

LICENSING ACT 2003 SUB COMMITTEE

**MINUTES OF THE MEETING HELD
MONDAY 3rd AUGUST 2009 AT 10:00 AM
TOWN HALL, HIGH STREET, MAIDSTONE**

AGENDA ITEM 1

Application for the expedited review of a Premises Licence under the Licensing Act 2003 for Source Café Bar, Rose Yard, Maidstone, Kent.

PRESENT:

Committee Members: Councillor FitzGerald (Chairman)
Councillor Mrs. Gibson
Councillor Mrs Joy

Council Officers: Samantha Clarke – Legal Advisor
Lorraine Neale – Senior Licensing Officer

Applicant: Chief Superintendent A. Hope on behalf of the Chief
Officer of Police – represented by P.C. Barbara Murray
Garry Brimson – Sergeant
Ian Jones – Sergeant
Jacky Bradley – Sergeant
P.C. Stephanie Wilson
Bill Head – Police Licensing Officer
Stephen Noble – MBC Licensing Enforcement Officer
Helen Barton – Witness

Licence Holder: Mr. Stephen Moore – represented by Mr. Juan Lopez
and Mr. Stephen Thomas (Solicitors)
Anna Shreeves – DPS
Angela Darling – proposed owner & DPS

DISCLOSURES BY MEMBERS AND OFFICERS

There were none.

DISCLOSURES OF LOBBYING

There were none.

EXEMPT ITEMS

RESOLVED: That the items on the Agenda be taken in public as proposed.

Opening Remarks

The Chairman opened the meeting by asking all parties to introduce themselves. He then read out to all present the administrative matters as set out in the Licensing Act Sub Committee Hearing – Order of Proceedings document. All participants confirmed that they had copies of and understood the procedure. All Committee Members confirmed that they had read the papers beforehand.

The legal advisor then outlined the application and representations regarding the application.

The Hearing

Mr Lopez and the police requested permission to submit further documents and evidence in relation to the hearing prior to its commencement, the hearing was adjourned to allow both parties to read through the paperwork and to come to agreement on whether the further information was acceptable to all parties, agreement was arrived at for some of the submitted information to be accepted and once agreed the documents were distributed to all the parties concerned and the Sub-Committee to read and digest before the hearing recommenced at 10:55 am.

i. The Applicant for Review

P.C. Murray explained that the Source Bar was a long established Town Centre pub with a 24 hour licence which regularly traded until 4am and sometimes later, it was popular with the 18-25 age range and popular during the week. She explained that at the beginning of the year the Police and herself requested crime analysis reports for the premises to establish whether there was cause for concern with regards to the premises. She explained that there were a lot of Crime and Disorder incidents reported over the 2008 period and that the analysis confirmed her concerns. She asked that pages 11 – 30 of the report be ignored as that was a direct comparison with the Lockmeadow complex and that the Sub- Committee take into account the incidents directly linked to the Source Bar found at pages 35 – 41 of the report. The levels of Crime and Disorder at these Premises were not of an acceptable level. The conduct of the door staff and the types of incidents reported were also cause for concern. She explained that following the report meetings were held with Mr. Moore, Anna Shreeves, Stephen Noble and herself on 11.11.08 and also on 4.3.09 to seek solutions to the problems. Following the meetings the problems were addressed but only temporarily and that they reoccurred, the issues have not been addressed to a satisfactory conclusion. She then asked Stephen Noble to explain his involvement in the meetings with the Source Bar Management.

Mr. Noble explained that Luke Bendall was the DPS for 3 weeks at the premises until 6.11.08 and then Mr. Moore applied to be DPS, the Police made representation as he was already the DPS at premises in Shrewsbury and it was felt he would not be able to effectively manage the Maidstone business. A different DPS was installed at Shrewsbury and the Police withdrew their objection. Mr. Moore was the DPS from

7.11.08 until the appointment of Anna Shreeves in January 2009. He explained that contact with the premises had been consistent and there had been regular visits made as far back as 2007 held with Mr. Moore and the management but the problems at the premises were not being addressed with the same points being raised each time, it was pointed out that the council and Police could not be accused of making little effort with this establishment. The main concern at these premises was the drugs use and the supply by various staff and management of those drugs.

Mr. Lopez asked if the premises were under new management and properly managed would there be any issues still.

Mr. Noble answered that any premises properly managed would benefit the nighttime economy, the problem was that it was not these premises or the customers that were the issue but the management, the same issues would surface as the premises have a long standing reputation that the club allows the supply of drugs and based on information and intelligence it would not easily become detached from that reputation.

P.C. Murray explained that following the meeting in March 2009 concerns were raised and it was suggested that more door staff were used and that they were suitably trained, then in May 09 there were 12 separate incidents at the premises which suggests that training methods are not working. She then went on to outline all the incidents at the premises as follows (pages 35-41 of the report)

Mon	08/01/09	01:17	0108-0045	Female passed out in bar no evidence of assault-drunk-as she is comatose will be taken to MGH
Sun	18/01/09		CY/942/09	Allegation of assault by drunk male that happened in the toilets
Sun	25/01/09		CY/1426/09	Theft of cash and mobile phone from customer in the club.
Sun	15/02/09	00:10	CY/5213/09	Male assaulted outside premises — head injuries — he had been ejected from club and held on the floor by two door staff. IP is alleging that he was punched by door staff inside the premises. IP was very drunk and was given a warning re his behaviour.

