

NOTICE OF MEETING

LICENSING COMMITTEE

Thursday, 4th January, 2024, 7.00 pm - George Meehan House, 294 High Road, N22 8JZ (watch the live meeting [here](#) and watch the recording [here](#))

Members: Councillors Anna Abela (Chair), Sheila Peacock (Vice-Chair), Barbara Blake, Holly Harrison-Mullane, Reg Rice, Elin Weston, Nick da Costa, Kaushika Amin, Nicola Bartlett, Mark Blake and Makbule Gunes

Quorum: 3

1. FILMING AT MEETINGS

Please note this meeting may be filmed or recorded by the Council for live or subsequent broadcast via the Council's internet site or by anyone attending the meeting using any communication method. Members of the public participating in the meeting (e.g. making deputations, asking questions, making oral protests) should be aware that they are likely to be filmed, recorded or reported on. By entering the 'meeting room', you are consenting to being filmed and to the possible use of those images and sound recordings.

The Chair of the meeting has the discretion to terminate or suspend filming or recording, if in his or her opinion continuation of the filming, recording or reporting would disrupt or prejudice the proceedings, infringe the rights of any individual, or may lead to the breach of a legal obligation by the Council.

2. APOLOGIES

To receive any apologies for absence.

3. URGENT BUSINESS

The Chair will consider the admission of any late items of Urgent Business. (Late items will be considered under the agenda item where they appear. New items will be dealt with under item 8 below).

4. DECLARATIONS OF INTEREST

A member with a disclosable pecuniary interest or a prejudicial interest in a matter who attends a meeting of the authority at which the matter is considered:

- (i) must disclose the interest at the start of the meeting or when the interest becomes apparent, and
- (ii) may not participate in any discussion or vote on the matter and must withdraw from the meeting room.

A member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Register of Members' Interests or the subject of a pending notification must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal interests and prejudicial interests are defined at Paragraphs 5-7 and Appendix A of the Members' Code of Conduct

5. DEPUTATIONS / PETITIONS / PRESENTATIONS / QUESTIONS

To consider any requests received in accordance with Part 4, Section B, paragraph 29 of the Council's constitution.

6. MINUTES (PAGES 1 - 106)

i) To confirm and sign the minutes of the Licensing Committee meeting held on 22 June 2023 and 10 January 2023 as a correct record.

ii) To note the Licensing Sub-Committee and Special Licensing Sub-Committee decisions from January 2023

7. REVIEW OF FEES AND CHARGES 2024-25 - LICENCES (PAGES 107 - 128)

The Council's income policy requires an annual review of the level of the fees and charges levied upon service users the aim of the review is to ensure that income generated ensures full cost recovery and that charges remain in line with increases being experienced in the cost of delivering services.

8. NEW ITEMS OF URGENT BUSINESS

To consider any items of urgent business as identified at item 3.

Nazyer Choudhury, Principal Committee Co-ordinator
Tel – 020 8489 3321
Fax – 020 8881 5218
Email: nazyer.choudhury@haringey.gov.uk

Fiona Alderman
Head of Legal & Governance (Monitoring Officer)
George Meehan House, 294 High Road, Wood Green, N22 8JZ

Friday, 22 December 2023

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MINUTES OF THE LICENSING COMMITTEE HELD ON THURSDAY 22 JUNE 2023 AT 7:00PM - 7:48PM

PRESENT: Councillor Anna Abela (Chair), Councillor Elin Weston, Councillor Reg Rice, Councillor Makbule Gunes, Councillor Kaushika Amin, Councillor Isidoros Diakides,

1. FILMING AT MEETINGS

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

2. APOLOGIES

Apologies had been received from Councillor Peacock, Councillor Blake, Councillor Bartlett and Councillor da Costa.

3. URGENT BUSINESS

It being a special meeting, under Part 4, Section B, Paragraph 17, of the Council's Constitution, no other business shall be considered at the meeting.

4. DECLARATIONS OF INTEREST

None were declared

5. DEPUTATIONS / PETITIONS / PRESENTATIONS / QUESTIONS

It being a special meeting, under Part 4, Section B, Paragraph 17, of the Council's Constitution, no other business shall be considered at the meeting.

6. CHANGES TO THE PROTOCOL FOR LICENSING SUB-COMMITTEES

Ms Michelle Williams, Senior Litigations Lawyer and Ms Daliah Barrett, Licensing Team Leader, presented the item.

The Committee discussed the protocol rules and heard that:

- Rule 29 partly referred to a facility to submit information confidentially to the Council. It would be expected that the party communicating the confidential information to also send the Council a copy of the document that was unredacted so that the confidential information could be inspected in addition to the redacted copy. It would be for the Council to decide whether or not the information was actually confidential. The rule was mainly there to deal with the main confidential information that the Council were provided with; the names and addresses of interested parties possibly opposing an application. The information could only be kept truly confidential if there was a threat to those individuals if their details were disclosed. If there was no threat, it may be that the information would have to be shared with the other parties, although the other parties would be asked to keep their information confidential. It was the legislation which set out the ground rules in terms of whether, particularly in terms of names and

addresses, if they could be kept confidential. The legislation stated that if there was a threat, a reason would need to be substantiated to determine if there was a threat to the individual.

- An individual wanting to complain about a licenced premises was able to do so and there was a mechanism within the Council for it to even be an anonymous complaint. In terms of the Licencing legislation itself, the Licensing Authority could not accept a representation on an application where the representor had not provided their name and address.
- If allegations were being made, the applicant or licence holder had the right to know the case against them. In terms of licencing regulations, those making representations no longer were subject to a proximity test whereby they had to live within a certain radius of the locality. An applicant had a right to know if someone complaining about a premises how far the objector lived away from the premises (unless there was a substantiated threat).
- Rule 29 would be changed to read that any party submitting their information could make a request for certain details to be kept confidential so it was somewhat clear that the determination on whether or not certain information was kept confidential would ultimately be made by the Licensing Authority (or the Council).
- Pages 32 and 33 of the agenda papers relating to Licensing hearings and Gambling hearings appeared to have different procedures for applicants. The protocol in relation to Licensing hearings appeared to suggest that in most cases, a further opportunity would be provided for the applicant or licence holder to attend another hearing if they were absent from the meeting, but the protocol in relation to hearings relating to the Gambling Act appeared to suggest that the hearing would proceed in the absence of the applicant or licence holder. This would be changed so that both protocols were consistent.
- In relation to Rule 49, other local authorities operated some sort of a five-minute time limit to present freely at a Licensing Sub-Committee. If the speaking party presented justified reasons why they needed more than five minutes, the Chair had the discretion to extend the time. Participants speaking at length could result in a meeting that could not be concluded, partly due to the 10:00pm meeting guillotine operated by the Council. The parties also had time to make concluding remarks which were not timed. There previously had been no time limits on speaking whatsoever. In the event of an application which had many representations, those meetings could be lengthy and may not be conclude by 10:00pm.
- It was important to note that the applicant would have submitted their application and the representations would have been put in writing, so participants would generally be summarising their position and the applicant would be addressing the representations that had been made. The hearings often had an ongoing dialogue between all parties throughout the meeting and the legislation required that parties to be allowed an equitable amount of time to present their case. Therefore, in a hearing, for example, where there were 10 objectors to one applicant, the Chair could engage discretion to ensure that both sides were offered an opportunity to speak for an equitable period of time.
- Many applicants had legal representation and parties could ask in advance for additional time before the hearing via the Licensing Officer.
- The summary procedure rules had been amended to reflect that, in normal circumstances, the parties would be given five minutes to speak, so all of the parties would be aware of this in advance. If they required more time, than they would know that the Chair had the discretion to extend it and this was a request that could be made.
- Under the legislation, any application that had not received objections could be dealt with by the Licencing Authority and must be granted. Where objections had been

received and the applications could not be ameliorated, those applications would be put forward to be heard before the Licencing Sub-Committee.

- Rule 14 stated that a councillor could not take part in the decision relating to an application in their ward, not that they could not make representations against a particular application in their ward. This rule had been put in place in case of an allegation of an appearance of bias.
- Ward councillors could make a representation against a particular application in their ward or speak on behalf of residents who had submitted a representation who then may nominate a ward councillor to speak on their behalf, possibly as a substitute speaker.
- Rule 62 and 63 appeared to have a loophole whereby a hearing could theoretically conclude between the hours of 9:30pm and 10:00pm allowing a new hearing to also start between 9:30pm and 10:00pm. Therefore, Rule 62 would be extended to read that no new hearings would commence after 9:30pm.
- Appropriate wording would be added to Rule 67 to ensure that the sentencing was complete.
- Rule 56 would be changed to read “The Chair shall be responsible for the orderly conduct of the hearing. If during the hearing, any party Member or a party loses their connection during a remote hearing, the meeting will be adjourned until they are able to rejoin and any evidence or representation they have missed will be rerun”.

At this point in the proceedings, at 7:47pm, Councillor Diakides left the meeting room.

Subject to the changes outlined above, the Committee

RESOLVED:

1. To agree the updated Licensing Protocol attached at Appendix 1 of the report.
2. To agree the updated Licensing Hearings Procedure Summary attached at Appendix 2 of the report.
3. To agree updated Licensing Hearings Review Procedure Summary attached at Appendix 3 of the report.
4. To agree the updated Gambling Act 2005 Hearings Procedure Summary attached at Appendix 4 of the report.
5. To recommend the approval of the protocol to the Standards Committee on 27 June 2023 for their onward recommendation for adoption by the Full Council on 17 July 2023.

CHAIR: Councillor Anna Abela

Signed by Chair

Date

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MINUTES OF THE LICENSING COMMITTEE HELD ON TUESDAY, 10 JANUARY 2023, 7.00PM – 7:22PM.

PRESENT: Councillors Sheila Peacock, Barbara Blake, Harrison-Mullane, Emine Ibrahim, Ajda Ovat (Chair), Reg Rice, Elin Weston and Nick da Costa

ALSO ATTENDING: Cllr Adamou

1. FILMING AT MEETINGS

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

2. APOLOGIES

Apologies for absence was received from Councillors Yvonne Say, Emily Arkell, Lester Buxton.

3. URGENT BUSINESS

There were no items of urgent business.

4. DECLARATIONS OF INTEREST

During item 7 Cllr Ibrahim and Cllr da Costa declared interests as members of the APTL (Alexandra Palace Trading Limited) and members of Alexandra Palace and Park Board referring to Appendix 1 which included £976 for the exhibition fees and related to Alexandra Palace only. The Legal representative confirmed that these were personal interests.

5. DEPUTATIONS / PETITIONS / PRESENTATIONS / QUESTIONS

None

6. MINUTES

RESOLVED

1. To confirm and sign the minutes of the Licensing Committee meeting held on 13 January 2022 as a correct record.
2. To note the Licensing Sub-Committee and Special Licensing Sub Committee decisions from January 2022.

7. REVIEW OF FEES AND CHARGES 2023-24 - LICENCES

Daliah Barret, Licensing Team Leader presented the report of fees and charges 2023-2024 Licences, setting out the following:

- An RPI increase of 10% for the discretionary fees, was proposed for 2023/4. The traditional street traders will see an increase in their monthly invoices, so the increase is spread over the year. If the increase is approved the Massage and Special treatment type operators will be provided with sufficient notice of the increase in time for their renewal of licenses in September 2023.
- Benchmarking had been carried out on Street Trading, Animal Activities, Haringey costs remain comparative to other boroughs. Other boroughs have chartered markets for which they are able to have various charging rates and a regular income.
- The Licensing Service has put in place a reduced fee for 'pop up markets' in particular the Regeneration inspired market at Tottenham Green East. The subsidy allows for three options for temporary street trading licences to be applied for:
 - o a one-day trading fee of £33,
 - o a three-day trading fee of £44 and
 - o a new yearly fee at £150.00, for market events run April to March, this is based on a once-a-month market event, a total of 12 days per calendar year.
- The proposed fees will also apply to the community led market events in Myddleton Road, St James Square and any one-off market taking place across the borough.
- The street trading fees were set under the London Local Authorities Act 1990 were set quite differently borough to borough. Haringey had set the fees to ensure the council can provide a cost neutral service including the compliance aspect of the workload.
- The Pavement licence process under the Business and Planning Act 2020 offered a streamlined quick and cheaper option for businesses to apply for external seating areas. The Act came into effect in August 2020 and Haringey has imposed the maximum application fee of £100 per application. These permits lasted until September 2023. The general effect of this had been a reduction in licensing fee income. The £100 application fee for a Pavement licence did not cover the cost of administering and compliance of the licence requirement in this regard. The Government was making this provision permanent, but this is currently going through Parliament.
- With regards to street trading there was a requirement in legislation to place a public notice in newspaper for 28 days after licensing committee decision and the Licensing officer would advise the committee if there was any issues raised on this decision.

In response to questions, the Committee noted that:

- Fruit and burger stalls were licensed differently; traditional traders have a different charging scheme. This was set out within the document and included what they pay annual fee.
- Holcombe market was a not a market and was deemed a retail unit. If the food and vegetable provision had expanded across the pathway and was encroaching it should be considered by Enforcements officers. The Licensing team leader would report this as a way forward.
- The borough did not have charter market status and where these applications for a market this would need to be consulted with neighbouring boroughs. There were temporary markets were Tottenham Green market, a site that is struggling now and fees would apply if Green Lanes wanted to apply for a one-day pop up market.

