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“BAR NOIR”, CLOCK BUILDINGS, ROUNDHAY ROAD, LEEDS LS8 2SH - REVIEW OF A PREMISES LICENCE FOLLOWING AN APPLICATION MADE UNDER SECTION 51 OF THE LICENSING ACT 2003

On 11th February 2008 the Licensing Sub Committee met to consider a Review of the Premises Licence currently held at the premises known as “Bar Noir”, Clock Buildings, Roundhay Road, Leeds LS8 2SH. The Review had been necessitated following application made by West Yorkshire Police under Section 51 of the Licensing Act 2003 having regard to all four licensing objectives for the City adopted in order to promote the prevention of crime and disorder, the prevention of public nuisance, promotion of public safety and the protection of children of harm.

This letter represents the formal decision of the Committee in respect of the Review.

The current Premises Licence allowed the following:

Supply of alcohol:

Monday to Thursday	11:00 hours until 02:30 hours
Friday & Saturday	11:00 hours until 04:00 hours
Sunday	11:00 hours until 03:00 hours

Provision of recorded music

Sunday to Thursday	11:00 hours until 02:30 hours
Friday & Saturday	11:00 hours until 04:30 hours

Late night refreshment:

Sunday to Thursday	23:00 hours until 03:00 hours
Friday & Saturday	23:00 hours until 04:00 hours

The premises were open to the public during the following times:

Monday to Thursday	11:00 hours until 03:00 hours
Friday to Saturday	11:00 hours until 04:30 hours
Sunday	11:00 hours until 03:30 hours



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Preliminary Procedural Issues

The Sub Committee considered preliminary matters of a purely procedural nature. There were no declarations of interest made.

The Sub Committee decided that the procedure for the hearing would not be varied and set a time limit of 30 minutes for the parties to make their case.

The Sub Committee also considered if the public should be excluded from any parts of the hearing. The Sub Committee decided to exclude the public from that part of the hearing where Members would deliberate on submissions and evidence presented. This would allow them to have a full and frank discussion on all matters put before them and this fact outweighed the public interest in not doing so.

Prior to the hearing the Sub Committee had considered the Licensing Officers Report containing a copy of the application as made by West Yorkshire Police (WYP) and supporting evidence which included several witness statements supplied by WYP officers and local residents. Following notice of the Review, LCC Environmental Health Services (LCC EHS) had also submitted a representation, along with several local residents who had written independently. All of the above documentation appeared between pages 20 and 257 of the report

The Sub Committee was also in receipt of submissions from the Premise Licence Holder (PLH) which included a petition of approximately 350 signatories in support of the PLH. This submission appeared in the report from page 258 to the end. The PLH also tabled colour copies of his submission which had reproduced photographs in the pack to a better quality. The PLH stated the pack did not contain any new evidence and the Sub Committee did refer to it at the hearing.

It was noted that the site location map included within the report had annotated the premises incorrectly. A correct version of the map had been despatched to the Sub Committee and all parties prior to the hearing.

The Sub Committee then went on to consider the review of the Premise Licence.

The Hearing

The Sub Committee considered the verbal submissions from Mr Bob Patterson – Leeds Area Licensing Officer on behalf of WYP – the applicant who was accompanied by the following:
Acting Inspector E Chesters
PC Kay - observing

Mr R Bilsborough – LCC Environmental Health Services
Mr G Mann – LCC Environmental Health Services

Mr W Manzur – local resident
Mr A Iqbal – local resident
Mr M Nazeib – local resident
Mr N Manzur – local resident observing



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Mr M Manzur – local resident observing

Mr M Yasin – local resident observing

Mr Sohbat – local resident observing

The Sub Committee also considered the verbal submissions of Mr Antonio Chana – on behalf of the PLH. Mr A Chana was accompanied by

Mr Rushpal Chana – the Designated Premises Supervisor (DPS)

Mr Merlin Halliday – Security Manager

Ms Karen Dupor't – observing, regular attendee at Bar Noir

In considering the Review, the Committee took into account the written submissions contained within the Licensing Officers report plus the verbal submissions made at the hearing by the interested parties.

The Sub Committee also had regard to the provisions of the Licensing Act 2003, guidance under Section 182 of that Act and the Council's own Licensing Policy and in particular Section 13 (Enforcement and Reviews) with reference to the cause or causes of the concerns which the representations identified and those matters to note when considering possible courses of action

The Sub Committee then went onto consider the Section 11 the Guidance (Reviews) as the Sub Committee took the view the following paragraphs had bearing on the application:

11:1 – 11:9 The Review process

11:15 -11:21 Powers of a Licensing Authority on the determination of a Review

Reasons for the Review request

In brief, WYP presented a case that since 1 January 2007 WYP had received 23 incident calls relating to Bar Noir. These had been logged on IBIS – the Police command and control system - all of the calls referred to fighting, violence or threats of violence either in the premises itself or outside. The incidents usually occurred in the early hours of the morning, and had involved weapons such as a knife, bricks and/or bottles. Large groups of people had been seen to be fighting. WYP stated that such incidents of crime and anti social behaviour had generated noise and disturbance to local residents and WYP were in receipt of letters and e-mails from local residents to this effect

Furthermore WYP had established the PLH did not adhere to several Conditions on the existing Premise Licence and was therefore in breach of the Licence. WYP stated that they, along with other agencies, had made attempts to contact the PLH in order to seek remedial action and address the problems. WYP did acknowledge that some issues had been successfully addressed; however remained concerned at the level of crime and anti social behaviour which could be attributed to the premises and was directly linked to its late opening hours through the early morning and at weekends.

