

**IN THE Highbury Corner Magistrates' Court**

**BETWEEN**

**BIN-DO ENTERTAINMENT LIMITED**

**Appellant**

**-v-**

**LONDON BOROUGH OF CAMDEN**

**Respondent**

1. This is an appeal under section 181 and Schedule 5 of the Licensing Act 2003 [‘the Act’]. The appeal arises from two determinations by the Licensing Sub Committee of the London Borough of Camden [‘LBC’] to revoke the licence of the Den/Centro nightclub.
    - a) On 8<sup>th</sup> September 2011 the committee revoked the premises license following an application made on 27<sup>th</sup> May 2011 by the Metropolitan Police for review under section 51 of the Act.
    - b) On 24<sup>th</sup> November 2011 the committee refused an application by the Metropolitan Police to suspend the premises licence as an interim step, following an application for summary review under section 53B of the Licensing Act 2003.
    - c) On 19<sup>th</sup> December 2011 the committee revoked the premises licence following an application by the Metropolitan Police on 23<sup>rd</sup> November 2011 for summary review under section 53A of the Act.
  2. The application for review was made on the basis that the Den/Centro was failing to promote the licensing objectives of:
    - prevention of crime and disorder; and
    - prevention of public nuisance.
- History of the Premises**
3. The appeal concerns a nightclub named The Den and Centro at 18 West Central Street, London, WC1 [the address is also given as 16 and 16A West Central Street], which holds a premises licence under the Act granted by the LBC. The premise has a large capacity; 800 in Centro and 275 in Den, and a 24 hour license. It is the only premises in Camden to have such hours.
  4. The licence permits the premises to open for 24 hours a day for:

- a) Sale of alcohol (for consumption on the premises);
- b) Live music;
- c) Recorded music;
- d) Performances of dance;
- e) Anything similar to live music, recorded music or performances of dance;
- f) Facilities for making music;
- g) Facilities for dancing
- h) Facilities for entertainment of a similar description to making music or dancing (24 hours);
- i) Late night refreshment [23.00-05.00 Monday to Sunday];
- j) Opening hours – 24 hours.

5. Some of the relevant conditions of the licence are:

- a) The maximum capacity of the premises is 1000 persons, with Den not exceeding 800 persons and Centro not exceeding 275 people.
- b) No sound emanating from the premises should be audible within any noise sensitive premises between 23.00 and 07.00 hours.
- c) There is a minimum entrance fee.
- d) Whilst the premises is being used under the licence the licensee shall ensure that all litter and waste outside the premises is removed and disposed of with other waste from the premises.

6. Chronology:

- 24.11.05 - Licence first issued and operated as The End nightclub and AKA restaurant.
- 06.04.09 - Licence transferred to Central Investment Properties (London) (also the freeholder of the property)
- 01.05.09 - Application to transfer the licence to Westral Limited.
- 01.09.09 - Nightclub reopened as The Centro and The Den.
- 01.04.10 - Present management took over running the premises. Licence held by Old World Entertainments Ltd [sole director Yassin Baboo]. New security contractor, TSS, brought in.
- 08.07.10 - Designated Premises Supervisor [‘DPS’] changed to Jean-Pierre Foster.
- 16.11.11 - Licence transferred to Bin-Do Entertainment Limited [company director Yassin Baboo].

7. The club has had a history of crime and disorder, particularly involving drugs and even a shooting in the premises in January 2010. Although it has a 24 hour licence it trades on Tuesday to Sunday nights from 10-10.30pm to the early hours of the morning with the music policy varying depending on the night. The extended hours means it attracts customers coming from other venues after they have closed. Therefore, Den/Centro does not usually get busy until 2-3am. It is a popular venue providing employment for 75 staff.
8. The venue is located in an area between New Oxford Street, High Holborn and Shaftsbury Avenue. It is a mixed residential and commercial area. The immediate and local area has a high concentration of licensed premises [12 within a 50 metre radius]. The LBC has a special policy for the area which contains a presumption that that all new and variation applications will be refused due to the cumulative impact of these premises. The policy is not a factor in this review but indicates the nature of the area. Within a 50 metre radius of the venue there are 73 residential properties. Opposite the club is an NCP car park with a Travel Lodge hotel above it.

