MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 6 APRIL 2011

COUNCILLORS

PRESENT  (Chairman)Derek Levy, Christine Hamilton and Elaine Hayward

ABSENT

OFFICERS:  Mark Galvayne (Principal Licensing Officer), Catriona McFarlane (Legal representative), Ellie Green (Principal Trading Standards Officer), Jane Creer (Democratic Services)

Also Attending:  Ms Elenie Kalogirou
  4 representatives for the Metropolitan Police Service
  5 representatives for Club Volts

916  WELCOME AND INTRODUCTIONS

The Chairman welcomed all those present, introduced the Sub-Committee Members, and set out the order and procedure of the hearing.

917  DECLARATION OF INTERESTS

There were no declarations of interest in respect of items on the agenda.

918  MRS ELENIE KALOGIROU, 40 BETSTYLE ROAD, ARNOS GROVE, LONDON, N11 (REPORT NO. 226)

RECEIVED an application made by Mrs Elenie Kalogirou for a Personal Licence.

NOTED

1. The introductory statement of Mark Galvayne, Principal Licensing Officer, including the following points:
   a. Apologies were recorded for the typographical error in para 2.1 on page 3 of the agenda pack where ‘Mr Kar’ should read ‘Mrs Kalogirou’.
   b. The Police had issued an Objection Notice in respect of the application.
   c. Members’ attention was drawn to the recommendation of the Secretary of State that, where the Police have issued an Objection Notice, the Licensing Sub-Committee should normally refuse the application unless there were exceptional and compelling circumstances which justified granting it.
d. In that respect, an email had been circulated received from Mrs Kalogirou on 28/3/11 providing the exceptional and compelling circumstances in her case.

2. The statement of PC Fisher, Metropolitan Police Service, including the following points:
   a. Further to the original Objection Notice, he wished to add that production of controlled drugs was a serious offence, and that the actions of Mrs Kalogirou only compounded his objections.
   b. Mrs Kalogirou had said that the drugs were hers when originally arrested, when interviewed, and in court: she had not taken any of the opportunities to tell the truth.
   c. The responsibilities of holding a Personal Licence were vast, with strict obligations which must be adhered to.
   d. Mrs Kalogirou had failed to demonstrate necessary trustworthiness, and to issue this licence would undermine the licensing objective of preventing crime and disorder.

3. In response to the Chairman’s query whether the exceptional and compelling circumstances set out in Mrs Kalogirou’s email had given him any reason to reconsider his representation, PC Fisher advised they had absolutely not.

4. The statement of Mrs Kalogirou, the applicant, including the following points:
   a. She had taken the responsibility as a mother, grandmother and the adult in her home as the drugs should not have been in her home.
   b. The application for a licence was for her work. Her employer considered her a fit and proper person and wanted her to be able to sell wine at her workplace. If the application was refused, her job would be at stake.

5. In response to the Chairman’s queries, Mrs Kalogirou stated that she was a responsible person and that was why she had admitted what had happened in her house. The licence was needed for selling alcohol on behalf of her employer as one of a group of 64 employees with such a licence, to ensure that there was always someone on site able to sell alcohol. From personal experience, she was aware of the damage alcohol could do. She had also held a licence before and so was aware of the rules and regulations involved.

RESOLVED that

1. In accordance with the principles of Section 100(A) of the Local Government Act 1972 to exclude the press and public from the meeting for this item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Section 12A to the Act.
The Panel retired, with the legal representative and administrator, to consider the application further and then the meeting reconvened in public.

2. The Licensing Sub-Committee considered it necessary for the promotion of the crime prevention objective to reject the application.

The Chairman made the following statement:

“The Licensing Sub-Committee has read and heard the evidence presented by the two parties.

We do not consider that the applicant has produced anything sufficiently exceptional and compelling to justify the granting of the licence, under the Licensing Act and the policy guidance that informs the panel in coming to its decision.

And we therefore support the Metropolitan Police Service representatives to the effect that the criminal conviction covered within this application is a serious offence, which undermines the extensive responsibilities incumbent upon a Personal Licence Holder.”

