

Meeting of the Licensing Act 2003 Sub-Committee
 held at the Town Hall, Peterborough on Wednesday 20 June 2012

RECORD OF DECISION

1. Apologies for Absence	There were no apologies for absence received.
2. Declarations of Interest	There were no declarations of interest.
3. Application	Review of Premises Licence – Coco, 11-13 Broadway, Peterborough, PE1 1SQ
3.1 Application Reference	MAU 064353
3.2 Sub-Committee Members	Councillor Thacker (Chairman) Councillor Peach Councillor Saltmarsh
3.3 Officers	Darren Dolby, Regulatory Officer – Licensing Colin Miles, Lawyer – Legal Advisor to the Sub-Committee Gemma George, Senior Governance Officer – Clerk to the Sub-Committee
3.4 Applicant	Cambridgeshire Constabulary
3.5 Nature of Application	<p><u>Application Type</u></p> <p>Review of existing premises licence.</p> <p><u>Summary of Review Application</u></p> <p>In accordance with section 53A of the Licensing Act 2003, following the submission of an application for a summary review of the premises licence and the certificate signed by a superintendant from Cambridgeshire Constabulary, the Licensing Authority was required to consider if it was necessary to take interim steps within 48 hours.</p> <p>A consideration hearing had taken place via email on the 25 May 2012 where the Licensing Act 2003 Sub-Committee had determined the interim steps to be applied as per section 53B of the Act. The Licensing Act 2003 Sub-Committee’s decision had been to suspend the premises licence pending the full review hearing.</p> <p>The Premises Licence Holder had made representations, appealing against the decision of the interim step to suspend the premises licence.</p> <p>The Licensing Act 2003 Sub-Committee met on 29 May 2012 to consider the representations of the Premises Licence Holder to appeal the suspension. The Sub-Committee determined that the suspension should be removed and additional conditions placed upon the licence with immediate effect.</p>

	<p>The summary review had regard to an incident of serious disorder occurring on the 21 May 2012, where a number of males had been involved in an incident of serious disorder both inside and outside the premises. Two of the males had been severely beaten and one was (as of 28/5/12) still in a coma at Addenbrookes Hospital. Five males had been charged in connection with the disorder and assaults. Cambridgeshire Constabulary were concerned that further incidents of serious disorder would continue to take place during the appeal period and had recommended that the premises licence should be suspended as an interim step.</p>
<p>3.6 Licensing Objective(s) under which representations were made</p>	<p>1. The Prevention of Crime and Disorder 2. The Promotion of Public Safety</p>
<p>3.7 Parties/Representatives and witnesses present</p>	<p><u>Applicant / Responsible Authority</u></p> <p>PC Grahame Robinson, who presented the case on behalf of Cambridgeshire Constabulary.</p> <p>Sgt. Saunders And PCSO Constanti were also in attendance, however they did not wish to speak.</p> <p><u>Licensee / Licensee's Representative</u></p> <p>Mr Arfan Araf, the Licensee was in attendance and was represented by Mr Proctor.</p>
<p>3.8 Pre-hearing considerations and any decisions taken by the Sub-Committee relating to ancillary matters</p>	<p><u>Applicant / Responsible Authority</u></p> <p>PC Grahame Robinson, Cambridgeshire Constabulary, requested that two additional documents be submitted as evidence for consideration by the Sub-Committee. These were in relation to a recent visit undertaken at the premises. The meeting was adjourned for half an hour to allow the Sub-Committee time to consider this request.</p> <p>The Sub-Committee determined: that the additional evidence was not to be submitted for consideration.</p> <p><u>Licensee / Licensee's Representative</u></p> <p>Mr Proctor, representative for the Licensee, had requested that a document outlining the representations on behalf of Mr Araf be permitted for circulation to all parties.</p> <p>The Sub-Committee determined: that this document was to be permitted for circulation to all parties.</p> <p>Upon commencement of the hearing, Mr Proctor sought clarification from the Legal Officer that the documents requested for inclusion into evidence by Cambridgeshire Constabulary had not been taken into consideration by the Sub-Committee. The Legal Officer confirmed that they had been disregarded.</p>

3.9 Oral representations

Prior to submissions being heard, the Legal Officer sought confirmation from both parties that they were content that the evidence presented at the Expedited Review, held on 29 May 2012, with regards to the serious incident of assault outside the premises on 16 May, had been addressed in substantial detail previously and did not need to be revisited. For further clarification, the Legal Officer advised that following the previous hearing, interim conditions had been put in place and Cambridgeshire Constabulary had submitted additional information in support of their application, dated 11 June 2012.