[Cllr Holly Harrison Mullane entered the meeting]

- Car boot sales were not covered within the licenses department as they were in an enclosed area, and did not fall within licensing remits. The Licensing team Leader also stated that the ones in White Hart Lane and Tottenham High Road, sports centre are noted that having enforcement work done.
- pavement licensing and no profit was being made as previously, under London Local Authority act, a fee of £130 was charged in order to use public highway per application of 130 and then and a monthly fee of £17 per square meter to be used . She noted that a popular coffee chain used to pay a fee of £4-5K a year but now to only paid £100 per year. This pavement licensing did not cover any type of street trading only the tables, chairs licenses, and had left a severe deficit in the budget area.
- Holcombe road commercial rents were charged and this was run by Property services.
- Clarified that there was a fee of £54 for a six-month application for Tottenham Hotspurs match day stalls, and a monthly fee of £17 per square metre on the size of the space that they were using.
- Daliah Barratt confirmed an error on page 261 paragraph 6.7 which incorrectly stated that Scrap Metal licenses would not have a 10% fee increase. The table at page 270 of the pack – appendix 1 included increase of 10%. This would be clarified in the minutes to ensure that the 10% increase was taken forward.
- Noted that the Environmental agencies monitored scrap metal trading premises. No specialist oversight and comes under the HSE.

- Agreed a plan to increase fees next year according to the trade is considered for next year's report and in accordance with council priorities and objectives.
- Local Authority Specifically Environmental Health Officers, monitor MSTs premises for the use of accredited machinery for laser treatments. Have some standard conditions but can look at this and what needs to updated and revised. It was noted that a new legislation would be introduced in terms of injectable at MSTs premises.

RESOLVED:

That the Licensing Committee approved the fees for the municipal year of 2023/2024, including the increase of scrap mental license of 10% as set out at Appendix 1 and Page 270 of the document pack.

8. NEW ITEMS OF URGENT BUSINESS

None

CHAIR: Councillor Ajda Ovat

Signed by Chair

Date

MINUTES OF THE LICENSING SUB COMMITTEE HELD ON THURSDAY, 19 JANUARY 2023, 7:00PM – 9:40PM

PRESENT: Councillors Sheila Peacock, Ajda Ovat (Chair) and Barbara Blake

ALSO ATTENDING: Councillor Zena Brabazon

1. FILMING AT MEETINGS

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

2. APOLOGIES FOR ABSENCE

There were none.

3. URGENT BUSINESS

There was no urgent business.

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. APPLICATION FOR A VARIATION OF AN EXISTING PREMISES LICENCE AT RAKKAS, 365-369 GREEN LANES, LONDON N4 (HARRINAY)

Presentation by the Licensing Officer

The Licensing Officer informed the Sub-Committee that:

- This was an application to vary the existing premises licence to allow for late night refreshment Sunday to Thursday 23:00 to 23:30 and Friday to Saturday 23:00 to 00:00 (and until 01:00 on New Year's Eve).
- The sale of alcohol would be Sunday to Thursday 11:00 to 23:30 and on 11:00 to 00:00 on Friday and Saturday.
- The hours open to the public would be Sunday to Wednesday 06:00 to 23:30, Thursday 06:00 to 00:00 and Friday to Saturday 08:00 to 00:00.
- There were also changes being made to the layout, in particular, the bar area near to the lounge.

- The application had also requested for the condition listed on 1.3 of the report stating that all outside areas must be closed and cleared of customers by 21:00 and be replaced with a condition stating that “all outside areas must be closed and cleared of customers by 23:30 hours. Adequate notices shall be displayed to inform patrons of this requirement. The premises licence holder shall take appropriate measures to ensure that patrons using any outside areas do so in a quiet and orderly fashion”.
- Representations had been received residents and responsible authorities.
- The application had a list of other businesses which the applicant had stated was in support of the application.
- A previous application for the premises had been considered by the Sub-Committee on 27 July 2021.

In response to questions, the Licensing Officer informed the Sub-Committee that:

- Page 3, section 2.3 of the officer’s report on the additional agenda papers was an error.
- The outside areas and the external areas were considered by Licensing to be the same thing. The shisha area needed to be an open (not an enclosed area) by at least 50%.
- Licensing did try to intervene at times whenever there was a non-compliance of conditions. If non-compliance continued, then the matter would be escalated.

Presentation by the applicant

Mr Duncan Craig, representing the applicant and Mr Garip Toprak, applicant, informed the Sub-Committee that:

- The application did not touch upon regulated entertainment and was not proposing to operate as a nightclub. This was obvious from the hours applied for.
- Supporting documents also demonstrated that the premises would operate as a food-led business.
- The premises would offer a full table service and employ around 53 members of staff. The premises was not a vertical drinking establishment and was a restaurant. The Sub-Committee should treat it accordingly.
- The most recent licence was granted in 2021 and the applicant accepted that there had been occasions where it had been difficult to comply with conditions relating to the rear area of the premises as the terminal hour of 21:00 for the use of the area was seen as too restrictive.
- Officers had advised that a variation application could be made.

- The guidance was clear that conditions of a licence must be appropriate and be capable of being met and that unwarranted or disproportionate conditions should not be imposed.
- Making a decision on an application was a balancing exercise between the licence holder, the premises and the interests of the community.
- There were many people who lived close to the premises who said they did not have any issues with public nuisance and this had not been made clear enough to the Sub-Committee.
- In relation to the survey produced, many people would sign a survey if handed one and the survey that was carried out did not necessarily take into consideration the licensing objectives.
- An enforcement letter had been received by the applicant from the Planning Authority and had been appealed against. The applicant was hoping to engage positively with Planning Authority.
- The parking situation in the area was not straightforward, partly due to the shopping centre which put a two-hour time limit on parked cars, causing people to park erratically.
- Many patrons to the premises did not drive to the premises in any case, parking or patrons driving in was not a large part of the business model.
- There appeared to be other licensed premises in the area that operated until 01:30.
- The applicant was requesting that the hours be extended to 00:00 on weekends and to 23:30 during the week. This way, the condition relating to the outside area would be more achievable for the premises.
- On page 8 of the additional agenda papers, there were licensed premises listed that closed at various hours. One closed at 02:00, one closed at 01:45 and three that closed at 01:30.
- The Sub-Committee needed to arrive at a fair and balanced decision.
- The wording of the condition relating to the outside area was vague.
- The area was a lively part of North London.
- If the condition was to be worded more clearly, then the Sub-Committee would be right to do so.
- The hearing was a variation application not a review application.
- The applicant wanted to have a good relationship with the community.
- The applicant had stated he was in discussion with Sainsbury's to work out a deal for patrons to be able to park their cars.

In response to questions, Mr Craig and Mr Toprak informed the Sub-Committee that:

- There was no audio on the television screens in the premises.
- Shisha was not a licensable activity.
- There were three premises in the area that had facilities for shisha.
- The busy trading period was between 19:00 – 22:00.
- When officers visited the premises, they were stopped by premises security. The applicant spoke to them and once the officers identified that they were from the Council, the applicant let them into the premises. An individual had tried to run into the premises wearing a face-mask. The individual later had identified himself as a Council officer.
- Security were present for age verification purposes and ensured that the premises operated to promote the licensing objectives.
- It would not be fair to characterise one visit to the premises by officers to how officers were received by the staff when they visited generally.
- There had been reported noise apparently occurring from loud music, shouting, banging and fireworks. However, the applicant did not use fireworks.
- There was no nuisance emanating from the premises.
- There were a number of other licensed premises in the area and further analysis needed to take place, but an assumption could not be made about the premises simply on the occurrences of sound reported and not properly verified.
- In relation to the opening times, the Sub-Committee was invited to extend the opening hours by half an hour as drinking-up-time was technically not a licensable activity.
- The refuse collection had a contract to collect waste five times a week.
- The supporters of the premises lived close by to the premises whereas the objectors the premises lived further away from the premises.
- Many of the issues reported had occurred before the premises had opened. It may be the case that some of the issues had occurred under previous management and possibly related to other premises in the area.
- Phone numbers had been given to residents and the issues raised by objectors appeared to relate to a pub in the corner of the area before the applicant had opened the premises.
- The applicant had recently taken over the premises in July 2021.
- There had been times that the waste collector had not collected the waste at the premises and had reported that they had been restricted by people parking in front of the bins.
- The outside of the premises was monitored by the premises security. He had consulted residents If it was ok for security to be placed on Lothair Road and residents were happy and accepted.
- There had been complaints received (as outline between pages 80-83 of the agenda papers) but not verified.

- The applicant had 36 CCTV cameras, but at the time a request was made for footage, he was unable to access it as he was unable to submit the correct password. The applicant requested for technical support, but an engineer was sent a month later. The emails relating to the issue had been submitted to the Council. The cameras recorded activity 24 hours a day.
- The applicant had explained to officers that it was difficult to comply with some conditions as it was difficult to move people out of the rear area by 21:00 and it was on that basis that officers had been informed that a variation application could be applied for.
- The applicant would understand what their requirements were in the coming future and the purpose of the application was to allow the applicant a clear and fair opportunity to allow the matter to be cleared.
- The conditions imposed on the premises in July 2021 had conditions that were difficult for the applicant to comply with, but if the application was granted it would be difficult for the applicant to say that they did not understand or were unable to comply with the conditions.

Presentation by interested parties

Councillor Zena Brabazon informed the Sub-Committee that:

- She had been a councillor in Harringay ward for six and a half years.
- She had attended many licensing hearings because Green Lanes had restaurants and gaming establishments in the area.
- She had never seen so many objections to a licensing application and this was only for variation application.
- When the application was first submitted, given the history of the premises, the issue of noise and the issue relating to the mezzanine area was central to concerns regarding the application.
- At the advent of the previous hearing, she had been contacted by residents regarding the noise and she encouraged them to call the Noise team to make sure any complaints were logged.
- Much effort had been made to resolve the situation at the premises but would appear to have been unsuccessful.
- The applicant could not simply pick and choose which conditions to comply with.
- The applicant was well aware of the issues around noise as they had been raised in 2021 and it was not acceptable that the residents were subject to noise, light pollution, not be able to use their gardens or enjoy their own their own backyards effectively.
- The design and the location should have been thought about more carefully before being built.

- The noise nuisance had been compounded by cars, slamming doors, raised voices and anti-social behaviour.
- There were many emails written to the Noise team regarding noise being heard at 01:00 in the morning.
- There was a concern that the premises overlooked the homes of people and given the history of the premises, the failure to comply with conditions, endless effort by the enforcement officers, meetings held with the enforcement officers, she would ask that the application be refused because there was no evidence that the applicant had complied with either the original licensing conditions or the efforts by the Council in the last several months to get the applicant to comply with the conditions. This had caused great upset to the residents in the area who were entitled to have a peaceful life.

Ms Jennifer Barrett and Mr Festus Akinboyewa, Noise and Nuisance Officers, informed the Sub-Committee that:

- Part of their duties included investigating, noise nuisance and licensing offences.
- They objected to the application.
- The number of times the premises needed to be investigated due to complaints from local residents was high. The premises continued to breach the conditions of the existing licence.
- If the application was granted, noise issues and public nuisance would increase.
- The Council had received around 21 complaints within ten months.
- Every time the premises had been visited, public nuisance issues had been raised.
- The existing licence has a condition that the external area should not be used after 21:00, but the licence holder continued to use the external area even when warnings had been issued and emails had been sent.
- The premises continued to breach the conditions of the licence, so if the application was granted, the problems would increase.
- The applicant had mentioned other licensed premises in the area, but many of the premises had never been subject to complaints.
- Many of the other licensed premises were purely restaurants and did not offer shisha.
- If a premises needed to be visited on a regular basis, it would appear that something needed to be done about it.
- The security at the door always tried to prevent officers from entering the premises whenever a visitation was made.
- Whenever officers attended any premises, officers displayed their badge and would explain the reason why they were visiting. This would usually be enough for the security staff to know that officers were visiting in order to do their jobs.

- Premises staff appeared to attempt to resist enforcement officers from doing their work.
- A request had been made for CCTV footage, but this had never been submitted.
- A large number of complaints had been received from local residents and a large number of visitations have been made. Officers had witnessed shisha smoking in an enclosed area.
- The application had the potential for the public nuisance to increase and for the Council to continue to receive noise nuisance complaints.
- The applicant was having difficulty being able to comply with the existing conditions on the licence and therefore there was little confidence that the applicant would be able to comply with the new conditions of the licence.
- Officers visited the premises for a meeting and took the time to explain the conditions of their premises licence to the applicant.
- Other premises in the area were generally meeting the conditions of their licence.
- They objected to the application being granted.

Mr Andy Cheatle, resident, informed the Sub-Committee that:

- He was a long-term resident of the area.
- It was the residents who were suffering the consequences of the issues at the premises.
- The scale of the premises made matters worse.
- The business was now many times bigger than its predecessor and this increase in size amplified the harms being experienced by residents.
- The rear of the premises stretched across four units at the back and included a mezzanine floor.
- The plans provided seating for about 100 people at the rear of the building and another 100 at the front of the building.
- Noise generated in the area had to go somewhere.
- The noise went outside because there was no sufficient sound proofing at the premises.
- The windows were usually open, especially during the warmer months and therefore the noise cascaded down the road.
- One of the things that came across from the application was that there was nothing in it which actually addressed any of the points raised by residents.

