

LICENSING SUB COMMITTEE
Friday, 4 May 2012
Premises: Patch, 58-62 Carter Lane, London, EC4V 5EA

Sub Committee

Alderman Simon Walsh MA (Chairman)
Marianne Fredericks CC
Peter Dunphy CC

City of London Officers

Rakesh Hira - Town Clerk's Department
Paul Chadha - Comptroller & City Solicitor's Department
Peter Davenport - Department of Markets & Consumer Protection
Steve Blake - Department of Markets & Consumer Protection

The Applicant

Mr Donald Pedley

Others who had made representations:

Inspector Rita Jones, City of London Police, accompanied by Mr John Hall and PSCO Greg Short
Virginia Rounding, Member of the Court of Common Council
Henrika Priest, Member of the Court of Common Council
Mr Mark Rance
Dr Laura Wright
Jan-Jaap Verschoor
Ikuko Kurahone
Simon Barnes

The Licensee

Represented by Mr Gareth Hughes, Solicitor, Jeffrey Green Russell

Others present:

Andy Buchanan, Director and Premises Licence Holder

Licensing Act 2003 (Hearings) Regulations 2005

1. A public hearing was held in the Committee Rooms, Guildhall, London, EC2, to consider an application for a review for the premises 'Patch', 58-62 Carter Lane, London, EC4V 5EA, submitted by Mr Donald Pedley, a local resident.
2. The hearing commenced at 3:45pm.
3. The Chairman opened the hearing by introducing himself, the other Members of the Sub Committee and the Officers present.
4. It was noted that no members of the panel had any personal or prejudicial interest.

5. The Chairman made reference to the procedure that would be followed, which was set out in the Sub Committee papers.
6. All parties introduced themselves.
7. Mr Hughes explained that he was grateful for the preliminary response and non-binding view from the Chairman on the request for an adjournment. In relation to the error in not sending the representations with the Notice of Hearing letter, as required by Reg 7(2), which was therefore a clear breach of the Regulations, did not, of itself, render the proceedings void (Reg 31). The Chairman explained that the hearing could continue if there was no prejudice or if any prejudice arising from the breach could be cured. It was noted that the Regulations provided the Sub Committee with substantial leeway to take such steps as it thinks fit in all the circumstances (Reg 32).
8. The Chairman pointed out that he had received the lever arch file with supporting evidence from Mr Hughes and whilst the Sub Committee had not read this in detail, as it was received a few hours ago, the Sub Committee were content for Mr Hughes to take them through it.
9. Mr Pedley introduced the application for a review explaining that other residents and Common Councilmen had submitted various supporting evidence. He pointed out that the premises had caused a regular public disruption to its nearby residents, patrons leaving the premises would shout, vomit and urinate and the sound of cars and taxis sounding their horn, in the narrow street, would add to the noise nuisance into the early hours of the morning. He explained that residents felt insecure and intimidated when walking home late at night due to the noisy patrons around the premises. It was anticipated that street wardens would help towards a solution however this had not materialised. The residents felt that the hours of the licensable activities should be cut back.
10. Mr Pedley referred to the video evidence, the first video recorded at 02:04 hours showed a scene of people standing outside the premises once it had closed and a female who was visibly drunk.
11. The second video recorded at 00:08 hours showed the doorman of the premises high level kicking another man who was walking away from the premises. Mr Pedley explained that the violence taking place by the doorman of the premises was clearly visible. Inspector Jones pointed out that the police were not called out on that night, but if they had, the doorman would most likely have been arrested and possibly prosecuted. Mr Buchanan explained that this was clearly an unpleasant scene and that this particular incident related to a couple who were walking up the stairs to leave the premises but as they were leaving another man closed the door which hit the woman's face and a fight broke out between the boyfriend of the woman and the man who had closed the door. In response to a question by a Member of the Sub Committee, Mr Buchanan explained that the doorman was still employed by Patch.

