

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 15 JANUARY 2014**

COUNCILLORS

PRESENT Derek Levy, George Savva MBE and Glynis Vince

ABSENT

OFFICERS: Mark Galvayne (Principal Licensing Officer), Catriona McFarlane (Legal Services Representative), Charlotte Palmer (Licensing Enforcement Officer), PC Martyn Fisher (Metropolitan Police Service), Jane Creer (Democratic Services)

Also Attending: 4 representatives for Sheelpa Express
2 representatives for Pringipessa

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WELCOME AND APOLOGIES

The Chairman welcomed all those present, introduced the Members, and explained the order of the meeting.

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DECLARATION OF INTERESTS

NOTED that there were no declarations of interest in respect of any of the items on the agenda.

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SHEELPA EXPRESS, 389 ORDNANCE ROAD, EN3 6HN (REPORT NO: 158)

RECEIVED application made by the Licensing Authority for a review of the Premises Licence for the premises known as and situated at Sheelpa Express, 389 Ordnance Road, Enfield, EN3.

NOTED

1. The start of the meeting was delayed for 15 minutes to permit an opportunity for discussions between involved parties.
2. The opening statement of Mark Galvayne, Principal Licensing Officer, including the following points:
 - a. Subsequent to the publication of the agenda, the Licensing Authority had provided additional information in relation to a further visit made on 3 January 2014, and this information had been distributed to all parties.

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- b. This application was made by the Licensing Authority for a review of the Premises Licence.
 - c. This morning, agreement had been reached between the Licensing Authority, Police, and the Licence Holder; and the Licensing Authority would be inviting the sub-committee to determine the review in accordance with that agreement.
3. The opening statement of Charlotte Palmer, Licensing Enforcement Officer, on behalf of the Licensing Authority, including the following points:
- a. As a result of the recent inspection, and as a result of the conversation this morning, an agreement had been reached between all parties and the sub-committee was asked to determine a decision on this basis:
 - (i) A DPS variation would be submitted by the end of next week.
 - (ii) All conditions requested had been agreed, including use of an incident book to record all instances of public disorder, and a ban on the sale of super strength beer/cider, and the premises would not sell any beer, lager or cider unless three or more bottles/cans were purchased together. The premises would be given one month to remove all existing stock of super strength alcohol products before the ban commenced.
 - b. Officers had seen the passport of the Licence Holder, and were satisfied that he had been out of the country for the vast majority of the time the review was based on.
 - c. If there were continued breaches of the licence in future, the Licensing Authority would look to review the licence again without any room for negotiation.
 - d. She confirmed there would be no formal suspension of the licence
4. The statement of the Licensing Agent, on behalf of the Licence Holder, including the following points:
- a. He confirmed that an application would be submitted straight away to vary the designated premises supervisor.
 - b. A lot of good work had been done at the premises, and the change was evidenced in the last officer visit.
 - c. The Licence Holder was grateful for the one month period to deal with the stock.
5. Clarification of the introduction of the additional condition regarding super-strength products, in response to Members' queries.
6. The closing statement of Mark Galvayne, Principal Licensing Officer, confirming that the decision would be made by the sub-committee.

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 involves the likely

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disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A to the Act.

The Licensing Sub-Committee retired, with the legal representative and committee administrator, to consider the application further and then the meeting reconvened in public.

2. The Licensing Sub-Committee RESOLVED that it considered the steps listed below to be appropriate for the promotion of the licensing objectives:
 - (a) to modify the conditions of the licence;
 - (b) to remove the designated premises supervisor.
3. The Chairman made the following statement:

“The Licensing Sub-Committee is pleased to hear that the Responsible Authorities and Licence Holder have come to an agreement, such that the request to revoke the licence has been reduced to a request that the Licence Holder submit an application to vary the designated premises supervisor by Friday 24th January 2014.

In addition, all the new conditions are agreed and attached to the licence with effect from today.

By the agreement of all parties, the Premises Licence Holder is given one month to dispose of all existing stock of super strength alcohol products as defined in the newly agreed additional condition.

This is not a permission to continue selling super strength beer and cider until 15th February 2014; merely a permission to dispose of existing stock as of today's date.”