- The activities from the rear of the premises probably contributed to the noise, but there was also noise from the back of the premises and noise from customers arriving returning to their cars in local roads. It was clear that they were patrons of the premises as they had been asked and were followed down the road.
- At weekends, during the course of the day, some people went to the Sainsbury's in the area or played softball, but the vast majority of people who were there and parking were visiting the premises.
- Smoke and cooking odours from the restaurants and chimneys was still a problem.
- Empty bottles were left nearby and litter would be left overnight on the on the fences, gardens and other places.
- In terms of parking, on the frequently asked questions part of the business' website, it stated that parking in local roads was free after 18:00 and that alternative parking was available at parking at the shopping centre.
- The parking area was small and therefore people were double parking, parking in front of drives and blocking and damaging other cars.
- The premises had a two-hour table policy. Patrons need to be on time and therefore patrons would get there early and preoccupied the area. This could be quite intimidating for other people and residents who often crossed the streets to avoid them.
- Car crime, muggings and burglaries in the area had all increased since March 2022.
- Drug dealing and use of nitrous oxide canisters occurred in the local roads.
- When the cars were taken out of the parking area, they would accelerate down local roads to higher than average speeds.
- The commercial waste bins had been present in the area for a long time, but in mid-December 2022, they had been brought back inside where they belonged.
- None of the conditions relating to patrons clearing the rear area by 21:00, no noise emanating from the premises, fumes causing a nuisance and lighting at the rear of the premises had been followed.
- Lighting and the use of the rear of the premises had carried on beyond 23:00, including until 02:00 and 03:00.
- The premises was much more than a restaurant. The business' own website referred to it as a restaurant and lounge with 'show-stopping' cocktails with shisha, and live entertainment, as well as food. The image of the premises projected itself more as a nightclub.
- The premises was generally bigger than other restaurants in the area and this changed the atmosphere in the local area for the worse.
- The rear of the premises had open windows which were close to homes in the area.
- It was not clear what the relationship was between the premises and one of the homes in the area. The applicant had explained to him that he used it as an office and for staff use.

- An extension for the use of the rear of the premises by two to three hours would exacerbate the harm which was already being experienced by local residents.
- Granting the licence could be seen as the Sub-Committee condoning the unlawful practices of the premises.
- The Sub-Committee should refuse the application and retain and enforce the existing licence conditions.

In response to questions, Ms Jennifer Barrett and Mr Ankinboyemwa informed the Sub-Committee that:

- No measurements of noise at the premises had been taken. The assessment of noise was considered to be subjective and based on what residents would be able to tolerate.
- The premises had a lot of patrons and this would generate noise.
- The outside area was generally open.
- A sound limiter would only be impactful if there was the opportunity to completely enclose the external area or sound was limited in the external area.
- No complaint had been received regarding the premises after 23:30.

In response to questions, Councillor Brabazon, Mr Andy Cheatle, Ms Nicola Pollock, Mr Joel Hanley, Mr Laurence Honderick, Mr Ian Sygrave and Ms Deborah Potts, residents, informed the Sub-Committee that:

- Noise could be heard from the premises even when all the windows and doors were closed.
- Music could be heard in the background, noise of cars and patrons congregating could also be observed.
- The noise from the premises was extremely loud.
- Noise could be heard from patrons up to 23:00, particularly during the summertime.
- The sound occurred from people, live music, amplified music. There had been people whooping and cheering.
- A lot of noise could be heard from the garden side of the road.
- The noise emanated from the premises.
- There had been occasions where noise had come from another licensed premises, but this was at a much lower rate.
- Mr Cheatle had spoken to the management at the premises on several different occasions, before raising the issue with the Council.

- Councillor Brabazon had not visited the premises but had written on behalf of residents to the Noise team.
- Page 52 of the agenda papers listed discussions that were held with the manager at the premises in March, May and July 2022.

In response to a question, Mr Toprak stated that Mr Cheattle had visited the premises and reported a car parked in front of his home and thought that it was a patron had left it there. There was no clear evidence that the car had been left by a resident.

To summarise, Councillor Brabazon stated that residents had spoken about their experience and had recorded their experiences in considerable detail. The response from the applicant had been poor and the use of the rear area had exceeded the terminal hour of 21:00 far later into the night.

To summarise, Ms Jennifer Barrett and Mr Akinboyewa felt the application should be refused due to the potential of rise in public nuisance as it was not clear how the applicant would be able to manage the conditions if the application was granted.

To summarise, Mr Cheattle stated that there was nothing in the proposal from the applicant which addressed any of the harms and issues which had arisen at the premises. The variation would only exacerbate existing problems. The application should be refused.

To summarise, Mr Craig stated that he wanted the applicant to be treated reasonably. The applicant simply wanted a licence that reflected the area in which the premises was situated and a set of conditions that was proportionate and capable of being met and still promote the licensing objectives. There were a number of local residents who had expressed positive views of the premises and would contradict some of the comments that have been made. However, the applicant wanted a good relationship with the local community and wanted to operate a licence that did not set up the business to fail or be restricted in a disproportionate way. He would ask the Sub-Committee to consider the application in two parts. First of the extension of the hours in general terms, for licensable activities and secondly in respect of the condition to the rear of the premises. He would invite the Sub-Committee to grant both parts of the application accordingly.

At 9:11pm, The Sub-Committee adjourned to consider the application.

RESOLVED

The Licensing Sub Committee carefully considered the application for the variation of an existing premises licence at RAKKAS, 365-369 GREEN LANES, LONDON, N4 (HARRINGEY). In considering the application, the Committee took account of the London Borough of Haringey's Statement of Licensing Policy, the Licensing Act 2003, section 182 Guidance, the report pack and additional papers, the applicants and objectors written and oral representations.

Having considered the application and heard from all the parties, the Committee decided to REFUSE the application.

REASONS

The Committee gave serious consideration to the submissions made by the applicant & their representative, and to the concerns raised by the objectors both of which were made in writing and orally.

It was very apparent to the Committee that for an application for a variation of an existing License there was an unusually large number of objections from local residents in the immediate vicinity of the premises. As a result, separately a review of the License had already been instituted and is pending. Complaints and objections were received from residents many of whom attended the hearing, the noise enforcement team, local Councillors and the Licensing Authority who had also objected to the application.

In considering the licensing objective of preventing public nuisance, it was found that since the License was granted there had been, and continues to be severe issues around noise nuisance, primarily coming from the Shisha area at the rear of the premises. The application had sought an increase in the hours for the supply of alcohol by one hour and opening hours by approximately an additional 30 minutes. However considering that even under its current hours and licensing conditions the premises owners could not control the noise nuisance, it was not thought credible that the owners could control the public nuisance with longer hours.

Evidence of the noise nuisance was given by the objectors, as well as impeccable records of the noise nuisance and disturbances which were evidenced at pages 52-54 and throughout the pack of papers. The Noise enforcement team officer noted that there had been 21 complaints within 10 months all related to the outside Shisha area. Furthermore, the premises owners had been obstructive when officers had attended to investigate on numerous occasions. The Committee took into account the explanation given by the Applicant for delay on such visits or refusing access, but did not find the explanations credible.

The Committee noted that the noise complained of consisted, loud voices, shouting, whooping, which could be heard many up to 100 yards away by neighbours on either side. It had been particularly bad during the summer when people's windows were open and noise carried. Of particular concern was that although the current License allowed for the outside area to be used up to 9pm, the noise complaints occurred both prior to and after these hours sometimes until the early hours of the morning.

It was also worrying that the planning regulations were being breached in the use of the Shisha area which is supposed to be 50% open, but is enclosed. It is noted the planning regime is separate, but it nevertheless showed a further disregard for the rules, which was having significant impact on one of the licensing objectives. The Committee took note of the explanation given by the Applicant about the misunderstanding and apparent confusion about the term "outside area" "external area" or "rear of the premises" as an explanation for why the shisha area was being used in the way it was. The Committee recognised that the Applicant did make a valid point about the clarity of the terms, but overall felt that the Applicant was in reality aware of the conditions meant, and had that been an issue the applicant could have appealed the original licensing decision when it was first granted.

The Committee noted there was a pattern of obstructive behaviour from the Applicant for example, denying access to noise enforcement officers or not providing CCTV footage when requested to do so. There was furthermore, no attempt to address the residents' concerns about the noise nuisance in the application- no plans or proposal put forward.

The Committee did take into account and balanced the information from the Applicant with other information. It was noted some written evidence of support for the application was

provided, but none had attended the hearing due to not having met the deadline requirement to speak at the hearing, to give verbal support. The Committee also noted there were complaints about rubbish and parking issues. On balance, the Committee accepted the applicant's submission that it could not be proven that those issues arose solely as a result of the activities at Rakkas.

The Committee noted the applicant's submission that Green Lanes was a busy area and other premises had later licenses. However, as is clear each license application has to be treated on its own merits and the vast majority of complaints related to Rakkas.

However, taking all the information in the round, the Committee had very serious reservations about the ability or preparedness of the Applicant to be able to combat the potential anti-social behaviour or noise nuisance that will arise from the premises if the application was granted. The Committee further noted that to grant the application in the face of what appeared to be overwhelming evidence of breaches of the existing licence condition, in connection with the licensing objective of preventing a public nuisance would have been to condone and reward rule breaking.

The Committee considered granting the application with more stringent conditions, but for the reasons given above concluded that the Applicant was unlikely to keep to such conditions.

Appeal Rights

This decision is open to appeal to the Magistrates Court within the period of 21 days beginning on the day upon which the appellant is notified of the decision. This decision does not take effect until the end of the appeal period or, in the event that an appeal has been lodged, until the appeal is dispensed with.

7. NEW ITEMS OF URGENT BUSINESS

There were no items.

CHAIR: Cllr Ajda Ovat

Signed by Chair

Date

MINUTES OF THE LICENSING SUB COMMITTEE HELD ON MONDAY, 30TH JANUARY 2023, 7:00PM – 9:40PM

PRESENT: Councillors Barbara Blake, Lester Buxton and Ajda Ovat (Chair)

ALSO ATTENDING: Councillors Dana Carlin and Adam Jogee

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

There was no urgent business.

4. DECLARATIONS OF INTEREST

None were declared.

5. SUMMARY OF PROCEDURE

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

6. APPLICATION FOR A VARIATION OF A PREMISES LICENCE AT DISTRICT 22, 83 MAYES ROAD, WOOD GREEN, LONDON N22 6TN (NOEL PARK)

Presentation by the Licensing Officer

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

- This was a variation application seeking to extend the permitted hours for the sale of alcohol from 11:00 to 23:30 Sunday to Thursday and 11:00 to 00:00 Friday and Saturday.
- The applicant had also applied to remove a condition regarding the rear area which had to be closed 22:30 each day. This would be replaced by a condition that stated that the rear area would be closed at 00:00 Sunday to Thursday and at 00:30 on Friday and Saturday.
- Representations had been received from residents and there were no representations from responsible authorities.
- The premises had held temporary events and these were outlined in the report.

- The application had a noise management plan before a hearing for a temporary event notice and some of the wording related more closely to temporary events.
- There were no decibel noise levels specified in the plan.
- The plan stated that it will have DPS noise levels, but they had been no decibel noise levels specified.

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

- The applicant had given seven temporary event notices (TENs), one had originally been objected to but the objection was rescinded following mediation with the applicant's representative.
- Residents were usually notified by writing to inform them about a variation application.

