

# **MINUTES OF THE MEETING OF THE SPECIAL LICENSING SUB COMMITTEE HELD ON FRIDAY, 3RD DECEMBER, 2021, 10:00AM – 11:30AM**

## **PRESENT:**

**Councillors: Gina Adamou (Chair), Bob Hare and Daniel Stone**

### **1. FILMING AT MEETINGS**

The Chair referred to the filming of meetings and this information was noted.

### **2. APOLOGIES FOR ABSENCE**

There were no apologies for absence

### **3. URGENT BUSINESS**

It was noted that, it being a special meeting of the Sub-Committee, under Part Four, Section B, Paragraph 17 of the Council's Constitution, no other business would be considered at the meeting.

### **4. DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **5. SUMMARY OF PROCEDURE**

The Chair provided a summary of the procedure for the meeting.

### **6. OBJECTION TO A TEMPORARY EVENT NOTICE FOR KISS THE SKY, 18-20 PARK ROAD ,LONDON, N8**

Ms Daliah Barrett, Licensing Team Leader, informed the Sub-Committee that:

- Paragraph 1.1 of the officer's report detailed the list of dates that the Notice Giver had provided and the Temporary Event Notice (TEN).
- If a premises had a premises licence, then a TEN could be submitted if licensable activity needed to be extended beyond the operating hours.
- The notice giver was asking for an extension to the operating hours until 03:00.

- The matter was before the Sub-Committee as objections had been received from the Police and the Council's Noise team.
- The Notice Giver was seeking the extension of the sale of alcohol, regulated entertainment and light night refreshment.
- Statutory consultations had taken place between the Notice Giver, the Police and the Noise Team as the notice was required to be provided to all responsible authorities.
- The Notice Giver was required to provide the TEN ten days before the first scheduled event and if a member of a responsible authority felt that it undermined the licensing objectives, then the responsible authority had the right to object within three days of receiving the TEN.
- A late TENs could also be provided between five to ten working days, but if the responsible authority was to object to such a TEN, then the event could not go ahead.
- The premises had been subject to a review application which had been submitted by residents in June 2021.
- The premises had operated as a wine bar and had a history of noise complaints. This had increased after the current premises licence holder had taken charge of the premises. The premises appeared to operate as a nightclub and those living nearby who were used to hearing noise from the premises experienced an increase in noise and new clientele as patrons of the premises.
- The review application was submitted in June 2021 following noise and nuisance complaints and cited on 21 and 23 June as particularly problematic.
- The premises licence holder had not transferred or varied the licence to ensure that the sale of alcohol had been authorised.
- The premises had previously operated without the correct authorisation and this was corrected in July 2021.
- The premises allowed the sale of alcohol until 01:00 on Friday and Saturday and until 00:00 for the rest of the week.
- The supply of alcohol was for consumption on the premises and the Noise Team had been called over the course of a weekend following reports of loud music. A letter was hand-delivered to the premises on 23 May 2021.
- Officers visited the premises on 28 May and saw a DJ in the premises, people dancing and patrons consuming alcohol with no DPS at the premises.
- Officers engaged with the manager who refused to provide the name of the DPS and the premises licence holder was issued with a Covid Fixed Penalty Notice (FPN) which was later withdrawn due to an incorrect template having been used.
- Noise complaints continued to persist over the coming months.
- Evidence was presented to the Licensing Sub-Committee which considered the review application regarding the new style of management and the effect it was having on residents. The premises licence holder argued that he was new to the area and should be allowed to make mistakes so that he had an opportunity to deal with issues appropriately. The Sub-Committee was satisfied that the premises licence holder had

failed to promote the licensing objectives, in particular, those of crime and disorder and public nuisance. In determining the review, the Sub-Committee took regard to the management of the premises and took the view that the licence holder had wilfully disregarded his duties as despite having written warning not to commence trading until a DPS had been appointed and the licence had been properly transferred. The licence holder had commenced trading when he was not allowed do to do so.

