



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (5)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (5)** held on **Tuesday 21st September, 2021**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Murad Gassanly (Chairman), Jim Glen and Aicha Less

1. MEMBERSHIP

1.1 There were no changes to the membership.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. PROUD EMBANKMENT, 8 VICTORIA EMBANKMENT, WC2R 2AB

The Metropolitan Police Service (Police) submitted an application for a Summary Review of the above Premises pursuant to Section 53A of the Licensing Act 2003 (the "Act") on 16 September 2021 as the Police consider the Premises are associated with serious crime and serious disorder. The Premises Licence Holder (PLH) of the Premises is Proud West End Limited

The full review of the Premises will take place within 28 days of the date the application was made, being 15 October 2021. However, the purpose of today's virtual hearing was for the Committee to determine whether it was necessary to take any interim steps pending the determination of the full review.

Persons attending the hearing virtually

For the Police: Mr James Rankin (Counsel)
PC Adam Deweltz
PC Reaz Guerra

For the Premises Licence Holder:
Mr Philip Kolvin QC (Counsel)

Mr Alex Proud, the PLH and the Designated Premises Supervisor

Other Officers present:

The Presenting Officer – Jessica Donovan;
The Legal Adviser – Heidi Titcombe;
The Committee Officer – Tristan Fieldsend

Activities and Hours

The Premises is a bar which provides cabaret and other types of regulated entertainment, including music and dancing: -

The hours are as stated in the committee report.

The opening hours are Sunday to Thursday 09:00 to 04:00
 Friday and Saturday 09:00 to 05:00

The Premises is permitted extended opening hours on New Year's Eve and when British Summer Time changes.

INTERIM STEPS DECISION

Having carefully considered the application for an expedited review and the evidence presented by the Police and the Premises Licence Holder, both verbally and in writing, the Committee has concluded that the Premises are associated with serious crime and serious disorder and it is necessary to take the following steps: -

1. To reduce the permitted hours for the sale of alcohol (both on and off the Premises), all permitted licensable activities and the opening hours to :-
Monday to Thursday 10:00 hours to 23:30 hours
Friday and Saturday 10:00 hours to 24:00 hours
Sunday 09:00 hours to 22:30 hours.
2. That subject to paragraph 1 above, the terminal hours for all licensable activities and the opening hours shall be no later than 01:00 hours on Wednesday, Thursday, Friday and Saturday for pre-booked "all-star" events provided such activities are ancillary to dinner (a table meal) and a cabaret performance. For the avoidance of doubt all licensable activities must cease and all patrons must have left the Premises by no later than 01:00 hours on these days and for these events.
3. To modify the conditions on the existing licence by adding the following condition to restrict the operation of the Premises, namely:

"The licensable activities authorised by this Licence and provided at the Premises shall be ancillary to the main function of the Premises as a cabaret venue."
4. To modify the conditions by suspending condition 54 of the existing licence with immediate effect. Condition 54 states :-

“Alcohol shall be ancillary to the provision of regulated entertainment and or substantial food”.

5. To modify the conditions by suspending condition 15(b) of the existing licence with immediate effect to prevent the extension of hours for licensable activities and the opening hours for British Summer Time. Condition 15(b) states :-

“Seasonal variations and/or non-standard timings:

(b) Occasional extended hours is permitted for British Summer Time. Police to be notified in advance”.

6. To add a condition to the existing Licence stating that :-

“No private events shall be permitted to take place at the Premises save that the Premises shall be permitted to have the eleven private pre-booked events listed in the letter dated 20 September 2021 from Keystone Law provided the terminal hour for licensable activities and the opening hours shall cease no later than 01:00 hours. For the avoidance of doubt all licensable activities must cease and all patrons must have left the Premises by no later than 01:00 hours at these private events.”

7. In view of the seriousness of this case, it is necessary and proportionate for all the Interim Steps and for this Interim Decision to take immediate effect.

Preliminary Matters:

8. The Chairman introduced the Members of the Committee and outlined the procedure to the Parties in attendance. The members confirmed that they had no declarations of interest to make.
9. Councillor Glen was appointed substitute Chair of the meeting in the event that there was a loss of connection.
10. The Chairman noted that the committee agenda consisted of the application for review, the existing Licence of the Premises and the supporting statements of the Police. There were two additional bundles of papers (1) comprising CRIS data and a statement from the Police and (2) a letter dated 20 September 2021 from Keystone Law Solicitors, all of which had been circulated to the Parties on 20 September 2021.
11. Ms Donovan, Licensing Officer, outlined the application and confirmed that the Premises is in St. James’s Ward and is outside the West End Cumulative Impact Zone.
12. In determining this hearing, the Committee may take such interim steps as it considers are necessary to address the immediate problems with the Premises and the likelihood of serious crime and serious disorder occurring pending the full review, namely: -
 - (a) modify the conditions of the premises licence;

- (b) to exclude the sale by retail of alcohol from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence;
- (e) to take no action.

Submissions by the Police

13. Mr Rankin drew the Committee's attention to the application for the review and the supporting documentation produced by the Police. Mr Rankin stated that Mr Alex Proud is the Premises Licence Holder and the Designated Premises Supervisor of these Premises, which he owns and operates. The Police have had concerns about the Premises for a while but the incident which triggered this summary review were the events that took place on Thursday 2 September 2021 at approximately 03:00 hours. The Premises was hosting a private birthday party for a well-known Drill Music Rapper, whose street name was M24. Mr Rankin contended that a simple piece of research on the internet would have revealed to the PLH this was not in fact a private event but was an externally promoted event. Some VIP's attended along with ordinary members of the public. It transpired that the event was booked for 300/350 people, but extra guests were added bringing the total number of patrons attending the event to 380 people. The Police considered there was a potential breach of condition 16(b) which requires promoted events to be notified to the Police in advance of the event, to see if they have any concerns. This was not done on this occasion.
14. The bar closed at approximately 02:50 hours and a dispute arose as whether the bar should have been open for longer. This caused a disturbance, security staff stepped in and at that point it all kicked off. Some 20 patrons attacked the SIA security staff who were unable to control the situation or clear the Premises. One member of security staff was bottled, and one was stamped on. One member of the security staff sustained a significant head injury. Metal barriers were used as weapons. Patrons were arming themselves with champagne and spirit bottles, which had been left on the tables, in breach of condition 12 of the Licence. Furniture was thrown inside the Premises.
15. To their credit, after about 15 minutes the management realised that they could not control the patrons and the Police were called. The Police arrived within 8 minutes of receiving the call. Mr Rankin stated that had the Police not arrived so quickly the events would have been even more serious. The Police had to issue a Section 35 Dispersal Order to disperse patrons from the Premises.
16. A 6-inch pocketknife was found and handed to the Police by a member of the Security staff. There is a dispute between the Parties as to where the knife was found. The Security staff said it was found outside the Premises. However, after viewing the CCTV, the Police concluded that the knife had been discovered inside the Premises. This led the Police to believe that the management had failed to comply with the proper search requirements specified in Condition 13 of the Licence. The Police consider that had searches been carried out properly the knife would have found. The ID scan that the staff used for searching patrons was a portable scanner delegated to a man who walked up and down the queue and the Police concluded that this was not

effective searching.

17. The Police also consider that there were a number of breaches of the existing conditions of the Licence including Conditions 12, 13 and 16(b). Condition 12 requires all drinking containers to be in polycarbonate glassware and all glass bottles to be decanted into polycarbonate carafes, apart from champagne and spirits, which have to be removed from the tables promptly. However, this did not occur as bottles were used as weapons at this incident.
18. Condition 50 of the existing Licence requires all CCTV recordings to be given to the Police immediately upon request. Mr Rankin contended that there was a reluctance to provide CCTV to the Police quickly, in breach of Condition 50 of the Licence. Whilst the PLH did provide a summary recording of the CCTV on 3 September. The Police asked for the immediate release of a list of CCTV recordings on 11 September 2021. However, there was a certain amount of push back from the PLH's legal advisers, which meant the CCTV was not provided until five days later when Mr Kolvin consented to the CCTV being provided. This was in breach of Condition 50 of the Licence. PC Guerra confirmed that in his view there was a delay in producing the CCTV to the Police to enable them to investigate the incident. Mr Rankin agreed that the PLH had to comply with GDPR data protection guidance. However, it was perfectly clear that the CCTV was being requested in order to investigate the incident which had occurred so there was no good reason for the delay in producing it. On 11 September there was a hoax call to the Premises alleging that someone was in possession of a firearm. Police Officers arrived at the Premises and were satisfied that it was a hoax.
19. The Police were also concerned with the PLH's lack of response to this incident. A meeting was held at the Premises on the morning of 3 September 2021. Four managers attended but not Mr Proud. Mr Kolvin said he had gone to bed late and was ill. However, the managers and the Police all managed to attend despite many of them responding to the incident on 2 September.
20. Mr Rankin stated that the responsibility for what took place on 2 September rested fairly and squarely on the shoulders of Mr Proud. Mr Kolvin says he is a good operator and is a "hands on" committed licensee. The Police however, will need some persuasion that this is the case. There have been issues prior to 2 September. An analysis of CRIS incidents revealed that between 2019 and 2021 which excludes the lengthy period when the Premises was closed due to the pandemic, there were 37 incidents that took place. Some of these were minor thefts of coats. However, the Police is concerned about the incidents of GBH and violent disorder. The Premises has gained a reputation that they are linked with gangs and gang violence. Had the operator carried out a basic risk assessment, as required under Condition 16(b), this would have revealed that this was not an innocent birthday party, but a high-risk promoted event which should not have been allowed to take place. The man celebrating his birthday brought with him his own DJ playing a style of music called Drill which is favoured by members of a certain gang community.
21. Mr Rankin stated that the Police had to consider what necessary steps should be taken in the short term? He advised that the Police would have been

