

# Review of Premises Licence following a Summary Review

<b>Committee</b>	Licensing Sub-Committee
<b>Officer Contact</b>	Stephanie Waterford Licensing Officer 01895 277232
<b>Papers with report</b>	Appendix 1 - Recommendation of the Licensing Officer Appendix 2 - Police S53a Application Appendix 3 - Police Certificate Appendix 4 - Witness Statement of Ch Supt Nick Downing Appendix 5 - Witness Statement of PC Emly Mitchell Appendix 6 - Decision Notice of hearing 13 <sup>th</sup> October 2015 Appendix 7 - Representation from Premises Licence Holder Appendix 8 - Decision Notice of hearing 16 <sup>th</sup> October 2015 Appendix 9 - Representation from Police Appendix 10 - Representation from Licensing Authority Appendix 11 - Decision Notice of hearing 16 <sup>th</sup> September 2015 Appendix 12 - Current Premises Licence Appendix 13 - Site map and photos
<b>Ward name</b>	Eastcote & East Ruislip

## 1.0 SUMMARY

To carry out a review of the premises licence pursuant to Section 53C of the Licensing Act 2003 in relation to the RE Bar, 163 Field End Road, Eastcote.

## 2.0 RECOMMENDATION

**That the Licensing Sub-Committee modify the conditions attached to the premises licence as detailed in Appendix 1.**

## 3.0 INFORMATION

- 3.1 On Sunday 11<sup>th</sup> October 2015 at approx 01.00, a fatal stabbing took place on the above premises.
- 3.2 On Monday 12<sup>th</sup> October 2015, the Metropolitan Police Service applied to the Licensing Authority for a summary review of the premises licence issued in respect of the premises known as RE Bar, 163 Field End Road, Eastcote.
- 3.3 The required accompanying certificate has been signed by Detective Chief Superintendent Nick Downing of the Metropolitan Police for the Hillingdon area. He has certified that in his opinion, the premises are associated with serious crime or serious disorder or both.

- 3.4 The Police's application and the Chief Superintendent's Certificate are attached as **Appendices 2 and 3** respectively.
- 3.5 A Witness Statement from Sgt Nick Davies is attached as **Appendix 4**.
- 3.6 A Witness Statement from PC Emly Mitchell is attached as **Appendix 5**.
- 3.7 The Licensing Sub-Committee were convened on 13<sup>th</sup> October 2015 to determine interim steps to be taken in respect of the premises licence.
- 3.8 The Sub-Committee resolved to impose interim steps in the form of additional licence conditions as detailed in the decision notice attached as **Appendix 6**.
- 3.9 A representation against the interim steps relating to the wording of a condition, was sent to the Licensing Authority on 15<sup>th</sup> October 2015. The representation proposed a modification of the wording of a condition. A copy of the representation including the proposed change to wording of the condition, is attached as **Appendix 7**.
- 3.10 The Licensing Sub-Committee considered the representation at a hearing on 16<sup>th</sup> October 2015 whereby a determination was made not to modify the interim steps imposed at the hearing 13<sup>th</sup> October 2015. The Decision Notice of the hearing on 16<sup>th</sup> October 2015 is attached as **Appendix 8**.
- 3.11 Section 53C requires the Licensing Authority to hold a review of the Premises Licence within 28 days of receipt of an application for a summary review of the Premises Licence

#### **4.0 CONSULTATION**

- 4.1 As required by the legislation, a legal notice giving notice of the review was displayed at the premises, at the Council offices and also on the Councils website
- 4.2 Closing date for representations  
27<sup>th</sup> October 2015
- 4.3 A total of two responses to the consultation were received. These are detailed below.

#### **5.0 REPRESENTATIONS**

- 5.1 The Metropolitan Police Service have provided an update in relation to the incident and have proposed a modification of the licence conditions. A copy of the Police's letter is attached as **Appendix 9**.
- 5.2 The Licensing Authority have made a representation supporting the Police position and also supporting the modification of the licence conditions. A copy of the Licensing Authority's letter is attached as **Appendix 10**.

#### **6.0 BACKGROUND INFORMATION**

- 6.1 Current Licences held  
The premises have been licensed as a public house, under the Licensing Act 2003, since 24<sup>th</sup> November 2005.

## 6.2 Current Designated Premises Supervisor

Mr Darren Farrell

## 6.3 Description of the Premises

The premises occupies a small retail style unit inclusive of rear outdoor patio space. The premises is in a terraced position facing out onto Field End Road, Eastcote and adjoins two neighbouring retail outlets.

Directly positioned above the property are a number of residential dwellings.

There are no parking facilities at the premises but to the rear of the property runs a service road leading to two council operated car parks.