Presentation by the applicant

Mr Bill Donne, representing the applicants, informed the Sub-Committee that:

- There had been an oversight on the previous application that had been granted and the sale of alcohol should commence at 11:00. The current licence allowed for the sale of alcohol to begin at 16:00 each day.
- The intention of the application was so that the premises could open at lunchtimes to sell food, so the applicant would ask that the sale of alcohol be changed to start 11:00 each day. This would fall in line with previous premises licence conditions that had been subject to previous ownership over the years.
- The applicant also wished to remove the conditions limiting the rear of the premises area which currently requested all patrons to leave by 22:30 and to be replaced to state that the rear area should be cleared by 00:00 Sunday through to Thursday and by 00:30 on Friday and Saturday.
- The premises had traded as public house in the past and had a pub licence in the past from the previous 1964 act.
- The premises had been subject to a review application six years ago and additional conditions had been imposed since the review application.
- The premises had been subject to a Licensing Sub-Committee hearing approximately two months ago and the Sub-Committee decided to give weight to the representations and the previous history of the premises and to continue with the limits of the use of the rear area. However, the review application from the past evidenced a catalogue of events and incidents that related to the premises when it operated through to 03:00.
- The applicants had brought the business at a time when the premises had not been licensed for two years and this was because when the previous premises licence holder became insolvent, the licence had lapsed. There had been suspicion that the premises was running without a licence for two years. An investigation was ongoing regarding the issue.
- The applicants had invested a lot of money on acquiring the leasehold property and the premises would serve alcohol and food.
- The applicants had a beer garden which formed the rear area.
- It was unclear if the rear area had been licensed in the past.
- The most recent hearing regarding the premises had representations from Police and Licensing, representatives of which were not present at the meeting to be challenged regarding the allegations made against the premises. Many of the incidents had occurred before the applicant had taken control of the premises and this made it

- appear as if the applicants were irresponsible operators, when in fact, this was not the case. They had a young child to look after, had invested their savings into the business and had not been given enough time at the meeting to address the objections.
- It was understood that a complaint made in the past Saturday. Officers had parked outside the premises in response and did not hear any noise nuisance.
 - The applicants were tasked with creating a noise management plan. This had been submitted to Environmental Protection and it seemed like tacit approval had been given to it.
 - Part of the noise plan was that there were recordings taken in the four key sensitive areas.
 - Mayes Road was a busy road.
 - Every week, the door supervisor was on duty on Friday and Saturday, sound recordings were taken on a machine via an app. Recordings were made every hour in accordance with the noise management plan and the average reading was between 58-61 decibels. 60 decibels was generally the rate of normal speech.
 - Noise nuisance was dependant on the background noise and the area was quite busy and had background ambient.
 - The applicant was actively keeping in accordance with the noise management plan, monitoring the key sensitive areas weekly with records on file. The loudest areas were immediately outside the front door and this reached 62-64 decibels.
 - The applicant was not creating noise nuisance in the nearest noise sensitive areas occupied by residents.
 - The premises was not authorised to play live or recorded music and could only play background music. Although, under the Live Music Act, the applicant could play music until 23:00.
 - A shisha lounge needed planning consent. However, the application that had been submitted for a shisha lounge did not have anything to do with the applicant and related to a previous applicant. The application had been refused.
 - The premises operated as a public house and served alcohol and food and to comply with the no smoking regulations, the business had moved to electronic cigarettes and electronic shisha and was lawful practice indoors.
 - The premises had a menu based around Balkan foods, particularly kebabs.
 - Although residents had a right to enjoy their life in their property, the applicant also had a right to run a business and be given the opportunity to run a business. This was why the extension of the hours was necessary. The premises closing at 22:30 with last orders being taken at 21:30 was very early.
 - There was no evidence to say that the applicant was causing any nuisance.
 - None of the complaints from the previous hearing were justified. There had also been one over the past weekend where a complaint had been made, but had not been validated.
 - The applicant deserved a chance to be able to trade to the hours applied for and move the business forward.

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

- The premises had held seven temporary events without any issues. The rear area was closed at 00:00.

- The applicant was required to submit a noise risk assessment which had been done. Noise management plans were still working documents.
- The noise impact assessment would be revisited based on whatever licence may be granted by the Sub-Committee.
- The noise impact assessment had been submitted weeks ago and a response had not yet been provided. Relevant officers had been consulted and the assessment appeared to be acceptable to officers so some tacit approval had been given. Documents such as event management plans and other such documents were usually subject to review where improvements or deviations needed to be made.
- Considerations of the area including individual resident addresses had been taken into consideration and monitoring had been done by the applicant with residents having been consulted personally.
- There was a retractable roof to facilitate the smoking area. This was in the application and was subject to revision in view of enhancement. Officers had visited in the past weekend to monitor the premises with the roof open and no noise nuisance could be heard.
- As part of the noise management plan, the speakers had been adjusted away from a particularly sensitive area so that sound would be directed away from any possibility of crossing the road.
- In order to make noise recordings, the applicant had a sound recording meter and an app on the phone. The equipment also had GPS in addition to be able to monitor the noise levels.
- It was possible for an individual to stand at the bar at the front and order drinks. The rear area was subject to table service only and therefore was more manageable. Food was served there and therefore had a more restaurant-like atmosphere. It was possible to smoke in the area when the roof was open. The roofing at the premises was 8–9 feet high and there was roofing over the top and aperture for the smoking was over the far side.
- The property backed into an industrial area which was occupied by people, gymnasium and manufacturing companies.
- Page 23 of the agenda papers which listed the opening hours as 00:00 was an error and should read 08:00.
- The kitchen closed at 22:30 and last orders would be 15 minutes before.
- A meeting had been held with security staff on site regarding their objectives. The staff would work on-site at the premises.
- There were normally two members of security staff working with premises. There was normally one on the front door and one inside the premises.
- The applicant was not seeking to extend the hours later into the evening.

In response to a question, Ms Barrett informed the Sub-Committee that the application was seeking to commence the sale of alcohol from 11:00 each day. At present, the sale of alcohol commenced at 16:00 and the applicant was seeking to extend the sale of alcohol so that alcohol would be sold from 11:00 to 23:30 Sunday to Thursday and from 11:00 to 00:30 on Friday and Saturday. The premises would close to the public half an hour after the terminal hour of the sale of alcohol.

Presentation by interested parties

Mr Bryan Barnes, resident, informed the Sub-Committee that:

- The applicant would be informed about the history of the premises.

- The rear area of the premises had been subject to issues in the past.
- On three occasions, he had complained about noise regarding the premises.
- He was able to hear noise and voices from customers. As he had not heard noise from the area in some time, it was possible that the roof was open.
- He had submitted a complaint on 28 December 2022, but was not aware of the temporary events held by the applicant.
- The noise level in the road nearby had decreased. This resulted in the noise activities from the premises being more audible.
- The road nearby was occupied by older people and was not an appropriate area for the premises.
- Cars could be heard revving and on one occasion six people took a long time to get into a car and made loud noises with the car before and during their departure.
- He would ask that the area where noise could be heard be resolved.
- His noise complaints coincided with when the applicant held temporary events.
- Fireworks had been let off on 24 December 2022 from the premises.

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

- On one occasion he had called the Police when an individual had threatened him in the last 12 months.
- Residents were able to hear the noise in the area.
- Whenever the applicant held a temporary event, the area was subject to noise problems, including the days leading up to the event.
- From October 2022, there had been a gradual increase in issues relating to the premises.
- Consistent sounds of music could be heard from the premises.
- There should be more respect to the older people who lived in the area.

At this point in the proceedings, Ms Barrett stated that it was not yet clear if a proper background noise assessment had been completed. Mr Donne stated that the applicant was simply monitoring the way in which noise could be reduced. Mayes Road and Coburg Road were busy roads there was an industrial estate directly behind the premises. The applicant would only trade until 00:00, not until 03:00 and this could have an effect on background ambient noise. A nightclub could reach noise levels up to 85 to 100 decibels, but 60 decibels was an ordinary level of noise.

Mr Sheikh Subrattee, resident, informed the Sub-Committee that:

- The rear area was an important area, but the applicant had not soundproofed the area.
- The soundproofing should be done on the inside because that was where the noise had been originating.
- He would not have complained if there was no noise.
- He had lived in the area for many years and other operators had occupied the premises, but had now left.

Mr Charlie Ward, resident, informed the Sub-Committee that:

- The Sub-Committee had heard a previous application at another hearing. This was held three months ago, it was long, detailed and fair and took into consideration the applicant's and residents views. A licence was subsequently granted with conditions.
- The application had been submitted over a month ago.
- There had been no time to evaluate how the premises had operated.
- The premises had only operated during the winter months which was typically a quiet period.
- The premises should be monitored over a longer period of time, particularly during the busier months of the year.
- Mayes Road during the day did have busy periods with Coburg Road and an industrial estate located close by. There was traffic, footfall and building work. However much of this would dissipate after 19:00 and the area would revert to a quiet residential area.
- The only extraneous noise after that time would come from the premises and would not be cancelled out by traffic.
- He lived directly opposite the premises.

In response to questions from Members, Mr Ward and Mr Subrattee informed the Sub-Committee that:

- Soundproofing was worthwhile investment and it did not appear that the applicant wished to spend money on installing it.

At this point in the proceedings, Ms Barrett clarified that the rear area would be used until 00:00 Sunday to Thursday and until 00:30 on Friday and Saturday.

In response to further questions, Mr Ward and Mr Subrattee informed the Sub-Committee that:

- The use of the rear area would have an adverse impact on the local community and the applicant was not a member of the local community.
- If the use of the area went on until 00:00, then it would take until 01:00 for patrons to leave the premises.
- Mr Ward stated he had not been given contact details to be able to contact the resident.

At this point in the proceedings, Ms Barrett clarified that residents had been provided with contact details. Mr Donne stated that he had been provided with contact details to residents and a contact number had been given to them.

In response to further questions, Mr Ward and Mr Subrattee informed the Sub-Committee that:

- Mr Subrattee had made ten complaints over the last three months. He spoke to the Nuisance and Nuisance team on ten occasions and had visited him on one occasion.
- Mr Ward was unable to hear any noise from the rear area where he lived.
- The premises had several owners in the past and there was a general reluctance to increase operating hours.

To summarise, Mr Subrattee stated that the applicant had been given leniency regarding their activities at the premises. He would continue complaining if things did not improve. The area had enough bars and restaurants and was not appropriate for such activities.

To summarise, Mr Donne stated that this was an application to vary the licence in two parts. Firstly, to grant the permission for the sale of alcohol to commence from 11:00 each day instead of the current commencement hour of 16:00. The second part of the application was the use of the rear area and the applicant had asked to extend the use of it by removing a condition concerning the use of it. The application was not an increase overall in hours. The premises would still run as it did under the current licence, but the applicant was requesting that the condition relating to the rear area be removed. There was no evidence or sound recordings as to why the application should be refused, just a catalogue of complaints which had not been validated. The most recent incident was on in the past Saturday, when officers turned up to the premises and heard no noise nuisance. Officers had spent 35 - 40 minutes on the premises. In relation to soundproofing, there had been a large amount of development at the premises. The photographs displayed solid walls on the outside of the premises. There area had decoration, soundproofing and the aperture relating to the smoking area was over the far side, away from the noise sensitive area of the premises. The applicant was committed to not causing a nuisance and had created a noise risk assessment. The applicant had taken regular recordings over the weekends when security was present at the premises and this showed an acceptable level of decibels. There were four residents that had submitted representations. One of the residents was a continuous complainer. The premises had previously traded as a nightclub until 03:00, but currently, the premises ran a different style of operation. It was a restaurant bar and a lounge bar. The applicant had invested in soundproofing and it would appear that it had been effective. Another resident, had reported that he had no cause for complaints and was not affected by the premises and was simply joining in objecting to the application. The premises had been a public house for over 100 years and had always been a licensed premises. He would ask the Sub-Committee to consider the evidence and that residents had not produced any evidence of existing problems. There had not been any correspondence from the Noise and Nuisance team to say that the premises was at risk of a noise abatement notice. The Police, Licensing, Environmental Protection and any of the other responsible authorities had not objected to the application. The premises had conducted seven temporary events matching the hours applied for and no issues had been raised. This was clear evidence that the premises was not causing a problem operating the business in the manner in which it did.

At 8:36pm, the Sub-Committee adjourned for a short recess. The Sub-Committee resumed at 8:41pm. The Sub-Committee later adjourned to consider the application at 9:09pm.

RESOLVED

The Licensing Sub-Committee carefully considered the application for the variation of an existing premises licence at District 22, 83 Mayes Road, Wood Green, London, N22 6TN. In considering the application, the Committee took account of the London Borough of Haringey's Statement of Licensing Policy, the Licensing Act 2003, section 182 Guidance, the report pack and additional papers, the applicants and objectors written and oral representations.

Having considered the application and heard from all the parties, the Committee decided to:

1. REFUSE the application to remove the condition “Conditions on the area at the back of the premises: The back shisha area to be closed at 2230 each day”.

For the avoidance of doubt the application to extend the hours to midnight on Sunday to Thursday and 0030 Friday and Saturday for the back shisha area is refused.

2. GRANT the application to “To extend the permitted hours for the sale of alcohol by retail to commence from 1100 hours each day for consumption ON the premises”.

REASONS

The Committee gave serious consideration to the submissions made by the applicant & their representative, and to the concerns raised by the objectors both of which were made in writing and orally.

It was clear to the Committee that primary licensing objective being considered was that of the issue of the creation of, or an increase in Public Nuisance through noise nuisance created by the Premises.

The earlier opening hours being requested did not seem to create any strong objections. The main objections came in relation to the potential for noise nuisance late into the evening if the back Shisha area hours were extended.

The Committee did note the point made by the Applicant that no other responsible public body had raised objections and the complaints came from repeat local residents. However, the Committee did not accept that complaints should not be given weight because they were repeat complaints, as Local Authorities routinely advise people to raise complaints and issues where they arise.

The Committee found the objectors as credible witnesses who gave cogent evidence of the noise nuisance suffered by local residents. The documentary evidence listed complaints made, and even though noise officers did not attend on all occasion- complaints were nevertheless made. Complaints were made of loud music, loud talking and cars being revved in the area by the applicant’s clientele. As it is open air, the noise carried when there were large numbers of people in the shisha area.

As it is an open shisha area, which already created noise nuisance, increasing the hours to later at night past midnight and with the potential for another hour of dispersal time, noise disturbance could last until 1-2am in the morning. Furthermore, it was noted the last order for food would be 10.30 so the proposed increased hours would be purely for alcohol consumption and so the potential for nuisance behaviour could increase.

