

London Borough of Hackney – Decisions taken by the Licensing Sub Committee B on Thursday 13 July 2023

Agenda Item No	Topic	Decision
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Items considered in public

6	Application for a Premises Licence: Abney Chapel, Abney Park, 215 Stoke Newington High Street, London, N16 0LH	Agenda item 6, Abney Chapel, was withdrawn from the meeting agenda and would be rescheduled for a future Licensing Sub-Committee meeting.
7	Review of a Premises Licence: Simmons (Formerly The Viaduct),83 Rivington Street, London, EC2A 3AY	<p>The Licensing Sub-committee, in considering this decision from the information presented to them within the report and at the hearing today and having regard to the promotion of the licensing objectives:</p> <ul style="list-style-type: none"> • the prevention of crime and disorder; • public safety; • prevention of public nuisance; and • the protection of children from harm, <p>That the premises licence for Simmons (Formerly The Viaduct), 83 Rivington Street, London, EC2A 3AY be revoked.</p> <p>The Reasons for the decision:</p> <p>The Licensing Sub-Committee carefully considered the application for a review of the premises licence from the Metropolitan Police Service (“the Police”) and their legal representative supported by the Licensing Authority, and 13 Other Persons (local residents). They also carefully considered the representations from the current licence holder’s representative, the current licence holder, the previous licence holder’s legal representative and the supporting evidence presented by them. The Sub-Committee decided that revocation of the premises licence was an appropriate and necessary course of action, given the repeated failures to comply with the terms and conditions of the premises licence.</p>

London Borough of Hackney – Decisions taken by the Licensing Sub Committee B on Thursday 13 July 2023

Agenda Item No	Topic	Decision
		<p>The Sub-Committee also considered the other options available to them, as detailed in the report. They were satisfied that none of these would adequately address the likelihood of public nuisance reoccurring. They felt that revocation of the licence was necessary to prevent the licensing objectives being undermined in the future.</p> <p>The Sub-Committee considered the evidence that led to the review being called by the Police. They also took into consideration all the evidence presented from all the parties including the local residents.</p> <p>The premises "Simmons" was formerly known as "The Viaduct" and before that "Cargo". The premises licence was reviewed following the receipt of an application by the Police dated 29th October 2021. The licence holder appealed against the decision to revoke the licence made by the Licensing Sub-Committee on the 14th December 2021. Following negotiations, which included revised and additional conditions and reduced hours, the appeal was settled and agreed by a Consent Order dated 9 August 2022. The previous licence holder breached the conditions of the premises licence within seven months of the consent order being granted.</p> <p>The premises has been in possession of a premises licence since 24th November 2006. The licence was transferred to Simmons Waterloo Limited on 24th March 2023.</p> <p>The Sub-committee took into consideration that there were 13 Other Persons (local residents) who supported the application due to the impact that the premises had on local residents. The Sub-committee also took into account that the Licensing Authority also made representations in respect of public nuisance and anti-social behaviour.</p> <p>The Police made representations that they were seeking revocation of the premises licence due to serious concerns about the licensing objectives being undermined following a serious incident in February 2023 at the premises.</p>

London Borough of Hackney – Decisions taken by the Licensing Sub Committee B on Thursday 13 July 2023

Agenda Item No	Topic	Decision
		<p>On Saturday 11th February 2023 at about 2300 hours an assault took place inside the premises between customers which resulted in a man sustaining serious injuries. The Police were informed of this incident on 13th February.</p> <p>The Police investigation found on 11th February that only one SIA was on duty to deal with the incident and this was a breach of condition 12 of the premises licence on SIA requirements.</p> <p>The Police made representations that they were disappointed to have had to apply for another review, and they had no confidence in the previous premises licence holder. It appeared to the Police that the licence had been transferred to Simmons, who were not fully aware of the implications of the premises, what had occurred or the impact on local residents.</p> <p>The Police contended that they felt it was necessary for there to be public scrutiny and it was not proportionate or appropriate for this premises licence just to be transferred to a new operator. They felt the review was necessary to prevent the operation of the premises and for any new operator to undergo the full new application process under section 17 of the Licensing Act 2003.</p> <p>The Sub-committee heard that at the time the incident took place in February 2023, the premises did not have the correct number of staff on duty, they did not take sufficient care and diligence in ensuring the safety of members of the public and their customers.</p> <p>The Sub-Committee heard from the Licensing Authority that it was difficult to assess how Simmons will operate the site given the size and history of this premises. The Sub-Committee took into consideration that the Police would need to have a detailed assessment from Simmons to see what they are proposing in terms of operation of the premises.</p> <p>The Police did not object to Simmons taking over the premises licence. The Police had a good</p>