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PRINGIPESSA, 6 GREEN LANES, PALMERS GREEN, N13 6JR (REPORT NO: 159)

RECEIVED application made by the Licensing Authority for a review of the Premises Licence for the premises known as and situated at Pringipessa, 6 Green Lanes, Palmers Green, N13.

NOTED

1. The opening statement of Mark Galvayne, Principal Licensing Officer, including the following points:
 - a. The application was made by the Licensing Authority with the support of the Police to review the Premises Licence.
 - b. He understood that the Licence Holder's agent sought an adjournment of this hearing. The Licensing Team had received an email to that effect

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on Monday 13 January, but had advised that the request should be made today in person to the sub-committee.

c. He confirmed that the review application had been submitted in November 2013 and that the date of this sub-committee meeting had been confirmed to the Licence Holder on 6 December 2013 and to his agent on 10 December 2013.

2. The statement of Mr Anthony O'Connell, Licensing Agent, including the following points:
 - a. No disrespect was intended, but the Licence Holder, Mr Foulides, was unable to attend the meeting today due to a hospital appointment. He had undergone operations on his eyes, but further intervention was needed to correct them. If this appointment had been missed, his condition could be exacerbated. Notification for adjournment had been further complicated by himself having had a bereavement in the family and being out of the country and out of regular contact during the Christmas period. He offered apologies for the lateness of the request for adjournment.
 - b. Ms Maria Tomouzi, Mr Foulides' partner was also present, and able to give credit to the request.
3. The Chairman expressed sympathy for the medical condition of Mr Foulides, and Mr O'Connell's bereavement. In response to the Chairman's request for further details, it was advised that Mr Foulides had been notified about the hospital appointment three to four weeks' ago and received a text message last week to confirm the date. Mr O'Connell confirmed that he would have been representing the Licence Holder even if Mr Foulides had been able to be present at the meeting. Mr O'Connell confirmed he was in full possession of all information and facts, but was asking for adjournment for fairness, and for Mr Foulides to be able to be present at the hearing and able to put his side.

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 involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A to the Act.

The Licensing Sub-Committee retired, with the legal representative and committee administrator, to consider the request for today's review to be adjourned further and then the meeting reconvened in public.

2. The Licensing Sub-Committee RESOLVED that it considered it appropriate to consider the case today and not to agree to an adjournment of the hearing.
3. The Chairman made the following statement:

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“The Licensing Sub-Committee has considered the application from the representative of the Premises Licence Holder for today’s review to be adjourned – principally on the grounds that it is unfair for the review to take place in the absence of the Premises Licence Holder himself.

Following questioning, the sub-committee heard from the Principal Licensing Officer that the parties had been notified of today’s hearing by the 10th December 2013.

The representative of the Premises Licence Holder took responsibility for the lateness of the request and he also advised he would have been representing Mr Foulides even if he were present today.

Ms Tomouzi advised the sub-committee that the Premises Licence Holder was notified of today’s hearing appointment 3 – 4 weeks ago.

We have also considered the gravity of the allegations against the premises, and weighing these two facts, the Licensing Sub-Committee has decided to hear the case today.”

4. The representatives of the Licence Holder were offered a short time for preparation before the meeting re-commenced.
5. An update by Mark Galvayne, Principal Licensing Officer, including the following points:
 - a. The application was made by the Licensing Authority with the support of the Police to review the Premises Licence at Pringipessa.
 - b. The Licensing Authority considered it appropriate for the promotion of the licensing objectives, for the licence to be revoked.
 - c. Subsequent to publication of the report, a witness statement from PC Fisher had been provided in relation to his visit on Saturday 14 December 2013 and had been copied to all parties.
6. The opening statement of Charlotte Palmer, Licensing Enforcement Officer, on behalf of the Licensing Authority, including the following points:
 - a. The Licensing Authority instigated a review application as a result of residents’ noise complaints and alleged breaches of licence hours and conditions. The authority recommended reduction of hours, additional conditions, removal of the DPS and suspension of the licence for one month to give time for all conditions to be complied with and the DPS to be replaced.
 - b. However, further noise complaints and offences had been recorded by the Council and the Police, despite the Licence Holder/DPS knowing about this review and attending an interview under caution.
 - c. The Licence Holder attended the PACE interview on 9 December 2013, with the representative who was present at this meeting and a translator. Mr Foulides did not deny any of the licensing offences put to