The Committee noted that the noise management plan submitted was not the most recent version, and that a further one had been supplied to the Licensing Authority. However, the Committee could not accept without expert evidence that noise levels were 60-61 decibels or even that those were acceptable levels of noise. There was no information to provide to substantiate that information and was not part of the noise management plan. It was noted the Applicant was taking steps by using its own monitors and apps- but again this was not independent information.

For the reasons given above this application is partly granted in respect of the earlier hours but refused in respect of the later hours at the back shisha area.

Appeal Rights

This decision is open to appeal to the Magistrates Court within the period of 21 days beginning on the day upon which the appellant is notified of the decision. This decision does not take effect until the end of the appeal period or, in the event that an appeal has been lodged, until the appeal is dispensed with.

7. APPLICATION FOR A VARIATION OF A PREMISES LICENCE AT LOUNGE, 34 HIGH STREET, LONDON N8 (HORNSEY)

At the start of the hearing, Ms Daliah Barrett, Licensing Team Leader, informed the Sub-Committee that the applicant wished to submit additional papers. Furthermore, a plan had been submitted with the application and it was a requirement of the under the Licensing regulation that the plan submitted should be reflective of the premises. Licensing had received some additional photographs from the applicant displaying work that had been carried out to the garden area of the premises, so a structure had been built in the garden area that was not displayed on the plan that was submitted for the application. Nothing was mentioned on the application about the area either, so as a result, none of the interested parties to the application were aware of the structure. The regulations had not been followed as the correct plan had not been submitted.

The Legal advisor to the meeting stated that the plan was displayed on page 148 of the agenda papers and was no longer reflective of the actual condition of the premises. In effect, the application had not been made correctly.

In response to a question, Mr Simms, representing the applicant, stated that the late submission of documents included a noise impact assessment and this had been received from a noise acoustic company on 27 January 2023 and had been signed by the company on that date. In relation to the some of the images of the premises, these had been computers generated CGI images of the premises would look. The architect had completed the drawings and had completed a 3D walk-through of how the premises would look in its final form. In relation to the structure at the rear of the premises, a meeting had been held with the Planning Authority and the applicant needed to submit a planning application. The back of the premises had a cover. The garden area had no cover or shelter and a shelter had been built. A minor variation could be submitted to include the shelter. A shelter had been built so that patrons did not get exposed to bad weather.

The Legal advisor stated that under Section 23 of the Licensing Act 2003 (Premises licences and club premises certificate) Regulations 2005, the plan needed to show various elements. This included the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises, the location of points of access to and egress from the premises; in a case where the premises was to be used for more than one licensable activity, the area within the premises used for each activity; fixed structures (including furniture) or similar objects temporarily in a fixed location. The plan was not reflective of the application and did not comply with the relevant legislation.

Ms Barrett stated that a Planning Officer had been visited the premises and had emailed the enforcement matters that he wanted the applicant to address. The additional structure in the rear area had been made without planning permission. Had the various responsible authorities in residents had known that the outside area was going to be built on and be used for licensable activities they would have been able to consider it.

Mr Simms stated that the issue related to a wooden structure placed at the rear of the premises, there had been no change to boundaries, access or egress to the premises. There was no real impact on the application.

Ms Barrett stated that the noise impact assessment did not cover the rear area and would have had an impact on residents.

At 8:51pm, the Sub-Committee adjourned to consider the application. The Sub-Committee reconvened at 9:07pm.

RESOLVED:

The Sub-Committee having considered the information having come to light at the start of the hearing and having heard from the Licensing Officer and the Legal Officer and having taken points of clarification from the applicant and having noted that the plans submitted with the application on page 148 not being correct or reflective of the current status of the premises and as such in contravention of section 23 of the Licensing Act 2003 (Premises licences and club premises certificate) Regulations 2005, the Sub-Committee decided to adjourn the matter to allow the applicant to submit a proper and correct application.

8. NEW ITEMS OF URGENT BUSINESS

There were no items.

CHAIR:

Signed by Chair

Date

MINUTES OF THE LICENSING SUB COMMITTEE HELD ON TUESDAY, 7 FEBRUARY 2023, 7:00PM – 10:15PM

PRESENT: Councillors Lester Buxton, Ajda Ovat (Chair) and Nick da Costa

ALSO ATTENDING: Councillor Zena Brabazon

1. FILMING AT MEETINGS

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

2. APOLOGIES FOR ABSENCE

No apologies were received.

3. URGENT BUSINESS

There was no urgent business.

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. APPLICATION FOR A REVIEW OF A PREMISES LICENCE AT RAKKAS 365-369 GREEN LANES, LONDON N8 (HARRINGAY)

Presentation by the Licensing Officer

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

- The review application had been submitted by the Noise and Nuisance team.
- The basis of the review of the premises was the prevention of crime and disorder, public safety and the prevention of public nuisance.
- The application raised concerns about the use of a shisha lounge area which was causing a nuisance to members of the public and non-compliance with the licence conditions. There was also concern that the shisha smoking area had not complied with the Health Act and Council officers had been prevented or delayed from accessing the premises.
- The premises was authorised to provide regulated entertainment, late night refreshment and the supply of alcohol.
- The premises' main activity was the provision of shisha that took place at the rear of the premises.

- The premises had the condition relating to the external area at the rear being closed and cleared of patrons by 21:00.
- There were documents and footage that had been submitted relating to the entertainment provided under Section 177A of the Licensing Act. Under the review application, the Sub-Committee's discretion was engaged on the matter.
- Shisha smoking was not a licensable activity, but the area that the activity was being carried out was in a licensed area.
- The premises, as Rakkas, was first licensed in March 2012, it was varied in 2014. In 2016, there was a review application submitted and this related to noise and nuisance. That licence was later revoked by the Sub-Committee. This was then followed up in February 2021.
- The premises currently operated as a restaurant as offered regulated entertainment and late-night refreshment.

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

- The report had stated that the main activity of the premises was shisha smoking and this had been based on observation.

Presentation by the applicant

Ms Jennifer Barrett, Noise and Nuisance Officer (representing the review applicant), informed the Sub-Committee that:

- The Noise and Nuisance team had investigated complaints made regarding the operations undertaken at the premises.
- The Council had received 21 complaints since March 2022 regarding noise. In response, the Noise and Nuisance team had attended the premises and made observations at street level regarding public nuisance. Observations had also been made in relation to the rear area and the use of the rear area as a shisha area.
- The premises had been visited on occasions and a review had been applied for as there had been an observed number of breaches of the licence, especially the external area which had been used routinely after 21:00. There had also been recent breaches of the Health Act whereby the rear area was enclosed at a time that shisha was offered to patrons. Complaints had also been received from residents.
- Efforts had been made to mediate with the DPS at the time. The operators had said they were unclear of what was required of them regarding the use of the rear area.
- Noise and Nuisance had written to the premises stating their understanding of the use of the rear area.
- As part of the applicant's variation application, the applicant had stated that they felt the condition relating to the rear area was difficult to comply with.
- In 27 July 2021, the Sub-Committee recognised that there had been issues with the premises and the Sub-Committee at the time decided the outside space needed to be managed in a better way. Also, in response to concerns raised by residents, additional clarification regarding the external areas had been added as a revision to the licence.
- Residents had advised that there was a seasonal element to the use of the premises so complaints had not been received throughout December 2022, but she expected an increase in the summer months as rear area became more used.
- Noise and Nuisance officers attended on a number of issues and had difficulty in accessing the premises.
- Visits had been made to the premises in response to complaints in an attempt to establish if the rear area was being used for licensable activity.

- Officers had requested CCTV footage for three occasions whereby officers had seen unlawful use of the rear area.
- She requested that the Sub-Committee revise three conditions on the licence to ensure more clarity, partly to allow for better enforcement for any breaches of the licence.
- One specific condition that needed revision was the requirement for the DPS to provide CCTV footage so that any authorised officer would be able to request and obtain footage.
- The rear shisha area and mezzanine should be closed and cleared of patrons by 21:00. The condition needed revision so that it included notices for display in order to inform patrons of the requirement to close the area.
- The DPS had stated that premises staff struggled to clear the rear area because their patrons did not appreciate the need to clear the area by 21:00.
- The Sub-Committee should also consider the restriction of use of live, amplified or recorded music in the rear courtyard area and that licensable activity in the area should cease by 21:00.

In response to questions, Ms Jennifer Barrett and Mr Amir Darvish, Noise and Nuisance Officer, informed the Sub-Committee that:

- The premises was served daily by two security officers listed on the pavement outside sliding doors.
- Officers had approached the premises in response to complaints or as part of an investigative process and had requested access to the premises, but the doors were always shut and security staff would hold officers at the door whilst they got hold of the manager. Officers had displayed their badges and stated what they required and why they needed access. There had been three recent occasions where this had occurred.
- Premises staff had said that there had been a malfunction with the CCTV system.
- There was a generally positive approach from the licence holder and the management, but there was a level of frustration regarding the DPS as when officers visited the premises regarding the use of the rear area after 21:00, it had been met with some challenges. There was a suggestion that premises staff did not understand or appreciate the reason for the condition is that it has been discussed in consideration to the use of the rear area. Overall, there was a mixed feeling towards premises staff as officers attending the premises had been met with challenge, but interactions were more positive in arranged meetings.
- On occasion, security staff would hold the sliding door or physically put themselves in the doorway in an attempt to stop officers from entering the premises.
- When the DPS was informed that closing the rooftop was against the law in relation to the smoking activities carried out, the DPS had said that he would continue to use the roof in the manner it was being used. He had stated that he would consider withdrawing shisha from the menu in the quieter or colder months.
- The premises licence holder was informed during October 2022 that officers were continually observing breaches of the terminal hour for the use of the rear area. This was when the licence holder had raised the specific issue regarding what was meant by the external area and were subsequently informed that the Council's understanding of the external area and the outside smoking area were two different things.

In response to a question, Ms Daliah Barrett informed the Sub-Committee that the outside area used for shisha smoking was located at the rear of the property. The retractable roof, in effect, enclosed the area causing a potential breach of the legislation connected to the Health

Act. It was an issue which added to the matters raised. Within the Health Act, the area needed to be 50% open for smoking activity to take place.

In response to questions, Ms Jennifer Barrett and Mr Darvish informed the Sub-Committee that:

- Shisha smoking was not a licensable activity, but the offer of the shisha was incongruous with the other requirements of the licence. Either the rear area needed to be enclosed (to meet requirements) or area needed to be closed by 21:00, but if shisha smoking occurred in the rear area with the roof partially closed, then it would be a breach of the Health Act.
- The visit on 5 March 2022 which stated that the external area had been used at 19:22 was an error in the report and should actually state 21:22.
- Observations had been made at street level in the vicinity of the premises and in the vicinity of residential properties of any complainants. The Council also received anonymous complaints and investigations were held partly by observing the premises. When investigating complaints, the Council also tried to determine if there was a statutory nuisance, by visiting the premises and determining how residents were affected in their homes.
- Observations of public nuisance had been made without the need to measure any noise. The Noise and Nuisance team did not specify the number of decibels, but simply determined if the noise nuisance was giving rise to disturbance.
- Noise complaints had been received in 2023, but had not been included as part of the application.
- They had not spoken to the residents that had supported the premises.
- The Health Act breaches that had been observed late last year was an indicator of non-compliance of the conditions of the licence and the premises licence holder had stated that they were struggling to comply with conditions. It was thought appropriate to review the licence to specifically examine the issues.
- The review application had not been submitted in response to the variation application that had been submitted by the premises licence holder.
- People had been observed dining in the rear area and it could be considered more than just a shisha area.

Presentation by Interested parties

Councillor Zena Brabazon informed the Sub-Committee that:

- This was the third time she had to make a representation for the premises.
- The Harringay ward had several restaurants and in her six years as a councillor had addressed the issue three times.
- In her experience, she had never received so much correspondence and complaints about a premises in the ward.
- Regretfully, she had to support the review application. It was a responsible authority that had brought forward the application and if the premises licence holder was not going to comply with the conditions of the licence, it was unclear what other action a responsible authority could take.
- The premises, when established, the minutes of meeting from a hearing in July 2021 (found on page 172) of the agenda papers, stated that premises staff would not use the rear area as a shisha lounge, but that there would be an option for people to smoke.

- It was obvious this issue was an unsolvable conundrum.
- There was a mezzanine where people were smoking shisha and there were photos showing shisha paraphernalia.
- The rear area may have another function, but it was primarily used as a shisha lounge where the doors, windows and the roof would have to be open and this was why residents experienced noise and disturbance. It was also why they complained.
- If a premises licence holder did not understand the conditions of the licence, then this was a serious matter.
- The Sub-Committee needed to sanction the premises for not complying with conditions and for causing such aggravation to residents.
- The residents supporting the review application were individually written representations and were personal testimonies.
- The supporters of the premises had virtually the same representation.
- It was important for the Sub-Committee to take the weight of the representations accordingly.

