



LONDON BOROUGH OF BRENT

MINUTES OF THE ALCOHOL AND ENTERTAINMENT LICENSING SUB-COMMITTEE (B)

Wednesday 13 November 2013 at 7.00 pm

PRESENT: Councillor Chohan (Chair), Councillors Arnold and HM Patel

The meeting was adjourned at 7.10pm and reconvened at 8pm to enable the sub committee to receive legal advice.

1. **Declarations of personal and prejudicial interests**

None declared.

2. **Application by the Metropolitan Police for a review of premises licence for Wembley Inn, (1 Ealing Road Wembley HA0 4AA) pursuant of the provisions of the Licensing Act 2003**

Yogini Patel, Senior Regulatory Services Manager, introduced the report for a review by the Metropolitan Police of Wembley Inn, 1 Ealing Road, Wembley, HA0 4AA on the grounds that they had failed to comply with the conditions of the licence and the licensing objectives of crime and disorder and public nuisance. The Legal Advisor drew Member's attention to the options available to the Committee under section 52 (4) of the Licensing Act 2003 set out as follows:-

- a) To modify the conditions of the licence
- b) To exclude a licensable activity from the scope of the licence
- c) To remove the designated premises supervisor
- d) To suspend the licence for a period not exceeding three months
- e) To revoke the licence.

Nick Mortimer, Licensing Manager Metropolitan Police was invited to make his representation and highlighted the following:

- The original licence was applied for on 26 October 2010 and granted 15 December 2010 to Ms van Boekel with Mr Viridi as the DPS.
- Ms van Boekel applied as DPS in May 2012 following the withdrawal of Mr Viridi however the application was objected by the Police and subsequently refused.
- There had been issues of crime and disorder on the premises since opening, including violent criminal behaviour centred around the licence holder.
- The licence holder received a criminal discharge for 'assault police' on the premises in November 2012.
- Complaints from the public regarding the premises had been received with detailed evidence provided within the paperwork.
- Advice had been offered by the Police and Safer Streets which subsequently had not been implemented.

- RSL's from Brent and neighbouring boroughs had withdrawn all clients from the premises due to the behaviour taking place.
- Although an attempt had been made to surrender the licence he felt the licence should be revoked.

During questions of the Metropolitan Police the following points were clarified:

- It was confirmed that Ms van Boekel had received a conditional discharge.
- Brent and other north west London had removed all RSL tenants and ceased using the premises. It was claimed Ms van Boekel no longer worked at the hotel but had subsequently been contacted at the hotel suggesting that this was not the case.
- The incident logs suggested that prostitution was taken place at the premises and it was anticipated that action would take place following the review.
- The Licensing Manger Metropolitan Police was unsure whether a case was still pending in the Crown Court against Ms van Boekel.
- Children were on the premises through RSL lets which was felt to be completely unacceptable and of grave concern.
- RSL's made complaints to the behavioural team about the premises which was passed to the Police.

The meeting was adjourned at 8.15pm and Nick Mortimer, Metropolitan Police left the meeting whilst the alcohol and entertainment licensing sub committee made its decision. The meeting reconvened at 8.30pm to read the decision as detailed below.

RESOLVED:

In accordance with the provisions of the Licensing Act 2003, having heard the evidence provided by the Metropolitan Police following the application for a review of the premises licence of Wembley Inn, 1 Ealing Road, Wembley, HA0 4AA, the Alcohol and Entertainment Licensing Sub Committee agreed to revoke the premises licence for the following reasons:

- i. Failure to promote the prevention of crime and disorder
- ii. Failure to promote public safety
- iii. Failure to prevent public nuisance
- iv. Failure to promote the prevention of harm to children
- v. Failure to comply with conditions of the licence
- vi. Failure to follow advice and implement changes
- vii. Continued issues regarding illegal substances on the premises

Accordingly, it was noted that the licence premises holder had made an attempt to surrender his licence a few hours prior to the hearing. However, Members upon receiving legal advice and after careful consideration of matters, took the view that an "effective surrender" had not taken place within the meaning of section 28 of the Licensing Act 2003 ("The Act"). In essence Section 28 (1) of the Act provides:-

(1) Where the holder of a premises licence wishes to surrender his licence he may give the relevant authority a notice to that effect.

(2) The Notice must be accompanied by the premises licence or, if that is not practicable, by a statement of the reasons for the failure to provide the licence.

(3) Where a notice of surrender is given in accordance with this section, the premises licence lapses, on receipt of the notice by the authority.

