

Minutes

LICENSING SUB-COMMITTEE

2 August 2018

Meeting held at Committee Room 5 - Civic Centre, High Street,
Uxbridge



	<p>Committee Members Present: Councillors Roy Chamdal (Chairman) Simon Arnold Janet Gardner</p> <p>LBH Officers Present: Ian Meens, Licensing Officer Steven Dormer, Licensing Officer David Holmes, ASB & Environment Officer Craig Lloyd, ASB Investigations Officer Mark Oakley, ASB & Environment Officer Neil Fraser, Democratic Services Officer</p>
21.	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>None.</p>
22.	<p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING (<i>Agenda Item 2</i>)</p> <p>None.</p>
23.	<p>TO CONFIRM THAT THE ITEMS OF BUSINESS MARKED PART I WILL BE CONSIDERED IN PUBLIC AND ITEMS MARKED PART II WILL BE CONSIDERED IN PRIVATE (<i>Agenda Item 3</i>)</p> <p>It was confirmed that all items were marked as Part I, and would therefore be considered in public.</p>
24.	<p>MATTERS THAT HAVE BEEN NOTIFIED IN ADVANCE OR URGENT (<i>Agenda Item 4</i>)</p> <p>None.</p>
25.	<p>APPLICATION FOR A REVIEW OF A PREMISES LICENCE : CAPTAIN MORGANS, 210 FIELD END ROAD, EASTCOTE, HA5 1RD (<i>Agenda Item 5</i>)</p> <p><i>Introduction by Licensing Officer:</i></p> <p>Steve Dormer, Licensing Officer, introduced the report, confirming that the matter had been brought before the Committee due to Hillingdon Council's Antisocial Behaviour and Environment team (ASBET) submitting an application to review the premises licence in respect of Captain Morgan's, 210 Field End Road, Eastcote. Numerous complaints of noise emanating from the premises were received by ASBET from nearby residents over several months, several of which had been verified by Council</p>

officers and had been deemed to be statutory nuisances.

Noise abatement notices had been served on the occupier of Captain Morgan's, and on 16 July 2018 at Uxbridge Magistrates Court, a fine was issued to the licence holder, Mr Farrell, for £14,786.00 for breaching those abatement notices. The noise nuisances had been brought to the attention of the management at Captain Morgan's several times, alongside advice and guidance, which had appeared not to be taken seriously.

The review application was seeking to regulate the entertainment that was deregulated under current legislative guidelines, to enable the premises to uphold the licensing objectives, notably the objective to prevent public nuisance. Current licensed hours for regulated entertainment were between 23:00-01:30 on Friday and Saturday.

This week, the management of Captain Morgan's had made contact with the Council to advise that they were training a new member of staff to become the new personal licence holder.

The officer's recommendations, including a suggested reduction in operating hours, were set out in appendix 2 to the report.

Representation by the Applicants for the review:

Mark Oakley, Antisocial Behaviour and environment Officer, advised the Committee on the reason for the review.

Since November 2018, the Council had received nine complaints from nearby residents that loud amplified music was being played at the premises outside of the permitted hours. Four of the nine breaches of licensing conditions were witnessed by out-of-hours ASBET officers, and warnings were given each time an officer was able to engage with a member of staff at captain Morgan's.

As per the witness statement included within the report papers, on several occasions the doors to the premises were locked and occupants of the bar refused to open the doors, despite being aware that Council officers were outside banging on the doors and glass windows. Warnings were given in the form of noise abatement notices served by post and by hand, with further warnings given via telephone to Mr. Bates, who described himself as Manager/Owner of the pub. These warnings were ignored and breaches of the licensing conditions and noise abatement notices were still being reported until 20 May 2018, and the impact of the loud amplified music, shouting, screaming and fights outside the licensing hours on residents had been significant. Loud amplified music and/or nuisance from customers had on occasions been as late as 4:30 a.m. and had resulted in residents trying to manage on as little as three to four hours sleep before having to go to work. This was detrimental to their health and was unsustainable.

No one from Captain Morgan's had contacted the antisocial behaviour and environment team since being served with the licensing review application. As stated by Mr Dormer, on the 16 July 2018 the licensee and lease holder was found guilty in his absence at Uxbridge Magistrates Court and was fined for five offenses and breaches of the noise abatement notices, issued to alleviate the impact of the public nuisance from the loud amplified music but also from rowdy customers gathering outside the bar in the air early hours of the morning.

