

Havering Council – Decisions taken by the Licensing Sub-Committee on Thursday, 17 October 2013

Agenda Item No	Topic	Decision
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Note: this decision list is for guidance only. The text of the minutes, which may be different, is definitive.

Part A – Items considered in public

A1	PREMISES LICENCE REVIEW, HUSH, 80-84 MARKET PLACE, ROMFORD, RM1 3ER	Licensing Act 2003 Notice of Decision								
		<p>PREMISES Hush, 80-84 Market Place, Romford, RM1 3ER</p> <p>DETAILS OF APPLICATION</p> <p>Application for a review of the premises licence by the London Borough of Havering’s Licensing Authority under section 167 of the Licensing Act 2003 (“the Act”).</p> <p>APPLICANT Paul Jones, On behalf of the Licensing Authority, London Borough of Havering, 5th Floor, Mercury House, Mercury Gardens, Romford, Essex. RM1 1LS</p> <p>1. Details of existing licensable activities</p> <table border="1"> <tr> <td align="center" colspan="3">Supply of Alcohol</td> </tr> <tr> <td align="center">Day</td> <td align="center">From</td> <td align="center">To</td> </tr> <tr> <td align="center">Sunday to Thursday</td> <td align="center">07:00</td> <td align="center">00:00</td> </tr> </table>		Supply of Alcohol			Day	From	To	Sunday to Thursday
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		<p>The court considered the closure order and determined that the premises should be closed for a further day following the hearing. The premises were thus allowed to open from the 1 August, 2013.</p> <p>Section 165(4) requires the court to notify the Licensing Authority of its determination; however, the notification was not supplied to Havering until 19 September, 2013. It was upon the receipt of the court's notification that this review process commenced.</p> <p>The Licencing Officer visited the premises on the 26 September and noted a number of items which needed to be addressed. These were as follows:</p> <ul style="list-style-type: none"> • Annex 2 Condition 7 <i>A fully trained first aider will be present at all times wherever possible and Annex 3 PS23 At least one trained first-aider shall be on duty when the public are present. We discussed this matter and it would appear that you are relying on your SIA staff to be trained. I would suggest that you should keep a note of the trained first aider in the premises daily register.</i> • Annex 2 Condition 8 <i>The capacity must not exceed the limit set for the building. You did not appear to know for sure what the capacity is for the building. Please establish what that capacity is and establish a way of monitoring it during your open hours.</i> • Annex 3 <i>That staff will receive Drug awareness training from the Havering DAAT team. As discussed last night I am attending a meeting with the Drug and alcohol Action Team (DAAT) in the next couple of weeks. I will establish what is required for you to comply with this condition.</i> • Annex 3 PNGPG1 <i>The Licence Holder shall implement a written queue management policy. All queuing outside the premises shall be managed in such a way that prevents noisy or rowdy behaviour and therefore minimises</i>

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		<p><i>disturbance or nuisance to neighbours. The policy shall be approved in writing by the Licensing Authority. Although you state that you do have a policy, it needs to be written and ratified by the Licensing Authority.</i></p> <ul style="list-style-type: none"> • Annex 3 PNGPG2 <i>The Licence Holder shall implement a written dispersal policy, to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours, both residential and business, and to make the minimum impact upon the neighbourhood in relation to potential nuisance, antisocial behaviour, crime and disorder. The policy shall be approved in writing by the Licensing Authority. Once again you state that you have a policy, but it is required to be in writing and ratified by the Licensing Authority.</i> • Annex 3 PS24 <i>Notices detailing the availability of first aid equipment shall be prominently displayed & shall be protected from damage or deterioration. There were no signs on display in the premises.</i> • Annex 3 CD21 <i>The Designated Premises Supervisor shall hold a National Certificate of Drugs Awareness qualification, run by the BII or similar accredited body. As discussed previously I will speak with Havering's DAAT.</i> <p>The provisions of section 167(4) of the Act dictate that the Licensing Authority undertakes certain functions with regard to an application made under this section. To this end the Licensing Authority gave a copy of the application to the premises licence holder and each responsible authority. It also installed an appropriately worded public notice advertising this application at the premises, at Havering Town Hall and on Havering's website inviting interested persons and responsible</p>

