

Wicked Fish

Queens Yard, White Post Lane, E9.

Report for Licence Review Hearing

By

Adrian Studd, Independent Licensing Consultant.

Introduction.

1. I have been instructed by Ince and Co. Solicitors in connection with the Licence Review for the above premises to consider the evidence of alleged breaches of the premises licence and what impact, if any, that these alleged breaches may have had on the promotion of the Licensing Objectives. I will also consider any additional measures or conditions that may be required to ensure the premises fully supports the Licensing Objectives moving forward. In addition I conducted observations at the premises on Friday the 23rd of June 2023 to observe the operation of the premises, compliance with the licence and any impact it has on the area.

Summary of Expertise – Adrian Studd.

2. I retired from the police service on 2nd November 2012 having completed 31 years exemplary service with the Metropolitan Police in London. Between January 2012 and my retirement, I was employed as the Chief Inspector in charge of licensing for the London Olympic Games 2012. In this role I headed up a team of officers with responsibility for supervision of licensing compliance at all the Olympic venues, including the Olympic Park. In addition, I was responsible for ensuring that any

associated events were properly licensed, sufficiently staffed and operated in accordance with the licensing legislation and best practice to ensure the safe and effective delivery of the Olympic Games. In addition to leading my team I visited and worked with both the Olympic Park management and many other venues, reviewing their policies and procedures and ensuring that the Games were delivered safely and securely. The success of this operation not only protected the reputation of the MPS but provided positive benefits for the profile of the MPS and the United Kingdom. I have been awarded an Assistant Commissioners Commendation for this work.

3. Prior to this role, between Jan 2002 and January 2012, I was employed first as an Inspector and then as a Chief Inspector on the MPS Clubs and Vice Unit (Now SCD9 Serious and Organised crime command). My responsibilities over this period focussed on licensing and included day to day supervision of the licensing team that had a London wide remit to support the Boroughs with licensing activity. Providing both Overt and Covert support for policing problem licensed premises across London. My team worked with premises when licensing issues were identified to address these problems through the use of action plans in order to raise their standards. Where this failed, I would support the Boroughs with evidence for use at review hearings if required.
4. I devised and implemented the MPS strategy 'Safe and Sound' which sought to improve the safety of customers at licensed premises by reducing violent and other crime, in particular gun crime and the most serious violence. I also developed the Promoters Forum and risk assessment process, together these initiatives contributed to an overall reduction in violence in London of 5% and of the most serious violence and gun crime at licensed premises by 20% whilst I was there.
5. From 2004 until 2008 my role included representing the MPS and ACPO licensing lead both in London and nationally. In this role I developed key partnerships with industry, NGOs and Government departments in order to improve the standards at licensed premises. I sat on the British Institute of Innkeeping working party and helped develop

the national training for Door Supervisors. I worked with the national regulator the Security Industry Authority to successfully introduce the new regime under the Private Security Industry Act 2001 within London. I sat on Government working parties and worked closely with the alcohol harm reduction team on identifying best practice and ensuring this was used both within London and nationally by police and local authorities. I worked with Government on the drafting of SEV legislation and gave evidence to the House of Commons Select Committee in 2009 on the impact of premises providing sexual entertainment.

6. I was involved with Best Bar None, a national voluntary scheme of accreditation for safe licensed premises, for a number of years and successfully helped a number of boroughs implement the initiative. I was a trained Best Bar none assessor and until my retirement sat on the Board for Best Bar None in the Royal Borough of Kensington and Chelsea. I was also a trained assessor for Purple Flag, the national voluntary awards scheme for safe, diverse and accessible town centres. For the five years prior to my retirement, I was responsible for licensing of the Notting Hill Carnival, the largest street carnival in Europe. During this time, I contributed to a reduction in violence overall at the Carnival and delivered increased seizures of illegal alcohol, reduction of unlicensed alcohol sales and a reduction in alcohol related violence. In addition to the above I attended internal MPS training and qualification courses, I am trained in conducting health and safety risk assessments and hold the National Certificate for Licensing Practitioners, issued by the British Institute of Inn keeping.
7. Following my retirement, I established 'Clubsafe Services Ltd' to provide independent compliance support and advice for premises and events requiring a local authority licence. Since then, I have provided evidence gathering services, advice and support to a broad range of licensed premises on a variety of issues, including crime and disorder, street drinking, rough sleepers and age-related product issues. I have also provided support to bars and shops at events such as Nottinghill Carnival and provided support and advice for high profile clubs such as Fabric in London. This work has involved premises that benefit from a variety of local authority licences including

alcohol on and off licences, betting premises licences and late-night refreshment. I regularly provide expert independent witness evidence at both local authority and appeal court hearings.

Wicked Fish and Queens Yard.

