had played some music at the Premises on one occasion and that he had a birthday party there on 24<sup>th</sup> February 2020, which reportedly went on to 03:00am.

Mr Gega appeared to be somewhat vague and elusive in his answers to Mr Oliver and stated he gets the post sent to the Premises, which would have included the PACE interview letter, but denied receiving the email for the same matter. Upon Mr Gega showing Mr Oliver his emails on his phone, Mr Oliver says he could clearly see the email to Mr Gega dated 2<sup>nd</sup> March 2020 with the heading "Breaches of Premises Licence" visible without opening the email. Upon opening the email it was seen that this was the PACE interview correspondence, but Mr Gega said he ignored this as he thought it was junk.

The sub-committee was also informed that a Closure Order for the Premises had been obtained by the Police on 15th January 2021, which remains in force until the 15th of April 2021.

In her statement to the sub-committee at the hearing PC Wilcock referred to her witness statement and gave her opinion that Mr Gega does not appear to have any regard for the Licencing Act or the law in general and that even when he deals with the police he tends to be elusive, denying that he is the licence Holder and seeming to think he is immune from covid-19.

Another objector, Mr Morgan, who lives near the Premises also attended the hearing and referred to the Premises as a restaurant operating as a nightclub. He elaborated on his written representation regarding an extension that appears to have been built at the rear of the Premises, which he considered had been built to facilitate access through the back of the Premises whilst making it look from the front that the Premises are closed. He also referred to instances of events taking place and loud music coming from the Premises in the early hours that was causing a nuisance.

After considering all of the representations and matters set out in the agenda documents, and made at the hearing, the sub-committee notes that the premises licence has been suspended since November 2019 due to non-payment of the licence renewal fee and there has been no DPS since 29<sup>th</sup> November 2019. The sub-committee considers that the representations show that there have been various events taking place at the Premises since that time, including events going on until the very early hours, the playing of music, including reports of very loud music being played. There have also been gatherings of people inside the Premises in apparent breach of the coronavirus restrictions in force at various times and the Premises have also been in use at times when the coronavirus regulations required the Premises to be closed.

The sub-committee considers that the representations evidence breaches of the Licensing Act 2003 and the licensing objectives regarding the prevention of crime and disorder, the prevention of public nuisance and public safety.

The sub-committee also notes Mr Gega's apparent general disregard for the licencing objectives, his own obligations under the Licensing Act 2003 and his general lack of co-operation with the Licencing Authority and the Police.

The sub-committee has therefore decided to revoke the premises licence. Given the matters set out above it is unlikely Mr Gega would comply with any modified licence conditions. Given that the premises licence has been suspended since November 2019, a decision to suspend the premises licence would have no effect and is not likely to push Mr Gega to start complying with the Licensing Act 2003 and the licensing objectives.

### **Right to appeal**

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

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

None.

The meeting finished at 11.30 am