Wed	18/02/09		CY/2995/09	Report of theft of handbag from within the club -
Wed	18/02/09		CY/2839/09	Report of theft of handbag from within the club
Wed	18/02/09	01:13	0218-0052	10 youths fighting outside in the alleyway beside club —two groups — one male detained for public order.
Thurs	19/02/09		CY/4491/09	Allegation from male of assault by a member of door staff.
Wed	25/02/09		0225-1692	Report of an assault at the bar. 2 persons arrested.
Mon	02/03/09		CY/3662/09	Report of theft of mobile phone from within the premises
Sun	08/03/09	04:53	0308-0356	Call from CCTV reporting an intoxicated female in the High Street. The female had come from the Source Bar.
Thurs	12/03/09		CY/4295/09	Report from female of assault that had happened in the club.
Thurs	19/03/09	00:45	0319 - 0038	Call from CCTV reporting fight in Rose Yard. Three arrested for affray.
Sat	04/04/09		CY/5587/09	Report of theft of handbag from within the club
Thurs	09/04/09	00:39	0409-0043	From male at 0039hrs – sons girlfriend possible had her drink spiked — she was not drinking tonight as she was the driver — she is all over the place. Statement

Fri	10/04/09	00:51	0410-0080	From SECAS at 0051hrs — call to 2 males bleeding heavily — one of the males has been taken home by friend — other male has left scene — one male seen walking towards Lockmeadow - may have broken nose — this is from CCTV there has been something happening in the Source bar.
Thur	16/04/09		CY/6284/09	Person arrested for theft of handbag inside the club
Sun	19/04/09	04:17	0419-0360 0512-	From CCTV at 0417hrs — male kicking off— patrol attended at Source — one in custody for drunk and disorderly
Wed	13/05/09	12:43	0512-0570	Allegation from male of assault by a member of staff.
Wed	13/05/09	23:16	0513-1749	Report from male that he had been assaulted by the door staff following ejection. Patrol attended. The male refused to support a police prosecution.
Thurs	14/05/09	01:56	0514 - 0075	Report of a fight in Gabriel's Hill. Patrols attended. There had been an incident at The Source Bar but no one would give police any details.
Sat	17/05/09	05:00		Patrols called to the Source Bar by staff concerning a male urinating up the wall. Man was arrested for drunk and disorderly behaviour. Statement
Sun	17/05/09	03:33	0517-0303	Male assaulted inside the club - GBH Statement
Tues	19/05/09			Man arrested for possession of class A drug within the toilets while police were conducting a licensing visit.

Wed	20/05/09		CY/2409/09	Male arrested for possession of cocaine and cannabis. During interview he stated that he had bought the cocaine from a male at the club.
Thurs	21/05/09		CY/2435/09	Person arrested for a violent assault following spending the evening in the Source Bar. He was drunk
Thurs	21/05/09	04:00		Female found by patrol in the Tonbridge Road very drunk and had to be conveyed to MGH She was in the company of two males who did not know her and were trying to get her home. She had been to the Source Bar all evening
Mon	25/05/09	00:37	0525 - 0056	Person arrested for possession of a Class A drug which he stated during interview he had found in a plastic bag in the toilets at the club.
Sat	30/05/09	00:01-01:52	CY/8894/O9	Patrol on foot patrol in Maidstone town centre saw a male come out of Rose Yard and into the High Street. He was covered in blood. He stated that he had been bottled by another male in the club. Statement.
Sat	30/05/09	23:20		Person arrested for possession of a Class A drug following call to the premises by the door staff
Sat	06/06/09	02:47	0606 - 200	Person arrested for drunk and disorderly at the premises.
Sun	21/06/09	05:58	0621 - 481	Person arrested for possession of drugs.
Sun	28/06/09	01:00	0629 - 1138	Person assaulted in the premises about 0100 hours.
Thurs	02/07/09	02:58	0702 -121	One arrested for assault at the premises.
Sun	05/07/09	05:43	0705 - 512	Person arrested for assault at the premises.

She made specific mention to the incident on Thursday 09/04/09 at 00:39 reference 0409-0043 and then called Helen Barton as a witness.

Helen Barton explained that she met up with friends at one of their houses and had a glass of wine at 6pm she was driving so drank no more alcohol, they left there at 9.30pm and arrived at the Source Bar soon after where they got their hands stamped, they then left and went to Muggletons, they returned to the Source Bar some time between half past 10 and 11pm. She went to the bar for drinks buying herself a diet coke which she drank over the course of half an hour while chatting to her friends. One friend wanted to go outside and talk privately so they stood at the front of the bar under the balcony, after about 10 minutes she began to feel a bit strange. She began to feel very disorientated and didn't feel as if she was in control of what she was doing. She began to struggle to concentrate on what her friend was saying and on the surroundings. She had to lean on the wall as she felt as if she was going to fall over when she walked. She then went back inside the building to the toilets as she felt as if she were going to be sick. After a while she went back into club but the speakers that did not normally bother her seemed to be unbearably loud and she walked out of the club. Everything at this point seemed to be spinning and in slow motion and she was petrified as she didn't understand what was going on and she felt very ill. She left by the front door and passed the door staff and was in distress, she remembered that the door staff laughed at her. One of the door staff was Alex and another was a very large man with a bald head who was older than the others. She turned towards the high Street and had her back to them but heard one of them making puking noises and laughing again. She sat down in a small alcove a short way beyond the club and made herself sick. She was still visible to the door staff. One person who was passing asked her if she was alright, they were going to their car parked by the Hazlitt. She knew she was not well and was frightened so she phoned her boyfriend who collected her along with his dad. At no time did any of the club staff try to help her. They probably thought she was drunk, but even so she was a young vulnerable girl and they should have helped her as she came out of their club. She continued to feel ill for the rest of the night and was sick when she had reached her boyfriend's house. Mr. Hindley her boyfriend's father rang the Police on their arrival at his home. She sought medical advice the next day and gave a urine sample but this did not show anything. She believed her drink had been spiked even though she knew there was no evidence for this. More importantly she felt the conduct of the staff was shocking, their job is to look after the people in their club and even if she had been drunk, but she wasn't, laughing and mocking her was not acceptable, she was fully aware sitting in the alley waiting for her boyfriend of how vulnerable she was and was frightened.