12. A further video was shown which showed a disabled man in a wheelchair going down the street but stopped as a scuffle broke out in front of the premises. Mr Hughes pointed out that the person in the wheelchair did stay for some moments later to watch the scuffle.
13. Another video showed cars and taxis arriving and loud horns being heard at approximately 03:00 hours and glass/rubbish being put in a skip directly outside Mr Pedley's flat window. Mr Buchanan explained that it was agreed by the City Police that the premises would be allowed to put rubbish out up until 23:00 hours and if this had caused a problem would be curbed back to 21:00 hours. Mr Buchanan pointed out that he was willing to work with the local residents to alleviate their concerns.
14. Mr Hughes had no questions of Mr Pedley.
15. Ms Rounding explained that there had been on-going concerns with these premises and that the local residents had been extremely patient. She highlighted that the Memorandum of Understanding (MoU) developed by local residents and Mr Buchanan had been breached on a number of occasions. In response to a question from Mr Hughes, Ms Rounding explained that she was seeking licensable activities to be cut back to 22:00 hours, which would provide time for patrons to disperse.
16. In response to a question by the Chairman, Mr Buchanan reported that group bookings were usually booked by City workers and usually if people arrived later in the night they have come from another bar.
17. Ms Priest explained that noise nuisance problems existed with these premises for some time and loud thumping noise being played was a regular occurrence. She believed that the terminal hour should be cut back to 22:00 hours to prevent a public nuisance and to allow for patrons to disperse.
18. Dr Wright explained that she and her child would routinely sleep with ear plugs at night due to the noise nuisance and that the thumping noise was very disruptive. Mr Buchanan said that he would be happy to change the noise limiter at the premises to a level which would reduce the thumping noise. Mr Buchanan pointed out that he had tried to contact Environmental Health but had not received a response from them but had alternatively carried out an acoustics examination.
19. Simon Barnes explained that he had moved to the area as it was a World Class City, however Carter Lane at 03:00 hours was a threatening and intimidating place where people would be shouting, urinating and vomiting. In relation to the MoU he felt that it had failed and the late licence should be withdrawn.
20. Mr Hughes made reference to the Police Crime UK Website pointing out that 3,400 incidents had taken place in the EC4 area but not a single incident on Carter Lane, in response to a question by a Member of the Sub Committee Mr Hughes clarified that the statistics were for March 2012 and months prior to this were around three or four incidents per month.

21. Mr Rance explained that Carter Lane used to be a quiet residential street until Patch had opened and regularly caused a noise nuisance, he pointed out that he appreciated the efforts of Mr Buchanan in developing a MoU but the disruption had lowered the standards of living for the local residents. Mr Hughes referred to the non-attendance of Environmental Health to ascertain where the thumping/loud noise was coming from as Carter Rooms could have been the cause.
22. The Sub Committee expressed their disappointment at the lack of involvement from the Environmental Health section.
23. Mr Kurahone explained that after the meeting with Mr Buchanan he thought that the noise disruption would improve but it did not.
24. Mr Verschoor explained that he had lived at Carter Lane for three years and the noise nuisance had got worse and in January 2011 for four nights the noise nuisance was particularly disruptive. He pointed out that if the licensable hours were not cut back he would be led to move to another area as the anti social behaviour and noise nuisance was of extreme concern.
25. Mr Hall explained that the premises clearly caused a public nuisance and clarified that the SARA document was a Home Office tool used to record complaints made by people who telephoned into the central office.

