



City of Westminster

Licensing Committee

Item No:

Date:

8 July 2020

Classification:

For General Release

Title of Report:

Licensing Appeals

Report of:

Bi-Borough Director of Law

Wards involved:

Not applicable

Policy context:

A business like approach

Financial summary:

None

Report Author:

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1. Summary

1.1 This report provides a summary of recent appeal results.

2. Recommendations

2.1 That the report be noted.

3. Background

3.1 There have been no new appeals since January 2020 and the Opium appeal was withdrawn as specified below.

4. Licensing Appeals

4.1 Opium, 21 Rupert Street, London, W1D 7PJ -Pending

4.1.2 An application was made by the Metropolitan Police Service on 28 August 2019 to seek an expedited review of the above premises licence because they considered it was associated with serious crime or serious disorder. The Review application was based on a serious incident that took place during the early hours on Sunday, 25 August 2019, when one person was stabbed within the Premises, another was shot outside the Premises and fighting occurred within the Premises.

4.1.3 On 23 September 2019, the Licensing Sub-Committee heard the review application and the licence was revoked in view of the seriousness of the criminal activity which had taken place and the fact that the Premises Licence Holder had failed to comply with so many conditions on their licence.

4.1.5 On 24 October 2019, the Appellant appealed to the Westminster Magistrates' Court. The hearing was scheduled to take place on 15 June 2020 at Hendon Magistrates' Court, but the appeal was withdrawn.

5. JUDICIAL REVIEWS

5.1 Hemming and others v Westminster City Council

5.2 Members will be aware that Hemming and a number of other proprietors of sex establishments in Soho have challenged the fees charged by Westminster for sex shop licences. They have alleged that the Council was only entitled to recover the administrative costs of processing the application when assessing the licence fee, and not the costs of monitoring and enforcing the whole licensing regime against unlicensed and licensed operators.

5.3 The High Court and the Court of Appeal both held that the European Directive prevented Westminster from recovering the fees for monitoring and enforcing the licensing regime, against licensed and unlicensed operators. Westminster were therefore ordered to repay the element of the fees which related to monitoring and enforcement costs.

5.4 Westminster appealed to the Supreme Court who decided after various hearings on 19 July 2017 that Westminster could recover a reasonable fee for the monitoring and enforcement of the sex licensing regime in Westminster (including the costs of enforcement against unlicensed operators).

5.5 An application is being made to the Administrative Court to recover the costs payable to the Council for monitoring and enforcing the licensing regime.

6 RECORD OF APPEALS

6.1 To date, 476 appeals have been received since the Council took over the licensing functions from the Magistrates' Court in February 2005. 476 of these appeals have been heard / settled / withdrawn etc. as shown below:

- 0 pending
- 59 dismissed
- 16 allowed
- 13 allowed only in part
- 166 settled
- 222 withdrawn.

7. Legal implications

7.1 There are no legal implications for the City Council arising directly from this report.

8. Staffing implications

8.1 There are no staffing implications for the City Council arising directly from this report.

9. Equalities Implications

9.1 There are no direct equalities implications arising from this report.

10. Business plan implications

10.1 There are no business plan implications arising from this report.

11. Ward member comments

11.1. As this report covers all wards, comments were not sought.

10. Reason for decision

10.1 The report is for noting.

If you have any queries about this report or wish to inspect any of the background papers please contact Heidi Titcombe,
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