

MINUTES OF A MEETING OF A LICENSING SUB-COMMITTEE
26 August 2009 (10.30pm – 4.00pm)

Present:

COUNCILLORS: Georgina Galpin (Chairman)
Linda Van Den Hende
Tom Binding

Simon Harman, David Lloyd and Dave Leonard (Applicant) Bushra Ahmed, on behalf of the applicant. Savvas Christodoulou (owner of the premises) and Michael Phipps, on behalf of the Opium Lounge. Also present were the LB Havering Licensing Officer, Paul Campbell. The legal advisor and the clerk to the Sub-Committee were also in attendance. In addition, 3 members of public and a representative of the press were present.

The Chairman advised those present of action to be taken in the event of emergency evacuation of the Town Hall becoming necessary.

There were no declarations of interest.

**APPLICATION FOR A REVIEW OF A PREMISES LICENCE IN RESPECT OF OPIUM LOUNGE,
36-38 NORTH STREET, ROMFORD, RM1 1BH**

The Sub-Committee considered the application for a review of a Premises Licence under section 34 of the Licensing Act 2003 (“the Act”) for the above premises as follows.

PREMISES

Opium Lounge
30-44 North Street
Romford
RM1 1BH

DETAILS OF APPLICATION

Application by the Metropolitan Police for a review under section 51 of the Licensing Act 2003 (“the Act”) for the premises referred to above.

APPLICANT

Inspector Andy Conway
On behalf of the Commissioner of the Metropolitan Police

1. Details of existing licensable activities

Opening Hours

Monday to Thursday	11:00 – 03:00
Friday	11:00 – 04:00
Saturday	11:00 – 05:00
Sunday	11:00 – 02:30*
Christmas Eve	11:00 - 05:00
Boxing Day	11:00 – 05:00
New Year's Eve	11:00 - -05:00

The current licence permits the following licensable activities:

(a) The provision of regulated entertainment (meaning live music, recorded music, performance of dance, anything of a similar description to that falling within previous categories) and the provision of entertainment facilities (meaning making music, dancing, anything of a similar description to that falling within the existing categories).

Monday to Thursday	11:00 - 03:00
Friday	11:00 - 04:00
Saturday	11:00 - 04:30
Sunday	11:00 - 02:30*

(b) Films

Monday to Thursday	11:00 - 02:00
Friday	11:00 - 03:00
Saturday	11:00 - 04:30
Sunday	11:00 - 01:30

(c) Late Night Refreshment

Monday to Thursday	23:00 - 02:00
Friday	23:00 - 03:00
Saturday	23:00 - 04:30
Sunday	23:00 - 01:30*

(d) Sale of Alcohol

Monday to Thursday	11:00 - 02:00
Friday	11:00 - 03:00
Saturday	11:00 - 04:30
Sunday	11:00 - 01:30*

*Finish time of 04:00 the day following on Sundays preceding each May, Whitsun and August Bank Holiday.

2. **Grounds for Review**

The grounds for review of the licence are as follows:

- Prevention of Crime and Disorder
- Public Safety.

3. **Promotion of the Licensing Objectives**

The review was requested in order to promote the licensing objectives as shown above.

4. **Details of Representations**

Chief Officer of Metropolitan Police (“the Police”)

The representative for the Metropolitan Police detailed briefly the recent history of the premises, particularly highlighting that there had been “widespread and blatant” drug use at the premises and that these activities had led to 48 conditions being added to the licence in January 2008.

It was stated that since that time drug use was still apparent at the premises and management had failed to control the situation, with the licence holder seemingly unwilling to monitor activities at the premises. The Police representative stated that the premises had breached 26 of the 48 conditions attached to its licence, these were:

Under the Prevention of Crime and Disorder:

- The licence holder shall provide a CCTV system at the premises to the satisfaction of the Police. The recordings shall be retained and available for inspection for 31 days.
- The licence holder shall maintain a policy of zero tolerance to the use of illegal drugs ensuring staff are aware of, and react to, the policy, recording each incident, drug related or otherwise, in the site incident book and reporting facts to the appropriate authority.
- Used bottles and glasses shall be collected on a basis whereby all areas are kept free of these items.

Under Public Safety:

SIA registered door supervisors shall be used on the premises. Their duties shall include searching and control of patrons inside the premises and control of patrons while queuing to enter the premises. SIA registered door supervisors shall conduct regular checks of all areas of the premises.

Under Conditions Attached by Sub-Committee (January 2008)

- Upon entry to the premises every customer must be hand searched. These searches will include the searching of the customers’ person, wallets, purses, bags and any other items carried on or by the customer. All searches are the conducted by the door staff and must be carried out within an area covered by the premises CCTV system.