Adjourned 5.36pm – 6.00pm

26. Mr Hughes made reference to the intelligence report and in particular to 10 July 2010 log at 01:30 hours which stated that 'the premises was visited and several people were stood outside the doorway smoking and approximately 20 people were seated inside the bar and that there was no excessive noise in or around the area of the bar'. In response to a question by Mr Hughes, Mr Hall reported that there were only two recorded crimes of assault over the approximate two year period and that if crime and disorder had been a problem the City Police would have called for a review.
27. Mr Hughes referred to the intelligence report dated 26 November 2010 at 03:25 hours by PC Paul Starr which said that officers believed customers outside Patch smoking were not making excess noise but did hear some people shouting as they walked along Carter Lane and that it was not known where these people had come from. Mr Hughes argued that it could not be proven that the patrons causing the public nuisance were connected to Patch.
28. Mr Buchanan pointed out that he had been in the licensing trade for a number of years and had previous experience of operating licensed venues. He explained that when he began running Patch he got in touch with the licensing section to get in touch with the local residents and with Inspector May. He said that he had always tried to initiate communication with the local residents to discuss their concerns, if any. He explained that he increased the door staff at Patch from one to three and displayed signage requesting patrons to leave

quietly and tried to contact Environmental Health but they had not been forthcoming.

Adjourned 6.45pm – 7.00pm

29. In response to questions by Mr Hughes, Mr Buchanan pointed out that any reduction in hours, in particular 22:00 hours as suggested by Ms Rounding and Ms Priest, would have severe financial consequences and Swizzlestick Ltd would most likely shutdown as a company and a number of employees would become unemployed.
30. In making closing submissions Mr Buchanan explained that he would be content with all licensable activities on Saturdays to be pulled back by two hours and one hour on all other days. Mr Hughes explained that pulling the hours back to 22:00 hours would be an extraordinary decision and that there were other licensed premises in the area which were operating until 04:00 hours. He explained that the acoustics report identified no problems and that Environmental Health had failed to engage with Patch and that Mr Buchanan was still keen to get along with the local residents.
31. All parties were given an opportunity to sum up their cases before the Members of the Sub-committee withdrew to deliberate and make their decision, accompanied by the representatives of the Town Clerk and the Comptroller and City Solicitor.
32. The Chairman thanked all parties for attending the hearing and informed them that the decision of the Sub Committee would be circulated to all parties within the next five working days.

The meeting closed at 7.45pm

CHAIRMAN

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Decision of the Sub Committee circulated to all parties on 14 May 2012

THE COMMON COUNCIL OF THE CITY OF LONDON
LICENSING SUB-COMMITTEE

Alderman Simon WALSH MA (Chairman)
Marianne FREDERICKS CC
Peter DUNPHY CC

Friday 4 May 2012 (15.30-20.20)

IN RE:

‘PATCH’
58-62 CARTER LANE, LONDON EC4
Ward of Farringdon Within

At today’s hearing the sub-committee was addressed by the applicant (Mr Donald Pedley) in person, by Virginia Rounding CC, Henrika Priest CC, Mark Rance, Dr Laura Wright, Jan-Jaap Verschoor, Ikuko Kurahone and Simon Barnes as interested parties and by John Hall, PCSO Greg Short and Insp Rita Jones of the City Police as a responsible authority. The sub-committee also considered those written representations appearing in the bundle of public papers. On behalf of the premises licence holder (PLH) the sub-committee was addressed by Gareth Hughes of Jeffrey Green Russell (‘JGR’) and Andy Buchanan.

In addition to the other documents appearing in the 2 bundles of public papers the sub-committee considered 2 collections of video evidence: a longer collection prepared by Mr Pedley and a shorter collection (although containing far more individual ‘clips’) prepared by a supporter of his. We also considered an expert report prepared by Richard Vivian of Big Sky Acoustics as well as a lever-arch file containing nearly 250 pages of documents provided to us on the day of the hearing.

1. On 14 March 2012 Donald Pedley, a City resident, applied under s51 of the Licensing Act, 2003 to the City Corporation for a review of the premises licence held by Swizzlestick Limited in respect of ‘Patch’ at 58-62 Carter Lane in the City of London. Two things are worthy of note at this point. Mr Pedley had tried to launch an identical review some 2 weeks earlier but this had foundered on technicalities. Nevertheless papers had been served on the PLH so that when this review was properly launched it could have come as no surprise at all to the PLH. On the same date Mr Pedley also applied for a review of the premises licence for ‘Carter Rooms’, operating next-door at 56-58 Carter Lane.
2. Mr Pedley’s application was served on the PLH in accordance with the statute and the regulations and it is commendably detailed. It makes it very clear which licensing objectives are being engaged and the grounds on which it is