RECEIVED an application made by Metropolitan Police Service for a review of the Premises Licence held by Pier One Night Spot Limited at the premises known as and situated at Club Volts, 169-171 Fore Street, Edmonton, N18.

NOTED

1. The opening statement of Mark Galvayne, Principal Licensing Officer, including the following points:
   a. An application had been made by Metropolitan Police Service for a review of the Premises Licence at Club Volts. During the process of the application, the Police position was now that they considered it necessary for the promotion of the licensing objectives for the licence to be revoked.
   b. This application was supported by Enfield’s Trading Standards Service.
   c. If Members were minded not to revoke the licence, all the conditions set out on pages 71 – 77 of the agenda pack had been agreed with all parties with the exception of Condition 52.
   d. The licence holder had also produced supplemental information which had been circulated to all parties.
   e. It was for the Sub-Committee to consider whether it was necessary to revoke the licence for the promotion of the licensing objectives, or to make other amendments to the licence.
2. The opening statement of Mr Lardenberg, Barrister on behalf of the Metropolitan Police Service, including the following points:
   a. PC Fisher had applied for a review of the licence on 18/1/11.
   b. The reason for making this application was the amount of crime and disorder which arose from this operation, especially between 02:00 – 04:00.
   c. The initial Police position was that it was necessary to reduce the hours of opening to 02:00 and to amend the conditions annexed to the licence.
   d. A subsequent incident at Club Volts on 19/3/11 had hardened the Police position, as well as a series of incidents between the time the application was made and the current date so that the Police now considered that the club could not operate at all without compromising the prevention of crime and disorder objective.
   e. The background history of incidents was set out on page 49 – 52 of the agenda pack.
   f. The witness statement on page 35 from Insp John Antoine provided further information regarding incidents that had happened this year.
   g. Even after the review application was made on 18/1/11 and Club Volts were aware of it, incidents kept happening in January and February.
   h. On 19/3/11 an incident occurred involving a man receiving five stab wounds and Club Volts representatives had been reluctant to talk to Police and it had been difficult to move investigations forward due to the poor quality of the evidence.
   i. Police had been concerned about activities at Club Volts since August 2010, and activities this year had caused such concern that Police now requested revocation of the licence.
   j. The commonest features of incidents were violence and the hours at which they happened. Police were called to the venue two or three times some weekends. A graph on page 45 set out the number and time of incidents logged by Police, showing the overwhelming majority happened between 03:00 and dawn.
   k. Club Volts stated that their operation only really got going at 02:00, so the incidents happened when customers attended Club Volts.
   l. Large numbers of Police also had to be called out to the venue: on 28/11/10 an incident began inside the club and the entire Police relief team for that area had to attend.
   m. The regularity of incidents suggested this was a vulnerable premises at vulnerable time of night, and the operation had not been successful in allaying the Police’s concern.
   n. The witness statement of Mr Watson describing Club Volts' security system had been noted, but Police were not confident that any measures could protect this venue from a repetition of incidents and behaviour.
   o. Insp Antoine’s evidence from 7/8/10 – 27/12/10 covered numerous incidents and the pattern continued into the New Year and showed that the club was a crime hot spot and a crime and disorder generator in the borough. There was speculation regarding the downward pull of Police resources, but the facts spoke for themselves in the number of incidents, their consistency and timing and level of seriousness, and failure of the club to rectify the situation.
It was understood that revocation was a very serious measure, and the effect it would have on the business and employees, but it was a necessary and proportionate means to tackle the persistent crime and disorder arising from the operation of this club.

The map on page 36 showed licensed premises in the vicinity of Club Volts and their closing times. With the exception of Fore Street Snooker Club, no other licensed premises in this area could be responsible for this disorder. The suggestion had been made that a nightclub in Haringey, Rudolphs, was nearby, but that was almost a mile away, and there could be no proper suggestion that any other licensed premises bore responsibility. Evidence could also be found on CCTV: there was a default camera pointed at Club Volts.

