

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 7.00 P.M. ON WEDNESDAY, 7 MAY 2008

**ROOM M71, 7TH FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Shirley Houghton (Chair)
Councillor Anwara Ali
Councillor M. Shahid Ali

Other Councillors Present:

None.

Officers Present:

Jackie Randall	Principal Licensing Officer
Mohshin Ali	Licensing Officer
Paul Greeno	Councils Legal Advisor
Paul Ward	Clerk to the Committee

Applicants In Attendance:

Anthony Edwards	Solicitor, Laughing Buddha
Rob Miah	Applicant, Laughing Buddha
Daras Miah	Laughing Buddha
Shahidul Islam	Laughing Buddha
Ebnu Ibrahim	Laughing Buddha
Shaun Murkett	Acoustician, Laughing Buddha

Objectors In Attendance:

Ian Wareing	Environmental Protection
Cain Duncan	Planning Enforcement
Nana Yaa Hughes-Brittain	Commercial Road
Henk Bouma	Commercial Road
PC Alan Cruickshank	Metropolitan Police
PC Louise Allen	Metropolitan Police

Members of the Public In Attendance:

Ellen Iorga
Laura Farrimond
Peter Crane

The Chair welcomed everyone to the meeting and asked those present to introduce themselves. She stated that this was a Licensing Sub Committee hearing under the new Licensing Act 2003. She then drew attention to the Rules and Procedures that governed the procedure for hearing licensing applications, pointing out that a summary of the procedure could be found as item 3 on the agenda.

1. APOLOGIES FOR ABSENCE

None.

2. DECLARATIONS OF INTEREST

Councillors M.S. Ali and A. Ali declared a personal interest in that they had both been contacted by the applicant regarding his application but had informed that applicant that they could not discuss the application as they were Members of the Licensing Sub committee that was to consider the application.

Mr Paul Greeno, Councils legal advisor, stated that these declarations did not preclude the Councillors from hearing the applications.

3. RULES OF PROCEDURE

The Rules of Procedure were noted.

4. UNRESTRICTED MINUTES

The minutes of the Licensing Sub Committee meeting held on 2nd April 2008, were agreed as an accurate record of the proceedings.

5. ITEMS FOR CONSIDERATION

Mr Greeno commented that as the two applications were for the same premise the Sub Committee would consider both applications at the same time. Therefore the review procedure would be used whereby the objectors would present their case first followed by the applicants/premise holder.

Both the Police and the applicants/premise holder wanted to table papers. With the permission of all parties these were duly circulated.

5.1 Application to Vary the Premises Licence for Laughing Buddha, 653 Commercial Road, London E14 7HW (LSC053/708)

5.2 Application to Review the Premises Licence for Laughing Buddha, 653 Commercial Road, London E14 7LW (LSC054/708)

At the request of the Chair Mr Mohshin Ali introduced the first report which sought a variation of a premises licence for Laughing Buddha, 653

Commercial Road, London E14 7LW. The applicants had changed their application and now the days and hours sought for regulated entertainment of recorded music, provision of facilities for making music and provision of facilities for dancing were those of Friday to Saturday 00.00 until 02.00. Although the application made reference to non standard timings for New Years Eve these had not been specified on the notice and therefore could only remain as those currently on the premises licence.

Appropriate consultation had been carried out with objections received from local residents, Environmental Protection and the Metropolitan Police. The objections were on the grounds that granting the application would cause crime and disorder, public nuisance and threaten public safety.

In relation to the second report this sought a review of the premises licence for Laughing Buddha, 653 Commercial Road, London E14 7LW. The review had been triggered by Environmental Protection and was supported by the Councils Planning Department and a local resident. The grounds for review were that the crime and disorder and public nuisance objectives of the Licensing Act had been breached.

As there were no questions for the officers the Chair asked those objecting to the variation application only to present their case.

PC Louise Allen reported that the Metropolitan Police were objecting under the crime and disorder, public nuisance and public safety licensing objectives. The premise was currently licensed to operate as a restaurant. However they had recently being using external promoters to promote the premise as a club. The Police had to attend an incident at the premise on 23rd February 2008 at 3.01am as they were informed that there was a fight in the premises between two different gangs. The CCTV did not record the incident as the hard drive was broken. However windows in the premise had been broken by using a table. The suspects of the incident had been drinking in the premise prior to the offence being committed. The Police were concerned that the licence holder did not control promoters using the premise or have adequate management measures in place at the premise. They had tried to interview him prior to this hearing but he had failed to attend an interview. There was a list of conditions that the Police wanted in place if the Sub Committee were minded to agree to the variation of the licence, but concerns remained that he could not address the aforementioned licensing objectives.

