

Decisions of the Licensing Sub-Committee

9 November 2016

Members Present:

Councillor John Hart (Chairman)
Councillor Alison Cornelius
Councillor Claire Farrier

Officers:

Mariesa Connolly - (Licensing Officer)
Harinder Dhaliwal - (Legal Officer)
Salar Rida - (Governance Officer)

Responsible Authority and Applicant:
Daniel Pattenden

Licensee:

Mohammed Reza Pouressmaell
Staff member

1. APPOINTMENT OF CHAIRMAN (Agenda Item 1):

RESOLVED - that Councillor John Hart be appointed as Chairman.

2. ABSENCE OF MEMBERS (IF ANY) (Agenda Item 2):

None.

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

None.

4. LICENSING SUB-COMMITTEE HEARING PROCEDURE (Agenda Item 4):

The Chairman noted the procedure following an introduction of the Members of the Sub-Committee, the officers, licensee, public speaker and the Responsible Authority and Applicant.

5. THE WALLACE - 1023 FINCHLEY ROAD, LONDON, NW11 7ES (Agenda Item 5):

The Sub-Committee considered a Review of Premises Licence for The Wallace, 1023 Finchley Road, London, NW11 7ES, together with submissions from the Licensing Officer, Responsible Authority and Applicant, licensee and public speaker.

6. MOTION TO EXCLUDE THE PRESS AND PUBLIC (Agenda Item 6):

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 (Agenda Item

7):

The Sub-Committee retired in private session, accompanied by the council's legal and governance officers, to consider the facts of the application and the measures necessary (if any) to ensure the promotion of the licensing objectives.

8. RE-ADMISSION OF THE PRESS AND PUBLIC: ANNOUNCEMENT OF THE DECISION OF THE SUB-COMMITTEE (Agenda Item 8):

The parties to the application were readmitted to the meeting and the Chairman conveyed the Sub-Committee's decision as follows:

This was an application for a review of the premises licence under section 51 of the Licensing Act 2003 for the Wallace, 1023 Finchley Road, London, NW11 7ES. The review had been brought by the licensing team who reported numerous occasions when the licensee had failed to adhere to its licence conditions. The review application related to the licensing objectives of crime and disorder and public nuisance. A number of complaints were received by members of the public largely based on breaches of the licence conditions.

The Sub-Committee noted that the complaints related to a failure to adhere to condition 13, which states: 'Doors and windows to remain closed except for ingress and egress'. In addition, the Sub-Committee noted that there were several complaints related to the business operating past the hours permitted by the licence.

The Sub-Committee also noted that the licensing team had on more than one occasion spoken directly to the premises licence holder and the DPS and in addition sent letters in order to address these complaints. The premises licence holder stated that he had not seen these letters but Mr Pattenden confirmed that these letters had been sent to the DPS and the premises licence holder highlighting the gravity of the situation.

The Sub-Committee noted that there was a history of complaints in relation to the premises concerning breaches of the licence conditions and noise nuisance. In particular, a complaint was received on 11th July 2015 by the licensing team in relation to alleged breaches of the premises licence and in relation to condition 13. Consequently, Daniel Pattenden, licensing officer visited the premises to discuss the licence and its conditions with the premises licence holder. During the course of this meeting, it was explained to Mr Pouressemaeli that he had responsibilities under his premises licence and that he must adhere to the conditions placed on the licence at all times. At this meeting, a letter was also handed to the premises licence holder highlighting the complaints and covering the matters discussed during the course of the meeting.

The Sub-Committee also noted that on 12th May 2016 the licensing department received a further complaint from a member of the public alleging that condition 13 of the licence was being breached. A further complaint was received from the same resident on 14th May 2016 in relation to the premises operating past its permitted hours and further breaches of condition. A letter was sent to Mr Pouressemaeli on 20th May 2016 and an email on 23rd May 2016 outlining the allegations. However, no response was received. During the course of the hearing, the premises licence holder stated that the email address was no longer in operation and so he had not received any emails. Mr Pattenden however highlighted that he had sent letters to the premises and Mr Pouressemaeli's home address.

