

LONDON BOROUGH OF TOWER HAMLETS

RECORD OF THE DECISIONS OF THE LICENSING COMMITTEE

HELD AT 6.30 P.M. ON THURSDAY, 9 SEPTEMBER 2021

**COMMITTEE ROOM ONE - TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Shah Ameen (Chair)

Councillor Rajib Ahmed (Member)

Councillor Kevin Brady (Member)

Councillor Peter Golds (Member)

Councillor Eve McQuillan (Member)

Councillor Zenith Rahman (Member)

Members Virtually Present:

Councillor Ayas Miah

Councillor Dipa Das

Councillor Krysten Perry

Councillor Victoria Obaze

Councillor Shad Chowdhury

Apologies

Councillor Ahbab Hossain

Councillor Dan Tomlinson

Councillor Amina Ali

Councillor Mohammed Pappu

1. DECLARATIONS OF INTEREST

There were no declarations of interest made.

2. MINUTES OF THE PREVIOUS MEETING(S)

The minutes of the Licensing Committee held on 25th May 2021 were agreed as a correct record.

3. RULES OF PROCEDURE - LICENCES FOR SEXUAL ENTERTAINMENT VENUES

The rules of procedures were noted.

4. ITEMS FOR CONSIDERATION

4.1 **Application for a Renewal of a Sexual Entertainment Venue Licence for Whites Gentleman's Club, 32 - 38 Leman Street, London E1 8EW - 2020-2021**

The Committee considered two applications by Whites Venues Ltd. to renew the SEV licence held in respect of Whites Gentleman's Club, 32-38 Leman Street, London, E1 8EW ("the Premises"). The applicant previously held an SEV licence for the Premises which expired on 31st May 2019. The application to renew that licence came before the Committee on 3rd September 2019 and the application was refused pursuant to paragraph 12(3) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 on the basis that the applicant was unsuitable to hold a licence "for any other reason" due to failures in the management of the Premises, a lack of cooperation with the licensing authority, and concerns as to its ability to operate in accordance with its SEV licence.

The applicant has appealed the decision to refuse to renew the premises licence. The Committee understands that the effect of the appeal is that its decision does not take effect unless and until it is upheld by the magistrates' court (and subject to any further right of appeal). The applicant therefore needed to submit renewal applications for both the 2020/21 year and the 2021/22 year. The first application was of course affected by the coronavirus pandemic hence both renewal applications coming before the Committee at the same time. Both applications were objected to by Tom Lewis, Licensing Manager for the Council.

The Committee understood that the appeal decision was due to be heard by the magistrates' court on 4th and 5th November 2021. In light of that, the Committee canvassed the parties' views on an adjournment of these applications pending the determination of that appeal. It appeared to the Committee that the determination on the appeal, particularly as the appeal was due to be heard very soon, might be of some assistance.

Mr. Dadds, solicitor for the applicant, opposed an adjournment for three reasons. Firstly, that the Committee should not proceed to a determination based on the prior decision. Secondly, there was a right of appeal from the magistrates' court to the Crown Court. Finally, he hoped to persuade the Committee to grant the applications today, which would have a bearing on the appeal.

Mr. Lewis expressed concern that there was a possibility that the appeal hearing date may change. If the appeal was certain to be heard in November then he would have no objection to an adjournment but, in light of that uncertainty, he too was of the view that the applications should be heard and determined as scheduled.

In light of the parties' representations the Committee decided to proceed with the applications as scheduled. The parties acceded to a suggestion by the Legal Adviser to the Committee that both applications should be considered

together since the issues raised and the submissions to be made were identical.

The main focus of the parties' submissions related to the CCTV and the applicant's failure to provide all of it to the licensing authority during the course of its investigation. There was no dispute that what had been provided was accurate and had not been tampered with. There was no dispute that the undercover operatives had apparently resigned from their jobs and were not cooperating with the licensing authority. Mr. Dadds said that the first release of the CCTV footage, totalling 17½ hours (but spanning a time period of about 2½ hours), showed that the undercover operatives did not do what they claimed to have done. He says that the licensing authority then trawled through that footage and used it to find other breaches. He says this is a breach of data protection.