Mr Ian Sygrave, resident, informed the Sub-Committee that:

- In his capacity as chair of the LGSCCP, he had been attending hearings in the area for over 20 years and the weight of evidence displayed some of the worst examples of repeated breaches of a premises licence.
- Firm action should be taken by the Sub-Committee to prevent yet more breaches from occurring in the future.
- Unless firm action was taken immediately, there was every reason to believe that the Sub-Committee's own previous decisions would be ignored again.
- The existing licence, granted in July 2021, should be examined and the refusal to grant longer hours in the variation hearing in the previous month made it clear that the Sub-Committee remained very concerned about noise nuisance from the rear area. This was why the Sub-Committee originally stipulated a 21:00 terminal hour for the use of the rear area.
- Since the premises opened last March, all concerns about noise proved fully justified and the Sub-Committee could see a catalogue of breaches across 40 pages in the agenda papers including repeated site visits by enforcement followed by verbal warnings, written warnings and warning meetings.
- The concerns of over 20 objectors, including two ward councillors, covered a further 50 pages and they contained specific details of noise and antisocial behaviour which residents had experienced. These were not identical, copied letters provided by a legal team, but individual responses from residents who had been suffering and had enough.
- The Council's own Noise and Nuisance officers had witnessed not just one or two, but multiple breaches last year. Further, they had actually been hindered or prevented from entering the premises, despite their legal right to do so.
- The premises licence holder circulated an irrelevant questionnaire (or survey) which did not refer to the review or to the licensing objectives. As such, it had no bearing on the case. However, on the back of the questionnaire (or survey), the licence holder had produced an identical formulaic statement which had been circulated for anyone to copy. This could be found on pages 142 and 143 of the agenda papers to show support for the premises. This was in stark contrast with the detailed representations provided by those supporting the review application.
- Given the seriousness of breaches and the repeated warnings, the licence should be suspended for a period of time to be determined by the Sub-Committee.
- The only effective long-term solution was to deal with the root cause of the problem, namely the rear area which was still unauthorised by the Planning Authority. This area

must be fully sound insulated and a non-opening sound proof unit should be installed. This would ensure that no noise could escape from the rear of the premises at any time of the day or night.

- Consequently, residents would once again enjoy the use of their homes and gardens without intrusive noise nuisance from the premises.

Mr Andy Cheatle, resident, informed the Sub-Committee that:

- Residents had experienced many issues with the premises after its re-opening in March 2022.
- These issues had caused breaches of the licensing objectives and licensing conditions.
- He supported the review application but did not believe its recommendations went far enough. They did not encourage the premises to change its behaviour and comply with licensing obligations.
- There was a catalogue of issues and harms, but the key fundamental root cause was the rear extension. Noise escaped from the area, especially in the summer when windows were open.
- In relation to the surveys that were taken, local residents were accosted on the street to provide feedback and then had their feedback manipulated and formed into a petition.
- Many of the harms now experienced by residents were anticipated by the Licensing Sub-Committee in July 2021 when it was stipulated that the rear area of the premises should be closed to customers by 21:00, that no noise should be emanating from premises, that no fumes or odours that would cause a nuisance and that lighting should be directed away from residential properties. None of these conditions were being complied with.
- The starting point was to see the premises comply with its current licensing obligations, but it was not doing so.
- The noise in the rear of the premises needed to be addressed.
- All retractable windows and roofs should be shut at all times and additional soundproofing should be installed.
- The use of the rear of the premises should be stopped until soundproofing was installed. This would also help to align the Licensing and Planning approach to noise management at the premises.
- To date, the premises had shown no intention of meeting all its licensing obligations.
- The premises had been in breach of the licence from the beginning and was operating at 11 months so far.
- There appeared to be a wilful, clear and deliberate non-compliance with the licensing obligations and the premises should be at least suspended for a period of time and if the issues did not improve immediately, the licence should be revoked.

In response to questions, Councillor Brabazon, Mr Cheatle, Mr Sygrave, Ms Nicola Pollock, Mr Joel Hanley and Ms Deborah Potts, residents, informed the Sub-Committee that:

- Since March 2022, Councillor Brabazon had received several repeat complaints from residents. The Noise and Nuisance team were notified on each occasion. She arranged a meeting and despite the best efforts made, no positive changes had been observed at the premises.

- Mr Cheatle had not filled out the survey as per 162 of the agenda papers onwards. He was away on the weekend when the survey was carried out but some neighbours had completed it and had reported that it felt like bribery with free meals being offered by the licence holder's representative.
- The timing of the survey indicated that it was in response to enforcement action rather than concerns about residents. It was also the first time residents had heard from the premises.
- There had been some residents who had filled in the survey and confirmed that they heard loud noises from the premises and had been impacted by noise. Comments such as these had been made, but had been ignored. One resident had filled in a survey which had given a negative review, which was then later filed as a positive review.
- Councillor Brabazon stated that when people were concerned, they had made a cogent effort to provide an insight into their experiences, but she had not spoken to those supporting the premises.
- Mr Hanley stated that he had informed that he would not be supporting the premises and had received a 'dirty look'.

Presentation by the premises licence holder

Mr Duncan Craig, representing the premises licence holder and Mr Garip Toprak, the premises licence holder, informed the Sub-Committee that:

- Any removal of the right to provide regulated entertainment via section 177A of the regulations needed to be conducted on a more empirical basis. The methodology employed by the noise and nuisance team regarding noise at the premises had been outlined. The removal of regulated entertainment as per section 177A was only based on statutory nuisance where statutory nuisance had been established.
- The applicant did not have any issues regarding the proposed condition relating to CCTV footage. The condition put forward was sensible, proportionate and enforceable. He would prefer the condition to be changed to state 28 days, as a period of four weeks was a more specific period of time and if a responsible authority was not in a position to retrieve CCTV footage in that period, then a request for the footage could not be particularly important.
- They disagreed with the terms of conditions regarding the rear area and the use of the term 'outside' lacked specificity regarding the enforceability of that condition.
- An outside area would refer to an area which had no roof or walls and therefore a carpark would fit this description.
- The condition currently stated that the rear area used as a shisha lounge was to be closed and cleared up patrons by 21:00.
- Approximately three weeks ago, the premises licence holder submitted a variation application and the condition regarding the use of the rear area in its current state was disproportionate in relation to the operation of the business. The wording of the condition needed to be reconsidered.
- They felt that the representations in favour of the review did not reflect the full picture of the situation.
- There were a number of local residents who supported the premises and residents that lived very close to premises. Many of the objectors lived further away.
- If people were opposed to something, they were much more likely to engage with a process than when they were in support of it.
- Views of residents were taken because the licence holder felt very strongly about the premises as there was a number of local people who were supportive and saw it as a benefit.

- The licence holder was seeking to garner support, but Mr Craig but would not represent the applicant if those supporting the application had been brought to the meeting in an improper manor.
- The premises was authorised for licensable activity until 22:30 Sunday to Thursday and until 23:30 on a Friday and Saturday with closure time of half an hour later.
- Other licensed premises that operated in the area operated for significantly later hours. The area was also busy part of London.
- Although the area was a residential area, it was also a lively and active part of London.
- The Sub-Committee had a commitment to ensure that there was a balance between residents' needs, the needs of the licence holder to run a business and the needs of the wider community.
- It would not be fair to set up a business to fail.
- It would not be possible to place a condition to the licence which was so disproportionate that the business would be unable to function.
- The review application was simply seeking to impose two conditions on the licence – one which had already been accepted.
- Shisha was a part of the business, but not central to the business. The business was a restaurant. The quality of the food was excellent.
- The premises was fitted to a high specification.
- It was highly unusual of a review application to be met by such a significant number of representations in support of the premises. It was even more unusual and rare that residents would take time out of their day to attend an evening meeting. He would ask that the Sub-Committee give weight to what those residents had to say, especially as they lived close to the premises.

In response to questions Mr Craig and Mr Toprak informed the Sub-Committee that:

- Soundproofing work had been undertaken at the premises since autumn time. Many licensed premises operated differently in the summer than in the winter.
- The review application had been submitted from the beginning of December 2022. He had proof of invoices for work done regarding soundproofing. Whenever patrons started smoking, premises staff would open the roof and most of the time they would be eating. The premises had not received any complaints since November 2022.
- The soundproofing work had been undertaken after October 2022.
- The licence holder had stated that it was difficult to get people to move out of the rear area at 21:00.
- When officers visited the premises, the licence holder had explained to them the licensed area was one unit and therefore it was unclear as to why patrons needed to be moved from the rear area after 21:00.
- There were 53 people working at the premises.
- For a fine dining restaurant, it was unprofessional to ask patrons to leave at 21:00.
- The rear area was not enclosed and was at least 50% open, the licence holder had explained this to officers many times.

At this point in the proceedings, in response to a question, Mr Amir Darvish, Noise and Nuisance Officer, stated that he had visited the premises twice, he had found that the roof was closed. The rear area had customers and the majority of tables had shisha and even some e-cigarettes. He was there four to five minutes and a subsequent verbal warning had been issued. He visited on a Friday and a Sunday and the situation was similar on both occasions. He had explained to the licence holder that if the rear area closed at 21:00, then the premises could stop allowing the smoking of shisha between 19:00 to 20:00. The licence

holder's younger brother was present at the premises on the first night. On the second night, Mr Toprak was present and Mr Darvish's main communication had been with his younger brother. Mr Darvish had been stopped by security, but was able to walk into the premises when the door was opened as two patrons were leaving. He had not run into the premises, he made his observations, communicated with the licence holder and had a body camera.

In response to further questions, Mr Craig and Mr Toprak informed the Sub-Committee that:

- No officer had ever been denied entry into the premises.
- When Mr Darvish arrived, the licence holder was present on both occasions and had worn a face mask. Mr Darvish, when was asked to identify himself, tried to push inside and enter the premises. He had a camera with him and security staff were simply doing the job. The premises only allowed patrons over the age of 20.
- There had been an issue with the hard drive regarding the CCTV footage. The licence holder had a problem with accessing it using his password. The issue was raised with the service provider.
- The shisha smoking was ancillary to the business model and the main model of the business was fine dining.

At this point in the proceedings, Ms Daliah Barrett stated that the premises itself had advertised itself as providers of high-quality shisha and that the provision of shisha appeared to be a leading feature. The plan that was submitted to Licensing previously had outlined a ventilation system typical to shisha lounges and was part of the structure of the location. It was important that 50% of the area needed to be unenclosed and it was pertinent that the roof needed to be open in order to meet the requirements of the Health Act.

In response to further questions, Mr Craig and Mr Toprak informed the Sub-Committee that:

- The reason for the soundproofing was to reduce the noise partly due to officers having raised the issue.
- Soundproofing had been undertaken in the restaurant and the outside area and a limiter been placed for the music. No live music was played at the premises. Only recorded music was played and this was limited through a sound limiter.
- Most patrons did not smoke and the licence holder had been in the restaurant business for many years and did not smoke himself. The premises mainly sold food and sales equated to 80% food sales and 20% in shisha sales.
- Although supporting representations and representatives had been gathered in a staccato fashion, it was important that the Sub-Committee gave weight to what those supporting the premises had to say.

Ms Daliah Barrett stated that page 39 of the agenda papers had planning documentation. The proposed planning permission was that the area would be an enclosed conservatory for fine dining, but what was built instead was a shisha lounge. The Planning Authority had asked the licence holder to address the issues listed regarding the outside area.

In response to further questions, Mr Craig and Mr Toprak informed the Sub-Committee that:

- An area of the premises offering shisha smoking did not make that area or the premises a shisha lounge.
- No issues had been raised regarding the compliance and licensing conditions since November 2022 and this demonstrated improving patterns at the premises and licence holder being able to meet his responsibilities.

Mr Vasily Abraham, resident in support of the premises, informed the Sub-Committee that:

- He lived very close to the premises and did not know how far those supporting the application were from the premises but he had no noise issues with the premises.
- The business maintained good public relationships and regularly spoke to residents and this was rare for a licensed premises in the area.
- Patrons should have the right to smoke in the designated area and the smoke had not disturbed him despite living close by.

Ms Manuela Salieva, resident in support of the premises, informed the Sub-Committee that:

- The premises was a well-run place and did not have a problem with the premises despite being a mother of two children.
- She was happy to have the premises in the area.
- She could not hear any music, sounds or smell smoke and her windows were regularly open.

Mr Hasan Aksoy, resident in support of the premises, informed the Sub-Committee that:

- Sometimes he heard music, but not too much of it and he did not have any complaints regarding the premises.

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

- He could see the premises from his window.

To summarise, Councillor Brabazon stated that there had been three separate hearings on the same issues regarding the premises. The licence holder had continued to breach licensing conditions. There had been noise and problems emanating from the area used as a shisha lounge which was supposed to be a conservatory and was subject to an enforcement appeal. Where shisha was being smoked, it was causing problems for those who lived behind the premises and noise could be heard by nearby residents. There was an extension to the premises which was being used as a shisha smoking area and therefore needed to have open windows which caused problems. There were also issues of waste and rubbish in addition to the premises having failed to comply with its conditions. It was not clear what else the Council could do to obtain compliance from the licence holder. The Sub-Committee should grant the review application so that there was an exercise in balance and proportionality between the business and interests of the residents. If shisha smoking was not a central component of the business, then the extended area should be easy to close off until the issue were resolved. She supported the residents' requests for the premises to be soundproofed. The premises licence holder should also be experienced enough to be able to uphold the licensing objectives.

To summarise, Mr Sygrave stated that he concurred with Councillor Brabazon.

To summarise, Mr Cheatle stated that there needed to be a balance between the needs of different elements such as provision of a Shisha area, but in an open space and noise management. The windows being open, although facilitated shisha smoking, created a noise nuisance issue. Residents suffered the consequences and so the review application should be granted and measures should be taken.