WYP set out measures for the Sub Committee to consider during the course of the Review

- a) To modify the conditions of the Premises Licence i.e. – to end all licensable activity at 23:30 hours and end the permitted opening hours at 12 midnight on all days of the week



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- b) To remove the DPS on the grounds that he had allowed the conditions of the licence to be breached on repeated occasions and had not acted when the breaches have been pointed out or worked with other agencies.

Prior to the commencement of the verbal submissions, the legal adviser to the Sub Committee clarified the status of Mr Nazeib who had submitted a statement for WYP but was attending the hearing on behalf of his grandmother who had written independently. It was agreed that Mr Nazeib would appear as a witness for WYP.

Mr Patterson referred to video evidence supplied by Mr W Manzur and the Sub Committee stated this would be dealt with at the appropriate time when all parties were present.

Submissions and Evidence on behalf of the applicant – West Yorkshire Police

The Sub Committee heard representation from Mr Patterson who began by outlining the case being brought by WYP – namely that outlined above but also by highlighting WYP continued concerns over the predominantly long periods of crime and disorder at night associated with Bar Noir; concerns regarding the clientele the premise attracted and the perception that there was an inept management structure in place at Bar Noir.

Mr Paterson then called **Acting Inspector Chesters** (formerly Sergeant Chesters) as a witness who confirmed the following evidence in response to questions from Mr Patterson:

- The incidents recorded in the application had involved responses from WYP, LCC EHS and LCC Entertainment Licensing Enforcement.
- This matter had taken a long time to come to Review, therefore in his opinion the PLH had had ample time to address the problems
- WYP took the view that the blatant breach of licensing conditions and disregard displayed by the PLH by their non response to correspondence now required the attentions of the Sub Committee to take steps to reduce the nuisance caused by Bar Noir. He believed the presence of the premise within the locality clearly undermined the licensing objectives
- AI Chesters explained that he had a dual role as AI in the North East Leeds area and as Neighbourhood Policing Sergeant. This area included Roundhay. He had been Neighbourhood Policing Sgt for 18 months and one of his principal functions was to provide reassurance to the local residents, this involved close liaison between the residents and took the form of personal visits; tasking meetings and community forums.
- In March 2007 the community forum meeting had raised concerns about Bar Noir. He explained the neighbourhood policing was about the public, police, service providers and local communities working together to achieve proportionate solutions to any local problems. In all cases, the solution was well considered and taken in steps. In March 2007 he had been assigned to look at residents concerns regarding Bar Noir and received written representations from local residents on the adverse impact of Bar Noir. He added the neighbourhood was previously regarded as peaceful
- AI Chesters outlined the steps the neighbourhood policing approach would normally take to any problems:
 - 1) Undertake a research programme driven by the WYP statistics, to monitor calls received regarding a premises
 - 2) Make contact and liaise with the complainants



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3) To contact the PLH to discuss the concerns and seek resolution

- He had not been mindful to instigate a Review in March 2007 as he felt it more appropriate to investigate the complaints and collate evidence at that time. The investigation linked with LCC Entertainment Licensing Enforcement officer Ms C Brennand who had made him aware of her initial concerns. Al Chesters added that at that time, WYP were also embarking on a new Pubwatch scheme for the NE area, so he had felt that the problems could be dealt with through the Pubwatch meetings

Pubwatch

- Membership of Pubwatch was a condition on the existing Premises Licence which Bar Noir had previously agreed to, this had not been imposed upon them
- 12 other premises had been likely to join the NE Leeds Pubwatch scheme. He reiterated the importance of Pubwatch schemes borne out by the fact they
 - aimed to create responsible drinking environments
 - provided links to other agencies
 - aimed to provide a peaceful environment
 - instigated information sharing between premises and WYP, beneficial to the PLH
- Al Chesters personally delivered an invitation to Bar Noir to attend the first Pubwatch meeting in March 2007 but no representative attended the meeting. He liaised with Ms C Brennand on how to proceed and at that time it was decided to enter into dialogue with the PLH as the Pubwatch scheme was very new and it was felt to be harsh if punitive action was taken at that point. However Al Chesters confirmed Bar Noir missed 3 out of the 5 Pubwatch meetings held between March/June 2007
- Al Chesters reiterated his principal concern was that, despite opportunities to address the stated problems experienced through Pubwatch, through personal visits undertaken by himself and Ms C Brennand and with plenty of support available, at no stage had they taken the opportunity to do so. 8 out of 12 Pubwatch meetings had been missed. He added that although he was aware that Mr Chana had tried to make contact with him and complained that this had not been possible, he responded saying that equally he too had tried to contact Mr Chana to no avail