### **Licensing Policy**

9. Under the Act the licensing authority must carry out its functions with a view to promoting the licensing objectives, which are: prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. In doing so it must have regard to its licensing statement and any guidance issued by the Secretary of State. The functions must be exercised with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent (a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment) and (b) the misuse of drugs, alcohol and other substances in its area.
10. The LBC licensing policy, which came into effect on 07.01.11, gives a commitment to reducing crime and disorder across the borough. Relevant considerations to crime and disorder include crime and disorder in the vicinity of the premises, including pick pocketing and bag snatchers, as well as in the premises. The Licensing Authority is also committed to ensuring that the operation of licensed premises does not unreasonably interfere with the personal comfort or amenity of immediate neighbours and nearby community. Matters relevant to public nuisance include:
  - a) amplified music – noise from music played on the premises,
  - b) customer noise - this takes many forms, but of particular concern are:
    - customers queuing to enter or leave the premises;

- customers loitering outside the premises waiting for transport.
- alcohol-related drunken behaviour and shouting.
- customers eating, drinking or smoking in external areas.
- car horns/car radios/slamming of car doors late at night in the vicinity of the premises, and obstruction – the blocking of footpaths by customers.

11. The policy indicates the LBC approach to review hearings. It requires pro-active engagement by the management to address problems, identifying specific steps to do so. It said that in the final analysis responsibility for addressing problems lies with the licence holder.

### **Evidence**

12. I have read and considered documents and statements in four folders:

- Blue folder – Appellant’s bundle.
- Red folder – Respondent’s bundle
- Black folder – Review applications.
- Yellow folder – CRIS and CAD reports. When dealing with incidents of alleged crimes where I have been supplied with a CRIS report I have considered that rather than the summary in any witness statement. I have only considered incidents since April 2010 when the current management took over.

Many witnesses gave evidence in front of me in person during the hearing from 21.05.12 to 24.05.12.

13. It is agreed by all parties that the current management has engaged with the police and other authorities. As part of that engagement the management has repeatedly requested police assistance to deal with gangs, particularly of Somali men, who loiter near the club. It is believed that these gangs prey on customers of the Den/Centro and deal drugs.

### **14. Crime**

The following incidents of relevance have been reported to or observed by police at or outside the Den/Centro nightclub:

- a) 21.05.10 – Male assaulted inside the nightclub.
- b) 24.07.10 – Male assaulted inside the nightclub. Security staff told the victim that the assailant was a regular in the club and not to call the police.
- c) 29.08.10 – Intoxicated male assaulted as he left the nightclub.
- d) 01.10.10 – Intoxicated male assaulted by two security staff in the nightclub.

- e) 23.10.10 – Male assaulted in the nightclub.
- f) 24.10.10 – Male stabbed outside the nightclub. The assailant had managed to flee into the Den/Centro past security staff. He was ejected from the club and made his escape. One person was seen with a broken bottle outside the club.
- g) 17.11.10 – Police called to a fight outside the nightclub.
- h) 10.12.10 – Male assaulted in the nightclub.
- i) 18.12.10 – Altercation within the nightclub. Security detained the suspect.
- j) 21.02.11 – Female was allowed to become heavily intoxicated at the club and then a barman had sex with her in a back room.
- k) 28.02.11 – Male had argument with door staff and used broken bottle to threatened door staff. Staff called the police.
- l) 09.04.11 – Male was sexually explicit and violent towards a female outside the nightclub.
- m) 21.04.11 – Male assaulted in nightclub.
- n) 28.04.11 – Males fighting outside the nightclub, including one using a glass bottle.
- o) 12.05.11 – Males had a verbal argument inside the nightclub, which resulted in fighting on Museum Street and a chase to Shaftsbury Avenue where the victim was repeatedly kicked to the head whilst lying on the ground.
- p) 23.10.11 – This incident involved females from the reality television programme, TOWIE. They were assaulted in the nightclub. Both parties were then ejected from the club. The television personality was assaulted again outside the club including being hit by a shoe and having her hair grabbed. I saw a video recording of this incident outside the club which showed large crowds of people and significant violence which could have escalated into serious public disorder. However, the staff at the club did not notify police of this incident, even though police visited the premises half an hour after the disturbance.
- q) 01.11.11 – Male assaulted outside the nightclub by a group of males, one of which had a knife. Staff did not call police but told police they had denied entry to the suspect so were clearly aware of the incident.
- r) 01.11.11 – Intoxicated victim robbed of his watch in Museum Street after being ejected from the club. The manager of the nightclub informed the police that the victim comes to the club and often gets ejected for disorderly behaviour.
- s) 06.11.11 – Female victim robbed of her watch in West Central Street after leaving the nightclub.
- t) 18.12.11 – Male seriously assaulted in the nightclub by security staff. Security staff claimed that the victim had become aggressive and had to be detained. Victim was assisted with taxi to hospital but police were not called.

- u) 28.11.11 – Male threatened security staff with a broken glass bottle after being refused entry to the nightclub.
- v) 31.12.11 – Male assaulted in the nightclub. Both parties escorted out by security staff. Victim assaulted again in New Oxford Street.
- w) 14.01.12 – Intoxicated male arriving at the nightclub had his phone snatched.
- x) 14.01.12 – Female who had left the nightclub had her phone snatched on West Central Street. A friend of the female was approached by males who said they could assist in recovering the phone. As they led him away to Great Russell Street they snatched his phone.
- y) 15.01.12 – Male was offered ‘charlie’ outside the nightclub. He was then robbed of his watch and further assaulted. The security staff intervened but told the victim ‘it’s not our problem, it didn’t happen here.’
- z) 15.01.12 – Male in the smoking area had his mobile telephone snatched.
- aa) 05.02.12 – Intoxicated male left the nightclub and was robbed. When he informed the security staff at the club they merely said that he should have stayed away from them.
- bb) 05.02.12 – Intoxicated male assaulted in the nightclub. Security staff intervened but did not call the police.
- cc) 01.03.12 – A group of 15 males were squaring up to each other armed with broken bottles on West Central Street. An intoxicated 17 year old male who had left the nightclub was involved in the incident.

15. From May 2011 to March 2012 the Den/Centro was the main crime generator in Camden with 108 offences associated with the club. There remains high level of crimes associated with the Den/Centro with 4 ABH assaults, 5 robberies, 2 public order offences and 1 offence of drugs possession associated the Den/Centro and 48 reported thefts between 05.02.12-08.04.12.

16. LBC operates a traffic light system in relation to licensed premises. The system rates licensed premises by the number of crimes of violence/public disorder in relation to the capacity of the venue. The Den/Centro is on red.

## 17. Drugs

Between January to May 2011 police carried out an undercover test purchase operation for illegal drugs at the Den/Centro:

- a) 07.01.11 - Test purchase officer [‘TPO’] was offered and purchased cocaine whilst at the bar.

- b) 07.01.11 - The same TPO was offered and purchased cocaine as he approached the main entrance to re-enter the club.
- c) 22.01.11 – TPOs were in the VIP area when a doorman agreed to assist them in obtaining cocaine. Archibald came over and sold them cocaine. He did not have an entry stamp on his hand.
- d) 05.02.11 – The same doorman was seen talking to Archibald who then approached the TPO and sold them cocaine. Another off duty doorman, Zack, sold them more cocaine. This is despite TSS security having a policy that off duty security staff are not allowed to attend venues.
- e) 12.02.11 – TPO in the VIP area spoke to Archibald. They observed him involved in a drugs transaction in the toilets. Then they purchased cocaine from Archibald. Zack, who was working as a doorman that evening, also sold them cocaine.
- f) 18.02.11 – When TPOs attended they saw Zack who was working as a doorman. Later when he was off-duty he sold them cocaine. The TPO purchased more cocaine off another male. A TPO purchased cocaine off Archibald.
- g) 20.05.11 – The TPOs met Archibald in a pub near the Den. At about 2am Archibald accompanied the TPOs to the club and they were ushered in without paying. Archibald gave the TPOs some cocaine.

