

## London Borough of Brent

**Decision of the Alcohol and Entertainment Licensing Sub-Committee (C) following a hearing on 04 May 2017 at Brent Civic Centre, Engineers Way, Wembley HA9 0FJ**

### NOTICE OF DECISION

#### **PREMISES**

Ruby Lounge  
1 Poppin Commercial Centre  
South Way  
HA9 0HB

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

Councillors Long (Chair), Harrison, McLeish

#### **2. The Application**

The application was the return date for an expedited review. The first hearing took place on the 11 April 2017

#### **3. Representation**

The Police were represented by PC McDonald. Mr Fleet from the SIA was also present.

The following were also present:

- Mr Kuppusamy Kirupakaran - licence holder
- Mr Sriharan – DPS
- Richard Baker – Agent
- Mr Light – Counsel
- Mr Chipan
- Mr Bryan

#### **4. The Hearing**

PC McDonald explained that since the hearing of expedited review the police have had an opportunity to review the CCTV. The footage was played to the sub-committee. In summary the footage showed:

- Breach of re-entry conditions

- Mr Kelly acting as security
- A door supervisor punching a patron to the ground
- Customers clearly intoxicated inside the premises.
- Chaos outside of the premises, which resulted in disorder and physical violence.

It was submitted that this was a very serious incident and the premises clearly had no control over what was happening.

The police suggested the following conditions:

- DPS to have remote access to CCTV.
- No sale of full bottles of champagne or spirits.
- DPS to complete Level 2 training.
- Comprehensive staff training
- Incident/refusals book

The police also sought a reduction in the hours.

Furthermore, it was submitted that the police have serious concerns about the continued involvement of Mr Chipan and Mr Bryan in the premises. The Police sought his exclusion from anything to do with the running of the premises.

The Licensing Authority spoke in support of the Police position.

PC McDonald was asked whether she was aware that Mr Chipan and Mr Bryan had been subjected to 15/20 mins of racial abuse caught on body worn footage prior to the footage the sub-committee had just seen. PC McDonald stated that she could not comment on an ongoing investigation but was not disputing that there had been cross allegations.

Councillor Long queried why Champagne could not be sold by the bottle. PC McDonald stated that she also sought a condition that wine is not sold by the bottle either.

Mr Long gave the background to the premises. He explained that the licence holder has had these premises for a number of years and prior to that, one of the previous operators was Mr Chipan.

It was accepted that the problem with the premises was that the licence holder wasn't exercising enough control. In the hope of correcting this, a list of draft conditions were provided to the sub-committee.

The DPS has completed the BIIAB level 2 training and a certificate was provided to the sub-committee.

It was further explained that Mr Chipan had dispensed with the services of Mr Kelly. He no longer had anything to do with the preemies.

The licence holder submitted that, on the night in question Mr Chipan was subjected to appalling racial abuse. Quite clearly he should have walked away. He didn't. He now says he will walk away. The sub-committee were asked to consider the context of this incident.

Mr Light explained that the clientele at Ruby Lounge were older, mostly over 40s. On the night in question, those younger men shouldn't have been allowed in.

It was agreed that there needs to be a dispersal time and break between the sale of alcohol and the closing time. It was suggested that sale of alcohol cease at 04:00 and the premises should be closed by 04:30.

The licence holder accepted that the door staff needed to be 100% legitimate and steps were being taken in this regard with SIA contractor approval.

Mr Chipan was given permission to address the sub-committee. He explained that on the night in question, when the incident started, he had consumed 1 bottle of champagne. When he went outside someone spat in his face. I said to them to calm down. There followed 28 minutes of verbal abuse and assault. Paul Kelly asked security to call police.

It was suggested that this application was a personal vendetta against himself and Paul Kelly from PC Nicola McDonald.

Councillor Long confirmed that this was the first allegation of racial abuse at the premises. It had been recorded in the incident book.

PC McDonald asked if the premises had signed a contract with a SIA approved contactor yet – the answer of which was that it was pending.

It was explained during questioning that SIA company approval was voluntary. A company can apply and once a decision is made it can take up to a 6-month period before a final assessment being made.

In summing up the Police submitted that there was turmoil in these premises. This was not a one-off. What was needed was strong and clear management. The police suggested conditions would go a long way to help achieve this.

Mr Light sought a lifting of the suspension and imposition of the suggested conditions. It was accepted that things had gone wrong at the premises, but with the new conditions and clear leadership the licensing objectives could be upheld.

## **5. Determination of the Application**

The sub-committee determined the application in accordance the provisions of the Licensing Act 2003. Further the sub-committee considered the matter with a view to promoting the licensing objectives, namely:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm.

In making its decision the sub-committee also had regard to the Guidance issued under Section 182 of the Licensing Act 2003 and Brent's licensing policy. In addition, the sub-committee took account of its obligations under section 17 of the Crime and Disorder Act 1998.

The sub-committee were mindful of the need to reach a decision that was necessary, proportionate, and justified on the evidence before them.

## **6. Decision**

We have listened carefully to all of the submissions made by the parties.

This was a very serious incident. The sub-committee have grave concerns about the management of the premises. In particular, it appears to us that the Licence Holder plays absolutely no role in the running of this premise at all. We remind him that he has the ultimately responsibility under the Licensing Act.

However, we are satisfied that, with a moderate reduction in hours and the imposition of the proposed conditions, albeit with some amendments, the premises can continue to lawfully trade and uphold the licensing objectives.

### **Hours to be amended**

The licensable hours will be reduced to

Mon – Sun : 10:00 – 03:00

The premises shall close by 03:30

### **Conditions to be added**

1. An ID scanner shall be utilised at the premises to check all customers who wish to gain entry to the premises. The persons once checked for concealed weapons or drugs shall be required to present appropriate proof of identification. The information collected shall include photo ID, the person's name, address and date of birth shall be added to the database. Any person refusing to allow their data to be added to the database shall be refused entry.
2. Appropriate ID shall be a valid passport or a driving licence (photo card)
3. No licensable activity shall continue after 03:00 hours.
4. The premises including the staircase and entrance lobby must be cleared of all customers by 03:30 hours.
5. The SIA security staff shall be sourced from a SIA approved door security company/contractor. This said company/contractor shall belong to the SIA Approved Contractor Scheme.
6. No bottles of spirits shall be sold at any time. All spirits & champagne shall be sold by standard measures.
7. The Designated Premises Supervisor shall complete the BIIAB level 2 advanced DPS course.
8. All staff training records, SIA door supervisor records, CCTV recordings, the customer database, the refusal log & hourly toilet check records shall be available for inspection throughout the times the premises are normally open for trading. Should information be required outside these hours the information shall be provided to the Police within 24 hours of the request.
9. There shall be no entry or re-entry to the premises after 01:00 hours.
10. A safety, marshal shall operate from 02:00 hours until all customers have left the vicinity of the premises to ensure orderly and safe dispersal of customers.
11. A "Challenge 25" policy shall be adopted and adhered to at all times.
12. The premises licence holder shall have remote access to CCTV cameras at the venue at all times.
13. 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 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.

13. Toilets shall be checked every hour for the use of drugs and other illegal activities. This shall be logged in writing and made available for inspection.

**On the current licence:**

Condition 19 shall be removed as being a duplicate for condition 9

Condition 17 [free drinking water] shall be removed as this now comes under the mandatory conditions.

Further we have considered under section 53D of the Act whether the interim steps imposed at the expedited review hearing should be modified or withdrawn. The interim suspension imposed shall be modified and replaced by the conditions imposed today. As such, they shall have immediate effect.

**7. 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 15 May 2017**