

MINUTES OF THE LICENSING (HEARING) SUB-COMMITTEE

HELD ON Friday 15 October 2021 AT 11.00 AM

APPLICANT: City of London Licensing Authority
PREMISES: Blank Gallery Ltd, 27C Throgmorton Street, London,
EC2N 2AN

Sub-Committee:

Marianne Fredericks (Chairman)
Michael Hudson
Shravan Joshi

Officers:

Leanne Murphy - Town Clerk
Frank Marchione - Comptroller and City Solicitor
Peter Davenport - Markets & Consumer Protection

Given Notice of Attendance:

For the Applicant:

Gerald Gouriet QC (FTB Chambers) - Counsel representing the Applicant
Paul Chadha (Assistant City Solicitor)
Andre Hewitt (Licensing Officer)
Pritam Raghoonath (Licensing Officer)
Nad Valaydon (Licensing Officer)
PC Daniel White (COL Police)
Ben Ellen (COL Police)

For the Premises:

Saeed Hashem Hosseini (Director, Blank Gallery Ltd)
Robert Sutherland (Keystone Law) – representing the Licence Holder

Licensing Act 2003 (Hearings) Regulations 2005

A public Hearing was held at 11.00am in Committee Room 2, Guildhall, London, EC2, to consider the representations submitted in respect of an application by the City of London Licensing Authority for a licence review in respect of the premises Blank Gallery, 27C Throgmorton Street, London, EC2N 2AN.

N.B. This hearing was adjourned on two previous occasions, 24 August 2021 and 14 September 2021, to allow the Premises Holder to be present and represented.

The Sub-Committee had before them the following documents:-

Hearing Procedure

Appendix 1: Report of the Director of Markets & Consumer Protection

- i) Copy of Application
 - ii) Diary of Events
 - iii) Email from Robert Breese dated 18 August 2020
- Appendix 2: Supporting evidence from City of London Licensing Authority
- i) Statement of Andre Hewitt
 - ii) Exhibits relating to Andre Hewitt's statement
 - APH1 - Intention to suspend
 - APH2 – Suspension Notice
 - APH3 – Till Receipt
 - APH4 – Companies House Details
 - APH5 – Current Licence
 - iii) Statement of Pritam Ragoonath
 - iv) Exhibits relating to Pritam Ragoonath's statement
 - PR1 – Photo
 - PR2 – Photo
 - v) Statement of Nad Valaydon
 - vi) Exhibits relating to Nad Valaydon's statement
 - NV1 – Photo
- Appendix 3: Representations from responsible authorities: City of London Police
- i) Statement of Daniel White
 - ii) Statement of Benjamin Ellen
 - iii) Exhibits relating to Benjamin Ellen's statement
 - BE1 – Receipt showing daily sales 10 October 2020
 - BE2-BE8 – Receipts showing daily sales
 - BE9-BE15 – Z totals from a card payment machine

Supplementary Document Pack:

Minutes of adjourned hearings on 24 August 2021 and 14 September 2021

Additional evidence - City of London Licensing Authority

- i) Ben Ellen Additional Statement
 - ii) Gonzalo Balta Statement (the video footage referred to in this statement was circulated to all parties separately)
 - iii) Licence Holder's Lease
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1. The Hearing commenced at 11:00.
2. At the commencement of the Hearing, the Chairman addressed the ongoing confusion concerning the address of the premises in question. All parties agreed that the premises was not 27b but 27c Throgmorton Street, which correlated with the Licence Holder's Lease, and it was agreed the premises would be referred to as such for the remainder of the Hearing.
3. The Chairman invited the Applicant to set out their grounds for a review of the Premises Licence. Mr Gouriet QC summarised the key basis for the review as the underlying concern over who was in control at the premises and who had assumed the licensing responsibilities of promoting the licensing objectives.

4. Mr Gouriet QC reorganised the material in front of the Sub Committee into the following topics: non-payment of the annual licence fees, tables and chairs on the pavement, who is in control, and the cannabis farm and filming event of 24 September 2021.

