



Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 19 December 2013 at 10.00 am at Ground Floor Meeting Room G02C - 160 Tooley Street, London SE1 2QH

PRESENT:	Councillor Sunil Chopra (Chair) Councillor Adele Morris Councillor Eliza Mann
OTHERS PRESENT:	P.C. Ian Clements, Metropolitan Police Service Anthony Joseph, representative from Club Ebony Philip Ulbrich, local resident Jimmy Lee, local resident
OFFICER SUPPORT:	Debra Allday, legal officer Jayne Tear, licensing officer Sarah Newman, environmental protection officer Farhad Chowdhury, health and safety officer Dennis Sangweme, planning officer Andrew Weir, constitutional officer

1. APOLOGIES

Apologies were received from Councillors Abdul Mohamed and The Right Reverend Emmanuel Oyewole.

2. CONFIRMATION OF VOTING MEMBERS

The three members present were confirmed as the voting members. In the absence of the chair, Councillor Lorraine Lauder was nominated to chair the meeting by Councillor Adele Morris. This was seconded by Councillor Eliza Mann.

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 - CLUB EBONY (AKA K & F LTD) BASEMENT AND GROUND FLOOR, 39-45 CAMBERWELL ROAD, LONDON SE5 0EZ

The chair apologised for the late start of the meeting.

The licensing officer advised that there was additional information from Club Ebony and also from the environmental protection team. All parties agreed for this information to be circulated.

The licensing officer presented their report. Members had no questions for the licensing officer.

The environmental protection officer addressed the sub-committee. Members had questions for the environmental protection officer.

The police representative addressed the sub-committee. Members had questions for the police.

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

The sub-committee heard from the planning officer. Members had questions for the planning officer.

Members heard from local residents. Members had questions for the local residents.

The representative from Club Ebony addressed the sub-committee. Members had questions for the representative from Club Ebony.

All parties were given five minutes for summing up.

The licensing sub-committee went into closed session at 2.23pm.

The licensing sub-committee resumed at 4.18pm and the chair read out the decision of the sub-committee.

RESOLVED:

That the licensing sub-committee, having had regard to the application by the environmental protection team for a review of the premises granted under the Licensing Act 2003 to Club Ebony Limited in respect of the premises known as Club Ebony, (previously known as K & F Ltd) at 39-45 Camberwell Road, London SE5 0EZ and having had regard also to all other relevant representations decided it necessary for the promotion of the licensing objectives to revoke the licence.

Reasons

This was a hearing of an application by the environmental protection team for a review of the premises granted under the Licensing Act 2003 to Club Ebony Limited in respect of the premises known as Club Ebony, (previously known as K & F Ltd) at 39-45 Camberwell Road, London SE5 0EZ.

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

The licensing sub-committee heard evidence from the environmental protection officer, the applicant for the review who gave evidence to the sub-committee and advised of the history of complaints and statutory noise nuisance being witnessed by noise officers. Since the last review of December 2012, there had been an additional 35 further complaints of noise nuisance from the premises, five occasions when circumventing the noise limiting device have been witnessed by officers, two further occasions where statutory noise nuisance had been witnessed, despite the noise limiting device being re-set, two occasions when officers had witnessed the premises over-running the licence and further incidents of public disorder outside the premises. The noise team were currently progressing a prosecution for a statutory noise nuisance. Many residents lived within 50 yards of the premises and the level and frequency of noise was leading to significant impact on sleep, particularly when most of the complaints received were between 00.00 and 06.00. The current activities permitted by the licence were not appropriate for the vicinity. Despite the transfer of the premises to Club Ebony Ltd, on 4 November 2013, there had been four separate complaints of noise nuisance received.

The licensing sub-committee heard from the police who advised that they supported the review application. The police confirmed that they had received numerous calls regarding noise nuisance.

The licensing sub-committee heard from the planning officer who supported the review of the premises licence on the grounds of public nuisance to surrounding residents. The officer advised that the premises had not been granted planning permission for use as a night club and at best, the most appropriate use of the premises would be as an A4 public house with a closing time of 23.00.

The licensing sub-committee heard from the health and safety officer who advised that he had visited the premises on 22 June 2013 and faced obstruction from door staff, who would not let him into the premises and even when returning with the police, the police were stopped by the door staff. The officer also informed the sub-committee that the London Fire Brigade had served a prohibition notice on 6 June 2013 on the premises to prohibit the use of the upper floors as sleeping accommodation, and the use of the kitchen. He went on to advise that the council's residential team had served a prohibition order on the previous designated premises supervisor, Mr Kolawole Adeleye, to prohibit the use of the kitchen and the bedsits on the first, second and third floors. This was a category 1 fire hazard of the use of the commercial kitchen as there was no separate means of escape for tenants who had to pass the commercial kitchen to exit the building.

The licensing sub-committee heard from one other person and their witness who complained of loud music regularly being heard from the premises and strongly supported the review. They referred to a schedule of incidents (page 58 and 59 of the agenda), which referred to noise nuisance and flytipping since the transfer of the licence on 4

November 2013.

The licensing sub-committee heard evidence from the representative of Club Ebony, Mr Joseph, who explained that he fully understood the concerns of all parties. When he took over the premises he did not realise the extent of non-compliance and was eager and willing to work with everyone. However, Mr Joseph did express concerns that none of the residents had approached him with their grievances. All he wanted was to be given a chance and be judged on his merits despite having no experience of running a club.

The sub-committee questioned Mr Joseph on a number of aspects relating to his recent transfer of licence in particular, the lease of the premises was purchased for £120,000 for a six month period only. The sub-committee noted that the lease expired on 31 March 2014 with no option of review or renewal. Mr Joseph did not know whether his lease was registered or not. Mr Joseph said that he had made a mistake in that he did not undertake any enquiries regarding the premises licence, nor did his solicitors. The works referred to in condition 844 had not been completed nor had those works referred to in condition 348 of the current licence. He was not aware of the mandatory conditions attached to his licence and believed that everything was in place, despite having a full induction meeting with the licensing unit on 18 November 2013 and signing the minutes of this meeting.

Given the complex history of the premises and the significant number of complaints this licensing sub-committee were of the view that it had no alternative option but to revoke this licence. The sub-committee had no confidence in Mr Joseph's ability to manage the premises, under the current licence, based on his responses to relevant licensing objectives.

In reaching this decision the sub committee had regard to all the relevant considerations and the 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 4.25pm.

CHAIR:

DATED: