

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Tuesday 24 July 2012 at 10.00 am at Ground Floor Meeting Room G02B - 160 Tooley Street, London SE1 2QH

PRESENT:	Councillor Sunil Chopra (Chair) Councillor Wilma Nelson Councillor Ian Wingfield
OTHERS PRESENT:	Mark Axford, The Good Intent Patrick Ryan, The Good Intent Michael Carolan, The Good Intent Paul Mangan, The Good Intent
OFFICER SUPPORT:	Felix Rechtman, legal officer David Paabo, legal officer David Swaby, licensing officer Dorcas Mills, Principal Licensing Officer Ken Dale, anti-social behaviour officer Bill Masini, trading standards officer Virginia Wynn-Jones, constitutional officer

1. APOLOGIES

There were none.

2. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as the voting members.

3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

The chair agreed to accept two late and urgent documents related to item 5.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003 – THE GOOD INTENT, 24 EAST STREET, LONDON SE17 2DN

The licensing officer presented his report. Members had questions for the officer.

The trading standards officer and his witness addressed the sub-committee. Members had

questions for the officer.

The representative of Southwark Council as a licensing responsible body addressed the sub-committee. Members had questions for the officer.

The representatives of The Good Intent addressed the sub-committee. Members had questions for the representatives. The legal officer had questions for the representatives.

RESOLVED:

The licensing sub-committee having had regard to the application by the trading standards unit for a review of the premises licence granted under the Licensing Act 2003 to Thorn Taverns Ltd in respect of the premises known as The Good Intent, 24 East Street, London SE17 and having had regard also to all other relevant representations has decided it is necessary for the promotion of the licensing objectives to revoke the licence.

Reasons

This was a hearing of the licensing sub-committee of an application by the council's trading standards department for a review of the premises licence of the premises known as The Good Intent, London SE17 under section 51 of the act.

At the outset of the hearing, an issue arose in relation to who the current licensees were. At the time the review application was made in May 2012, the premises licence was held by a company called Thorn Taverns Ltd. Following the review application, on 13 July 2012 the council's licensing service received an application for a transfer of the licence from Thorn Taverns to Mr Michael Carolan with immediate effect. During the hearing, it became clear that while on paper the licence was in the name of Thorn Tavern Ltd, that in practice the licence was held de facto by Mr Michael Carolan and Mr Michael Mangan. This was based on evidence that throughout the period that Thorn Taverns held the licence, Mr Carolan and Mr Mangan continued managing the premises, collecting monies from the premises three times a week and also based on Mr Ryan's evidence (the DPS), that Mr Carolan and Mr Mangan were his direct managers and were the only people he had contact with and complained to about the ongoing problems.

In view of the above, the sub-committee concluded that Mr Carolan and Mr Mangan were de facto the licensees in relation to this premises throughout the period and noted that the licence was transferred to Mr Carolan on 13 July 2012, but that the visit to the premises by Kenneth Dale, further details of his evidence below, was on 14 July 2012, after the said transfer.

The sub-committee heard evidence from the council's trading standards department that the premises were in breach of different pieces of legislation, by (i) selling counterfeit vodka, selling counterfeit cigarettes, (ii) selling illegal and pornographic DVDs, (iii) allowing smoking on the premises, (iv) allowing gambling on the premises and (v) the use of short measures. None of these allegations were disputed by the licensee, and in evidence, both Mr Ryan and Mr Carolan accepted that such activities took place at the premises. In light of that evidence, the sub-committee found that the premises had clearly been allowing such illegal activities as per above and that the premises clearly were mismanaged.

The sub-committee then heard evidence from the council's licensing service as a

responsible authority that the premises also undermined the crime and disorder objective in the Licensing Act by allowing the premises to be used for the purpose of the sale and supply of Class A drugs such as crack cocaine, cocaine and possibly heroin. The sub-committee also heard from Kenneth Dale, from the council's anti-social behaviour unit, who visited the premises on two separate occasions and during these visits Mr Dale witnessed illegal smoking, and found substantial evidence indicating Class A drug use and sale. In light of all the evidence presented by the licensing service, the sub-committee found that the premises did allow open supply and sale of Class A drugs without putting any measures in place to prevent such illegal conduct.

The sub-committee next heard from Mr Carolan that they are now aware of all the problems and intend to introduce changes such as removal of the DPS and increased co-operation with the responsible authorities. The sub-committee found that there was conflict in Mr Carolan's evidence and that on one hand he indicated that he was not aware of the drug problems until very recently but when he was questioned about the issue by councillors, he made it clear that he was aware of the problem but thought that the problem was not serious. Mr Carolan was asked whether he has seen any of the illegal activities when he visited the premises three times a week to collect the money, and Mr Carolan gave a vague answer that he would 'just go in, collect the money and leave immediately'. In the circumstances the sub-committee found that Mr Carolan was aware of the illegal activities.

In the circumstances, the sub-committee found that there is clear evidence that the premises were mismanaged by the DPS, by Thorn Taverns Ltd and by Mr Carolan and Mr Mangan throughout the relevant period. The sub-committee found that the premises clearly had been operated in a way that undermines the crime prevention objective in the Act. The sub-committee found this to be extremely serious, especially in light of the fact that the premises are adjacent to a large estate in which many families with children live, as well as older people.

The sub-committee also note paragraphs 11.29 and 11.30 in the amended guidance issued by the Home Office under Section 182 of the Licensing Act 2003, which states "where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation – even in the first instance – should be considered." In light of this guidance, and in light of the findings referred to above whereby the sub-committee judged that the crime prevention objective is being breached, the sub-committee found it necessary in this instance to revoke this licence.

Appeal rights

This decision is open to appeal by either:

- a) The applicant for the review
- b) The premises licence holder or
- c) Any other person who made relevant representations in relation to the application.

Such appeal must be commenced by notice of appeal to the justice's chief executive for the magistrates' court for the area within a period of 21 days beginning with the day on which the appellant was notified by this licensing authority of the decision.

This decision does not have effect until either:

- a) The end of the period for appealing against this decision; or
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

The meeting closed at 1.00pm.

CHAIR:

DATED: