

## Decision Notice

### Application for a Variation under the Licensing Act 2003 to the Premises Licence for Gina's at 639 High Road, Tottenham, London N17 8AA - 4 November 2024

The Licensing Sub Committee carefully considered the application for a variation to the premises licence for **GINA'S at 639 High Road Tottenham, London N17 8AA to extend licensing hours and increase the area of the licensed premises**. In considering the application, the Committee took account of the London Borough of Haringey's Statement of Licensing Policy, the Licensing Act 2003, the Licensing Act 2003 Guidance, the report pack and the applicant's and objectors' representations.

Having carefully considered the application and heard from all the parties, the Sub-Committee decided to **GRANT** the application in part **subject to the conditions below**.

#### **Live music and Performance of Dance**

Sunday to Saturday 0900 to 2300 hours

#### **Recorded Music**

Sunday to Thursday 0900 to 2300 hours

Friday and Saturday 0900 to 0100 hours

#### **Late Night Refreshment**

Friday and Saturday 2300 to 0100 hours

#### **Sale of Alcohol**

Sunday to Thursday 1000 to 22:30 hours

Friday to Saturday 1000 to 00:30 hours

#### **Hours open to the Public**

Sunday to Thursday 0900 to 2330 hours

Friday to Saturday 0900 to 0130 hours

The increased area licensed will be permitted subject to the conditions below

There is an overriding requirement that the variations in terms of hours and area will not take effect unless and until a Noise Management Plan provided by a qualified sound engineer or acoustician is agreed with the Council's Noise Team including installation of a noise limiter of approved specification.

#### **REASONS**

The premises is situated on Tottenham High Road a few minutes' walk from the Tottenham Hotspurs ground.

The premises has residential properties directly opposite.

The existing premises Licensee is Blooming Scent Limited, and designated premises supervisor (DPS) is Eugenia Moffatt.

The operating schedule permitted by the existing licence is as follows:

**Recorded Music & Performance of Dance**

Monday to Sunday                      1000 to 2200

**Supply of Alcohol**

Monday to Sunday                      1000 to 2200

**The opening hours of the premises:**

Monday to Sunday                      1000 to 2200

***Responsible authorities***

Objections were made by two Responsible Authorities: the Police, and the Local Authority on the grounds that the licensing objectives of Public Safety, Prevention of Crime and Disorder, and prevention of Public Nuisance, would be undermined.

The Police proposed that if a licence was granted, it be on a list of conditions set out in Local Authority's objection, with a modification of the hours applied for.

A Noise Abatement Notice served on 25 May 2023 remains in force; and restrictions had already been placed on the use of the outdoor areas of the premises, which the Local Authority sought to retain, together with a restriction on the use of the outside areas for smoking.

***At the hearing***

No Noise Officer was available to speak to the Responsible Authority's Noise Team's objection. The Committee nevertheless took account of the content of the report, reminding itself that it had not been tested on cross-examination. In the event, however, there was no dispute of fact.

A Police officer attended to speak to the Police objection; he repeated the Police concern that the premises were close enough to the stadium that it would be likely, if the extended hours applied for were granted, that spectators would move on to the premises from closer premises, and remain in the area until the early hours of the morning.

The Licensee was represented at the hearing by an agent, and the DPS was also present. The DPS pointed out that the premises were community and family-oriented, and hence not particularly welcoming to the spectators giving the police concern.

The DPS stated that while she sought extension as late as 0330 it was unlikely that she would be open that late very often – this was to cater for family celebrations.

She also indicated that the "Entertainment of a similar description" that she had in mind were activities such as poetry readings.

The Police officer pointed out that occasional extensions until later than the police and Local Authority proposed could be catered for by the use of the TEN regime.

The Committee, having read and heard the representations, resolved to grant the variations requested in modified form (particularly as to hours) subject to agreement of a noise management plan and imposition of additional conditions as set out below.

## **CONDITIONS**

1. The variation to the Premises Licence hereby authorised shall not take effect unless and until:

(i) a Noise Management Plan (NMP) provided by a qualified sound engineer or acoustician has been approved by the Local Authority Noise Team.

The NMP shall include provisions dealing with noise and disturbance from smoke, odour, music and voices emanating from all areas of the premises, and installation of a noise limiter of specification and settings approved by the Noise Team.

