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NOTICE OF DECISION

LICENSING SUB-COMMITTEE –19 JANUARY 2024

SECTION 53A LICENSING ACT 2003: CLUB 701, BASEMENT AND GROUND FLOORS, 516 OLD KENT ROAD, LONDON SE1 5BA

1. Decision

That as an interim step to promote the licensing objectives, pending the determination of the full review application in respect of the premises known as Club 701, Basement and Ground Floors, 516 Old Kent Road, London SE1 5BA at the full hearing, to be held on 8 February 2024, the licence be suspended.

2. Reasons

This was an application made by the Metropolitan Police Service for a summary review under s.53A Licensing Act 2003 in respect of the premises known as Club 701, Basement and Ground Floors, 516 Old Kent Rd, London, SE1 5BA and whether it was appropriate to take interim steps pending the determination of the full application for review under s.53C of the Licensing Act 2003.

The Licensing Sub-Committee heard from the Metropolitan Police Service who advised that following a Superintendent certifying it was that in their opinion the premises were associated with serious crime, serious disorder or both, on 17 January 2024, an application was submitted for a summary review of the premises licence issued in respect of Club 701, Basement and Ground Floors, 516 Old Kent Road, London SE1 5BA. The application concerned an allegation of a serious incident that took place between 02:15 hours and 02:45 hours on 2 January 2024 when the premises should have been closed, detailed in the crime report number 3001447/24.

Pursuant to regulation 14(2) of The Licensing Act 2003 (Hearings) Regulations 2003 the members of the sub-committee heard evidence from the Police in the absence of all other members of the public, including representatives from the premises as it was considered the public interest in doing so outweighed the public interest in that part of the hearing taking place in publicly. Further, as at the time of the sub-committee, no arrests had been made and the premature disclosure of the details to the representatives for the premises could jeopardize the on-going investigation. The Police requested that as an interim step to suspend this premises licence pending the outcome of a full review on 8 February 2024.

The Licensing Sub-Committee then heard from the Designated Premises Supervisor (DPS) who confirmed that the premises was open to the public ticketed event on 1 into 2 January 2024 and there was no temporary event notice for the event, which was a Tuesday. However, the DPS was genuinely surprised that the a serious crime had taken place because he had been at the premises himself that night, it wasn't busy, with no more than 50 patrons in premises that night, so it was decided to close at 02:30 hours, with all patrons out of the premises by 03:00 hours. The DPS was unable to comment any further than this, particularly how a potential future incident could be avoided, because the premises had not been made party as to what the allegation(s) was.

The DPS stated that he had inspected the CCTV footage from that night, but he had observed nothing untoward. Furthermore, no complaint was made had been made from any person concerning the events of that night and there was a loyal team of eight SIA officers and three stewards working that night, none of whom had observed anything that could resembling serious crime or serious disorder.

The DPS also accepted he was personally responsible that no TEN was in place for the event and stated that he did not know that the premises was not authorised to open, stating that he had never been inducted about it because TENs were ordinarily submitted and it was not worth the risk to operate without it. If there had been any doubt, staff would have approached him to ensure that the TEN was in place, but nobody ever informed him and stated that the conditions of the premises was already complicated. Internationally, 1 January was considered a bank holiday and for that reason, the DPS thought that the premises was permitted to open.

It was explained to the DPS that the premises licence permitted the premises to remain open longer on New Year's morning, but there was nothing that in the premises licence that permitted opening on 1 January 2024 after 05:00 hours and should not have been opened that evening or on 2 January 2024 which was provided for in condition 396 on the premises licence. It was also noted by members that the event had been advertised on the Internet in advance was ticketed. The DPS accepted this, but stated that the event was a New Year's Day party, that was meant to run until 02:00-03:00 hours. The Chair of the sub-committee stated that this was at odds with the event being advertised as admission until 04:00 hours. The DPS attempted to explain that this was a '*promoter thing*', stating that he never planned to open that late because he knew people were tired and the promoter was aware of this.

The Licensing Sub-Committee then heard from the owner of the premises who since 2019 had very restricted role in the premises following condition 840 being placed on the licence. The owner stated that he was out of the country on 1and 2 January 2024. The concerns from the police, were only brought to his attention on 18 January. Since that time, he had been told that there had been only 50 patrons at the premises he had met with his staff, including the SIA door staff and none one was aware of any incident that may have happened. He had also viewed the CCTV, but there was nothing to show of any serious crime as indicated on the police. It was unfair to close the premises, potentially for months, due to an alleged offence which would have a devastating impact on staff and the business.