The resident objectors commented that the main problems were with noise nuisance from egress and patrons congregating outside the premise, often till the early hours. They had been complaining to the premise for some time as residents were disturbed and woken by noise nuisance and those working/studying at home could not concentrate because of these problems. There was anti social behaviour with windows broken and fights outside the premise. Patrons also pressed the door buzzers of residents causing residents to feel unsafe in their own homes. Whilst there had initially been no problems when the premise operated as a restaurant, the premise was now operating like a night club and not adhering to the hours it was licensed for. The applicants had promised to carry out sound proofing works but this was

not working. It was now getting to the point where residents had to consider moving due to the problems with the premise. They were extremely concerned that granting the variation would compound these problems.

The Chair asked those objecting to the variation application and supporting the review application to present their case.

Mr Ian Wareing, Environmental Protection, stated that he had instigated the review. For some time he had been in contact with one of the premises licence holder, Mr Forid Uddin, regarding the premise not operating to their licensable hours and causing public nuisance. However all suggestions to resolve the problems had not been accepted. The original application for the premise was to operate as a Thai restaurant with only background music. Whilst the premise operated as a Thai restaurant there were no problems but then last year environmental protection were bombarded with noise complaints. The premise holder was contacted and promised to resolve the problems as they did not want to upset their neighbours.

However throughout 2007 problems continued, particularly at the beginning of November. On 3rd and 4th November 2007, environmental protection received noise complaints which resulted in them contacting Mr Uddin on 5th November 2007. Mr Uddin explained that he was unaware of any problems as he had not been at the premise for the last six weeks due to personal reasons. He was informed that any further public nuisance would result in a review being triggered. He asked for time to investigate and report back to environmental protection but to date he had not. On 10th November 2007 another noise complaint was received and following a visit by an environmental protection officer at 1.50am a noise abatement notice was served. Mr Rob Miah, the other premises licence holder contacted environmental protection stating that there would be no more problems.

On 22nd November 2007 a meeting was held with Mr Miah whereby he was asked to submit an acoustic report and to undertake any remedial works identified to the satisfaction of environmental protection. He was also asked to submit a licence variation application to the council and not have any DJ's or promoted events or 'club nights' until the variation had been considered. Mr Miah did employ an acoustic consultant, Mr Shaun Merrett, who undertook an acoustic report which was given to environmental protection. This identified works to be undertaken which he understood was being completed, though environmental protection were yet to inspect these works.

The premise was quiet over the Christmas period but on 19th January 2008 and environmental protection officer again witnessed a statutory nuisance which constituted a breach of the noise abatement notice and was currently under review for prosecution. Officers therefore considered that there was no other option but to proceed with the review. Since this was submitted on 20th March 2008 the premise had been quiet. However this did not last as on 5th May 2008 another noise complaint was received at 1.50am. An environmental protection officer visited the premise at 2.30am and found an event in progress at the premise. Although the premise had applied for a temporary

event notice (TEN) that night this was only up to 11.00pm but the event was continuing after 2.30am.

Mr Cain Duncan, Planning Enforcement, commented that he supported the review on the grounds of public nuisance and crime and disorder. Whilst he accepted that planning permission did not affect licensing hours he advised that planning hours for the premise was 9.00am to 11.30pm Sunday to Thursday and 9.00am to midnight Friday and Saturday. The premise licence holders had also constantly been in breach of these hours. The premise had applied for planning permission to operate as a night club in 2005 but this had been rejected due to the close proximity of residential properties. There had been noise nuisance problems and crime and disorder at the premise due to the premise displaying flyers throughout Tower Hamlets and fly posting. The premise had a capacity of 300 patrons whom particularly when leaving at 3.00am, would have a detrimental effect on surrounding residents.

The Chair asked the applicants/premises licence holders to present their case.

Mr Anthony Edwards, Solicitor for Laughing Buddha stated that that it was accepted that in 2007 there had been problems at the premise with insufficient management measures in place. However there would now be a more substantive managerial presence in operating the premise. The premise holders were not trying to cause difficulties for residents and had now invested over £30,000 for sound proofing, noise control through a noise limiter locked in a separate room and remedial works to the premise. They had also purchased the two flats directly above the dance floor at the rear of the premise which were now occupied by staff. Therefore they were surprised that there was still noise problems experienced by the residents in the flats at the front of building, particularly as all speakers were in the rear of the premise. They had carried out noise tests in one of these flats which did not indicate that there were any noise problems.

They had amended their application to 2.00am and would no longer use the previous promoters or fly post. In relation to the planning officers objection the Sub Committee could not refuse the variation due to the premise having no planning permission. Therefore they considered that they had now addressed all of environmental protections concerns.

They had accepted all of the Police conditions including having six CCTV in place and working correctly and considered that these would assist in operating the premise licence. They had drafted a dispersal policy which should alleviate the problems of egress. Security staff outside the premise would also assist dispersal.

The event of 5th May 2008 was legal as a TEN had been granted. It was disappointing that the event had exceeded the hours applied for and granted under the TEN. The incident where windows in the premise had been broken had occurred because patrons had been removed from the premise, refused re-entry and then attacked security staff and broken the windows. This could

have happened anywhere and the premise was operating correctly in removing these patrons from inside.