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him and confirmed that he had received warning letters and advice. He claimed to have given in to pressure from his customers, and gave assurances it would not happen again.

d. The Premises Licence Holder/DPS should be able to control the volume of the music and ensure it ends on time. The Licence Holder was aware of the licensed hours and of the complaints, but seemed unwilling rather than unable to control activities at the premises.

e. The PACE interview took place on Monday 9 December, but on the next Saturday 14 December PC Fisher made a visit to the premises at 00:30 and witnessed live music after the permitted hours.

f. This disregard for the law had led to this application for revocation of the licence entirely, on the grounds of prevention of public nuisance and, in view of the alleged offences, prevention of crime and disorder.

7. The opening statement of PC Martyn Fisher, Metropolitan Police Service, including the following points:
 - a. He would re-iterate the points made by the Licensing Authority.
 - b. The Police supported the application by the Licensing Authority.
 - c. There had been a catalogue of offences relating to breaches of conditions.
 - d. At his visit on 14 December 2013 he arrived half an hour after the band should have finished. Despite the interview the week before, an excuse was given for the breach of condition, but he found it inexcusable that the Licence Holder carried on with the same offence despite the warning.
 - e. Revocation of the licence was the only outcome that could be recommended.

8. Charlotte Palmer and PC Fisher responded to questions as follows:
 - a. In response to the Chairman's question regarding repeated breaches of Condition 6 in respect of the CCTV, it was advised that officers had still not seen compliance with the condition yet. The stage area had not been seen to be covered by the CCTV cameras. That was concerning, as officers wished to look at coverage of that area to see if conditions were being met. PC Fisher had requested CCTV footage from certain evenings, and this had still never been produced, despite its availability being a licence condition. There were many repeat offences relating to the CCTV which had never been complied with.
 - b. The Chairman asked whether officers were satisfied that the CCTV equipment was of the standard that would be expected. PC Fisher advised that there were four or five cameras and this number should give adequate coverage, but no camera was positioned to cover the band area. Mr Foulides had agreed to do this. Advice had been given on operating the CCTV system satisfactorily. At his visit on 14 December, PC Fisher had asked for CCTV footage of the previous weekend, but this had never been provided and was unlikely to be available now as recordings only covered the last 31 days. Charlotte Palmer confirmed that the Licensing Authority was not concerned about the strength of Condition 6, but concerned that the existing condition was not complied with.

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c. In response to Councillor Savva's query relating to noise disturbance, soundproofing equipment and noise measurement, Charlotte Palmer advised that complaints about noise usually came from local residents and the Council's out of hours team usually visited the complainant at their property. On this occasion, the noise at the street level was so loud that officers were able to serve a likely to notice. Officers did not need to go into any property as the noise was so loud it was considered likely to affect neighbouring residents. There were residences one floor above the restaurant, and above the parade of shops. It was not believed the restaurant had a noise limiter; and the Licensing Authority would not recommend reliance on equipment. The Licence Holder was asked to carry out noise measurements. Officers normally advised that the Licence Holder go to their boundary and if they could hear noise it was likely to be at a level that would affect other people.

9. The opening statement of Mr Anthony O'Connell, Licensing Agent, on behalf of the applicant, including the following points:
- a. Whilst it was accepted that Mr Foulides did not challenge any offences during the PACE interview on 9 December, he did wish to challenge the overall application for revocation of the licence.
 - b. Mr Foulides had, over a period of time, tried to take on board the advice given, and made a number of improvements including:
 - installation of a sound proof ceiling at his own financial loss;
 - installation of double glazing;
 - heavy duty curtains;
 - an area for outside smoking breaks;
 - a new canopy for extracting smoke / ventilation of kitchen area;
 - four CCTV cameras.The extent of the investment made was over £16,660 to try to meet the requests of the responsible authorities.
 - c. It was not the case that the Licence Holder had not taken concerns seriously. The difficulties he had faced were rather cultural. He was of Greek extraction and had kowtowed to his customer base. He should have had more effective control, but had lost much of his own personal wellbeing as a result of the health problems he had suffered over the past year or more, and the trust he had put in some colleagues had caused him to be let down.
 - d. Mr Foulides was asking if the sub-committee was minded to give him one last chance to prove he was a capable and responsible person he would remove himself as the DPS.
 - e. Mr Foulides also asked for consideration of the imposition of all the conditions which had been suggested by the authorities.
 - f. Mr Foulides asked the sub-committee to consider suspending the licence for a month rather than revocation, to allow him to put his restaurant in order and put in place a restructure of the management system so the offences were not repeated.