Mr Lardenberg and PC Fisher responded to questions as follows:

a. PC Fisher was unable to provide comparisons with calls to Police from Rudolphs nightclub as it was outside LB Enfield, but Mr Lardenberg maintained that Club Volts generated an excessive amount of crime and disorder.

b. In response to Councillor Hayward’s query as to why Police did not seek revocation some time ago, PC Fisher advised that Ashwil Entertainment Limited took over in August 2010 and Mr Kavuma became the new Designated Premises Supervisor, it was assumed the operation would be turned around and time was given for that to happen. There had been an improvement to begin with, but the situation had since deteriorated.

c. In response to Councillor Levy’s queries regarding the measures proposed at Club Volts and agreement to suggested conditions, Mr Lardenberg advised that the Police maintained their request for revocation of the licence as no real change to the operation was proposed. The type of operation would not change if the closing time became 04:30, and the club would still present difficulties.

The statement of Ellie Green, Principal Trading Standards Officer, including the following points:

a. Trading Standards had always been aware of and concerned at the number of incidents reported at Club Volts.

b. She and PC Fisher met with Mr Kavuma to address concerns and give a warning regarding seeking of a review.

c. The Police’s initial review application was supported by Trading Standards, but disappointment increased as a result of breaches noted on 12/3/11 and their potential severe consequences for public safety. It was particularly worrying that one of the fire doors did not open properly.

d. Officers also believed that the second floor was filled over capacity. They were not shown the clicker referred to in Mr Kavuma’s comments despite over capacity being raised as a breach.

e. Officers had emphasised that the licence conditions were necessary to promote safety objectives, particularly considering the size and structure of the building.
f. There was also serious concern about the incident on 19/3/11 which also demonstrated management were inefficient in ensuring the safety of their customers.
g. Trading Standards did not want this to continue so supported the Police’s request for revocation of the licence.

5. Ellie Green responded to questions as follows:
a. In response to Councillor Levy’s query whether the incident on 19/3/11 was a pivotal point, Ellie Green confirmed that it was, as was from Trading Standards’ point of view the visit made on 12/3/11.
b. In response to Councillor Levy’s query as to whether all issues had been resolved, Ellie Green confirmed that restorative action had been taken that week.

6. The opening statement of Mr Gary Grant, Barrister, on behalf of the Premises Licence Holder, including the following points:
a. He was accompanied by David Murphy (Licensing Consultant), Ronald Kavuma (Designated Premises Supervisor), Sylvia Luttaya (Director of Club Volts), and Michael Watson (author of the report statement).
b. The Police had rightly highlighted serious issues, but representatives for Club Volts disagreed with the suggestion of the Responsible Authorities that the only resolution was full revocation of the licence.
c. There were issues, but none were insurmountable and revocation would be considered extreme, especially as this was a first review. That would essentially mean there were no possible alternatives for promoting the licensing objectives; but he would argue that serious alternatives could be put forward.
d. Many of the proposals suggested were already being implemented, and there were more which would be implemented if the Sub-Committee was minded not to revoke the licence but rather suspend the licence for 28 days so that all operational procedures could be tried and tested before the club re-opened.
e. The profound effect of revocation could not be over-estimated. It would end the business and the livelihoods of those who owned it and their employees. Even curtailing the closing time to 02:00 would be tantamount to revoking the licence for this business.
f. The reality was that Club Volts offered the only venue of its type in this borough. Most of the clientele were local, and this club provided a lawful entertainment for its customers, paid its business rates, and was an active member of the business community in the borough.
g. It was just as much in the business interests of the licence holders to run a peaceful, safe venue for customers, and it was believed this would be achieved with the new procedures proposed.
h. It should be expected that late night venues would do everything possible to minimise the level of disorder, but had to be recognised it was impossible to eliminate it entirely, and the licence holders were putting forward procedures to minimise disorder.
i. The series of comments and observations listed in the Responsible Authorities’ evidence included some incidents of moderate seriousness, but the vast majority amounted to low level disorder.

j. The statement of Insp. Antoine referred to cuts to Police funding, but this was not a factor which could be taken into account in a licensing decision.

k. Mr Kavuma had provided a response to the issues raised, on page 61-64, and put them in context and shown that they were dealt with effectively by Club Volts in most instances, and often that his staff had called the Police as they were encouraged to do so. There was no comparator evidence in this case, though Mr Watson advised this was not an excessive set of crime statistics for this type of venue.