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		<p>authorities to make representations against, or in support of, the application in accordance with appropriate premises licence regulations 37, 38 and 39.</p> <p>When determining an application for a premises licence review made after a section 161 closure notice has been made section 167 of the Act requires that the relevant Licensing Authority holds hearing to consider the closure order and any relevant representations made. A 'relevant representation' in such circumstances is one which is made by the premises licence holder, a responsible authority or an interested person within the consultation period and which is relevant one or more of the licensing objectives. During the hearing the Licensing Authority must take any the following steps it considers appropriate for the promotion of the licensing objectives. These steps are:</p> <ul style="list-style-type: none"> (a) to modify the conditions of the premises licence (b) to exclude a licensable activity from the scope of the licence (c) to remove the designated premises supervisor from the licence (d) to suspend the licence for a period not exceeding three months (e) to revoke the licence <p><i>(NB With reference to (a) the premises plans form a condition of the premises licence.)</i></p> <p>3. Promotion of the Licensing Objectives</p> <p>The review had been requested in order to promote the licensing objectives as shown below</p> <ul style="list-style-type: none"> • The prevention of crime and disorder <p>4. Details of Representations</p>

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		<p>Chief Officer of the Metropolitan Police – (a responsible authority under the Licensing Act 2003) – The representation stated that:</p> <p>The Police believe the premises of HUSH are not acting in a responsible manner to promote the licensing objectives during their hours of trading. Officers feel this premise has a negative effect on all 4 licensing objectives, prevention of crime and disorder and public nuisance, protection of children from harm and public safety. Police brought to the sub committee's attention a number of offences that had taken place at the venue along with suggestions on how these issues might be remedied by changes to their current licence.</p> <p>Sunday, 28 July, 2013</p> <p>Police arrived on scene at 02:00hrs to be greeted by a large disturbance occurring inside and outside the venue. There were a number of males arguing and pushing each other. Officers could hear glass smashing in the venue. A male was seen lying in the entrance police placed him into the recovery position and started to conduct first aid as the male was incoherent. The venue was full of people and a large majority were against police. As officers were dealing with the injured male a number of people were pushing past attempting to get outside the venue.</p> <p>Inspector Blackledge (Licensing Inspector for Havering) and other officers on duty received a call via their personal radios for urgent assistance as a large fight was in progress. A number of marked police vehicles and uniformed officers attended immediately. Upon their arrival they were greeted with members of public outside the venue, a glass panel to the entrance smashed, with glass all over the public footway and two males with head injuries beside the entrance. The smoking barrier which was</p>

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		<p>normally erected outside the premises was on the floor covered by discarded plastic drinking containers (this suggested drinking outside the premises). Police instantly saw a lack of SIA door staff at the entrance and if not for the presence of police officers members of the public could have continue to enter unsearched and challenged due to age.</p> <p>Inspector Blackledge established contact with the manager, David Barros and asked to speak with the DPS (Keith Roach). She was informed he was inside. Mr Barros then entered the venue to get him. Whist waiting Inspector Blackledge witnessed several patrons leave the premises and congregate outside, some unsteady on their feet. The noise level increasing. Mr Roach appeared, when asked what had happened he stated he was unsure. Both males were unable to answer how many persons were inside, relying on a counter. Inspector Blackledge pointed out this would not be an accurate reading as door staff were not in position on the doors. Inspector Blackledge entered the premises and saw approx. 100 patrons and 3 door staff (Not wearing hi visibility jackets).</p> <p>There was a large amount of glass bottles on the tables. Inspector Blackledge enquired if it was a condition to use plastic / polycarbonate containers, Mr Roach stated only plastic was used. Inspector Blackledge inspected a nearby champagne glass being used by a customer; she found this to be glassware contrary to the licence.</p> <p>Inspector Blackledge asked to see the SIA attendance register, this caused an issue and SIA staff were seen to enter the managers room where the folder was kept, Mr Barros later admitted the register had not been completed for that evening. Upon further inspection by Inspector Blackledge she found more inconsistencies including</p>