(4) This section is subject to section 50 (which makes provision for the reinstatement in certain circumstances of a licence surrendered under this section)

Members having regard to the specific wording of section 28 maintained that the requirements in that section had not been fully complied with and on that basis the licence was not revoked in law. In accordance with Paragraph 20 (2) (3) of the Licensing Act 2003 (Hearings) Regulations 2005 where a person fails to attend the hearing, the authority reserves the right to consider the application and relevant representations. Members contended that it was not in the public interest to delay hearing given that the licence premises holder had, had prior warning to attend coupled with the serious nature of the breaches complained of. It was therefore just and reasonable having regard to all the circumstances of the case to continue with the review hearing of the licence on its individual merits.

Members appreciate that revoking a licence is a last resort for a Licensing Authority and did not arrive at the decision lightly. However, Members had grave concerns with regard to the running of the premises and could not ignore those concerns, clearly documented from the representations made. The Committee had to strike the right balance in terms of its general duties as a licensing authority under section 4 of the Act.

Members during the decision making process felt that the most effective power it could exercise here was revocation. Accordingly, the weight of evidence was such that to invoke any other power afforded to the committee under section 52 (4) of the Act, would not have achieved the desired effect. Members in their final analysis of matters were of the opinion that the management in running the premises were far too lackadaisical in their approach leading ultimately to the review of the premises by the Police and a complete disregard of the licensing process, poor management was identified as a significant factor in the committee's conclusions.

Members further contended that the actions of the licence premises holder were not of a professional and responsible nature with particular reference to the licensing objectives of crime and disorder and protection of harm from children. The committee considered this to be wholly relevant to its decision and of material importance.

Members at all material times during the decision making process took into account the licence premises holders human rights under the Human Rights Act 1998, namely Articles 1, 6 and 8 of the European Convention, the Council's Statement of Licensing Policy and amended Home Office Guidance (October 2012) issued under section 182 of the Act so that their interests were not adversely affected or prejudiced in anyway.

3. **Application by Green King Retailing Limited for a variation of premises licence for The Falcon, (341 Kilburn Lane London W9 3EG) pursuant to the provisions of the Licensing Act 2003**

RESOLVED:

The Sub-Committee were informed that the application had been withdrawn and accordingly this matter did not need to be considered.

4. **Application by Nuno Rodrigues for a premises licence for 'Grill 4 You' (758 Harrow Road, London, NW10 5LE) pursuant to the provisions of the Licensing Act 2003**

Yogini Patel, Senior Regulatory Services Manager introduced the application by Nuno Rodrigues for a premises licence for 'Grill 4 You' (758 Harrow Road, London, NW10 5LE). She highlighted that conditions to reduce the hours to 11pm and remove the request for entertainment had been agreed with the Police and the remaining representations had been received from local residents.

The applicant's agent was invited to make his representation and made the following points:

- Grill 4 You was a café and had applied for a premises licence to enable customers to have an alcoholic beverage whilst dining. It was intended that the main activity would be food with alcohol being a compliment.
- Various initiatives such as training staff, CCTV and appropriate signage had been put in place to promote the licensing objectives.
- It was felt many of the objections received were in relation to frustrations of the area and concern that another licenced premises meant intoxicated persons on the streets.
- The objector living above the premises had subsequently moved and all other objectors lived approximately 150m from the premises.
- The hours of the application had been reduced and entertainment removed in order to address residents concerns and felt they had been fair whilst still trying to deliver a successful business.

During questions of the applicants' the following points were clarified:

- The premises was located in a new building approximately 150m from the main junction.
- The applicant's wanted a good relationship with their neighbours and may consider a variation in the future if appropriate.
- The premises specialised in Portuguese food often showing football and it was anticipated customers may eat late due to consuming snacks whilst watching sports.
- The area had several nightclubs which caused concern to residents once patrons left.
- The TV would not be amplified.
- Grill 4 You had two rubbish collections per week with the rubbish stored at the back of the premises.

The meeting was adjourned at 8.46pm and the applicant and representative left the meeting to enable the sub committee make its decision. The meeting was

reconvened at 8.51pm and the sub committee gave its decision as summarised below.

RESOLVED:

In accordance with the provisions of the Licensing Act 2003, the application for a new premises licence for Grill 4 you, 758 Harrow Road was granted subject to the agreed conditions with the Police and all other relevant authorities.

The meeting closed at 8:52

B CHOHAN
Chair