Non-payment of the annual licence fees

5. The Sub Committee were informed that the licence was granted on 22 January 2019 with the subsequent annual licence fee payable on 21 January 2020. A letter was sent to the premises on 31 January 2020 giving clear notification that the premise licence would be suspended on 12 February 2020 unless the fee was paid. On 13 February 2020, a suspension letter was hand delivered to the premises, which was closed, stating no further sales of alcohol could be made until the annual fee debt was paid in full. Following a further visit on 27 February 2020, it was noted that the post had been removed. Lockdown then began on 23 March 2020 and the premises remained closed. On 18 August 2020, in response to a change of DPS request submitted on 4 August 2020, Mr Sutherland was written to with the new licence and reminded that the licence was still suspended.
6. Despite this still being the current position, Mr Gouriet QC advised that the premises was observed on numerous occasions between 2 and 10 October 2020 and the 18 May to 11 June 2021 to be open and selling alcohol. Mr Sutherland stated that his client had no argument against this claim.
7. Mr Gouriet QC acknowledged it was possible the premises was open on other days but there was only evidence for these dates.
8. On 18 June 2021, an agreement was made with the Licence Holder to pay the outstanding balance of the licence fee by instalments which allowed the premises to legally operate again. On 21 June 2021, a first payment of £700 was made but nothing has been received since. On 1 July 2021, a suspension of the licence was reinstated, and the licence remained suspended.

Tables and Chairs on the pavement

9. Mr Gouriet QC advised that tables and chairs were consistently placed on the pavement outside the premises in complete defiance of those at the premises being informed by Officers on numerous occasions that this was against the law and a Tables & Chairs Licence was required.
10. The premises were visited by Officers on 9, 11 and 14 June 2021, and on each occasion different staff members were belligerent, rude and evasive when asked to remove the tables and chairs. On 14 June 2021, the supervisor Jack Monroe was also unable to operate the CCTV despite this being a condition of the licence.
11. On 14 June 2021, Nad Valaydon received a call from Mr Hosseini stating a Tables & Chairs Licence was not required as there was minimal furniture, and he disputed needing to comply with the CCTV condition as he could do this by phone and claimed to have proof of paying the licence fees.

12. A pavement licence application was then received on 14 June 2021 but was rejected by the Planning & Transportation Department as, if granted, there would be insufficient space for access on the pavement which was a public highway.

Who is in control?

13. Mr Gouriet QC stated that there was concern over who was running the premises. It was confirmed this was a company licensee - Blank Gallery Ltd - with Mr Saeed Azimi appointed as a sole director on 13 February 2016 and remaining so at the time of the original grant of licence on 22 January 2019. He was also the registered DPS for the premises at that time.
14. On 26 July 2019, Mr Azimi resigned as a Director and on the same day Mr Saeed Azam Hossieni was appointed sole Director. On 29 July 2019, Mr Sayed Azan Hossieni resigned as Director and Mr Saeed Hashem Hosseini was appointed as sole Director. He did not again feature on any paperwork until July 2021 causing concern for who was running the premises. No application for variation of the DPS was submitted until 4 August 2020 even though the DPS was no longer a director.
15. Mr Gouriet QC also drew the Sub Committee's attention to the numerous resignations, and changes to the personal address of the person in charge and registered business address of the company including Seymour Place, Abbotts Manor, Trotwood and the premises address itself. No notification of the changes to the registered business address of the company was made to the Licensing Authority which was regarded as very confusing and an offence under s33 Licensing Act 2003.
16. Mr Gouriet QC also claimed there was also ongoing confusion as to who the DPS was which the Sub Committee were informed changed as follows: Mr Azimi appointed on 21 January 2019 (with the original licence application) and resigned as Director on 22 July 2019; an application for a new DPS was received on 4 August 2020 for a Mr Theodoros Binta who resigned on 22 March 2021. No application for his replacement was received until 9 June 2021. A Ronnie Cohan had confirmed verbally that they were the DPS and had begun trading from 18 May 2021. On 9 June 2021, Paul Kelly confirmed to Officers they were the DPS and resigned on 30 July 2021. Mr Gouriet QC argued that there were consistently different people claiming to be the DPS, Manager or Supervisor. However, it was Ronnie Cohan that gave instructions to place tables and chairs outside the premises and gave permission for filming in the basement
17. The Sub Committee clarified that there was nothing mysterious or illegal about an individual remaining as a DPS after stepping down as director. As Mr Azimi did not formally resign as DPS, the Sub Committee regarded him as the legal DPS until an application for a new DPS was received on 4 August 2020 for Mr Binta.

