

Havering Council – Decisions taken by the Licensing Sub-Committee on Friday, 25 April 2014

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

<p>A1</p>	<p>APPLICATION FOR A REVIEW OF THE PREMISES FOR THE ALDERMAN, CHIPPENHAM ROAD, ROMFORD, RM3 8HX</p>	<p align="right">Licensing Act 2003 Notice of Decision</p> <p>PREMISES The Alderman, Chippenham Road, Romford, RM3 8HX</p> <p>DETAILS OF APPLICATION</p> <p>Application for an expedited premises licence review by the Metropolitan Police under section 53A of the Licensing Act 2003 (“the Act”).</p> <p>APPLICANT PC Jason Rose, on behalf of the Chief Officer of Police Metropolitan Police Service, 19 Main Road, Romford, Essex. RM1 3BJ</p> <p>1. Details of existing licensable activities</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Films, indoor sporting events, live music, recorded music, anything of a similar description to live or recorded music, supply of alcohol.</p> </div>
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		<table border="1" data-bbox="857 448 1977 555"> <thead> <tr> <th>Day</th> <th>From</th> <th>To</th> </tr> </thead> <tbody> <tr> <td>Monday to Saturday</td> <td>10.00</td> <td>23.30</td> </tr> <tr> <td>Sunday</td> <td>11.00</td> <td>23.30</td> </tr> </tbody> </table> <p data-bbox="840 627 1545 655">2. Grounds for an Expedited Premises Review</p> <p data-bbox="840 694 2092 826">The application for an Expedited Premises Licence review had been served under section 53A of the Licensing Act 2003 under the grounds that a senior member of the police force had provided a certificate stating an opinion that the premises are associated with serious crime and disorder. The application stated that a serious incident had occurred at the premises on Monday, 31 March, 2014.</p> <p data-bbox="840 865 1601 893">3. Requirements upon the Licensing Authority</p> <p data-bbox="840 932 2092 1098">Under the provisions of section 53A(2)(a) of the Licensing Act 2003, within 48 hours of the receipt of the application, the Licensing Authority must give the premises licence holder and responsible authorities a copy of the application for review and a copy of the certificate, and also consider whether it is necessary to take interim steps. On 4 April 2014 the Licensing Sub-Committee considered the Metropolitan Police's application.</p> <p data-bbox="840 1104 2072 1166">Section 53B(3) requires that the licensing authority must consider whether to take the following interim steps:</p> <ul style="list-style-type: none"> <li data-bbox="936 1173 1854 1201">a) The modification of the conditions of the premises licence; <li data-bbox="936 1208 1962 1276">b) The exclusion of the sale of alcohol by retail from the scope of the licence; <li data-bbox="936 1283 2065 1311">c) The removal of the designated premises supervisor from the licence; and <li data-bbox="936 1318 1464 1347">d) The suspension of the licence. <p data-bbox="840 1390 2029 1418">The Sub-Committee made the following decision on the application for an expedited review:</p>	Day	From	To	Monday to Saturday	10.00	23.30	Sunday	11.00	23.30
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		<p>Under Section 53A of the Licencing Act 2003 a senior police officer can make an application where he is of the opinion that the premises are associated with serious crime or serious disorder or both. This has clearly been done in this case.</p> <p>We could not disagree that the incidents described were very serious.</p> <p>The police evidence was accepted by the premises licence holder. This was that management of the premises over at least the last year had been almost non-existent.</p> <p>Given the serious nature of the incidents and the strong potential for further incidents of violence as set out by the police, we accept the police request and suspend the Licence with immediate effect and until a full review can take place.</p> <p>Section 53(2)(b) requires the licensing authority, within 28 days of the receipt of the application for summary review, hold a hearing to consider the application for the review and any relevant representations, and take such of the following steps as it considers appropriate for the promotion of the licensing objectives:</p> <ul style="list-style-type: none"> (a) The modification of the conditions of the premises licence, (b) the exclusion of a licensable activity from the scope of the licence, (c) the removal of the designated premises supervisor from the licence, (d) the suspension of the licence for a period not exceeding 3 months, or (e) the revocation of the licence. <p>4. The Chief Officer of the Metropolitan Police</p>