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- g. Mr Foulides had been otherwise distracted by serious health problems, and asked for serious consideration of steps open to the sub-committee other than revocation.
 - h. In response to the Chairman's request for clarification, it was confirmed that all the suggested conditions were considered workable by the Licence Holder except for permanent removal of the live music facility. The Licence Holder also respectfully asked that the licensed hours were not reduced.
 - i. The agent asked the sub-committee to give consideration to the mitigating circumstances of Mr Foulides' ill health, which had been a distraction and cause of his inability to exert full control. He asked for consideration of the previous history of the premises where in the past there had been no serious concerns raised. He hoped there was opportunity to find common ground and a way forward to work with the responsible authorities.
10. The Licensing Agent and Ms Tomouzi responded to questions as follows:
- a. Councillor Vince queried why, after the advice and warnings received, the Licence Holder continued to fail to comply with the licence. The agent re-iterated that there was no excuse, but while the Licence Holder had been ill he had not had the strength to fight everybody. If the sub-committee was minded to remove Mr Foulides as DPS, they could find someone else to take on the role. They would find someone as a replacement who would be more hands on and take a dynamic approach to running the premises.
 - b. The Chair highlighted the reference on page 34 of the agenda to Mr Foulides' application in January 2011 for variation of the Premises Licence and the multiple breaches to conditions of the existing licence in 2010 and 2011. This showed unwillingness to adhere to conditions dating back to 2010. He questioned whether Mr Foulides' health was in question to the same extent then and whether his capability was better or worse now. The Licensing Agent responded that he was unfortunately unaware of the premises' previous history, but Ms Tomouzi had been behind Mr Foulides for the last four years, since he had taken over the premises. She was fully supportive and was willing to take over management control.
 - c. In response to Councillor Savva's queries about the request for a last chance for the premises and potential opportunity for an alternative DPS to prove themselves, Charlotte Palmer advised and PC Fisher confirmed that the position of the responsible authorities had not changed: they recommended revocation of the licence and were not willing to negotiate further.
 - d. The Chair queried whether it was seriously believed that one month, which the agent had suggested for a suspension period for the licence, would be sufficient to put the business on an appropriate footing. It had been advised that Ms Tomouzi had been active in this business for the last four years and was willing to take over its management, but he questioned whether there could be confidence in that proposition and

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whether Ms Tomouzi could be considered as culpable as Mr Foulides in the breaches of the licence. In response Ms Tomouzi confirmed she had been at the premises a lot of the time and that Mr Foulides had realised that conditions of the licence had been breached. She stated that, though there had been no officer visits, for the last couple of weeks the licence had been fully complied with. She also advised that their clients were largely other restaurant owners who came after their own work finished. The music had been stopped at 00:00 for the last two or three weekends. She advised she was willing to try to stick to the rules.

e. The Chair asked for any further comments on the examples provided of when live music went on beyond permitted hours, including in November / December 2013 when this hearing was known about, and within days of the PACE interview having taken place. The Licensing Agent advised that he felt a one month suspension of the licence would not be long enough to allow necessary changes to be put in place at this business. The sub-committee were able to suspend a licence for a maximum of three months and he would ask them to consider an appropriate length of time to permit improvements to be made. He was confident that this business could be turned around and that he had the experience to assist with what was necessary, including management training policy, to ensure there were no further repeats of these offences. If it was the case that responsible authorities had no confidence in the person nominated to take control day to day, he would suggest that the licence not be brought into effect until the responsible authorities were consulted on a suitable candidate to replace Mr Foulides as DPS.