Both parties agreed that it was not necessary to revisit the previous submissions and the additional information submitted by Cambridgeshire Constabulary would be taken as a starting point.

Applicant / Responsible Authority

PC Grahame Robinson addressed the Sub-Committee and outlined the additional submission made. The key points raised during his address and following questions from both the Sub-Committee were as follows:

- Following the Expedited Review hearing, held on 29 May 2012, in order to prove or disprove the allegations of an unlicensable activity taking place on the premises, Mr Araf was informed by PC Robinson that the CCTV hard drive was to be secured by the Police and that this was to be undertaken as soon as practicable;
- Mr Araf had stated to the Police that he was unable to provide the hard drive on that particular day, 29 May 2012, as he had childcare issues. The Designated Premises Supervisor (DPS), Mr Erjon Pjezergjokaj was also unable to accompany PC Robinson to the premises on this day;
- An appointment to obtain the CCTV hard drive had been secured for 10.00am on Wednesday 30 May 2012;
- Following the conclusion of the Expedited Review hearing, the Police had been informed that both the DPS and the licensee had returned to the premises and then gone to a restaurant in Fitzwilliam Street;
- After waiting for thirty minutes outside of Coco, PC Grahame Robinson and Sgt. Saunders entered the restaurant in Fitzwilliam Street, where Sgt. Saunders had activated his body camera for evidence of the encounter;
- It was explained to the Licensee and DPS that the CCTV needed to be seized and PC Robinson and Sgt. Saunders accompanied the gentleman back to Coco where, after a heated discussion and potential obstruction, the CCTV was seized. This was evidence that Mr Araf, despite being directed by the Licensing Act 2003 Sub-Committee to work more closely with the Police and the Licensing Authority to promote the licensing objectives and to ensure the conditions of the licence were upheld, Mr Araf had remained un-cooperative and obstructive;
- It had taken around 20 minutes to secure the CCTV from Mr Araf;
- The CCTV hard drive had been inspected and it had been established that images prior to 00.16pm on Sunday 20 May 2012, had been deleted, removed or lost;
- Coco had a legal requirement to record images for no less than 28 days. The drive was only 26% full and had images from roughly nine days;
- At 12.10pm on Thursday 24 May, PC Robinson had attended Coco alongside Mr Darren Dolby, Licensing Officer, Mr Shane Gathercole,

Manager, and the DPS. The purpose of this visit was to serve the Expedited Review Notice and to view CCTV images of the alleged lap dance event on Wednesday 16 May 2012;

- PC Robinson had witnessed images of this evening and had requested Mr Araf to copy images from the hard drive. This request had not been fulfilled;
- PC Robinson had re-visited Coco along with Sgt. Saunders on Thursday 31 May. The intention of the visit had been to instruct Mr Araf how to install his CCTV to the satisfaction of the Licensing Authority;
- A request had been made for a camera to be placed overlooking the CCTV hard drive unit, in Mr Araf's personal office. This had been met with severe objection and Mr Araf had become increasingly angry leading to the conclusion of the conversation and instructions from PC Robinson being left with a CCTV engineer who was present at the time;
- PC Robinson had once again attended the premises on Friday 1 June 2012 in the company of Sgt. Nicholson. Mr Araf had apologised for his conduct on the previous day and the CCTV was inspected and found to be of the satisfaction of the Licensing Authority. The venue was subsequently re-opened;
- Recently the licensee had withdrawn from his business, handing over responsibility to Shane Gathercole. This had led to him losing touch with his club;
- The DPS had been present at all times and being a personal licence holder, should have known better in upholding the principles of licensing;
- Mr Arfan had not had any children with him at the restaurant when the Police had arrived;
- The CCTV hard drive was currently in the possession of the Police and work was underway in order to identify how the erased data could be re-instated. Further clarification on this point could not be given at the current time;
- A number of conditions were requested for inclusion on the licence as they were deemed necessary, proportionate and fair in the assisting the licences and DPS to meet their licensing objectives and to provide a safe environment for staff, property and customers. These conditions were as follows:
 - (i) The sale of alcohol to cease at 00.00 hours (midnight);
 - (ii) The premises to close outright at 00.30 hours;
 - (iii) A minimum of two SIA registered doormen will be employed at all times after 21.00 hours on a Thursday, Friday and Saturday night, or when capacity is likely to exceed 100 people on any other day. They will be employed on the main access door and within the venue to;
 - a) prevent the admission and ensure the departure from the premises of drunk and disorderly persons, without causing further disorder;
 - b) to keep out excluded individuals (subject to court or pub watch bans);
 - c) search and exclude persons suspected of carrying illegal drugs or offensive weapons;
 - d) maintain an orderly queue outside the venue; and
 - e) assist customers to leave the premises in a quiet and orderly manner.
 - (iv) Door staff to be vigilant in relation to asking individuals to leave

