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**MINUTES OF THE RECONVENED PREMISES/PERSONAL LICENCES SUB-COMMITTEE 'C'  
HELD ON 8 OCTOBER 2012 AT 10.00 A.M. IN THE COUNCIL CHAMBER, WEELEY**

**Present:** Councillors Platt (Chairman), De-Vaux Balbirnie and Powell

**Stand-by Member:** Councillor Fawcett

**Also Present:** Councillor White

**In Attendance:** Head of Public Experience (June Clare) (items 8 – 13 (part only)), Legal Services Manager (Michael Gibson-Davies), Food, Health and Safety Manager (John Fox), Licensing Officer (Alan Tolmie), Environmental Health Officer (Ian Wilkins), Planning Enforcement Team Leader (Andy Knowles), Democratic Services Officer (Janey Nice) and Licensing Assistant (Michael Cook)

**Also In Attendance:** David Appleby (Essex Police Licensing Officer) and Kim Scholefield (Essex Police Licensing Officer)

**8. WELCOME**

The Chairman welcomed all those present to this meeting of the Premises/Personal Licences Sub-Committee 'C' reconvened from 17 September 2012. That meeting had been adjourned in order to give the Sub-Committee time to consider additional substantial information which had been submitted. The Chairman read out the procedures that would be followed during the meeting.

The Chairman also confirmed that members of the Sub-Committee and Officers had attended a site visit to S & R's Social Club and The Basement/Al Fresco's and had also noted the locations where objectors to the applications received resided.

**9. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

An apology for absence was submitted from Councillor G L Mitchell with Councillor Powell substituting.

**10. MINUTES OF THE LAST MEETING**

The minutes of the adjourned meeting of the Sub-Committee held on 17 September 2012 were approved as a correct record and signed by the Chairman.

**11. MATTERS ARISING FROM THE ABOVE-MENTIONED MINUTES**

There were none.

**12. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 15.3**

There were none.

**13. LICENSING ACT 2003 – APPLICATION FOR THE JOINT REVIEW OF A PREMISES LICENCE**

Application No: 12/00557/PREREV – S & R's Social Club, 32-34 Kingsway, Dovercourt

**LICENSING ACT 2003 – APPLICATION FOR THE JOINT REVIEW OF A PREMISES LICENCE**

Application No: 12/00558/PREV – The Basement/Al Fresco's, 32 Kingsway, Dovercourt

The Sub-Committee had before it for its consideration, applications that had been submitted by Mr Gary Cox, Mr Roger Frith and Mr Kevin Frith, being members of the public, for the joint review of the Premises Licence in respect of the premises at and forming S & R's Social Club, 32 to 34 Kingsway, Dovercourt. An application had also been submitted by Mr Roger Frith and Mr Kevin Frith for a review of the Premises Licence in respect of the premises at and forming The Basement Nightclub/Al Fresco's at 32 Kingsway, Dovercourt. The reviews had been requested on the grounds that the Licensing Objectives in respect of the Prevention of Crime and Disorder, Public Safety, the Prevention of Public Nuisance and the Protection of Children from Harm had been breached.

Members were made aware of the details of the current licences, the subjects of the reviews and of the applications for review as set out in the applications, and as summarised in Sections 2.0 and 3.0 respectively, of item A.1 to the Report of the Head of Public Experience. The Sub-Committee was also made aware of the Secretary of State's Guidance with regard to review hearings, as attached as Appendix 'C' to the report and as summarised in Section 4.0 of the report.

Members were also told that, since the application had been received on 29 August 2012 to transfer the Premises Licences for S & R's Social Club and Alfresco's and The Basement, into the name of Marcel Pontius, further applications had been received to transfer the Premises Licence for S & R's Social Club into the names of Gemma Harris and Amy Brunsdon. Additionally, Miss Emma Michelle Ives formally notified the Authority of her consent to transfer the Premises Licence for The Basement Night Club/Al Fresco's into the name of Mr Michael Gibbons. Both Ms Sanden and Ms Ives had stated that they no longer had an interest in either premises.

With regard to the Licensing Objective for the Prevention of Public Nuisance, the Head of Public Experience (Food, Health and Safety), being the Responsible Authority, had confirmed its support of the application for the Review of the Premises Licence.

The Sub-Committee was informed that the review of applications had been advertised by the display of a notice on the premises concerned, at the Council's Offices and on the Council's website.

Mr Gary Cox and Mr Kevin Frith, applicants, addressed the Sub-Committee in support of their applications and answered questions from members of the Sub-Committee and the Solicitor (Mrs Louise Bland) acting on behalf of the Licence holder.

Mrs Bland and Mr Michael Gibbons, a Licence holder then addressed the Sub-Committee and answered questions from members of the Sub-Committee and the applicants.

**The meeting stood adjourned from 11.55 a.m. – 12.10 p.m.**

The Legal Services Manager (Michael Gibson-Davies) then outlined the procedure for the next part of the meeting.

After clarification from the Legal Services Manager and with the agreement of the Solicitor for the Licence holder, Mr Roger Frith, an applicant, then made a statement in support of his application and answered questions from Members and the Licence holder's Solicitor.

Mrs Bland and Ms Gemma Harris, the Designated Premises Supervisor, then addressed the Sub-Committee and answered questions from Members and the applicants.

The Essex Police Licensing Officer (Mr David Appleby) was called to address the Sub-Committee and answered questions from Members and the applicants.

**The meeting stood adjourned from 1.20 p.m. – 1.50 p.m.  
in order for all present to take lunch.**

The Environmental Health Officer (Mr Ian Willkins) then addressed the Sub-Committee and answered questions from Members and the applicants.

Mr Kevin Frith, on behalf of the applicants, made a closing statement. Mrs Bland, on behalf of the Licence holder, also made a closing statement.