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		<p>date errors.</p> <p>Due to the situation Inspector Blackledge informed Mr Roach that the premises was subject to a closure order under section 161 Licensing Act 2003, informing him the closure was effective for 24hrs.</p> <p>BACKGROUND</p> <p>Hush is located within the boroughs Anti-Social Behaviour hotspot and directly opposite residential premises. There are two large bus stops a matter of 200 yards away which service night buses.</p> <p>In the past year police had received several complaints of violence and anti-social behaviour which had been recorded directly against the premises. A number of crimes had also been reported showing the premises as the venue.</p> <p>The Police provide a number of examples from their records to illustrate this. The Chairman ruled that the incident on the 1st / 2nd September, 2012 was not relevant as this occurred before Mr Barros took over the premises.</p> <p>In all the examples provided by the Police all the incidents had occurred after 01:00hrs. They submitted that this was the critical time for potential issues to take place. Victims became even more vulnerable due to intoxication; offenders became even more violent due to intoxication. Romford Town Centre needed a quick dispersal zone when pubs, clubs and other venues close. With a 0400hrs finish time (Fri & Sat) this only increased the chances of crime and disorder and offences against public safety and public nuisance. This premise by the sheer nature of the examples had shown they could not</p>

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		<p>operate without such incidents taking place.</p> <p>Police also brought to the sub committee’s attention that Annex 3 clearly states the premises will implement a written queue management and dispersal policies. This has now been received and agreed.</p> <p>Further to the above observation police had received numerous calls to the immediate locality, it was impossible to ascertain if these premises were involved in all these incidents as callers / victims had left prior to police arrival. These disturbances do however have an impact on residents in the area, police sirens and blue lights disturb residents when responding to such disturbances in the area.</p> <p>Police believed the majority of Hush’s customer base were under the influence of alcohol in different degrees. The potential for violence was often felt throughout the night at this location; add this to concerns from their very own door staff in relation to feeling vulnerable, this posed a serious question against level of effectiveness for the licensing objectives.</p> <p>SIA door staff had proven to be an effective tool in the combat against crime and disorder along with aiding public safety. Police encouraged the use of such staff during the hours of operation but feared either not enough were being employed OR that staff were taking matters into their own hands such as using restraining equipment referred to in the examples provided by the police.</p> <p>Police were, therefore, seeking a reduction of permitted hours for licensable activities and an earlier closing time at the premises, it was felt this would lead to a drastic</p>

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		<p>improvement in matters and reduce the likelihood of attracting the undesirable and criminal element that currently frequented the club. The MPS had no faith in the ability of the management to operate the premises responsibly under the current hours of trading.</p> <p>In conclusion police respectfully requested that consideration be made to the following recommendations /amendments to the current licence.</p> <ul style="list-style-type: none"> * A reduction in trading hours until 0200hrs on all evenings * A reduction in the supply of Alcohol, Late night Refreshment and other licensable activity until 0130hrs * Last entry point for customer’s one hour before closing time on each occasion the premise opens * Provide a written queue management and dispersal policies as shown in Annex 3, this has not been received to date. * A member of staff able to operate, download CCTV footage MUST be on duty at all times the premises is open for business. Staff MUST assist police and authority in their enquires. * Scan Net initiative (Or such like) to be implemented within 2 months - To be installed and used during all opening hours of the venue, no one enters unless I.D’d via scan net, condition of entry. <p>The MPS feels that these were wholly reasonable, proportionate and appropriate measures to put into place to promote the licensing objectives.</p> <p>London Fire & Emergency Planning Authority (“LFEPA”) – None</p>