Action Plan

- After this an “Action Plan Meeting” was arranged in accordance with Neighbourhood Policing policy – this would afford all parties the opportunity to work together. The aim was to work together to discuss concerns and resolve them
- The meeting was the next step in the phased approach and was well attended by the PLH and Bar Noir representatives, LCC EHS, residents and WYP who discussed issues relating to noise nuisance; the way licensable activities were conducted and related matters such as litter; crime and disorder prevention of public nuisance and protection of children from harm to reinforce the licensing objectives.
- A deadline of 12 June 2007 was set to address the issues of soundproofing to the premises, litter and traffic regulation necessary to control the overspill car parking.
- A specific concern was that after the Action Plan Meeting, Mr Chana had disclosed in private that he had concerns a patron had been in possession of a firearm. During the conversation Mr Chana had said he had not informed WYP because if he had challenged the person there would have been implications to himself. Al Chesters stated it was imperative the incident should have been reported at the time, or very soon after, so that WYP could have implemented action to deal with it.
- He was also concerned that Mr Chana had described his clientele as “corporate clientele” to previous Sub Committees which suggested “city types” stopping off for a quick drink. However he had personally visited the premises and had received reports from other officers and stated this description was inaccurate.



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At this point Mr A Chana interjected but was advised not to interrupt as he would have the opportunity to address any comments during his own submission

The White Stag

- Al Chesters then confirmed that on 21 May 2007 he became aware that Mr Rushpal Chana had submitted an application to become DPS at the White Stag public house in Sheepscar.
- He stated that neither he nor Ms C Brennan had been made aware of his intention during any of their earlier visits. WYP lodged an objection and so the application had been withdrawn.
- Al Chesters explained that Mr R Chana himself did not know that the application had been made in his name although he had signed the application and this raised further concerns

IBIS Log

- The IBIS log was the command and control system which registered all telephone calls from the public, other agencies and WYP officers. This was a detailed log of incidents and the statistics were then used to allow WYP to target resources to particular areas of concern following the necessary risk assessment. Each incident description is coded and the graded in severity
- He believed an IBIS log really revealed the “iceberg effect” in that calls actually made did not reflect the whole situation as there would be a number of incidents not reported, because people felt they didn’t get an adequate response, or mistakenly thought someone else had already called.
- A normal IBIS log would pull in data from beyond the search remit. However the log presented to the Sub Committee (at pages 96 – 150 & 211- 234) was very specific to the premises, and it was likely that there had been other incidents slightly further away from the premise address related to the premise but not included here.
- The data collected from the IBIS log had encouraged him to instigate wider patrols of the area. This had been done in conjunction with LCC entertainment Licensing Enforcement – if there was sufficient cause for concern he could be authorised to give extra resources to pay particular attention to an issue or premises. This was not a decision taken lightly as it had resource implications for policing the rest of the North East Division area.

The premises

- In September 2007 as his role changed, he was afforded the opportunity to visit the area on an evening to observe the premises. He added that to visit alone would have personal safety implications and those officers who attended the premises on routine and planned visits were advised to attend in parties of four.
- He had attended the premises between 02:00 and 04:00 hours in a patrol car or unmarked vehicle to observe the area outside the premises and had witnessed groups of 20 to 50 people outside the premises drinking and shouting. He suggested the smoking ban may exacerbate the problem of people outside any premise, but LCC EHS had met with licensees to advise on how to deal with this prior to the implementation of the smoking legislation. In his opinion Bar Noir had not availed itself of his advice
- In answer to a question from Mr Patterson, Al Chesters confirmed he believed that support had been offered to Bar Noir to address the problems adding the whole ethos of neighbourhood policing was to offer support and work together for a resolution. Referring to human rights legislation, he added there should be a balance between



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the rights of an individual to enjoy his business and the rights of local residents to enjoy their homes

Noting the end of the submission from this WYP witness the Sub Committee went onto ask questions and Al Chesters provided the following information

- 3 arrests had been made at the premises, one for affray, one for breach of the peace and one for S18 wounding and serious assault. However he contended the number of arrests did not reflect the level of problems at the premises. Often by the time WYP attended the scene, the perpetrators had left or the situation had resolved itself so there were no witnesses or persons to question
- No-good reason had been given for non-attendance at Pubwatch meetings
- Residents had raised complaints regarding noise. He had spoken to the DPS about measures to combat noise who had referred to the original business plan which stated the premises would only ever play low level background music. He therefore suggested that if this was the case, noise from the premises should not cause problems and not require soundproofing
- With regards to the fire door, this should have been soundproofed, but was treated with only a draught excluder which was not attached properly
- The venue was a double unit with floor to ceiling plate glass windows to the street frontage. The fire door was located to the middle of this frontage. The venue had a double door entranceway, and on entry the bar was immediately facing. Internally was a single level area incorporating the dance floor, bar and seating. This was not a particularly large venue. He added he did not know the layout to the rear of the premises
- With regards to the crowds he witnessed outside the premises, he could not identify what they were drinking although he had clearly heard the clink of glasses/bottles
- Mr Chana had been advised in person that he was breaking the conditions of the premise Licence both by Al Chesters and Ms C Brennand

Mr Patterson then called **Mr Naseib** as a witness who provided the following evidence