P.C Murray asked how much alcohol had she drunk.

Helen Barton answered that she had 1 small glass of wine.

P.C. Murray asked about her visit to the doctors.

Helen Barton explained that she visited the Doctor the next day but nothing was found in the urine sample that she gave.

P.C.Murray asked what she felt about the door staff.

Helen Barton answered that she felt that they had a moral obligation to help people in distress.

P.C Murray asked what about if the person or persons were drunk.

Helen Barton answered that they should still help, they could ask CCTV to observe and should not be mocking the person.

P.C Murray asked if her parents were concerned.

Helen Barton explained that her father went to the Source Bar the next day and asked questions of the door staff asking for information and for CCTV footage to be looked at but he was given nothing and received no information from them.

Mr. Lopez asked if Miss Barton if she was a student and had she been a frequent customer of the Source Bar before the incident in April 2009.

Helen Barton answered yes she had been a frequent visitor normally attending the venue on Tuesday nights.

Mr. Lopez said that the impression he got was that before the incident occurred she was content to go along to the Premises and was a frequent visitor there.

Helen Barton answered that she had heard of incidents happening there, but she went along on Tuesday's because they played different music and she went for that reason.

Mr. Lopez then asked, so you went along on Tuesday's for the music and were content to do so; you gave no gravity to the incidents you had heard about.

Helen Barton answered that she would have still gone irrespective of incidents.

Councillor Mrs. Joy asked if she had left her drink unattended at any time.

Helen Barton answered no she hadn't.

Councillor Mrs. Gibson asked if she had experienced any other incidents like that.

Helen Barton answered no she hadn't.

P.C. Murray then referred back to the incident report and pointed out that some of these incidents occurred midweek and were not related to other premises as Rose Yard would not attract drunks from other premises. She pointed out that there were too many Crime & Disorder incidents linked to this bar and that liaison with the management had occurred and nothing had been resolved from these meetings. She explained that she had been very open with Mr. Moore and had given him prior warning that a Review may be applied for, with or without the drug bust the Police had concerns about the high levels of Crime & Disorder associated with the premises. The Expedited Review happened but regardless a Review would have been requested. She explained that they had received significant intelligence for the use and supply of drugs with the complicity of the owner and had been told numerous times by various other sources that the Source Bar was the place to get drugs, they could not ignore the volume of intelligence received and so in May 2009

a Warrant was applied for. A lot of matters could not be discussed with Mr. Moore and Miss Shreeves as a criminal investigation was underway as well as the licensing issues.

Deborah Prescott was not called, referred to statement.

Lee Berridge was not called, referred to statement

She then called P.C. Wilson to explain her role in these matters.

P.C. Wilson explained that she had been a P.C. for 9 years and for the last year situated specifically in Maidstone Town Centre, she explained that she had visited the Source Bar premises with 2 P.C.S.O's to get CCTV footage from Mr. Moore with regard to a reported incident, she felt intimidated by his attitude and it was difficult acquiring it. It took lots of meetings to get the evidence to deal with the crime.

P.C. Murray asked what she observed during visits.

P.C. Wilson she observed 40/50 year old males entering the premises on student nights, they did not pay a fee to enter and were back out of the premises after 5 minutes.

P.C. Murray asked if they stood out.

P.C. Wilson answered yes they were much older than the rest of the clientele.

P.C. Murray asked if these males were on the premises on the night of the raid.

P.C. Wilson answered that at 19:40 hours on Tuesday **7th** July 2009 she attended CCTV at Maidstone to view the entrance to The Source Bar and the area of the Rose Yard leading up to it. She observed at 22:28 hours a male who she had seen before enter the club after stopping and speaking with door staff. He did not queue and just entered straight away. Also with them was a tall male with a bald shiny head. She had seen this male regularly at The Source Bar but did not know his name. She then observed a male arrive at the club shake the hands of the doorman and entered the club with a blonde female and a black male. She then at some point was contacted and told that the bald male had been seen out of the club. She then observed them going back into the main doors together. She observed the warrant take place by police at The Source Bar and attended the premises after it had been contained to help PC Murray conduct swabs on surfaces and areas in the club. She then attended Maidstone Town Centre CCTV and seized the tape of the warrant from Morgan Kitchen which is exhibit MK/1. She then booked this exhibit into special property CA/3729/09 at 01:40 on Wednesday 8th July 2009. They were arrested for possession.

P.C. Murray asked if she had seen any of these men since that night.

P.C. Wilson answered yes that she had seen them at the doorway to the Loft.

P.C. Murray asked if she had seen John Pugh the promoter at the Source Bar.

P.C. Wilson answered yes that he came out of the loft, he was very angry because he had lost work at the Source Bar and said that he didn't do drugs or see them

being used there.

P.C.Murray asked if there was anything else she wanted to say.

P.C. Wilson stated that she had heard from lots of sources about the use and supply of drugs that went on at the Source Bar and also questions about what are the Police going to do about it.

Mr. Lopez asked how many years had she been associated with Maidstone and Source Bar.

P.C.Wilson answered that she had been in Maidstone 5 years and had spent 1 year specifically as a Maidstone Town Centre Officer, so she had more to do with the Source Bar in the last year.

