

LONDON BOROUGH OF TOWER HAMLETS**RECORD OF THE DECISIONS OF THE LICENSING COMMITTEE****HELD AT 6.30 P.M. ON TUESDAY, 3 SEPTEMBER 2019****THE COUNCIL CHAMBER, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5
CLOVE CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Ehtasham Haque (Chair)

Councillor Rajib Ahmed (Vice-Chair) (Left meeting at 8.05pm)

Councillor Shah Ameen (Member)

Councillor Shad Chowdhury (Member)

Councillor Peter Golds (Member)

Councillor Leema Qureshi (Member) (Left meeting at 8.05pm)

Councillor Gabriela Salva Macallan (Member)

Councillor Dan Tomlinson (Member)

Officers Present:

Kathy Driver	– (Licensing Officer)
Agnes Adrien	– (Legal Services)
Simon O'Toole	– (Counsel)
Simmi Yesmin	– (Democratic Services)

Representing Applicants	Item Number	Role
David Dadds	3.1	(Legal Representative)
Yassin Baboo	3.1	(Applicant)

Representing Objectors	Item Number	Role
Matt Lewin	3.1	(Legal Representative)
Tom Lewis	3.1	(Team Leader Licensing)
Luke Wilson	3.1	(Legal Officer – LBTH)
Jonathan Nelson	3.1	(Witness)

Apologies

Councillor Sufia Alam
 Councillor Faroque Ahmed
 Councillor Eve McQuillan
 Councillor Victoria Obaze
 Councillor Mohammed Pappu
 Councillor Zenith Rahman

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

There were no declarations of disclosable pecuniary interest.

2. RULES OF PROCEDURE - LICENCES FOR SEXUAL ENTERTAINMENT VENUES

The rules of procedure were noted.

3. ITEMS FOR CONSIDERATION**3.1 Application for a Renewal of a Sexual Entertainment Venue Licence for Whites Gentleman's Club, 32 - 38 Leman Street, London E1 8EW**

- 1 In reaching its decisions the Licensing Committee took account of the Local Government (Miscellaneous Provisions) Act 1983 ('the Act'), the Councils Sexual Entertainment Licensing Policy, and Rules of Procedure Governing Application for SEV Licenses.
- 2 At the outset, Mr Dadds, on behalf of the Applicant, asked for the hearing to be adjourned because he said he was prejudiced in his preparation for the hearing. In particular Mr Dadds said he was unable to obtain the evidence necessary to rebut what the Test Purchasers said in their witness statements, and which formed the basis of the Licensing Authority's objection to the renewal of the SEV Licence. Mr Dadds also said that he had not had sufficient time to watch all of Whites' CCTV provided to the Licensing Authority, and upon which the Licensing Authority relied as evidence of further breach of the Licence conditions.
- 3 The Committee listened to submissions for and against an adjournment made on behalf of Mr Dadds, and Mr Lewin, counsel representing the Licensing Authority. The Committee adjourned to consider their decision.
- 4 The Committee rejected Mr Dadds' application to adjourn the hearing for the following reasons.
 - (i) The Council had given Whites sufficient notice of the hearing.
 - (ii) Mr Dadds had been instructed in relation to the matter since at least July 2nd 2019.
 - (iii) Mr Dadds had not specified the nature of the evidence that his client needed to obtain in order to rebut the evidence of the Test Purchasers.
 - (iv) The Committee agreed that it would only rely on the CCTV evidence shown to the Committee during the course of the hearing.

- 5 The Committee heard evidence from a manager of Surveillance Group Ltd, which provided the Test Purchasers, and the Test Purchasers themselves.
- 6 The Committee was satisfied that the Surveillance Group Ltd was a reputable organization and experienced in the operation of test purchases on behalf of licensing authorities.
- 7 As both parties were legally represented the Test Purchasers written evidence was taken as read. Mr Dadds challenged each of the Test Purchasers evidence in its entirety, effectively saying the Test Purchasers were lying and in particular had not paid for the VIP package in the sums of £850 and £850 respectively, and that they had failed to account to the Council for their expenses.
- 8 Mr Dadds did not call any evidence on behalf of Whites, or provide any witness statements and documentary evidence to the Committee.
- 9 Both Whites and the Licensing Authority agreed that, for reasons neither party could explain, the CCTV did not show either of the Test Purchasers at the premises. However, Mr Dadds accepted that the Test Purchasers had been on the premises at sometime between late evening on May 23rd to early morning on May 24th 2019.
- 10 The Committee considered the the Test Purchasers gave honest and reliable evidence and, on the balance of probability, accepted what the Test Purchasers said in their written evidence and in response to Mr Dadd's questions.
- 11 Mr Dadds made submissions about the admissibility of the CCTV evidence on the basis that it was being used by the Licensing Authority in breach of GDPR. Mr Dadds did not provide any written authority in support of his submissions.
- 12 In the absence of any authority to the contrary, the Committee considered that it was lawful for the Licensing Authority and the Licensing Committee to impose on an SEV Licence conditions relating to the collection of CCTV images, and that the information had been collected in a fair and transparent manner. The Committee further considered that the Licensing Authority and the Licensing Committee had authority or an obligation to view the CCTV for the purposes of ensuring compliance with, and enforcement of the SEV Licence conditions.
- 13 Mr Dadds accepted on behalf of Whites that the two extracts from the CCTV shown to the Committee showed contact between performers and customers in breach of condition 35.

- 14 The Committee did not receive a satisfactory explanation as to why the applicant had failed to provide the CCTV for the private cubicles.
- 15 Mr Dadds confirmed that Whites would agree to reposition the cameras within the premises, and to upgrade the CCTV in order to assuage the concerns of the Licensing Authority raised in correspondence between the Licensing Authority and Whites.
- 16 The Committee took account of the fact that no one on behalf of the applicant was prepared to appear on behalf of the applicant and explain the applicant's management of the premises. Mr Baboo, a director of the applicants, was present throughout the hearing.
- 14 The Committee adjourned and after deliberation the Committee's unanimous decision was to refuse the renewal of the SEV Licence on the basis that further to paragraph 12(3) of Schedule 3 of the Act, the applicant was unsuitable to hold a licence "for any other reason", namely because of its corporate failure to
- (i) operate the premises in accordance with its SEV Licence conditions;
 - (ii) cooperate with the Licensing Authority in its supervision and investigation of the premises;
 - (iii) manage the premises responsibly.
- 15 In particular the Committee took account of the applicants breach of the following conditions 12, 24, 26, 27, 35, 36 and 46.
- 16 The Committee further considered that the applicant had failed to cooperate adequately with the Licensing Authority in its investigation of the allegations made by the Test Purchasers, and in particular considered as significant the failure to provide the CCTV of the private cubicles.
- 17 The Committee considered that the applicant's management had been irresponsible in that the Test Purchasers had been pressured to drink alcohol during the performances, and had also allowed a customers to become inebriated. The applicant had failed to ensure the siting and quality of the CCTV cameras was adequate.
- 18 The Committee also considered whether the imposition of additional conditions would adequately deal with the issues raised by the Licensing Authority. Mr Dadds did not offer any additional conditions.
- 19 The Committee did not consider the corporate failure and unsuitability of the applicant to hold an SEV licence could be resolved by imposing additional conditions.

The meeting ended at 10.20 p.m.