



Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Friday 28 November 2014 at 10.00 am at Ground Floor Meeting Room G06 - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Maria Linforth-Hall
Councillor Sandra Rhule

OTHERS PRESENT: Ghazanfar Ali, representative from Foodlink
Alan Aylott, legal representative
Ian Clements, Metropolitan Police Service
Donovan Haye, representative from Club Favour
Jerome Haye, representative from Club Favour
Emeka Osisoma, representative from Club Favour
Philip Somarakis, legal representative

OFFICER SUPPORT: Debra Allday, legal officer
David Franklin, licensing officer
Andrew Weir, 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 advised that both items would be considered as late and urgent.

The chair advised that the order of business would be varied to consider item 6 first.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003: CLUB FAVOUR, GROUND FLOOR, 516 OLD KENT ROAD, LONDON SE1 5BA

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

The metropolitan Police Service representative, the applicant for the review addressed the sub-committee. Members had questions for the police representative.

The representative from the premises and their legal representative addressed the sub-committee. Members had questions for the representative from the premises and their legal representative.

The meeting adjourned at 1.58pm to allow all parties to view CCTV footage.

The meeting reconvened at 2.13pm and the sub-committee viewed the CCTV footage.

All parties were given five minutes for summing up.

The meeting went into closed session at 2.49pm.

The meeting resumed at 4.37pm and the chair read out the decision of the sub-committee

RESOLVED:

That the licence be suspended as an interim step to promote the licensing objectives pending the determination of the review application at the full hearing on 19 December 2014.

Reasons

This was a hearing to consider if it is appropriate to take interim steps to promote the licensing objectives upon receipt of an application by the Metropolitan Police for an expedited summary review of the premises under Section 53A of the Licensing Act 2003.

The licensing sub-committee have considered the application made by the Metropolitan Police Service who informed the sub-committee that on 23 November 2014, between 03.30 and 04.40, two serious assaults occurred at the premises. The first instance involved a female who was allegedly slashed across the back with what the victim believed was a razor blade. The victim was encouraged by staff on the night not to report the incident to the police and was offered a bottle of Champagne by the premises if she did not report the matter. The suspect was removed and no call was made to the emergency services. The second incident concerned an alleged assault on the victim two by door staff at the premises in the course of being ejected. The victim sustained injuries consistent with grievous bodily harm. No calls were made to the emergency services.

The officer also referred to two further reports made to the police on 23 November 2014. At 03.32, the designated premises supervisor (DPS) for the premises called the police stating that two males were attacking people in the street with the night club barriers; this incident was resolved by staff from the premises. At 04.40, the police were contacted and were informed that the victim had been threatened in the club by a group of males and females; they had metal bars and a gun was shown to the victim. When security were informed of this, the victim was told to be quiet. The victim then left the club, leaving her property in the premises. The police have been unable to locate the victim and this particular allegation is considered concluded.

The licensing sub-committee have also considered evidence submitted by the premises licence holder's representative who stated that there was no evidence of serious crime nor any evidence of serious disorder associated with the premises. Whilst there have been two fights, it could not be classed as serious disorder. The female victim had been scratched by a pair of tweezers. The male victim had been assaulted by another patron outside the premises. The suggestion that there had been another five fights in the premises was disputed. The premises advised that to date the police had not been to the premises to view the CCTV and therefore the statements made by the police could only be considered as innuendo. The premises provided a series of CCTV excerpts of the two primary incidents from 23 November 2014.

On 26 November 2014 the Borough Commander for the Metropolitan Police certified that in his opinion the premises were associated with serious crime or serious disorder or both and instigated the Section 53A summary licence review process. Two serious assaults occurred on 23 November 2014. Whilst the licensing sub-committee accept that the female victim was not the subject of a serious crime in that she sustained injuries amounting to actual bodily harm rather than grievous bodily harm coupled with the further incident (at 04.10) did amount to serious disorder. The second incident started in the toilets of the premises and spilled out onto the street. This contradicted the premises initial contention that there had been no fighting in the premises.