It was requested that the operating hours for the bar be reduced to 23:00 hours Sunday to Thursday, and midnight on Friday and Saturdays.

Representation by Responsible Authorities:

Ian Meens, Licensing Officer, addressed the Committee as a representative of the licensing authority and confirmed that he supported the review application.

The Committee was advised that the Licensing team had received a number of complaints from residents regarding Captain Morgan's not abiding to their licensed hours of operation, and that music was being played at an unreasonable volume. Licensing officers contacted Mr Bates on two occasions regarding the complaints, and a letter sent to Mr Bates was included as appendix 3 to the report.

From a review of the multitude of complaints that continued to be made, it appeared that the licence holder had ignored the warnings received and had disregarded their duty to uphold the licensing objectives. For this reason, it was felt that the premises should not be allowed to have any music played after 11.00pm. By removing the loud music, it was expected that the main reason for the complaints would be sufficiently addressed to ensure the licensing objectives were upheld.

Representation by the Licence Holders:

Mr. Dave Roberts and Mr James Frenwick addressed the Committee on behalf of Captain Morgan's.

Mr Roberts confirmed that he had assumed control for the financial management of the pub in September 2017, because the pub was in a financially precarious position. At that time, it was decided to use the license fully in order to generate sufficient income to ensure the pub's solvency. Mr James Frenwick was engaged to run the door, as management were aware that if the premises was open till late, coupled with the fact that there were several other bars in the area, that there could be potential for drunk people to come down to the pub and cause trouble.

Until Mr Dormer attended the premises, Mr Roberts was unaware of the noise abatement notices. Subsequent to that meeting, it was agreed that Mr Roberts would take over full running of the pub. It was accepted that the previous licence holder and management had been irresponsible, but they were no longer involved in the running of the pub. To that end, Mr Frenwick was going to take over as licence holder.

When the premises first started opening later, there were initial problems with some undesirable people who had been ejected from other pubs within the locality. To address this, more staff were hired to accompany Mr Frenwick, and when the Geo Bar, (located across the street), closed, two more door staff joined to attend Captain Morgan's, for a total of five door staff. As a consequence of this, the police had only ever been called to the premises once, and that was in respect of a customer who had been in an altercation at another pub. When there was an incident at another pub in the area, Captain Morgan's had a shut-door policy.

There had been no calls to the police regarding violent conduct inside or outside the pub and from the testimony of the Council officers following their attendance at the premises, there were two mentions of anti-social behaviour outside the pub, though not for fighting. In contrast, the police had visited nearby pubs and takeaways.

Since opening late, the pub had been more successful, which in turn meant that Eastcote High Street had been more successful because people were being attracted to the area. This helped the restaurants and bars in the area, as well as taxi

companies.

With regard to the playing of loud music, following Mr Dormer's visit a sound engineer was employed to install a sound mixer system, which prevented the music from being played at high volumes. Following the installation of the mixer, checks had been made with the tenants of the flats above the premises, who had confirmed that there were no sound issues. Mr Roberts was the only person who knew how to adjust the mixer, and so it was not possible for another staff member to turn the volume up.

Mr Frenwick was confirmed to be the new licence holder. Mr Frenwick advised that he had extensive local knowledge which was useful in mitigating issues of antisocial behaviour and potential violence. Since working security, there had been no instances of serious harm, and all issues had been dealt with quickly, including issues resulting from other establishments in the area.

The Committee requested clarity on a number of points, including:

What was Mr Robert's exact role within the management of the premises, and how would he ensure that the licensing objectives were upheld?

Mr Roberts confirmed that he now made all decisions regarding the running the pub, with support from Mr Frenwick. The owners of the premises, Mr Bates and Mr Lenny Hourihan, remained, but were no longer involved in the business at all. Mr Bates was aware that his irresponsible behaviour had jeopardised the business and he no longer wanted anything to do with running the pub.

Regarding the licensing objectives, it was felt that the noise issues had been dealt with by restricting the volume of music and entertainment via the sound mixer. Regarding the report's assertions of noise from patrons outside the pub, it was asserted by Mr Roberts that this was not necessarily attributable to Captain Morgan's, as there were other bars and takeaway shops located very close by.

Was there signage inside the pub asking patrons to leave quietly?

Mr Roberts confirmed that signage was not used, as it had been felt that the five bar staff would be sufficient to ensure patrons left quietly.