Mr. Lopez asked how many times had she made requests for CCTV footage.

P.C. Wilson answered lots of times it got so excessive that a meeting was requested, at that meeting Mr. Moore's personal phone number was given so she could ring him direct and things got better, she couldn't give an exact number of how many times.

Mr. Lopez asked if it was in double figures and was Mr. Moore co-operative.

P.C. Wilson answered that yes it was in double figures and Mr. Moore was co-operative and the situation got better.

Mr. Lopez asked when did the situation get better? Over a month ago?

P.C. Wilson answered she couldn't say.

Mr. Lopez asked if Anna Shreeves had been more or less co-operative?

P.C. Wilson answered yes she was more, that she had been glad when she arrived, she was always happy to allow access to every room, there were no problems with her, no complaints about her.

Mr. Lopez asked about the 40/50 year old's entering the club on student nights, what does this mean?

P.C. Wilson repeated what she had previously said about the males shaking door staff hands and entering without paying any admission fee, they were back out of the premises 5 minutes later. In her opinion they were dealing drugs.

Mr. Lopez asked how many times the individuals had been arrested.

P.C. Wilson explained that her part was intelligence gathering and she was not involved in that part.

Mr. Lopez asked how many times the men had been stopped and searched.

P.C. Wilson answered none by herself.

Mr. Lopez asked about the men who jumped the queue and didn't make payment, he asked if she had seen any exchange take place.

P.C. Wilson answered that she did not see an exchange, she was in the club the night the warrant was executed, the men were arrested in possession of drugs and were known to be dealers before the events of that evening.

Mr. Lopez asked if she had conducted any searches that night.

P.C. Wilson explained that she was there as an observer and to gather intelligence; she is not involved with searches.

Mr. Lopez asked if she had anything to do with the interviews.

P.C. Wilson answered no she hadn't.

Councillor Gibson asked who reported the incidents, what sources did the reports come from?

P.C. Murray answered that they come from a variety of places like CCTV and from members of the public

Councillor Gibson asked for an explanation of the student's nights.

Mr. Thomas said that Mr. Moore would explain that later.

Mr. Lopez indicated to the committee that there were separate matters, Criminal and Licensing. The Committee have to decide the review on the balance of probabilities, not sit as judge and jury dealing with whether crimes are being committed.

P.C. Murray called Sergeant Ian Jones as a witness to the Review.

Mr. Lopez objected to Sergeant Jones being called as no statement had been submitted by the Police for him.

Garry Brimson remonstrated that Mrs. Darling had not submitted a witness statement and we were allowing that to be heard.

Samantha Clarke indicated that a formal drafted witness statement from a party is not required, however what the Hearing Regulations dictate is that notice is given to the authority requesting permission for a person to attend at a hearing and speak in support accompanied by details of the name of the person and an outline/brief description of the points to be made by that party that will be amplified at the hearing and how they will assist. We had that in respect of Mrs. Darling. She further indicated that at the start of the hearing additional evidence was sort to be submitted by parties. The hearing was adjourned to allow parties to agree. The committee were then presented with that additional evidence and retired to read through this evidence. There was nothing about a Sergeant Ian Jones in this bundle of evidence therefore this had not been agreed. She went on to double check to see whether Sergeant Jones' details had been included in the Notice the police submitted further to S.8 Licensing Act 2003 (Hearings) Regulations 2005.

Lorraine Neale informed Samantha Clarke that his details were not included in that notice and that there was no outline submitted as to what points he was going to make.

Samantha Clarke informed the Chairman that in view of this the police could only use this new witness if all parties gave their consent further to S.18 of the aforementioned Hearing Regulations and that Mr. Lopez clearly was not consenting.

Councillor FitzGerald indicated that Sergeant Jones may not be called as a witness and to move on.

Garry Brimson informed the Committee that the points that this witness would have made are addressed in other statements.

P.C Murray then asked if she could raise the next set of evidence in private as it applied to the ongoing criminal investigation.

In Private (see separate sheet)

P.C. Murray pointed out that the highest readings were found in private staff areas, these would not be used by the general public. Cosort testing had come back with positive readings. She then called Mr. Noble.

S. Noble explained that he was the Licensing Enforcement Officer for Maidstone Borough Council and had been employed in that capacity for 5 years. He explained that on Tuesday 7th July 2009 he was on duty with Kent Police undertaking operation habitat. While the operation was underway he was standing outside the entrance to the Source Bar also outside was Mr. Vata, the manager who said to him "This was bound to happen. Steve tells me to let them in. I've tried to bar them, but every time I do Steve says let them in they're with me. They sell drugs and fight. I'm not surprised this has happened". He took this to mean that he was referring to the operation being carried out and the drug search being conducted. Also the 'Steve' referred to he took to mean Stephen Moore who is the owner of the Source Bar and the premise licence holder.

P.C. Murray asked if Mr. Vata's response was spontaneous or directed.

S. Noble answered that he felt he was voicing unhappiness about his employment of the premises.

Councillor Gibson asked if he was still employed at the bar

S. Noble answered he didn't know

P.C. Murray referred to the statement made by G. Rowley where people commented on the lack of surprise at the raid of the premises to him. She also informed everyone that A. Shreeve was arrested and was currently on bail pending Police enquiries. She also explained that the day after the raid it was decided by the Police to request an expedited review, at the 1st meeting the licence was suspended and at the 2nd meeting the suspension was upheld.

ii. The License Holder

Mr. Lopez invited the Committee to look at what has changed since the last hearing in the evidence presented. He referred to the 20 conditions that had been previously offered and asked the question that under new management and new conditions did those present feel that the business could be run successfully.