- When he had returned from University he continued to study at home but was unable to concentrate with the noise and nuisance outside his home. He was unable to study, hit his course targets or study a particular topic overnight for the following day due.
- Bar Noir had not affected his family for the first 6 months it was open; there had been no nuisance or problems with cars. This changed when the extended hours were granted
- He resided at No 8 Copgrove Road with Mrs Begum (Grandmother who was unable to attend due to illness. Her letters appeared at pages 87 & 254). He stated his father had received a visit from Mr Chana and Mr Singh as representatives of Bar Noir inviting him to withdraw his witness statement. His father would have attended this hearing but was attending the hospital with Mrs Begum.
- Mr Naseib noted Mr Chana stated he had good relations with Mr Naseib Snr and had called for a cup of tea, but he stated that no such relationship existed

Mr Naseib responded to questions from the Sub Committee as follows:

- Noise and disturbance was definitely worse through Friday and Saturday nights. Weekends were vital for him to study but the noise problems meant he lost his nights sleep through the noise and then the subsequent day though catching up on sleep



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- On many occasions the noise nuisance was generated by people outside his garden or at the bottom of the street and he these people were patrons of Bar Noir as this sort of behaviour had not occurred before Bar Noir opened. He added this behaviour was not evident on any other street and felt that it was like living in the city centre rather than the suburbs

The Chair having noted the conclusion of WYP witnesses invited **Mr R Bilsborough** to make representation on behalf of the LCC EHS. Mr Bilsborough supplied the following information:

- EHS supported WYP in seeking a Review of the Premise Licence. He referred to the site plan and highlighted the fact that the premise was in close proximity to local residents homes.
- The premise was also close to a busy road junction. Up until 12 midnight, in that location there would be quite a bit of traffic noise which would drown out entertainments noise, noise from patrons and noise from patron's cars. After 12 midnight, background noise levels such as traffic noise reduced significantly, therefore any disturbance would be much more disturbing for neighbours as the noise will travel further.
- There had been a history of noise complaints at the premise between January and May 2007, a total of 9 complaints had been made to EHS by residents from Copgrove Road regarding shouting, screaming, fighting, loud car stereos, revving car engines and banging doors. Additionally the Out of Hours team investigated a complaint of loud music which had been found to be audible in the residents' home, but not found to constitute a statutory nuisance.
- EHS had attended the Action Plan meeting previously discussed by WYP, and had made recommendations at that time to reduce noise emissions, namely
 - install a noise limiting system
 - install a lobby to the premises to prevent breakout when persons enter/egress
 - install directional speakers

He reported these measures had actually been implemented and since May 2007 no noise complaints had been received.

- EHS still had concerns about the external areas and noise generated there. Noise recording equipment had been installed at a local resident's home and the EHS Scientific Officer had analysed the results finding the noise measured could disturb sleep. Therefore EHS remained concerned about the noise generated and activities of the patrons outside the premises, particularly due to the very late opening hours and supported WYP request to for a reduction to the hours of operation at the premise to 12 midnight as it was felt this would reduce noise
- In conclusion he asked the Sub Committee to note that although the DPS had been able to address noise from music, he remained unable to control the patrons outside and noise associated with them. In response to a query from the Sub Committee confirmed that the noise experienced by residents could be attributed to Bar Noir

The Sub Committee then heard the submission of **Mr W Manzur**, a local resident.

- He confirmed that he lived in Copgrove Road and that the nuisance already referred to had been ongoing for 18 months.
- His children were unable to sleep in their bedroom, especially on Friday and Saturday nights, as they were scared by the noise and disturbance outside. They woke up crying and were scared.
- He referred to the 8 minutes of videotape evidence he had produced, which he explained was edited footage condensed from approximately 12 hours of footage



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- The Sub Committee and all parties viewed the edited videotape which contained footage recorded between May 2007 until August 2007. People were seen shouting, arguing and drinking in the street. On one occasion when asked to move on they were abusive. Mr Manzur confirmed this footage was taken from his daughters' bedroom window.
- He concluded by stating his family had lived at that address for 20 years, and had never complained before, but they now felt that they may have to move

Mr Manzur then answered questions put forward by the Sub Committee as follows

- § He confirmed the video recorded incidents at 4 am and 5 am and he believed the bar did not close at 3 am but remained open until 5am. At that time it was the only business open and that would be the only place the people on the video could be coming from
- § he confirmed he was sick and tired of phoning WYP and LCC EHS and said his standard of living was going down because of the place

The Sub Committee then heard from **Mr Iqbal**, resident of 2 Copgrove Road who stated his home was closest to Bar Noir.