before they become too drunk. They must ensure the safety of the individual and the public are a priority. PC Robinson requested that the word 'too' be removed from this condition if agreed for inclusion;

- (v) Door supervisors will maintain a record of booking off / on by recording their full name SIA badge number and company they are employed by, and making a full record of any incidents that they have dealt with. This record will be produced to an authorised officer upon demand;
- (vi) An authorised person will be available at all times whilst the premises are open to show / produce CCTV images to an authorised officer upon demand;
- (vii) The Premises Licence holder shall register and ensure regular participation in the Peterborough Pub Watch / Nightsafe scheme;
- (viii) The Premises Licence holder or the DPS must be on the premises at all times the venue is open for the sale of alcohol;
- (ix) The emergency services must be contacted immediately if an incident happens whereby injury or threat of injury occurs or that is otherwise considered to be serious;
- (x) The Licence holder and the DPS will work closely with the Police and Licensing Authority to promote the licensing objectives and ensure the conditions on the licence are upheld.

Licensee / Licensee's Representative

Councillor Thacker requested clarification from Mr Araf as to whether he had fully understood the conditions which had been imposed following the Expedited Review hearing. Mr Araf stated that he did understand, but that he did not agree with having CCTV in his personal office and also the reason that he had arranged to meet PC Robinson the day after the Expedited Review to hand over the hard drive, was that he needed to ensure that he had another in place, as without one, his insurance would have been void.

Mr Proctor addressed the Sub-Committee, and outlined the case for the Licensee. The key points raised during his address and following questions from the Sub-Committee were as follows:

- There was objection to the proposed variance in licensing hours as proposed by the Police;
- The violent incident which had led to the Expedited Review of the premises had occurred in the early hours of a Sunday and Monday morning, therefore the proposal for doorman on Thursdays, Fridays and Saturdays and when the premises capacity was likely to exceed 100 was not proportionate or necessary in relation to the issues already discussed at the previous Expedited Review hearing;
- The letter from Mr Araf made it clear that the incident had happened in an alleyway outside of the club after they had been served alcohol, when they shouldn't have been, by two members of staff inside Coco. The Licensee and DPS had not been on the premises at the time;
- The imposition of a condition stating that either one of them had to be present at all times when alcohol was being sold, had remedied this issue going forward;
- There was no link between the licensing hours and the incident that

	<p>happened;</p> <ul style="list-style-type: none"> • The club did not have a reputation of violent incidents and the individuals who had served the alcohol had subsequently been dismissed; • The imposition of two SIA registered doormen on three nights would be a substantial cost to Mr Araf. Mr Araf had therefore proposed that there would be a minimum of two SIA registered doormen if the capacity were to exceed 100 on any given day; • There were other clubs open until the early hours of the morning and Mr Araf's main business came from these early hours. If his hours were curtailed, he would find himself in financial difficulty; • Mr Araf was doing his best to work alongside the Police, however there was a different interpretation of events of the 29 May 2012; • Why did there need to be a camera in the Licensee's personal office as the violent incident had happened outside; • The incident of lap dancing on 16 May 2012 was only an allegation and no evidence of this had been produced. Mr Araf strongly denied that he had deleted any evidence and admitted that an event had been organised but subsequently cancelled; • Until evidence of any lap dancing event had been produced, the Sub-Committee should not take this allegation into consideration; • The actions taken should be necessary and proportionate in relation to the incident outside of the premises. There had been no further incidents and it was unlikely to be repeated; • Mr Arfan had been having a meal at the time when his childcare was in place. He had not expected the Police to turn up unannounced. • Mr Arfan had been angry due to the request to put a CCTV unit in his personal office and in relation to the unit being taken away leaving him void of insurance. This did not mean that he had been uncooperative. <p>For clarification, Darren Dolby, Regulatory Officer – Licensing, advised that there was currently a condition on the premises licence, which had been in place prior to the interim steps being taken, which specified that a minimum of one SIA registered doorman be employed on a Friday and Saturday night after 21.00 hours, or when capacity was likely to exceed 100.</p> <p>The Sub-Committee questioned Mr Proctor on behalf of Mr Arfan on a number of issues and responses were given as follows:</p> <p><u>Summing Up</u></p> <p>Both parties were given the opportunity to summarise their submissions and there were no further comments made by either party.</p>
<p>3.10 Written representations and supplementary material taken into consideration</p>	<p><u>Applicant / Responsible Authority – Cambridgeshire Constabulary</u></p> <p>Consideration was given to the application submitted by Cambridgeshire Constabulary and the documents attached to the Sub-Committee report. The following supplementary material, which had been submitted prior to the hearing and not described in the Sub-Committee report, was also taken into consideration:-</p> <ul style="list-style-type: none"> • Letter from PC Grahame Robinson dated 11 June 2012