justified in seeking the suspension of the Licence. However, in his view they have acted proportionately and asked the Committee to take the following interim steps pending the hearing of the full review :

- That the hours for the Premises are reduced to Westminster's core hours with no additional time allowed for drinking up;
- That no private events should be permitted;
- That Westminster's cabaret condition (MC86) should be attached to the Licence so that licensable activities must be ancillary to the main use of the Premises as a cabaret venue;
- That Condition 15 in relation to Seasonal variations of hours for British Summer Time should be removed or suspended.

22. Mr Rankin stated that the incident which occurred was a serious incident of crime and disorder and this was not disputed by the PLH. Mr Rankin contended that these measures are necessary, but they also strike a proportionate balance. The PLH does not oppose the steps requested by the Police although they want some exceptions to allow well known celebrity (like Denise Van Outen and Bill Bailey) dinner/cabaret pre-booked ticketed events to take place until 01:00 hours and for the eleven private event bookings coming up¹ to take place as they say they are allegedly low risk. However, Mr Rankin stated that the event that took place when this serious incident occurred was a private event, which was supposedly low risk. The safest position to prevent serious crime or serious disorder from taking place, is for a condition to be imposed on the Licence to prevent any private bookings or to prevent any extended hours until a full review takes place. Mr Rankin submitted that there is insufficient information in the Keystone Letter to determine whether the private events listed are low risk; there are no details about capacity and we do not know if they are advertised or promoted events which could attract persons who might cause serious disorder. Mr Rankin confirmed that the Police oppose the Premises being able to hold the private events requested because in his view, we know how the Premises are currently operated, and as they were incapable of assessing and anticipating the events which that took place on 2 September, whilst it may hurt the PLH economically, this is a necessary step pending further details being provided at the full review.

23. In addition, the Police have concerns about the management of the Premises and Mr Proud's response to the incident as he did not attend the meeting on 3 September 2021 to discuss the incident; there was a delay in providing some of the CCTV recordings to the Police contrary to requirement of Condition 50 of the Licence and there were other breaches of the conditions of the Licence including Conditions 12 and 13 and for all the reasons stated above the Police ask for the measures summarised in paragraph 21 above to be taken with immediate effect. A short video clip from social media was played by the Police to give a flavour of what happened on 2 September.

Submissions on behalf of the Premises Licence Holder

¹ The eleven events are listed in the Letter dated 20 September 2021 from Keystone Law Solicitors to the Licensing Authority ("Keystone Letter")

