

London Borough of Brent

Decision of the Alcohol and Entertainment Licensing Sub-Committee (C) following a hearing on 9 June 2016 at Brent Civic Centre, Engineers way, Wembley HA9 0FJ

Application by the police to review a premises licence relating to The Cock Tavern 125 Kilburn High Road London NW6 6JH

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 The Cock Tavern 125 Kilburn High Road London NW6 6JH. The premises licence holders are Enfield High Street (AG221) Ltd, Mr Mukesh Aggarwal. Mr Rogerio Mendes is the designated premises supervisor (DPS).

The premises are currently licensed for regulated entertainment from 20:00hrs to 02:00hrs Monday to Saturday and from 14:00hrs to 01:00hrs Sunday; the sale of alcohol from 09:00hrs to 02:30hrs Monday to Saturday and 10:00hrs to 01:00hrs Sunday and to remain open from 07:00hrs to 03:00hrs Monday to Saturday and 09:00hrs to 01:30 Sunday.

In summary, the Police raised concerns about the following licensing objectives: prevention of crime and disorder and public safety. The Police concerns primarily related to the use of unlicensed door supervisors one of whom assaulted a customer by head-butting and/or biting him on the face causing serious injury, faulty CCTV equipment and late night incidents relating to drunkenness. The police also made complaint that despite attempts made by them to assist him to uphold the licensing objectives, Mr Mendes had been extremely un-cooperative.

The Police requested that Mr Mendes be removed as the current designated premises supervisor, that conditions be placed on the premises license and that the hours of operation be reduced.

The full details of the application made by the Police, amongst other information, are contained within the document pack attached to the Agenda for our meeting. This information is publicly available on the Council's website and is therefore not repeated in detail in our decision notice.

The hearing

Mr Mendes attended the hearing and was represented by Mr Aggarwal.

PC Paul Whitcomb represented the Police and was also represented by Counsel Mr Rory Clarke.

Representations were also made by Esther Chan Licensing Enforcement Officer.

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.

Counsel, Mr Clarke stated that the Police were concerned about the ability of the management to operate the premises responsibly under the existing licence and that the pub is in a very busy challenging area of the borough and thus requires the best standards of management.

Mr Clarke informed the Sub Committee of two incidents of criminal damage both of which occurred in the early hours of the morning by males who were drunk the first having taken place in March 2015 when the pub toilets were smashed up and the second in October 2015 when a television was damaged by a glass having been thrown at it.

On 12 December 2015 at 12.30am during a licensing visit to the premises, the Police discovered that the venue was using unlicensed door supervisors. Upon bringing this to the attention of Mr Mendes the Police reported that he refused to accept that licensed door supervisors were required despite this being a condition on the premises licence and was hostile and dismissive of advice given by the Police. Mr Mendes was told to stop selling alcohol. Other breaches of the licence conditions on this occasion included four men drinking outside the front of the premises after the permitted hours as well as pint glasses and glass bottles being used by patrons. A formal warning letter was issued by the Police to the Premises Licence Holders dated 12 December 2015.

On 19 March 2016 at 1.00am a door supervisor assaulted a customer causing a serious facial injury. The victim called the Police and the door supervisor was arrested and charged with assault by beating. Mr Mendes informed the Police that the door supervisor works on a freelance basis and had been recommended to him. Mr Mendes stated that this individual works on a freelance basis and that he pays him cash in hand however was unable to produce any paperwork or contract with this individual or any documentary evidence to show that sufficient checks and balances were implemented prior to hiring this individual. During the course of the Police investigation into this incident it was discovered that the CCTV footage played perfectly well up until the time of the assault at which point there was a

footage black out for approximately eight minutes. The explanation given by Mr Mendes was that the break in the footage was due to a fault.

Mr Clarke also reported that during the meeting between the Police, Mr Mendes Mr Gojdosz and Mr Aggarwal that took place on 31 March 2016, Mr Mendes disclosed that recently during a repair of one of his customer toilets a plumber discovered a stash of knives hidden inside a cistern that he had not reported to the police but simply thrown the knives in the bin and that a female customer had handed in a used syringe she claimed she had found in the toilet.

Mr Clarke concluded that there had been basic breaches of the conditions of the premises licence which one would expect a manager to uphold. Furthermore a competent and experienced manager should be able to deal with the challenges presented by customers. There was clear evidence that problems were not being dealt with proactively and the refusal by Mr Mendes to answer questions being put to him on behalf of the Police during the course of this hearing was further testament to his temperament. Mr Clarke went on to say that there was a need to reduce risk and the best way of doing so would be to reduce the opening hours and that all the conditions requested by the Police were proportionate and justified.

Brent licensing officer Esther Chan addressed the Sub Committee and confirmed that her representations were based upon all four licensing objectives. Ms Chan stated that she conducted a visit to the premises on 18 April 2016, at which Mr Mendes and Rafal Gojdosz assistant manager were present. Ms Chan informed us that she found that conditions 4, 8 and 14 of the premises licence were breached and that she supported the conditions the Police had requested be added to the premises licence under this review.

Mr Aggarwal explained that historically the Cock Tavern had been a venue predominantly used by the Irish community at which a lot of serious crime had occurred. However, Mr Mendes who had 19 years experience as a DPS had made a lot of improvements to the fabric of the building and the way the premises had been run, and those incidents of very serious crime had reduced.