- To support the written drugs policy at the premises a secure drugs box is to be installed at the premises. Any confiscated items which are, or are believed to be, drugs are to be placed into this box. Any such seizures are to be entered into a drug seizures log, which is to remain in close proximity to the drugs box. This log will record the following details:
 - The time, date and location of the seizure
 - The member of staff seizing the item
 - The name or description of the customer from whom the item was taken
 - Any action taken at the time to contact Police regarding the item seized
- At all times when licensable activity is undertaken at the premises, at least one member of staff must be present in each set of toilets at all times to monitor customer activity. These staff members must be alert at all times they are on duty and be proactive in deterring and preventing any unlawful activity including illegal drug supply and use.
- Only one person may be allowed in any toilet cubicle at a time.
- The CCTV system shall comply with the current and relevant Havering Police guidelines for Standard Minimum Closed Circuit Television Requirements. In addition, the premises must allow the Police's Crime Prevention Design Advisor to inspect the current CCTV system. The premises must comply with and implement any reasonable advice and recommendations for improvement to the CCTV within 4 weeks of the premises re-opening unless the Havering Police agree in writing to a longer period.
- The Licence Holder shall implement a written ejections policy.
- A CCTV system shall be installed or the existing system maintained. The system will incorporate a camera covering each of the entrance doors and be capable of providing an image which is regarded as "identification standard".
- When providing regulated entertainment there shall be, at all times that the entertainment is taking place, a qualified first aid person, who holds a valid first aid qualification, on the premises and easily identifiable. There shall be an adequate and appropriate supply of first aid equipment readily available at the premises.

Other conditions breached were CD6, CD7, CD18, CD20, CD22, CDGPG9, PS22 and PS23

Under Crime Prevention Policy (in accordance with CD17)

- (2) Staff are to assist Police in any investigations of disorders which occur at or in the vicinity of the premises. This will include assisting them with obtaining CCTV records, incident reports, witness statements and attending court if necessary.
- (3) The premises is monitored for safety by use of a CCTV system. The system must be periodically checked to confirm it is fully functional. CCTV records are kept in accordance with advice from the Police and Licensing Authority.
- (5) Toilet attendants are located in male and female toilets. Toilet attendants use the panic alarm system to alert other staff members of disorder or suspected drug taking.
- (6) Staff members will always bring any suspicions of criminal activity to the attention of management and if necessary, the Police. An entry shall be made in the premises daily register of such incidents. Records will be kept of any such reports.
- (8) Glasses are proactively collected to avoid risk of injury. Patrons are not permitted to take glasses or bottles out of the premises.

Responsible Drinking Policy (in accordance with CD18)

- (6) Staff are trained not to serve persons who are drunk. The door staffs are additionally trained to minimise the risk that a drunk person was purchased a drink by a sober friend by monitoring the clients. If a person is drunk to the extent of losing control over normal physical and mental functions they will be ejected in accordance with our ejection policy.

Reduction in the Misuse of Drugs Policy

- (4) Any drugs seized by staff members will immediately be placed in the sealed “drug box” container located in the reception (only the manager has a key for this box) with the date, time and details of the staff member who seized them. The drugs will be handed over to the Police as soon as practicably possible. At the end of each open day the daily drug log with the drug box will be taken to the manager’s office where it will be kept in a folder, in date sequence, even if no drugs were found for each open club day.
- (6) We have permanent staff in the toilets who, amongst other duties, will look for and report any drug taking or sharing of cubicles. For this purpose we have added panic buttons in both sets of toilets to enable the toilet attendants to call security. Additionally security will visit periodically (at least every 20 minutes) each toilet to re-enforce our policy and report evidence of drugs to management. Other scheduled areas are checked likewise.
- (8) Toilet attendants are situated in the toilets at all open times; the toilets have clear signage stating we operate a “zero tolerance policy on drugs”. Each toilet cubicle has signage stating that they are only for single occupancy. The toilet attendant will activate the panic buttons for any such or other breaches.
- (10) The company has purchased swipes for testing of surfaces in the club at closing every evening. The club areas will be rotated by day in an effort to cover most surfaces each week. The purpose is to identify potential problem areas. Any found will be reported to the manager who will notify security on the next day the club is open so that any such area found will be monitored even closer.
- (11) First aid provisions are available at the premises. At least one member of staff, trained in First Aid, is present at the premises during opening hours.
- (13) If a person is found in possession of drugs the Police will be notified and the person held secure in the first floor lift room until the Police arrive subject to risk assessment. A note must be made in the daily register.