Cannabis farm and the filming event of 24 September 2021

18. Mr Gouriet QC advised the Sub Committee that a cannabis farm was found in the basement of the premises on 14 January 2021 and there was an ongoing police enquiry; however, the fact that it was there indicated a lack of control at the premises.

19. In addition, on 24 September 2021, Police Officers witnessed the premises open with people drinking alcohol, individuals behind the bar appearing to serve alcohol, and cannabis found on a table with no one claiming it, all whilst the licence was suspended. Mr Gouriet QC questioned if the Licence Holder had abandoned control of the licensed premises to others.
20. The Sub Committee noted that the licence allowed for drinks on and off the premises but there was a condition preventing the sale of alcohol off the premises. Alcohol being sold and consumed outside breached this licence condition. It was also noted that the tables and chairs should not have been placed outside as this was a highways issue.
21. Mr Sutherland responded stating that a breach of the conditions did not happen as the sale of alcohol outside the premises took place when the licence was suspended.
22. The Sub Committee noted the Police and Officer interactions at the premises and the implication that staff were unhelpful. The Sub Committee asked if staff understood what they were being told and about the breach of the licence. Officers confirmed they understood the breaches and continued to be belligerent.
23. The Chairman invited the Licensing Officers and COL Police Officers in attendance the opportunity to add anything further regarding their statements. All Officers confirmed they were happy with the summaries presented to the Sub Committee on their behalf by Mr Gouriet QC.
24. The Chairman invited Mr Sutherland and Mr Hosseini to set out the case for the Licence Holder.
25. Mr Sutherland responded to the four themes identified by Mr Gouriet QC and included the addition of the topic sale of alcohol.

Who is in control?

26. Mr Sutherland confirmed Mr Hosseini as the sole Director of Blank Gallery Ltd since his appointment on 29 July 2019. Mr Azimi was his brother-in-law, and the other listed former Director was a relative. "Ronnie Cohan" was purely a nickname for Mr Hosseini from a friend and was used interchangeably with his true name.
27. Mr Sutherland confirmed Mr Hosseini's address was Seymour Place and that he was always contactable there. The company's registered address had been updated via Companies House and it was assumed this would be communicated to the Licensing Authority.
28. With regards to the DPS, Mr Sutherland advised that the licence included in the pack was not the latest licence.
29. Mr Sutherland confirmed that Mr Saeed Hosseini ceased to be Director on 26 July 2019 but continued to be DPS until this was varied. At all times the premises was either closed or had a DPS and it never traded without a DPS. Mr Theodoris Binta resigned on 22 March 2021 because of the investigation into the alleged

cultivation of cannabis in the basement. The premises did not reopen until the DPS application on 9 June 2021 for Mr Paul Kelly. Mr Kelly resigned as DPS on 30 July 2021 as the premises was closed, and it was clear it would not be reopening. Jack Monroe was confirmed as a bar supervisor only.

30. The Sub Committee noted Mr Sutherland's comment about the licence as the evidence did not provide a licence listing Mr Kelly as a DPS. Licensing Officers in the room were asked to confirm if this was registered and Mr Hewitt confirmed it was.
31. The Sub Committee enquired if there had been any further applications to vary the DPS and Mr Sutherland confirmed there had been no application as the premises was not open or trading.

