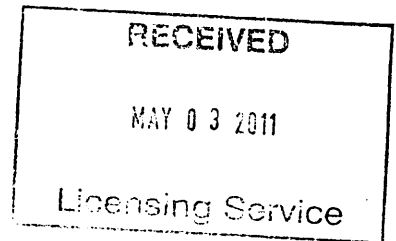




HILLINGDON
LONDON



Licensing Sub-Committee

Decision Notice

Application by the Metropolitan Police Services
Seeking a Review of the Premises Licence of
Tiger Bar and Grill, Dawley Road, Hayes,
UB3 1EN

Hearing: 15 April 2011
Sub-Committee: Cllr Mike Bull (*Chairman*)
Cllr Judy Kelly
Cllr Lynne Allen

Legal Adviser: Beejal Soni
Licensing Officer: Sharon Garner
Committee Clerk: Nav Johal

Chairman.....

Cllr Mike Bull

Dated: 15 April 2011

This notice confirms the decision of the Licensing Sub-Committee made at a public hearing on Friday, 15 April 2011.

THE APPLICATION

This was an application initiated by the Metropolitan Police Services seeking a review of the Premises Licence of Tiger Bar and Grill, Dawley Road, Hayes on the grounds of Prevention of Crime and Disorder, Public Safety and the Prevention of Public Nuisance. Submissions in support of the review application were received from the London Borough of Hillingdon Environmental Protection Unit on the grounds of Prevention of Public Nuisance. The London Borough of Hillingdon Food Health and Safety Team also submitted representations in support of the application on the grounds of Prevention of Crime and Disorder and Public Safety.

SAZ Investments Ltd is the registered Premises Licence Holder. Mr Saranjit Bhabra is the only Designated Premises Supervisor (DPS) named on the Premises Licence.

ATTENDANCE

Mrs Sharon Garner introduced the report on behalf of the Council's Licensing Service. Sergeant Ian Meens of the Metropolitan Police Services submitted representations on behalf of the Metropolitan Police Services. Alexandra Russell and Chima Umunnakwe submitted representations on behalf of the Food Health and Safety Team and Environmental Protection Unit respectively. The respondent to the Review, Mr Bhabra, was represented at the hearing by David Smith of Turbervilles Solicitors.

Prior to the hearing, the legal advisor discussed and agreed a detailed review hearing procedure with all parties which was aimed at ensuring that all parties would receive a fair and equal opportunity to make their representations. For ease of reference, a copy of these agreed procedures is attached marked Appendix 1.

THE HEARING

This review proceeded on 19 January 2011. The Sub-Committee was satisfied that timely notice had been served on all parties and that all those entitled to attend and

speak had the opportunity to do so. The Sub-Committee considered the written evidence and oral submissions from all parties.

Mrs Garner introduced and outlined the report and grounds for the review application. The Sub-Committee began by inviting Sgt Meens to address the Sub-Committee.

Sgt Meens began by making submissions as per his statement on pages 23-25 of the hearing bundle; referring to various crime reports included in the bundle to support submissions. Key points made by Sgt Meens included:

- the inability of staff present on premises to download footage from the CCTV system;
- the number of times police were called out to incidents on the premises since its opening in September 2010;
- an incident involving the breaking of double-glazed glass by a patron / person who was refused entry;
- The confiscation of the CCTV hard-drive. An expert analysis indicated that footage had been tampered with (either by erasing data and/or replacing the Hard Drive);
- an alleged stabbing and clearing up of the area before police could obtain forensic evidence;
- incident logs which were not maintained as stipulated on the licence conditions;
- security logs which showed door staff present and going off duty a significant time after the closing of the premises;
- The premises operating beyond its authorised time. The Sub-Committee noted that Temporary Event Notices had been in effect on some of the dates mentioned;
- Alleged "proceeds of crime incident". The Sub-Committee noted that Sgt Meens advised that it is likely there is no substance to this allegation.