- He explained that he worked 2 jobs, 7 days a week which was physically tiring, it was therefore imperative that he slept well. However the nuisance caused by Bar Noir and the noise generated by patrons were having a profound effect on his sleep and his life, he added that he was now taking medication to assist his sleeping and had been to the doctors
- His brother who lived at the same address was a prison officer, and sleep patterns were important to him. His father was taxi driver who worked nights and he reported that his father quite often felt intimidated by the large groups of people outside their home what he returned home from his shift.
- Mr Iqbal confirmed his support for the statements made by earlier witnesses regarding noise and nuisance.
- He had no issue with the daytime working of Bar Noir it was just the late hours that were a problem.
- He was affected by the bar and his managers at work had pointed out that his lack of sleep was affecting his work.
- Mr Iqbal referred to page 265 of the documents and noted there appeared to be a dispute over the letter included at that point from Mrs Mughal. He stated he was present when she approached Mr W Manzur to write it on her behalf as she did not want her daughters to. He referred to page 277 and the letter contained there which had his name and address on, but he categorically stated he had not written that letter, nor did he have any knowledge of it

Having noted the conclusion of the submissions on behalf of the applicant, the Sub Committee permitted Mr Chana the Premises Licence Holder to ask questions of the witnesses through the Chair. Mr Chana referred to a comment made by WYP however the Sub Committee noted that this was not a relevant question and the Sub Committee would make a decision on the comment, having regard to all the documentation before them.

The Sub Committee then moved on.



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Submissions and evidence of Mr A Chana – on behalf of the Premises Licence Holder Firearm incident

- Mr Chana explained that this had been only a suspected firearm; the doorstaff had refused entry to the person and had reported their suspicions to him. In previous discussions with Al Chesters, Mr Chana had understood the advice was to ring WYP whenever they suspected weapons were on the premises; however on this occasion he had no evidence to support his suspicion the person had a gun.

Moving on, he explained he was majority shareholder in Bar Noir and invested a lot of time there, especially at weekends, and he also patrolled the outside of the premises. He was a qualified accountant, and ran an accountancy business with staff, so he had management skills

Noise & disturbance

- In March 2007 he received complaints which had distressed him as he had suffered similar problems of noise and disturbance from a venue near his own home and firmly believed Bar Noir should not cause pain or distress to other residents. He added that his accountancy clients attended Bar Noir for meetings, so he did not want any problems associated with the bar.
- He had approached the local residents, except Mr Manzur. With regards to the letter at page 277 of the documentation, he explained that Mr Iqbal had played an important role in his approach to the local residents and since June 2007 things had improved drastically
- He felt the main issue was cars; patrons attended Bar Noir in cars, brought their own alcohol with them and then discarded it before entering the premises. This disturbed the residents so he had employed a car parking attendant to prevent patrons from parking on Copgrove Road. The situation had improved and people parked across the street and not outside residents' homes. He added that Mr Iqbal had confirmed this
- Mr Chana commented on the way he felt he had been treated personally by the Entertainment Licensing Section. He stated he had at least 5 or 6 conversations with Ms C Brennan, the Enforcement Officer, and in November 2007 he had asked her directly whether there was a problem with Bar Noir Premises Licence. He stated that Ms Brennan replied "no, none at all" and he had reported this response to his staff.
- In December 2007 he received notification of this Review. He described the Review application as a joke and the evidence put forward by WYP as very weak in his opinion.
- He noted that residents still felt there was a problem with shouting and abusive behaviour but he stated that Gipton Lodge was close by and a lot of noise was generated by the residents. Plus, there were a number of take-aways locally so noise was generated by their customers returning from the city centre and stopping off for food on the way home.
- He had spoken to residents recently, who confirmed things had improved, but he had responded to them that he thought it ought to be "perfect" as that is what he wanted. He stated his personal telephone number had been provided to the local residents so they could contact him directly should they suffer any problems. Furthermore he had undertaken noise testing himself, but had forgotten the machine today which showed the readings.
- Mr Chana stated his view that LCC EHS involvement in this Review was ridiculous as they had not been involved with the premises since May 2007 so he did not understand the reason for the detrimental comments made now.



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- He confirmed there had been an issue with people leaving and playing music, so he had introduced a second car parking attendant to marshal those cars to prevent them from beeping horns and creating noise.
- He stated his opinion that it was impossible for noise travel round the corner where some of the residents lived.

IBIS log and incidents

- He agreed there had been problems at the premise during May/June 2007. At that time he had met with Al Chesters and had asked what support WYP could offer Bar Noir as they currently had to wait 35 to 40 minutes for WYP to respond to incident calls. Mr Chana reiterated his pride in the security at the premise, but stated they received nothing in return. In the end he changed the security at the premise in order to prevent undesirable customers getting in
- He referred to the colour copies of the submission and noted that 53% of WYP calls recorded related to Bar Noir. He urged the Sub Committee to remove that two month period from consideration; they would then see that call outs were reduced in all other months with none at all during the Christmas period. He reiterated that May/June had been just a bad period for them.
- He confirmed there had been a serious incident at Bar Noir in November 2007 when a member of staff had been assaulted by a customer. He stated the customer had stood outside the venue after the incident waiting for 15 minutes for the police to attend. Mr Chana noticed the person start to walk away, so had followed him in his car whilst talking to WYP by telephone so that the perpetrator did not get away.
- He stated the ethos of Bar Noir was to prevent crime and disorder, he would call the police at the first sign of trouble in order to protect the peace, and he added that he would continue to do so.
- A "paying in" scheme had been introduced which had been successful. The number of customer attending had significantly dropped, and the car park was nearly empty.
- Mr Chana highlighted the fact that he had talked to Mr G Mann, LCC EHS; Ms C Brennan LCC Entertainment Licensing Enforcement and Mr Iqbal who had all confirmed that improvements had been made. The only person he had not been able to speak to was Al Chesters who had not returned any phone calls since 18 June 2007. He enclosed copies of his phone bills to show a record of the calls he had made due to his concerns about residents reported problems
- On receipt of the agenda pack for the hearing, he had felt he was being punished for calling WYP to incidents as the log showed so many calls. He suggested that if the same amount of effort was made responding to calls as was shown to creating the log, the situation would be better
- Mr Chana commented on the credibility of the evidence supplied by Mr Manzur and then stated he would not tolerate exaggeration or lying, and urged the Sub Committee not to be taken in by it.
- With regards to Pubwatch, Mr Chana stated that although WYP described them as useful he had not found them to be so. Bar Noir opened till late and Pubwatch meetings were held at 10.00 am. Of 3 non attendances mentioned by WYP, on one occasion he had been ill and on the other 2 he had to attend other meetings. He assured the Sub Committee that he would now make the effort to attend.