On the 11th June 2016, Daniel Pattenden and PC Wilcock attended the premises and witnessed that there was another breach of condition 13. Following a discussion with the DPS, a notice was issued by the police in relation to condition 9, 13 and 14. Hence, it was evident that there was a failure to maintain an accident and incident logbook, that the doors and windows were kept open, and in addition there was a failure to display a public notice requesting patrons to respect their neighbours and to leave quietly. A further visit was made on 29th July 2016 and at approximately 20:00 hours, PC Wilcock and Daniel Pattenden witnessed the bi-fold doors open at the premises and music emanating from the premises. A letter was sent to Mr Pouressemaeli on 12th August 2016 outlining the breaches and complaints. However, no response has been received.

During the course of the Sub-Committee hearing, Mr Pouressemaeli made an admission that he had not read the licence together with its conditions throughout the 2 years of his ownership. In fact, he had only read the licence and its conditions a few days ago upon discussion with his solicitor. The Sub-Committee was gravely concerned that Mr Pouressemaeli had not read the licence conditions until recently and they did not feel that these were in accordance with his responsibilities as a responsible premises licence holder. This was particularly worrying in light of the fact the licensing team had raised concerns about non-compliance with these conditions on a number of occasions. The Sub-Committee also noted that a member of the bar staff, who attended the hearing, had been informed by the DPS that in the summer, she should be closing the doors and windows after 7.30pm. This was despite the fact that there was an existing condition on the licence which required doors and windows to be closed at all times.

The Sub-Committee noted that Mr Pattenden had been heavily involved in dealing with complaints received by residents and that this was one of the most complained about premises since he joined Barnet Council.

The Sub-Committee also heard from a local resident, Mr Paul Alter who made representations that there were numerous occasions when the premises were leaving their windows and doors open and that on these occasions there was increased noise emanating from the premises. Mr Alter acknowledged that although the situation had improved since Mr Pouressemaeli had taken ownership of the business, there were still concerns with loud music from the premises, and noise coming from the premises when the doors were open. He stated that there had been parties late into the night, urination in residents' gardens, and noise by individuals smoking and drinking outside the premises. Further, he was concerned by the noise of customers leaving the premises and also when getting into their cars. Mr Alter felt that music should be disallowed altogether from the licence and a further reduction in the hours to 11.00pm on Fridays and Saturdays in line with the rest of the week. This was a further reduction to the hours that had already been reduced at the previous hearing. Mr Alter expressed concerns that this was a residential area and the noise was causing an increased disturbance to neighbours in the vicinity of the premises. Upon realisation that the licence holder had failed to read the licence conditions, Mr Alter expressed serious concern that the premises licence holder did not understand his responsibilities under his licence.

Having fully considered the written and oral representations from all of the parties, the Sub-Committee discussed the matter and decided to revoke the licence. The Sub-Committee felt that there was a history of public nuisance associated with the premises and that these issues had not been addressed thus far. Further, the matter had already been before the Sub-Committee in 2013, where stringent conditions were imposed upon the licence. The decision made it clear that serious consideration at the time had been given to revoking the licence and that a serious view would be likely to be taken if these added conditions did not improve the situation at the premises. The Sub-Committee was

gravely concerned about the continued non-compliance with licence conditions and also that staff had not been trained in relation to the Licensing Act 2003. The Sub-Committee was also concerned that the premises were not being managed in a responsible manner and in accordance with the promotion of the licensing objectives. It was evident that the licensing team had tried to work with the licensee in order to address these issues to no avail. The Sub-Committee did not feel that any other of the options available to it would redress the concerns of the police, the licensing team and the public. The Sub-Committee were not satisfied that the continued operation of the premises licence would promote the licensing objectives and so has decided to revoke the licence.

Right of Appeal:

Any party aggrieved with the decision of the Licensing Sub-Committee on one or more grounds set out in schedule 5 of 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 (Agenda Item 9):

There were none.

The meeting finished at 5.20 pm