The Licensing Sub-Committee was satisfied because the premises was open when it was not permitted to, serious crime and/or serious disorder had taken place. The premises has history of operating without the necessary permissions in place as detailed in operating history of the Agenda. The premises was also subject to a summary review in 2019 following an incident when the premises was operating without the correct authorisation in place, whether by way of a premises licence or TEN. The police also informed the sub-committee that on or around 3 January 2024 credible information had been received by the Police that members of a gang would be attending the premises and committing serious violence, although in respect of this, the premises did not open voluntarily.

Although the DPS stated that he was an experienced DPS and had held a personal licence since 2016, he contradicted himself in his verbal submission, his explanation for not submitting a TENs was poor and he had demonstrated that he did not have a full understanding with the terms of the premise licence.

The sub-committee concluded that the suspension was necessary and proportionate to promote the licensing objective of the prevention of crime and disorder and no other modifications to the premises licence would be appropriate at this time given the seriousness of the incident, the breaches of licence conditions on this occasion, and the previous operating history of the premises.

3. 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. The holder of the premises licence may only make further representations if there has been a material change in circumstances since the authority made its determination.

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

Issued by the Constitutional Team on behalf of the Assistant Chief Executive – Governance and Assurance

Date: 19 January 2024

Southwark Council

NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 8 FEBRUARY 2024

SECTION 53C LICENSING ACT 2003: CLUB 701, BASEMENT AND GROUND FLOORS, 516 OLD KENT ROAD, LONDON SE1 5BA

1. Decision

That the council's licensing sub-committee, having considered an application made under Section 53C of the Licensing Act 2003 by the Metropolitan Police Service for the review of the premises licence issued in respect of the premises known as Club 701, Basement and Ground Floors, 516 Old Kent Road, London SE1 5BA and having had regard to all relevant representations has decided it necessary for the promotion of the licensing objectives to revoke the premises licence.

2. Reasons for the decision

This was an application made by the Metropolitan Police Service for a review of the premises licence in respect of the premises known as Club 701, Basement and Ground Floors, 516 Old Kent Road, London SE1 5BA.

The licensing sub-committee heard from the representative for the Metropolitan Police Service who advised that on 17 January 2024, the Metropolitan Police Service applied for a summary review of the premises licence issued in respect of the premises following a Police Superintendent certifying that, in their opinion, the premises are associated with serious crime, serious disorder or both.

The application concerned an allegation of a very serious incident of assault that took place at the premises on 2 January 2024 between 02:15 and 02:45 at a time the premises was not authorised to be open. The premises licence did not permit the premises to be open on Tuesdays nor was there a Temporary Event Notice (TEN) in place for the premises to operate. The Police stated the incident would not have occurred had the premises been closed. Regarding the incident, it remained an on-going criminal investigation and charges had yet to be laid.

The police stated that Club 701 was a serially non-compliant premises, and that stating that the early morning of 2 January formed part of its trading day of 1 January, was not credible. They referred to condition 396: "That on Sundays prior to Bank Holiday Mondays, Christmas Eve and New Year's Eve the permitted opening hours of the premises are between 22:00 to 05:00 and licensable activities must cease at 04:00 on these days". The premises had a poor compliance history and had been given many chances over the years to comply. The premises was not capable of being run as a compliant venue which flew in the face of the prevention of crime and disorder licensing objective.

A similar serious incident had occurred after licensed hours in 2019 which had left a man in an induced coma. This resulted in the Police submitting a summary review of the premises licence. On that occasion, the licensing sub-committee suspended the

premises licence for three months, Mr Doe was prohibited from playing any part in the day-to-day management of the premises and the licence conditions were modified. The sub-committee had been lenient in 2019; the license holder had told members that the 2019 incident had been a one-off and did not justify the revocation of the licence. The 2019 incident was clearly not a one-off. The incident in the early hours of 2 January 2024 had taken place in a similar fashion and the sub-committee could not treat the breach as minor.

The police informed the sub-committee that as a result of their investigation into the incident on 2 January 2024, additional breaches of licence conditions had transpired, demonstrating wider non-compliance:

i. CCTV footage could not be found following a flood on 17 December at the Kent Restaurant and Lounge. Police were only able to access part of CCTV as there was a missing camera and what was provided was grainy, poor quality, and incorrectly timestamped.

ii. Males had been seen (on the CCTV) wearing hats and hoods which is a breach of condition 373 "That customers shall not be permitted to wear hats or hoods whilst inside the venue".

iii. The alleged perpetrator of the assault on 2 January 2024 had also not been registered on the ID scanner in breach of condition 342 which had been accepted by the venue.

iv. Due to financial constraints, the venue had not completed training yet and had refresher training completed at speed in the previous seven days. This included "staff complete licensing SAVI training last year". SAVI is an accreditation; it does not supply training. Enquiries made by the police, found that the venue had been historically accredited, but this had lapsed in August 2022. The premises stated that there was approximately 10 staff and that they had focussed on essential training.