24. Mr Kolvin QC stated that the PLH acknowledges that a serious incident had occurred. However, he asked the Committee to consider what interim steps are necessary pending the full review. He hoped that the Keystone Letter sets out a fair and reasonable position until the Committee can look at all the issues in greater detail.
25. Turning to the Keystone Letter, Mr Kolvin stated the operator can currently operate with a capacity of 750 patrons (this is reduced to 350 if dinner is provided). It has opening hours until 05:00 hours on Friday and Saturdays and until 04:00 hours on other nights. The PLH has tried to divide up the different types of events that are held at the Premises. Firstly, there are late events (called "Proud Lates"). These operate for the full licensing hours and have done so for a number of months. Although, they have not been troublesome events the PLH has decided to cease those events altogether which means the Premises will not be operating late at night.
26. Secondly, the PLH offers "Cabaret Events" for up to 350 covers which offer a splendid dinner, sitting down, with celebrity "All Star" entertainers and a show. They are right at the core of what the Premises does. They run from Wednesday to Saturdays. Mr Rankin stated that the operator would not be able to run economically without these events being permitted, which are low risk and have not caused any issues. Mr Kolvin asked for these events to continue on the basis they are extremely low risk. Up to 350 covers which run at half the capacity of the Licence. The typical spend at the event is upwards of £100 so these are targeted at a particular audience.
27. Thirdly, "Cabaret Brunches" take place on Saturday and Sundays for approximately 300 people. He does not believe the Police are targeting these particular events.
28. Finally, the Operator runs "Private Events", which are almost all corporate events. The Keystone Letter lists eleven events which have been booked between now and 26 October 2021. There is one by a manufacturer of a hair company, a Film company, a breast cancer charity, an Ambassador Theatre group. He stated that there is one personal birthday party for a close friend of the PLH. There is no contractual spend for the latter party. Mr Kolvin submitted that these events are extremely low risk events and there is no reason to think they will pose a risk to the public. On the other hand, if they have to be cancelled, it would pose an economical and reputational risk to the PLH. The test is necessity at this stage and Mr Kolvin contended that it is not necessary to cancel these low-risk events.
29. In terms of the incident on 2 September 2021, Mr Kolvin stated that the PLH received an application for this event and was told it was a birthday party. The PLH did carry out due diligence on the hirer through social media and by contacting his very experienced head of security. They did not discover that this may have been an externally advertised event. The event was attended by 380 patrons of whom between 55-60% were women which is half the licence capacity of the premises. The PLH also arranged 30 SIA security staff to cover this event when the Licence would have only required 4 to be provided. The PLH arranged a guard dog to be provided that night. There were about 40 staff

on the Premises as well as the PLH himself. The PLH was told on the night that the Police thought it was an extremely well policed event. The whole event ran off without incident until the music was turned off. A large fight occurred, as evidenced by the social media clip. The security did their best, but the Police were required, and the management called the Police who came and restored order.

30. Contrary to what has been said by the Police today, the PLH would say that he was congratulated by the Police for the way he and his staff tried to handle a difficult situation. By 06:39 on that day the licensing police were notified, and a meeting was to take place at 08:00 hours. The PLH was up all night and left his staff in charge as he was now sick. He did say he could meet the Police a little later that same day. There is a question about where the knife was found. All patrons entering the Premises were searched. The PLH states that he handed over a summary of the CCTV requested to the Police on the same day. The Police came back with a wider request for CCTV, which required 14GBz of data which took the management until 16 September to provide. Mr Kolvin submitted that the PLH did not drag his feet in that regard.
31. Since the incident, the PLH has prepared an action plan and a second action plan showing what the learnings were from that event and shared them with the Police. He requested another meeting with the Police. The PLH unilaterally decided to cancel one of the Late Proud Events where a rapper was due to perform even though he was expecting £100,000 revenue from the event. That was hugely costly for the PLH which he hopes is taken in good faith. The PLH has also cancelled all Proud Lates.
32. In terms of the allegation of a gun being on the Premises, it has been confirmed by the Police that this was a hoax but it was reported to the licensing Police as the PLH wanted to be absolutely frank and open.
33. In terms of the disclosure of CCTV, Mr Kolvin appreciated that Condition 50 of the existing Licence requires all recordings to be made available to the Police immediately upon request. However, he contended that it is still necessary for the Police to justify their reasons for requesting recordings to comply with ICO data protection guidance and as soon as this was provided he confirmed that it could be released.
34. Mr Kolvin stated that there have been no stabbings or robberies at the Premises. There was an allegation of a sexual assault relating to someone allegedly biting a lady's bottom. However, this was investigated, and the victim could not point out anybody or justify it.
35. Finally, Mr Kolvin submitted that the PLH had an event that went badly wrong. This would not happen again. It has been a disastrous two years following Covid19, and he asked the Committee to allow the Premises to run the low risk Celebrity dinner/cabaret events until 01:00 hours and the private events listed in the Keystone Letter. In his view, this would be a fair way in striking a balance and doing what is necessary pending the full review of this matter.