To summarise, Ms Jennifer Barrett stated that the review application has been submitted due to the use of the rear area and although shisha smoking was not a license for activity, it was a material consideration in relation to the premises which had been described as being ancillary to the business. The activity and potential to occupy consider amount of space. The rear area was mostly open and therefore measures to install soundproofing would have a limited impact. The Sub-Committee should consider the revised conditions put forward regarding the use of the rear area after 21:00.

To summarise, Mr Craig stated that those supporting the premises had spoken positively of the premises and lived nearby. Their views should be taken into account, but there had been some unfortunate suggestions made regarding the premises by those supporting the application. There were no issues with the CCTV condition and he would invite the Sub-Committee to consider the condition regarding the rear area fair and proportionate and not to impose an over-restrictive burden on the business.

At 9:35pm, the Sub-Committee adjourned to consider the application.

RESOLVED:

The Licensing Sub Committee carefully considered the Review application of an existing premises licence at RAKKAS, 365-369 GREEN LANES, LONDON, N4. In considering the review, the Sub-Committee took account of the London Borough of Haringey's Statement of Licensing Policy, the Licensing Act 2003, section 182 Guidance, the report pack and additional papers, the applicants and objectors written and oral representations.

Having considered the application and heard from all the parties, the Sub-Committee decided to impose the following conditions:

Annex 2 of the existing licence is amended as follows:

Paragraph 1

The rear lounge area (namely the ground and mezzanine floor extension with a retractable roof) shall be closed and cleared of customers by 21.00 hours.

Adequate and prominent notices shall be displayed to inform customers of this requirement.

A closable door shall be installed to the entrance of the rear lounge area and the area shall not be used at any time after 21.00 hours.

Access to the rear lounge area after 21.00 hours will only be permitted in the event of emergency evacuation becoming necessary.

The Licensee shall ensure that no customers are permitted to use the rear lounge area after 21.00 hours.

The premises licence holder shall take appropriate measures to ensure that patrons leaving the rear lounge area do so in a quiet and orderly fashion.

Paragraph 3(i)

Digital images must be kept for 31 days. The equipment must have a suitable export method, e.g CD/DVD so that Police can make an evidential copy of the data they require.

Copies must be made available to an Authorised Officer of the Council or Police Officer within 24 hours of any request, free of charge.

There shall always be a member of staff on duty who can operate the system, to allow Officers to view recordings and if required by a Police Officer, provide a copy of images immediately, free of charge to assist in the immediate investigation of offences.

If the system malfunctions and will not be operating for longer than one day of business, the Police and the Licensing Authority must be informed immediately.

REASONS

The Sub-Committee gave serious consideration to the submissions made by the Noise enforcement team, the supporters of the reviews, their supporters, and the License holder, his representative and supporters.

The Sub-Committee noted with concern that since the grant of the License there had been numerous breaches of the conditions of the licence. The license required no use of the rear lounge area after 9pm. However ample credible evidence was provided by residents and the Noise enforcement Team, that this was breached on numerous occasions.

Furthermore, the Noise enforcement team officer noted that there had been 21 complaints within 10 months all related to the rear lounge area. The premises owners had been obstructive when officers had attended to investigate on numerous occasions. Request for CCTV images were not complied with and the explanation given did not seem credible to the Sub-Committee. The noise complained of had been particularly bad during the summer when people's windows were open and noise carried. There were a large number of objectors to the licence continuing at all, from local residents and Councillors. From the papers and correspondence from the Planning department, there was also an ongoing clear violation of planning regulations showing a further disregard for the rules- in terms of the construction of the rear extension and use. The area is supposed to be 50% open if shisha smoking is taking place but at times is enclosed (i.e. less than 50% open if counting the use of retractable roof).

Notwithstanding the above, the Sub-Committee noted the explanations provided by the license holder, that there had been no noise complaints since around November 2022, that limiters had been put on amplifiers, sound proofing works had taken place, and most particularly had also heard from local residents who immediately neighbour the property and insisted that they were not affected by the noise. The Sub-Committee found their evidence to be credible.

The Sub-Committee also noted the review applicant was no longer seeking to impose extra conditions on live music played up to 21.00 hours.

In considering the licensing objective of preventing public nuisance, the Committee has to balance the rights of the licence holder with those of the neighbouring residents and arrive at a proportionate decision. In arriving at the decision above, the Committee gave very serious consideration to revoking or suspending the licence given the past flagrant breach of the existing licensing conditions. However, given the explanation provided by the licence holder the Committee was minded not to revoke or suspend, but grant the review application with the conditions proposed. The Committee is of the view this strikes the right balance.

INFORMATIVE

The Sub-Committee hopes that the licence holder will now abide by the licence conditions and noted that the noise complaints had arisen in the summer months. Failure to keep to the conditions may lead to a further review and more serious repercussions being imposed to uphold the Licensing objectives.

APPEAL RIGHTS

This decision is open to appeal to the Magistrates Court within the period of 21 days beginning on the day upon which the appellant is notified of the decision. This decision does not take effect until the end of the appeal period or, in the event that an appeal has been lodged, until the appeal is dispensed with.

7. NEW ITEMS OF URGENT BUSINESS

There were none.

CHAIR: Councillor Adja Ovat

Signed by Chair

Date7/2/2023.....

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MINUTES OF THE LICENSING SUB COMMITTEE HELD ON TUESDAY, 30 MAY 2023, 7:00PM – 10:30PM

PRESENT: Councillors Sheila Peacock (Chair), Barbara Blake and Nick da Costa

ALSO ATTENDING: Councillor Luke Cawley-Harrison, Councillor Lester Buxton

1. FILMING AT MEETINGS

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

2. APOLOGIES FOR ABSENCE

There were none.

3. URGENT BUSINESS

There was no urgent business

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. APPLICATION FOR A REVIEW OF A PREMISES LICENCE AT MAXXI FOOD & WINE, 42 TOPSFIELD PARADE, LONDON, N8 (CROUCH END)

Upon opening the meeting, Mr Robert Sutherland, representing the premises stated that the premises licence holder was Mr Ahmet Karagoz. Ms Daliah Barrett, Licensing Team Leader, stated that an application had been submitted to transfer the licence and to vary the DPS to Mr Karagoz. This application was due to be heard on 12 June 2023.

Later in the meeting, the Legal advisor to the Sub-Committee would advise that if an application to vary the DPS and transfer the licence had been made appropriately, then the considered DPS holder would be Mr Ahmet Karagoz from the date of the application.

Presentation by the Licensing Officer

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

- The application was a review that had been submitted by Trading Standards on the basis of the prevention of crime and disorder and the protection of children from harm. The premises was found to be stocking for sale or controlled medication and non-

compliant e-cigarettes. There was also provision of nitrous oxide to patrons who then consumed the substance outside the premises, leading to nuisance and anti-social behaviour.

- The objective of prevention of crime and disorder was also being of being raised and Public Health and other responsible authorities had also said that prevention of public nuisance should be added to the review due to the anti-social behaviour that resulted from the operation of the premises as well as the public safety objective due to the illegal illicit goods that could be harmful.
- Trading Standards believed that Ms Yengin was not promoting the prevention of crime and disorder licencing objective due to the unlawful activities which included the illicit tobacco that had been seized, breaches of licence conditions, selling of non-compliant vapes, e-cigarettes, erectile dysfunction tablets without medical registration, the selling of drug paraphernalia and the selling of nitrous oxide.
- The application sought to request the Sub-Committee to consider a suspension of the licence and to impose additional conditions.
- Ms Yengin and those associated with the business had sought to break the law without regard over a period of time, including from other premises they operated in the borough of Enfield.
- Ms Yengin's husband had a history of selling illicit tobacco and alcohol and other non-duty paid items. Their operation was mainly family with licences being transferred amongst family and associates.
- Representations had been made by the Police, the Licencing Authority, Public Health and Noise and Nuisance. Representations had also been received from all three ward councillors and residents.
- Ms Yengin had run other licensed premises in the borough of Enfield, which had been subject to review applications.

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

- The licence review process formally commenced on 16 February 2023 not 17 March 2023.
- She would not object to Mr Sutherland that he and Ms Yengin had been present at the meeting listed on paragraph 5.4 of the report, but Ms Yengin had not been registered as having attended the meeting.

Presentation by the applicant

Mr Michael Squire, Trading Standards, informed the Sub-Committee that:

- The review related to two visits carried out at the licenced premises on 11 January 2023 and 24 January 2023.
- On 11 January 2023, Trading Standards visited the premises with tobacco dogs, but no illegal tobacco was found. Whilst on the premises, the officers discovered significant quantities of nitrous oxide cartridges behind the sales counter where they could be easily accessed by premises staff together with larger 640 gramme canisters in the rear store room. Photographs were taken of the products.
- On the shelf edge display behind the counter, officers noted that erectile dysfunction tablets were visible to customers. These were commonly referred to by the trade name Viagra. Large stocks of tablets were found behind the counter on the seller's side.

These tablets were only legal to sell with the approval of a registered pharmacist or on prescription.

- The shop worker was ordered to remove the erectile dysfunction tablets from sale and to inform the owner that they were illegal to sell at the premises.
- Trading Standards remained concerned about the nitrous oxide and the medicines being on the premises, so they wrote to the DPS asking for comment. A response was received.
- A second visit was carried out by Trading Standards on 24 January 2023. On this occasion, nitrous oxide was again found on the premises, this time in smaller quantities, both behind the counter and in the rear kitchen area. Erectile dysfunction tablets were again found on display, although the shelf edge display was different to the previous visit. There was a photograph on page 37 of the agenda papers to show that further stocks were found behind the counter. Altogether, on this occasion, 11 Kamagra Gel sachets and 102 erectile dysfunction tablets were seized by Trading Standards.
- The electronic cigarettes were also inspected by Trading Standards on this occasion, 33 e-Lux, 3500 puff vapes and 10 Geek Bar 1500 puff vapes were found on the counter display. A further 40 e-Lux 3500 puff vapes were found behind the counter. The vapes were seized as they had oversized tanks in excess of the two milligram allowance, which would equate to around 600 to 650 puffs. The 3,500 and 1,500 puffs were far in excess of the allowance of 600 to 650 puffs.
- Another set of vapes also had incorrect health warnings and the majority had no UK addresses on the packaging, which was a requirement of the regulations. These vapes were not of a type approved by the Medicines Healthcare Regulation Authority.
- A second letter was sent to Ms Yengin, this time asking questions under caution about the products and a response was received.
- Trading Standards were subsequently made aware of a number of photos taken in the surrounding area of discarded nitrous oxide canisters. From the pictures, it could be seen that these circumstantially matched the types of cartridges on sale at the premises.
- On 3 February 2023, Trading Standards were made aware of a TikTok page associated with the premises. The page identified the premises and other premises known to be associated with the business operators. The page promoted vapes and nitrous oxide side by side with videos set to music appearing to promote the products in a format appropriate more for recreational use than a legitimate purpose. Trading Standards were particularly concerned as TikTok was associated with a younger demographic.
- The video on the TikTok page also appeared to be filmed at the premises. The TikTok videos associated with a nitrous oxide were captured by a web capture tool by Trading Standards.
- The erectile dysfunction medication was not removed from the premises after the first Trading Standards visit, despite being told verbally and a follow up letter being sent to Ms Yengin. On the second visit, the photos showed the display had been rearranged.
- Trading Standards now believed that the Ms Yengin was aware it was illegal to sell these medicines even prior to the first visit as similar products were seized from the premises she had associations with in Enfield.
- Electronic cigarettes with oversized tanks presented significant safety risk if a nicotine were to leak onto the skin in larger quantities as it could be absorbed into the skin. Trading Standards believed that the Ms Yengin knew the issues associated with the cigarettes as the same products had been seized from the Enfield premises.
- The presence of nitrous oxide in larger quantities on the premises, together with their promotion on TikTok, led to the conclusion that the products were being sold recklessly as to their use as to psychoactive substances, rather than for baking. This

was corroborated circumstantially by the presence of discarded canisters in the local area.

- Trading Standards had made recommendations in relation to the matter. Additional conditions had been proposed and these would ban the sale of nitrous oxide on or near the premises. It would also ban the storage of controlled medicines on the premises, bring in additional controls for alcohol and tobacco and there was no objection to the proposed conditions from the business' representative.
- Trading Standards had also asked for the removal of Ms Yengin, which was also not opposed.
- Trading Standards initial recommendation was for a three month licence suspension in order to bring in the new controls. However, having seen the full extent of the evidence presented, notably by the other responsible authorities, it may now be more appropriate to revoke the licence due to a systemic failure to promote the licencing objectives.
- Should the Sub-Committee not be minded to revoke the licence, then a period of suspension with the removal of Ms Yengin, with the proposed conditions added, remained an option for the Sub-Committee.