He asked the Committee to look to where the evidence is, at what is being relied on. He reminded that one must deal with this matter on an evidential basis and excluded conversations about a 'suggested reputation'.

He pointed out that a suggested reputation for a premise that had run in Maidstone for 10 years could not be a reason for revocation. He pointed out that sometimes people say things as a means to knock out competitors. Asked to attach no weight to evidence that is not backed up, has no background. He pointed out that there was nothing to prove regular drug use, ion track findings at the premises could signify a single use occasion as P.O. Parsons had stated earlier. There was nothing to say that it was management responsible for the evidence upstairs again it could be a single historical use. He reminded the Committee that a member of staff had admitted to taking drugs upstairs and that this was reported to the police and they did not know whether the police had taken this matter further but he was no longer working at the premises. He pointed out that the management had been criticized and asked how could they put a scheme of management forward and a method to run the premises that would satisfy all. He did not agree that Stephen Moore was the problem at the premises but if people didn't agree then a different manager would be employed. Does not relate that this premises not being able to operate under different management. He felt that the police case was unraveling and that the comments about Police observing older males going inside inferring they were drug dealers and had no evidence to support that statement. In stated that the observations of the P.C. Wilson are inviting them to take a view that they were drug dealers – however there was no evidence, just her opinion. Reminded the Committee that the Police then stated that they were not inviting them to take that view. Asked the Committee to look at the ion track results, bear in mind the quantity and look again at the results. He stated that the Police case then was more refined and was clearer as things moved along that they thought management was complicit. However this argument is not set out – however he was not going to dwell on that. As far as he was concerned the Crime and Disorder ground had not been set out by the police to warrant what the police were asking for. P. 11 of the bundle was then referred to regarding analysis and states that it put the Club in a new light when comparing it to other premises. However reminded the committee that the police stated that they did not wish to compare clubs!

Management v bad practice

He then pointed out that one was to bare in mind how popular the premises is. High numbers of customers, 160, 000 and a low number of incidents. Some 160,000 patrons had frequented the premises over time and the only evidence was the statements from 6 – 7 witnesses. He reminded the Committee that he spent considerable time/hours forensically analysing all of the police evidence presented at that time. He was more than happy to go through this process again but he noted that the Chairman was at the previous hearing and the Legal Officer was at that hearing too and was observed taking notes. Therefore, if there if there was agreement in order to save some time perhaps permission could be given to rely on what was stated at the previous hearing on the police evidence served at the time and for the Chairman and Legal Officer to fully brief the other members on that Forensic analysis. He was happy to trust that this would be done.

Garry Brimson indicated that he was happy to proceed on this basis.

P.C. Murray indicated that she was happy to proceed on this basis.

Samantha Clarke was happy to proceed on this basis agreeing that it would save considerable time.

Councillor Fitzgerald indicated that as there had been full agreement, the hearing would proceed on this basis and both himself and the Legal Officer would relay the previous comments that Mr. Lopez had made in relation to the Police evidence.

Mr. Lopez referred to Miss Barton and his question to her about her dealings with the premises before the incident, she had been a regular customer hearing rumours but exercising common sense and judgement to attend the premises because the music played was good. Hearsay is not good enough – smear. If consideration were being given to revoking the licence then members would have to assess and attach weight to the statements/evidence in order to justify that decision. He felt they must be open to other avenues for example new management using a different approach to run the premises. P.C. Wilson had stated that things had improved when the DPS Shreeves arrived at the premises; there are no complaints about her she was doing what she was supposed to be doing. Management subject to conditions could be a solution to a bleaker past but a positive future. Adopting the suggested conditions as offered; add extra conditions if necessary and exclude Mr. Moore and the current management from the scene and this should go some way to resolving the problems as seen.

He indicated that there were two paths -

- It was indicated that Demonstrable proof was not there re management and Polices case- stated that it was still an allegation. He asked the Committee to Judge as the premises they are today and referred to the P.C. statement that things did improve with Mr. Moore, that she had no complaints with Anna. The Committee could walk away content with that; or
- If the committee was Content with management – just impose conditions. Not content with management – change management and move forward. Conditions excluding individuals from the premises – could be put that as condition 21.

Mr. Thomas explained Mr. Moore's position, he was a married man with 3 children and run many licensed premises such as the Loft, Yorks and Players, he also had premises in Ashford, Telsford and Shrovesbury so had a lot of experience. At no stage has Mr. Moore been interviewed or charged with any offences related to this information. He would deny all allegations. He understood the Police could not discuss some things because of the criminal proceedings but he had a very good working relationship with the Police before that. He no longer has anything to do with the Source Bar and has already submitted paperwork to transfer the licence and vary the DPS in the name of A. Darling with regards to the premises. Documents have been supplied that show Ms Darling's C.V., Business Plan etc, there has also been a new premise licence application submitted to ensure the premises is run as a very different regime. She has previously run a Squash fitness club. The Committee could impose a condition that no trading under the premise licence until the new licence is approved and a new DPS is approved.

A. Darling explained that she had achieved everything she had set out to do running that operation and was interested in the bar/social trade. The club had not fulfilled its potential and she was employed in January 2008 to manage the establishment, she had 30 part time staff and 1 full time staff to manage. She got to grips with the Public relations/Customer service Ethos; she had to look at all aspects of running the establishment such as licensing and training etc.

Mr. Thomas pointed out that Ms Darling's C.V. listed her experience. She had heard the evidence from the Police and was still very interested in the premises. A professional person would not want to be involved in anything that would risk their professionalism.

