

## **London Borough of Brent**

**Decision of the Alcohol and Entertainment Licensing Sub-Committee (C) following a hearing on 27 July 2015 at Brent Civic Centre, Engineers way, Wembley HA9 0FJ**

**Application by the police to review a premises licence relating to Greenes Bar, 362-364 Neasden Lane North NW10 0BT**

### **Members of the Sub-Committee**

Councillors Long (Chair); Hylton and McLeish.

### **The application**

The Sub-Committee has given careful consideration to an application by the Police, under section 51 of the Licensing Act 2003, to review the premises licence relating to Greenes Bar, 362-364 Neasden Lane North NW10 0BT. Mr Timothy Sheahan is the premises licence holder and is also the designated premises supervisor (DPS). The premises are licensed for the sale of alcohol on Mondays to Saturdays from 10.00 hours until 23.00 hours and on Sundays from 10.00 hours until 22.30 hours.

In summary, the Police raised concerns about the following licensing objectives: prevention of crime and disorder, public safety and public nuisance. The Police alleged that Mr Sheahan failed to operate the premises within the limits of his licence, regularly breached the requirements of the Licensing Act 2003 (e.g. continuing to trade beyond authorised times), permitted alcohol sales to persons who were drunk and permitted smoking on his premises. According to the Police, advice, action plans and formal warnings have not been heeded by Mr Sheahan.

The Police requested that Mr Sheahan be removed as the DPS and that various additional conditions be added to the licence.

Representations were also made by the council's Public Safety Team seeking additional conditions to be added to the licence in the interests of public safety.

The full details of the application made by the Police and the representation made by the Public Safety Team, amongst other information, is contained within the document pack attached to the Agenda for our meeting. This information is publicly available and is therefore not repeated in detail in our decision notice. Mr Sheahan did not respond in writing to the complaints or allegations levelled against him and his premises in advance of the hearing.

### **The hearing**

Timothy Oliver Sheahan attended the hearing and he was represented by his agent, Mr Bob Dear.

PC Nicola McDonald represented the police.

Jill Nesbit represented the Public Safety Team.

## **The decision**

We have listened to all the representations and have read all the material.

We have had regard to the statutory guidance issued under section 182 of the Licensing Act 2003, and the Council's own licensing policy.

We have taken into account our duty under section 17 of the Crime and Disorder Act 1998 to have due regard to the likely effect of the exercise of our discretion on, and the need to do all we reasonably can, to prevent crime and disorder in our area and the misuse of alcohol.

We confirm that in making our decision we have sought to promote the licensing objectives.

We also confirm that we have imposed further regulation only if satisfied that it was necessary, proportionate and appropriate to do so and justified on the facts of this particular case.

On the facts of this application, it is particularly noteworthy that, according to statutory guidance, we should accept all reasonable and proportionate representations made by the Police unless we have evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the Police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

We found that the evidence submitted by the Police demonstrated that the premises have been badly managed and supervised by Mr Sheahan resulting in many complaints and police interventions. Examples of drunk customers on the premises, after-hours opening, smoking on the premises, alcohol related crime and disorder associated with the premises, noise nuisance were given by the Police. We also found that there has been a flouting of the law. The evidence demonstrated repeated and persistent failures on the part of Mr Sheahan to manage his premises properly and responsibly. This is unacceptable and harmful to the licensing objectives.

At the hearing, the Police asked Mr Sheahan to name the licensing objectives. He was unable to do so. We appreciate that the pressure of the hearing and being put on the spot might have been difficult for Mr Sheahan but we do not think that alone can account for, or excuse, his inability to even mention public safety or preventing crime and disorder at the very least. The police told us that they had lost trust and confidence in Mr Sheahan. Based on the information presented to us by the police and what we heard, we have arrived at the same conclusion.

We have therefore decided to remove Mr Sheahan as the Designated Premises Supervisor (DPS) in order to promote the licensing objectives.

During the course of the hearing we discussed the conditions the Police and Ms Nesbit requested be added to the premises licence. Not all the conditions were contested by Mr Sheahan. Mr Dear helpfully confirmed on behalf of Mr Sheahan that he did not object to the following Police conditions being added to the premises licence.

1. A CCTV camera shall be installed to cover the entrance and exit of the premises to Home Office Guidance standards and maintained in a good working condition and recordings shall be kept for 31 days and shall be made available to police and

authorised officers from Brent Council.