Mr Edwards concluded by stating that they accepted that better management measures were required and that the designated premise supervisor position needed to be regularised. Therefore any night they operated after midnight they would ensure that there was at least two staff on duty that held personal licences. If the premise could not operate after midnight they would lose money and put the business at risk.

The Chair asked if there were any questions for the applicants/premises licence holders or objectors.

In response to questions from Members Shaun Murkett, Acoustician for Laughing Buddha commented that acceptable sound levels were a 'grey area'. There were guidelines that stated that noise should not be able to be heard in the nearest resident property to a premise. This was done by taking readings in that property and adjusting noise levels until noise could no longer be heard. However these noise levels differed depending on times during the day and current noise in the area. Then soundproofing measures also had to be considered. The general rule was that any noise below 90 dB was for restaurants and 90 to 100 dB for dancing music. Anything above 100 dB meant that people would have to shout to be heard. In the case of the premise noise levels were set to the front two residential properties as the back two over the dance floor were owned by the premises holder. He had liaised with the objectors as advised by environmental protection regarding noise problems, who all knew how to contact him. Following the soundproofing works he was unaware of where noise leakage from the premise was still occurring.

Environmental Protection had been invited to inspect the works which were now 90% complete, but they were yet to take up this invitation. There had been problems with the works as the company originally employed to undertake them had been dismissed so another company was now completing the works. The only outstanding works were those to the lobby entrance.

Mr Wareing responded that environmental protection had not yet inspected the works as they were not 100% complete. It was only then could they take accurate noise measurements. This had been agreed with the premise licence holders. However even though the majority of works had been completed prior to the Christmas period noise complaints were still received after this time. Therefore there could be problems with the noise limiter or the positioning of the speakers. He did not consider that there were any conditions that the Sub committee could attach to the licence to resolve the problems experienced at the premise as although new management were now in place the same problems were still occurring at the premise, including during the last weekend.

In response to questions from Members the objectors reported that the problems had deteriorated to the point where the resident of flat 4 had had to move out.

In response to questions from Members Mr Edwards stated that he was concerned that his clients had traded unlawfully, but they were trying to rectify this with the variation application and would ensure that it did not happen again. They would accept environmental protection setting the noise limiter if that addressed Members concerns. Two new people were now involved in the premise that between them had significant experience in managing this type of premise. They had invested in the premise and wanted the business to succeed. They would only deal with promoters that would operate events up to 2.00am.

There had been a clearer management structure in the premise since 1st April 2008, which was different to that previously there. They intended to fully comply with the rules and regulations and adhere to their licensing hours.

In response to questions from Members PC Allen stated that there were particular problems with egress, especially as the premise allowed promoters to operate even beyond their variation application of 2.00am. The premise had distributed flyers in the past advertising events to 4.00am, which demonstrated that there were insufficient management measures in place there.

In response to questions from Members the applicants/premises licence holders stated that they employed six SIA registered security staff on Fridays and Saturdays with two on duty outside the premise at all times. Due to problems at the premise they had voluntarily shut for two months in order to resolve these problems.

The Chair thanked everyone for their contributions and advised that the Sub Committee would be proceeding into private session to consider the evidence submitted.

The meeting adjourned at 8.17pm and reconvened at 8.45pm.

The Chair reported that having considered the comments and all the evidence presented, the Sub Committee had **RESOLVED**

That the application for a variation of a Premises Licence under the Licensing Act 2003, for Laughing Buddha, 653 Commercial Road, London E14 7LW be **REFUSED** as the Sub Committee had serious concerns that there were not sufficient managerial measures in place to address the crime and disorder, the prevention of public nuisance and public safety Licensing Objectives of the 2003 Licensing Act.

That the application for a review of a Premises Licence under the Licensing Act 2003, for Laughing Buddha, 653 Commercial Road, London E14 7LW be **GRANTED** with the current premise licence modified to the following days and hours and with the following stipulation:-

Supply of Alcohol

Sunday to Thursday 12.00 until 00.00 hours
Friday to Saturday 12:00 until 01.00 hours

Recorded Music (Background music only)

Sunday to Thursday 12.00 until 00.00 hours
Friday to Saturday 12:00 until 01.00 hours

Late night Refreshment

Sunday to Thursday 23.00 until 00.00 hours
Friday to Saturday 23:00 until 01.00 hours

Hours Open to the Public

Sunday to Thursday 12.00 until 00.00 hours
Friday to Saturday 12:00 until 01.00 hours; and

That the current Designated Premises Supervisor be removed from the Premise Licence.

The Chair emphasised that the Sub Committee were extremely concerned that unlawful activities had been undertaken at the premise for sometime and that should the premise continue to allow these activities which resulted in another review of the premise licence, then the Sub Committee that heard that review would be made aware of this decision and recommended to suspend or revoke the licence.

The meeting ended at 8.48 p.m.

Chair, Councillor Shirley Houghton
Licensing Sub Committee