The representative of the Metropolitan Police stated that the premises had been subject to three covert operations on the 17th April, 16th May and 30th May 2009. The first of these operations on the 17th May was summarised in a statement by PC McGrath and PC Waterman, both of whom were the officers involved in the operation. The Police representative stated that the statements both indicated open drug use at the premises, neither officer was searched upon entering the premises (the form of identification accepted upon entry to the venue was also just a VISA card, and not any of the required forms of identification) drug use was also said to be rife and uncontrolled, a lack of staff was present in the toilets, bottles and glasses were strewn across the floor and no effort was made to pick these up and overly drunk customers were allowed to continue to purchase and consume alcohol, all of which was in clear breach of a number of conditions on the licence.

The witness statements of PC Reid and PC Bay detailed the covert operation conducted by the Police at the premises on the 16th of May. The statements each described implied drug use and exchanges of “white powder”. On the roof terrace of the premises there was apparent use of illegal

drugs suggested in the statements, including a “ketamine incident”, whereby a male fell unconscious, due to (according to his friend) having taken ketamine. The statements suggest that the attendants present seemed unsure of what to do or how to perform the necessary first aid. The statements also noted possible drug taking in the female toilets, where the attendant was either not present or made no attempt to challenge any of the customers. Photo ID was not requested on purchasing alcohol, a female was asleep on one of the sofas and discarded paper wraps were strewn across the floor. Throughout there was limited door staff supervision in the smoking area.

The final covert operation that took place on 30th May was summarised once again by the attending officers, PC Bay and PC Reid, in witness statements. It was stated within the statements that the CCTV footage was in black and white and there was still little activity from the toilet attendants in monitoring the customers. Once again the officers were not hand searched as required, there was limited door staff supervision in the smoking area and there was a male asleep on one of the sofas. .

The representative of the Metropolitan Police also discussed the administrative documents used by the premises, stating that the Door Log Book, Incident Log and Drugs Register were often incomplete, incorrect or inaccurate and were often not signed by the DPS as required. Also noted were letters detailing that the CCTV system at of the premises had been sent for repair and had not been operational or had been operating below specification for an unknown period; it was said to have been in such a state for potentially as long as between March 2009 and August 2009, though this could be not be verified.

The Police representative discussed the matters arising from PC Dave Leonard’s witness statement that indicated that there had not been a collection by the Police from the premises’ drug box since July 2008, which was a clear breach of the licence as such was supposed to be arranged by the premises once a month. Also discussed was an incident involving a bag of three wraps containing a white powder; testing showed that white powder from at least one of the wraps contained cocaine.

CCTV tapes from the premises were sent to all parties and viewed prior to the hearing and it was said that the specification was very much under that required as was detailed in the Opium Lounge CCTV specification. The Police stated that they were not relying on the CCTV evidence for anything further.

The Police representative summarised by stating that the review of the licence for the premises was essential as there had been a number of breaches of licence conditions. It was particularly important given the seriousness of the breaches and the sustained and long period of time over which it had taken place. There was evidence of clear drug use and the premises appeared to have a flagrant disregard for process and procedures and as such it would be insufficient to simply change the DPS; revocation of the licence would be the most effective outcome.

London Fire & Emergency Planning Authority (“LFEPA”) – None

Health & Safety Enforcing Authority - None

Planning Control & Enforcement – None

Public Health - None

Children & Families Service – None

Trading Standards Service – None

The Magistrates Court – None

Representation from Interested Party

Written representation was received from a resident living nearby the Opium Lounge stating that the open terrace at the roof of the premises was a nuisance; with loud noise volumes from the customers that prevented the residents from sleeping. The noise in the street was also very high and the customers of the premises had caused a lot of damage inside and outside of Rubicon Court, costing the residents thousands of pounds in extra repairs.

In summary, having regard to the following objectives the representations relate to the following issues:

- The prevention of Crime and Disorder
- The promotion of Public Safety

Reply for the Premises Licensee

The Legal Representative on behalf of the premises licence holder stated that the premises accepted that errors had been made, however, it was said that the mistakes made did not warrant a revocation of the licence and the Police seemed to be seeking a disproportionate measure. Improvements were being made and more would be made; it was important to view the problems in terms of how best the premises and the Police could collaborate to uphold the licensing objectives. It was the view of the premises that many of the parties involved had not taken up the chance to work alongside it.

In addressing the accusations of drug use, the representative for the premises licence holder stated that the problem was not as dramatic as that suggested by the Police and limited drug taking could not be completely prevented in premises such as that under review. The problem was not so widespread that drugs were being bought, sold and used openly. Since July 2009 a member of staff has been permanently situated on the roof terrace area and the new DPS of the premises has invited the Police to inspect the new arrangements, however, the invitation has not been taken up. The toilet attendants employed at the time of the Police covert operations had been dismissed and a new lavatory protocol was being initiated as the licence holder accepted that this area was a specific weakness.