In response to various questions from other parties including Members of the Sub-Committee, Sgt Meens advised that:

- The premises could have opened for business at the end of August
- he had no knowledge of a new CCTV system which Mr Smith advised had lately been installed;
- it was possible that the incident related to the broken double-glazing window could have been caused by a member of the public who was denied access to the building;
- he would not begin a criminal prosecution on matters relating to the premises operating outside its permitted hours;
- the problems related to CCTV occurred when the DPS
- revocation is a matter for the Sub-Committee to determine – but that he would be happy for licence conditions and hours to be tightened as most of the problems are related to the incidents which occurred in the later hours of trading;
- that the Metropolitan Police Services had spent more time investigating and following up incidents on this premises rather than other premises in the area;
- he had discussed his concerns on a number of occasions with the DPS and Narinder Bhambra and provided advice on remedying various concerns relating to security and CCTV;
- That the DPS was difficult to get hold of and that he had frequent dealings with nominated persons. This was a concern because the DPS appeared to be the only person who knew how to operate the CCTV system;
- After confiscating the CCTV unit, it was only when he advised the DPS that the licence required an operational CCTV unit that the DPS made arrangements for an alternative unit to be installed.

As there were no further questions to be asked of Sgt Meens, the Sub-Committee then invited Mr Umunnakwe to submit representations. Mr Umunnakwe confirmed that one anonymous complaint had been received relating to noise from the premises. No noise nuisance was witnessed and it appeared officers had not attended the premises. A letter was sent to the owner of the premises on informal basis. Despite a request from the Sub-Committee to check the Council's electronic system for further information, he was unable to neither provide a specific date/date

range for the incident nor provide any more information other than what was contained in the anonymous complaint.

Alexandra Russell, of the Food Health and Safety Team then made submissions. She advised that, following an anonymous complaint, a visit to the premises was conducted on 01 February 2011. Evidence of a heavy rat infestation was found and the premises voluntarily closed until 11 February 2011. Officers provided detailed guidance to the licence holder about what was expected and how best to operate the food business. Two Hygiene Improvement Notices were also served relating to the requirement for a safe food production system and having chefs who could demonstrate adequate training. During this period of voluntary closure, complaints were received about the premises still being in operation.

The visit also revealed that a Shisha Lounge was in the process of being constructed. The Shisha Lounge area is reflected on plans as being the smoking area for patrons. Officers took advantage of the visit to provide information and advice on smoke-free legislation and what was required to comply with the legislation. It was Ms Russell's assertion that staff present seemed to possess no information about the requirements of the smoke-free legislation.

On 3 March 2011 Ms Russell and Ms Bedi visited the premises again to inspect the Shisha Lounge. Despite the advice provided in February, their opinion was that the premises was found to be fully erected and substantially enclosed. It was therefore not within the legislation. Concerns were also raised related to Fire Safety legislation, placement of heaters and an inability to show that the electric works were undertaken by a competent electrician. Staff were unable to present health and safety paperwork including a fire risk assessment for the Shisha Lounge. Submissions were therefore made as part of the review of the licence. Sharon Garner advised that the timings on the advertising of the Shisha Lounge did not correspond to the timings previously stipulated by the Sub-Committee.

In response to various questions from other parties including Members of the Sub-Committee, she advised that:

- If a premises was closed (voluntarily or by Order) because of a rat infestation, then the service of beverages and food was not permitted during the period of closure;
- A Voluntary Closure Notice is issued upon closure which does not have to be displayed to the public. The duty is not to allow anyone to enter the premises until the problem is resolved;
- Mrs Bedi authorised the re-opening of the premises following the issue of a voluntary closure Notice. The electronic records indicate that the premises re-opened on 11 February 2011.
- Detailed calculations (showing a minimum of 50% enclosure) will have to be undertaken in order to prove that the Shisha Lounge was not compliant with legislation ;
- Smoking is not a licensable activity under the Licensing Act 2003
- The Legal Advisor confirmed that because the area fell within the licensed premises area, it was under the control of the DPS.