When were the adjustments to the sound system made?

The sound mixer was installed a week after Mr Dormer's visit on 7 June 2018.

Who was the current Designated Premises Supervisor (DPS)?

Currently, the DPS remained Mr Farrell.

Why were five door staff required for a premises of this size?

As was often the case with a venue that was open late, there were instances of people arriving late that were not deemed suitable for entry. There were two sets of access doors to the pub, at the front and the rear. The door staff were required to man both entrances.

When the customers left the premises, were they advised to keep quiet?

Yes, Mr Frenwick ensured that people leaving were advised to leave quietly, though

this was difficult to enforce once the patrons had left the premises, particularly as there were takeaway shops nearby that were popular with pub leavers.

What would Mr Frenwick's new working hours be, once he received his personal licence?

Mr Frenwick would be present from 08:00 pm until the close of play on a Friday and Saturday night, and would be available throughout the week if and when required.

Since the decision to extend the pub's opening hours, how often was Mr Frenwick present on site?

Mr Frenwick had been present on site at the weekends only.

When post was delivered to the premises, who was there to collect it?

Mail was collected by a secretary, though recently Mr Roberts now intercepting the post. Previously, Mr Roberts attended the site before post was delivered.

When did the current DPS, Mr Farrell, stop working at the premises?

The decision to dispense with Mr Farrell's services was made following Mr Dormer's visit.

What did Mr Roberts or Mr Frenwick understand was the role of a licence holder and a DPS?

As licence holder, the main responsibility was to uphold the four licensing objectives. Mr Frenwick as licence holder would need to appoint a DPS who would assume this responsibility in his absence. It was accepted that ultimate responsibility for upholding the licensing objectives would remain Mr Frenwick's.

How long had Mr Frenwick been employed at Captain Morgan's?

Mr Frenwick had been working in a security capacity at Captain Morgan's for approximately fourteen months. Mr Frenwick confirmed that he had not been aware of the visits from the Council's antisocial behaviour team.

Discussion:

Mr Oakley addressed Mr Roberts' and Mr Frenwick's reference to fighting and their assertion that people had not been seriously hurt and that the Police had not been required at the premises. Mr Oakley asserted that it was not a question of whether somebody was seriously hurt or whether the police were called. A fight could be both physical or verbal in nature, and the point was that the noise caused by these altercations was having a detrimental impact on residents. For example, as set out in the report, on 5 May at 1:15 a.m. Mr Oakley witnessed an altercation whilst Mr Frenwick was on the door. Officers were parked across the street and could hear shouting and screaming. It was clear that this person had been ejected from Captain Morgan's, and not from another local establishment. It was the officer's opinion that the matter had not been dealt with very well.

Mr Oakley went on to state that upon his own visits to the premises, he had never seen five doormen, or more than one person on the door at one time.

Mr Frenwick confirmed that there were three doormen from 09:00 pm through to 1:30 am. Two additional doormen attended the premises at approximately 01:30 am, once they had finished at Geo Bar. This was on Friday and Saturday nights. Door Staff were not present on Sunday-Thursday, outside of large events such as during the World Cup.

Why was a noise inhibitor not installed, as was industry standard?

Mr Roberts confirmed that he had obtained a quote for the installation of a noise inhibitor, but that it was decided to only install an inhibitor if complaints were received following installation of the sound mixer. This was based on the advice of the sound engineer who had stated that the mixer would be sufficient to address the noise complaints.

As Mr Roberts was the only person who knew how to adjust the sound mixer, what would happen if there was a faulty on the system and he was not present?

Mr Roberts confirmed that there would be no fault, as volume was limited by an internal switch on the mixer that had to be manually changed.

Was a logbook kept in the bar?

Mr Frenwick confirmed that a log was maintained for physical or drug related incidents.

Were residents aware of relevant contact numbers should they wish to complain to the bar of noise issues?

Mr Roberts confirmed that he regularly spoke with the four tenants upstairs to ensure that he was aware of whether they had any cause for complaints. There had been no contact with the residents who had made the complaints listed in the report papers.

Who had been authorizing the sale of alcohol since Mr Farrell had left?

Mr Roberts confirmed that the decisions to remove Mr Farrell had been made recently, following the decisions of Uxbridge Magistrates Court and the resulting fine. Currently, there were five members of staff who were currently authorized to sell alcohol on the premises by virtue of Mr Farrell's license.