Video evidence

- Mr Chana stated he had spoken to a friend who worked in the video industry. His friend had studied the video and concluded the video had been edited, the microphone had been set to high sensitivity and then the volume increased. He suggested there was no way that the level of sound as heard on the video was the



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actual level as it appeared the volume began at a normal level and then additional sound had been added in

The Chair of the Sub Committee confirmed that they were aware of the change on noise levels which were at one point quite obvious

The premises

- 16 staff were employed at Bar Noir.
- The venue itself was approximately the size of the meeting room (which is 65m² or 699sqft)
- He referred to page 299 of the documentation which outlined the proposals he had made to improve the layout of the car park in an application to LCC Planning. He reported the decibel reading of cars leaving the car park was actually lower than those going past on Roundhay Road. The entrance was now proposed to the middle of the car park in order to deter cars using Copgrove Road
- He truthfully believed there was a wonderful community on Copgrove Road
- Bar Noir did not generate much revenue but he took joy in the fact that old and young, rich and poor cultures mixed in the bar where everyone was the same.
- He suggested that there had been undesirable patrons but there would be at any premises.
- Mr Chana refuted the claim made by Al Chesters that groups of up to 50 persons stood around outside the premises, as this would constitute half of his customers. He added that there was a CCTV camera placed across the road which faced the premises and this was controlled by WYP. He thought it noteworthy that evidence from that camera had not been presented by WYP and suggested this was because the video from this camera did not show any trouble.
- He reported there was a projector screen inside the premises which displayed public information including signs to remind patrons to leave quietly and he reported that this had had an impact

The White Stag

- Mr A Chana stated that Mr R Chana had trusted a friend. He had signed documents without reading them as the text was covered up and he had known what he had signed. Mr R Chana had not known he was applying to be DPS at the White Stag. Mr A Chana said this would not happen again as they had learnt not to trust a friend

In conclusion and with regards to noise levels Mr Chana noted that Al Chesters had attended Bar Noir during opening hours and they had been able to have a conversation and hear each other speak and he reiterated that the implemented noise measures had worked. Mr Chana confirmed there had been problems at the premise but these had been identified at the Action Plan meeting and then acted upon. He also confirmed they had made errors.

Mr Chana then introduced **Mr Merlin Halliday** to the Sub Committee as a witness who provided the following submission:

- He ran the security firm who provided doorstaff to Bar Noir, as well as being an Area Housing Manager and acting as doorstaff at other premises in the City Centre and Chapel Allerton. Community safety was a high priority for him.
- He had been made aware of the problems at Bar Noir and had looked at the impact of the smoking ban as he was concerned about people outside. Car park attendants had been employed to address the noise coming from the car park. He explained that to



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remedy some of the problems, they had erected fences to guide patrons who smoked to stand under the Empire Electrics canopy situated along from the bar.

- In his opinion Bar Noir employed quite a lot of security considering the size of the bar.
- He attended Bar Noir regularly, and had been outside the premises, he said he didn't know what all the fuss was about – as you couldn't hear the music outside, plus he didn't know how the residents could hear it over 100 yards away.
- He had not had any contact either with WYP, LCC EHS or LCC Entertainment licensing Enforcement with regards to Bar Noir. He had occasion to deal with the police about an incident which took place across the road from the premise, but this was unconnected. To conclude, he confirmed that he had never seen Ms C Brennan at this premises, although he had met her at the other premises he worked at in Leeds.