(ii) the Local Authority has approved a written plan by the Licensee setting out controls that will be put in place for use of the outside area, and how they will control patrons on Tottenham Hotspurs Football Club Match and Event days and other days.

It shall be a condition of the licence that the Licensee comply with the provisions of both plans.

2. The outdoor area shall be used for smoking by no more than 12 patrons at any one time.

3. The existing conditions on the licence set out in the left hand column below be varied to the wording set out in the right hand column:

### **Current condition**

To prevent any noise nuisance, to manage the volume level of any music (recorded or live) played within the indoor space of the premises.

### **Reworded condition**

The applicant shall be required to include in the NMP details of noise management controls they will implement to prevent noise breakout from the premises (such as the installation of lobbies, details about the use and management of the stage and details of door controls) and to deal with noise and disturbance from smoke, odour, music and voices emanating from all areas of

### **Current condition**

### **Reworded condition**

The Licensee will ensure patrons leave the area promptly upon closing without littering.

the premises. The NMP shall include installation of a noise limiter of specification and settings approved by the Noise Team.

The Premises Licence Holder shall manage patrons at egress to ensure they leave calmly and with minimum disturbance to the neighbourhood

### **Informatives**

The Licensee is reminded that for occasional late celebrations it is open to it to serve Temporary Event Notices.

The licensee is also reminded that the mandatory conditions applying to the licence include provision that any security staff be SIA-licensed.

Poetry readings are not licensable entertainment.

## Decision Notice

### Review of the Premises Licence under the Licensing Act 2003 for Sofi-Mar at 516 High Road, Tottenham London N17 9SX

#### **RESOLVED**

The Committee carefully considered the application for a review of the premises licence by the (Trading Standards) Responsible Authority (“RA”), the representations of the Responsible Authority and the Licensee, the Council’s Statement of Licensing Policy and the s182 Licensing Act 2003 Statutory Guidance.

The Committee resolved:

**To revoke the Licence** in furtherance of the licensing objective of prevention of crime and disorder

#### **Reasons**

The Premises are the subject of a Premises Licence authorising the supply of alcohol for consumption off the premises granted on 28 December 2022 (“the Licence”).

The original and current Premises Licensee is Ms Fanica Mosescu; who was also the Designated Premises Supervisor (DPS) when the Licence was granted.

On 26 September 2023 the Licence was varied to name Ms Cornelia Cotlogut as DPS.

The business of the shop at the premises is carried on by Ms Mosescu as a sole trader. National Non Domestic Rate (“NNDR”) has been paid by a company called Soffi & Co Limited (“Soffi”) at all relevant times since grant of the Premises Licence. Soffi is a company of which Ms Cotlogut was, and Mr Daniel Stegariu is, a director.

The background to the review application is set out at pages 46-47 and 55-58 of the agenda pack, taken with the bundle of documents (including the licence) at pages 63-104 of that pack.

The review application details three incidents disclosing apparent contraventions of the law in relation to tobacco and vape sales:

- 10 August 2023 - sale of an e-cigarette (vape) to a 16 year old
- 3 January 2024 - sale of a packet of non-duty paid cigarettes
- 19 March 2024 - possession of 81 packs each of 20 non-duty paid imported cigarettes with no/incorrect/foreign language health warnings in non-standardised packaging

By email dated 1 November 2024, which was placed before the Committee, Mr Stewart Gibson (as licensing agent for the Licensee) made written representations on her behalf against suspension of the licence but offered on her behalf to accept many of the conditions proposed by the RA.

In that email Mr Gibson relied upon the fact that only the first of the incidents relied upon by the RA fell within the period during which the Licensee remained the DPS.

He explained that in September 2023 the DPS of the premises was changed to Cornelia Cotlogut, the current DPS. This change was due to her taking more of a “back seat” due to family commitments. Since September 2023, he said, Ms Cotlogut has been running the business. The Licensee had mistakenly believed by varying the DPS, she no longer was responsible for the operation of the business.

As a result of this belief, he said, Soffi took on the responsibility of paying the business rates for the premises. From the point of the DPS variation, all shop sales were banked by Cornelia Cotlogut into her own bank account.