## 6.4 Existing Licensable Activities

<u>Activity</u>	<u>Permitted</u>
Sale of Alcohol:	
Consumption on the premises	✓
Consumption off the premises	
Regulated Entertainment:	
Plays	
Films	
Live Music (Indoors Only)	✓
Recorded Music (Indoors Only)	✓
Performances of dance	
Indoor Sporting Events	
Boxing/Wrestling	
Late Night Refreshment (Indoors Only)	✓

## 6.5 Current Licensable Activity & Opening Hours

	<b>Sale of Alcohol</b>	<b>Regulated Entertainment</b>	<b>Late Night Refreshment</b>	<b>Opening hours</b>
<b>Monday</b>	10:00-00:00	10:00-00:00	23:00-00:00	10:00-00:30
<b>Tuesday</b>	10:00-00:00	10:00-00:00	23:00-00:00	10:00-00:30
<b>Wednesday</b>	10:00-00:00	10:00-00:00	23:00-00:00	10:00-00:30
<b>Thursday</b>	10:00-00:00	10:00-00:00	23:00-00:00	10:00-00:30
<b>Friday</b>	10:00-01:00	10:00-01:00	23:00-01:00	10.00-01.30
<b>Saturday</b>	10:00-01:00	10:00-01:00	23:00-01:00	10.00-01.30
<b>Sunday</b>	10:00-23:30	10:00-23:30	23:30-23:30	10.00-00:00

## 6.6 Applicant history

The RE Bar has been licensed under the Licensing Act 2003 since 2005 and in that time has seen 2 changes in management, Mr Darren Farrell being the third. The current occupier, Darren Farrell, has been the licence holder and DPS at the premises since February 2014.

A Minor Variation application was received in March 2015. This was to amend an existing condition which stipulated entry to the premises was restricted to persons aged 21 or over. The revised condition now reads "Persons under 18 years of age shall not be admitted into the premises"

A Premises Licence Variation was applied for in July 2015 to extend the licensable activity and opening hours of the premises. The application was opposed by a number of responsible authorities and interested parties. The application was considered by the Licensing Sub-Committee on 16<sup>th</sup> September 2015 and was refused on grounds relating to public nuisance. A copy of the decision notice is attached as **Appendix 11**.

A copy of the current premises licence is attached as **Appendix 12**.

A plan of the area and photos of the premises are attached as **Appendix 13**.

## 6.7 Other licensed premises nearby

The RE Bar is situated in a high street setting, nestled amongst various eateries and is sited approximately 68 metres from Champers Bar and 89m from The Ascott public house, which both currently hold premises licences and operate a similar style of business.

Details of these operations and activities are noted below:

### **Champers Bar -**

#### **The sale of alcohol by retail and regulated entertainment**

Friday and Saturday between 10.00 and 01.30 the following day

#### **Late night refreshment**

Friday and Saturday between 23.00 and 02.00 the following day

#### **Opening Hours**

Friday and Saturday between 10.00 and 02.00 the following day

### **The Ascott public house**

#### **The sale of alcohol by retail and regulated entertainment**

Thursday, Friday and Saturday between 11.00 hours and 01.00 hours the following day

#### **Late night refreshment**

Thursday, Friday and Saturday between 23.00 hours and 01.00 hours the following day

#### **Opening Hours**

Thursday, Friday and Saturday between 11.00 hours and 01.20 hours the following day

There are also a number of other licensed premises situated nearby. These include:

- Tesco Express closing at 23:00
- Budgens closing at 00:00 hours
- Shapla Restaurant operating Monday - Friday until 00:00
- Best Kebabs operating Sunday - Thursday until 00:00 and Friday-Saturday 02:00.

## **7.0 OFFICER'S OBSERVATIONS**

### **7.1 Visits made by Licensing Officers**

#### October 2014

A Licensing Officer visited the premises on 9<sup>th</sup> October 2014 following a complaint that the premises may have been operating outside of licensed hours. The Licensing Officer checked the CCTV system to ascertain whether the premises were in use after licensed hours and whether the CCTV system was compliant with the licence conditions detailed on the premises licence. The CCTV system did not produce the requested images and also appeared not to be retaining the images for the period of 30 days as required by the premises licence.

The Licensing Officer spoke to the premises licence holder who agreed to call an engineer to rectify the issues with the CCTV immediately. The Licensing Officer agreed to carry out a further check at a later date.

#### December 2014

Following the investigation in October 2014 regarding the non-compliant CCTV system, the same Licensing Officer visited the premises to check whether the issues had been resolved. The CCTV system was demonstrated to the Officer and was found to be recording images in compliance with the conditions on the premises licence. No further action was taken in respect of this matter.

#### August 2015

A compliance visit was made on 19<sup>th</sup> August 2015, during the consultation stage for this application. This was carried out by a Licensing Officer and the inspection was made by appointment.

The Officer met three members of staff Kevin Bates - Premises Assistant, Jane Hanson - Site Manager and Karen Dawood - Office Assistant.

The focus of the visit was to ensure all current conditions were currently being complied with and the findings overall were satisfactory.

CCTV footage was checked on the following dates and the noted observations were made:

- 18/07/2015 - security staff not seen until approximately 9pm (exact time of arrival was not confirmed)
- 07/08/2015 - One doorman seen at 20:00 hours, doorman number two did not arrive until 20:22
- 14/08/2015 - 1 doorman seen at 20:00 hours, doorman number 2 did not arrive until 20:08 hours

The Officer gave a verbal warning in relation to the contravention of the door supervisor condition imposed upon the licence.