	<p><u>Licensee / Licensee's Representative</u></p> <p>Consideration was given to the appeal letter submitted by the Mr Araf and documents attached to the Sub-Committee report. The following supplementary material, which had been submitted on the day of the hearing with the agreement of all parties, was also taken into consideration:</p> <ul style="list-style-type: none"> • A document outlining the representations on behalf of Mr Araf.
3.11 Facts/Issues in dispute	<p><u>Issue 1</u></p> <p>Whether the review application would further support the 'Prevention of Crime and Disorder' Licensing Objective.</p> <p><u>Issue 2</u></p> <p>Whether the review application would further support the 'Prevention of Public Nuisance' Licensing Objective.</p>
4. Decision	<p>The Sub-Committee listened to all the evidence put before it and also took into account the contents of the application and all representations and submissions made in relation to it. The Sub-Committee found as follows:-</p> <ul style="list-style-type: none"> • The additional evidence that had been requested for submission by the Police had not been taken into consideration as it went beyond additional information in support of the original review, and in any event was not served in good time and the respondent had no or little time to take advice and make a response; • The incident of lap dancing, which had allegedly taken place on 16 May 2012, could neither be proved nor disproved owing to the lack of evidence, therefore the Sub-Committee had placed no weight to this allegation when reaching its decision; • Mr Araf had complied with the installation of the CCTV within his premises; and • The two members of staff who had served the individuals involved in the serious incident outside of the premises had been dismissed; <p>In making its determination, the Sub-Committee had regard to the fact that there had been no other serious incidents at the premises either before or after the incident on 20 May 2012. Therefore the appropriateness of the steps for the promotion of the licensing objectives;</p> <p>In its deliberations, the Sub-Committee considered the various options available, including:</p> <ul style="list-style-type: none"> • Suspension of the licence; • Revocation of the licence; • Further amended conditions; and • Removal of the Designated Premises Supervisor. <p>The decision of the Licensing Act 2003 Sub-Committee was therefore to apply conditions and amend conditions as follows:</p>

1. The Designated Premises Supervisor or the Director (or any future licence holder) of Havana Leisure Limited to be on the premises at all times during the sale of alcohol;
2. To ensure that the CCTV facility at the premises is to a standard acceptable by the Police and the Licensing Authority;
3. The sale of alcohol to cease at 00.00am (midnight);
4. The premises to close at 00.30am.
5. Condition 13 on the licence to remain with the addition that the SIA registered doormen maintain a record of the times and dates they worked at the premises, their licence number and any incidents that they dealt with and that record to be produced on demand to a Police Officer or a Licensing Officer of the local Licensing Authority;
6. Condition 14 on the licence to remain in place with the word 'too' to be deleted;
7. Condition 19 on the licence to be deleted; and
8. The appropriate emergency services must be contacted immediately if an incident occurs whereby serious injury is sustained to a customer or customers of the venue.

The Sub-Committee determined that the steps taken were appropriate for the promotion of the Licensing Objectives of the 'Prevention of Crime and Disorder' and the 'Promotion of Public Safety'.

The decision was suspended for 21 days to allow for appeal to the Magistrate's Court. The interim steps were to remain in place until any appeal had been determined.

Chairman
10.00am – 12.15pm