

LONDON BOROUGH OF HARROW

Meeting:	LICENSING PANEL
Date:	29 JULY 2003
Subject:	APPLICATION FOR TRANSFER AND RENEWAL OF A PUBLIC ENTERTAINMENTS LICENCE CLUB MEHFIL, 32 RAILWAY APPROACH, HARROW, MIDDX. (Formally Club Moonlight)
Responsible Chief Officer:	CHIEF ENVIRONMENTAL HEALTH OFFICER
Relevant Portfolio Holder:	COUNCILLOR PHIL O'DELL
Status:	PART 1 (PUBLIC)
Ward:	GREENHILL
Enclosures:	APPLICATION, EXISTING LICENCE, OBJECTION AND CORRESPONDANCE WITH APPLICANT

1. Summary

- 1.1 This report gives details of applications for the transfer and renewal of a public entertainment licence and gives guidance to assist the Licensing Panel in reaching a decision. The application is referred to the Panel as the applicants for the transfer and renewal have failed to respond to a written request for improvements in management at the premises and a plan to maintain safe operating procedures. There is also objection to the renewal application from the Metropolitan Police, the Police also wish to object to the transfer application.
- 1.2 In addition, an observation by officers on 16 February 2003 revealed that licence conditions requiring the use of registered door staff and to the keeping of a register of members were not being complied with at the time of the visit. The premises were being managed at the time by Mr Suchdeva and Mr Hussain, who are the applicants for the transfer. As a result of the observation by officers Mr Hussain was interviewed to give a formal explanation for the alleged circumstances at the time but gave no commitment to improve future performance. In addition the Police are not satisfied with management arrangements at the premises, to the extent that they are seeking the revocation of the liquor licence for the premises. The Police have indicated that they wish to object to the transfer of the public entertainment licence. This is a late objection and the Panel has to decide whether this objection is admitted, and heard by the Panel. As a result the transfer application is being reported to the Panel for decision, as officers did not consider it appropriate to exercise delegated powers to transfer the annual licence for the premises to Mr Suchdeva and Mr Hussain.

- 1.3 Additionally an application has been made for the renewal of the annual licence. The Metropolitan Police have objected to this application. The Panel should consider first the transfer and then the renewal of the licence.
- 1.4 The Metropolitan Police are objecting to the transfer application made by Mr Sachdeva and Mr Hussain to transfer the justices' licence from Mr T Allen. The Police also have made an application to revoke the existing justices' licence held by Mr T Allen on the grounds that the premises has not been run in a fit and proper way. The hearing is on 23rd July 2003 and officers will report to members on the decision of the Licensing Justices.
- 1.5 A further visit was made by Officers on Saturday 5th July 2003, the findings are attached to this report (Appendix B)

2. Recommendations (for decision by the Panel.)

- 2.1 **Members are asked to determine the application in accordance with the guidance in section 8, below.**

3. Relevant Previous Decisions

None

4. Relevance to Corporate Priorities

- 4.1 While this report is in response to a request for a licence, the public safety and environmental control aspects of licensing address corporate issues. In particular the quality of the environment, promotion of leisure pursuits and a prosperous local economy.

5. Background Information

- 5.1 Application has been made for the transfer and renewal of the existing Annual Entertainments Licence for Club Mehfil, 32 Railway Approach, Harrow. The premises, previously Club Moonlight, has been operated in recent years by Mr P Behimji and Mrs S Mihaylova trading as Glass Palace Ltd. The applicants for transfer and renewal, Mr Arvind Suchdeva and Mr Khalid Mahmood Hussain, have been promoting entertainments at the premises for approximately two years. The premises have been licensed for many years for entertainments both by this Council and by the former Greater London Council. All the above persons have been invited to the meeting.
- 5.2 The premises are licensed for up to 280 persons, the premises are suitable for this number. A copy of each application is attached to this report (Appendix A).
- 5.3 The Chief Planning Officer advises that there are no planning restrictions on the use of the premises.
- 5.4 The London Fire and Emergency Planning Authority have informed this Division of difficulties regarding gaining access to the premises to complete their inspection. Steps are being made by officers of this Division to resolve this matter. The letter from the Fire Authority is attached in to this report (Appendix B)