#### September 2015

A visit was made by a Licensing Officer on 8<sup>th</sup> September 2015 in connection with the Licensing Sub Committee hearing on 16<sup>th</sup> September. The Officer reported that the majority of conditions were being complied with however, the CCTV system could not be accessed and the incident log, required by licence conditions, could not be located.

#### October 2015

Since the incident on Sunday 11<sup>th</sup> October, the premises have been closed. No visits have been carried out by Licensing Officers in relation to this review application.

### 7.2 Complaints received

A number of complaints and communications were received by Regulatory Services between 3<sup>rd</sup> May and 23<sup>rd</sup> June 2014 by a local resident of The Close, Eastcote. The resident contacted the service five times during this period complaining of loud noise and issues with noise escape, due to the doors opening to the rear patio area. The complainant was seeking remedial action from the Council.

These complaints resulted in an investigation by the Antisocial Behaviour Investigations Team (ASBIT) and the Environmental Protection Unit (EPU). A voluntary agreement was put in place between the licence holder, the EPU Officer and the ASBIT Officer, to close the rear doors at 10pm each night, however this agreement was not imposed upon the licence as no formal application was made. A Licensing Officer advised the complainant and the ASBIT Officer of the premises licence review process and explained how licence conditions are imposed.

This set of complaints was also the subject of a Members Enquiry.

### 7.3 Relevant Sections of the Government Guidance

Home Office Section 53a Licensing Act 2003 Summary Review Guidance

## **8.0 LEGAL COMMENTS**

8.1 Following an application by the Chief Police Officer for summary review of a premises licence under section 53A of the Licensing Act 2003 the licensing authority must convene a hearing within 48 hours to determine any interim steps to be taken and review the licence fully within 28 days of receipt of that application.

8.2 The Licensing Sub-Committee is required to consider:

- the application for review and any relevant representations by the applicant for review;
- representations by the premises licence holder; and
- any other relevant representations made.

- 8.3 Relevant representations are those that relate to one or more of the licensing objectives, have not been withdrawn and are made within the period of 10 consecutive working days beginning on the date the notice was first published.
- 8.4 Members must take such steps (if any) as they consider appropriate for the promotion of the licensing objectives. The Licensing Sub-Committee may:
- Modify the conditions of the licence (this includes the power to omit or alter existing conditions and add new conditions)
  - Exclude a licensable activity from the scope of the licence
  - Remove the designated premises supervisor
  - Suspend the licence for a period not exceeding three months
  - Revoke the licence.
  - Determine that none of the above steps will help promote the licensing objectives. In such a situation, the Sub-Committee may determine not to make any changes to the Premises Licence.
- 8.5 The Sub-Committee must also secure that from the coming into force of the determination of the review, any interim steps having effect pending that determination cease to have effect (except so far as they are comprised in steps taken by the Sub-Committee in the review). However, any interim steps may have effect until after the review decision has come into effect, either after the expiry of a period of 21 days after the parties are notified of the review decision, or if the decision is appealed, once the appeal has been dispensed with by the Magistrates' Court (*93 Feet East Ltd v Tower Hamlets LBC [2013] EWHC 2716 (Admin)*).

### **Conditions**

- 8.6 Members are also referred to the Secretary of State's guidance on conditions, which states that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises. Conditions should be determined on a case by case basis and standardised conditions which ignore these individual aspects should be avoided. Conditions will not be necessary if they duplicate a current statutory requirement.
- 8.7 Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

### **Reasons**

- 8.8 If the Sub-Committee determines that it is necessary to take any steps in relation to the premises licence, it must give reasons for its decision.

### **The Role of the Licensing Sub-Committee**

- 8.9 Members should note that the Licensing Sub-Committee is meeting on this occasion solely to perform the role of licensing authority. The Sub-Committee sits in quasi-judicial capacity, and must act impartially. It must offer a fair and unbiased hearing of the application. In this case,

- 8.10 Members should disregard the Council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon licensing law, relevant guidance and the Council's Statement of Licensing Policy.
- 8.11 As a quasi-judicial body the Licensing Sub-Committee is required to consider the application on its merits. The Sub-Committee must take into account only relevant factors, and ignore irrelevant factors. The decision must be based on evidence, that is to say, material which tends logically to show the existence or non-existence of relevant facts, the occurrence of which would be relevant.
- 8.12 The Licensing Sub-Committee must give fair consideration to the contentions of all persons entitled to make representations to them.
- 8.13 The Licensing Sub-Committee is entitled to consider events outside of the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for the same to be relevant. However, if such events are not properly attributable to the premises being open, then the evidence is not relevant and should be excluded. Guidance is that the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activity in the area concerned.
- 8.14 Under the Human Rights Act 1998, the Sub-Committee needs to consider the balance between the rights of the licence holder and those making representations when making their decision. The Sub-Committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the Borough.

### **Appeals**

- 8.15 Responsible Authorities, persons making relevant representations and the licence holder will have the right to appeal the decision of the Sub-Committee to the Magistrates' Court within a period of 21 days beginning with the day on which the applicant was notified by the licensing authority of the decision to be appealed against.