The licensing sub-committee heard from licensing as a responsible authority who outlined the premises licence history and also sought a revocation of the premises licence.

The licensing sub-committee then heard from the representative for the premises who advised that it was too simplistic for the police to state that the incident would not have occurred if the premises had been closed. The incident may have occurred if a TEN was in operation or on a night when the venue was operating under the premises licence.

Regarding the incidents, the alleged suspect knew the victim in his private capacity and at the time was an off-duty doorman. The alleged assault had taken place in a separate location; accessible only to the off-duty doorman through his knowledge of the premises. The representative for the premises asserted that the incident could not have been foreseen.

When the venue was under operation as MyTribe, the venue had a proven history of violence; this was not the case now. The Police no longer regarded Club 701 as a

venue blighted with crime and disorder. The trigger incident in 2019 (that was subject to the previous expedited review) was an assault and the DPS was not effective and did not support the premises licence conditions. Furthermore, since 2019 it was a condition that Mr Doe, who was present on the day of the assault in 2019, not take part in direct day to day affairs, which he had not. In light of this, the sub-committee were invited to disregard the 2019 incident and matters raised up to 2019 had been dealt with by the licensing sub-committee at that time.

When asked about violent incidents since 2019, the DPS accepted that there had been some minor incidents, but the police had been informed of them each time and had been offered the relevant CCTV footage. The venue had always co-operated with the police and by way of example, when the police advised of the potential gang activity on 3 January 2024, the DPS voluntarily did not open. The police stated that they had been aware of nine incidents and that reports had been made by both the DPS and victims. The representative for the premises added that seven of the nine incidents resulted in no further action being taken and two were on-going. It was also made clear that the incident of 2 January took place in the adjoining Kent Restaurant and Lounge, not Club 701. The DPS was responsible only for Club 701 and not Kent Restaurant and Lounge.

Under the new DPS, the location had had a much needed revamp. New strict rules had been introduced as to how the venue was policed, such as the number of door staff. Under condition 841, six SIA door staff were required, but the new DPS had introduce eight to ten door staff on average.

The CCTV time lag had been explained to the police when the footage was provided to them. It was a minor issue that required the premises to call an IT engineer to sort out, but the police required the recordings before it could be addressed. The police had been provided with all the information needed alongside the CCTV recordings. Regarding the error with one of the CCTV cameras not being included on the USB, the police had been offered extensive opportunities to view the CCTV in situ and a further copy was supplied later.

The IT engineer was asked why the police would have said the quality wasn't good, the CCTV footage was not time stamped, some was too "grainy" or set at the wrong speed and some not time stamped, but the IT engineer was unable to explain and stated that it could be a network issue. Regardless, the DPS confirmed that the CCTV was now up to specification.

With regard to non-compliance with the ID scanner in condition 342, the sub-committee were advised that while the exact wording had not been complied with, the requirements had been. Staff were all checked in via a written record. Moving forward, the venue said door staff would go through the ID scanner and also register in the written record.

In discussions, the police advised members that they had not received the log of staff on duty for the 1-2 January and that it was the first time they had heard that the alleged perpetrator of the assault was off duty that night. The venue stated that he attended the venue for a night out as he often did. Because he was not staff that night, the representative for the premises said he would not have required to go

through the ID scanner in any event. It was confirmed that he didn't because staff knew him, but acknowledged that this was a mistake.

The police stated that people were in the venue with hoodies and hats, but the sub-committee were reminded that it was cold, it was a January night. Customers had been told to remove the offending items prior to going through the ID scanner. The police may have cited that customers wearing hoodies/hats as an example of a breach of conditions, but it was something that could be explained.

The police stated that the CCTV showed that customers were wearing hats/hoodies on the dance floor. However, because there was no time stamp on the CCTV, officers could not link those customers with the hats/hoodies with other cameras, so it couldn't be established who came into the premises' foyer wearing them and who took them off for the ID scanner and then put them back on later. Regardless, condition 373 of the premises licence provided: "Customers will not be permitted to wear hats or hoods while in the venue". Under the premises licence, the foyer was within the premises and therefore none should be worn there in any event.