- 5.5 The transfer application by Mr Suchdeva and Mr Hussain was made in July 2002. At the time they had only promoted events at the club and had no experience in the management of nightclubs. At the time of their application for transfer it was strongly recommended by officers that they undertake a training course designed to provide the managers with the knowledge of their role and responsibilities so as to ensure public safety. Linked to this would be the creation of an operating safety plan for the premises. This approach was initially agreed with the applicants at a meeting and subsequently confirmed in writing. It was proposed that the transfer be considered when they had passed the course. After much delay by Mr Sachdeva it is only within the last month he has passed the above course and has confirmed that rest of his team also will be sitting this exam soon.
- 5.6 The Licencing Panel had been due to consider the transfer of the licence in October 2002, however at the request of Mr Suchdeva, the report to the Panel was postponed to allow the applicants to implement the operational plan that would satisfy the Police and the Council as Licensing Authority. This is still awaited. Additional detail is in the summary by the Licensing Officer at Appendix B.
- 5.7 A during performance inspection by officers on the evening of 16th February 2003 revealed that licence conditions requiring the use of registered door staff and the keeping of a register of members were not being complied with. Mr Khalid Hussain was subsequently interviewed but gave no commitment for future performance.
- 5.8 The licence fell due for renewal at the end of January 2003 and a periodic electrical inspection was required. A certificate purporting to be an inspection certificate was sent by Mr Suchdeva. However this was obviously completed by a person who had no knowledge of electrical installations. The certificate is from Prem Construction, the company of Mr P Behimji. The Panel will be aware that Ms Mihaylova and Mr Behimji are the current licensees. Mr Hussain was formally interviewed over the certificate. It was subsequently stated that the certificate was a mistake and referred to another premises. A further certificate was issued in the name of Mr Behimji, this is the subject of further enquiries.
- 5.9 In recent months the Police have raised concerns over the management of the premises by Mr Suchdeva and Mr Hussain. Such is the level of concern that the Police have indicated that they will be seeking the revocation of the liquor licence for the premises. The hearing is on the 23rd July 2003. Officers will report to the Licensing Panel on the outcome of the hearing by the Harrow Licensing Justices.
- 5.10 The Police also wish to object to the transfer application for the public entertainments licence. The Panel will have to consider whether the Police are to be given the opportunity to object to the transfer. The objection has been received well after the end of the normal consultation period, however, it reflects the concerns of the Police over more recent activities at the premises. The Panel will have to consider the comments of the Police and the applicants, the Panel also has to consider the implications of Human Rights and natural justice in reaching a decision. As a result of the history with the applicants, the application for transfer is being reported to the Panel as officers did not consider it appropriate to exercise delegated powers to transfer the annual licence for the premises.
- 5.11 Additionally Mr Arvind Suchdeva and Mr Khalid Mahmood Hussain have applied to renew of the annual entertainments licence for the premises. The Metropolitan Police have objected to this application on the grounds the premises are not run in a fit and proper way. Specifically, the inadequate management of the premises has led to

breaches of the conditions of the licence, this continues to lead to public nuisance and the threat to public order and safety.

- 5.12 The applications are being referred to the Panel as the applicants for the transfer and renewal have failed to comply with requirements of the licence conditions and have not implemented officers' requests for improvements at the premises. There is also objection by the Metropolitan Police to the renewal application. The correspondence is appended to this report. The Panel should consider first the transfer and then the renewal of the licence.

6. Objections to the Application

- 6.1 A copy of the Police's letter of objection to the renewal is attached, together with relevant officer notes (see Appendix B).
- 6.2 Once the date for the hearing was established the applicant and the objector were invited to provide written statements of the evidence they wished to present at the hearing (see Appendix C).
- 6.3 Regarding the consideration by the Panel of the Transfer application, if the Police objection is not admitted, there is no established procedure for the Panel to follow. If the Police objection is admitted, the Transfer application is to be determined at an Oral Hearing in public. The Renewal application is to be determined at an Oral Hearing. Guidance regarding the procedure for an Oral Hearing in public is at Paragraph 27 onwards in the attached document (see Appendix D).

7. The Premises

7.1 Location

Club Moonlight is in a terrace of commercial premises to the front of the Civic Centre. The premises are in an area, which is principally commercial in nature.

7.2 Construction

The premises are of solid construction and meet the requirements of the Council's Technical Regulations regarding construction.

7.3 Complaint History

Environmental Health has not received any complaints about the premises in the last year. However the Panel will be aware that a shooting took place within the premises in 2002.

8. Determination of the Application

- 8.1 Having considered the reports by officers and the representations of the objector and the applicant, the Panel has to determine the application for the transfer and then the application for the renewal of the licence.

The Transfer Application

- 8.2 The Panel should initially consider the status of the objection the Police wish to make to the transfer application, as detailed in paragraph 5.10 above. Whether or not the Police objection is admitted, the legislation does not list the grounds on which the Panel can refuse an application for a transfer, merely stating that the Panel has discretion to grant or refuse. The legislation does allow for the imposition of conditions, restrictions, etc. but again offers no guidance as to the type of condition that may be imposed. It is clear that any additional conditions would have to be practical, enforceable and meet the rules of natural justice.
- 8.3 Options available to the Panel for the transfer:
- a. To grant the transfer as it stands. Any licence granted would be subject to the Council's Rules of Management.
 - b. To grant the transfer and in light of the evidence presented both by officers and the applicant, to amend existing conditions upon the licence, or to place additional conditions upon the licence. Licence conditions may relate to the management of the premises or technical provisions at the premises.
 - c. To refuse the transfer. In the event of the Panel taking this option, the advice of officers should be sought as to whether the existing licensees, Mr Behimji and Mrs Mihaylova, are present and able to proceed with the renewal application.

The Renewal Application

- 8.4 Once the Panel has determined the transfer application, consideration is to be given to the application for renewal. The legislation does not list the grounds on which the Panel can refuse an application for a renewal, merely stating that the Panel has discretion to grant or refuse. The legislation does allow for the imposition of conditions, restrictions, etc. but again offers no guidance as to the type of condition that may be imposed. It is clear that any additional conditions would have to be practical, enforceable and meet the rules of natural justice.
- 8.5 Options available to the Panel:
- a. To grant the renewal application as it stands for a full 12 months. Any licence granted would be subject to the Council's Rules of Management.
 - b. To grant the licence and, in light of the evidence presented at the hearing, from officers, the objector and the applicant, to place additional conditions upon the licence. Licence conditions may relate to the management of the premises or technical provisions at the premises. In circumstances that appear appropriate the Panel may grant the licence for a period less than 12 months.
 - c. To refuse to renew the licence.
- 8.6 It should be noted with options (b) and (c) in paragraphs 8.3 and 8.5 above that;
- i. if the Panel refuse to either transfer the licence, or to renew the licence, alternatively if amendments or new conditions are imposed, or the renewal is granted for less than 12 months, then clear reasons would have to be given to the applicant, and;

- ii. the applicant would have the right of appeal to a Magistrates Court.

9. Consultation

- 9.1 The applications were advertised in accordance with the Council's rules governing applications and details of the applications were attached to the Planning Application lists. Aside from the Police, there were no objections to the applications.

10. Finance Observations

- 10.1 There are no financial implications for the Council relating to the consideration of this application by the Panel.

11. Legal Observations

- 11.1 In addition to determining the application in accordance with the legislation, Members must also have regard to the provisions of the Human Rights Act 1998.

12. Background Papers

- 12.1 File for the Club Mehfil, 32 Railway Approach, Harrow.
- 12.2 London Borough of Harrow, Rules of Management and Technical Regulations for Places of Public Entertainment.

13. Author

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