

MINUTES OF MEETING SPECIAL LICENSING SUB COMMITTEE HELD ON TUESDAY, 25TH AUGUST, 2020, 10AM

PRESENT:

Councillors: Gina Adamou (Chair), Peter Mitchell and Viv Ross

ALSO ATTENDING:

**Daliah Barrett, Licensing Officer
Khumo Matthews, Legal Officer
Sarah Greer, Licensing Enforcement Officer
Emma Perry, Principal Committee Co-ordinator**

Mr Ali Toprak, Premises Licence Holder

1. FILMING AT MEETINGS

Noted.

2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

3. URGENT BUSINESS

It was noted that it being a special meeting of the Sub Committee, under Part Four, Section B, Paragraph 17, of the Council's Constitution, no other business shall be considered at the meeting.

4. DECLARATIONS OF INTEREST

There were no declarations of interest.

5. REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003 PHILIP LANE SOCIAL CLUB, 209-211 PHILIP LANE, LONDON N15

Daliah Barrett, Licensing Officer, introduced the report, as set out in the agenda.

Sarah Greer, Enforcement Officer, introduced the application for a review of the premises licence, as set out in the agenda.

The Committee referred to page 35 of the agenda and questioned whether the licence permitted the supply of alcohol on or off the premises. In response, it was confirmed

that it should have stated that the supply of alcohol was permitted both on and off the premises.

The Committee also questioned whether the playing of music was permitted at the premises, as the playing of loud music had been raised by local residents in their representation. In response, it was confirmed that the premises did not have a licence for music. It was also noted that the Premises Licence Holder had changed the layout of the venue and rented an area out, which was being used for dance events. The Licensing Officer explained that this was a new area and therefore was not covered by the existing licence.

In response to a question regarding the 2 gaming machines, it was explained that the Premises Licence Holder had not paid the annual fee and therefore their premises gaming machine permit was no longer valid. Ms Barrett added that the machines that were located in the premises were illegal and not permitted within the UK.

Discussion took place regarding the dates in June that the premises had operated during the Covid-19 lockdown period. Ms Greer confirmed that she had visited the premises on both the 5th and 12th June when the premises had been open to the public and a prohibition notice had been issued on the second visit.

In response to a question regarding the playing of cards at the venue, as referenced on page 21 of the agenda, it was reported that although there were previous suspicions regarding this activity, there was no evidence of any money changing hands during that visit.

The Committee sought further clarification regarding the new area created within the venue and it was confirmed that no application or notification had been submitted to the licensing authority to alter the space or change the operation.

The Premises Licence Holder's representative outlined his case. The representative stated that during the two visits to the premises referred to by the Ms Greer, Mr Toprak was not in attendance as he had hospital appointments and had asked his friend to manage the premises on his behalf. He added that this friend had not been fully aware of the rules.

Mr Toprak explained that during lockdown he had received no help from the Government and had struggled to pay his rent on the premises. He had therefore rented the back area of the premises to a friend to generate some income. Mr Toprak added that he had told his friend not to open this area during lockdown but he had not listened to him.

In response, Ms Greer confirmed that on both occasions in June that she had attended the premises Mr Toprak had been in attendance. On the first occasion Mr Toprak had been smoking inside the premises and after being asked to put his cigarette out he had left the venue.

Discussion took place surrounding the opening of the premises during lockdown and it was explained that the Premises Licence Holder and Designated Premises Supervisor carried the responsibility for ensuring the licensing objectives and conditions were

upheld. It had already been confirmed that Mr Toprak had been in attendance at the premises on both occasions when the venue had been in operation during the lockdown period. Ms Greer added that the premises had been sub-divided on both of those visits.

In response to a question regarding the sourcing of the machines, Mr Toprak advised that the machines had been brought in by his friend and were the same type of machines that were located within a social club down the road from the premises.

In response to a question from Ms Greer, Mr Toprak indicated that his friend had been running the premises since the end of February 2020 until the Council had closed the venue, due to health issues. Ms Greer questioned this statement as Mr Toprak had been in attendance at the premises during her visits. Mr Toprak added that he had been trying to sell the business and during her second visit he was still dealing with the buyer.

Ms Greer made reference to the complaints and enforcement action taken during Mr Toprak's management and questioned why he continued to have the illegal machines in his premises. She added that on each occasion when she had visited the premises the machines were always in operation and had not been switched off.

In response, Mr Toprak accepted this and apologised for his actions. He explained that the customers liked the machines and had requested that they be kept, which he did.