What were the arrangements at midnight? How many patrons would be admitted to Captain Morgan's?

Mr Frenwick confirmed that the bar was not run to capacity. The bar required patrons to be at least 21 years in order to be admitted, and decisions on admittance were made based on personal knowledge of the local residents/patrons. There was no dress code, excepting football tops, and people who were visibly intoxicated were not admitted. Doors were closed at 01:30 am.

Had Mr Frenwick seen the premises license, included within the report papers, which set out a condition stating that there was to be no admittance to the premises on Friday and Saturday nights after midnight? Why was this not happening?

Mr Frenwick stated that he had not seen the licence or this condition previously.

Do Mr Frenwick have a prominent clear notice to the effect that there was no admittance to the premises on Friday and Saturday nights after midnight?

Mr Fenwick replied not at the minute but there would be.

Mr Frenwick had been employed for 14 months, predominantly at weekends, during which time the complaints had been made. What would Mr Frenwick do differently moving forward?

Mr Frenwick stated that the door staff were now being more stringent with regard to who was admitted, and the rear entrance was closed from 12:00 am. With regard to noise, the music was now turned off at 01:00 am and the volume was limited by the new sound mixer. Moving forward, there would be no admittance to anyone after 12:00 am. Notices would be erected to ask patrons to respect neighbours and local residents, and to advise them of what the outcome would be if they were involved in any antisocial behaviour. Mr Frenwick highlighted that although he had been employed on the door for the last 14 months, he would have increased responsibility as licence holder, which he took very seriously.

Mr Dormer was asked whether he was aware of the condition barring entry after 12:00 am when he attended the premises on 7 June?

Mr Dormer confirmed that he was aware of the condition, but not the date of hearing at which the condition was added to the licence.

Closing Statements:

Licence Holders:

Mr Fenwick and Mr Roberts apologised for the matter coming before the Committee, and stated that the irresponsible behaviour which had led to the hearing had now been put behind them. Mr Frenwick reiterated that he took his new role as licence holder very seriously, and was looking forward to making a positive impact within the community.

Responsible Authorities:

Mr Meens confirmed that the pub had been run with a total disregard of the licensing objectives, and the recent fine had acted as a wake-up call for Mr Roberts and Mr Frenwick. While Mr Frenwick appeared to take his new responsibilities seriously, the license remained in the name and control of persons who had been unprofessional, and Mr Meens was unsure if Mr Roberts and Mr Frenwick had provided enough evidence that they would run the premises better moving forward. Mr Meens' original conditions were to limit the control of music for entertainment after 11:00 pm, and Mr Meens reiterated these recommendations.

Applicant for the Review:

Mr Oakley confirmed that he had not heard anything during the hearing that gave him greater confidence that the pub would be run any differently. Mr Bates remained as part owner of the premises, and neither Mr Frenwick nor Mr Roberts seemed to be aware of the current licensing conditions in terms of signage and in terms of admittance after midnight. Mr Oakley confirmed that he wished to see the premises close at 11:00 pm Sunday to Thursday, and closed at 12:00 am Friday and Saturday.

Licensing Officer:

Mr Dormer confirmed that he had expected to receive a DPS variation submission to transfer the license, prior to the hearing going ahead. As this had not been received, Mr Dormer was not confident that there was actually a DPS in place to authorise the sale of alcohol on the premises, despite being named on the licence.

Committee Deliberation:

All parties were asked to leave the room while the Sub-Committee considered its decision.

All parties were invited back into the room for the Chairman to announce the decision of the Sub-Committee.

The Decision

The Sub-Committee considered all of the relevant representations made available to it and in doing so has taken into account paragraphs 16.36, 16.55 and relevant sections related to public nuisance of the Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. The Sub-Committee took into account its duty to take all steps necessary in order to determine the application in a manner which upheld the Licensing objectives.

The following conditions are to be added to the Premises Licence:

- 1. The designated premises supervisor is removed from the Premises Licence.**
- 2. The premises licensing hours shall be 11h00 until 23h00 daily. The premises opening hours shall be 11h00 to 23h30 daily.**
- 3. The provision for Live and Recorded music after 23h00 is removed**
- 4. Non-standard timings are removed for all licensing activities**

For the avoidance of doubt, this means that all licensable activities shall stop at 23h00 and the premises shall be cleared of customers and closed at 23h30

The premises shall not be licensed for any additional timings for licensable activity and/or opening hours of the premises for Christmas Eve, Boxing Day, New Years Eve and any other days currently listed on the licence.

