

London Borough of Brent

Decision of the Alcohol and Entertainment Licensing Sub-Committee following a hearing on 21 October 2024, in person hearing

NOTICE OF DECISION

Premises

Erin's Hope
189 Edgware Road
Brent
NW9 6LP

1. Members of the Sub-Committee

Councillors: Ahmed (Chair), Long and Mahmood

(Legal clerk to the Committee: Georgina Jenkins, Barrister)

2. The Application

The Application was for an expedited review of the premise licence, pursuant to section 53a of the Licensing Act 2003, upon the application of the police following two serious instances of crime and disorder, the first on 22 June 2024 and the second on 13 October 2024.

3. Representation

The Police were represented by Sergeant Michael Sullivan & Michael Feeney (Counsel).

The designated premises supervisor, John Flaherty, attended together with the premises manager, Ross Leorenza. He was unrepresented.

4. The Hearing

The Chair welcomed attendees and asked them to introduce themselves. There were no interests to declare.

Ms Linda Legister of Brent Licensing introduced the application, explaining that it was a summary review brought by the Metropolitan Police on the basis that there were two

serious instances of crime and disorder at the premises. Ms Legister explained the terms of the review and the options available to the panel once they had heard the review evidence. She explained that the summary review was pending a full review hearing within 28 days.

Counsel for the police addressed the panel. The panel were shown two pieces of CCTV. This part of the hearing was heard in private because there was a public interest in doing so because the footage was part of an ongoing police investigation.

Once back in public, Mr Feeney submitted that on 13 October 2024, one member of the door staff aggressively attacked a member of the public, causing a head wound to open and cause significant bleeding. On 22 June 2024, a physical altercation occurred that started inside the venue and moved outside. This altercation resulted in someone receiving a minor stab wound to the chest. Mr Feeney submitted that the two serious incidents demonstrated scenes of unmanaged chaos caused by inadequate management of the premises. He drew the panel's attention to multiple breaches of the premises licence, including people outside with glass containers and people coming in and out of the venue after 1am, which amount to breaches of the licence.

Secondly, Mr Feeney submitted that the licence holder had failed to engage with the police and responsible authorities. He stated the police did not apply to review the licence lightly and had first sought to engage with the licence holder to work to meet the licence objectives. After the first incident, there was a meeting with the licence holder who agreed to an action plan with a number of conditions. Nevertheless, the licence holder failed to do the steps agreed and despite the police following up on a number of occasions, nothing was done. Mr Feeney argued this showed the licence holder does not understand what was needed to be done and shows he does not take the matter seriously. This track record indicates that nothing will change in the interim period pending full review, and something similar will happen again.

Thirdly, Mr Feeney submitted that there was a lack of oversight and management from the licence holder. After the June incident, the licence holder was completely unaware of what happened, unable to verify the SIA company being used and ignorant to the premises licence conditions. He stated that the position was the same on 16 October 2024, when the police visited the premises following the 13 October 2024 incident. He submitted that the licence holder did not know what happened, did not know the licence conditions and had made no improvements whatsoever. He stated that there was a significant risk the same thing would happen again.

Mr Feeney submitted that taken together, the panel could not be satisfied that any steps short of suspension would stop the violence from happening again. The police were therefore seeking a suspension of the premise licence.

A number of questions were asked of the police by the members of the committee:

The police stated there was a longer history involving a similar incident outside the premises in 2023. The police stated a reduction in hours would be insufficient given the failings of management who were not in control earlier in the evening. The police were not aware of the manager, Mr Leorenza, but Mr Faherty is the designated premises supervisor who is responsible for promoting the licence objectives. The police confirmed that there is no suggestion Mr Flaherty had acted dishonestly, but submitted the scenes of unmanaged chaos indicate that he is out of his depth. The police confirmed there was no evidence of any incidents happening in the rear of the premises, and they confirmed that Mr Flaherty had willingly provided the CCTV evidence to the police without any issues.