Having noted the conclusions of the submissions on behalf of the Premise Licence Holder, the Sub Committee moved to ask questions during which the following information was provided

- Pubwatch - Mr Chana responded it was inexcusable that they had missed the meetings but he added other local premises also failed to attend. He had attended 4 meetings, but had not felt they were important. He missed the first meeting because he had attended at 10 pm rather than 10 am. He attended the second meeting and had informed Al Chesters of problems they were experiencing with certain customers and they were encouraged to call WYP, but he added they didn't receive any help
- Petition - the Sub Committee calculated 350 signatures; however Mr Chana reported he thought he had collected 1000 signatures. Signatures had been obtained at the venue, customers had been asked if they agreed with the 2 policies stipulated at the top of each page and asked to sign if they agreed. The petition had been placed at the bar, but individuals had walked around the venue seeking signatures, which may explain why many signatures appeared to be signed in the same pen. Ms Du Port confirmed this information. The petition commenced once notice of the Review had been given. The Sub Committee noted that some signatories simply stated their address as "Poland" "Sheffield" and some were simply illegible. Mr Chana confirmed those patrons did live locally.
- "Paying In system" - Mr Chana further explained this was a basic entry charge of £3.00 which seemed to deter some patrons – however loyal patrons would then receive a drinks voucher to the value of £3.00 to be spent at the bar. He said that LCC Entertainment Licensing had been unable to advise him whether this was a good idea however he wanted to charge admission to push away the undesirable customers who loitered, but it was too small a business for them to lose all the custom, hence the drinks voucher which provided a "refund". He had explained the system to Al Chesters; Mr S Kennedy and to Ms C Brennan of LCC Licensing Enforcement but no clarification had been forthcoming on the system. The system was difficult to manage in terms of stock control and had not been welcomed by the bar staff but it had controlled attendance and pushed away undesirable clientele as intended.
- Alcohol pricing - No drinks promotions were utilized at the venue. He conceded the price of a pint was low but was similar to other premises but bottle beer was more expensive. The bar stocked Blue Label, Dom Perignon and cognac and its goods were more in line with city centre premise, not a social club or a pub and the pricing system pushed away undesirable clientele
- Mr Chana stated the bar did not operate Buy One Get One Free drinks promotions. The only "free drink" would be that one obtained by using the voucher



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- Turning to Page 277 and the unsigned letter purported to be from Mr Iqbal, Mr Chana confirmed that Mr Iqbal was not the author and he had included a note explaining this in the colour copies of his submission. He stated that Mr Iqbal had actually agreed with the contents of the letter but he had not been able to contact Mr Iqbal to ask him to sign it, but he had felt it was right that it be included in his submission as Mr Iqbal had been instrumental in evidence gathering. The Sub Committee commented that they found the practice of including an unsigned and uncorroborated letter to be unacceptable
- Staffing - There were 16 members of staff, including doorstaff and he agreed this was a high proportion considering the size of the premises, however public safety was paramount. He had put in extra security where needed. Initially he had been on watch, to be alert to the potential of trouble so he could inform the doorstaff, but as he also needed to be elsewhere he now employed registered doorstaff to undertake "spotting".
- The Sub Committee referred to page 188 of the report which detailed an earlier sub committee decision on a variation application at which time Mr Chana had stated music would be played at background level as the venue was not a club and commented that he now charged admittance like a club and had installed a noise limiter. Mr Chana responded Bar Noir was not a nightclub, rather a trendy wine bar with late hours. Any music was provided at a level where you could still hear yourself speak and he noted that background music level was slightly higher than restaurant level. He had never felt noise was a problem so had been surprised by the resident's complaints. He confirmed he regularly stood outside the premise and at No.2 Copgrove Road to monitor the noise, and confirmed that at one time there had been a problem with the speakers which directly faced the doors but these had now been re-located
- Breach of Conditions - With regards to failure to display the Part B and being unable to locate the Licence Part A, Mr Chana responded they had not known they had to display the Part B and this had been negligent on their part. It was displayed in time for the next visit by officers. They had believed the Part A was in the safe but had not had the key. Mr Chana confirmed that he now understood this to be a breach of the licence. The Sub Committee referred him to page 189 of the documentation and a letter from Entertainment Licensing which clearly stipulated the Part B should be displayed. Members commented the PLH/DPS seemed unclear as to their responsibilities which could reflect incompetence. Mr Chana responded by stating that wasn't the case at all and that they were very strict on licensing law. He could not recall receiving that particular letter and reported a problem with the postal address for Bar Noir as post did not always arrive. Members responded the letter was addressed to Mr Chana's home and he replied that he often didn't get post there either.
- In reply to further comments from the Sub Committee Mr Chana said they had responded to the calls to display the Part B properly, Ms Brennand had told them only once to display it and they had done so immediately
- With regards to non communication with AI Chesters the Sub Committee commented that the issues Mr Chana had wished to raise with AI Chester could have been raised at the Pubwatch meetings. Mr Chana responded that he had only ever received 2 invitations to Pubwatch meetings and it was often he who contacted Ms Brennand to check the dates, times and availability. He rebuffed the suggestion that they did not follow or understand licensing laws, simply that they hadn't placed enough significance upon them.