8. Wicked Fish is a fast-food restaurant and take-away premises located in Queens Yard, E9. It is licensed for the sale of alcohol, on the premises only, until 23.00 hours Monday to Sunday and for late night refreshment (outside and Inside) from 23.00 hours until 01.00 hours Sunday to Thursday and until 04.00 hours Friday and Saturday with premises closing at 04.30. The premises currently has an application in place to extend the late-night refreshment until 05.00 hours on Friday and Saturday night and I understand this is due to be heard in the near future. Late night refreshment is only licensable between 23.00 hours and 05.00 hours, so the premises is able to sell hot food after 05.00 without the need for a licence.
9. Rather unusually it is not the alcohol sales that are alleged to have caused any problems at the premises, but rather the provision of late-night refreshment, and in particular the late-night refreshment that is said by police to have taken place after 04.00 hours on Saturday and Sunday mornings between 28th January and 26th February.
10. Police have requested a licence review on the basis of what is alleged to be breaches of two of the Licencing Objectives: 'The Prevention of Crime and Disorder' and 'The Prevention of Public Nuisance'. However, the alleged breaches have not come to light as a result of incidents or complaints but only came to light when police viewed CCTV footage taken by the premises in the course of an investigation into a serious incident at Queens Yard. The CCTV footage at the premises led to the identification of the suspect for the stabbing incident, he had been in the Colour Factory nightclub and then to the premises at 04.20, however the premises was otherwise unconnected to the incident.

11. In the review application Police have not produced any evidence of Crime and Disorder or Public Nuisance associated with the premises, either during the licensed hours or later, but state only that CCTV appears to show that the premises was operating beyond the licensed hours and drawing the conclusion that this prevents people from leaving the area and increases the likelihood of crime and disorder taking place. No evidence is produced to support this.
12. Queens Yard is a mixed-use space including a theatre, pubs and bars, restaurants and food outlets and the Colour Factory nightclub, all closing at different times. These premises attract a diverse range of customers and have staggered closing times leading to a gradual late-night egress from the area. This is widely acknowledged as best practice with premises closing gradually allowing customers to drift away over a prolonged period of time to avoid a large number of people leaving at the same time.
13. When all premises close at the same time and large numbers of people try to leave the area together this inevitably puts additional pressure on local infrastructure such as transport and is more likely to lead to overcrowding in the area and the confrontation that leads to crime and disorder and public nuisance.
14. That there are issues of drugs and 'Nos balloons' being used in Queens yard area during the night is not disputed. These issues are mainly caused by individuals loitering in the car park and using the Colour factory nightclub, where the suspect and victim from the stabbing incident had been. They are not connected to Wicked Fish.
15. During my observations on Friday 23rd June 2023 I observed a male openly walking around the yard and surrounding streets carrying inflated 'nos' balloons, with a rucksack on his back apparently containing the gas cylinders and more balloons, and approaching everyone and anyone in the area offering the balloons for sale. There did not appear to be any police or similar in the area and as far I could see the male was not challenged about his behaviour.

16. There is one occasion that police refer to in their evidence where it is alleged that a male customer can be seen rolling a cannabis joint inside the premises. I am informed by Wicked Fish owner, Mr. Michal Gasior, that on this occasion he was not working at the premises but was advised by his staff that four police officers came into the premises and observed what was taking place but that they took no further action. On discovering what had taken place he sacked the manager who had been in charge that night and he is adamant that he does not permit such conduct at the premises and employs security to ensure that it does not take place.
17. Drug misuse, including the use of 'balloons' are most commonly associated with nightclubs and late-night bars rather than late night refreshment premises and can only be tackled effectively with a multi-agency approach including the support of police. If the police are unable, or unwilling, to tackle individuals behaving in this manner it is not possible for an individual, small premises to deal with it alone.
18. Police also refer in their evidence to security booking off duty at 05.00 hours and state that this indicates that the premises remains open until then. In my view this is not correct. The premises is licensed for late night refreshment until 04.00 hours and permitted to remain open until 04.30 hours. It is best practice that the security remains until the last customers leave at 04.30 and then ensure that all customers have left the premises and the vicinity, that staff have cleared up and are leaving and that it is quiet before they leave, which would require them to remain until at least 05.00 hours.

Premises history.

19. When Mr Gasior took over the premises in 2021 his understanding was that it had operated legally offering late night refreshment for a number of years. However, it was pointed out to him in September/October 2021 by police that the premises did not have a late-night refreshment licence. He therefore applied for a licence on 20th October 2021 and this application was not objected to as he had shown compliance to officers who visited on 29th October 2021. The licence was granted as there were

no issues according to the Licensing Authorities records. Subsequent licence variations were agreed on 25th April 2022 and 7th December 2022.

20. The licenced activities relevant to this review are late night refreshment on Friday and Saturday nights. The licence authorises late night refreshment until 04.00 hours on these nights with the opening hours of the premises until 04.30 hours. Speaking with Mr. Gasior he informed me that he misunderstood the licence times and was under the impression that he was permitted to continue provision of late-night refreshment until 04.30. It is clear that English is not his first language and perhaps this is where the confusion arose. He now accepts that this interpretation was wrong and that he should have been more diligent with his timekeeping. He has now applied for the licence to be varied to permit late night refreshment to be served until 05.00 hours.