said that those objectives are not being met or sufficiently promoted are also laid out clearly and chronologically. In 2011 particularly, the application sets out the disturbance and discomfort alleged to have been suffered by Mr Pedley and his wife. It also sets out the sustained efforts by Mr Pedley and others (such as his Ward councilmen) to bring problems to the attention of the PLH and to deal with them proportionately and amicably. This includes meetings and the ultimate signing of a 'Memorandum of Understanding' (MoU) with the police licensing team. This 'MoU' approach is one that we support generally and one which we note usually achieves its aims – sadly not the case here. There was no obligation on Mr Pedley to provide any supporting documentation or any 'evidence' at this early stage but very helpfully he chose to do so. This consisted of some paperwork but most significantly his collection of video evidence. He provided this on a CD for all parties.

3. During the consultation period when the 'blue notice' was displayed on the door of Patch many representations were received. All supported Mr Pedley's application. These were sent to and collated by the City Corporation. The consultation period expired on 11 April 2012. By virtue of Reg 5 and Sch 1 of the Licensing Act 2003 (Hearings) Regulations 2005 (the 'Regulations') it was necessary to hold the hearing to consider the application and the representations within 20 working days after 11 April. This gave a 'hearing window' from 12 April – 10 May 2012. The hearing was set for 4 May 2012, being day 17 of the 20-day window. Notice of this date was sent to the parties on 18 April 2012.
4. Unfortunately this is when things went somewhat awry in the Town Clerk's department. With the Notice of Hearing the Town Clerk should have sent copies of the representations received in respect of the application as well as any documents served with those representations. This is a clear entitlement of the PLH under Reg 7(2) of the Regulations. Subsequent enquiries have shown that this was not a failing unique to this case, the Town Clerk was routinely overlooking this requirement in all cases. It is however the first time it has ever been raised as an issue. It has now been rectified but this is of little comfort to the PLH.
5. In respect of this case, this procedural deficiency was first raised in correspondence from JGR on 23 April 2012. Mr Hughes asked for an adjournment. The Chairman gave a preliminary and non-binding view that an adjournment was not likely to be granted but invited Mr Hughes to renew his application to all 3 panel members at the hearing if he wished. This Mr Hughes did and submitted that the PLH required an adjournment to deal with the issues of which it had not been made aware in good time.
6. The failure to send the representations, as required by Reg 7(2), is a clear breach of the Regulations. But such a breach does not, of itself, render the proceedings void (Reg 31) and the hearing can continue if there is no prejudice or if any prejudice arising from the breach can be cured. In order to do this the Regulations give us substantial leeway to take such steps as we think fit in all the circumstances (Reg 32).