## 18. Public Nuisance

Observations outside the Den/Centro and the surrounding area were carried out by a number of witnesses for both parties:

- a) PC McGann, Licensing Enforcement Officer for LBC, observed the following matters:
  - 17.07.10 - staff dragging metal barriers;
  - 25.09.10 - large crowds in West Central Street at 3.00am causing noise nuisance and blocking the street to an ambulance that had been called to a heavily intoxicated female.
  - 10.10.10 – West Central Street was heavily congested with people at 4.30am with cars revving engines and sounding horns, resulting in a low impact collision between a car and a pedestrian and the pedestrian became aggressive.
  - 07.11.10 – West Central Street was completely obstructed by around 120 people at 3.50am with cars tooting their horns. The security staff were unable to gain control and the police had to intervene.
  - 12.02.11 – A very intoxicated female was observed leaving the club and engaging in anti-social behaviour.

- b) On 28.02.11 Denis Petford, working with the Noise and Licensing and Community Safety Teams of the LBC, heard low level music from the premises when outside, which increased in volume when the door was open.
- c) Steve de Burgh, a former Metropolitan Police Officer, observed the Den/Centro on three occasions in July and August 2011. In particular, at 3.30am he compared the babble of noise outside the premises as similar to 'an open air market'. Outside he was able to hear music from the club which became louder when people entered and exited.
- d) Simon Gallacher, Principal Licensing Officer with the London Borough of Islington and licensing consultant, observed 100-150 people in the street at 3.42 and 4.20am.
- e) Robert Dear, former Licensing Sergeant for LBC until Sept 2011, knew the Den/Centro well from his policing role. Since he left the police he has observed the Den/Centro on over 30 occasions. However, I did not find his observations of any real assistance as the majority of the time he was present was before the club really got going, some visits were on a Monday when the club is closed, he deliberately did not observe near the front of the premises as he was known by staff and the majority of his time was spend patrolling other streets in the locality. He also did not observe any noise breakout which was witnessed by almost all other observers and he did not see incidents that were seen by Helen Masterton when they both made observations on the same date. He did observe the gangs of male loitering outside the club and was offered drugs twice in the immediate locality.
- f) John Anderson and Neil Acheson, former Metropolitan Police Officers, made observations on three dates in April 2012. They observed:
- Music from the venue could be heard outside. This increased to a loud thumping noise when the door to the venue was open.
  - At around 3.30am on more than one day 100-150 people were outside the venue with the area very congested with people and traffic. There was a lot of noise from people talking, traffic and car horns hooting. There was no managerial control of the taxis.
- g) Helen Masterton, Principal Environmental Health Officer with LBC, and Edward Davies, Environmental Health Officer with LBC, observed the club from the 4<sup>th</sup> floor lobby of the Travel Lodge Hotel on Sunday 05.02.12 between 3.15-6.50am. The lobby windows and the hotel room windows were double glazed. They observed:
- chattering noise from the queue and the smoking area with groups of approximately 100 people in the street;
  - a scuffle in the smoking area;
  - thumping base beat from music in the venue was clearly audible, which was louder when the door opened.;



- numerous vehicles
- regular interaction between people on the street and people in the smoking cages with items being passed. Those in the smoking cages were not searched in re-entry and most of the time there were no door supervisors supervising the smoking areas.
- raised voices and the banging of metal barriers;
- pushing, shoving and swearing from some people as they left the club;
- the noise was still audible when they left at 6.50am.

- h) The same Environmental Health Officers attended on 11.02.11 and filmed from the Travel Lodge 4<sup>th</sup> floor lobby between 2.00-4.05am. I was able to view some of this film and the base beat was audible, there was a lack of management of the smoking areas and there was loud and constant chatter from the crowds of people outside the venue.
- i) Video footage taken from one of the flats in the Old Fire Station on West Central Street on 11.02.12 showed similar problems. .
- j) Chima Umunnakwe, Environmental Protection Officer with LBC, made further observations from the 4<sup>th</sup> floor lobby of the Travel Lodge on Saturday 17.03.12 between 4.30-5.10am. He observed noise disturbance from people's voices, vehicles and dance music.
- k) Video footage taken of West Central Street on 17.04.11 showed large, noisy crowds of people milling around.

19. LBC has received 57 complaints in relation to the Den/Centro between 01.04.10 and 13.03.12, predominantly relating to issues of noise from music or people outside the venue. This level of complaints is far higher than any other premises within a 150 metre radius.