Observations.

21. I conducted observations at the premises on the night of Friday 23rd June 2023 arriving in the area at about 03.00 hours Saturday morning. The weather was warm and dry. There is a notice clearly displaying the opening hours by the premises showing that it closes at 04.30 on Friday and Saturday night. Colour Factory club was busy with the club security in evidence around Queens yard. There were people on foot in the area, many having apparently left the club and waiting for cabs, Ubers etc. Wicked Fish had some seated customers eating at the tables and a few waiting to be served. There was a door supervisor who was employed by Wicked Fish at the premises, and he was active managing customers coming and going. Wicked Fish was well managed and orderly and the atmosphere there was relaxed.
22. I conducted observations at the premises and in the vicinity and I did not observe any problems at Wicked Fish. There was a 'Nos' balloon seller in the area as detailed above but he did not go to Wicked Fish or approach the customers there. I chatted to Mr Gasior about the premises, and he explained that they closed the shutter at 04.00 hours and did not sell any hot food after that time. He explained that the premises

remained open until 04.30 and any remaining customers were then asked to leave, and the security left at 05.00, which is best practice.

23. By 03.45 hours customers were drifting away from Colour Factory with some coming to Wicked Fish for late night refreshment. The premises was orderly and well managed. Security from the colour factory set up barriers between the club and Wicked Fish to channel customers away from Queens Yard towards Hackney Wick station and prevented them from going past Wicked Fish. This appeared to me to be both good management of the club egress and a good way of discouraging customers from going to Wicked Fish after 04.00 hours when it was not permitted to sell hot food. This was the case with the club customers leaving at 04.00 and I did not see any go to Wicked Fish after this time or attempt to access the premises.

24. At 04.00 hours there were just a few customers remaining at the Wicked Fish premises, the shutter was pulled down and an announcement was made that service had finished. By 04.20 all customers had left the premises and there were only staff and the door supervisor left clearing up. I left the area soon after this.





Wicked Fish, 03.49 on 24/06/2023.



Wicked Fish, 04.03 on 24/06/2023.



Wicked Fish, 04.21 on 24/06/2023.

Conclusion.

25. This review has been brought by the police on the grounds of the 'Prevention of Crime and Disorder' and the 'Prevention of Public Nuisance'. However, no evidence has been produced that this premises contributes to either Crime and Disorder or Public Nuisance in Queens Yard, or that closing the premises or reducing the hours will lead to a reduction of any issues in the area.

26. Wicked Fish is located in a busy night-time economy area including a nightclub that remains open until 04.00 hours. It is widely accepted that a 'hard closing' terminal hour for any premises or area is difficult to manage and leads to an increased risk of noise, nuisance and crime and disorder in the vicinity. A gradual dispersal from an area is beneficial.

27. The closure of Colour Factory at 04.00 hours on Friday and Saturday night can lead to a large number of customers leaving the premises at the same time putting a strain on transport infrastructure such as cabs, mini-cabs and Ubers and on policing in the vicinity. The provision of hot food from a well-run premises such as Wicked Fish can help alleviate this and contribute to a gradual dispersal.

28. No evidence has been produced that links Wicked Fish to either the fatal stabbing on the 11th of February or to any other disorder in the vicinity. Following the stabbing Wicked Fish assisted the enquiry by making their CCTV available to investigating detectives and this assisted them to identify the suspect. It is as a result of viewing the CCTV, the assistance given by Mr. Gasior, that police are now seeking a review of his premises licence.
29. Police refer to various CCTV images showing customers inside Wicked Fish beyond 04.00 hours. While it is accepted by Mr. Gasior that on occasion he did overrun a little it is important to note that the premises can remain open until 04.30 hours, so it is acceptable for customers who have purchased their food before 04.00 to remain inside consuming it until 04.30.
30. Reference is made to a customer seen on CCTV preparing what is believed by police to be a cannabis joint. Mr. Gasior states that on that night he was not present and when this was brought to his attention he dismissed the staff who had been left in charge. He also states that police entered the premises and observed such behaviour but did nothing. The question has to be asked that if police are unable to deal with such behaviour how can they expect a small premises owner to do so?
31. Mr. Gasior maintains that he was confused by the wording on the licence and took the 04.30 premises closing time to mean that was when he had to stop serving food. He also states that when he originally applied for the licence he intended to apply for a late-night refreshment licence permitting him to provide hot food until 05.00 hours. He has now done this and in my view this would assist both him and a gradual dispersal from the area. Beyond 05.00 hours there is no requirement to have a licence to supply late night refreshment/ hot food.
32. Having considered all the evidence and conducted observations at the premises on the night of Friday the 23rd of June 2023, I am confident that there is no evidence that Wicked Fish is adding to Public Nuisance or to Crime and Disorder in the vicinity and

that they can contribute to a more easily managed, gradual dispersal if permitted to operate until 05.00 hours.

Adrian Studd,
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28/06/2023.