### **EXCLUSION OF THE PRESS AND PUBLIC**

It was moved by Councillor Platt, seconded by Councillor Powell and:

**RESOLVED** – that pursuant to Section 100A (4) of the Local Government Act 1972 that the press and public be excluded from the meeting during the period when the Sub-Committee would be deliberating and considering its decision on the grounds that such deliberations would involve the likely disclosure of exempt information as defined in paragraph 5 of Part 1 of Schedule 12A, as amended, of the Act.

Members, the Legal Services Manager and the Clerk retired to deliberate and consider their decision.

Following such deliberations the meeting was reopened to the public. The Legal Services Manager confirmed that he and Members had taken part in a conference call to the Solicitor who normally attended meetings of Premises/Personal Licences Sub-Committees and had had a detailed discussion and that legal advice had been obtained on whether the current Licences could be suspended.

The Chairman addressed the meeting and informed all present that a decision had been made only on The Basement/Al Fresco's and that the Committee had decided to defer its decision on S & R's Social Club to a date to be decided as it had considered there had been insufficient information and it required more evidence from the Licence holder. The deferred meeting of the Sub-Committee would have the same Members to attend since they had been involved in the original consideration of this matter.

It was moved by Councillor Platt, seconded by Councillor Powell and:

**RESOLVED** – That the decision of the Sub-Committee be as follows:-

The Sub-Committee had given careful consideration to this application for a review and to the actual representations received from Mr Kevin Frith and Mr Roger Frith on the grounds that the Licensing Objectives in respect of Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and the Protection of Children from Harm had been breached for the reasons set out in their representations. In making its decision, the Sub-Committee had taken into account:-

- (i) relevant matters set out in the Licensing Authority's own Statement of Licensing Policy;
- (ii) the relevant parts of the Guidance issued by the Secretary of State;
- (iii) the range of powers provided to Licensing Authorities by the Licensing Act 2003 in determining a Review; and
- (iv) any legal advice given by the Council's Legal Services Manager and Solicitor.

The Sub-Committee was also aware that it had to act to promote the Licensing Objectives as set out in the Licensing Act 2003 and that any decision it took in determining a Review had to be necessary for the promotion of those objectives.

The decision was as follows:-

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In respect of the application for the Review of a Premises Licence/Club Premises Certificate submitted by Mr Kevin Frith and Mr Roger Frith in respect of the premises known as The Basement/Al Fresco's, the Sub-Committee's decision was that the following additional fifteen conditions be attached to the Licence to meet the Licensing Objectives for the Prevention of Crime and Disorder, Promotion of Public Safety, the Prevention of Public Nuisance and the Protection of Children from Harm.

In addition to any Mandatory Conditions and any conditions that were consistent with the Operating Schedule, the following conditions would apply in order to satisfy the relevant Licensing Objective.

1. By no later than 9 November 2012 and at all times thereafter, all staff working at the premises shall be and continue to be fully trained and familiarised with a comprehensive plan for all relevant issues relating to the entry, exit, smoking area and noise control measures for the use of the premises. The Designated Premises Supervisor and/or Manager shall ensure compliance by all staff with this plan at all times.
2. All customers seeking to gain entry to The Basement area shall, so far as practicable, queue solely within the Al Fresco's area and the noise and number of customers waiting outside the premises to gain entry shall be kept to a minimum. A Door Supervisor shall be present at all times to give proper effect to these requirements.
3. No customer leaving the premises will be allowed re-entry other than those using the smoking area outside, which shall be used by no more than 20 customers at any one time. A Door Supervisor shall be present at all times to ensure that noise from customers in the smoking area is kept to a minimum.
4. By no later than 9 November 2012, clear and proper signs shall be displayed by all exit and entry points to the premises reminding customers to be quiet and behave in an orderly fashion when leaving the premises.
5. At least two Door Supervisors and the Duty Manager shall remain on duty at the premises until all customers have left the premises, the immediate vicinity and the surrounding area, in order to encourage customers to disperse quickly and quietly.
6. All cigarette ends and other rubbish in the immediate vicinity of the premises and other adjacent properties, whether or not deposited by customers of the premises, shall be properly removed and disposed of at the end of each night and no drinks, bottles, glasses or similar containers shall be taken outside the premises by any person.
7. All external doors and windows of the premises shall be kept closed except for access and egress.
8. Rubbish and bottles shall not be removed from the premises between the hours of 9.00 p.m. and 8.00 a.m.
9. No recorded or live music shall be played outside The Basement area of the premises.
10. By no later than 9 November 2012, two doors each with noise reduction performance of not less than 15dB shall be installed, one just inside the entrance of the Al Fresco's area and the other at the far end of the disabled access ramp by the entrance to The Basement area and both doors shall be kept in place and kept closed except for access and egress at all times thereafter.

11. By no later than 9 November 2012, noise limiters for the club sound system shall be installed and shall be kept properly working at all times thereafter.
12. By no later than 9 November 2012 the beer coolers at the premises shall be moved and/or properly acoustically shielded and shall be retained where moved and/or as so acoustically shielded at all times thereafter.
13. The internal staircase between The Basement area and S & R's Social Club at 32-34 Kingsway, Dovercourt shall be unavailable except to staff working at the premises. Proper measures shall be kept in place at all times to ensure compliance with this requirement except in the case of fire or other emergency.
14. A fire safety certificate be produced and re-submitted annually to the Licensing Authority.
15. That an electrical safety certificate be produced and resubmitted annually to the Licensing Authority.

The decision would be confirmed in writing to all parties and they would also be informed that they had a right of appeal to the Magistrates' Court within a period of 21 days beginning with the date the applicant was notified of the decision by notice.

The meeting was declared closed at 5.55 p.m.

Chairman