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		<p>Following the closure the premises licence holders decided not to exercise their right of appeal but to wait for the outcome of this review hearing.</p> <p>The Metropolitan Police were recommending the suspension of the premises licence, during which period the following areas of concern could be addressed.</p> <ol style="list-style-type: none"> 1. Arrangements should be made a minimum of three SIA door supervisors to be on duty each night from 1900hrs to close. 2. A written Search Policy be adopted by the premises and supplied to the local authority and Metropolitan Police licensing departments. 3. Door supervisors of both sexes shall be on duty at all times to enable all clientele to be searched. 4. All door supervisors should enter their full details in the premises daily register at the commencement of work. 5. All door supervisors working outside the premises or whilst engaged in the dispersal of patrons at the close of business shall wear 'high visibility clothing.' 6. Drinks shall be served in containers made from toughened glass (tempered glassware). 7. All drinks shall be decanted from glass bottles at the point of sale into toughened glassware. 8. All staff shall be suitably trained for their job function for the premises. The training shall be written into a programme on-going and under constant review and must be made available to a relevant responsible authority when called upon. 9. All staff shall be trained to deal with persons who were incapacitated through the use of drugs or the combined effect of drugs and alcohol.

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		<p align="center">10. Challenge 25 to be introduced.</p> <p>In support of this recommendation the Metropolitan Police again provided details of the incident on the 31 March, 2014, and of five other incidents which had occurred between the period 24/04/13 to 26/12/13.</p> <p>Further to the crime and disorder concerns the police identified a lack of due diligence by the venue operators on recent visits. This had led to the issue of a warning letter identifying the alleged breaches. These had not yet been addressed. The premises licence holders live in Ireland and the DPS also ran another premises, which Police have told her was not feasible. On PC Rose’s last four visits, the DPS has not been at the premises. Police see this as an irresponsible attitude to the licensing objectives.</p> <p>The premises had a clear history of clientele who were in possession of or were prepared to use weapons. The latest incident was of a very serious nature involving a knife and could have led to more serious, if not fatal injuries. The concern regarding fear of retribution for the suspect and indeed the premises remained extremely high. The suspect’s family had contacted custody to request their son not be released as they feared for his safety. This man remained on remand bail for this very reason as he had openly indicated he fears that patrons at the venue might seek a violent retribution.</p> <p>5. Havering’s Licensing Authority.</p> <p>Paul Jones, on behalf of the Licensing Authority stated that the licensing authority’s fundamental concerns related to the premises’ apparent failure to promote the prevention of crime and disorder, the prevention of public nuisance and public safety licensing objectives. It</p>

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		<p>is the licensing authority’s view that the premises’ proprietors have, over a sustained period, failed to address on-going and long-term concerns at the premises which had resulted in repeated failures to promote the licensing objectives. This sequence of failures culminated in the violent incident at the premises on 31 March, 2014 which prompted the expedited review.</p> <p>Section 182 of the guidance to the Act indicates the following in relation to the role of the DPS at paragraph 10.27:</p> <p><i>The 2003 Act does not require a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold; however, the designated premises supervisor and the premises licence holder remain responsible for the premises at all times including compliance with the terms of the 2003 Act and conditions attached to the premises licence to promote the licensing objectives.</i></p> <p>Clearly, as the DPS and premises licence holder were effectively one and the same from January, 2010 to September, 2013 the responsibility for the successful operation – or otherwise – of the premises and attendant promotion of the licensing objectives must reasonably have rested with the individual occupying those two roles.</p> <p>Reference was also made to Havering’s licensing policy, which is preceded by its ‘vision statement’ which declares:</p> <p><i>We want to make sure that Havering offers a wide choice of quality and <u>well managed</u> entertainment and cultural venues within a safe and attractive environment valued by those who live, work and visit here.</i></p> <p>To aid crime reduction licensing policy 002 provides:</p>