l. To try to resolve the situation, the causes of most incidents had been analysed. Club Volts had been targeted by a number of youths of Somali descent who had been causing problems, and efforts had been made to address this over many months, including raising the entry age and introducing photo id and ‘club scan’ which had been successful, though refusal of entry to youths had led to them causing trouble outside the club.

m. The incident of 19/3/11 was unusual for the Police to have placed so much weight on. The statements of Mr Kavuma and Mr Walugembe (door supervisor) suggested that the injury appeared to be a relatively minor cut on the arm and was dealt with and the person left of his own accord and it was some hours later that he ended up in hospital. All available evidence had been provided to the Police by the club.

n. As set out on page 55-65, a number of measures had already been taken by the club, and it was proposed to introduce improved door supervision, TV screens to show safety messages, a dress code, and regular contact with Police licensing officers. A new elite security service had been contracted.

o. All proposed conditions were accepted, but it was proposed that last entry should be 02:00 and not 00:00 as people did not attend this late night venue usually before 01:00.

p. A period of suspension of the licence would provide time for retraining and send a message to customers that trouble would not be tolerated and the club would re-open with new regulations.

q. It was notable that no residents in nearby flats had made a representation in this case, suggesting that the club operation was not causing problems to local residents.

r. Points of law and policy were highlighted, and the importance of a necessary and proportionate response.

s. Mr Watson had prepared an expert report confirming that the sorts of incidents listed were not grossly excessive.

7. Mr Grant and Mr Kavuma responded to questions as follows:

a. In response to Councillor Hayward’s queries about concerns raised in the past with the club, Mr Grant acknowledged that there had been issues which needed to be addressed, but that Mr Kavuma had responded to warnings and
taken proactive measures to address problems, and was having some success.
b. In response to Councillor Hayward’s further queries whether memberships
had been rescinded in response to inappropriate behaviour, Mr Kavuma
advised that the club scan system meant that everyone who wanted to
become a member and use the club had to give identification details, and it
allowed people to be barred from entry. Clients behaving inappropriately
would be given a warning by security staff and if they didn’t change their
behaviour would be barred from the club, and there were examples when this
had happened. Mr Kavuma would also talk to clients and explain why actions
were being taken. He estimated over 20 memberships had been rescinded,
and advised the club had about 200 members in total.
c. Councillor Hamilton asked about the concerns raised by Trading Standards
in respect of over-crowding. Mr Grant highlighted that officers had estimated
numbers and not formally counted people. The organiser of the private party
had given a number of 130, but that was the total guest list, and a high drop
out rate was normal. Clickers were being used on the room and it was under
capacity and there was no breach at that time.
d. Mr Grant was able to confirm there had never been an objection to
proposed conditions no. 61 and 62, and Mark Galvayne clarified that they had
simply not been formally agreed at the time of writing the report.
e. In response to Councillor Levy’s queries regarding DPS presence at the
club, Mr Kavuma advised that his director was also a licence holder and she
was always present at the club at times when he was not there.
f. In response to a question from the Police regarding the incident on19/3/11,
Mr Kavuma confirmed he was present at the time and was involved in
separating two groups after a fight broke out, one of which was moved outside
and the other detained in his office until the club closed and all signs of trouble
had passed. The Police had not been called. Door supervisors had acted
effectively, and first aid had been given to the victim.
g. The Police asked about conditions of entry and membership of the club. Mr
Kavuma acknowledged that it had been a long process to introduce this and it
was being worked on. Joining forms were available on the website and it was
promoted for people to become members that way; clients could fill in a form
at the time of attending the club, but that was not being encouraged.

8. The closing statement of Mark Galvayne, Principal Licensing Officer,
confirming that having heard all the representations, the Licensing Sub-
Committee must take such steps as it considered necessary for promotion of
the licensing objectives.