2. A "Challenge 21" policy shall be adopted and adhered to.
3. A refusal book detailing the date and time of any alcohol sale refusal as required by the "Challenge 21" policy, as well as the name of the person refusing the sale, shall be kept and maintained and made available for inspection.
4. An incident log shall be kept at the premises, and made available for inspection on request to an authorised officer of Brent Council or the Police, which shall record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system or searching equipment or scanning equipment
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority or emergency service.
5. No entry or re-entry shall be permitted after 2230 hours.
6. Customers shall not take open drink containers outside the premises as shown on the plan submitted to and approved by the Licensing Authority.
7. No drinks shall be served other than in plastic or toughened glasses.
8. Customers carrying open or sealed bottles or glasses shall not be admitted to the premises.

We also felt that the above conditions were necessary, proportionate and appropriate and we therefore decided to add them to the licence.

The following conditions were not agreed, either in part or in full, but based on the facts of this review application, are also necessary, proportionate and appropriate.

9. Every 6 months staff training on the Licensing Act 2003 and the premises operating procedures shall be provided. This training shall be documented and signed and dated. Training records shall be made available for inspection by the Police and Licensing Authority Enforcement Officers and copies shall also be provided on request.

Mr Sheahan objected to the requirement for 6 monthly training but otherwise did not object to this condition. We pointed out that there was no need for the training to be provided externally (and therefore need not incur disbursement costs) and given the turnover of staff at the premises, we felt that the regular training on a 6 monthly basis was justifiable.

10. That the hours the premises is open to the public be limited as follows:

Mondays to Saturdays: 10.00 hours until 23.30 hours

Sundays: 10.00 hours until 23.00 hours

Non-standard timings (if any): 30 minutes after the terminal hour for the sale of alcohol

The upshot of this condition is that the premises has to be closed to the public 30 minutes after the terminal hour for the sale of alcohol. This gap between the last sale of alcohol and the closure of the premises is still commonly referred to as 'drinking-up time'. The operating schedules of many premises impose a closing time restriction to prevent just the kind of problems reported to us by the Police. Namely, concerns about 'lock-ins', the carrying on of licensable activities after-hours, noise disturbances etc.

On the facts of this case, we are firmly of the view that the restriction proposed by the police is justified in order to promote the licensing objectives. Without such a restriction, customers could be allowed to remain on the premises long after licensing hours and for licensable activities to continue on an unofficial basis.

We, however, did not impose all the conditions proposed by the police.

The Police argued that there was a need for door supervisors to be employed at the premises in light of the incidents and problems at the premises they had brought to our attention. We felt that these problems (at these small premises) were attributable to poor management and supervision by Mr Sheahan and that the imposition of this condition was either unnecessary at this time or would be disproportionately costly.

Similarly, we were not satisfied that it was appropriate to treat music as a regulated activity i.e. reversing the default statutory position. The noise nuisance complaints the Police relied upon were just another manifestation of Mr Sheahan's failure to manage his premises properly and responsibly.

Ms Nesbit also proposed a number of technical public safety conditions (see conditions 2-5 on page 63 of the public document pack) which we, and Mr Sheahan, agreed should be added to the premises licence. We felt that the conditions were justifiable on the facts of this case and, in particular, necessary in the interests of public safety.

Mr Sheahan objected, however, to a safe capacity limit being imposed but because a limit has not been imposed through other legislation we accepted the expert advice of Ms Nesbit, which weighed heavily with us, that following her inspection of the premises such a condition (as set out below) was necessary and appropriate in the interests of public safety.

11. The maximum number of persons permitted on the premises (not including staff) shall not exceed 60.

### **Informative**

During the course of the hearing, Ms Nesbit highlighted to us that since the grant of this premises licence, structural changes have been made to the premises. We are extremely concerned that the structural layout of the premises does not comply with the premises licence plan. It is imperative that Mr Sheahan ensures that any licensable activities provided at his premises relying on his premises licence are properly authorised. We remind Mr Sheahan that, otherwise, he is at risk of enforcement action.

**The effective date of this decision**

This decision does not take effect until the end of the period for appealing this decision or, if appropriate, the outcome of the appeal.

**Right of Appeal**

The parties have a right of appeal to Brent Magistrates' Court against this decision.

If you wish to appeal you must notify Brent Magistrates' Court within a period of **21 days** starting with the day on which the Council notified you of this decision.

**18 August 2015**