The police are aware that Mr Flaherty has held a licence since 2008, but consider that since the first incident in 2023, there have been two serious incidents in 2024, so the concern is they are speeding up. Mr Feeney submitted that you would expect the premises to have been getting better, not worse, since the police have been involved. It was noted that between the June and October 2024 incidents, there were now screens to indicate the area for smoking.

Sergeant Sullivan stated that following the June 2024 incident, the licence holder came in for an open and honest discussion about the breaches and the running of the premises. He stated that Mr Flaherty left him feeling confident that he would sort the issues out and put in a variation application to add in the conditions they had discussed but this was not done. The police expressed a worry that Mr Flaherty was just using words, without following up with his actions.

The police were unaware if the members of the public attending the premises often came from other local pubs. The police stated that were not aware of any incidents which have taken place before midnight that caused them any alarm.

The police stated that the member of the security staff who was outside during the June 2024 incident could not have done more in that instance, as he was alone during most of the incident. The criticism lay with the overall management, drunkenness, people outside with glasses and people being allowed to enter the premises after 1am.

The police informed the panel that in the October 2024 incident, it was a member of the public who called the police. The licence holder stated that the premises management called the police during the June 2024 incident.

The hearing then heard the licence holder's response to the application:

Mr Flaherty stated that the door staff were left to control the incidents. He stated that in June 2024, they called the police themselves. Regarding the October 2024 incident, it occurred outside of the premises. He stated that they had been operating under a licence for approximately 30 years without issue. These events have happened over the last few months, but they have had no problems for the years before that.

He stated that he runs the pub well. They trade 10:00am – 17:00pm, and then again during the evenings. Mr Flaherty stated that they have DJs playing late in the evenings on Friday and Saturdays, closing at 01:30am. Mr Flaherty submitted that since the October 2024 incident, they have been closing the premises between 10:30 - 11pm at night and there have been no further incidents or problems whatsoever.

A number of questions were asked of the premises licence holder by the members of the committee:

Mr Flaherty stated that he visits the premises every day, including on the days of both of these incidents. He became aware of them due to the noise and confusion at the front door. In the June 2024 incident, he knew about the argument because there was shouting and a commotion inside, but the people involved were removed from the premises. The premises do not allow drinking outside or glasses outside, but it is possible there was confusion during these incidents. Mr Flaherty was in the office when the incident started but Mr Leorenza saw the incident on the camera, stopped the argument and ensured the security intervened and put those involved outside. Mr Flaherty stated he filled in the incident book himself.

Mr Flaherty has had a licence since 1994, and owned and run the pub for 30 years. He lives 8-10 minutes away by car. He has one manager, Mr Leorenza, who has worked for him for 18 years and has been a manager for 2.5 years. Mr Leorenza stated that he has had a licence for a year. Mr Flaherty stated he had applied for it. He also has 2 part time staff. Mr Flaherty is heavily involved in the business, he orders the drinks, works on the bar, checks outside and walks around the premises to check people are doing their jobs correctly. Mr Flaherty recruits the door security firm. Mr Flaherty and his staff clean the venue themselves after the shift. The pub closes at 01:30am, and the staff go home by 02:30am.

Sometimes customers come from other venues, such as the Wetherspoons opposite. He stated that no one is allowed in after 01:00am, and the door staff are employed to vet how intoxicated people are and to bar them entry if they are too intoxicated.

Mr Flaherty stated that he did not implement the action plan because he went to his solicitor to obtain advice. His solicitor went on holiday and then stopped communicating with him. Despite attempts to get hold of his solicitor, he has been

unable to contact him. He did not think about applying to remove or change his licence conditions himself but did ask his solicitor for advice about his licence but he has been uncontactable.

Mr Flaherty stated that he knows the door staff personally to see and talk to. They generally tend to get the same door staff but not all of the time. The security staff check whether people are too intoxicated to come in and refuse entry. The bar staff can also refuse to serve people who are too intoxicated, which happens about 5-6 times per month. Mr Flaherty will record this in the incident book once weekly, typically on a Saturday night. The member of security staff during the June 2024 incident is the same as the member of security staff involved in the October 2024 incident.