7. We looked at the representations and supporting documents that should have been served with the Notice on 18 April 2012 but were probably not, in fact, served until 25/26 April (a delay of some 5/6 working days). They fell into 4 distinct groups:
 - a. Representations from Councilmen: these are all capable of being characterised as 'supporting' statements rather than new representations. They address generalities, history and, in at least one case, are in identical form. They helpfully direct everyone's attention to relevant parts of the City's Licensing Policy and the s182 Guidance and refer to other licensing decisions but as none of them raise new factual or evidential matters we did not think that their late delivery was prejudicial in any material way;
 - b. 'Supportive' representations from residents: these, which include by way of example the letter from the Lord Bishop of London, are just like the councilmen's representations and again we did not think that their late delivery was prejudicial in any material way;
 - c. 'Detailed' representations from residents: Most of these refer to dates and incidents already clearly put in issue in Mr Pedley's application. We take the view that the PLH should have been preparing to deal with these from mid-March and cannot be said to have been prejudiced by discovering some 5/6 days late that they also appear in the further representations. There are, however, some dates and incidents mentioned in these resident representations that are not mirrored in Mr Pedley's application. To expect the PLH to deal with them without the full notice they are entitled to could possibly be prejudicial but that prejudice can be cured if we decline to take any such dates or incidents into account at all. That is the course we followed and we believe this cures any prejudice in the terms envisaged and permitted by Reg 32;
 - d. Representation by the City Police: although appearing in a 129-page bundle, only page 1 of that bundle is a representation covered by Reg 7(2). Pages 2-129 consist of documents and other evidence in support of the representations that could quite properly have been provided as late as Thursday 3 May 2012 under the provisions of Reg 18. Page 1 is such a bland document that we feel its late delivery causes no material prejudice. However, this analysis causes its own problems. Because the police representation, as set out on page 1 of the bundle, is somewhat lacking in focus and direction, the pages that follow can be read as giving the PLH a lot of extra work. This possible prejudice can be cured, we feel, in the same way as referred to above, namely by completely disregarding anything in the police documentation that does not refer to a date or incident in Mr Pedley's application. This was the course we followed.
8. Having decided we could cure any realistic prejudice actually caused by the error in the Town Clerk's department and balancing the need to be fair to the PLH with the needs of the applicant and the substantial numbers of people

who had taken the time and undoubted trouble to attend the hearing we concluded that we could safely proceed to hear the application.

9. Having been assured by us that we had looked at the several hours of video evidence, Mr Pedley introduced his application briefly and took us to what he felt were the most significant excerpts of video evidence. We looked particularly at the recordings from 2 October, 4/5 November and 4 December 2011. In our view these showed a level of intoxicated rowdiness at a time of the early morning that constituted a clear disturbance to anyone living close and a clear public nuisance. Whilst it was clear that some of what we saw and heard was coming from patrons of neighbouring 'Carter Rooms' we were quite satisfied that Patch's patrons contributed to the noise and nuisance sufficiently of themselves¹. The tone, volume and level of profanity in the raucous shouts of often inebriated patrons were simply unacceptable and perhaps all the more so in the early hours of the morning and so close to residential² premises. Significantly we also formed the view, having seen so much video evidence collected over a significant period of time, that what we saw was properly representative of the general level of disturbance caused to local residents week in and week out and not in any way merely an unrepresentative 'spike' in street activity.

10. We wish to make specific comments about one video excerpt in particular: that recorded on the night of 4/5 November 2011. We were shocked to see what to us appeared to be a wholly gratuitous attack on a departing patron by a member of Patch door/security staff. This consisted of the security staff member angrily chasing a man away from Patch whilst aiming at least 3 very violent high-level kicks at him. These were clearly offensive and in no way defensive. Mr Hughes bravely suggested that we could not be sure that the kicks made contact. It certainly seemed to us that they (or some of them) did, but even if they did not this was pure good fortune on behalf of the kickee rather than good aim by the kicker. We were very disappointed at Mr Buchanan's reaction to being shown this video and shocked to find that the staff member in question is still employed at Patch and apparently well regarded. In our view this is a serious, if very uncharacteristic, blemish on Mr Buchanan's management record. We looked in Patch's lever-arch file to see how this incident was recorded by them. Page 19 is a handwritten log for the night in question. Whilst the events leading up to the incident we are concerned about are noted on this form, there is nothing to explain the attack we witnessed on the video. Page 20 is a typed note from a member of the Patch management. It says of the incident: 'The security did their best to separate both and had to send one of them towards the end of Carter Lane'. We just cannot believe that the member of staff we see on the video was doing his best to separate anyone and to describe his kicks as simply 'sending one of them to the end of Carter Lane' is so materially inaccurate and misleading that we must doubt what is written in Patch's other contemporaneous documents. The police took no action in respect of these

¹ In this hearing Patch often blamed Carter Rooms (as Carter Rooms did in reverse in its own hearing) but we were satisfied that each set of premises caused enough difficulty by itself for us to need to take action.