Mr Aggarwal said that two of the incidents relating to criminal damage reported by the Police had occurred as a result of refusal to sell alcohol which was well before closing time. With regards to the assault by the door supervisor, the customer had left the premises and then tried to come back in and the incident had actually taken place in the street outside of the premises. Furthermore, the CCTV footage had been provided to the Police upon request and Mr Mendes was not aware of any fault in the recording prior to this being discovered by the Police. Mr Aggarwal went on to explain that the door supervisor was an accredited SIA badge holder when Mr Mendes recruited him but his licence had subsequently been revoked which Mr Mendes was not aware of. Mr Aggarwal confirmed that Mr Mendes now employs security industry approved door supervising staff and checks are made by the providers to ensure the individual's accreditation is both current and valid. The CCTV equipment has been up-dated and records footage for 31 days.

Mr Aggarwal confirmed that he would be prepared to agree all the conditions requested by the Police save for the reduction in hours. From a business prospective these are difficult economic times to run a pub. Many pubs have closed down across the country. He now has

to employ 2 SIA approved door staff from 8.00pm onwards which is very expensive. A number of venues in the area have licenses to open late and his business will be placed at a disadvantage if the hours are reduced. Also he does not believe reducing the hours will help to reduce crime. Putting in a new DPS now would add an extra layer of management within the business which the Pub cannot afford. Mr Aggarwal concluded that Mr Mendes is the right person to run the premises.

Mr Mendes made it clear to us that even if the decision was to remove him as DPS he will still be actively involved in the day to day management of the premises so it would in fact be an un-necessary expense. He also told us that he is in the process of turning the pub around, has new clientele coming and is putting on a lot of new events for all communities to include a Caribbean night whilst still having an Irish themed night once a week.

The Police requested that the following conditions be **removed** from the current premises licence:

1. CCTV shall be installed and maintained in a working condition.
2. All CCTV recordings shall be kept for 31 days and be made available to police and licensing officers if required.
3. A minimum of 2 door supervisors in a ratio of at least 1 supervisor to every 50 customers shall be employed from 20:00 hours on any day when the premises are open for the sale of alcohol past midnight.
4. The licensee or his/her deputy shall be a member of and actively participate in the local pubwatch scheme.
5. The Portman Group proof of age scheme or similar scheme shall be adopted

The Police requested that the following condition be **added** to the current premises licence:

1. A minimum of 2 door supervisors in a ratio of at least 1 supervisor to every 50 customers shall be employed from a company shown on the SIA's register of approved contractors, from 20:00 hours on any day when the premises are open for the sale of alcohol past midnight.
2. A register/log containing names badge number dates and times of duty of security staff and any incidents that occur shall be recorded. The name of the door supervisor's SIA approved contractor must also be recorded. The book must be kept and made available to the Police and Licensing Authority upon request.
3. All door supervisors shall be clearly visible and wear yellow or orange high visibility vests jackets or armbands so as they are clearly identifiable and visible to guests staff and on CCTV
4. All door supervisors shall be provided with a radio which allows communication between all members of the door supervisor team and the duty manager or DPS.
5. CCTV shall be installed 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.
6. 7. CCTV cameras shall be installed to cover the main entrance of the premises from both inside and outside.

7. 8. The licence holder DPS or a nominated duty manager must inspect and test that the CCTV is operational and working correctly on a weekly basis. A signed and dated record of the CCTV examination and any findings shall be kept on the premises and made available to the police and licensing authority upon request.
 8. 9. Notices clearly explain the licensee's drugs policy shall be displayed at the entrance in all toilets and at suitable places throughout the premises.
 9. 10. Toilets shall be checked every two (2) hours for the use of drugs and other illegal activities
 10. 11. A toilet checklist shall be displayed on the wall in all toilets. Staff shall use these checklists to record their name and certify the time of the check. Checklists are to be replaced daily and all old checklists must be retained and made available for inspection by the police and authorised officers from Brent Council.
15. 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 will 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 refusal of the sale of alcohol
 - (g) any visit by a relevant authority or emergency service

Reduction of permitted hours

The Police requested the following hours be applied:

All permitted regulated Entertainment

Monday –Saturday 20:00 – 00:30

Sunday 14:00 – 00:30

Supply of Alcohol

Monday –Saturday 09:00 – 00:30

Sunday 10:00 – 00:30

Opening hours of the Premises

Monday – Saturday 07:00 – 01:00

Sunday 09:00 – 01:00

We found that despite the number of years experience Mr Mendes has in running retail businesses, he had failed to run the premises responsibly or to uphold the licensing objectives. For this reason we have decide to remove Mr Mendes as the Designated Premises Supervisor.

We were not however satisfied from the evidence before us that reducing the current hours of operation would address the concerns raised by the police. We have therefore decided that the existing hours should remain. We also took account of the fact that new door staff from an approved company had now been deployed.

We agree that it would be just and proportionate for the conditions requested by the police numbered 1/2/3/4/5/7/8/9/10/11/ and 15 on page 5 of this decision notice to be added to the premises licence.

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.

Dated 27 June 2016