Ms Darling answered there were 2 issues to resolve management/staff and the clientele; she could put the steps of her business plan into effect.

Mr. Moore explained that the Source Bar was a freehold premises and a popular venue and had been cherry picked for those reasons.

Ms Darling explained that she had always enjoyed visits to the premises and it had a good reputation for music, it had been operating for 10 years and attracted people for those reasons. She was very interested in the premises as she had the facility to move and extend it. She felt with conditions attached she was convinced the negative reputation could be taken away. She would employ good staff that were vigilant and always in attendance, independent door staff and implement the listed conditions to remedy the situation.

S. Thomas asked how she would provide a safer environment at the premises.

Ms Darling answered that under new management and with a cosier internal environment instead of an open bar area they would adopt the Mu Mu scenario which would attract a different type of clientele.

Mr. Thomas asked if food would be the main pull of the premises and would free food be offered. Would the conditions offered be acceptable to her if attached to the licence and if her business plan outlines how she would run the premises?

Garry Brimson pointed out that the application to vary the DPS from Mr. Moore to A. Darling received after the Review paperwork was not relevant to the day's hearing.

Samantha Clarke clarified the point that a management model had been referred to only.

Mr. Lopez concurred with the point made by Samantha Clarke. He pointed out that S53c set down causes of action that can be employed, the police had asked for one but other actions were to do with mode of management so Ms Darling's attendance and contribution were relevant.

G. Brimson pointed out that S53c allows you to remove a DPS not change a DPS and that the hearing was not a transfer hearing but a Review for revocation.

Samantha Clarke informed Garry Brimson that he was mistaken. That the

Committee were not dealing with a Premise licence transfer application or an Application to vary a DPS and that they were not being asked to deal with such applications by Mr. Lopez but that he was putting forward the case that an effective business could operate from that premises if managed well and was entitled to do so.

Councillor FitzGerald indicated that the point had been made regarding a different management and its effectiveness, thanked Ms Darling and indicated to move on.

Closing Speeches

P.C. Murray explained that the decision had not been made lightly to undertake the Review of the Source Bar. Drugs were an issue but also at the forefront there were serious Crime and Disorder at the premises with 35 incidents being recorded since January 2009. Discussions were held with the Personal Licence Holder and management and they were either unable or unwilling to control the conduct of the patrons. A meeting was held in March 2009 to address the issues, there was a subsequent improvement but things lapsed back to the old ways. The Review would have happened with or without the warrant. The raid just triggered the expedited review requesting suspension. The Police ask that the licence is revoked, any conditions attached would not be adhered to because of the lack of management control and the issue of the Personal Licence Holder, DPS and staff being either actively/passively involved in the illegal use/supply of drugs. No conditions would control the staff or management effectively.

G. Brimson added that there was more evidence to come as the investigation was ongoing that they had supplied more than enough evidence of actual events, statements and arrest information to be sufficient to request a revocation.

Mr. Lopez stated that with Mr. Moore still in place than a revocation would be likely and that they must take the 2nd path and do away completely with the existing management structure. They had listened to the Police criticisms and agreed that new management was necessary and that the 21 conditions offered would allow the disassociation from Mr. Moore. The Sub-Committee would decide/arbitrator who would be appropriate to manage the premises and maintain the licence. The Police request revocation and that the site cannot hold any premise licence, we request a pro active and sensible stance.

End of Hearing

The Chairman brought the Hearing to a close and asked for Samantha Clarke to remain with the Sub-Committee Members during their deliberations.

The Decision

The Sub Committee came to the decision as shown in the Notice of Determination at Appendix A.



LICENSING SUB-COMMITTEE
MONDAY 3 AUGUST 2009

LICENSING PREMISES' REVIEW APPLICATION FURTHER TO APPLICATION FOR
EXPEDITED REVIEW OF PREMISES LICENCE BY KENT POLICE
SOURCE CAFÉ BAR, ROSE YARD, MAIDSTONE

LICENSING SUB-COMMITTEE DECISION REASONINGS

NAME AND ADDRESS
OF PREMISES:

Source Café Bar, Rose Yard, Maidstone, Kent, ME14 1HN

NAME OF PREMISES
LICENCE HOLDER:

Mr. Stephen Moore

REASON FOR
HEARING:

The Kent Police had applied for an Expedited Summary Licence Review under the Licensing Act 2003, as amended by the Violent Crime Reduction Act 2006.

This review took place on 9 July 2009 at which time interim measures were imposed, those measures were that the Premise License be suspended pending the outcome of the full review.

The applicant made representations against the interim step taken and a hearing took place to hear these on 29 July. The Sub-Committee decided that the interim measure imposed remained unchanged.

A full review was required to take place and was schedule to be heard on 3rd August 2009.

DELIBERATION:

The four licensing objectives were considered by the Sub-Committee:

1.Prevention of Crime and Disorder

Kent Police requested a review of the premises' licence because

Police officers believed the premises to be associated with serious crime and disorder.

The Sub-Committee is mindful that the police put forward the case that the premise has been used for the supply and use of class A and B drugs. Further that it appears that all persons involved in management of the premises either condone or willingly allow the premises to be used in that supply and use.

The Sub-Committee were mindful of the amplification of the application made by the Police and the assistance given by the police to the Committee in considering the matter put to them. They noted that there had been issues as recently as 7th July 2009. It was appreciated that there may well be a Criminal Investigation going on that was separate to the licensing process which may have hindered the depth of evidence that could be presented.

The Sub-Committee ran through all of the evidence considered in the appeal to interim conditions hearing as requested by Counsel and those not in attendance at that hearing duly noted what he had said in that regard. They further considered what had been discussed at the hearing and the further evidence submitted.

However, in light of the submission by the police, the Sub-Committee is of the view that on the balance of probabilities given the evidence that had and could be presented they could not determine that there were no issues with the management that was currently in place and therefore any attachment of conditions to the Licence could not address the concerns should the present management remain unchanged.

It was noted that Counsel for Mr. Moore had invited the debate as to whether the site if properly managed was a suitable position for a licensed premises. Opinions expressed by Mr. Noble, witness for the police were that if properly managed then yes it could be a benefit to the night time economy, however further stated that in his view the premises could not be run effectively because of the reputation and the previous management of the premises and could only satisfactorily operate if it varied completely from its status as a nightclub venue. It was further noted that the police remained silent on this matter.

The Sub-Committee considered the option presented by Counsel that they put a condition on the licence excluding individuals from the premises. That in effect the management could be changed by virtue of the fact that the current management could be excluded, for example all servants/agents of Mr. Moore. They were further reminded that an offer had been made to remove the DPS. The Sub-Committee was mindful that Mr. Thomas talking on behalf of Mr. Moore had indicated that Mr. Moore no longer wanted anything to do with the premises and that there was a transfer to another of the premises licence and ran through an example of a different style of management using Mrs. Darling as an example.

The Sub-Committee were mindful not to form any opinion of what Mrs. Darling may or may not be in regards to being a Premises Licence holder or DPS as that was not a matter for this hearing and

would be subject to other processes but noted the example being made of how a premises/any premises could be run.

The Sub-Committee considered the conditions offered by Counsel that there be no trading under a licence occurred until a new licence is approved and a DPS is in place.

The Sub-Committee proceeded to consider each draft condition that had been presented by Counsel and how one could ensure a high standard of management and to address the concerns of Crime and Disorder as detailed by the police, in particular the issue of drugs be it use or supply.

The Sub-Committee noted that in draft condition 4 the matter of a full pat search had been omitted. This had been offered in the previous hearing and there had been no reason given that this was no longer suitable. The Sub-Committee considered that adding this completed comprehensively the condition as previously presented.

Timing as to when SIA staff are in operation at the premises was looked at. On the current license it stated that they were employed from 20.00 hours everyday, the draft conditions stated 22.00 hours and stipulated particular days. In view of the fact that a review was being called it was deemed that the current conditions were not adequate and by default 20.00 hours was not adequate and the Sub-Committee were of the opinion to bring the time forward as apposed to push it back later. The time was brought forward from 20.00 hours to 19.00 hours and decided to keep the number of days to everyday when open.

Draft condition 5 was considered intently and the days that a dogs team was in attendance and the times. In view of the fact that draft condition 4 had been amended and offered a strong safety net preventing drugs into the premises or any other such items that are unwelcome, it was not felt necessary to increase the number of days or the times that had been offered. However, it was noted that Tuesday was a very busy night for the premises therefore a decision was made to add Tuesday.

The Sub-Committee further noted:

- That there had been incidents of drug taking in the toilets and considered how these could be addressed.
- The offer to replace the DPS.
- Who the police were indicating were managing the premises and who gave them concerns to then consider excluding them from the premises.
- That fact that the current condition 11 had not been adhered to and it's importance.
- Any duplication of current conditions that should be removed to avoid confusion.

2. Public Safety

No representations had been received regarding this objective.

3. The Prevention of Public Nuisance

No representations had been received regarding this objective.

4. Prevention of Harm to Children

No representations had been received regarding this objective.

The Sub-Committee were mindful of the relevant provisions of the Licensing Act 2003, Statement of Licensing Policy, Guidance as to Expedited Reviews and relevant Case law.

The Sub-Committee considered all the evidence and believed that the licence could be re-instated however in the interests of prevention of Crime and Disorder that conditions be attached to the Premises Licence and that the conditions to be attached were necessary for the promotion of the licensing objectives and proportionate.

NB. These notes on the deliberation do not purport to be an exhaustive account of all the matters debated by members

**DECISION MADE BY
SUB-COMMITTEE:
(READ OUT BY LEGAL
ON THEIR BEHALF AT
THE HEARING)**

Premise License is re-instated subject to the following conditions:

1. A Clubscan ID recognition system, or equivalent, must be installed and maintained at the premises at all times of operation. The database (including all identification images, attendance reports, patron reports, etc.) must be made available for Police interrogation upon request.
2. Patron entrants shall be required to show where reasonably necessary photographic proof of identification by means of: photo-driving licence or passport only, in accordance with the Challenge 25
3. No person under the age of 18 years is permitted onto the premises whilst trading to the public and a clear notice shall be displayed at each entrance to the premises in a prominent position so that it can be easily read by persons entering the premises in the following terms: NO PERSONS UNDER 18 WILL BE ADMITTED.
4. Each person entering after 1900hrs must be requested to pass through a search arch and be made subject to a full pat search (which complies with Police requirements) conducted by Security Industry Authority registered door supervisor before entry is permitted beyond the entrance into the premises. Where this is denied, entry must be refused.
5. The premises licence holder shall consult with the Police on the provision outside the entrance to the premises of a drugs dog team on Tuesdays, Thursdays, Fridays, Saturdays of operation from 22.00 hours until close. The composition of any drugs dog team in attendance shall be

determined by the Police.