20. The Bloomsbury Residents' Association operates an independent community alert system where residents can log complaints. From 01.04.10 to 05.03.12 there were 237 complaints in relation to the Den/Centro, with 62% of them occurring within 50m of the Den/Centro and 63% of them occurring between 2.00-6.00am. Jim Murray, the chairman of the Association, said that the last time they had this level of alerts was five years ago. He had visited the area himself in December 2010 and observed havoc with cars, drunken people, drug dealers and people urinating. It was sufficiently intimidating that he felt it was not safe to walk down West Central Street. The map LBC 8, prepared by Anthony Hawkes, Licensing Officer with LBC, clearly shows how the complaints are concentrated around the Den/Centro in West Central Street and into Coptic Street and Little Russell Street.

21. I heard evidence from a number of residents who I found to be compelling and reliable witnesses:

- a) Peter Bloxham, who lives in a block of flats on Grape Street/Shafesbury Avenue, where his windows look out onto both streets, described how the character of West Central Street changed at night. He described large numbers of people, often drunk, causing noise and disturbance with the most problematic times being in the morning to 5am. He has observed people urinating and vomiting in the street. There is a high traffic of mini cabs serving the club. He was able to identify the source of the people as the Den/Centro because they come from the West Central Street area rather than from across Shaftesbury Avenue where Club 55/Runway is located. He has been woken at least once in the night every weekend over the last few years. He now 'dreads' going to bed at weekends and tries to be away at the weekends whenever possible.
- b) Sophie Mortimer, who lives in premises on the corner of Coptic Street and Little Russell Street, has a view from her window down Coptic Street into West Central Street. She said the crowds and noise pick up from midnight and the noise outside is like a screaming full on party with cars jammed with their engines running and stereos blaring and crowds sprawling. The area is blighted by urine, vomit and rubbish. She is able to observe from her window where people are coming from and has spoken to drivers/patrons on occasions who confirm that they are going to the Den/Centro. She is woken through the night over and over again and describes it as intolerable and her health is suffering. She also spends time away from home to recover and get some sleep.
- c) David Sear lives in a first floor flat in the Old Fire Station on West Central Street. He says he is unable to get a decent night's sleep when the Den is operating and it is impossible to sleep between 4-6am. He can hear music from the club through his double glazed windows. The majority of the disturbance is from the clients of the club, who are often intoxicated, in the early hours of the morning shouting, screaming, fighting and swearing. The street is filled with mini cabs and taxi touts with engines running and doors slamming. These cabs are waiting or dropping off customers at the Den/Centro. There is blatant drug dealing and people urinating and copulating in the street. The level of public nuisance and anti-social behaviour is such that he restricts his children's visits to the flat. He has suffered abuse in the street from drunken club customers. He is able to observe where the people are going to/from, even though he cannot see the front door of the club, and it is clear they are going to or from the Den/Centro round the corner in West Central Street. He describes matters in relation to the club as having gone from 'a bad dream to a nightmare.'

- d) Rosamund Oudart, another resident of the Old Fire Station, said she is unable to sleep between 3.30-7.00am each day when the club is open due to noise created by people shouting, screaming, fighting and the chaos of mini cab drivers. She observes people urinating and vomiting in the street. The noise is 'unbearable' from 4am onwards when the scene is utter chaos. She is fearful to leave her flat in the early morning due to the anti-social behaviour.
  - e) Mike Jones, who lives on Little Russell Street gave evidence of disturbance caused from 2.00-6.00am by vehicles with shouting, fighting, urination, vomiting and drug dealing. The regular disruption to his and his wife's sleep is damaging their health and affecting their ability to do their jobs.
  - f) There are statements from numerous other local residents who describe similar scenes.
  - g) Alex Gibson, the manager of the Travel Lodge, gave details of refunds that have been given to customers due to complaints about noise associated with the Den/Centro – 25 guests in 2011 and 8 guests so far in 2012.
22. Between January to May 2011 a barrier system was introduced at the end of West Central Street, under section 287 of the Highways Act 1980, at a cost of £2,500 a month to the club in an attempt to control some of the problems, particularly in relation to vehicles. The barriers were removed as, save for one resident of the Old Fire Station on West Central Street, there was an overwhelming consensus that the barriers had become a focus for disorder and the anti-social behaviour had merely dispersed to surrounding areas. This was directly observed by PC McGann on 30.01.11. David Sear, one of the residents of the Old Fire Station, was still disturbed by customers of the Den/Centro walking along that part of the street.