Mr Smith was then invited to make submissions on behalf of the respondent to the application for review. By means of a series of questions asked to Mr Bhambra by Mr Smith, the Sub-Committee was advised that:

- that Mr Saranjit Bhambra is the DPS and he always intended to be the single point for accountability;
- Mr Bhambra is the only person working on the premises who holds a personal licence. 1 manager (referred to as "Mandeep") has passed the test and will be applying in due course for a personal licence. There are plans for other members of staff to obtain Personal Licences;
- The staff compliment comprises himself, Mandeep, Deepak, a chef and his dad Narinder.
- He lives above the premises and spends a lot of time on the premises itself. His first holiday was to take his wife away to Venice for Valentines Day this year;
- he knows nothing of a Lithuanian/Russian club opening advertised as being held at the premises;

- With regard to the incident on 12 December, he is not sure about the CCTV footage and confirmed the premises shut at 01:30.
- With regard to the breaking of the double-glazed window, he advises that the lady was refused entry to the premises. The incident was captured on CCTV but he was not asked to download it;
- The incident on 13 January 2011 took place on a night when the premises was let for a busy party. Security staff stayed longer than usual on the night. The first they knew about a stabbing was when the Police were called. He claims Police were on the scene immediately before anything was cleared away so forensic evidence could still be collected;
- The CCTV has been replaced;
- he will accept a condition requiring that staff be trained in the use of CCTV;
- A new cleaning company is in charge of the premises. The staff contract is Deepak who also lives above the premises;
- a new chef has been appointed

In response to questions from other parties including the Sub Committee; he advised that in relation to the incident on 26 December, the bag was found at 05h00 by Deepak in the toilet. Mr Bhambra was unable to answer a question from a Member of the Sub-Committee querying why the bag was found in such an obvious place long after the premises apparently closed.

Councillors emphasised that it was his duty as DPS to ensure that he was familiar with licence conditions and that these conditions were complied with. In response to questions relating to non-compliance with conditions about the CCTV and incident logging, Mr Bhambra advised that security staff has been changed and that original security staff had advised him there was no need to log incidents on all occasions. He confirmed that staff did not receive any training/guidance from him on security or licence conditions.

He further confirmed that apart from a fire risk assessment carried out prior to the grant of the licence; no risk assessment had been carried out following the opening of the Shisha Lounge, despite the Lounge being open for 3 months. The Shisha

Lounge was described as a temporary marquee structure that can be removed within 10 minutes, despite being highly decorated with furniture, cloth and the like. No answer was given to questions relating to why the advice given by officers was not adhered to. Instead Mr Bhambra advised that he was waiting for the Council to confirm the suitability of the structure. He conceded eventually that it was his duty and not the Council's duty to ensure that a compliant structure was erected.

In response to further questions, it took Mr Bhambra a significant amount of time to locate the fire exit on the plans and confirm that they were unobstructed by the Shisha Lounge. He conceded that there were problems with the premises but was willing to work to resolve it.

Sgt Meens was then invited to make closing remarks. He advised that there were significant problems with compliance at the premises – especially its management of the night time economy. It is a family run business which will fail if the licence is revoked. A revocation may also lead to new problems with new owners. However, a suspension would provide an opportunity to work with Mr Bhambra and improve compliance issues and the running of the premises.

Mr Smith crystallized the legal concerns and suggested the imposition of stringent conditions including a drugs policy, age restriction policy and log keeping.

CAUSES OF CONCERN

The Causes of Concern can be isolated and identified as follows:

1. The DPS has failed to appreciate the seriousness and responsibility his position carries;
2. The premises have not been suitably managed;
3. The DPS has failed to demonstrate satisfactory knowledge of levels of compliance required in terms of the premises licence;
4. The premises itself is associated with numerous examples of crime and disorder and non-compliance with various primary legislation;
5. The family-run nature of the business, and its current operating record makes it doubtful conditions will be adhered to if they do not suit the type of business the family wishes to run;

6. The DPS is inexperienced in dealing with the challenges posed by the premises.
7. As advised by the Metropolitan Police Services, the revocation of the licence may lead to greater problems on the premises.

In reaching its decision, the Sub-Committee is mindful of the greater number of police hours spent in various investigations at the premises. Additionally, owing to the seriousness of the incidents detailed at the hearing the Licensing Sub-Committee has considered the revocation of the premises. This consideration has been balanced against advice from the police regarding the potential future problems in the event of a change in ownership. The Sub-Committee has noted that most of the problems at the premises are management related. The DPS appears to have been advised incorrectly by various members of staff. This situation is not helped by his lack of familiarity and awareness of the existing licence conditions. Effectively tackling management problems will require the introduction of robust independent management with full knowledge and awareness of the various responsibilities associated with owning and running such premises.