Ms Barrett also referred to the history of complaints and enforcement action taken against Mr Toprak and explained that there had been a consistent number of instances since he had taken over at the premises in 2014. It was explained that if further prosecutions were to be taken, the licensing authority had the ability to look at the personal licence and consider revocation.

In summing up, Ms Greer stated that she still recommended the revocation of the licence. Ms Barrett referred to the guidance issued under Section 182 of the Licensing Act 2003 and reiterated that the licensing objectives had been undermined.

The Chair thanked all for attending and advised that the Committee's decision would be available within five working days.

RESOLVED

The Licensing Sub Committee carefully considered the review application and representations put before it, the Council's statement of licensing policy, the Licensing Act 2003, and the section 182 Licensing Act 2003 guidance.

Considering the evidence, the Committee decided that it was appropriate and proportionate to revoke the licence.

Reasons

Having heard evidence from the Local Authority Enforcement Officer, the Committee was satisfied that there had been a failure on the part of the licence holder to promote and uphold the licensing objectives relating to crime and disorder.

Several incidents had occurred at and within the immediate vicinity of the premises since 2015. The Committee felt that persistent breaches of the licensing objective relating the prevention of crime and disorder were a serious matter that called for the revocation of the licence.

The history of incidents was as follows:

Date	Issue and/or Incident complained of or illegal activity taking place on licensed premises	Action taken by licencing authority in Response
12/06/2015	Gaming machine on premises	Simple Caution
20/09/2016	Smoking on premises	Written warning issued
09/12/2016	Smoking on premises	No contact
26/10/2017	Gaming machine and illegal cigarettes	Enforcement Notice Issued
14/11/2017	illegal gambling, they do this at the front and rear of the property, they also have illegal fruit machines, and poker games with a profit of 10k, also drug use	Referred to Antisocial Behaviour Officer
23/02/2018	5 x Joker Poker Machines, 2 x Black Horse Machines, 1 x Betting Terminal	Prosecution – conviction (fine £600, comp £60 & fees £340)
22/05/2018	Flytip	FPN – Paid
26/05/2019	Loud music	No visit
08/08/2019	Loud music between 10am to 3am	Caller wanted to log only
08/08/2019	Caller would like to report loud music from 8pm till 4 or 5am	Caller wanted to log only
14/08/2019	Loud music and bass	Caller wanted to log only
15/08/2019	Caller says that the music is playing loud music until 2am, their licenced for music up until 11pm. There is a lot of shouting when their customers leave the premises	Caller wanted to log only
25/7/2019	Community Protection warning served	31/8/19 – complied with notice
20/02/2020	Fly tipping	Fixed Penalty Notice paid
05/06/2020	Covid- 19 restricted business open in contravention of regulations	(open to public)
12/06/2020	Covid- 19 restricted business open in contravention of regulations	15/6/20 prohibition notice issued

The Committee heard that there were gaming machines on the premises, which had been installed without the Local Authority's permission. The committee also noted that some of the machines were completely illegal in the UK.

The Premises Licence Holder had been the subject of enforcement action on several occasions and appeared unwilling to uphold the licensing objectives. The Committee believed that the Premises Licence Holder had a wilful disregard of the licensing objectives and was not a fit and proper person to serve as a licence holder or Designated Premises Supervisor.

In his representations, the Premises Licence Holder gave the Committee two versions of events. Initially, he denied responsibility for the presence of illegal gaming machines, and then later admitted placing the gaming machines at the premises because his customers liked using them. The Premises Licence Holder was not prepared to give the Committee a truthful account and was not a credible witness.

Having heard the evidence given by the Premises Licence Holder, the Committee had very little confidence in his ability to comply with and uphold the conditions on his licence. Despite having been the subject of enforcement action more than once, the licence holder was not prepared to uphold the obligations expected of a responsible operator of licenced premises. A matter that is fundamental to the preservation of public health, namely smoking, was freely taking place within the premises. The licence holder also saw fit to open illegally during a time when the country faces a major public health emergency.

The Committee was very concerned by the licence holder's decision to alter the layout of the premises without consulting the licensing authority, for the purpose of subletting a portion of the premises for use as a social club. The Committee wished to make clear that the revocation of the licence applied to the whole of the premises including the area used as a social club.

The Committee only made its decision after considering all the evidence and was satisfied that the crime prevention objectives were being undermined. The revocation of the licence was an appropriate and proportionate response to the matters that were put before it.

Appeal Rights

This decision is open to appeal to the Magistrates Court within the period of 21 days beginning on the day upon which the appellant is notified of the decision. This decision does not take effect until the end of the appeal period or, in the event that an appeal has been lodged, until the appeal is dispensed with.

CHAIR: Councillor Gina Adamou

Signed by Chair

Date