² We also took on board the comments of many of those who came to the hearing that they (and many of their neighbours) are 'permanent' City residents not just casual users of pieds-à-terre

matters – but this is no criticism of them at all as by the time they arrived the victim had gone and clearly no-one from Patch told them what happened. In fact it seemed that the police only became aware of this incident when viewing Mr Pedley's video by when it was really too late to take any action.

11. Other residents then spoke forcefully of their experiences and whilst we did feel some of their expectations of the level of noise and the time at which sleep should be undisturbed were rather unrealistic, we felt their contributions generally fully supported what Mr Pedley had told us.
12. Both Mr Pedley and other residents also complained about the leakage of amplified music and particularly a 'bass beat' heard (and sometimes felt) in their homes. This has been addressed before, notably in the MoU. However, in the terms of the application, before us this area of complaint was not supported by the City's environmental health department and on the balance of probabilities we could not conclude that there was a public nuisance caused by music from Patch that would engage our powers. The expert evidence from the PLH on this point was useful but not determinative.
13. Mr Pedley's application also referred to the licensing objective of preventing crime and disorder. The police evidence showed that there was really very little crime associated with Patch and perhaps less than one might normally expect of premises operating as they do. Of course we know that the crime we saw on the video of 4/5 November 2011 was not reported to the police so we have to wonder how much this lack of reported crime is due to under-reporting. There is, of course, the disorder we refer to above but we accept that this rarely reaches such a level as to constitute a crime or to be of proper concern to the police, as such.
14. Mr Hughes, quite properly, made great play of the regular e-mails from the police to local licensees showing that no crimes had been reported. This is helpful – but it only goes so far and the mere fact that no crime or disorder was reported to the police (quite a step for a member of the public to take) cannot be said to support the suggestion that there was in fact no disorder or seriously to undermine the residents' evidence on the point.
15. We wish to note publicly at this point that we feel from what we read in the papers and from what we were told that the residents and the local businesses have received an exemplary service over a substantial period and in very difficult circumstances from PCSO Greg Short for which he should be commended. At the end of the day, we feel that the licensing objective of reducing crime and disorder is being properly promoted and addressed in Carter Lane.
16. Mr Hughes then introduced Mr Buchanan who addressed us at length. We were generally impressed by him. With the uncharacteristic exception we mention above, his contributions seemed open and frank. We felt that the work he did to keep crime down and to keep the noise of music inside the premises were genuine and, for the most part, successful. It was partly for these reasons that we did not find either of these to be issues that concerned

us. If there are ongoing problems, we appreciate his undertaking to speak directly to the residents concerned (particularly to Dr Wright).

17. What we were then left with was simply the clear and regular public nuisance caused by patrons of Patch in the street outside in the early hours, especially at the weekend. We understood from Mr Buchanan that this early morning patronage, whether casual or following on from pre-booked events, was important to the business plan of Patch – and onwards into the Swizzlestick group of venues. We got the very clear impression that Mr Buchanan was normally trying to do his best to deal with the problems faced by the residents but we also concluded, in line with several residents (including Mr Rance who put the matter very eloquently), that there was little he could actually do that would have any real effect.
18. This gives us a real problem. On the one hand we have a PLH doing good work but not being able, it seems on the evidence, to improve matters and on the other hand we have local residents who are significantly disadvantaged and feel that they are quite helpless to do anything about the problem.
19. In our Licensing Policy, which has been written and now updated twice with the unusual circumstances of the City very much in mind, we say:
 - a. (¶37) There can be little doubt that a well-managed licensed venue can benefit the local community. However, there is clearly a risk of local residents being disturbed, particularly if the venue is open late at night because people leaving the premises can be a significant problem in the early hours. Customers may be less inhibited about their behaviour and may be unaware of the noise they are creating;
 - b. (¶49) ... the risk of disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning. For example, the risk of residents' sleep being disturbed by patrons leaving licensed premises is obviously greater at 2am than at 11pm. (¶50) It is, therefore, the policy of the City Corporation to strike a fair balance between the benefits to a community of a licensed venue and the risk of disturbance to local residents and workers ...;
 - c. (¶56) When considering whether any licensed activity should be permitted, the City Corporation will assess the likelihood of it causing unacceptable adverse impact ... by considering the following factors amongst other relevant matters ... the means of access to and exit from the premises by patrons ... and in considering any application for review of premises already licensed the City Corporation may take into account evidence of ... past demonstrable adverse impact from the activity especially on local residents;
 - d. (¶58) In reaching its decisions the City Corporation acknowledges the difficulty a licence holder has in preventing anti-social behaviour by individuals once they are beyond the direct control of that licence holder. However it will also take into account that the licensing objective