- 5. Last entry to the premise shall be 22h30 daily**
- 6. There shall be at least 2 door supervisors employed from 19h00 until close of play on Fridays and Saturdays**
- 7. A personal licence holder will be present on the premises at all times licensable activity is taking place;**
- 8. On or before 02 October 2018 the premises shall draw up and implement a written search and admission policy designed to restrict customers likely to be involved in crime and disorder and nuisance and address search procedures, refusal to customers who appear intoxicated, or known drug users or persons known to have caused problems in the premises or other licensed premises.**

9. There will be a Challenge 25 policy operating at the premises. Challenge 25 means that the holder of the premises licence shall ensure that every individual, who visually appears to be under 25 years of age and is seeking to purchase or be supplied with alcohol at the premises or from the premises, shall produce identification proving that individual to be 18 years of age or older. The form of identification shall contain their photograph, date of birth and a holographic mark.
10. If the person seeking entry is unable to produce acceptable means of identification, no entry to the premises and no sale or supply of alcohol will be made to or for that person.
11. Challenge 25 posters and requests to patrons to leave the premises silently shall be displayed in prominent positions at the premises
12. Staff will be trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18 the signs and symptoms of intoxicated persons and the refusal of sale due to intoxication. Records will be kept of such training which must be signed and dated by the members of staff who has provided and received that training.
13. All staff will receive refresher training every year as a minimum and records are to be kept of this refresher training which should be signed and dated by the members of staff who has provided and received that training
14. All training records will be made immediately available for inspection by the Metropolitan Police Services and any responsible Authority upon request.
15. Training records will be kept for a minimum of two years. Training records will be held on the licensed premises to which they relate to.
16. A daily incident log shall be maintained at the premises and signed at the end of each day by the duty manager. The daily incident log shall be made available upon request to an authorised Council Officer and/or the Police. The daily incident log will record at a minimum the following:
 - a. All crimes reported to the venue;
 - b. All ejections of patrons;
 - c. Any complaints;
 - d. Any incidents of disorder;
 - e. Seizure of drugs or weapons;
 - f. Any faults in the CCTV system or searching equipment or scanning equipment;
 - g. Any refusal of a sale of alcohol;
 - h. Any visit by a relevant authority or emergency service.

The Premises Licence Holder shall ensure that the refusals logs is checked, signed and dated on a weekly basis by himself or an authorised employee acting in place of the Designated Premises Supervisor.

17. The incident log will be held and maintained at the premises and will be available for immediate inspection immediately upon request of the Metropolitan Police Services and/or any authorised officer of the Council.
18. The record of refusals will be retained for a minimum of two years.

19. The CCTV on the premises system shall be maintained in good working order, covering all public areas of the licensed premises, including all public entry and exit points, the street environment, the till area and any area where alcohol is stored. The CCTV will enable facial identification of all persons whose image is captured in any light condition.
20. The CCTV cameras shall continually record while the premises are open to the public and recording shall be kept available and unedited for a minimum of 31 days.
21. A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public and must be able to produce/download/burn CCTV images upon request by a police officer or any authorised officer of the London Borough of Hillingdon. . Any footage must be in a format that can be played back on a standard personal computer or standard DVD player.
22. An incident log shall be maintained to record all instances when the CCTV is not fully in good working order. The log will record the date the malfunction was noted, the date repair work was requested and the date that the repair work was carried out.
23. No sale of alcohol shall take place when the CCTV system is not fully in good working order.

RIGHT OF APPEAL

No decision made by the Council will have effect during the time period within which an appeal may be brought and until such time that any appeal has been determined or abandoned.

The applicant for review, holder of the Premises Licence, or any other person who made relevant representations to the application may appeal against the Council's decision to the Justice Clerk at the London North West Magistrates Court. Such an appeal must be lodged and paid for within 21 days of receipt of this Notice of Decision. A copy of the appeal and receipt of payment should be sent to the Council's Regulatory Service.

The recipient will be deemed to have received the Decision Notice, the day after the date on the accompanying letter, which will be posted by 1st class mail.

The meeting, which commenced at 2.00 pm, closed at 4.35 pm.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Neil Fraser on 01895 250692. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

The public part of this meeting was filmed live on the Council's YouTube Channel to increase transparency in decision-making, however these minutes remain the official and definitive record of proceedings.