- The premises became a source of considerable noise and nuisance via the sound systems and in a manner that disturbed neighbouring residents and included verbal and physical abuse of various kinds. Door staff had failed to confirm that they had SIA authorization and no CCTV was provided to officers when requested. The Sub-Committee decided to therefore revoke the licence and the premises license holder lodged an appeal.
- Since that time, more complaints have been received and residents continued to contact the out of hours Noise Team. There were also regular updates from residents regarding issues that they were experiencing and the Council had logged three complaints on 28 November 2021.
- A Noise Abatement Notice has been served on the premises on 20 August 2021.
- Subsequent visits have been made to the premises whereby further noise nuisance had been established but noise officers did not follow up or take further steps.
- The premises licence holder emailed various elected members and the Mayor on 5 September 2021 saying that the Council had failed to support him and he felt that the diverse background of the patrons attending the premises was the reason why there was a motivation from some people to stop the activities of the business.
- The objection from the Noise Officer was enclosed in the agenda papers and the officer had stated that they had been 42 further complaints. It was understood that between the hours of 01:00–03:00, the Council had received noise complaints from patrons congregating outside and heavy bass music could be heard emanating from the premises since June 2021.
- The premises licence holder had also notified that they had been works carried out regarding noise suppression throughout the premises and he had attempted to meet with residents in the previous month but residents had not turned up to the meeting.

In response to questions, Ms Barrett informed the Sub-Committee that:

- The last noise complaint had been made on 28 November 2021 at 01:43 and the licence allowed the premises to operate until 01:00 with a closure time of 01:30.
- The premises was allowed regulated entertainment until 00:00 on all days apart from Friday and Saturday where the premises was allowed until 01:00.
- The date of 28 November 2021 was a Sunday.
- The individual who had reported the complaint cited the premises as the responsible party for the noise.

In response to questions, Ms Barrett, informed the Sub-Committee that:

PC Kayleigh Mitcham informed the Sub-Committee that:

- The Police received many TENS which they had rejected and were made aware of the ongoing antisocial behaviour and noise nuisance in the area.
- Patrons from the premises had been observed to be loitering outside be on the pavement including in the very late hours of 02:15 and 02:30.
- On 23 October 2021, patrons were seen at 02:15 chatting loudly from the pavement and this added to the noise nuisance in the area.
- It did not seem that the premises was putting anything in place to avoid the issues, especially the public nuisance issues in the early hours of the morning.
- It did not appear that the patrons were being asked to leave quickly and quietly and residents were being disturbed which could lead to public disorder.

In response to questions, Ms Barrett, informed the Sub-Committee that:

- It was not usually the case that the Police would respond to noise nuisance. However, the Licensing Authority was receiving footage from residents who were keeping their own diary logs. If they had been disturbed by noise, this would be sent to the Council. Residents had submitted footage for the review application and licence conditions required the premises licence holder to have CCTV which the licence holder did not have at the time.

Mr Kashka Ray, Notice Giver, informed the Sub-Committee that:

- The premises was not run in the manner in which the officers had presented their cases.
- Most of the comments made regarding the premises was not true and have been exaggerated and submitted with no evidence.
- It was the case that during the initial period in which the premises was being taken over, there were 'teething' problems.
- That was a lack of communication from residents and he sought to find out what the issues were.

- After the review application had been heard, he tried to get support from the Licensing Authority to assist him with the premises as he had a lack of experience in managing a licensed premises.
- The DPS was willing to carry on performing his duties, but had also been informed that if he continued to carry on his duties, he would be prosecuted.
- The neighbours who lived above the premises had moved out and they were the ones who had submitted the review application. They were also instrumental in influencing other residents into leaving complaints.
- Recently he had communications with the couple that lived above the premises who had informed him that when the door opened, noise would come out.
- Residents had been seen recording people in the general area, but the people that were being recorded were not patrons of the premises. They were simply presumed as being patrons because they were in the vicinity of the premises.
- Some of the restaurants that had submitted complaints used to attend the premises when it was owned by the previous owners.
- The premises had always been a music venue, so it was not clear why attempts were being made to have the premises shut down.
- He had not brought speakers into the premises, the speakers had been present at the premises when he arrived.
- He was happy to see evidence being submitted against the premises if such evidence existed but it was not fair to make false claims against the premises, particularly with no evidence.
- Considerable attempts had been made to ensure that residents were not disturbed by the activities of the premises.
- He had spent £4,500 recently soundproofing flats in the neighbouring area and trying to seal the air vents with acoustic covers. This was something he discussed with residents opposite the premises.
- There appeared to be too much blame attached the premises and there needed to be a balance in the way that the Council viewed the premises and the way residents' complaints were considered.
- He would make more close recordings regarding the activities of premises.
- All the TENs had been objected to including one for New Year's Eve and many of the events had been requested by patrons. Anything that was applied for on behalf of the premises appeared to be rejected including licences for use of the outside area.
- It was not possible to run the business if every application was refused.
- During the summer, Covid Marshalls had visited the premises and it was not even possible for premises staff to send people outside.
- It was important to note that residents in Crouch End wished to have a nightlife and that should not be considered a negative thing.