of preventing public nuisance will not be achieved if patrons from licensed premises regularly engage in anti-social activities to the detriment of nearby residents or businesses. Furthermore, it will take into account its responsibility under the Crime and Disorder Act, 1998 to do all it can to prevent ... disorder in the City.

20. We have addressed these generalities in several hearings both for new licences and for reviews. We do not say and never have said that there should be no late-night activity in the City. Quite the contrary, we welcome it and so do many of our stakeholders. What we do say very clearly, however, is that there are parts of the City that are, for unalterable reasons of geography and construction, simply unsuitable for late night bars. We best set this out in a decision relating to premises only a few dozen yards away from Patch (then known as 'Ochre' and now trading as the 'Duke and Duchess') where we said:

- a. 'We do not feel that the narrow canyon-like side streets of this part of the City where the medieval street plan still exists and where the older buildings are far less substantial than the former banking halls housing newer licensed premises in the east of the City are appropriate places for late night bars. The need for patrons to stand outside premises to ... smoke ... is also a serious issue where the pavements are very narrow or streets pedestrianised as noise is inevitable. This noise can be (or certainly can seem) very loud in the early hours.'

21. In conclusion, therefore, we took great care over many hours in considering this application, the representations in support of it and the careful and measured response of the PLH. We were mindful of the provisions of the Licensing Act 2003, in particular the statutory licensing objectives, together with the guidance issued by the Secretary of State and our own Licensing Policy. We have concluded that there is a real public nuisance caused by the late-night operation of these premises. We do not find that they are generally badly run - but that cannot mean that local residents must therefore put up with a level of nuisance that could be dealt by us with if the premises were badly run. That would be a patently absurd result.

22. There is no reason to revoke this licence nor to suspend it. There is equally no reason to remove the DPS. We cannot think of any conditions that would improve matters. We are therefore driven to decide that it is necessary, to promote the licensing objective of preventing public nuisance, to require these premises to cease selling alcohol, providing regulated entertainment and/or providing late night refreshment at midnight. This shall apply on every night of the week.

23. It is our policy on reviews to further consider all other conditions on licences and to remove or modify those that do not meet our expectations that licence conditions should be clear, concise and enforceable. With this in mind we also make the following changes:

- a. Annex 2 – Conditions 7, 8, 11 and 12 are removed.;

b. Annex 3 – Conditions 1 and 3 are removed

24. If any party is dissatisfied with this decision they are reminded of the right to appeal, within 21 days, to a Magistrates' Court. Any party proposing to appeal is also reminded that under s181(2) of the Licensing Act, 2003 the Magistrates' Court hearing the appeal may make any order as to costs as it thinks fit.
25. This decision will not take effect until 21 days have elapsed after it is communicated to the parties or, should there be an appeal, until that appeal is heard and determined.
26. Should the PLH appeal, the Respondent to the appeal will be the City Corporation. Mr Pedley and those making representations will not automatically be parties. Any appeal is likely to be heard many months from the day on which we make our decision but all parties are reminded that in addition to having the benefit of seeing and reading all that we have seen and read the Magistrates' Court will make its decision based on its own view of what is necessary *at the time of the appeal hearing*. In other words, any demonstrable improvement by the PLH will be highly relevant – as will any evidence of continuing nuisance that can be provided by anyone else.