



## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 23 July 2015 at 10.00 am at Ground Floor Meeting Room G02B - 160 Tooley Street, London SE1 2QH

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- PRESENT:** Councillor Stephanie Cryan (Chair)  
Councillor David Hubber  
Councillor Sunny Lambe
- OTHER S PRESENT:** Tushar Patel, owner, Express Supersave  
A Patel, owner, Express Supersave  
P. Sivashankar, legal representative, Express Supersave  
T Turnham, local resident  
Laurence Marsh, Herne Hill Society  
John Brunton, Herne Hill Society  
Councillor Michael Mitchell, ward councillor  
Brook Anderson, designated premises supervisor, Dee Dee's  
L. Potter, licensing representative, Dee Dee's  
Graham Hopkins, licensing representative, Dee Dee's
- OFFICER SUPPORT:** Debra Allday, legal officer  
Kristie Ashenden, licensing officer  
Dorcas Mills, licensing officer  
Bill Masini, trading standards officer  
Sarah Newman, environmental protection officer  
Alison Brittain, planning officer  
Andrew Weir, constitutional officer

### 1. APPOINTMENT OF CHAIR

Councillor Stephanie Cryan was nominated to chair the meeting by Councillor David Hubber. This was seconded by Councillor Sunny Lambe.

### 2. APOLOGIES

There were none.

**3. CONFIRMATION OF VOTING MEMBERS**

The members present were confirmed as the voting members.

**4. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT**

There were none.

**5. DISCLOSURE OF INTERESTS AND DISPENSATIONS**

There were none.

**6. LICENSING ACT 2003: EXPRESS SUPERSAVE, 109 TO 115 BLACKFRIARS ROAD, LONDON SE1 8HW**

The licensing officer presented their report. They advised that the original hearing had been postponed from 26 June 2015 to this date at the request of both the premises and trading standards. Additional papers from the premises were circulated to all parties. Members had no questions for the licensing officer.

The licensing sub-committee heard from the trading standards officer, the applicant for the review. Members had questions for the trading standards officer.

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

All parties were given five minutes for summing up.

The meeting went into closed session at 11.10am.

The meeting resumed at 12.36pm and the chair read out the decision of the sub-committee.

**RESOLVED:**

That the council's licensing sub-committee, having had regard to the application made under Section 51 of the Licensing Act 2003 by Southwark Council's trading standards service for a review of the premises licence issued in respect of the premises known as Express Supersave, 109-115 Blackfriars Road, London SE1 8HW 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**

The reasons for this decision are as follows:

The licensing sub-committee heard from the trading standards officer, the applicant for the

review who stated that trading standards visited the premises on 10 April 2015 with the police and the UK border force. At the time a person working at the premises was found to be on a student visa and not permitted to work and was being paid £40 for 10 hour shifts, being below the national minimum wage, which should be £6.50 per hour. There were also breaches of the licensing conditions (condition 4A1 refusals register, 4AB staff training and 4AA Challenge 25). The trading standards officer also advised the sub-committee that information had been received from Islington Council concerning a premises that had been owned by Suresh Patel (also known as Tushar Patel). Islington Council provided a notice of decision dated 21 January 2014 where the premises licence was revoked following the Islington trading standards team seizing illicit wine from the premises on three occasions in 2013 and the inability to manage underage sales. In July 2014, a further underage sale of tobacco took place and a warning letter was issued.

The licensing sub-committee noted the written representation from the public health authority.

The licensing sub-committee heard from the representatives from the premises who said that the Islington case was not relevant and that there was no evidence of a breach of licensing objectives in Southwark. He advised that it had been the staff who had been the problem and it had not been the Patel family who had mismanaged the business. As a result of the visit by Southwark trading standards all the staff had been dismissed and the premises was now a family run business. Concerning the allegations made by trading standards the representative for the licence holder suggested that the sub-committee could not consider the alleged breaches of the licensing conditions. This was a matter for the magistrates' court for offences contrary to Section 136 of the Licensing Act 2003. The allegations were not substantiated and therefore, could not be considered as undermining the licensing objectives. It was accepted that there had been "sloppy record keeping" but they contended that this did not necessarily mean the licensing objectives had been undermined. They also submitted that the police had not made a representation and that the police were the primary responsible authority regarding crime and disorder.

The licensing sub-committee were extremely concerned that the licence holder had a premises in the London Borough of Islington which was subject to a review in respect of underage sales. During the course of the Islington review and immediately thereafter this licensing sub-committee would have expected that the premises licence holder would have ensured that any other licensed premises were compliant with their licensing conditions. They did not. It was noted that in May 2013 that the premises were inspected and were found not to be compliant. They were compliant in January 2014, immediately after the revocation of the licence in Islington. In August 2014 trading standards visited the premises and provided them with advice and an age restricted sales pack. Following this, it was noted that from the refusals register provided by the premises licence holder that there had been only four refusals noted until the trading standards visit on 10 April 2015. The trading standards officer advised that given the busy location of the premises, in his experience he would expect to see at least two refused sales per fortnight.

