



Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Tuesday 1 October 2013 at 10.00 am at Ground Floor Meeting Room G02B - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Sunil Chopra
Councillor David Hubber

OTHERS PRESENT: Phillip Somarakis, representative of Banana's Bar
John Anderson, representative of Banana's Bar
Sandra Da Costa, representative of Banana's Bar
Dinis Baptista, representative of Banana's Bar
PC Graham White, Metropolitan Police Service
PC Ian Clements, Metropolitan Police Service

OFFICER SUPPORT: Debra Allday, legal officer
David Franklin, licensing officer
David Swaby, licensing officer representing the council as a responsible authority
Ken Dale, anti-social behaviour officer
Farhad Choudhary, health and safety officer
Ann Flynn, Southwark safeguarding children board
Andrew Weir, constitutional officer

1. APOLOGIES

There were none.

2. CONFIRMATION OF VOTING MEMBERS

The three members present were confirmed as the voting members.

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

There were none.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003: BANANA'S BAR, 374 WALWORTH ROAD, LONDON SE17 2NF

The licensing officer presented their report and circulated a transfer of licence document. A witness statement of the anti-social behaviour team which had been omitted from the agenda in error was also circulated. Members had questions for the licensing officer

The sub-committee heard from the representative from the police. Members had questions for the police. The chair also allowed the representative of Banana's Bar to ask questions of the police.

The licensing officer representing the council as a responsible authority addressed the sub-committee. Members had questions for the licensing officer.

The health and safety officer addressed the sub-committee. Members had questions for the health and safety officer.

The representative for the Southwark safeguarding children board addressed the sub-committee. Members had questions for the representative from the Southwark safeguarding children board.

The anti-social behaviour officer addressed the sub-committee. Members had questions for the anti-social behaviour officer.

The representatives of Banana's Bar addressed the sub-committee. Members had questions for the representatives of Banana's Bar.

The sub-committee went into closed session at 12.12pm.

The sub-committee resumed at 2.05pm and the chair read out the decision of the sub-committee.

RESOLVED

The council's licensing sub-committee, having had regard to the application by Metropolitan Police Service for a review of the premises granted under the Licensing Act 2003 to Candido Rodrigues and Abilio Rodrigues, as transferred to Sandra Silva Da Costa on 25 September 2013, in respect of the premises known as Banana's Bar, 374 Walworth Road, London SE17 and having had regard also to all other relevant representations has decided it necessary for the promotion of the licensing objectives to revoke the licence.

Reasons

This was a hearing of an application by the Metropolitan Police Service for a review of the premises known as Banana's Bar, 374 Walworth Road, London SE17

This application was made under Section 51 of the Licensing Act 2003.

The licensing sub-committee heard evidence from the Metropolitan Police Service the applicant for the review who stated that the application of the review was submitted on 2 August 2013 in respect of two licensing objectives, namely the prevention of public disorder and also the promotion of public safety. The premises came to the police's notice following an alleged offence of grievous bodily harm (GBH) and robbery of a customer who had been drinking in the premises. The incident occurred at approximately 04.00 on 13 April 2013 and the victim was reported to have been extremely drunk. The incident occurred over an hour after the premises should have been closed. The officer also detailed complaints relating to public safety in that the premises was continually operating beyond the terminal hour in addition to bypassing several of the licensing conditions. For example the main entrance/exit point had been found to be locked and secured from the inside with a large number of customers being provided with alcohol and entertainment.

The sub-committee were informed by the officer from the police that the premises had been run to an unsatisfactory standard since 2009. The police had previously objected to four temporary event notice applications for which counter notices were issued in all cases. The officer then detailed fourteen incidents of crime and disorder which included complaints of theft, assaults and GBH. More recently, the police had been refused entry to the premises in the course of investigations and there had been a complete failure by the management to cooperate with the police.

The licensing sub-committee heard from the licensing officer representing the council as a responsible authority who advised that there had been a long history of complaints relating to the premises that had been reported to the licensing unit since 2011 (when the night time economy team came into being). The complaints detailed on pages 145 to 153 of the agenda demonstrated a lack of responsibility by the management and undermined the prevention of public nuisance and the prevention of public disorder licensing objectives.