### **Findings of Fact**

23. On the evidence I have heard I make the following findings of fact to the standard of the balance of probabilities.

### **24. Crime**

- a) The club is a magnet for crime in the area.
- b) There are ongoing and consistent incidents of violence in or around the Den/Centro, which include the use of weapons and broken bottles found outside the club.
- c) Frequently staff have not contact police about incidents of violence. This results in the loss of evidence and lost opportunities to identify and arrest suspects.

- d) The lack of contact with police has gone further, with staff deliberately not assisting victims and trying to ensure that incidents are not reported to the police.
- e) Staff have been involved as perpetrators of violence in the club.
- f) Some of the crimes perpetrated outside the club are by IC3 males, indicating that they are linked to the gangs of Somali men.
- g) There has been drug dealing in the Den/Centro, which has directly involve staff.

25. The Appellant has criticised the crime figures provided by the police due the failure to provide a breakdown of the crimes by offence type, show the trend in crimes associated with the venue and also because of the other venues selected for comparison. In particular the appellant has submitted that if reported thefts were removed from the crime figures then the premises would have a 'remarkably low level of crime and disorder'. The Appellant argues that crime has gone down but there is no evidence to support this and I note that the panel on 08.09.11 appeared to have more detailed crime figures which showed that crime 'in the vicinity of the Den had gone up. It would appear that any downturn in crime was actually seasonal.' The Appellant points out that other premises must be on 'red' given their capacity and crime levels. Other premises may also be on red but this does not mitigate the problems of the Den/Centro. I do not accept the criticism of the crime figures and I find that there are high levels of crime associated with the Den/Centro, including high levels of violence and public disorder.

## 26. Public Nuisance

- a) There is significant noise break out from the premises.
- b) There is significant noise from customers as they arrive, leave, smoke and loiter in the area, with crowds of over a 100 people outside the venue between 2.00-5.00am.
- c) There is significant noise from vehicles, including hooting of horns.
- d) There is noise from the dragging of metal barriers.
- e) The noise occurs mostly and constantly between 2.00-7.00am.
- f) The noise associated with the venue causes significant public nuisance to local residents, including guests at the Travel Lodge.
- g) There is significant public nuisance and disorder caused by the anti-social behaviour of patrons, including shouting, swearing, fighting, urinating and vomiting.
- h) There is significant public nuisance to local residents, including guests at the Travel Lodge.
- i) The barriers are not a solution to any of the problems and may even be illegal as the power under the Highways Act 1980 appears to be for emergency or one-off events.

- j) The public nuisance is of such severity that it is driving local residents from their homes and affecting their health.

## 27. Management of the Den/Centro

The management of the Den/Centro claim to have taken steps to resolve problems. This included the introduction of two undercover security staff in the premises to deal with theft and staff were offered a £50 bonus for any thieves caught. They introduced a system of double ID for patrons. The Den/Centro employs 10 security staff on Sunday to Thursdays and 18 security staff on Saturday and Sundays. However, in their evidence they have not seriously addressed many of the main causes of concern. The club management has repeatedly failed to take responsibility for problems and have sought to shift the blame to other authorities or parties. The panel on 08.09.11 said, 'It was accepted that there was a highly competent management team at the venue.' I am unable to be so complementary about the management:

- a) The management failed to acknowledge that there was a problem with noise outbreak and noise from customers. They relied on the fact that they had never been served with a noise abatement notice and claimed not to be aware that the noise was an issue because they had not received direct complaints from local residents or the Travel Lodge and were not aware until the service of the statements of Ms Masterton and Mr Davies in March 2012. Firstly, the management was failing in its responsibilities as they should have been monitoring the noise from the club in order to comply with the licence conditions. Secondly, the management had been made aware of noise, including noise break out and the dragging of barriers, at meetings on 17.07.10, 16.09.10, 18.11.10 and 10.03.11. The response of the LBC Compliance and Enforcement Manager, dated 21.06.11, to the first review panel had a list of complaints from residents regarding noise and music. Following a meeting on 28.07.10 the management had agreed to a number of measures including keeping a noise diary but I had no evidence that this had been done. The management have still failed to take any steps to rectify the noise outbreak.
- b) The management was unaware that the licence conditions prohibited free entry and had been allowing this to happen on at least one night at the beginning of the evening.
- c) The management has failed to take responsibility for unpaid licence fees of nearly £600, unpaid business rates of over £100,000 and unpaid waste collection fees of over £23,000 which has resulted in LBC no longer making waste collection from the premises.
- d) Jean-Pierre Foster, the DPS, is only present for 20 hours per week. He was unaware that the actual total capacity of the premises was 1,000 people rather than 1,075. He did not accept