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		<p><i>The LLA seeks to encourage the highest standards of management in licensed premises. Where representations have been received the LLA will use appropriate licence conditions to support the prevention of crime and disorder in the borough and the work of the community safety partnership.</i></p> <p>The licensing authority was not convinced that the premises’ management had fulfilled this expectation for an extended period.</p> <p>Licensing policy 008 provides:</p> <p><i>The LLA is committed to protecting the amenity of residents and businesses in the vicinity of licensed premises. Where relevant representations are received the LLA may attach appropriate conditions to licences necessary to support the prevention of undue noise disturbance from licensed premises.</i></p> <p>Given the complaints received by the environmental health service it would seem that appropriate conditions would be required if the premises were allowed to reopen.</p> <p>This specific policy is expanded at paragraph 4.20:</p> <p><i>The LLA expects licensed premises to operate in ways consistent with community interests as expressed earlier in this statement of licensing policy and not to undermine the licensing objectives. In exchange for allowing greater freedom for business to sell and supply alcohol, provide entertainment or supply hot food and drink after 11.00pm, the LLA expects businesses to comply with legal requirements, licence conditions and the premises operating schedule.</i></p>

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		<p>The Licensing authority maintain that as the premises neighbours have often felt too intimidated to make on-the-record complaints it can be argued that The Alderman have failed to operate in ways consistent with community interests.</p> <p>6. Environmental Health</p> <p>Mark Gasson indicated that since the current database went on line the service had received a number of complaints concerning noise from The Alderman. The first was received on 1 September, 2001 and the last registered on 4 September, 2013. The principal cause of complaints was loud music affecting residents living in nearby premises in Dartfields, Chippenham Road and Kings Lynn Drive. The problem was worse in warmer weather when the external doors were open to allow ventilation.</p> <p>The service had experienced difficulty in progressing these complaints due to the fear of reprisals.</p> <p>7. Case for the premises licence Holders.</p> <p>Stephen Thomas, Solicitor responded on behalf of the premises owners; both of whom were in attendance.</p> <p>At the beginning of the hearing, Mr Thomas set out a number of conditions suggested by Mr Cubitt in his statement dated 24 April 2014, made following contact with the responsible authorities. The responsible authorities indicated that these conditions addressed their concerns.</p> <p>Mr Thomas called Councillor Lesley Kelly as a witness, whom the premises licence holders believed was the Ward councillor. Councillor Kelly stated that she had been in the premises</p>

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		<p>and had been made to feel welcome. She believed that with the support of the regular clientele and staff the problems could be overcome. She asked the Sub-Committee to give the premises a second chance to become a community asset.</p> <p>Councillor Keith Wells stated that as ward councillor he had never received any complaints about the premises.</p> <p>Copies of the following policies were provided by Mr Thomas:</p> <ul style="list-style-type: none"> • CCTV policy; • Drugs Policy; • Age Verification Policy; • Anti Violence Policy; • General Dispersal Policy • Noise Policy • And Training policies in respect of <ul style="list-style-type: none"> ○ Prevention of Sale of Alcohol to underage drinkers; ○ A guide to Common Illegal Drugs; ○ Understanding of the Law on measures; and ○ Dealing with Violence. <p>Mr Thomas provided a history of the Cubitt's ownership of the premises. This included a problem at the beginning of 2010 when a group of 10 individuals moved into the area and intimidated the regulars. Initially the Cubitt's worked with the police to resolve the issue, which worked for a week. The solution to the problem was to close the pub at 7.00pm for a period of time, during which the trouble makers relocated elsewhere.</p> <p>At the time of the incident on 31 March, 2014 the manager Lisa Phillips did not bother to notify</p>