London Borough of Hackney – Decisions taken by the Licensing Sub Committee B on Thursday 13 July 2023

Agenda Item No	Topic	Decision
		<p>relationship with Simmons at their other premises in Hackney. However, it was felt that this transfer was used to circumvent the issues relating to the review. It is not considered appropriate in the circumstances with the history of these premises to transfer the licence while the premises licence is being reviewed.</p> <p>The Sub-committee felt these breaches of the licence, and the incident that took place on 11th February were completely unacceptable, and they had concerns that the former licence holder had no control over what occurred at the premises.</p> <p>The Sub-committee felt the new operator should have gone through a new application process in order to be granted a licence for this premises. The Sub-committee felt it was very important to consult with the local residents and the Responsible Authorities, in accordance with a new application process for any premises licence before obtaining the licence rather than by way of a transfer during a review process. The Sub-committee were concerned that large crowds going to the premises would be considered high risk.</p> <p>The Sub-Committee were disappointed that the current licence holder did not engage with local residents to overcome and address their concerns about the premises before the transfer took place. The Sub-Committee felt that the current licence holder did not consider how noise nuisance anti-social behaviour affected local residents.</p> <p>Following the serious incident in February 2023, and the current licence holder, not engaging with local residents, and by not considering any change to the offering at the premises or offer any compromise, it was very difficult for the Sub-committee to understand how the new licence holder would be able to operate the premises responsibly, and to ensure that no further incidents take place in the future.</p> <p>The Sub-committee felt the current licence holder, Simmons did not seem to be open to operating the premises any differently from the previous licence holder or to their other</p>

London Borough of Hackney – Decisions taken by the Licensing Sub Committee B on Thursday 13 July 2023

Agenda Item No	Topic	Decision
		<p>premises in the borough of Hackney which was to have a large turnover of customers at alcohol led premises.</p> <p>The Sub-Committee were not satisfied that the current licence holder would make the necessary changes to improve the operation of the premises so that it would not have a negative impact on the area and the local residents that live near to the premises.</p> <p>The Sub-committee felt that primarily the concern is that this premises does attract antisocial behaviour and it does need to be controlled very tightly. The Sub-Committee noted that the new licence holder has a good track record with their other 2 premises in the borough, which had no incidents.</p> <p>The Sub-committee felt there was not sufficient investigation and due diligence carried out in advance by Simmons before trying to take over the operation of the premises, and that is one of the reasons that the Sub-committee felt it was not appropriate for Simmons, the new operator to take over the premises by way of a transfer.</p> <p>The Sub-committee took into consideration that if the premises licence is revoked this would result in the premises being referred back to the former premises licence holder in accordance with the terms of their contract. However, the Sub-committee felt that taking into consideration the seriousness of the situation and the impact on local residents that it was necessary to deal with this premises licence by way of a new application to the Licensing Authority.</p> <p>The Sub-committee and local residents felt that a brand new licence application for this premises would give them a better opportunity to properly scrutinise such an application.</p> <p>The Sub-committee when making their decision took into consideration the evidence presented by all the parties. The evidence relating to the recent serious incident in February 2023, together with the breaches of the conditions attached to the premises licence, the Sub-</p>

London Borough of Hackney – Decisions taken by the Licensing Sub Committee B on Thursday 13 July 2023

Agenda Item No	Topic	Decision
		<p>Committee was not satisfied, given the serious issues raised in relation to crime and disorder, public safety and public nuisance and the previous operation of the premises, that the current licence holder, could prevent the licensing objectives being undermined.</p> <p>Your right to appeal</p> <p>If you are aggrieved by any term, condition or restriction attached to this decision, you have the right to appeal to Thames Magistrates at Thames Magistrates Court, 58 Bow Road, London E3 4DJ within 21 days from the date you receive the written decision.</p>