The premises are already subject to interim steps that were imposed on 17 October 2014. In particular, two conditions were imposed namely "That all incidents involving violence that result in an injury or accidents that result in an injury shall be reported as soon as practicable to the emergency services". The first of the assaults that occurred on 23 November 2014 was not reported and it is unclear whether the second assault was reported to the emergency services. An additional condition was added namely "That an incident log will be kept and maintained at the premises. All incidents will be logged as soon as practicable. The log will be made available on request from the police or other authorised officers". The premises did not address whether the two incidents had been logged. Concerning the CCTV, the licensing sub-committee found this evidence to be inconclusive due to its heavily edited form. The sub-committee were extremely concerned in seeing the director of the premises destroying evidence before them, being the tweezers that were allegedly used in the assault of the female victim; the tweezers were used as an offensive weapon and the sub-committee do not understand how they could have been missed when the perpetrator was searched before entering. The premises failed to preserve a crime scene and all forensic opportunities of the tweezers had been lost.

6. LICENSING ACT 2003: FOOD LINK, THE WINDMILL, 98 -100 WYNDHAM ROAD, LONDON SE5 0UB

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

The Metropolitan Police Representative, the applicant for the review addressed the sub-committee. Members had questions for the police representative.

The representative from the premises and their legal representative addressed the sub-committee. Members had questions for the representative from the premises and their legal representative.

All parties were given five minutes for summing up.

The meeting went into closed session at 12.15pm.

The meeting resumed at 1.34pm and the chair read out the decision of the sub-committee

RESOLVED:

That the following conditions be placed on the premises licence as interim steps to promote the licensing objectives pending the determination of the review application at the full hearing on 19 December 2014:

1. That the licence be suspended between the hours of 24.00 and 06.00 daily.
2. That Shabir Hussain be suspended from employment at the premises and all associated premises.
3. That all members of staff undertake conflict awareness training within five working days.
4. That a scene preservation policy be implemented and that all staff be trained on its content, within five working days.

Reasons

This was a hearing to consider if it is appropriate to take interim steps to promote the licensing objectives upon receipt of an application by the Metropolitan Police for an expedited summary review of the premises under Section 53 A of the Licensing Act 2003.

The licensing sub-committee considered the application made by the Metropolitan Police Service. The application related to an incident that occurred on 19 November 2014 at 00.25, where a serious assault occurred and a member of staff received multiple stab wounds to the arm and back. A number of suspects had entered the premises and selected items, including alcohol. An argument ensued and they started shouting abuse at the staff. A member of staff was seen on CCTV leaving the premises brandishing a long iron bar and swung it at the suspects. A fight started when the victim received multiple stab wounds.

The licensing sub-committee have also considered evidence submitted by the premises licence holder's representative who stated that the licence holder was in the process of closing the premises when the suspects barged their way into the premises. They were already in possession of a bottle of alcohol. One of the members of staff saw one of the suspects in possession of a knife and attempted to usher the suspects out. The other member of staff exited the premises wielding a broken mop handle as one of the suspects was outside banging on the shop windows. It was at this time that the member of staff was attacked and injured. The representative advised the sub-committee that this was not a premises associated with a history serious crime or serious disorder. Regardless, the representative offered conditions 2 to 4 above and invited the sub-committee, should they be minded to suspend the licence, that the hours of suspension be limited between 24.00 and 06.00 daily.

A very serious assault took place on 19 November 2014. On 26 November 2014, the Superintendent for the Metropolitan Police Service in Southwark certified that the premises was associated with serious crime or disorder (or both), thereby applying for a summary review of the premises licence. The premises was in breach of condition 343 which states "There will be window service only between the hours of 24.00 and 06.00. No members of the public will be allowed on the premises during this time." The licensing sub-committee accept that a breach of condition 343, in itself would not attract a summary review. However, the breach of the condition on 19 November 2014 resulted in an individual being seriously injured. Evidence has been presented that the same condition was breached on 23 November 2014, which demonstrates a disregard for the importance of the condition being placed on the licence. It is for this reason that the daily suspension of the licence is imposed.

In reaching this decision the sub committee had regard to all the relevant considerations and the four licensing objectives and considered that its decision was appropriate and proportionate in order to address the licensing objectives.

Appeal rights

There is no right of appeal to a magistrates' court against the licensing authority's decision at this stage.

The premises licence holder may make representation against any interim steps imposed and a hearing to consider the representation will be held within 48 hours of receipt of the representation.

Any representation should be in writing and cannot be received outside of normal office hours.

The meeting ended at 4.45pm.

CHAIR:

DATED: