

Licensing Sub-committee
9 January 2019

WELWYN HATFIELD COUNCIL

RECORD OF PROCEEDINGS of a hearing by the LICENSING AND REGULATED ENTERTAINMENT SUB-COMMITTEE of an application for review of a premises licence for Incognito Restaurant, 11/13 The Arcade, Hatfield, Herts held on Wednesday 9 January 2019 at 2.30pm in the Chestnut Board Room, Council Offices, The Campus, Welwyn Garden City, Herts, AL8 6AE.

PRESENT: Councillors H.Bower (Chairman)

J.Cragg, P.Mabbott

OFFICIALS PRESENT: Licensing Enforcement Technical Officer (D.Pennyfather)
Senior Litigation Officer (M.McCabe)
Environmental Health Team Leader (C.Brown)
Licensing Technical Support Officer (A.Marston)
Governance Services Officer (Clerk to the Hearing) (H.Johnson)

ALSO PRESENT: J.Moatt (Police Licensing Officer, Hertfordshire Constabulary)
R.Vaughan (Police Sergeant, Hertfordshire Constabulary)
J.Phelan (Police Constable, Hertfordshire Constabulary)
L.Howe (Police Business Assistant, Hertfordshire Constabulary)

Mrs.O (Wife of Mr.O, Licence Holder)
K.Hamilton (Representative of Mr.O, Licence Holder)

1. APPOINTMENT OF CHAIRMAN

Councillor H.Bower was appointed Chairman of the Sub-Committee.

2. REVIEW OF A PREMISES LICENSE: INCOGNITO RESTAURANT, 11/13 THE ARCHARD, HATFIELD, HERTFORDSHIRE

2.1. Introductions And Procedures

The purpose of the meeting was to determine an application for review the premises licence for Incognito Restaurant, 11/13 The Arcade, Hatfield, Hertfordshire, under the Licensing Act 2003.

The Chairman welcomed those present to the meeting and introduced the Members of the Sub-Committee and the Officers serving the Sub-Committee, explaining the hearings procedure which had been adopted by the Council, copies of which had been previously circulated.

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In addition, the police as well as the licence holders wife and representative confirmed their identities to the Sub-Committee.

2.2. Documentary Evidence

A copy of the Licensing Officer's report, the premises licence, application for review of the license by the police and a site location map had previously been circulated.

2.3. Report of the Licensing Officer

The Licensing Officer firstly stated that a petition was received by the Council in support of Incognito, however it was not accepted as it was received after the consultation closed on 11 December 2018 and did not meet the requirements of the Licensing Act 2003 for a petition.

The Licensing Officer presented his report which contained an application for review of the premises licence for Incognito Restaurant, which had been granted on 17 November 2015 of which Mr. O was the premises licence holder and also the Designated Premises Supervisor (DPS).

The review of the premises licence had been formally requested by the police (the applicant) acting as a responsible authority under the Licensing Act 2003 (as amended). The police had requested a review on the statutory grounds of the prevention of crime and disorder and public safety.

The police opinion was that the premises was not complying with the Licensing Act objectives because of the evidence of crime and disorder and harm to public safety. The police had serious concerns over the running and control of the premises due to a failure by the premises licence holder and DPS, to control activities which were taking place or involving the premises.

These concerns had not been resolved prior to the hearing.

The premises licence permitted the sale of alcohol on the condition that it was served with food, and other licensable activities authorised included late night refreshment and recorded music, with opening times until 4am on Friday and Saturday nights, but no admittance after 2pm.

The report made clear that in determining the review, the sub-committee could on behalf of the licensing authority, and having regard to the promotion of the licensing objective, statute, guidance and policy, decide on the following courses of action:

- (a) To modify the conditions of the licence by altering or omitting or adding to them (and for this purpose the conditions of the licence would be modified if any of them were altered or omitted or any new condition was added).

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- b) To exclude from the scope of the licence any of the licensable activities to which the application relates.
- c) To remove the designated premise supervisor,
- d) To suspend the licence for a period not exceeding three months
- e) To revoke the licence

2.4. Application for Review

The police representatives presented the case as per their report and evidence previously circulated but primarily focused on new evidence and presented that to the sub-committee. The evidence presented further detailed how the licence had been breached consistently and the premises licence holder had showed consistent disregard for the licensing objective of the prevention of crime and disorder and the promotion of public safety.

The premises licence holder had continued to breach the premises licence of Incognito, failing to engage effectively despite contact from Hertfordshire Constabulary (such as providing CCTV records, door staff records and qualifications and putting up suitable signs).

As a result there had been direct, frequent and severe consequences in terms of crime and disorder and public safety.

There was evidence of entry to the premises of customers after 2am, often highly intoxicated, with little evidence of food being prepared or served at this time, door staff that were not suitably trained and customers leaving the premises with alcohol in glass bottles.

The police felt that the premises negatively affected the community and caused a disproportionate amount of crime and disorder in relation to its relatively small size. It was not a safe place for the public to enjoy themselves and did not contribute anything to people of Hatfield.

The police had suggested 22 amendments to the licence but in light of the evidence of the failure of the premises licence holder to engage with the police, they respectfully suggested that the only realistic option in this case, was revocation of the premises licence.

3. COMMITTEE QUESTIONS

Following questions from the Sub-Committee, the police confirmed that:

The capacity of the venue was 60, there was substantial evidence of large number of people entering the premises after 2am, that the venue was small and the activities did not suit either the venue or the licence.

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3.1. Premises License Holder Representative

The representative of the premises license holder, Mrs K, told the sub-committee that the premises licence holder was willing to engage with the police and the business provided for this family. She requested either a deferment or to consider adding the conditions on the license with a trial period with revocation of the licence to be considered at a later date. She also ask that the sub-committee take into consideration that the premises served food to the community in Hatfield.

The wife of the premises licence holder, Mrs O, reiterated to the sub-committee that Incognito was a family run business and regretted that her husband had not previously engaged effectively with the police.

3.2. Summary

The sub-committee heard the evidence from the police that the premises had a reputation for being a late bar where people who had already been drinking and were frequently intoxicated were allowed to enter the establishment after licensable hours of 2am to purchase more alcohol. It was not considered as a "restaurant" but a club. The failure to control the activities inside and outside of the club by the owner meant that public safety was put at risk and serious crime and disorder was a frequent occurrence.

3.3. Determination

The sub-committee then withdrew from the room to consider its decision.

On returning, the chairman gave notice of the sub-committee's decision which was to revoke the licence, which would be confirmed in writing to the premises licence holder:

"The Committee have considered this matter carefully, we accept the evidence from the police. Those managing Incognito breached licensing conditions frequently, flouted the law and caused these premises to be associated with serious crime and disorder. Incognito failed regularly to co-operate properly with authorities, such as the fire-service, the police and food hygiene. This is not how to run a licensed premise and we have grave concerns about Incognito. There are no conditions which would allay our concerns and we therefore revoke the licence".

Meeting ended 3.38pm
HJ