

**LONDON BOROUGH OF TOWER HAMLETS**

**MINUTES 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)  
Councillor Shah Ameen  
Councillor Shad Chowdhury  
Councillor Peter Golds  
Councillor Mohammed Ahab Hossain  
Councillor Leema Qureshi  
Councillor Gabriela Salva Macallan  
Councillor Dan Tomlinson

**Apologies**

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

**Others Present:**

Mr David Dadds	– (Legal Representative on behalf of the Applicant)
Mr Yasin Baboo	– (Applicant)
Mr Matt Lewin	– (Counsel on behalf of the Licensing Authority)
Simon O'Toole	– (Counsel representing the Licensing Committee)

**Officers Present:**

Agnes Adrien	– (Head of Litigation, Legal Services)
Kathy Driver	– (Principal Licensing Officer)
Tom Lewis	– (Team Leader - Licensing Services)
Luke Wilson	– (Legal Services and Instructed by the Licensing Authority)
Simmi Yesmin	– (Democratic Services)

**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**

At the outset of the hearing, Mr David Dadds, Legal Representative on behalf of the Applicant made a request 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.

The Chair asked when the Applicant was informed of the allegations to which Mr Dadds confirmed a letter dated 6<sup>th</sup> June was received between 16-17 June 2019. Mr Dadds stated that several discussions had taken place between himself and officers from the Licensing Authority and information had also been provided.

At this point the Chair invited Mr Matt Lewin, Legal Representative on behalf of the Licensing Authority to make a submission in respect to the request for adjournment. Mr Lewin opposed the request for adjournment, he said it was clear what had happened, the Applicant had been aware of this since June 2019. In terms of the late notice, the CCTV footage that has been relied upon was provided by the Applicant themselves, and these should have been viewed by them in advance.

The Committee listened to submissions for and against an adjournment made on behalf of Mr Dadds, and Mr Lewin. The Committee adjourned the meeting at 7.00pm to consider their decision and reconvened at 7.15pm.

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.

At the request of the Chair, Ms Kathy Driver, briefly introduced the report for the application for the renewal of a Sexual Entertainment Venue Licence for Whites Gentleman's Club, 32-38 Leman Street, London E1 8EW. Members and all interested parties noted the report as read.

The Chair stated that both parties would be given 45 minutes each to make their submissions.

At the request of the Chair, Mr Dadds, began by explaining that an application for a renewal was made by the Applicant which had been objected to by the Licensing Authority. He explained that the Licensing Authority did a mystery shop/observation on 23 May 2019, following this, correspondence was sent to the Applicant in mid June 2019 and within two days, accurate CCTV footage was supplied. The CCTV footage showed that there was no one in the VIP rooms at the times the Test Purchasers claimed to have been there.

He also said that the VIP rooms were charged at £1180, and £780 for half the hour and therefore claimed that there were discrepancies in the Test Purchasers statements as they had claimed to be have been charged £870 and £850. Mr Dadds said that according to their records the rooms were not hired between 11-11.30pm on 23 May 2019. Therefore there were clear discrepancies in the times and prices.

Mr Dadds stated that the first response they had received from the Licensing Authority was on 29 August 2019 in relation to the footage supplied on 16 July 2019. He was of the view that in fairness the Test Purchasers statements should have been withdrawn. Mr Dadds also questioned the report made by the Test Purchasers as to an incident with an intoxicated customer at the premises on the same night, but the times that they claimed to witness this incident, did not correspond with the incident log and premises own records completed on that night.

Mr Dadds acknowledged that there was no CCTV footage of the individual cubicles. However the Licensing Authority had been invited to view footage on 18 June. He questioned the statements of the Test Purchasers on the basis that they used a substantial amount of cash, had no receipts, were not seen on CCTV footage in the rooms they claimed to have been in. He confirmed that the CCTV footage had not been edited or interfered with and suggested little weight or no weight should be given to the statements provided by the Test Purchasers.

He explained that the blind spots that have been observed in the CCTV footage, cameras can be adjusted and repositioned to cover these locations and the applicant was happy to upgrade the CCTV camera system. In terms

of the allegations of contact and breach of conditions that had been referred to which had occurred in the Office VIP Room and Moulin Rouge Room, these could be addressed and it would be disproportionate not to renew the licence as a result. It was noted that as a result of the allegations made about the conduct of the performer, her contract had not been renewed on 2 August 2019.

Mr Dadds concluded that there were three matters to consider;

- 1) Contact with customers – one of the performers was asked to leave and contract was not renewed. Where there was some contact, the second performer was issued a warning. Due to the inappropriate behaviour, additional steps had been taken to address these.
- 2) CCTV – relocation and repositioning of cameras to cover all areas in the rooms/booths.
- 3) Serious concerns about the validity of the Test Purchasers statements.