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		<p>Health & Safety Enforcing Authority - None</p> <p>Planning Control & Enforcement – None</p> <p>Licensing Authority</p> <p>Prevention of Crime and Disorder:</p> <p>On the 28th July 2013 Police were called to the premises pursuant to a large scale disturbance at which Police required urgent assistance. As a consequence the senior officer at the scene exercised Police powers under s.161 of the Licensing Act 2013 and closed the premises.</p> <p>On the 30th July 2013 Police attended Redbridge Magistrates Court and the closure was heard. The court ordered that the premises was to be closed immediately to all persons and remain closed for one day from the date of the order.</p> <p>S.167 Licensing Act 2003 states: Review of premises licence following closure order <i>(1) This section applies where —</i> <i>(a) a closure order has come into force in relation to premises in respect of which a premises licence has effect, and</i> <i>(b) the relevant licensing authority has received a notice under section 165(4) (notice of magistrates' court's determination), in relation to the order and any extension of it.</i> <i>(2) The relevant licensing authority must review the premises licence.</i> <i>(3) The authority must reach a determination on the review no later than 28 days after the</i></p>

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		<p><i>day on which it receives the notice mentioned in subsection (1)(b).</i></p> <p>Following the court hearing extensive enquiries with the magistrates' court with regards to the duty imposed upon the court by s.165(4) were undertaken. The court is required by this section to notify the appropriate Licensing Authority of the closure order and any determination made. Initially the court was unable to confirm the 30th July 2013 appearance. Subsequently, on the 19th September 2013, notification arrived with Havering's Legal and Democratic services.</p> <p>Children and Family Services– None</p> <p>The Magistrates Court – None</p> <p>Representations from Interested Parties – Three residents of Nayland Court, the residential complex immediately opposite the premises submitted representations. Their representations concerned public nuisance and Prevention of Crime and Disorder. All three raised the issue of noise from the premises and incidents of crime and disorder spilling over outside the premises.</p> <p>Mr Chauhan in addition asked that the hours be reduced to 1.00am on Friday and Saturday and 11.30pm on all other nights to bring it in line with the Bull.</p> <p>5. Premises Holders Response</p> <p>Mr Barros, Manager and Mr Roach, Designated Premises Supervisor, attended the hearing to respond to the representations. In addition they had submitted a detailed written response to the representations submitted by the Police and local residents.</p>

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		<p>The responses were as follows:</p> <p>28th July, 2013</p> <ol style="list-style-type: none"> 1. They confirmed that the dispute had started at the Reception area of the club where a male had been assaulted (punched/rendered unconscious) by another male which had been dealt with by security by quickly separating them and diffusing the situation. However, the fight was continued outside the venue by friends of the two males involved. 2. On the issue of hearing glass breaking, they advised that the only broken glass was the smashed door panel and a glass bottle which was found later outside the venue, and which may or may not have been from their premises. 3. With regard to the injured person security staff had ensured the safety of the injured person by restraining the public and clearing the way to attend the matter efficiently. There was lack of communication between the police and the public, as the public believed that there was no need to close down the venue over the incident, and this clearly created some tension with the customers. However, at no point had it got out of hand and there was no verbal or physical abuse towards the police. No arrests were made at this stage and no further action taken with regard to customer complaints. 4. As mentioned in 3 above security staff were restraining the public thus protecting the injured male. The lack of understanding mentioned in 3 above had caused people to leave the venue as they assumed it was being closed by the police. As such, there was a large volume of people leaving the premises as soon as possible through the front doors where the police were dealing with the injured male.