Non-payment of annual licence fees

32. Mr Sutherland stated that in normal times, this would have been resolved quickly. It was acknowledged that the fees were due in 2020 and 2021; however, Mr Hosseini had received no notices for 2020. A variation for Mr Binta to become DPS was made in August 2020 and a call from the Licensing Authority followed to Mr Sutherland's PA advising that the licence was suspended and to inform the Licence Holder to resolve the matter. A variation of the DPS proceeded and the licence was varied but remained suspended.
33. The Sub Committee were advised that Mr Hosseini's accountant contacted the City Corporation's Accounts Department and was informed nothing was due or outstanding. With this information, the Licence Holder believed the matter was dealt with, the licence was effective again and continued operating.
34. Mr Hosseini claimed not to have been aware of the suspension until a visit from Mr Hewitt, and a telephone conversation between Mr Sutherland and Mr Hewitt followed who advised who to contact and how to resolve payment. Mr Sutherland then contacted the City Accounts Department and was advised nothing was due. Mr Sutherland said his client had been prevented from paying as at key times he had been given contradictory information from the City Accounts Department.
35. On 14 June 2021, Mr Hosseini tried to resolve what was owed and agreed to a payment plan of £700 every few weeks. One payment was made which reinstated the licence. However, Mr Sutherland claimed that the lack of people in the city meant the premises had to close at the end of June and had not reopened since.
36. Mr Sutherland confirmed the fees would be settled before the premises reopened again and no offences had been committed as the premises was closed.

Tables and Chairs on pavement

37. Mr Sutherland acknowledged that his client had no authorisation for tables and chairs on the pavement and Mr Hosseini apologised unreservedly for this activity. The Sub Committee was advised that this was a misunderstanding and during a particularly stressful time; Mr Hosseini was simply trying to maximise business after lockdown.

38. Mr Sutherland confirmed that there was a reduction to three tables and no chairs on the pavement, with tables and chairs placed only in the porchway area, not the public highway. The Licence Holder was of the view that the three tables were useful to keep drink off the highway. It was also noted that other businesses had "A" boards on the same street.

Sale of alcohol

39. Mr Sutherland acknowledged that there had been sales of alcohol at the premises whilst the licence was suspended for non-payment of the licence fee, but when Mr Hosseini had been told by the City Corporation's accounts department that there was no fee owing, it was assumed that the premises could operate as normal.
40. Mr Sutherland stated that the law regarding off-sales during this period was changed as per the Business and Planning Act 2020, and the premises was allowed to sell alcohol for consumption outside; therefore, the condition on the restriction of open vessels was removed during this period.
41. In response to a question from the Sub Committee, the Mr Hosseini acknowledged the tables and chairs were covering the whole front of the premises upon Officers speaking with the Manager, and they continued to put tables outside the front and more tables and chairs in porchway area. Mr Sutherland also accepted some tables may have migrated onto the highway from where they were considered to be lawfully placed in the porchway.
42. The Sub Committee enquired if the porchway was used as a fire exit. Mr Sutherland confirmed it was when the whole building was being used. It was an entrance to the basement, was not part of licensed area and the basement area was only used for private bookings.

Cannabis farm and the filming event of 24 September 2021

43. Mr Sutherland stated that if there had been no pandemic, the cannabis farm never would have happened and was the direct result of the City being empty and the premises closed. The basement level unit had been sub-let to a tenant and it was not part of the licensed premises. Mr Sutherland confirmed the door accessible into premises (from the licensed premises side) was padlocked and the Licence Holder had no access, it could only be accessed from Throgmorton Avenue. At the time, the licensed premises was closed, and Mr Hosseini only visited once every two weeks to deal with a water seepage issue.
44. Mr Sutherland noted Mr Gouriet QC's comment that the Licence Holder should have known due to the smell, but the premises was closed due to the second national lockdown Mr Hosseini was not regularly in attendance. The premises reopened in June 2021 and Mr Hosseini only found out about the alleged cannabis farm when he attended, and the Police arrested him. It was highlighted that Mr Hosseini has continued to assist the Police with the ongoing investigation.
45. With regards to the event on 24 September 2021, the Sub Committee were informed that this was a wrap up party after some filming in the basement area, the premises were closed and not operating as a bar, so no licensable activities were taking place. There was no sale of alcohol and the person accepting

responsibility confirmed that refreshments were purchased by him for those filming. It was again felt that had the premises been open and operating, this would not have happened.

46. In response to Mr Sutherland's reference to the body worn video footage captured by Officers on 24 September 2021 and submitted by the Applicant as additional evidence, the Town Clerk confirmed this had been shared with all parties and it was assumed this had been viewed privately by all in advance of the Hearing. This footage could not be shown publicly at the Hearing as this was part of an ongoing police investigation and was subject to GDPR requirements.
47. Mr Sutherland acknowledged that those captured on the body worn video footage were awkward and unhelpful to the Police. Mr Sutherland suggested that staff may have had a negative impression of Officers, especially the Police, which may have led to what was considered an unhelpful or belligerent attitude.
48. Mr Sutherland drew attention to the statement by PC White and felt some of the comments within in and said on site by PC White were unnecessary and biased.
49. In response to Mr Gouriet QC's suggestion that this event emphasised a lack of control by the Licence Holder, Mr Sutherland stated that the premises were closed, and the filming was in basement and not in the licensable area.
50. In relation to the breach of the CCTV condition, Mr Sutherland confirmed the premises was opened by Mr Monroe and the DPS was due to be on the premises that day but had been delayed so for a short period there was no one on site who could operate the CCTV.
51. The Chairman asked if there were any questions in response to the Licence Holder's submissions.
52. The Sub Committee noted that Mr Hosseini attended the premises fortnightly yet found no written notices that were delivered to the premises. Mr Hosseini confirmed he had not, and Mr Sutherland stated that the notices predated Mr Hosseini as the Director.
53. The Sub Committee enquired if it was right that the licence premises be allowed to operate when it had not paid the outstanding annual licence fees in full. Mr Davenport advised that premises were able to operate again once repayment of fees began.
54. Mr Gouriet QC asked that he be allowed to speak with PC White following the claims made by Mr Sutherland. The Sub Committee agreed to this request and the Hearing was adjourned for 10 minutes.
55. The Chairman recommenced the Hearing at 12:50 and invited the Applicant to ask questions regarding the statements made in support of Blank Gallery Ltd.
56. Mr Gouriet QC noted PC White's statement outlining his visit to the premises on 11 June 2021 whereby he spoke to someone who identified himself as Ronnie

Cohan. PC White was asked if Mr Hosseini in the room was the person on site and PC White replied that it was not.

57. With regards to his comments that Ronnie Cohan was belligerent and rude, PC White advised that he had explained the conditions and stated that the licence was suspended. Mr Cohan became very argumentative and did not agree with what was being said.
58. Mr Hosseini stated that he was the person PC White met and maybe PC White was confused as, at the time, he had a beard and longer hair. PC White disagreed and restated that he was a different person.
59. Mr Sutherland asked Mr Hosseini why he gave the name Ronnie Cohan instead of his real name which was the recorded name of the Director. Mr Hosseini claimed he introduced himself as Ronnie as this was how he was known, and he did not recall comments regarding licensable conditions made by PC White.
60. Mr Sutherland was surprised that Mr Hosseini then used the recorded name of the Director when he telephoned to make a complaint, and not the nickname Ronnie he gave to an Officer on site. Mr Hosseini voiced surprise at being scrutinised.
61. Mr Gouriet QC noted that Mr Sutherland suggested that Mr Hosseini had missed the suspension notice and follow up as this happened before he become Director. However, it was noted that Mr Hosseini was in position from 29 July 2019 and the first suspension notice came the following year on 31 January 2020 and another on 13 February 2020. Officers provided evidence that the post had been removed by 27 February 2020 which were all whilst Mr Hosseini was Director and in control.
62. Mr Hosseini felt that if the post had been placed in the letterbox, it would not be possible to take a picture such as the one provided.
63. Mr Gouriet QC highlighted that the evidence suggested the smell of cannabis was so great it could be detected from the street and asked Mr Hosseini how he did not smell it on any of his two-weekly visits to the premises. Mr Hosseini advised that he could not smell it and the Landlord made the joint discovery with the Police as a result of construction work taking place outside. Mr Hosseini argued that the professional set up of the cannabis farm prevented it from being smelt within the building.
64. Mr Gouriet QC advised that the Police only attended the site as a member of public smelt cannabis and the Police Officer in attendance smelt cannabis within the premises, saw the windows were boarded and executed a warrant to search.
65. Mr Gouriet QC submitted that the sum of £1,454 was owed doubled to £3,108 in 2021 after another year's licence fee had become due and the Licence Holder would have known they had not paid these fees, whether they had received a bill or not. It was also noted that in January 2020, no one said nothing was owed. Mr Hosseini claimed he never tried not to pay, he was misinformed, and it appeared nothing was owed. Mr Gouriet QC enquired how a Licence Holder could be

