

Licensing Review Submission – Electric Soup, Jane Street, Workington

In November 2021 I was contacted by Mark Marshall from Allerdale BC Licensing Department regarding concerns he had around fire safety issues following a recent visit to Electric Soup. I visited the premises on the 15th November accompanied by Mark where we met with Jonny Donnat who, as the business owner is one of the Responsible Persons for the premises. During the visit I observed numerous breaches in fire safety legislation including;

- No Fire Risk Assessment
- A fire alarm that Jonny had no working knowledge of, no access to the alarm panel and no knowledge of maintenance or testing on the alarm, in addition it appeared that the alarm coverage was inadequate.
- No emergency procedures in place, no staff training or evidence of evacuation drills.
- The compartmentation within the building was compromised in a number of places.
- One of the emergency exit routes was blocked with items of furniture and the final exit door from this route difficult to open.
- The premises had inadequate provision of emergency lighting for which there were also no maintenance and testing records.
- The mains electrics appeared to be in poor condition and no evidence of a hard wiring test was available.
- Inadequate provision of fire extinguishers and no maintenance on fire extinguishers
- An electrical intake box in one of the stairways containing wiring in a poor state of repair and the box itself was not fire resistant material.

The premises was in a generally poor state of repair and the occupants demonstrated little regard for the provision of fire safety arrangements.

At this time I explained to Jonny the serious nature of the breaches found and the need for him to take immediate action to rectify a number of these. I subsequently issued an Enforcement Notice which reflects the seriousness of the issues and was based upon the lack of a suitable and sufficient Fire Risk Assessment and which would provide him with clear detail on all the deficiencies along with a prioritised plan to remedy these. The Fire Service is committed to working alongside businesses to enable them to continue to trade whilst improving fire safety measures, normally through both verbal advice or a written notification of deficiencies and only takes formal action such as an Enforcement Notice where significant, serious breaches of legislation are found together with doubts around the ongoing management of a premises or lack of confidence that remedial action will be taken. In addition, Jonny agreed to close the premises temporarily until remedial action had taken place and suitable measures were in place to enable the business to operate safely. It should also be noted that The Enforcement Notice was complied with in a timely manner although a number of deficiencies remain outstanding. A copy of the Enforcement Notice is appended to this document.

A follow up visit to discuss progress was held at the premises on the 10th December which was attended by myself, Mark Marshall, Jonny Donnat, Bobby Shamin – premises owner and Ian Ridley – Fire Risk Assessor.

Ian Ridley advised that he had carried out a Fire Risk Assessment and some remedial work had taken place to enable the venue to continue to operate;

- A 'waking watch' was in place to compensate for the lack of a functional fire alarm involving operating at a reduced capacity and employing staff whose sole responsibility was to patrol the remaining two means of escape / exits to ensure they remained fully accessible.
- There was a plan to install a new fire alarm although this had been delayed due to supply issues.
- The blocked means of escape had been cleared and a push bar fitted to the exit that had been difficult to open.
- Emergency lighting had been fitted.
- Some improvements had been made to the compartmentation although this still required further upgrading.

I was satisfied that the premises had been made safer and should be allowed to continue operating although noted there was still a significant amount of work to do in order to bring the premises up to a satisfactory standard in terms of it's fire safety and as such a further review meeting was arranged for early February.

A further meeting took place on the 9th February attended by myself, Scott Adams from Cumbria Police, Mark Marshall, Bobby Shamin, Jonny Donnat and Luke Stanger – Premises License Holder. At this meeting it became clear that little progress had been made since December, issues outstanding were:

- No new fire alarm had been installed.
- The mains electric still appeared to be in a poor state and no hard wiring test had been carried out
- There were still issues with the compartmentation in the building
- No emergency procedures, evidence of staff training or evacuation drills.
- The electrical intake box on one of the means of escape stairways had not been made suitably fire resisting and the wiring within the box still in a poor state of repair.

The Fire Risk Assessment (appended to this document) sets out guidance on actions required and their relative priority. It was clear during our meeting that the Responsible Persons (Bobby Shamin, Jonny Donnat and Luke Stanger) had not taken due regard of this Fire Risk Assessment and had no clear plan for continued works / improvements. Following the meeting an action plan was sent to Luke Stanger by way of providing some further clarity and a clear way forward, this plan is also appended to this document.

I remain concerned about the ongoing fire safety arrangements at Electric Soup including both the outstanding actions and how fire safety will be managed going forward.

Conclusion

Numerous paragraphs contained within the Section 182 guidance are of particular importance

11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

The Fire and Rescue Service has worked closely with the operators in what can only be described as a light touch way given the unsafe conditions that prevailed. Whilst the Enforcement Notice has been complied with the overall aim that we were seeking to achieve has failed as a number of actions from their Fire Risk Assessment remain outstanding. It has become apparent throughout our dealings that had it not been for Regulatory pressure very little would have been achieved at the premises. For this reason, I believe that meaningful action needs to be considered.

Whilst suspension of a licence could have a financial impact on a business if we are not given written evidence that all the matters of concerns have been rectified, I would suggest that a suspension for up to 3 months or until the works have been completed to the satisfaction of Cumbria Fire and Rescue Service is both necessary and appropriate.

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;*
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰;*
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;*
- suspend the licence for a period not exceeding three months; • revoke the licence.*

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no

more than an appropriate and proportionate response to address the causes of concern that instigated the review.

The paragraphs above raise important questions;

1. **The management-** My initial dealing with Mr Donnat, whilst amicable did cause me concern, the general lack of understanding with regards to Fire Safety left me feeling very worried. Further to this at or around the time of the first visit the Licence was transferred to Luke Stanger yet he was completely absent on the meeting on the 10th of December 2021 and made no attempt to reach out to me to seek advice or clarification of the concerns held by the CFRS
2. **The premises-** Multiple businesses occupy this building and the lack of any oversight from the Landlord has allowed such a situation to prevail. A building of this age and condition needs clear and simple instructions being issued to tenants on what exactly their responsibilities are, it seems to me that if one of the premises are made safe but those around and below are in a compromised state especially with regards to electrical safety then the premises under scrutiny will be no better off This aspect of the problem may be beyond the scope of the Licensing Committee but it is an important factor to consider when analysing the root causes.

If additional conditions are to be considered I would suggest they would only be appropriate should the works have been carried out to a legal standard. My fear for the future would be that things could quickly deteriorate so carefully worded conditions that don't duplicate Primary Legislation are something that we would welcome. I have considered the general position on conditions laid out in the Section 182 Guidance.

2.11 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

By way of an example.

1. A condition that requires the Licence holder to produce all the necessary documents attesting to the safety critical points raised in their own Fire Risk assessment
2. A condition that requires the Licence Holder to maintain such certification in accordance with the recommendations contained therein eg maintaining fire extinguishers annually, servicing the fire alarm every bi annually

A handwritten signature in black ink that reads "J. Grieves". The signature is written in a cursive style with a period at the end.

Juliet Grieves

Fire Protection Inspector

Cumbria Fire & Rescue Service