THE DECISION

The Sub-Committee has considered all the relevant evidence made available to it and in doing so has taken into account the Licensing Act 2003, the Guidance issued by the Secretary of State under section 182 of that Act, the Council's Statement of Licensing Policy and the Licensing objectives. It is confirmed that the wording of conditions to be attached to the licence has been discussed and agreed in open meeting with all parties to this hearing. The Licensing Sub-Committee has come to the following decision:

The premises licence for Tiger Bar and Grill is hereby suspended for a period of 2 months following the end of the licensing appeal period as a deterrent and to allow time for the compliance with the amended and new conditions listed below, such conditions to be fully complied with upon the re-opening of the premises for business:

1. Change of hours

The premises shall be licensed for licensable activity:

From 10h00-23h00 on Sundays – Thursdays;

From 10h00-23h30 on Fridays and Saturdays

The opening hours of the premises shall be:

From 10h00-23h30 on Sundays-Thursdays;

From 10h00-00h00 on Fridays and Saturdays.

For the avoidance of doubt, this means that all licensable activities shall stop at the terminal hour for licensable activity and the premises shall be cleared of customers and closed 30 minutes after conclusion of the licensable activity

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, the Sunday preceding Bank Holiday Mondays and Bank Holiday Mondays.

2. The premises shall not be licensed for off sales supply of alcohol.
3. Mr Saranjit Bhambra shall complete the advanced BII course for Designated Premises Supervisors prior to the re-opening of the premises;
4. Mr Saranjit Bhambra is removed as Designated Premises Supervisor.
5. The appointment of subsequent Designated Premises Supervisor(s) is subject to the additional condition that such person is not a member of Mr Saranjit Bhambra's family and is not in any way associated with Saz Investments Ltd.
6. The premises licence holder or DPS or other manager of the premises must regularly attend meetings of the Hayes Pub Watch.
7. On evenings where there is to be music for entertainment or dancing there shall be at least 2 door supervisors employed from 19h00 and rising by one supervisor to 3 supervisors where the number of persons present on the premises exceeds 100 persons and/or is expected to exceed 100 persons.
8. A challenge 21 scheme shall operate on the premises and the DPS shall have **sight** of the Challenge 21 book in order to verify entries

9. On evenings where there is to be music for entertainment or dancing, no person under the age of 21 shall be admitted to or remain on the premises.
10. No groups of males in excess of 5 will be admitted. Reasonable effort shall be made to ensure that groups of males do not artificially divide or pair off in order to gain entry;
11. A personal licence holder will be present on the premises at all times;
12. At least one staff member (in addition to the DPS) shall be trained in the operation of the CCTV. At least one staff member shall be present on the premises at all times to operate the CCTV system. The trained staff member must be able to show a police or authorised Council Officer recent data or footage with the absolute minimum of delay when requested and to provide a copy of the footage immediately if so requested.
13. 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 address search procedures, dress code, refusal to customers who appear intoxicated, or know drug users or persons known to have caused problems in the premises or other licensed premises. All staff shall be trained in this policy and a signed record of training and the policy shall be kept in a readily accessible place.
14. The premises will draw up a drinking policy addressing procedures to minimise the risk of customers becoming intoxicated whilst at the premises. All staff shall be given training in this policy and a signed record of training and the policy shall be kept in a readily accessible place
15. There shall be no complimentary drinks served to customers.
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**

17. The premises may not carry out any licensable activity when the CCTV system is not operational and/or not on the premises.

In stipulating the above conditions the Sub-Committee notes that they have been discussed by all parties and the Premises Licence Holder has not objected to the conditions.

The Sub-Committee takes this opportunity to strongly recommend that a fire assessment for the Shisha Bar is carried out immediately in order to ensure the safety of patrons. It is also recommended that Mr Saranjit Bhambra ensure all relevant policies relating to food safety are up to date and practices comply with the requirements of the Food Health and Safety Team. It is strongly recommended, that both Mr Bhambra and the DPS are familiar with all these policies and licence conditions in order to ensure that the premises is run in a compliant manner. The Sub-Committee takes this opportunity to caution the Premises Licence Holder that the licence may be called in for review again if the licensing objectives are not upheld.

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 Uxbridge Magistrates Court. Such an appeal may be brought within 21 days of receipt of this Notice of Decision. You will be deemed to have received the Decision Notice, two days after the date on the accompanying letter, which will be posted by 1st class mail.