It was accepted by the licence holder that no training had been provided in respect of Challenge 25. This was confirmed by staff during the trading standards visit. Therefore, given that staff did not know the concept of Challenge 25, it was impossible to ensure that underage sales had not taken place. When questioned, the representative said that new systems had been put in place including a new refusals register. However, this was not available to the licensing sub-committee. The previous refusals register was provided and

it was noted that the last refusal was dated 22 July 2015. This licensing sub-committee do not accept that new systems have been but in place.

It was again accepted that an illegal worker had been employed at the premises and the reasons that staff were being paid cash from the till was due to delays with their accountants. The licence holder was unable to provided documentary evidence of the PAYE status of their staff, despite the incident leading to the review taking place over three months a go. With regard to the allegation of employing staff below the minimum wage, the licensing sub-committee did not find the suggestion of the oral agreement with a member of staff as believable.

The matters that have been put before the sub-committee all amount to criminal offences and undermine the licensing objectives. The sub-committee considered imposing additional conditions. However, conditions proposed by the police and trading standards that were agreed to be appropriate and proportionate were agreed to by the premises licence holder in 2011 when they varied the licence which included conditions relating to training (condition 4AB), Challenge 25 (condition 4AA) and refusals book (condition 4AI), but the licence holder has been found to be unable to comply with these conditions. Concerning removing the designated premises supervisor (DPS) the licensing sub-committee were of the view that in light of the lack of change in the management of the business since the revocation of the Islington premises licence, a change in DPS would have no effect. This licensing sub-committee have no confidence what so ever in the management of the premises and have decided to revoke the licence accordingly.

The sub-committee were satisfied that this decision was appropriate and proportionate in order to address the licensing objectives.

### **Appeal rights**

This decision is open to appeal by either:

- 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
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

## **7. LICENSING ACT 2003: DEE DEE'S, 77 HERNE HILL, LONDON SE24 9NE**

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

The local resident, the applicant for the review addressed the sub-committee. Members

had questions for the applicant.

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

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

The other persons supporting the review addressed the sub-committee. Members had questions for the other persons.

The premises licence holder and their representatives addressed the sub-committee. Members had questions for the premises licence holder and their representatives.

All parties were given five minutes for summing up.

The meeting went into closed session at 1.47pm.

The meeting resumed at 3.18pm and the chair read out the decision of the sub-committee.

**RESOLVED:**

That the council's licensing sub-committee, having had regard to the application made under Section 51 of the Licensing Act 2003 by an other person for a review of the premises licence issued in respect of the premises known as Dee Dee's, 77 Herne Hill, London SE24 9NE and having had regard also to all other relevant representations has decided that the following are necessary for the promotion of the licensing objectives:

- a) That the licence shall be suspended for a period of four weeks.
- b) That live music shall be excluded from the scope of the licence and that Section 177A of the Licensing Act 2003 does not apply.
- c) That the conditions of the licence shall be modified as follows:
  - 1) That a sound limiting device shall be installed, set and maintained, to ensure the maximum levels of volume and bass of music, song or speech from licensed entertainment permitted by the amplification system, does not cause a public nuisance in the vicinity of the premises or intrude inside the nearest or most exposed noise sensitive premises.
  - 2) That acoustic seals, brushes and self closers (in accordance with BS 6459 Pt.1 1984) shall be installed to (specified) door/fire doors.
  - 3) That self closers (in accordance with BS 6459 Pt.1 1984) shall be installed to the gate.
  - 4) That acoustic, double or secondary glazing shall be installed to (specified) glazed areas to minimise sound escape from the premises.
  - 5) That the premises shall be adequately cooled to allow doors and windows to remain

closed during licensed entertainment.