f. The Chair asked for comment on potential alternatives to suspension of the licence, including voluntary surrender of the licence and future application by a new applicant / licence holder. The Licensing Agent stated that if the sub-committee were minded to suspend the licence for up to three months, no activities would be allowed to take place there and the Licence Holder would agree to that with immediate effect and until all responsible authorities were satisfied. Without seeking direction from the Licence Holder, he was not offering a voluntary surrender of the licence but rather the potential of suspension if the sub-committee was minded.

g. In response to PC Fisher's question that if there was a suspension or surrender of the licence whether Mr Foulides or Ms Tomouzi would be happy to have no management control or any involvement with the premises, it was advised that if they remained the owners they would have a tentative interest in the business. The management and control of the premises would have to be with someone strongly supported by the responsible authorities. The DPS would have vicarious liability over what went on at the premises and a candidate for DPS would have to be found who was strong enough.

h. In response to the Chair's query, it was stated that Ms Tomouzi did not hold a personal licence.

i. In response to Members' queries, Mr O'Connell stated that he had worked with Mr Foulides as his client since the time of the PACE interview in early December 2013. Mr O'Connell stated that he would take

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responsibility for appointing the right person as DPS and appropriate training.

11. The closing statement of Mark Galvayne, Principal Licensing Officer, that in determining this review, Licensing Sub-Committee, having heard all the representations, should take such steps as appropriate for promoting the licensing objectives.
12. The closing statement of Charlotte Palmer, Licensing Enforcement Officer, on behalf of the Licensing Authority, including the following points:
 - a. If the DPS was removed, she would ask that the replacement was not Ms Tomouzi. She advised that Ms Tomouzi had been present at the restaurant on most occasions when officers had visited and breaches were noted. The responsible authorities had no confidence in Ms Tomouzi as potential DPS.
 - b. A huge amount of time and resources had been put in by the responsible authorities to bring this premises into compliance. Officers had given advice and assistance, and had been reassured every time that offences would not happen again, and told there was no excuse.
 - c. The pattern was that in a few days, offences did happen again. This had led to the feeling that there was no other choice but to revoke the licence.
 - d. The seriousness of the situation had been made clear but had still been ignored.
 - e. She had listened to the representations made today, but was of the view that she had heard it all before, but breaches had continued.
13. PC Fisher advised he was in full agreement with Charlotte Palmer.
14. The closing statement of Mr Anthony O'Connell, Licensing Agent, on behalf of the applicant, including the following points:
 - a. He acknowledged officers' feelings of having 'heard it all before' but noted they had not heard it from him. He was personally willing to take the business in hand and make it compliant with all aspects of the licence if the sub-committee considered alternative steps open to them.
 - b. He asked the sub-committee to please consider the serious stress that Mr Foulides had been under for the past year, and that he needed help and support to see him through this.

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 involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A to the Act.

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The Licensing Sub-Committee retired, with the legal representative and committee administrator, to consider the application further and then the meeting reconvened in public.

2. The Licensing Sub-Committee RESOLVED that it considered it appropriate for the promotion of the licensing objectives to revoke the licence.
3. The Chairman made the following statement:

“After considering all of the written and oral submissions from all parties, the Licensing Sub-Committee has determined that the appropriate decision is to revoke the licence.

The sub-committee believes that the Licensing Authority has made its case in full.

The sub-committee did listen attentively to what the Premises Licence Holder had to say to see whether it was appropriate to take lesser action.

However, despite the frankness from the representative of the Premises Licence Holder in acknowledging the long history of multiple failures to comply with the licence – including breaches of live music even within days of being interviewed under caution – and failure by the time of today’s hearing still to comply with repetitive breaches of Condition 6 pertaining to the operation of the CCTV system, the sub-committee believes that promotion of the licensing objectives would not be served by taking any other decision apart from full revocation.

The Licensing Authority asked us to consider that the premises management seems unwilling rather than being just incapable of operating the licence and controlling activities at the premises. All evidence supports this assertion.”

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MINUTES OF THE MEETING HELD ON 4 DECEMBER 2013

RECEIVED the minutes of the meeting held on 4 December 2013.

AGREED that the minutes of the meeting held on 4 December 2013 be confirmed and signed as a correct record.