The late crowd on Friday and Saturday nights are a different crowd to the usual customers. Since this incident, he has sacked the door security staff, stopped the music early and closed the venue early to make sure there is no further trouble.

Mr Flaherty and Mr Leorenza were both unable to tell the Committee any of the 4 licensing objectives.

The police then asked Mr Flaherty a number of questions:

Mr Flaherty accepted that it was his responsibility as the licence holder to control and manage the licence, even though he employed door staff to help control the premises. Mr Flaherty accepted that what happened outside the premises was his problem, but considered when the incident was inside the premises it was contained.

Mr Flaherty stated that he did not implement the measures in the action plan because he was waiting for his solicitor's response. His solicitor went on holiday and then has not responded to him. He did not want to apply to vary the conditions himself because his solicitor did say he would look at it and get back to him before he went quiet. He did try and contact another solicitor, but he had a stroke so was unable to assist.

Mr Flaherty knew that there was a condition on his licence not to use glass containers, but he was using them because his customers would not use his premises if they were given plastic containers to drink from. He did not apply to vary this condition as an unreasonable condition because his solicitor did not respond to him. He did not realise it was a condition on his licence from before the action plan, though this has been a condition in Mr Flaherty's original licence.

The parties were then asked to sum up.

The main 4 points for the police were that firstly, Mr Flaherty had been actively involved in the management of the premises and training staff, but this was not

enough to prevent these incidents from happening. He does not know his licensing objectives and the fact that Mr Flaherty thought the condition to not use glass containers had been added in June 2024, when it had been on his licence since 2005, was symptomatic of a premise licence holder who was not in control.

Secondly, he submitted that Mr Flaherty had failed to recognise the seriousness of the incidents by suggesting it was a well-run pub with door staff in control.

Thirdly, that despite Mr Flaherty owning and running the pub for a long time, the evidence shows it is rapidly deteriorating and getting worse. He is running the pub with very few members of staff who are doing long hours, such that they are overwhelmed and ignoring the licensing objectives.

Finally, no measures short of suspension would be adequate to protect the licensing objectives because Mr Flaherty does not know what the conditions are, and he has ignored the opportunity to alter his licence accordingly. The police are not saying that Mr Flaherty is a bad or dishonest man, but his management is inadequate in a high-risk premises and an incident will happen again if the licence is not suspended.

Mr Flaherty submitted that he had run the pub for 30 years and everything has been ok. They work hard and run the pub in the best way that they can. He accepts what is going to come but they have tried. They got rid of their security company as a result of the incident. They have stopped playing music or opening late on Friday and Saturday evenings to avoid the late crowd. If they are open from 9am to 9pm they would have no problems whatsoever.

The sub-committee went into closed session to consider its decision.

5. Determination of the Application

The sub-committee determined the application in accordance with the Licensing Act 2003 and in accordance with the statutory licensing objectives. The committee had regard to section 182 of the Licensing Act 2003 and the statutory guidance. The authority had regard to section 17 of the Crime and Disorder Act 1998. The committee had regard to the need to reach a decision that was necessary, proportionate and justified on the evidence presented to it.

6. Decision:

The committee's decision is as follows:

The committee has read the papers and listened carefully to the evidence and submissions presented at the hearing. The committee is mindful of its duty under

the Licensing Act 2003 section 53b to take such steps as it considers necessary to promote the licensing objectives.

Although the licence holder has recently implemented earlier closing hours on Friday and Saturday evenings, with no music on Friday and Saturday evenings, the committee considers that the fact the premises licence holder has failed to implement the action plan, which was accepted on 25 June 2024, they have no confidence that these steps will be sufficient to promote the licensing objectives. The committee are also concerned by the premise licence holder's lack of knowledge of the licensing objectives, or proposals, to fill the committee with such confidence to fulfil the licensing objectives, by both the premises licence holder and the manager.

The committee has decided to suspend the licence pending full review with immediate effect.

7. Right of appeal

There is no appeal against Interim Steps.

The premises licence holder may make representations against the interim steps taken by the licensing authority. There is no time limit to make the representations, however these may be superseded by the full review.

Dated: 23 October 2024