unaware that the fee needed to be paid every year and Mr Hosseini responded that he was aware, but it was a critical time.

66. Mr Gouriet QC suggested there was an opportunistic reliance on the August 2020 mix up with the Accounts Department as letters were sent requesting the fee so there should have been no confusion and as the Licence Holder was told and understood there was a fee to pay.
67. The Chairman invited questions from the Sub Committee.
68. The Sub Committee asked Mr Hosseini why he did not inform the Licensing Authority of his changes in address so could be contacted. Mr Sutherland advised that it was an extremely confusing time, agreed it would have been helpful but did not share view this was an offence as an address where the company could be contacted was provided. Mr Hosseini agreed to update any address changes in future.
69. The Sub Committee reminded Mr Hosseini that the responsibility rested with the Licence Holder to promote all the licensing objectives and undertake all relevant admin work.
70. The Sub Committee enquired who had keys to the premises and Mr Hosseini confirmed only he had access. The Sub Committee asked if he collected post and he confirmed he did and only recalled receiving the most recent demand for payment.
71. The Sub Committee questioned why the payments stopped after the initial payment towards the outstanding fees. Mr Sutherland confirmed as the premises closed shortly after the first payment and later issues with the Accounts Department prevented payment.
72. The Sub Committee noted that the Licensee was still responsible for all activity, even during private events, which were similar to promoted events insofar as the licensee was allowing their premises and license to be used. They asked what due diligence was undertaken to protect the Licensee and premises licence. Mr Sutherland distinguished that promoted events were licensable and the private events were not. Mr Hosseini advised he had a signed 7-page T&Cs with Netflix (the event on the 24 September on the video evidence) and only the basement area was used.
73. The Sub Committee questioned why there was no response to the letter on 31 January 2020 as this was delivered to the premises well before the pandemic started. The Sub Committee was informed that the premises was closed from summer 2019 and did not reopen until lockdown was over in August. The Sub Committee felt the letter therefore should have been discovered by the Licence Holder. Mr Hosseini did not recall receiving this letter.
74. With regards to the filming event on 24 September 2021 and the two males behind the bar, the Sub Committee questioned if it could be inferred whether they were serving drinks. Mr Sutherland stated that there was no evidence of this, and

it was accepted that refreshments were brought to premises and not purchased and served. Mr Hosseini added that the party were only using the ground floor for the purpose of the toilet.