When further footage was provided, it was redacted. It was said to have been provided for the purpose of showing that the operatives were being untruthful. Mr. Dadds asserted that there was no breach of condition 12 as it did not require the footage to be downloaded and provided; simply that it be made available for viewing.

Mr. Dadds accepted, when asked by Mr. Lewis, that condition 35 did not restrict touching to only that of a sexual nature. Mr. Dadds responded that Adrian Studd, a retired police officer, had viewed the CCTV footage and that it was his opinion that the condition related to touching of a sexual nature. He accepted that it was a breach but that it needed to be dealt with proportionately. In Mr. Studd's opinion, the appropriate course of action was to retrain and discipline the performers.

Mr. Dadds and Mr. Baboo, the director of the applicant, told the Committee of further steps taken to ensure that incidents of touching did not occur in future, which included staff being in radio contact with one another and one person, and one person monitoring the CCTV screens.

The Committee asked about the missing CCTV footage relating to the private booths. The explanation given by Mr. Baboo was that he was panicking following the allegations being made by the undercover operatives and that he spent hours reviewing the footage trying to locate the incidents. He thought he had downloaded the footage.

Mr. Lewis's objection referred to the failure to provide all of the CCTV sought and the failure to retain the footage from the booths, as well as the failure to provide receipts for payments for private dances. These failings gave him cause for concern about the applicant's suitability to comply with the licence conditions and gave him no confidence that the applicant would co-operate fully in the event of future investigations.

Mr. Lewis's representation also referred to the applicant's failure to provide unredacted CCTV footage which, in his view, further highlighted the applicant's unwillingness to co-operate with the authority. He accepted that the additional steps that Mr. Baboo said he had taken would provide some

assistance but he remained of the opinion that in the event of further issues arising, the same problems would be experienced.

Mr. Lewis confirmed, when questioned by Mr. Dadds, that prior to these events he had confidence in the management of the Premises and that since the decision of September 2019 he had not been made aware of any other matters. However, he also stated that prior to 2019 he had had no reason to doubt the ability of the management to adhere to the conditions of the licence.

On further questioning from Members of the Committee Mr. Lewis confirmed that the missing footage related to the private booths, rather than the private rooms, and that the most serious allegations related to the private booths.

Whilst the thrust of both parties' submissions focused on the previous history, the Committee's function is not to revisit that decision or to consider whether any aspects of it are right or wrong. That, ultimately, is a matter for the magistrates' court on appeal to consider. Regardless of the initial reports of the undercover operatives, those are not the basis of the objection before us. The objection was focused on the fact that the CCTV footage obtained showed breaches of the SEV licence that were entirely separate to those said to have been witnessed by the undercover operatives. Similarly, not all of the footage sought had been provided and so the Committee is not in a position to know whether the undercover operatives were truthful in respect of the allegations that had been made relating to the behaviour of performers in the private booths.

The Committee notes that there is before it very little new information. Part of this is of course due to the coronavirus pandemic. Mr. Dadds informed the Committee that following the hearing in September 2019 the applicant traded under the licence, as it was entitled to do, until the first lockdown arising from the coronavirus pandemic. Following that, the Premises were closed and only re-opened in July 2021. Whilst the Premises has therefore been able to trade for some time, the fact is that it has only operated for about twelve months out of the last twenty-four.

Mr. Dadds suggested that the Committee should have regard to the fact that no further concerns have been raised by any authority. Mr. Lewis confirmed to the Committee that he had not been made aware of any concerns but that the pandemic had affected the ability of Council staff to undertake any further monitoring. The Committee noted that the Premises would have been closed from March 2020 to July 2021. Whilst the Committee therefore notes that there have been no complaints raised since the decision of 3rd September 2019, that is of limited weight in the circumstances.