He stated that the Licensee now realises that she should have transferred the Premises Licence at the same time if she wished to fully withdraw from the running of the business. He argued that this was an honest mistake that she wishes to put right. She had nothing to do with the subsequent incidents.

In September 2024, he said, the Licensee believed that she had found a buyer for the business. She agreed to sell the business to Universal Food Shop Ltd. Ms Cotlogut is the Company Secretary, and Daniel Stegariu has an involvement with this company, but is not a Director.

A subsequent transfer request was submitted, to transfer the premises licence into the name of Universal Food Shop Ltd. However this request was withdrawn after the police objected to the transfer and details of the upcoming review application came to light. These factors meant that Universal Food Shop Ltd withdrew their interest in purchasing the shop, hence the transfer application was withdrawn.

At the hearing, both the RA and Mr Gibson (on behalf of the Licensee, who was present) made representations

The RA set out its concern that the Licensee was merely a proxy for the true owners of the business which on the basis of the 3 incidents it felt was not being run responsibly.

The RA took the view that if (as is the case) a suspension of 6 months was not available, both because only a 3 month suspension is available under the legislation, and because suspension cannot be used as a punishment, then revocation of the licence was appropriate.

Mr Gibson for the Licensee repeated that the Licensee had made one big mistake in failing to transfer the Licence to Ms Cotlogut, who had taken full control of the business following 22 September 2023.

In answer to questions from the Committee, the Licensee indicated that the similarity of the names (Soffi & Company Limited, and Sofi-Mar) was a coincidence. She stated that neither Ms Cotlogut nor Mr Stegariu had been involved with the business when the licence was granted. She said that she had been introduced to Ms Cotlogut by a friend as someone to whom she could possibly sell the business; by implication, recently.

The Licensee, Mr Gibson said, sought to retain the Licence (and would seek retransfer of the DPS designation to herself) to protect her asset, the business, so that she could then sell it on. She was the victim here of people – Ms Cotlogut and others - who had done things in her name without her knowledge; the responses to the PACE letter sent to the premises in relation to the underage vape sale were not hers. There was - he said - absolutely no evidence that she had been a front for others.

The Committee noted what had been said on the Licensee's behalf, both written and at the hearing. It also noted however that Soffi had paid NNDR from at least the time the licence was granted; not, as represented at the hearing, from September 2023. The company, and therefore its director Mr Stegariu, had therefore been involved from that time – again, in contradiction to what had been said at the hearing. Both Mr Stegariu and Ms Cotlogut were also involved in Universal Food Shop Ltd, the proposed new purchaser.

In the circumstances, the Committee did not accept Ms Mosescu's account of events; it was in its view clear that through Soffi Mr Stegariu and also Ms Cotlogut had been involved in the business throughout. That was the obvious explanation for Soffi taking responsibility for NNDR from the outset; and for Ms Cotlogut's taking control from September 2023, and for Universal Food Shop's involvement. In short, it accepted the RA's claim that the Licensee was acting as a proxy for others.

The Committee therefore does not accept the Licensee's invitation to treat her as not being involved in the incidents in January and March of this year in reviewing the Licence. The Licensee gave no explanation or mitigation at all in relation to any of the three incidents involved. It follows that the Committee does not see the Licensee's purported resumption of control of the premises as giving any assurance that the licensing objective of prevention of crime and disorder would be achieved.

The Committee has had regard to the s182 guidance which recommends that where licensed premises are being used for criminal activity such the sale or storage of smuggled tobacco it should treat this particularly seriously. The Committee sees the underage sale of vapes as being in the same category as underage sale of tobacco.

Each incident on its own falls into a serious category and would justify serious consideration of revocation (Guidance 11.28). The Committee considers that three serious incidents in a period of a little over 7 months clearly have very seriously undermined the licensing objective of prevention of crime and disorder. It also observes that in written representations and at the hearing the Licensee put forward an account of events that the Committee considered was insupportable on the known facts.

The Committee takes the view in the circumstances that the proposed conditions on the Licence would not be sufficient to promote the licensing objective; indeed, that there were no

conditions that could be sufficient. The Committee therefore felt that revocation of the Premises Licence is the appropriate action to take.

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