6. The premises licensees shall immediately apply to become a member of the Best Bar None scheme with immediate effect and shall use best endeavours to maintain its membership for the duration.
7. During this time the premises licensees shall abide by all rules and conditions of Best Bar None membership where applicable.
8. As a minimum, the premises licence shall be bound by the following:
 - i. A policy of zero tolerance with regards to drugs use and supply must be upheld in respect of the premises;
 - ii. Admission shall be refused to anyone suspected of being under the influence of drugs (or alcohol);
 - iii. Any customer who is, or appears to be drunk, will be asked to leave the premises immediately;
 - iv. All staff are given training in recognising the symptoms of drug use and supply (and drinks and drunkenness), dealing with disorder, and are instructed to be vigilant at all times and to report any concerns to a premises licensee immediately. A logbook shall be kept to record all staff training and refresher training. Initial training shall be given to staff before the commencement of work in bar/club and then training shall take place every three months after that;
 - v. All staff will be notified of any information given by the Police or by PubWatch as to persons banned from licensed premises within the local area;
 - vi. Admission will be refused to those suspected of dealing drugs on the premises. A refusal log must be maintained;
 - vii. If a person is suspected of dealing drugs on the premises, or any other drugs-related incident arises, the Police shall be notified immediately;

- viii. Staff will always request that Police collect drugs from the premises. Drugs shall never be removed from the premises by staff;
 - ix. All drugs-related incidents must be recorded in a designated incident book which records (i) date (ii) time (iii) name of person making discovery (iv) description of the drugs found (v) name and/or description of any person suspected of possessing/dealing the drugs (vi) details of police officer contacted. This incident log must be made available to the Police upon reasonable request;
 - x. The confiscation on discovery of drugs must be witnessed, logged in the designated incident book or amnesty box log, and the drugs immediately secured in a designated secure place or amnesty box (to be agreed by the Police) before collection by the Police;
 - xi. Suitable signage (to be agreed by the Police) will be displayed to inform customers of the policy of the premises towards drugs use and supply;
 - xii. If the behaviour or attitude of any customer gives staff reason to believe that any verbal intervention with that person, or request for that person to leave, may increase the likelihood of that person being physically violent towards staff or customers, then the Police will be called prior to that person being asked to leave;
 - xiii. In all instances of physical violence occurring on the premises, the Police will be called by a member of staff.
9. The premises shall not operate unless it is provided with a digital CCTV system to cover all licensed areas including the entrance, rear open area and all entrances to the toilet areas. The precise location of all cameras is to be determined pursuant to the recommendation of the Police Crime Prevention Officer.
10. The digital CCTV system is to be operating and continually recording at all times whilst the premises are open to the public. CCTV recordings are to be retained for a period of 31 days with time and date stamping and are to be made available to the statutory authorities upon authorised

request.

11. All areas of the premises are to be sufficiently illuminated in order that recorded images are of appropriate quality pursuant to the recommendation of the Crime Prevention Officer.
12. The outside area of the premises shall be adequately illuminated by the placing of adequate halogen/fluorescent lights which shall be placed above the rear entrance of the premises to the reasonable requirements of the Police.
13. The toilet areas of the premises are to be checked for unusual activity regularly by a member of staff and no less frequently than 4 times each hour. Each visit must be logged as to the (i) date and time of each visit and (ii) name of staff member attending. The log must be made available for inspection on request by an authorised person.
14. The outside area of the premises is to be checked regularly by a member of staff and no less frequently than 3 times per hour. Each visit must be logged in terms of the (i) date and time of each visit and (ii) name of visiting staff member. The log must be made available for inspection on request by an authorised person.
15. Notices will be displayed prominently informing customers that all toilet areas and the outside areas are checked regularly. All such notices displayed will not give the times of any visits.
16. A Security Industry Authority registered door supervisor shall be employed at the premises and shall remain situate within the main floor area on every day of operation from 19.00 hours until close.
17. A Security Industry Authority registered door supervisor shall be employed at the premises and shall remain situate within the outside area on every day of operation from 19.00 hours until close.
18. An adequate number of Security Industry Authority registered door supervisors shall be employed at the premises and shall remain situate at/around the entrance area to the premises from 19.00 hours until close.
19. A queuing policy which is in accordance with Police

guidance must be implemented for the tenure of the premises licence.

20. The attending manager of the premises shall remain on the premises until it is fully cleared of all customers and staff.
21. A telephone contact number for the premises shall be prominently posted on the outside of the building.
22. DPS Anna Shreeves is removed.
23. Refurbishment works are done to all toilet areas that would eliminate horizontal surfaces to prevent drug use in these areas.
24. The following persons are excluded from the premises: Stephen Moore, Anna Shreeves, Saimir Vata, Luke Bendall and all servants, agents and associates of Stephen Moore past and present and further are not to be involved in any way with any management of the premises in future.
25. Condition 11 on the current licence is adhered to and all staff are furnished with a copy of the said policy.
26. Conditions 4, 5, 9, 22 and 23 on the current licence are removed.
27. No trading under the premises licence until the application of the transfer of a premises licence to another has been approved.
28. No trading under the premises licence until the appointment of a new DPS has been approved.
29. No trading under the premises licence until all the conditions have been met.

**STATEMENT MADE AT
HEARING BY THE
CHAIRMAN
FOLLOWING THE
ANNOUNCEMENT OF
THE DECISION:**

All parties will receive a copy of the written Determination Notice regarding the Sub-Committee's determination.

All parties may appeal against the Sub-Committee's decision within 21 days beginning with the day on which the appellant is notified of the Licensing Authority's written determination. Appeals must be

lodged with the Magistrates' Court. The decision of the Sub Committee does not take effect until the period for appealing has ended, or if there is an appeal, upon completion of the appeal. Parties should be aware that the Magistrates Court may make an order with respect to costs on any appeal.

The hearing is formally closed.