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		<p>5. There was only one incident on the night and this was called in by security staff.</p> <p>6. The smoking barrier had been knocked over as a result of the fight. Security staff were occupied in resolving the incident, restraining the public from the police and helping them deal with the injured person. Some of the people leaving the club may have taken drinks outside due to the rapid development of events and police closing the club, however, club management were not aware of it. As a general Procedure, there were no drinks allowed outside the venue into the smoking area.</p> <p>7. They had been advised by the Council that they required one security staff for every 40-50 customers inside the premises. As they had around 100 people inside the premises (as is stated on the police report), they had sufficient amount of security staff for the amount of customers - 4 door supervisors, 2 inside the premises (on the first floor) and 2 on the door (as written in the security sign in book) so they had complied with the Council’s advice and guidance.</p> <p>Furthermore, the 696 form completed for the night stated that 2 door supervisors were going to be on the door, 2 on the first floor and 2 on the second floor. However at no point during the night did they open the second floor, and as such 4 security staff were used. As no concerns were raised with the number of security staff listed in the 696 form by the Metropolitan Police prior to the event, they had used 4 security staff.</p> <p>The security staff were equipped with metal detectors to conduct searches, and at no time was this surpassed. Also, there were strict procedures in place for checking ID’s – “No ID, no entry policy”. At the time the incident happened (02:00hrs), there were no new entries to the venue apart from people who were already inside and left due to the confusion, caused by the police about the closure of the venue, trying to re-enter the</p>

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		<p>premises. These people had already been checked for ID at the beginning of the night and as such there was no need to re-check.</p> <p>8. The counter is the most common measure used by security at any venue, hence it is unreasonable to claim that it is an unreliable measure. As for the security not "being in position on the door", it is also an unreasonable claim as the Inspector and Police Officers only saw the door at the time of the fight and have no record of actions of security throughout the night. The police officers only saw what happened when the incident (the fight) happened. There were no new entries to the club at the time the fight happened, and people were trying to get in and out of the venue (the same people who were already counted by the clicker). At this point the priority of the security staff was assisting the injured person and the police, and restraining the crowd (which was managed well even given the circumstances) and trying to find out who was responsible for the incident.</p> <p>9. Glass is the most common type of container used for wine, champagne and spirit bottles. There is no company in the world who would put such drinks in plastic bottles. At Hush, like any other club, the VIP customers tend to buy drinks by the bottle and they try to satisfy customer needs, and cannot refuse to sell bottles to the VIP customers. Bottles are collected regularly throughout the night.</p> <p>10. The glassware mentioned was actually a wine glass. Some (4 of them) were kept behind the bar for important meetings when the venue was closed. On the night in question a number of new members of staff had just started and one of them had made the mistake of serving a customer in a wine glass. This was an honest mistake.</p>

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		<p>The member of staff was immediately disciplined and all of the glassware discarded.</p> <p>11. We apologise for the inconsistencies in the SIA attendance register and have taken disciplinary measures to ensure it does not happen again. We will now make sure that the sign in book is checked by the head of security as well as the manager, Mr Barros, on the night.</p> <p>6. Determination of Application</p> <p>Consequent upon the hearing held on 17 October 2013, the Sub-Committee’s decision regarding the review of a premises license for Hush, Market Place, Romford was as set out below, for the reasons shown:</p> <p>The Sub-Committee was obliged to determine this application with a view to promoting the licensing objectives, which are:</p> <ul style="list-style-type: none"> • The prevention of crime and disorder • Public safety • The prevention of public nuisance • The protection of children from harm <p>In making its decision, the Sub-Committee also had regard to the Guidance issued under</p>

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		<p>Section 182 of the Licensing Act 2003 and Havering’s Licensing Policy.</p> <p>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.</p> <p>Decision</p> <p>The Sub-Committee noted that the premises owners had agreed with the Licencing Officer and the Metropolitan Police a written queue management policy as required by Annex 3 of the Premises Licence and this was being implemented.</p> <p>The premises licence holders advised that they had changed Security Company and now used JMS Security Ltd, since that change there had been no further incidents.</p> <p>The Licencing Officer advised that the management of the premises were relying on the new security team to provide first aid expertise, two of whom were trained first aiders. Mr Barros advised that both he and the Assistant Manager had signed up for training to become first aiders.</p> <p>The premises licence holders had identified the capacity of the premises as 585. This capacity had never been reached and it was unlikely it ever would. The premises looked to a capacity of 250 on the ground floor and 275 on the first floor. This was checked by the door staff and double checked every half hour.</p> <p>The Licencing Officer advised that he had been talking to the DAAT team to arrange the necessary training but none was available at this time. As soon as courses became available premises staff will be booked on them.</p>