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- Mr Chana explained he had made application to the Planning department to relocate the entrance whilst retaining the existing entrance on receipt of the Notice of the Review hearing. He was awaiting a response which would involve liaison with highways.
- Ms Du Por't was invited to speak. She confirmed that she and her friends attended Bar Noir and had experienced no problems at the entrances and exits or any trouble

The Sub Committee noted the end of the submission from the PLH and afforded WYP the opportunity to ask questions of the PLH through the Chair. In response to questions from WYP Mr Chana provided the following information:

- The single driving factor behind his decision to change the door staff team was the lack of support he felt he had received from WYP. He had attended the police station with his Head of Security but had been offered no support. Pro Sec had expressed their view on the matter in a letter at page 280 of the report. He regretted having to change the team as he regarded Bar Noir as a family.
- Mr Chana would not confirm that he had not given names to WYP for fear of recrimination, but would say that generally there had been some reluctance. He was not concerned for his own safety but, as he was a shareholder and did attend the premises, he had to be careful about how he approached people
- Mr Chana stood by his assertion that any premises could be associated with problems, and he did not regard this as an exaggeration. He reminded the Sub Committee that he had to consider how to handle a problem, and when he saw a problem starting he chose to call the police – but that did not mean they had a ridiculous number of problems it meant they were actively deterring crime. He stated he would not underplay the problems experienced at the premises, but these had been addressed

The Sub Committee then permitted Mr Chana to ask questions of WYP through the Chair. Mr Chana asked why he had received no return phone calls. Members noted both parties made this claim and concluded the discussion would not produce any further useful evidence.

The Sub Committee then adjourned to deliberate the application.

The Sub Committee in reviewing the Licence considered the verbal and written evidence submitted before them from all parties. In considering this evidence, the Sub Committee felt it first needed to establish if a problem existed at the premises. If the premises were operating in a manner which did not undermine the Licensing Objectives, then the Sub Committee could conclude no action was required on the review..

Specific Incidents

The Sub Committee were satisfied on the evidence presented that the Bar Noir management team and the DPS had breached certain licensing conditions, namely failure to attend local Pubwatch meetings, failure to display the Part B properly, and failure to locate the Part A - all as required by the existing Premises Licence.

The Sub Committee were also satisfied that although the management team had been able to address some noise issues, there was still cause for concern with regards to patrons using the external areas and their behaviour on leaving the premises. The Sub Committee took the



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view that this would cause noise and disturbance to local residents in the early hours of the morning.

Members felt that the continued operation of the existing licensable hours particularly on Friday and Saturdays at this particular premise would continue to have a detrimental impact on the licensing objectives for the city, particularly the prevention of crime and disorder and the prevention of public nuisance.

The Sub Committee further concluded that action was needed to address this problem.

Decision

The Sub Committee reviewed the Licence and had regard to all the representations, the Licensing Act and relevant Guidance.

Members considered the situation carefully and noted the warnings given to the Premise Licence Holder at the Action Plan meeting. The Sub Committee did acknowledge the sound breakout issues at the premises discussed at that meeting had now been addressed, however were concerned that residents were still experiencing ongoing problems associated with the premises.

The Sub Committee considered the four options available to them as set out in paragraph 6.1 of the Licensing Officers report and in the circumstances chose not to revoke or suspend the Premise Licence.

Members however did feel that modification of the Premises Licence was appropriate and necessary given the evidence presented at the hearing. The Premises Licence is therefore modified as follows:

Hours & Licensable activities

The sale of alcohol shall now cease at 23:30 hours Sunday to Thursday
01:30 hours Friday & Saturday

Other licensable activities shall continue for 30 minutes thereafter

The premises shall close 00:00 midnight Sunday to Thursday
02:00 hours Friday & Saturday

To clarify the premises shall now operate to the following:

Supply of alcohol:

Sunday to Thursday 11:00 hours until 23:30 hours
Friday & Saturday 11:00 hours until 01:30 hours

Provision of recorded music

Sunday to Thursday 11:00 hours until 00:00 midnight
Friday & Saturday 11:00 hours until 02:00 hours the following day

Late night refreshment:

Sunday to Thursday 23:00 hours until 23:30 hours
Friday & Saturday 23:00 hours until 02:00 hours



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The premises will open to the public during the following times:

Sunday to Thursday 11:00 hours until 00:00 midnight
Friday to Saturday 11:00 hours until 02:00 hours the following day

Conditions

The Sub Committee imposed the following condition:

- All members of the management team need to attend an accredited licensing course by 1st June 2008

The Sub Committee amended the existing condition regarding attendance at Pubwatch meetings to read

- A representative of the management team is required to attend at least 80% of the local Pubwatch meetings each year”

The Sub Committee noted that a condition existed stipulating that “drinks, open bottles and glasses will not be taken from the premises at any time” and reiterated the importance of adhering to this condition to the PLH

The Sub Committee then considered the fourth option available to them regarding what action to taken in respect of the current DPS. Members were concerned about the lack of hands-on management displayed by the DPS which they felt was evidenced by the failure to display the Part B at the premises as required under the Licensing Act 2003 and the failure to adhere to existing conditions on the Premise Licence which was borne out by the submission made by West Yorkshire Police and local residents. The Sub Committee therefore resolved to remove the DPS.

There is a right of appeal to the Magistrates Court should you be dissatisfied with the decision made by the Sub Committee. You must make this appeal within 21 days of this letter reaching you.

Appeals should be addressed to the Magistrates Court at:

Clerk to the Justices
Leeds Magistrates Court
Westgate
Leeds
LS1 3JP

Appeals should be accompanied by a copy of this decision letter and the court fee of £400.00 if you are the premises licence holder and £200.00 for all other parties. Cheques should be made payable to HMCS.

Yours Faithfully

Helen Gray
Clerk to the Licensing Sub Committee