Conclusions of the Committee

36. The Licensing Authority received a valid application for an expedited review under Section 53 A-C of the Licensing Act 2003, from the Police on 16 September 2021.
37. The Committee recognised that the proceedings set out in the Act for reviewing premises licences represent a key protection for the community when problems associated with crime and disorder are occurring. The outcome of the review will be determined at the full hearing. However, today the Committee must determine what steps, if any, are necessary to take pending the full review. The Act provides the Licensing Authority with a range of powers that it may exercise as specified in the Committee report. The Committee has to decide what interim steps are necessary to take, to address the immediate problems with the Premises, in particular the likelihood of serious crime or serious disorder from occurring pending the full review.²
38. Having carefully considered all the evidence, both verbally and in writing the Committee concluded that the that the fight which broke out on 2 September 2021 when approximately 20 patrons attending a private event attacked the security staff when the bar closed was an incident of serious crime and serious disorder. The staff at the Premises were overwhelmed and were unable to break up the fight and disperse patrons without the help from the Police. A member of the security staff sustained a significant head injury.
39. The fact that the patrons were able to arm themselves with bottles wrongly left on the tables in breach of Condition 12 of the existing Licence was a very serious concern, as was the fact other furniture was used as weapons. The Committee considered that it was imperative that all the conditions of the Licence are complied with but particularly Conditions 12 and 13 in relation to searches.
40. The Committee was also very concerned that there was a delay in releasing the CCTV to the Police which is a vital tool in enabling the Police to investigate the incident. The Committee accepted the evidence of the Police and agreed that Conditions 12, 13 and 50 appear to have been breached in relation to this incident which does lead to concern about the management of the Premises.
41. The Committee recognised that there is a dispute at this stage as to whether the knife was found inside or outside the Premises and no doubt that can be explored in more detail at the full hearing.
42. The Committee also agreed with the Police that more should have been done to risk assess the private event taking place and all the events which take place at the Premises in the future to ensure that an incident like this does not reoccur. This Premises has a large capacity of up to 750 persons and if a fight breaks out, the consequences are serious as shown by this incident and proper risk assessments need to be carried out, particularly to find out whether any events are promoted events which may not be appropriate for a venue of this

² Paragraph 12.11 of the Secretary of State's Guidance

nature or where extra measures need to be taken. The Committee recognised that 30 security staff were employed on the night in question, as well as a guard dog but this was not enough to prevent what happened. The screening of applicants should also be increased to prevent serious disorder occurring in future.

43. The Management was unable to break up the fight or disperse customers without the help of the Police who had to deploy several Police vehicles to assist with this process. The incident which occurred was a serious incident of crime and disorder and the Committee consider it is necessary to reduce the hours and to take all the measures listed in this Interim Steps Decision in order to prevent this sort of incident occurring again. The Committee was mindful that Mr Proud was at the Premises on the night in question and he did not oppose the interim steps proposed by the Police but wanted to hold eleven pre-booked private events and the "All Star" dinner/cabaret events pending the review hearing. The Committee took the view that the All Star dinner/cabaret evenings are likely to be more low risk, because a reduced number of patrons are able to attend and a sit down full dinner is provided which the Committee deem to be a table meal, together with a cabaret show with celebrity headliners. However, 350 patrons attending these events is still a substantial number and this is why the Committee consider these events should be restricted to 01:00 hours, when all licensable activities have to be cease and all patrons must have left the Premises by this time.
44. In terms of the Private Events, the Committee noted that the Police opposed the eleven events proceeding and the Committee agreed that the PLH should not be permitted to have any private events, apart from the eleven private events listed in the Keystone Letter as they are considered to be more low risk. Three of the private events are scheduled to finish by 23:00 hours and a fourth by midnight which reduces the risk further. However, the Committee was not prepared to allow those private events listed in the Keystone Letter to continue until 02:00/03:00 because the later they continue, the more likelihood there is of serious disorder happening as demonstrated by the fact that incident on 2 September was a private event and the serious incident occurred after 2.am in the early hours of the morning. It is for reason that the Committee has decided that it is necessary for all licensable activities and for all patrons to be off the Premises by no later than 01:00 hours at the very latest. The Committee expects the PLH to be proactive in risk assessing all the "All Star" events and the private events permitted to ensure that all necessary security and other arrangements are in place to ensure that a similar incident of this nature does not occur and to promote the prevention of crime and disorder licensing objective.
45. In summary, the Committee is satisfied that the Premises are associated with serious crime and serious disorder and it is necessary for the interim steps outlined in this Decision to be taken and for this Decision to have immediate effect in order to prevent the likelihood of serious crime and disorder occurring pending the full review.

If the Premises Licence Holder is unhappy with the decision, he is entitled to submit a representation against the interim steps taken by the Committee. If a

representation is received the Licensing Authority will convene a further interim hearing within 48 hours of receipt of the representation. The premises licence holder and chief officer of Police will receive advance notice of this hearing.

The full review hearing will take place within 28 days of receipt of the Police application to review the licence. Details of this hearing will be provided by the Licensing Authority.

The Licensing Sub-Committee
21 September 2021

The Meeting ended at 4.35 pm

CHAIRMAN: _____

DATE _____