The representative for the premises said that there had been 13 TENs in 2023, none of which had been objected to; so there was no reason to assume a TEN for the 2 January would be an issue. If a TEN had been submitted there was no reason it would have been objected to yet the incident may have occurred regardless. The lack of TEN was an honest mistake. The DPS assumed that a TEN wasn't needed, it was a national holiday and he believed that one was not required.

The DPS accepted that he couldn't do everything and a named member of staff ordinarily submitted on the DPS' behalf. The DPS accepted that the oversight of the TEN was his responsibility, but stressed to the sub-committee that he turned the venue around and achieved a lot of positives since he had taken over the DPS role. Ultimately, Mr Doe accepted Club 701 was his business and it was he who had to take responsibility for the lack of a TEN.

Concerning the delayed payment of the license fee, it transpired that the licensing authority had the incorrect email address and unfortunately, post was being sent to the church rather than Club 701 and the church were returning it. As soon as the premises realised the non-payment of the licence fee, it was rectified immediately.

The police had advised the sub-committee that there had been "numerous complaints from residents". This was a misleading statement. There had been complaints from residents, but this was prior to the 2019 change in management. Since that time, there had been virtually no such complaints.

This was an application made by the Metropolitan Police Service for the review of the premises licence issued in respect of the premises known as Club 701, Basement and Ground Floors, 516 Old Kent Road, London SE1 5BA.

The licensing sub-committee's role in the review application is to look at the venue's past operation and determine whether the venue was safe to reopen and whether the venue is capable of promoting the licensing objectives. It is not for the sub-committee to determine whether the incident that triggered the summary review on 2 January 2024 did or did not occur. The sub-committee is also mindful of the

sensitivity of the incident alleged to have taken place and this decision should not be taken to be determinative of the police criminal investigation.

Having heard the submissions from the police, licensing as a responsible authority, the premises and having considered all of the written representations this sub-committee found:

1. The venue previously operated under previous management as MyTribe and had its premises licence revoked.

2. In February 2016, a premises licence was issued in respect of the premises to Erico Entertainment Limited.

3. Licensing induction meetings took place with the premises on 8 July 2016, 26 November 2016, 11 June 2019. The purposes of the induction meetings is to explain the terms and conditions of the premises licence.

4. Closure Notices had been issued by the Police under section 19 of the Criminal Justice and Police Act 2001 on 13 August 2016, 10 September 2016, 23 October 2016 as a result of breaches of licence conditions.

5. Following licensing inspections, breaches of licence conditions were identified on the 2 September 2017 and 11 November 2017.

6. On 5 November 2019 an application for a summary review was made following a serious incident. At the final licensing sub-committee hearing on 28 November 2019, the premises licence was suspended for three months, the DPS was removed and licence modified with conditions, amongst which Eric Doe was to have no operational involvement in the premises.

7. On the night of 1-2 January 2024:

    i. The suspect of the assault had not been registered through the ID scanner in breach of condition 342. The premises accepted that it had not been compliant.

    ii. Males had been seen on CCTV wearing hats/hoods in breach of condition 373. This was accepted in part by the premises.

    iii. The CCTV was inadequate in that CCTV footage could not be found (following a flood on 17 December at the Kent Restaurant and Lounge), there was a time lag on the CCTV, the footage was not time stamped, the quality of it was of no evidential value and the CCTV provided was missing footage from one camera. This was in breach of conditions 288, 340 and 343. Again, this was partially accepted by the premises.

    iv. The premises also accepted that as of the 1-2 January 2024 was not up to date with its staff training, in part due to financial pressure brought by the pandemic. Although the sub-committee recognised

the impact the pandemic had on the hospitality industry, this was a breach of condition 843.

v. The venue operated with no authorisation in place (whether under the premises licence or under a TENs).

vi. The premises did not pay their annual license payment therefore, the premises licence was effectively suspended. The venue continued to operate regardless.

vii. On 17 January 2024, the Metropolitan Police applied for a summary review of the premises licence relating to Club 701 under section 53A of the Licensing Act 2003. The application was accompanied by a certificate signed by a Superintendent who expressed they were of the opinion that the premises is associated with serious crime and/or serious disorder.

viii. A remote interim steps hearing was held on 19 January 2024 to consider whether it was necessary to impose interim steps pending the full determination of that review application. Having heard representations made on behalf of both the Metropolitan Police and the Premises Licence Holder, the sub-committee determined it was necessary to suspend the premises licence until the main review hearing which took place on 8 February 2024.

ix. The venue were used to applying for TENs and they had not exceeded its annual TENs allowance. The sub-committee found the absence of a TEN was a deliberate act of avoidance.

