

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON THURSDAY, 23 OCTOBER 2008

**ROOM M72, THE TOWN HALL, MULBERRY PLACE, 5 CLOVE CRESCENT,
LONDON, E14 2BG**

Members Present:

Councillor Carli Harper-Penman (Chair)

Councillor Alexander Heslop
Councillor Waiseul Islam

Other Councillors Present:

Nil

Officers Present:

Mohshin Ali – (Licensing Officer)
Zakir Hussain – Legal Officer
Iain Pendrigh – (Environmental Protection)

Alan Ingram – (Democratic Services)

Applicants In Attendance:

Assaf Sinai – Proprietor, The Poet
Arthur Nowicki – The Poet
Thomas O'Maoileoin – Solicitor, The Poet
Mr M. Watson – Licence Consultants Ltd

Objectors In Attendance:

Adrian Rifkin – Middlesex Street
Andrew Chisholm – Middlesex Street

Members of the Public In Attendance:

Nil

1. APOLOGIES FOR ABSENCE

No apologies were submitted.

2. DECLARATIONS OF INTEREST

Nil

3. RULES OF PROCEDURE

The Rules of Procedure were noted.

4. ITEMS FOR CONSIDERATION**4.1 Application to Review the Premises Licence: The Poet, 82-84 Middlesex Street, London E1 7EZ (LSC039/809)**

Mr Mohshin Ali, Licensing Officer, introduced the report which sought a review of the licence relating to The Poet, 82-84 Middlesex Street, London, E1 7EZ, as requested by the Council's Environmental Protection Service and supported by local residents. He referred to an acoustic assessment and a licensing observation report submitted by the licensees, which had been included in the agenda pack, together with additional suggested conditions that the licensees had tabled at the meeting.

The Chair then invited the case for the Environmental Health Service to be presented.

Mr Iain Pendrigh, Team Leader Environmental Health, indicated that the review had been requested as the premises were considered not to have previously upheld the licensing objective concerning prevention of public nuisance and it was felt that the situation was likely to continue. The residents of flats above the licensed premises were the primary source of complaints, of which there was a long history comprising 27 since March 2005. Mr Pendrigh outlined the chronology of events and complaints as contained in his report and indicated that the two main problems arose from noise travelling through the structure of the building and further disturbance caused by patrons of The Poet congregating outside the premises, talking, drinking and smoking. Noise problems from music were exacerbated when music was played at a higher level than normal background music and at karaoke events, etc. In particular, noise travelling up through the structure had not been addressed in the acoustics report supplied by the licensees. At the time of the acoustic assessment, amplified sound had only been played at background level and there had been a feeling that this might have been a measure to avoid unfavourable readings.

Mr Pendrigh added that drinking in the street outside the bar was very frequent and affected residents as people were immediately below their windows laughing, talking using phones and breaking bottles on occasion. The noise assessment provided by The Poet consultants had described the outside noise in the street as so high that music from the bar would not have a significant effect. However, he contended that the street was normally a very quiet environment. He suggested conditions which he urged Members to apply to the licence as well as others put forward by the licensees, and

expressed the view that the co-location of the bar in the same building as residents was not suitable for regulated entertainment.

The Chair then invited the comments of residents who had notified their wish to speak.

Mr Adrian Rifkin stated that he lived on the second floor of the premises. He felt no animosity to the licensees and they got on well personally. However, quality of life in the building had deteriorated over the years with music particularly audible when visiting DJs were present. There had been further disruption with the advent of the smoking legislation, and there had been a number of instances when people shouting outside the bar had made using his flat intolerable. The situation had been quieter recently but there were still outbreaks of noise. In addition, the more crowded the street became, the harder it was to walk along it and people who had been drinking were unlikely to be sensitive to the local environment. He had lived in various parts of London for 40 years but the street outside The Poet was the worst area ever for people noise and he was concerned that the rights of residents were paid little regard.

Mr Andrew Chisholm indicated that he lived immediately above the Poet premises and supported what had been said so far. He made the point that the nuisance had started in 2003, rather than 2005, so there had been five years of problems. He felt that the principal licensing objective that was not being observed was prevention of public nuisance but the issues of public safety and prevention of crime and disorder were also involved. He expressed the view that the premises may have been operated illegally as Mr Sinai had not obtained the licence properly until August 2008, while the premises had been operated continuously prior to that.

Mr Chisholm expressed the opinion that the Acoustician's report and the Licensing Consultant's report were partisan. The first had measured sound in the wrong place, as it was transmitted through the fabric of the building; the second did not give proper weight to the noise caused by patrons of the bar in the street. It was apparent that doors to the premises were always open and notices installed by the Council were quickly taken down, although the licensee denied knowledge of who had done that. He asked for the licence to be revoked or, if not, the application of conditions set out in his letter as contained in the agenda papers.