- 6) That sound insulation of an adequate specification shall be installed to any shared walls/floors/ceilings to ensure that noise from the operation of the premises does not cause any intrusion in neighbouring property (Note – specification – 100mm polystyrene, 150mm acoustic rockwool and marine plywood).
- 7) That all audio and musical equipment used in the premises, permitted under the Licensing Act 2003 or the Live Music Act 2012, shall be played through the installed sound limiting device.
- 8) That all speakers for the broadcast of sound within the premises shall be isolated from the structure of the premises by anti-vibration mountings or mats.
- 9) That during licensed entertainment on the premises, permitted under the Licensing act 2003 or the Live Music Act 2012, all doors and windows shall remain closed (except for access or egress).
- 10) That amplified music, song or speech shall not be broadcast in external areas at any time.
- 11) That there shall be no drinks permitted outside on the frontage/terrace/in the garden after 22.00.
- 12) That there shall be no more than five persons permitted outside to smoke only, on the frontage/terrace/in the garden after 22.00.
- 13) That external waste handling, collections, deliveries and the cleaning of external areas shall only occur between the hours of 08.00 and 20.00.
- 14) That clearly legible signage shall be prominently displayed at all patron exits, where it can be easily seen and read, requesting that patrons leave the premises in a quiet and orderly manner that is respectful to neighbours.
- 15) That the details of a local taxi company shall be kept at the premises and shall be provided to customers on request. If staff at the premises order a taxi for a customer they shall request that the taxi controller instructs the taxi driver not to sound their vehicle horn on arrival but approach a staff member and let them know that they have arrived.
- 16) That the premises licence holder shall display a telephone number for local residents to contact management of the premises as and when necessary.
- 17) That all complaint shall be logged in an incident book along with any corrective action taken.
- 18) That the licensee shall ensure all staff working at the premises are trained on the conditions of the licence with particular regard to noise control and patron management. The records of all such training shall be kept at the premises and be made available to council officer or the police on request.

## Reasons

The reasons for this decision are as follows:

The licensing sub-committee heard from the other person, the applicant for the review who advised that he had lived above the premises for approximately one year. He submitted the review on the grounds of all for of the licensing objectives and stated that the premises were operating as a club, they regularly held party type events which were not appropriate for a residential area. He advised that the premises often played music beyond the terminal hour and that they had regularly flaunted the licensing conditions. In particular, on Mondays and Tuesdays the noise reverberated up the walls and into his home. All attempts to discuss the issues with the management of the premises had been futile and he was unable to relax in his own home.

The licensing sub-committee heard from the environmental protection officer, supporting the review who advised that there had been concerns regarding noise nuisance from the premises for some time. However a statutory noise nuisance had not been witnessed until February 2015. The officer advised that she had been also on the cusp of submitting a review of the premises licence.

They advised that the premises licence holder had not taken the detailed advice of the environmental protection team in relation to ways to prevent noise nuisance from emanating from the premises.

The officer advised that prior to the meeting they had spoken to the premises licence holder and their representative and had agreed that live music would be removed from the scope of the licence and that the outside terrace would not be used after 22.00. A number of other conditions were also agreed.

The licensing sub-committee heard from the planning officer supporting the review who advised that the premises were causing a public nuisance by not adhering to their planning conditions. The planning conditions were intended to protect residential amenity which overlaps with public nuisance as an environmental concern. The location of the applicant's home means that they are particularly affected by the operation of the premises.

They further advised that the premises licence holder had obtained temporary event notices, the hours of which breached the permitted hours as per the planning permission. At one time or another, all of the planning conditions have been breached or not complied with. The premises licence holder has been advised of this non-compliance and that this was a live enforcement case.

The licensing sub-committee noted the written representations from five other persons supporting the review. The sub-committee heard from the representative of the Herne Hill Society. They acknowledged that the premises licence holder had agreed to refrain from playing live music but still had concerns of the significant noise caused by speech, laughter and applause throughout the building. They also submitted that there had been a number of breaches of licensing and planning conditions and questioned the approach of the management and their failure to ensure compliance. Whilst the licensing sub-committee could modify the conditions of the licence there was no assurance that the conditions would be complied with.

The licensing sub-committee noted the written representations from other persons supporting the premises who were not in attendance.

The licensing sub-committee heard from the representatives from the premises who, in spite of the complaints said there was no evidence of criminality and they submitted that there had been no representations from the police to support the review and corroborate the applicant's contention that the crime and disorder licensing objective had been undermined.

The representative for the premises advised that the premises licence holder had agreed to a number of conditions with the environmental protection team (EPT) along with removing live music from the scope of the licence. They advised that they would install air conditioning, which would be subject to planning permission, and would also provide training to staff with particular emphasis on noise issues.

The licensing sub-committee were pleased that the lines of communication between the parties were now open. However, the sub-committee had concerns regarding the extent of noise complaints made in respect of the premises. The sub-committee had serious regard to the non-compliance and number of breaches of the licensing conditions and planning permission, which could not be overlooked.

The licensing sub-committee were satisfied that if complied with, the conditions agreed between the environmental protection team and the premises licence holder would be appropriate and proportionate in addressing the licensing objectives and complaints.

The sub-committee are concerned that without certain works, such as the sound insulation of the building and the installation of the air conditioning being installed, being carried out there will be ongoing complaints of noise nuisance. The sub-committee felt that the four week suspension would give the premises licence holder an opportunity to advance the necessary works outlined in the conditions.

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

### **Appeal rights**

This decision is open to appeal by either:

- 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
- b) In the event of any notice of appeal being given, until the appeal is disposed of.



Meeting ended at 3.26 pm

**CHAIR:**

**DATED:**