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		<p>Sign in procedures for the security staff had been reinforced to make sure that the attendance book was completed at the beginning and end of each night. The security staff also had a strict policy on ID and were looking to introduce Scan Net Initiatives in the near future.</p> <p>The contract between Hush Nightclub and JMS Security specifies that one of the conditions of employment is to wear high-visibility jackets when on duty. This will ensure there were no more incidents as identified by the police.</p> <p>Bar staff are under strict instructions to serve the drinks in plastic cups. This applies to individual drinks, i.e. beer, wine, alcopops, etc. Two senior bar staff will look after and supervise any new members of staff and train them.</p> <p>The 696 form will continue to be completed for each event in advance to let the licencing office and police know about what event is happening at the club, how many people we are expecting and how many security staff we would have on the night.</p> <p>As a preventative measures the premises have made sure it employs more security on the nights of large events, being 6 security staff – 5 male and 1 female. There is usually 3 staff on the doors and 3 staff inside when one floor is opened. For even larger events (when the venue is operating at full capacity and both floors are open) a minimum of 9-10 security personnel will be on duty.</p> <p>The police made mention of a delay in providing CCTV footage to them by the club. Mr Barros advised the sub-committee that he had delivered a disc to the police station later that day, which he did not realise was in the wrong format. A second copy in a different format was e-mailed to PC Michelle Sherwin and PC Rose when he was advised of the problem. This again was in the wrong format. It was resent in the correct</p>

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		<p>format. PC Rose admitted that Mr Barros might not have known what format the police required and that the original recording would not have been viewed by the case officer until the Tuesday, two days after the incident. For the future Leona Stoute has been designated as the appropriate staff member.</p> <p>Having listened to all representations this morning and also taking into account the written submissions of the local residents and of the licence holders, the Sub-Committee considered that it would be appropriate , in order to promote the licensing objectives to modify the conditions as follows:</p> <ul style="list-style-type: none"> • A reduction in trading hours until 0200hrs on all evenings • A reduction in the supply of Alcohol, Late night Refreshment and other licensable activity until 0130hrs • Last entry tto the premises for customers to be one hour before closing time on each occasion the premise opens • A member of staff able to operate the CCTV system and download CCTV footage must be on duty at all times the premises is open for business. Staff must assist police and authority in their enquires wherever possible. • A Scan Net system (or equivalent) shall initiative be implemented by 31 January 2014. This system shall be installed and used during all hours the premises is open to customers. No customer may enter unless he or she has had their identity confirmed via the Scan Net (or equivalent) system. • 14 days in advance of any event the licensee shall submit a completed form 696 to the Metropolitan Police. After the event, and as appropriate the licensee shall complete and submit the after event monitoring form

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		<p align="center">696A.</p> <p>Evidence from the Police was that much of the crime & disorder, including incidents specific to these premises, occurs after 01:00am. Added to this the residents' complaints related to incidents in the early hours of the morning. It was therefore appropriate to restrict the hours of opening to limit and prevent the crime and disorder and nuisance issues caused by the premises being open until 04:00am.</p> <p>6. Right of Appeal</p> <p>Any party to the decision or anyone who has made a relevant representation [including a responsible authority or interested party] in relation to the application may appeal to the Magistrates' Court <u>within 21 days of notification of the decision</u>. On appeal, the Magistrates' Court may:</p> <ol style="list-style-type: none"> 1. dismiss the appeal; or 2. substitute the decision for another decision which could have been made by the Sub Committee; or 3. remit the case to the Sub Committee to dispose of it in accordance with the direction of the Court; and 4. make an order for costs as it sees fit. <p>James Goodwin Clerk to the Licensing Sub-Committee</p>

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