- He had spent more money on soundproofing and the use of a sound engineer. A lot of money has been spent to make the business viable and to contain noise so that the business could continue.
- Residents appeared to complain about issues however minor, from music to people walking past the premises.
- The premises dealt with a young group hanging around a licensed premises closeby and these efforts were not being presented at the Sub-Committee.
- He had been out into the street telling people to move on and away from the area.

In response to questions, Mr Ray, informed the Sub-Committee that:

- Recently, elderly people had visited the premises. It was a balancing act running the premises as they were various individuals that attended it.
- The premises had a fan in the building in order to take steam out when it became busy as sometimes officers asked for windows or doors to be opened.
- The premises was in a situation whereby if the doors opened, complaints would be received and if the door was closed then complaints would still be received.
- It was very difficult to run a licensed premises given the restrictions imposed on the premises by Covid Marshalls.
- CCTV had been installed which showed the outside of the premises. A sound monitor had been installed.

At this point in the proceedings, Ms Barrett explained that there were no statutory requirements that needed to be in place regarding Covid-19 regulations. If residents were being disturbed by patrons on the street, this would be termed as antisocial behaviour. This would come under the consideration of Licensing Enforcement along with any other concerns relating to noise. Furthermore, regarding the issue with the DPS, the previous owners had provided written notification that they had stopped operating at the premises. After the premises licence holder inherited the premises, review applications were being considered by residents who were asked to give the premises licence holder a chance so that he could make improvements. The Noise Officer then contacted the previous premises licence holder who then offered to retake the licence. Therefore, it was not an issue of the appointment of the DPS, but how the DPS would be considered if the premises was to fall under a review application.

To summarise, Mr Ray stated that he was with the previous licence holder when he showed him the email which stated that if the previous DPS was to become the DPS under the new management, then he would be liable to prosecution. He was happy for the TEN to be considered and would accept if the Sub-Committee saw fit to apply conditions to the notice. The premises was not a disruptive premises. It was located in the middle of Crouch End. There were no drugs, stabbings or volatile behaviour in the area. The community members were well behaved and the patrons included pensioners. The objection needed to be considered in a balanced manner. Policies were in place to ask patrons to leave the premises

appropriately and this had been in place for the last two months. It was not fair to suggest that there was no policy in place with regard to dealing with patrons. Around closing time, all patrons were informed that they were not allowed to go out, stand outside and talk and that they need to leave the area. On occasions, there were other individuals that would leave other licensed premises and stand in the area outside.

At 11:10am, the Sub-Committee retired to consider their decision.

**RESOLVED**

The Sub-Committee carefully considered the objection for a Temporary Event notice for Kiss The Sky, 18-20 Park Road , London N8. In considering the objection, the Sub-Committee took account of the London Borough of Haringey's Statement of Licensing Policy, the Licensing Act 2003, the Licensing Act 2003 section 182 Guidance, the agenda papers and the Notice Giver's and objector's written and oral representations.

Having considered the objection and heard from all the parties, the Sub Committee decided that it was appropriate for the promotion of the licensing objectives for a counter notice to be served.

CHAIR: Councillor Gina Adamou

Signed by Chair .....

Date .....