

The London Borough of Hammersmith and Fulham

Decision of the Licensing Sub-Committee (“the Committee”)

11 September 2024

McGettigan’s, 1 Fulham Broadway London SW6 1AA (the “Premises”)

The Committee has considered the representations made by the Premises licence holder against the interim steps made by the Committee on 05 September 2024 to:

- i. Remove the designated premises supervisor from the licence; and
- ii. Suspend the Premises licence pending a full review.

The Committee has considered the submissions made by the Premises Licence holder, the Police, both orally and in writing.

In reaching its decision, the Committee has had regard to the relevant legislation, the Secretary of State’s Guidance (“Guidance”) and the Authority’s Statement of Licensing Policy (“SLP”).

In summary, the Committee has decided, after taking into account all of the individual circumstances of this case, and the promotion of the four licensing objectives to uphold the interim steps taken on 05 September 2024 with immediate effect as follows:

- i. Remove the designated premises supervisor from the licence; and
- ii. Suspend the Premises licence pending a full review.

Procedural Matters

1. Following the interim steps taken by the Committee on the 5th of September 2024 to remove the Designated Premises Supervisor (DPS) from the licence and suspend the Premises Licence pending a full review, the Premises licence holder submitted a representation against the interim steps to the Licensing Authority on the 10th September 2024. As per the guidance an interim meeting was requested to hear the representations against the interim steps taken against the Premises.
2. The Licensing Authority arranged a meeting for the 11th of September 2024 to hear the representations by the Premises licence holder against the interim steps taken.
3. Prior to the start of the meeting on the 11th of September 2024, a set of documents containing: a signed statement from the disc jockey Peter Martin who was playing on the 31st of August 2024, the night the alleged assault incident occurred; a statement from a member of staff, Tulio Marcus; a statement from the DPS, Deborah Gomes; and, a letter from the daughter of the victim of the alleged assault that occurred on 31st of August 2024 were submitted for consideration.

4. The DPS of the Premises, Deborah Gomes, the Barrister representing the Premises, Duncan Criag and Louis Stelling, the solicitor representing the Premises were in attendance.
5. PC Nicole Sondh and PC Kris Cardwell were in attendance, and were represented by their barrister, Claire Nevin.

Reasons

6. In making its decision the Committee has taken into account all relevant sections of its SLP and the Guidance, as well as local knowledge.
7. The Committee was mindful that Section 4 of the Licensing Act 2003 imposes a duty on the Licensing Authority, when carrying out its functions to determine the application with a view to promoting the four licensing objectives.
8. The Premises licence holder provided statements of some eyewitnesses and a letter from the daughter of the person who suffered a seizure at the incident that occurred on the 31st of August 2024. The disc jockey who was playing at the Premises on the 31st of August 2024 stated that the lady fell next to the table where he was playing, the security rushed to her aid and her son was worried about her, so the security had to calm him down. The staff member stated the event was proceeding smoothly until a disturbance occurred between 1:00am and 1:15am. He stated he did not see the incident clearly, but it was quickly resolved, a lady suffered an injury, and first aid was promptly provided. The DPS provided a statement that she was in her office when the incident occurred but promptly went to assess the situation and was informed a lady had suffered a minor seizure and struck her head on the table. The daughter of the woman who suffered the injury stated her mother has high blood pressure and suffers from seizures. She suffered a seizure and in response an ambulance was called. She stated her brother was not fully aware of the specifics and was upset, security stepped in to ensure her mother was ok.
9. The barrister representing the Premises Licence holder stated that they believe that no assault occurred on the 31st of August 2024. The barrister stated that they have been told by a Police Officer with badge number 4264, that the matter has not been actioned at all as there has not been any complaint. They have contacted the Police and raised several questions to which they are waiting for a response. The Premises licence holder's position is that an assault did not occur, and no assault charge has been brought. The Premises Licence holder's position is that the woman on the 31st of August 2024, was a person who had high blood pressure and suffers from epilepsy which led to her seizure. The Premise licence holder states that there was an incident that occurred on the 31st of August 2024 which led to pushing and shoving but did not result in an assault. The seizure suffered was independent of the incident that occurred, and there was no reason to involve the Police on the matter. The barrister stated that the Premises licence holder has been a

responsible operator since the grant of the licence in 2015 and has not been subject to any enforcement action.

10. The Premises Licence Holder, in relation to the issue of Temporary Event Notice (TEN) issued extending the licensable hours of the Premises, stated they made the application for the TEN, filled in the correct form and contacted the Licensing Authority to confirm that the hours would be extended on the 31 August 2024. In relation to the sexual offence recorded in the incident book, they stated that the lady was a local customer and did not want to involve the Police. The man involved with the incident left the Premises after the bouncers took him out, apologised to the lady and left a paid drink at the bar. The Premises licence holder stated they have provided evidence to support the representations with the witness statements and the letter from the daughter. They state that no serious crime was committed, and the interim steps taken to remove the DPS and suspend the licence are not proportional to the incident that occurred.
11. The Committee noted from the Police who stated that the information provided which led to the decision on the 5th of September remains true, despite the representations from the Premises licence holder. The Police stated that the evidence does not follow that there was mere pushing and shoving, and that no fight or assault occurred at the Premises on the 31st of August 2024. The Police stated it was a member of the public who called them and when the Police responded, they were informed that a minor altercation had occurred. Further, it was the London Ambulance Service who called the Police back and informed them of the injuries suffered and informed the Police the injuries appeared to have been caused by a bottle or a phone.
12. The Police state that in order to promote the licensing objectives, the Premises should have taken a more proactive approach in relation to the prevention of crime. The Premises, however, are downplaying the incident and not willing to call the Police or notify the Police of incidents. It is the duty of the Premises to ensure that they are taking all the necessary steps to promote the licensing objectives. The Premises did not take prompt action and when the Police arrived, they were on the back foot in relation to being able to effectively investigate the incident, speak to people and take statements. The Police stated they reviewed the CCTV, and it does appear that a fight had occurred which was not mere pushing and shoving, even though the quality of the CCTV was poor. The Police state that the quality of the CCTV is a concern as it is not of the standard that a Premises seeking to promote the licensing objectives such as the prevention of crime and disorder.
13. The Police, in response to the Premises licence holder stating the woman who suffered a seizure has a pre-existing condition, states that the preexisting condition is irrelevant and does not excuse the fact that the woman was assaulted and received a blow to the head. The pre-existing condition of epilepsy may have exacerbated the extent of the injuries. The Police further stated that they gave the Premises a post-incident form which was returned with no details of the incident. Further, on the 4th of September 2024, the Police contacted the DPS, and the DPS stated they did not feel the need to

call Police on that matter. The Police stated that in relation to the TEN applied for, the Premises misunderstood the application. The TEN was to extend the licensable hours for the early hours of the 31st of August 2024 and not to extend the licensable hours for the 1st of September 2024. The Police state that this misunderstanding demonstrates the mismanagement of the Premises and their failure to comply with licensing objectives or comply with their obligations under the Licensing Act as a whole.

14. The Police further stated the concerns of the Police are reinforced by the lack of proactive approach for complying with the licensable objective of the prevention of crime as the Police noted that a sexual incident was not reported and another incident of a fight where Police was called but later cancelled by security. The Police stated that due to this this lack of reporting and the evidence that the incident on the 31st of August was more than mere pushing and shoving, it was appropriate to remove the DPS and suspend the licence. The Police state that if the interim steps are reversed, there is a risk that the Premises would continue to not report other crime and disorder incidents that happen at the Premises, as well as the DPS not acknowledging the need to report them to Police.
15. The Committee took into consideration the representations made by the Premises licence holder that no assault occurred during the incident that happened on the 31st of August 2024, and the explanation of the unreported sexual offence. The Committee noted the Premises licence holders position that the interim steps taken were not proportionate to the incident taking place. The Committee took into consideration the response by the Police who stated there was evidence of a fight which led to an assault where a member of the public called the Police. The Police stated there had been other incidents where the Premises should have called the Police, but the Premises has shown a lack of understanding of their obligations under the Licensing Act and has not taken a proactive approach in promoting the licensing objectives especially in relation to the prevention of crime and disorder occurring on the Premises.
16. Taking all the above into account, it was the Committee's considered opinion that the interim steps taken on the 5th of September 2024 to remove the DPS from the licence and to suspend the licence should remain in place pending the full review hearing.
17. A full review hearing has been scheduled to take place within 28 days of the interim steps taken and a final decision will made at the hearing.

Licensing Committee
11 September 2024