that it was the responsibility of staff at the venue to call police about incidents, only if a person was 'not capable.'

- e) The management has failed to properly supervise the smoking areas resulting in items being passed to people in the smoking area. Patrons have not been searched on re-entry. This is particularly serious as the management was well aware of gangs operating in the area who were involved in offences of violence, theft and drugs. The management in evidence simply said that stewards cannot be in every place.
- f) Staff have been directly involved in drug dealing and incidents of violence.
- g) There was drug dealing in the premises which the management was either unwilling or unable to detect and prevent.
- h) The general manager was unaware of whether there had been any drugs seized by the premises over the last two years. The drugs that had been seized had never been delivered to the police.
- i) Customers are allowed to become intoxicated in the club and therefore they are more vulnerable to becoming victims of crime.
- j) Staff had either as a deliberate tactic or due to incompetence under reported crime to the police.
- k) The management has been unable to have an impact on the levels of crime associated with the Den/Centro.
- l) Despite proposals by the club to introduce patrols in the area, head cams for security staff, stationing staff outside the Old Fire Station and not to drag barriers, I heard no evidence that these had been introduced.
- m) On 06.02.11 LBC discovered that the licence plans were out of date. The management failed to take responsibility for this and blamed LBC.
- n) On 27.02.11 a number of fires safety breaches were found.
- o) The problems identified with the Den/Centro have not been rectified or reduced since the review hearings.

Some of the failings by management are mores serious than others but it shows a catalogue of failure.

28. The Appellant sought to blame many of the problems on other licensed premises, including Club 55/Runway, near Shaftsbury Avenue. Whilst there was some noise outbreak from other premises, including the Old Crown, there was no evidence to support their assertions. In particular, there was no evidence to show that it was patrons of Club 55/Runway coming to use the taxi office on Shaftsbury Avenue that were the source of or a main contributor to the

disorder and there were very few community alerts in the immediate vicinity of Club 55/Runway. All the evidence consistently points to the Den/Centro being the main source of the noise and anti-social behaviour in the area.

### Conclusions

29. The decision whether to revoke the licence or impose conditions is not based on the culpability of the management of the Den/Centro. It is clear that some of the problems are beyond the control of the club, such as the gangs loitering near the club. At times a police presence outside the club has temporarily assisted in deterring crime. However, as Detective Superintendent Tucker, said, 'The positive police initiative is clearly unsustainable in the long term due to the heavy burden it places on the public purse.' PC McGann said that the Den/Centro 'continues to place a disproportionately high drain on police resources.' The failure of the management to acknowledge the extent of the problems is part of the problem itself.
30. The application for revocation is widely supported by: the LBC licensing team, the police, ward councillors and local residents, including three resident associations. Chief Superintendent Sutherland, Borough Commander for Camden since October 2010, said, 'In almost 20 years of policing I have never come across another licensed premises that has given me such cause for disquiet over such a sustained period of time. I hold the view that those responsible for running the venue are either unable or unwilling to resolve the serious issues we have raised.' That is a view that I endorse.
31. This is an appeal by way of re-hearing. However, following *R (Hope and Glory Public House Limited v City of Westminster Magistrates' Court)* [2009] EWHC 1996 (Admin), this appeal court should only reverse the decision of the Licensing Sub-committee if it is satisfied that the decision was wrong. It is for the appellant to prove that it was wrong on the balance of probabilities.
32. Given the findings I have made about the levels of crime, public nuisance and the failings of the management of the Den/Centro the decision by the panels on 08.09.11 and 19.12.11 to revoke the licence are not wrong. However, I go further than that and find that the decisions of the panels to revoke the licence are correct and conditions would not resolve the problems.