He explained that no representations had been made by the Police, Ward Members or residents. He questioned the credibility of the Test Purchasers and their statements. The conduct of the performers was inappropriate and additional steps had been taken and CCTV cameras would be adjusted to cover all areas.

At 7.50pm Members adjourned the meeting for a short comfort break, Members reconvened at 8pm.

Mr Dadds made a submission to the Chair, with allegations over the lack of attention from two Members of the Licensing Committee during his submission.

Councillor Rajib Ahmed stated he was not feeling well and withdrew himself from the meeting at 8.05pm

Councillor Leema Qureshi stated that she had used her mobile to make notes during Mr Dadds submission. However, she also withdrew herself from the meeting at 8.05pm.

Both Councillors did not take part in the decision making process.

At the request of the Chair Mr Matt Lewin presented on behalf of the Licensing Authority, he stated that the Applicant was unsuitable, there had been clear breaches of the licence, failure to uphold licensing conditions and a lack of cooperation by the Applicant with the investigation.

Mr Lewin referred to page 72 of the agenda – plan of the premises and drew Members attention to the cubicles where CCTV footage was not provided by the Applicant, he highlighted the journey of the Test Purchasers from the dance floor to the cubicles to the VIP rooms and the clear breaches of conditions that were encountered during this process.

In particular the Committee took account of the Applicants breach of the following conditions 12, 24, 26, 27, 35, 36 and 46 of the current licence conditions.

Mr Lewin explained that the applicant had failed to cooperate adequately with the Licensing Authority in its investigation in respect to the allegations made by the Test Purchasers, this was evident from the communications made to the applicant detailed in the letters in the supplemental agenda. In particular he highlighted the significant failure to provide the CCTV of the private cubicles.

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.

Mr Lewin highlighted the fact that the incident occurred on 23 May, despite many requests 50% of the CCTV footage was still missing and claimed to be deleted which is misleading and was of the view that it was a deliberate attempt to sabotage the investigations.

It was at this point Mr Lewin stated that the two test purchasers were present and available if Members wanted to question them.

Members decided to call the Test Purchasers as witnesses. At this point the chair formally excluded the press and public from the meeting at 8.25pm

## **RESOLVED**

**That in accordance with the provisions of Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985, the press and public be excluded from the remainder of the meeting on the grounds that the remaining agenda item contained information defined as exempt or confidential in Part 1 of Schedule 12A to the Local Government Act 1972.**

At 9.00pm the Chair, confirmed that the meeting was now in open session.

In response to questions from Members the following was noted;

- Concerns were raised as to why CCTV footage had not been provided despite requests, it was noted that the request was made 23 June, three weeks after and therefore it was quite late.
- Concerns that there was CCTV footage missing, which couldn't confirm sequence of events.
- That 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.

- That one of the conditions on the licence was to provide CCTV footage at the request of an officer of a Responsible Authority.
- That Performers had to comply with the code of conduct and Performers have been asked to leave on occasions when there has been non-compliance with the code.
- That 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.
- Since January 2019, there had been four performers that have been asked to leave or where contracts have not been renewed.

Both parties were asked to give a brief summary.

Mr Lewin stated that since January 2019, the new management have been in place, there have been serious breaches of the licence, lack of cooperation with the investigation and therefore was of the view that the Applicant was unsuitable to hold a licence.

Mr Dadds stated they were working with the Licensing Authority, concerns that the Test Purchasers were not on the CCTV footage, the Applicant was law abiding and had offered assistance with the investigation and has provided CCTV footage.

In accordance with Part 4, 9.1 of the Council's Constitution, the Chair, extended the meeting by one hour.

Members retired to consider their decision at 9.20pm and reconvened at 10.00pm.

### Decision

Accordingly, the Licensing Committee made a unanimous decision –

### **RESOLVED**

That the application for a renewal of a Sexual Entertainment Venue Licence for Whites Gentleman's Club, 32-38 Leman Street, London E1 8EW be **REFUSED**.

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.

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.

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.

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.

The Committee heard evidence from a manager of Surveillance Group Ltd, which provided the Test Purchasers, and the Test Purchasers themselves.

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.

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.

Mr Dadds did not call any evidence on behalf of Whites, or provide any witness statements and documentary evidence to the Committee.

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.

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.

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.

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.

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.

The Committee did not receive a satisfactory explanation as to why the applicant had failed to provide the CCTV for the private cubicles.

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.

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.

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.

In particular the Committee took account of the applicants breach of the following conditions 12, 24, 26, 27, 35, 36 and 46.

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.

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.

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.

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.

Chair, Councillor Ehtasham Haque  
Licensing Committee