The real concern of the Committee is whether it can have confidence in the applicant and its management. It is accepted that there were breaches of the licence conditions. Mr. Dadds asserts that the Committee should have regard to the statement of Adrian Studd, who says that refusal would be disproportionate. However, it is for the Committee to determine what action, if any, ought to be taken.

The Committee noted that the applicant took over the Premises in January 2019 and that the problems came to the attention of the licensing authority just a few months later. The Committee considered it reasonable to infer that the breach of the condition relating to touching was not isolated and that it was more likely than not to have happened on other nights.

The touching was a clear breach of condition 35 of the standard conditions. However, of most concern was the failure of the applicant to provide the CCTV footage for the private booths. This was said to have been a genuine mistake on Mr. Baboo's part. However, the Committee found it a matter of grave concern that this footage could not be provided. The most serious breaches were said to have occurred in the private booths; the CCTV evidence, which Mr. Dadds told the Committee was "the best evidence", was not available for those booths; this prevented the authority from investigating what took place there. Further, despite Mr. Dadds' submissions to the contrary, the Committee considers that condition 12 did require the footage to be downloaded and supplied. In any event, the premises' management had done that in respect of all the footage requested by the authority with the exception of the booths. The Committee notes Mr. Lewis's submission that he asked for that footage twice. At best, this failure to retain and provide the CCTV gives the Committee doubt as to the confidence it can have in the applicant in future; at worst, if there was a deliberate deletion (which the Committee need not determine), then that would inevitably mean that the applicant was unsuitable to hold a licence.

Similarly, Mr. Lewis asked twice for receipts for certain receipts. Mr. Dadds told the Committee that they had been provided and that condition 32, which is the condition that required production of those receipts, related to the VIP rooms. The Committee did not consider that the condition was limited in that way.

The Committee's unanimous decision is therefore to refuse to renew the application for an SEV licence for the period from 1st June 2020 to 31st May 2021, by reason of paragraph 12(3) of the Local Government (Miscellaneous Provisions) Act 1982, namely that the applicant was unsuitable to hold a licence "for any other reason", namely due to its failure to operate the premises in accordance with the SEV licence conditions, to cooperate with the licensing authority in its investigation and supervision of the Premises, and to manage the Premises responsibly. The Committee had no confidence that the Premises would be managed properly and in accordance with the licence conditions in the future nor did it have any confidence in the applicant's willingness and ability to co-operate with any future investigations. In making this decision the Committee had regard to the 1982 Act and to the Council's SEV Licensing Policy.

4.2 Application for a Renewal of a Sexual Entertainment Venue Licence for Whites Gentleman's Club, 32 - 38 Leman Street, London E1 8EW - 2021-2022

The Committee considered two applications by Whites Venues Ltd. to renew the SEV licence held in respect of Whites Gentleman's Club, 32-38 Leman Street, London, E1 8EW ("the Premises"). The applicant previously held an SEV licence for the Premises which expired on 31st May 2019. The application to renew that licence came before the Committee on 3rd September 2019 and the application was refused pursuant to paragraph 12(3) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 on the basis that the applicant was unsuitable to hold a licence "for any other reason" due to failures in the management of the Premises, a lack of cooperation with the licensing authority, and concerns as to its ability to operate in accordance with its SEV licence.

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was accurate and had not been tampered with. There was no dispute that the undercover operatives had apparently resigned from their jobs and were not cooperating with the licensing authority. Mr. Dadds said that the first release of the CCTV footage, totalling 17½ hours (but spanning a time period of about 2½ hours), showed that the undercover operatives did not do what they claimed to have done. He says that the licensing authority then trawled through that footage and used it to find other breaches. He says this is a breach of data protection.

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The meeting ended at 9.30 p.m.