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		<p>Mr and Mrs Cubitt. As a result both she and her sister Jane Philips have been removed. Rather than appeal the decision to close the premises the Cubitts decided to work with the Police and Licensing Authority to reach a solution to allow the premises to reopen.</p> <p>Since the premises closed both Mr and Mrs Cubitt and two of the bar maids had taken and passed the training to become Designated Premises Supervisors. Originally it was suggested that Mr Cubitt become Designated Premises Supervisor, but following objections from the Metropolitan Police Kirsty Lewis would be suggested as a suitable replacement.</p> <p>Kirsty addressed the Sub-Committee on how she saw the premises being run through the proposed Management team of herself, Mr Cubitt and Louise Fowler.</p> <p>In summing up Mr Thomas advised that his clients were prepared to accept all the conditions required by the responsible authorities, and that these proposed conditions would meet the licensing objectives. When considering what is appropriate and proportionate, the imposition of these conditions goes a long way. Mr Thomas therefore asked that the premises be allowed to re-open, once it has a Designated Premises Supervisor in place.</p> <p>8. Response from the Responsible Authorities.</p> <p>The Metropolitan Police, Licensing Authority and Environmental Health indicated that they would have no objection to the premises reopening subject to the conditions agreed.</p> <p>9. Determination of Application</p> <p>Consequent upon the hearing held on 23 April, 2014, the Sub-Committee’s decision regarding the review of a premises license for The Alderman, Chippenham Road, Romford is set out below, for the reasons shown:</p>

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		<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 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>Having considered the written representations submitted and heard the oral representations, the Sub-Committee were satisfied that the premises had taken the suspension imposed at summary review seriously, and responded well to it. The responsible authorities were satisfied with the conditions as set out, and the Sub-Committee agreed that they addressed the concerns raised, as well as the licensing objectives. The Sub-Committee are therefore prepared to allow the premises to reopen, once a Designated Premises Supervisor has been appointed and approved and subject to the following conditions:</p> <ol style="list-style-type: none"> 1. The current Designated Premises Supervisor to be removed and replaced by an approved alternative;

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		<ol style="list-style-type: none"> 2. Until 1 September, 2014 the premises to close at 19:00hrs, although the curtains/window dressing will remain open after 19:00hrs once the premises close; 3. Until 1 September, 2014 on Saturday, Sunday and Monday of bank holidays 2 door staff will be engaged from 14:00hrs to 19:00hrs; 4. From 1 September, 2014, whenever the premises are open after 19:00hrs, three door staff will be retained at the premises and remain on duty until 30 minutes after close of the premises; 5. From 1 September, 2014, two door staff will be retained from 14:00hrs until 19:00hrs on all bank holidays, and from 19:00hrs till 30 minutes after closing three door staff will be retained; 6. An approved written search policy to be adopted by the premises and supplied to the local authority and metropolitan Police licensing departments; 7. All door supervisors shall enter their full details in the premises daily register at the commencement of work. This shall record their full name, home address, contact telephone number, SIA registration number and the time they commenced work. If the door supervisors are supplied by an agency details of that agency shall be recorded, including the name of the agency, the registered business address and contact telephone number.

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		<p>8. All door supervisors working outside the premises or whilst engaged in the dispersal of patrons at the close of business shall wear high visibility clothing;</p> <p>9. Drinks shall be served from containers made of toughened glass;</p> <p>10. All drinks from glass bottles shall be decanted into toughened glass;</p> <p>11. All staff shall be suitably trained for their job function for the premises. The training shall be written into an on-going programme and constantly reviewed. Details must be made available to the responsible authority on request;</p> <p>12. All staff shall be trained to deal with persons who are incapacitated through the use of drugs and/or alcohol;</p> <p>13. Challenge 25 shall be introduced and notices put on display;</p> <p>14. A separate incident book shall be kept to record underage issues/refusals;</p> <p>15. Mr Cubitt will be resident at the premises from the day the premises reopen until 2nd January, 2015. He will notify the Metropolitan Police if he is required to be absent from the premises for a period of 4 days or more;</p> <p>16. No live music shall be played at the premises;</p>

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		<p>17. A noise limiter shall be installed and a level set by agreement with Environmental Health;</p> <p>18. When recorded music is played there will be no ingress or egress through the door into the car park;</p> <p>19. A glass bolt shall be fitted to the fire exit doors; and</p> <p>20. The unused ventilation fan shall be blocked in.</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>On receipt of such representations, the licensing authority must (if the representations are not withdrawn) hold a hearing within 48 hours of their receipt.</p>

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		James Goodwin Clerk to the Licensing Sub-Committee