9. The closing statement of Mr Lardenberg, Barrister on behalf of the
Metropolitan Police Service, including the following points:
a. Club Volts had not disputed to any great extent the information presented
in respect of crime and disorder, but the Police did not accept that a majority
of calls to them originated from staff at the club as many came from the
borough CCTV service, and though some calls were not recorded on CAD this
did happen on the majority of occasions.
b. The Police representation related to what was necessary and proportionate to promote the licensing objectives.

c. There was evidence of Police concern about this premises from August 2010. Contact was made and meetings held, but despite the dialogue, problems had not been alleviated.

d. The incident of 19/3/11 was not the only reason the Police were seeking a revocation of the licence; it was a culmination of situations arising from Club Volts. Many opportunities had been provided and squandered to prevent problems happening again.

e. This was a club which could not control its custom, and was causing far too much concern to the Police.

10. The closing statement of Ellie Green, Principal Trading Standards Officer, focussing on the over-crowding incident raised, confirming that no physical count was done, but that Police and Fire Safety officers were in attendance as well as Trading Standards, and all had had concerns, and if a clicker was being used it was not shown to officers on that night.

11. The closing statement of Mr Grant on behalf of the licence holders, including the following points:

a. Club Volts management desired to work in partnership with the Responsible Authorities to resolve the problems. They had not dismissed any of the concerns raised by Police but had reacted and tried a series of measures.

b. The robust proposals needed a chance to succeed, and he asked that necessary and proportionate steps were taken, bearing in mind this was a first review of this premises and it had a competent, professional and proactive management.

c. If everything the management proposed did not work, the Responsible Authorities had the right to ask for another review.

RESOLVED that

1. In accordance with the principles of Section 100(A) of the Local Government Act 1972 to exclude the press and public from the meeting for this item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Section 12A to the Act.

The Panel retired, with the legal representative and administrator, to consider the application further and then the meeting reconvened in public.

2. The Licensing Sub-Committee considered it necessary for the promotion of the licensing objectives to:

(i) suspend the licence for a period not exceeding twelve weeks; and
(ii) modify the conditions of the licence.
The Chairman made the following statement:

“The Licensing Sub-Committee has read carefully and listened attentively to the arguments made by the Responsible Authorities, and from the licence holder. We have paid specific attention to the weight of the respective cases to come to a balanced decision.

Our initial consideration was to assess the case presented by the Metropolitan Police Service, supported by Trading Standards, for full revocation of the licence. We concluded that there was not sufficient evidence to support that case. So we have resolved not to revoke the licence.

However, the strength of the arguments of the Responsible Authorities, and the reasons for the review, are deemed sufficiently potent for the sub-committee to determine that serious action needs to be taken, and is necessary for the promotion of the licensing objectives.

Therefore, our decision is to suspend the licence for a period of twelve weeks. However, the licence holder can apply, after a period of 28 days, to have the suspension lifted before the completion of this time on condition that the Licensing Authority officer is satisfied that all the conditions have been complied with, and are operational.

We have also resolved that the conditions of the licence shall be modified. In the interests of fulfilling the objectives of preventing crime and disorder, and the protection of public safety (the latter being a concern of Trading Standards), we will apply new conditions 1 – 66 to the licence.

With regard to Condition 52, which was at issue during the hearing, we have taken a view in the wider context of the terminal hours for all licensable activities, with the exception of recorded music, as applicable on Friday - Sunday.

The panel has determined that these hours (Friday – Sunday) should be cut back from the current licence, and further still than the Premises Licence Holder’s proposals. However, we have determined not to go as far as the reduced hours sought by the Metropolitan Police Service or Trading Standards.

The terminal hours for the relevant licensable activities shall be 03:00. The premises must close to the public and recorded music cease by 03:30, and that no entry or re-entry to the premises by customers shall occur after 01:00, save for those who have left temporarily to smoke. This relates to Friday, Saturday and Sunday only. All other hours remain unchanged.
Condition 52 is to be modified to reflect this. In addition, Condition 61 is amended to the effect that in line 2, ‘should’ becomes ‘must’, after the words ‘all customers’.

We welcome the aspirations of the licence holder to address the very serious issues involved, but believe that the decisions made are necessary steps for the promotion of the licensing objectives.”

920
MINUTES OF PREVIOUS MEETING

AGREED that the minutes of the meeting held on 2 March 2011 were confirmed as a correct record.