The incident in the early hours of 2 January may not have been foreseen, but its occurrence resulted in the discovery of breaches (of licence conditions). Attempts were made to explain the breaches, however, the sub-committee were not impressed with the explanations provided. The breaches are not "minor" and cumulatively could have a detrimental effect on the police investigation.

The police referred to the breaches as akin to the culture of non-compliance that led to incidents in 2019; the sub-committee are duty bound to consider. Compliance with licence conditions is not optional.

Under Southwark's statement of licensing policy 2021- 2026 the premises is located in a residential area and (with the exception of hotels), the appropriate closing time for all drinking establishments in this area is recommended as appropriate within this area as 23:00 daily.

A significant number of licence breaches have taken place at this premises over a considerable period of time. The breaches in 2019 replicate those in 2024. Paragraph 4.97 of the Section 182 guidance provides:

> "…..the management committee will collectively be responsible for ensuring compliance with licence conditions and the law".

There have been issues at the premises since well before 2019. The premises licence holder was given opportunities to rectify those issues in 2019, yet the same issues and licence breaches remain five years after the previous review brought by the Police. The venue has been given ample opportunity to rectify the recurring issues, but it either has been unable or unwilling to do. Its compliance has been reactive, rather than proactive which does not promote the licensing objectives.

Both the police and licensing as a responsible authority have given the premises many chances to operate in compliance with the premises licence. Neither have confidence in the management of the venue and are of the view that it is only a matter of time before another serious incident will occur, if the premises licence is modified.

The options available to this sub-committee are:

i. **Take no action**

The licensing sub-committee have found a significant number of breaches have taken place and taking no action is not an option.

ii. **Modify the conditions of the licence by altering, omitting or adding any conditions**

The premises licence already contains extensive conditions. The representative for the premises suggested modifications of the licence, which included conditioning the operational door between the venue and the Kent Lounge being locked (save for when the Kent Lounge is operational), hourly checks on all members of staff to ensure they are in post and performing their duties and All front of house staff attending Southwark's VAWG training. The licensing authority were also informed that the venue would establish a PO Box and provided an email address.

The premises has been in breach of its licence conditions on a number of occasions and the sub-committee were not satisfied that the addition of further conditions would be complied with given that the premises were unable to comply with the conditions that already exists on its licence.

iii. **Exclude a licensable activity**

The only activity that could be excluded from the licence would be the sale of alcohol. This would be tantamount to a revocation of the licence.

iv. **Remove the designated premises supervisor**

The licensing sub-committee did consider removing the DPS. However, the sub-committee concluded that in order for there to be a material change in Club 701, there needed to be a complete overhaul of senior management of the venue.

v. **Suspend the licence**

With the specifics of this case, a suspension of the licence was considered punitive only and this sub-committee took the view that this was not an appropriate course of action given all the circumstances.

vi. **Revoke the licence**

Paragraph 11.10 of the Section 182 guidance provides "Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this cooperation.

Paragraph 11.20 of the Section 182 Guidance provides:

"In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review."

It is fundamental to the operation of a well-run venue that it has the proper senior management in place who understand their roles and responsibilities. It is quite apparent that this is not the case at Club 701. This sub-committee is not satisfied that the venue has the senior management that have adequately addressed the reasons for their failings following the alleged incident on 2 January 2024. This licensing sub-committee is also not satisfied that any further measures could be put in place to ensure future compliance that would promote the licensing objectives, in particular, the prevention of crime and disorder licensing objective.

In reaching this decision the sub-committee had regard to all the relevant considerations, its equality duties and the four licensing objectives and considered that this decision was appropriate and proportionate

3. 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 District Judge's 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.

4. Review of interim steps pending appeal

At the conclusion of the review hearing the licensing sub-committee reviewed the interim steps to determine which interim steps were appropriate for the promotion of the licensing objectives, pursuant to section 53D of the Licensing Act 2003. The sub-committee concluded that these interim steps were appropriate: that the premises licence be suspended.

The licensing sub-committee were satisfied that these interim steps are appropriate and proportionate to promote the licensing objectives to modify the interim steps, as detailed above.

The interim steps are open to appeal by:

a) The chief officer of police for the police area in which the premises is situated; or
b) The holder of the premises licence

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.

Issued by the Constitutional Team on behalf of the Assistant Chief Executive – Governance and Assurance.

Date: 20 February 2024