The Chair invited the licensee to respond.

Mr Thomas O'Maoileoin, Solicitor, stated that the acoustics report had been provided by one of the largest of such companies in the UK and it was wrong to suggest that it had not been independent. Likewise, Mr M. Watson of Licence Consultants Ltd had been employed on an independent basis and had worked for the Police and Islington Council. Neither was biased and his instructions to them had simply been to report upon the position.

He accepted that problems had occurred at the premises over a number of years but stressed that Mr Sinai had only been in charge since March 2008,

when he had signed the lease and taken over the premises, when he applied to be Designated Premises Supervisor and for his company to be Premises Licence Holder. He had worked at the premises the previous Christmas period but had no control as Peter Dunne and Simone Andrews had worked continuously at the premises until 1 October 2008. When Mr Sinai had taken over he had become aware of the noise problems, which he did not know about at the time of buying the premises. He had found out about this when he had contacted Mr D. Harrington (LBTH Environmental Health Service) to apply for a later licence.

The voluntary measures applied by Mr Sinai to prevent noise breakout were reflected in that there had been only two complaints from March 2008 to date and the event on 23 May had been a result of a charity event when outside equipment had been brought in. The premises management had stopped the music when notified it was causing disturbance and now no external equipment was allowed in the premises.

Mr O'Maoileoin made further points that:

- Customers smoking outside constituted a problem but this was a nationwide issue since the new smoking legislation and they were monitored as management were aware of residents living above the premises.
- He accepted that acoustic readings had not been taken in the bar but attempts had been made to demonstrate that no music emanated from inside the premises and the Licence Consultant had formed the view that there was no current detriment to amenity.
- That report also showed that since March there had not been large numbers of people outside on the pavement and wall-mounted ashtrays were provided which were cleared by staff every 15-20 minutes.
- Many pubs had people outside which was unfortunate but they could not be prevented from standing on the pavement, however, staff would continue to monitor customers to try to minimise noise.

He addressed points made in Mr Chisholm's letter, stating that there had been no dancing in the pub since Mr Sinai took it over and this was not actually wanted; the licensees were happy for no bottle/refuse collection between 8 pm to 8 am; staff had been warned not to make a noise when leaving; the earliest morning delivery was at 7.30 am which was only a crate of fruit and vegetables; the external refuse bin had been fitted with an anti-slam mechanism; the basement lift motor was used only once a week for 15 to 25 minutes at 11 am on Tuesdays; any furniture moving was by cleaners who were present for one or two hours from 8 am.

Allegations made in Mr Chisholm's letter about Mr Sinai's lack of experience were utterly denied. It was accepted that there had been problems in the past but the way forward was to attach further conditions to the licence to enable a fresh start despite the faults of the previous owners.

In response to questions from Members:

- Mr Sinai indicated that the premises had at no time been operated without a licence; he had obtained the business and licence from liquidation and the previous DPS had remained until 1 October. He was not happy that two complaints had been received but reasons for those had been rectified. He was doing his best to contact local residents but his offer to meet them had not been taken up. A noise limiter was already in place as previously required by Council Officers. He knew of no other problems with residents apart from the three who had submitted complaints.
- Messrs Rifkind and Chisholm commented that there had been some improvement recently but the position could still be unsatisfactory. The worst days tended to be Wednesday to Friday
- Mr Pendrigh confirmed that the premises had not been inspected within the last six months. He added that a number of pubs in the Borough were being given attention by Environmental Health staff.

The Sub-Committee adjourned at 7.35 pm and reconvened at 7.47 pm.

That Chair reported that, having considered the reports and all the evidence and comments presented, the Sub-Committee had **RESOLVED**:

- 1) That the licence of the premises at The Poet, 82-84 Middlesex Street, London, E1 7EZ be amended to remove the existing provisions for regulated entertainment and the sale by retail of alcohol.
- 2) That the following conditions be applied to the current licence:
 - (a) music to be played at background level only;
 - (b) noise limitation to be applied to all audio devices to prevent noise leakage to residential premises above the bar;
 - (c) doors and windows to be closed at all times except to allow egress and regress;
 - (d) no deliveries or refuse collection to be undertaken between 20.00 hours and 08.00 hours;
 - (e) no drinks containers to be taken outside the premises by persons leaving to smoke;
 - (f) a minimum of one Door Supervisor to be present from 19.00 hours to ensure that drinks are not taken outside and to minimise noise produced by customers on the pavement;

The Chair added that the licensees were encouraged to continue to establish a dialogue with residents and commented that restitution of regulated entertainment provisions could be considered at a future date.

The meeting ended at 7.52 pm

Chair, Councillor Carli Harper-Penman
Licensing Sub Committee