The licensing sub-committee heard from the health and safety team who informed the sub-committee that an inspection took place at the premises on 26 April 2013 where the officer experienced significant difficulty from the premises licence holder, Mr A Rodrigues, who was obstructive and uncooperative. No health and safety risk assessments or fire risk assessments were available, the toilets were in a poor state, no suitable washing facilities were available and the emergency lighting was not working, which amounted to a health and safety risk. In case of emergency people would not have been able to get out of the premises safely. At the revisit on 18 May 2013 the officer found that none of the works had been carried out, although a fire risk assessment was available. The officer stated that since 18 May 2013 he had not been able to re-inspect the premises. The officer did attend the premises on 20 July 2013 but due to the lack of police availability the officer deemed that it would be a health and safety risk for him to enter without them.

The licensing sub-committee heard from the Southwark Safeguarding Children Board who advised that they supported the police request for a review, the removal of the current licence. The officer highlighted that over the previous 12 months, all of the licensing objectives had been undermined by the premises. The officer raised serious concerns to contain crime and disorder arising in the club, the streets around the club and the surrounding residential area. Furthermore, the licence holders had been uncooperative with the police in their enquiries relating to allegations of underage persons in the premises.

The licensing sub-committee heard from the anti-social behaviour officer who stated that he had attended the premises on 28 June 2013 at 03.03 when patrons were still in the premises and loud amplified music was playing. On speaking to staff the officer stated that patrons were coming from the back bar and there was a hostile atmosphere. Two patrons stopped the officer and stated that he needed a warrant to be there. Mr A. Rodrigues became aggressive and refused to assist the officer. The officer also referred to his role as the ASBO officer. He stated that he was speaking on behalf of the local community and many residents had complained to him about noise from cars, noise from patrons entering and exiting the premises, fighting between the customers entering the local estate, patrons using communal benches to continue to drink, smoke and allegedly consume drugs and also the rear door to the premises was being used by patrons allowing noise to emanate to the estate. He advised that local residents had not made personal representations as they feared reprisals. He also stated that a considerable number of residents were suffering from sleep deprivation due to the Banana's Bar.

The licensing sub-committee noted the written representations from three other persons and the environmental protection team who were not present at the hearing.

The licensing sub-committee heard evidence from the representatives of Banana's Bar who accepted the shortcomings in the management of the premises and that they had identified the risks and that they intended to move forward and turn the premises around. An application had been submitted to transfer the premises licence from Messrs A and C Rodrigues to Sandra Silva Da Costa. An application to vary the premises licence to specify an individual as a designated premises supervisor (DPS) in the name of Dinis Baptista had also been submitted. The changes that they proposed would not have a negative impact on the licensing objectives. They advised that Banana's Bar would effectively close and reopen with a new name and would encourage the serving of food. They would install Clubscan, which would cost approximately £5-7,000 in addition to a monthly cost. This was confirmed by Mr John Anderson, a security consultant, who advised that he would also monitor the security arrangements at the premises.

The sub-committee considered very carefully all of the evidence that had been presented to it. The sub-committee noted that the new premises licence holder is the spouse of the previous premises licence holder, Mr A Rodrigues. Furthermore, she was also previously the DPS of the premises when complaints had already been made regarding the premises' poor management: warning letters had been sent to her by the police. The new DPS, Mr Dinis Baptista had previously worked at the premises as a bar tender again, at a time complaints began being made about the premises. The sub-committee noted that he had a personal licence for approximately one year and had completed a DPS training course the day preceding this hearing. The previous premises licence holder, Mr A Rodrigues is also the leaseholder to the property, 374 Walworth Road.

There had been significant complaints dating back to 2009 and despite variations related to the running of the premises by the management and promises of change, complaints have continued and have increased in terms of number and severity. The proposals in changes to the premises licence holder and the DPS do not fill the sub-committee with any confidence that the premises can be turned around. The client base will stay the same and have the same attitude, the relationships with local residents have broken down completely and all conditions and careful consideration has been given by all the responsible authorities to produce a licence with workable conditions that promote the licensing objectives. This sub-committee believes that no further conditions could be

added that would make the licence viable. On this basis the sub-committee has no alternative but to revoke the licence.

In reaching this decision the sub committee had regard to all the relevant considerations and the four licensing objectives.

The licensing sub-committee considered that its decision was appropriate and proportionate in order to address the licensing objectives.

Appeal rights

This decision is open to appeal by:

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

Such appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court for the area within the 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 3.20pm.

CHAIR:

DATED: