

# Licensing Sub-Committee

## Minutes

Monday 7 June 2010

### **PRESENT**

**Committee members:** Councillors Victoria Brocklebank-Fowler (Chairman), Lucy Ivimy and Colin Aherne

**Applicants (Item 4):** Hamid Nezam, licence holder  
;Robert Sutherland, Jeffrey Green Russell, solicitors for Licensee

**Applicant (Item 5): Applicant 2010/00609/LAPR.**

**Officers:** Lisa White, Licensing Officer  
Alex Russell, Legal Services  
Graham Souster, Environmental Health Officer (Item 4 only)  
Police Sergeant Jenny Virtue, Metropolitan Police Services  
Oliver Sanandres, Safety and Licensing Manager (observer)  
Valerie Ellison, Head of Commercial Operations  
Sanju Manji, Trading Standards Manager  
David Bays, Committee Services

### **1. MINUTES**

#### **RESOLVED THAT:**

The minutes of the meeting held on 12 April 2010, 26 April 2010 and 29 April 2010 be confirmed and signed as an accurate record of the proceedings.

### **2. APOLOGIES FOR ABSENCE**

There were none.

### **3. DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **4. LA RESERVE, 422-428 FULHAM ROAD, LONDON, SW6 1DU (2010/00484/LAPR)**

The Sub-Committee received and considered an application by the Metropolitan Police for the review of a Premises Licence for "La Reserve", 422-428 Fulham Road SW6 1DU

## Application

Lisa White, Licensing Officer, introduced the application and circulated a copy of a letter of 20 April 2010 from Mr. Nezam to PS Jenny Virtue responding to her e-mails, which should have been included in the panel pack. The Review application requested that 5 conditions be added to the licence as outlined on page 30 of the agenda pack. Lisa White had carried out an inspection of the premises in October 2008 on Match days following which a warning letter had been issued and a meeting arranged with the licensee to discuss issues around use of glasses, parking on the forecourt etc.

## Main Points of Evidence

### Applicant

Police Sergeant Jenny Virtue had submitted the application for a review of the licence for these premises. She confirmed that the meeting mentioned by Lisa White had taken place, following concerns by Safer Neighbourhood Police Officer Wynne Jones about risks of disorder because of fans congregating on the premises by smoking on the steps outside the front of the premises, drinking outside and antagonising of rival fans by the blinds to the premises being open. Responding to this problem, the Police were posted on duty near the premises. Following the meeting, conditions were agreed by the licensee but were not put into practice.

A subsequent match between Chelsea and Cardiff had also led to problems with the Police being obliged to put 3 officers on duty outside to deal with customers smoking, drinking outside and using glass bottles. No one from the hotel management had come out to speak to the Police that day to discuss the situation. The request for the blinds to be down during and prior to the match had been ignored. It was quite likely that there would have been disorder that day had not police officers been assigned to outside the premises. Similarly, on the day of the Chelsea match with West Ham the Police had mounted a cordon to prevent any trouble.

In response to questions from the Chairman, the Police confirmed that a voluntary arrangement had been agreed with the licensee with the intention that following licensing section's contacting the licensee he would submit an application for a variation to the licence to cover the suggested conditions. However, as Licensing confirmed, no variation application had been submitted.

The police further confirmed that they had witnessed Chelsea fans shouting and smoking outside the front of the premises. Over a period of 3 years police had had to be on duty at the premises on numerous occasions. Based on the Match Commander's advice on the day, cordons were put round premises on a particular match day to prevent disorder. Such action would not normally be taken unless previous problems had been highlighted at the premises.

During the discussion, Mr Sutherland for the licensee queried the admissibility of evidence about the match with West Ham but the police confirmed that this had been mentioned in the statement on page 36 of the agenda pack.

## Environmental Protection

Mr Graham Souster, Environmental Health Officer, supported the Police review application. His concerns centred on the forecourt and the siting of the catering unit. As currently sited the unit obstructed the fire exit. He favoured a retractable trailer for the unit. He suggested the forecourt should either be clear of vehicles or there should be stricter parking controls. He circulated a photograph taken outside the premises on one of the match days. As a result of considering the problem, he suggested an amendment to condition 5 proposed by the Police so that vehicles and the mobile catering unit should be removed from the forecourt area of the hotel on match days owing to public safety concerns. He confirmed that the date stated for the QPR match on page 46 of the agenda pack should be 23 September 2009, not 23 September 2010.

During discussion, the EHO confirmed that the licensee needed to satisfy himself that the catering operator had carried out safety checks on the siting of his unit. The problems were particularly acute on match days for 2-3 hours prior to the match; hence the suggested amendment to Condition 5.

## Applicant

The applicant tabled Match Day Itinerary reports submitted by management at the hotel for different match days during a recent period; and a CV for Mr. Nezam.

Mr Robert Sutherland for the applicant referred to an e-mail sent to the licensing section on 4 June 2010 and confirmed with Mr. Nezam, the applicant, several issues raised by the police. Mr Nezam had been in charge of the premises since 1995 apart from a period between 2000 and 2003. He was aware of meeting Police Officer Wynne Jones 3 years previously, following which he had been asked to close the blinds at the premises. These were now only open 20cm and were in fact about 8-9 metres from the street.

On security, a Security Officer was on duty 2 hours before matches and would not let in any unruly customers. Mr Nezam was present at those times as well. Although there was parking outside the premises, his contention was that cars did not obstruct the fire exit and the cars were about 3 metres from the catering van. Free parking was offered to residents as an attraction to potential customers.

As to management generally, M Nezam confirmed he was there with his assistant all the time on match days and did not allow people to walk in front of the hotel. 8-10 people were on the premises to ensure only plastic glasses were used, with glass only being used for drinks in the seated restaurant. Therefore there was no problem complying with Condition 1 of the suggested Police conditions.

Similarly, there was no problem agreeing to employ 2 door supervisors on match days as suggested in Condition 2 although their preference would be for this to apply for 2 hours before and 2 hours after rather than 3 and 1 respectively, as suggested by the Police. In addition, the licence holder took care that the same supervisor was retained so that they would be able to get to know customers and identify any possible unruly people.

Mr Nezam said he had no difficulty with condition 3.

As to the blinds, Mr Nezam was agreeable to suggested Condition 4 although his preference would be for the closing of the blinds to coincide with hours of the supervisor.

Finally, the applicant confirmed he already encouraged customers to use the back of the premises for those who wished to smoke and so had no problem with the condition.

Mr Sutherland, for the applicant, proposed that instead of the amendment suggested by Mr Souster, the applicant would give an undertaking to carry out a new risk assessment to cover means of escape. This would be submitted to the fire authority, copied to Mr. Souster.

Mr. Nezam was sympathetic to dealing with parking problems and had recently suggested an alternative site in a nearby empty street for coaches to park away from the ground.

In discussion, he confirmed that the capacity of the premises was about 120 in the bar and lounge with about 50 people in the restaurant. The hotel itself had 42 bedrooms. Addressing the point about the failure to submit a variation application, he regarded the meeting with the police and the suggestions arising from it as just a casual conversation. However, as stated above he had no objection to complying with the conditions suggested by the police about plastic glasses, smoking etc. As Designated Premises Supervisor he would ensure that the conditions were adhered to.

### Summing Up

PS Virtue reiterated the various issues relating to customers congregating outside the premises, the use of glasses and the operation of the blinds. She suggested that the closing of the blinds on match days and the use of plastic containers should be for 3 hours before and 1 hour after the matches in line with the proposed condition 2 about door supervisors.

Mr Souster supported the police representations but remained concerned about parking outside the premises. As outlined on page 39 of the agenda pack, the fire exits leading to the forecourt were blocked with vehicles. A photograph of the forecourt had been circulated to the Committee which it turned out was taken on the day of the match against Wigan. This showed that the catering unit was parked across the exit route and could therefore be a potential problem.

For the licensee, Mr. Sutherland confirmed their approach was to be as co-operative as possible. Condition 1 was agreed for the period 3 hours before and 1 hour after; on condition 2, they would prefer 2 hours before and 2 hours after, giving the same total time suggested by the police; condition 3 was generally acceptable although there might be an issue around numbers of door supervisors; on condition 4, they would prefer 2 hours before and 2 hours after matches; and on condition 5 they accepted the proposal by the police but did not accept the issue raised by Health & Safety. The Licensee would like to arrange for a full risk assessment to be carried out, the results of which would be sent to the Fire Officer,

copied to Health & Safety. This would address the issue of fire safety and means of escape. This assessment could be done in 28 days. If the Fire authority were not satisfied, they would have powers to close the premises, if necessary.

Finally, Mr Sutherland noted that the letter of 3 December 2008 sent to Mr Nezam c/o Jeffrey Green Russell had not been seen by either Mr Nezam or Mr. Sutherland as it had been sent to an old address.

*The Sub-Committee retired to consider its decision at 11.24am, returning at 11.45am.*

## **RESOLVED THAT**

The Sub-Committee unanimously decide to add to the premises licence the conditions suggested by the Police on page 30 of the agenda pack with conditions 1 and 4 applying for 3 hours before and 1 hour after matches in line with hours suggested in condition 2.

The Sub-Committee also noted in relation to the amendment suggested by Health & Safety that the licensee had instead undertaken to carry out a full risk assessment and send the results to the Fire Authority.

A full account of the reasons for this decision is contained in the decision letter to which these minutes are appended.

## **5. PERSONAL APPLICATION (2010/00609/LAPR)**

Mr Madrid attended the hearing following his application for a new Personal Licence under section 117 of the Licensing Act.

### Application

Lisa White, Licensing Officer, reported that, in view of his disclosure that he had been convicted in April 2008 of driving with excess alcohol, the Police had objected to the grant of the applicant's Personal Licence.

### Police

PS Virtue reported that the Police had objected as the conviction was only 2 years before. She stressed the personal licence holder needed to have strong values upholding the licensing objectives. As the conviction related to a serious offence, the police did not feel the applicant would be a suitable person to be in charge of serving alcohol to others.

In answer to questions, she clarified that, in her view, driving whilst uninsured was also a serious offence. It was clarified to the sub-committee that this was not a relevant offence under the Licensing Act which could be taken into account in reaching its decision. As to the excess of alcohol, PS Virtue did not have the records, but confirmed that the Metropolitan police only brought prosecutions when drivers exceeded the legal amount of 35 milligrams by at least 4 milligrams.

### Applicant

The applicant agreed he had made a mistake in driving with excess alcohol but said that he had learnt his lesson and was now a responsible person. He had had a couple of shots with this boss after his shift had ended. He did not normally drink as he is a sporty person. He was employed in the catering trade and a failure to obtain a personal licence would make it very difficult for him to obtain a management position.

In answer to questions, he clarified that the offence had occurred on a scooter and was an exceptional circumstance. The lack of a driving licence had occurred because his previous one from Mexico had expired 2 days before. Similarly, his insurance had expired because he planned to sell his scooter the following Monday. He did not remember by how much he was over the limit but thought his alcohol amount had been about 49 milligrams, as he had to have a blood test.

### Summing Up

The police reiterated their objection as the conviction was a recent one and had not been spent.

The applicant apologised for his previous conduct, affirming that he had learnt his lesson from the incident which would not happen again. He was keen to uphold the licensing objectives.

*The Sub-Committee retired at 12noon to consider their decision, returning at 12.05pm.*

### **RESOLVED THAT**

The Sub-Committee decided unanimously to reject the application.

A full account of the reason for this decision is contained in the decision letter to which these minutes are appended.

Meeting started: 10.10 am

Meeting ended: 12.05 pm

Chairman .....

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