75. The Sub Committee noted the plan attached to the licence appeared different to what was seen in the body worn video and asked when the plans changed. Mr Sutherland stated the premises had never been like this and it was likely the original intention for the premises to look like the submitted plan. It was agreed the plan on page 26 of the document pack was a more accurate portrayal of the premises and the Sub Committee requested that the plan be updated.
76. The Sub Committee queried if the “porchway” was a licensable area based on the red line showing licensable area. It was accepted this was not in the licensable area and was private so not part of the pavement or highway. The Sub Committee pointed out it was only ok if the licence was not suspended. This was also considered a potential planning and safety issue of blocking a fire door on private land.
77. The Sub Committee noted the bodycam time of 22:36 but the statement evidence gave an approximate time of 23:40. PC White confirmed this was a mistake.
78. The Chairman invited all parties to sum up their case.
79. Mr Gouriet QC summarised that if a Premises Holder let out a premises and were permitting individuals to take drink from the bar as part of the contract, this was licensable activity. There was continued chaotic behaviour since the licence was granted including non-payment of the licence fee, difficulty in contacting the licensee due to constant changes of address, defiance of staff when clearly informed by Officers, continuing to serve alcohol when the licence was suspended, the wrong license plan, criminal activity by private parties on the licensed premises and the frequent change of sole Director and DPS were all considered red flags in licensing. Taken together, this suggested a Licence Holder that would not promote licensing objectives.
80. Mr Sutherland concluded that Mr Hosseini wished to work with all authorities and hoped to reopen the premises and operate lawfully and properly. The outstanding fees would be settled in the next few weeks, a new DPS would be appointed, and a manager appointed to allow Mr Hosseini to deal with the investigation of alleged cultivation of cannabis and with his own personal family issues. The Sub Committee was invited to take appropriate and proportionate action and consider a short 2–4-week suspension of the licence to facilitate payment and appointment of a DPS.
81. In response to the request for further information regarding engaging someone to take over oversight of the company, Mr Sutherland confirmed Mr Hosseini planned to focus on his family in Afghanistan. It would therefore be better if someone else was brought in to give direct focus on the premises.
82. The Chairman thanked everyone for their comments and explained that a written decision letter would be sent to all parties within five working days.

83. The Sub Committee retired at 14:00.
84. The Sub Committee considered the application and carefully deliberated upon the representations submitted in writing and orally at the Hearing by those making representations and the Premises Licence Holder. In reaching a decision, the Sub Committee 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 in pursuance of the Act and the City of London's own Statement of Licensing Policy dated January 2017.
85. The Sub Committee placed the licensing objectives relating to the prevention of crime and disorder, public safety and the prevention of public nuisance at the forefront of its considerations and were satisfied that the representations made by the Applicant and those parties in support of the application fell within these objectives.
86. In determining what constituted a public nuisance, the Sub Committee relied upon the definition of "public nuisance" contained in Halsbury's Laws of England which defines public nuisance as "one which inflicts damage, injury or inconvenience on all the Queen's subjects or on all members of a class who come within the sphere or neighbourhood of its operation. The character of the neighbourhood is relevant to determination of the question of whether a particular activity constitutes a "public nuisance".
87. With relation to the non-payment of fees, the Sub Committee were not convinced that the Licence Holder did not know they needed to pay their annual fee as letters were sent to the Licensee's personal address and notice was served on the premises. It was also noted the onus was solely on the Licensee and fees were payable regardless of whether they received a request or chaser of payment. A responsible Licence Holder would pay their fee.
88. Even if a responsible Licence Holder felt that the fee might not be payable on being told there was nothing owing, as they had been told the licence was suspended they would have made sure with the Licensing Team that the suspension had been revoked before they re-started licensable activities especially given the licensing objective of promoting the prevention of crime and disorder and that undertaking licensable activities without a current licence is a criminal offence.
89. The Sub Committee considered the points made about the tables and chairs consistently being placed on the pavement outside the premises in a very short time frame. The Sub Committee decided that the Licence Holder had acted in defiance of Officer advice on numerous occasions that the placing of furniture on the highway was against the law and a Tables & Chairs Licence was required. The Sub Committee noted that although the Business and Planning Act 2020 made provisions for pavement licences to be granted, an application was required before any such licence would be granted, and any application could be rejected if it prevented pedestrian traffic from passing along the highway. By placing tables and chairs on the highway, especially after being told by Officers not to, the

Licence Holder was acting in a way that failed to promote the licensing objectives of the prevention of crime and disorder, public safety and the prevention of public nuisance.