The new DPS has great experience of managing such premises; the premises licence holder had introduced the following:

- A vigilant member of staff that is proficient in solvent and drug habits, the member of staff will have radio access and must remain on the smoking terrace whilst it is open to the public.
- Further in-house training (fully documented) given to the toilet attendants in relation to the use of illegal substances.
- Every effort will be made to have a second female member of staff to remain and check the female toilets, save for one member of staff reporting sick.

- The Opium Lounge will make every effort to have a minimum of 2 licensed persons on the premises at all open times, save for one member of staff reporting sick.
- Staff training (documented) was carried out on Saturday 11th July 2009, which included the following points:
 1. Demonstration of how searched should be carried out on individuals Male and Female.
 2. Glasses, bottles and litter to be proactively collected regardless of position (glass collectors through to Management).
 3. To offer care and assistance to clients that appear to be asleep or ill on the premises. Example; if the person is feeling tired suggest they get some fresh air.
 4. A First Aider to attend all instances that occur on the premises first person on the scene (if not a proficient) to call a First Aid trained member of staff. All staff to be familiar with the names of the staff trained on first aid, as listed on the reception notice.
 5. A reminder to all staff that it is an offence to serve someone who is drunk or seemingly drunk.

The incident described by the Police witness statements of the staff failure and lack of knowledge when giving first aid seemed somewhat unclear and there was no explanation as to why the staff were not conducting the first aid properly. However, they did explain that the condition states that a qualified first aid person shall be on the premises but it does not specify that they must attend to all incidents.

The Police had been contacted twice since July 2008 to collect material seized and contained in the drugs box, however, the premises had not received any response.

They stated that CCTV was inspected by the Police prior to the premises re-opening and it was held to be satisfactory.

The applicant's legal representative then raised the following as weaknesses in the Police's case:

- There was no evidence to show how public safety was compromised e.g. no complaints had been raised in relation to the steps leading outside the terrace.
- The 3 drug wraps were placed into one bag and only the bag was tested.
- Customers "rubbing their gums" did not prove drug use.
- Removal of an unconscious male did not need to be logged as there was no "use of force by staff" as prescribed by the condition.
- The first aider was on the premises at the incident of a male needing medical attention and so the condition was not breached.
- Customers sleeping on the sofas did not breach the licence condition.
- The Police were called three times regarding the collection of the Drugs Box, but had not responded to the requests.
- The incident that occurred on the 1 August 2009 was missed by CCTV; however it could not be logically called an "incident" if it took place in just 3 seconds.
- A new hard drive had been implemented to boost the frames from 3 to 4 seconds. It is for the Police to be satisfied that the CCTV is working correctly.

The representative for the licence holder stated that failure to follow procedure was not sufficient grounds for revocation of the licence.

5. Determination of Application

Consequent upon the hearing held on 26 August 2009, the Sub-Committee’s decision regarding the review of a premises licence for Opium Lounge, 30-44 North Street, Romford was as set out below, for the reasons shown:

The Sub-Committee was obliged to determine this application with a view to promoting the licensing objectives, which are:

- 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 Havering’s Licensing Policy.

In addition the Sub-Committee took account of its obligations under s17 of the Crime and Disorder Act 1998, and Articles 1 of the First Protocol of the Human Rights Act 1998. The Sub-Committee noted that the Metropolitan Police had acted under section 51 of the Licensing Act 2003 in relation to the premises.

Decision

Agreed Facts	
Facts/Issues in dispute	
Issue 1	Whether the operation of the licensed premises would undermine the prevention of the crime and disorder objective.
Issue 2	Whether the operation of the licensed premises would undermine the promotion of public safety objective.
Decision	
Issue 1	<p>Crime and Disorder</p> <p>The Sub-Committee considered the case presented by the Police that the premises conducted poor management of the drugs and customers on the premises and did not have regard for procedures. It was mindful that the Police felt that the best course of action was revocation of the licence. It noted that the licence holder had made efforts to remedy the problems through a new DPS, removal of ineffective toilet attendants and measures to improve the CCTV. It also noted the importance of collaboration between the licence holder and the Police.</p>
Issue 2	<p>Public Safety</p> <p>These issues were raised by Interested Parties and the Sub Committee was mindful of the noise created by the roof terrace. It was also aware that the roof terrace seemed to be the most prolific venue for the alleged drug use.</p>

Having considered the relevant representations by the responsible authorities and the premises licence holder, the Sub-Committee decided not to revoke the licence. The Sub-Committee sought clarification from the Police what they sought and if they wished to enter into an agreement with the licence holder. The parties agreed the following:

Conditions to be added to premises licence are that the licence holder:

In addition to all the existing conditions on the premises licence, the licence holder must:

Ensure that an SIA registered member of staff shall be in a high visibility jacket on the roof garden during the premises opening hours.

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CHAIRMAN

Date: 2009