90. The Sub Committee noted that the Business and Planning Act 2020 allowed for off-sales at premises holding an on-sales only licence. As the premises licence allowed both off-sales and on-sales, the licence conditions applying to off-sales were still valid, and in order to comply with the licence conditions the off-sales would have to be in a sealed container. The porchway was not part of the licensed premises so would have to be treated as an off-sales area (as well as the tables and chairs placed on the highway outside the premises). Accordingly, as alcohol had been supplied for off-sales in contravention of the licence, the Sub Committee was of the view that a responsible Licence Holder concerned with promoting the licensing objective of the prevention of crime and disorder would have obtained the necessary licence variation before supplying the alcohol.
91. Concerning the issue of who was in control, legally the Director was considered to be in day-to-day control. However, it was accepted that operation was chaotic and confusing, and there was no evidence of any real structure or leadership, or responsibility being taken for the promotion of the licensing objectives. The failure to update the Licensing Authority of an address change of the registered office of the Licence Holder is an offence under Section 33 of the Licensing Act 2003 and a Licence Holder concerned with promoting the licensing objective of the prevention of crime and disorder would have made sure that they complied with this requirement.
92. With regards to the event on 24 September 2021 and the cannabis found on the licensed premises in the ground floor bar area, the Licence Holder had not kept control of the licensed premises whilst allowing others to use it and as a result cannabis was present there. The Sub Committee was of the view that a responsible Licence Holder concerned with promoting the licensing objective of the prevention of crime and disorder would have ensured that there was oversight of the licensed premises whilst it was being used by others so that the licensing objective would not have been compromised.
93. The Sub Committee noted that there was disagreement between PC White and Mr Hosseini as to whether Mr Hosseini was the "Ronnie Cohan" who spoke to PC White on the 11 June 2021. PC White was adamant that the Ronnie Cohan he had spoken to was not Mr Hosseini present at the Hearing. The Sub Committee were dismayed to read that the person "Ronnie Cohan" was rude and uncooperative towards PC White and not the way they would expect a responsible License Holder or Manger to behave.
94. With regards to the DPS, the Sub Committee were satisfied a DPS was in place at all material times. It was acknowledged that there was currently no DPS as the premises was not trading or open to the public, but the Licence Holder stated that a DPS would be appointed before licensable activities took place.
95. Although the Sub Committee noted the offer of installing a new Manager, they noted that there was no specific proposal and there had already been various

people at various times claiming to be in authority, but the licensing objectives were not being met. It was not clear how a new Manager would enable this Licence Holder to meet the licensing objectives.

96. The Sub Committee considered all the available options:
- (a) to modify the conditions of the licence;
 - (b) to exclude a licensable activity from the scope of the licence;
 - (c) to remove the designated premises supervisor;
 - (d) to suspend the licence for a period not exceeding three months;
 - (e) to revoke the licence;

and bore in mind Mr Sutherland's submission that a suspension of the licence for 2-4 weeks was an appropriate and proportionate action.

97. The Sub Committee did not feel that modifying a licence condition (including addition or omission of a condition) or excluding a licensable activity was relevant to the issues identified so as to enable the licensing objectives to be met.
98. No evidence had been advanced to suggest that the problems with promoting the licensing objectives had been due to any particular Designated Premises Supervisor (DPS) so removing a DPS was not appropriate.
99. The cumulative effect of the breaches of the licence are such that the Sub Committee was not confident if the licence was suspended for any period not exceeding three months, that the Licence Holder's approach to promoting the licensing objectives would change once the suspension lifted.
100. Due to the continued failure to promote the licensing objectives (the promotion of the prevention of crime, public safety, the prevention of public nuisance) even in the light of numerous matters being identified by Officers and brought to the attention of the Licence Holder, as shown by the evidence placed before the Sub Committee during the course of the Hearing, the Sub Committee determined that it was necessary to revoke the premises licence in order to promote the licensing objectives.

The meeting closed at 2.00 PM

Chairman

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