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

- A member of staff was asked about the nitrous oxide and he had responded that they were sold to local cafes and was not aware of any misuse with them.
- There was a display of vapes on the counter. At the front of the counter, the actual vapes were compliant. And at the very back of the display, there were some non-compliant ones and behind the counter on the seller's side there were some non-compliant ones.
- The subject of vapes was complicated. But with basic knowledge, it was easy to spot illegal vapes because the tank size of two milligram, which was the maximum size that one could have of liquid in a disposable vape. Generally, this equated to a number of puffs which was 600 puffs. Nearly all vapes had this number written on the front. A 600 puff vape would have "600" written on the front. A 3000 puff vape would have "3000" written on the front. It also should have a UK name and address.
- It was not possible to buy erectile dysfunction tablets over the counter, but it could be brought from a pharmacist over the counter, but only after the pharmacist has spoken to the customer.

At this point in the proceedings, in response to a question, Ms Maria Ahmad, Public Health Officer, stated that the supplier of such tablets should be a doctor registered with the General Medical Council, the Care Quality Commission and the pharmacist registered with the General Pharmaceutical Council. The supplier should be the pharmacist or the doctor. This was to ensure its safety of its use.

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

- He would accept the vapes could be purchased from local wholesalers for sale on to customers. The ones that were seized should not be available in local wholesalers or supplied within the UK. There was a widespread problem with these vapes currently in the UK.
- There had been seizures from cash and carries of such items in the London area.
- On 24 January 2023, he had conducted four other visits that day in the immediate vicinity of Tottenham Lane. None of the other shops had nitrous oxide canisters.
- If condition 14, set out on page 22 of the agenda papers was imposed on the licence, it would prevent any storage or sale of nitrous oxide on the premises.

- The MHRA had been informed regarding the sale of the erectile dysfunction tablets and the issues of the premises.

Presentation by interested parties

Councillor Luke Cawley-Harrison informed the Sub-Committee that:

- The premises had failed up uphold all four licensing objectives.
- It had been visited by responsible authorities and had CCTV examinations with multiple breaches identified.
- The agenda papers contained references to nitrous oxide and the impact on and social behaviour in the local area. The premises had sold illicit tobacco, non-compliant vapes and e-cigarettes with content well above the UK limit.
- The premises had presided over the sale of Viagra, poppers, drug paraphernalia, nitrous oxide canisters, alcohol outside the licensable hours and before the business operator became a licence holder.
- Purchasing illegal items and then selling them on was still an illegal sale.
- The premises had attracted countless instances of unsocial behaviour, with numerous reports made to the Police and the noise enforcement teams. The Police representation recorded eight reports about the premise alone over a thirty-day period.
- Ballooning had been witnessed around the property, including by children with recent photographic evidence.
- Witnesses had been willing to submit evidence to this hearing had witnessed items being passed through car windows in the early hours of the night, fights (understood to be about drugs) and shops had made a report regarding someone attending with a knife.
- Some of the witness statements quoted profanity, being fearful of their safety and customers seen shouting to the staff if they had “any strawberries”. Others were too unwilling to submit accounts because they were fearful of recriminations against them.
- This was a well evidenced pattern occurring over 15 years from the owners and their associates, mainly their family members, that had opened up similar premises across North London. This could not be allowed to continue in Haringey.
- The Police should also be looking at criminal prosecutions under anti-social behaviour laws for the many instances of anti-social behaviour the sale of the premises’ items had produced in the local area.
- None of these issues existed before the business operators took over the premises.
- The premises was previously a newsagents and there had been no reports of problems at that time.
- A submission Mr Jim Sollars had stated that he was unable to find nitrous oxide cannisters in the evening when he was invited to attend the premises. He asked local residents of Middle Lane, which was not near the premises and was on Topsfield parade whether they were aware of anti-social behaviour. His report blamed the local area, a parade in the rear and that the shops had dark spaces in the area where drugs could be taken.
- As a ward councillor for five years at Haringey, he could say that these problems did not exist previously.
- The licence should be revoked and the Sub-Committee should try to prevent any associates of the Ms Yengin from holding a licence of any premises in Haringey again. Trading Standards and the Police should do all they could to prosecute further.

In response to questions, Councillor Cawley-Harrison informed the Sub-Committee that:

- There were no complaints related to the premises before the Ms Yengin took over which was around spring time 2022. Since that time, there had been multiple complaints every month for most months since August or September of that year. There were quieter periods and there were periods where there were more complaints with December and September being particularly bad.
- There was an indication that the sale of nitrous oxide had been stopped as soon as the Ms Yengin was aware of the review application, but this was not the case. The issues had continued. There were photographic and video evidence of canisters being taken into the premises as late as last Tuesday. This was a continuing practice.
- The concerns of local residents continued. Most of them did not want to appear and make representations because they were fearful of what may happen to them.
- The community had good relationships with the other traders in the area. The only constant issue was in relation to waste containment.
- He had not received any other reports of nitrous oxide being sold in any other shops in Crouch End neither formally nor informally. However, he was aware of the sale of nitrous oxide from the premises informally before he had received his first formal notification by way of a complaint.
- The discarding of nitrous oxide cannisters was done by the people using them, not by local cafes. Ms Jennifer Barrett stated in her representation evidence of CCTV sales of smart whip happening in the early hours of 29 January 2023. It was not likely that a commercial operation was buying smart whip canisters in the early hours of the morning from a local newsagent to support a cafe.
- The Crouch End Community Support Officer had conducted a visit to the premises in the area and it was unlikely that staff working in those premises were intimidated by being asked about their suppliers.

Councillor Lester Buxton informed the Sub-Committee that:

- He objected to the selling of nitrous oxide for inhalation and general anti-social behaviour and litter that it caused. He called for a change of Ms Yengin as the DPS and a condition on the licence not to sell nitrous oxide.
- Having read the agenda papers, representations from the Police, Trading Standards, Licencing Authority and representations from local residents and councillors, the licence should be revoked.
- He could understand how an inexperienced shop owner might miss the products were being sold illegally in their premises and would hope that action was taken when informed. However, this establishment was owned and managed by people who had history of licencing offences hence there should be no excuse for selling illegal or counterfeit goods.
- There was plenty of evidence in the agenda papers that showed non-compliance with the licencing objectives to support the decision.

Ms Maria Ahmad, Public Health, informed the Sub-Committee that:

- She had no confidence that Ms Yengin was able or willing to uphold the licencing objectives,
- Erectile dysfunction tablets were visible to the public and found under the counter at the premises and the premises did not meet the criteria to sell these medications and only qualified health professionals such as doctors or pharmacists would be qualified

to distribute. these and ensure it was right and safe for the customer to use based on the medical history, potential medical investigations, previous use and any previous side effects.

- The pharmacists were responsible for the quality of the medication and had knowledge on the security of the supply chain of the medication. They would be the ones who would distribute it to patients or customers. The premises failed to meet this criteria.
- There were members of the public that would not be prescribed to use the medications because of certain underlying health conditions and it was a serious criminal offence to sell controlled, unlicensed or prescription only medicines without the proper procedures in place.
- Anyone selling medicines illegally could be exploiting vulnerable people.
- Kamagra Gel had not been approved for the use in the UK. It could not be prescribed by a doctor or sold by a pharmacist and had side effects.
- The reckless supply of nitrous oxide was banned under the Psychoactive Substance Act.
- There was a high number of drug related ambulance call outs in Haringey.
- There was an open use of canisters in the street and this was a visible sign of anti-social behaviour and clear evidence that it was being used for recreational use.
- Side effects of nitrous oxide included altered states of reality, essence of euphoria and also physical effects including vomiting, high blood pressure and paranoia. People often mixed it with other drugs or alcohol, which could be dangerous as accidents were more likely to happen and repeated use could also cause vitamin B12 deficiency, which could lead to nerve damage.
- It was illegal to sell vapes to those under 18. The evidence provided by Trading Standards team showed that Ms Yengin had little regard for the safety of residents as a large number of illegal vape products had been found on the premises.
- She was not confident in the licence holder's ability to promote licencing objectives and the Sub-Committee should consider revoking the licence.

Ms Jennifer Barrett, Noise Officer, informed the Sub-Committee that:

- There was a history of the operators having been granted premises licences in other locations and that they have been unable to comply with the legal requirements of the Licencing Act. There were issues in 2009 where Mr Altun who was involved with premises (and was married to Ms Yengin). There were issues regarding the sale of alcohol with excessive levels of methanol.
- In 2022, Enfield Council's Trading Standards in relation to the same premises reviewed the licence following two seizures of non-duty paid goods and the licence was revoked.
- A review application was scheduled to be heard regarding another premises in Enfield. The review was heard in January 2022 and sought to revoke the premises licence and related to a range of unlawful activities which included illicit tobacco and sales, breach of licencing conditions and the sale of the above mentioned drugs and non-compliant vapes. The licence holder for that premises in Enfield in that instance was believed to be the Ms Yengin's sister. Ms Yengin had been associated with the premises that had routinely been found to not comply with licencing regulations or Trading Standards regulations.
- The Licencing Authority had no confidence in the ability of Ms Yengin to trade legally on lawfully.
- Contact had been made with Ms Yengin in relation to the breaches and issues identified with the view to engaging with her and requesting that she complied with the requirements set out. Unfortunately, there had been little contact. She has not led on

any of the communications related to the day-to-day operations of the premises. Most conversations had been with her husband.

- The sale of nitrous oxide was not unlawful. However, it's the method used to advertise the sale provided cause for concern.

Ms Sue Davidson, resident, informed the Sub-Committee that:

- She had on numerous occasions found canisters in the street.
- There was one occasion when there she had found 12 canisters in the street.
- There were also young, mainly young men standing outside at the end of the road. They were filling balloons with gas and they were laughing and behaving in a very dangerous and ridiculous way. This had gone on for a long time.

Mr Brian Ahearn, resident, informed the Sub-Committee that:

- Last night, he had seen a large amount of big crates still being delivered at the premises at 22:00.
- The Psychoactive Substances Act needed to be considered before any claims were made that the sale of nitrous oxide was lawful.
- The use of TikTok to advertise sales needed to be considered as TikTok was an app primarily aimed at teenagers. He had listened to the music that was played and also the statement made on ITV news by a leading neurologist who had said of the products being advertised by the Maxxi brand across four shops that if the products were consumed, it could kill an individual.
- There was a role of nitric oxide in providing and enabling erections. There was concern that the sale of nitrous oxide and erectile dysfunction drugs was not necessarily a coincidence, but was actually intentional and even a business proposition.
- The allegations of abuse and threats directed towards young women in the area concerned him.

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

- She did not believe that it was responsible for the behaviour of staff premises to take the illegal vapes home for their own use.

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

- She had seen the nitrous oxide canisters visibly on display in the window of the store. She had not seen people purchasing the nitrous oxide, but it was being consumed 10 metres from the store.

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

- He did not know the previous tenants particularly well he was doing a lot of building work above the premises. They were very patient and good people, and had a good reputation in the area.
- Deliveries should happen between 09:00 hours and 17:00 hours. He had received from one of his tenants photographs and videos of it happening outside those hours on Tuesday 23 May at 21:21. This continued for about 10 minutes or so.

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

- No reason was given for the CCTV footage from 7-8 and 8-9 of October 2023 not being supplied
- The three completed sales she observed were for smart whip.
- The premises had been found operating outside its hours in September 2022. A warning letter was issued and premises staff were spoken to directly and in person. Following that, we made additional reasonable cheques throughout the months of October, November and December and no other issues were raised.
- sale of alcohol outside of ours. identified that as an issue.
- On the enquiries that have been made, everything has been compliant.
- She would be surprised if Ms Yengin said that they were not aware of the request for CCTV footage.

Presentation by the premises licence holder

Mr Robert Sutherland, the premises licence holder's representative, informed the Sub-Committee that:

- The review commenced in February 2023 and there had been no sale of nitrous oxide from the premises to persons who would have taken it outside and consumed it from that time.
- The selling of large sized vapes should not have been sold. They were sold and they were offered to staff. Staff were not forced to take them. They were invited to do so if they wanted to.
- In relation to the erectile dysfunction tablets, those items should not have been on sale.
- In relation to the sales of nitrous oxide gas, his client apologised in relation to the impact this had taken. Ms Yengin was approached in September about the problems and the premises had stopped initially, but when enquiries were made, the local authority had advised that they could not tell Ms Yengin not to sell them. Given that there were a large number of other premises in the area that were selling them, the premises went back to selling them until the review application was submitted. The premises then stopped selling the items and had not sold them since.
- There were photographs apparently showing nitrous oxide in vehicles outside of the premises, possibly being transported into the premises from time to time, before they were then moved on to other premises. His client had a number of businesses which did involve the lawful supply of nitrous oxide. It was not a forbidden product in circumstances that required it.
- He himself had bought nitrous oxide for parties, not for personal ingestion, but for the purpose of blowing up balloons. It was a lawful substance. The sale of it in the circumstances bore no evidence to contradict this. Given the concerns which had been expressed about how it had been misused within the area, it was accepted that his client would not continue to sell it and had not sold it since the commencement of the review in February 2023.
- The review focused on the nitrous oxide, alleged breaches and the other matters that were being accepted in relation to the vapes, the erectile dysfunction tablets and the references made in the papers about a TikTok video.
- His client would apologise to the Sub-Committee that the video was uploaded onto `TikTok. It was created by somebody who was employed by the premises. His client was not aware that it had been published until he was informed through the review

- process. He instructed the staff member to remove it and it has been removed since that time and it was no longer available to view.
- The photographs from 21 April 2023 showed no nitrous oxide being purchased at the premises. There was no nitrous oxide on the individuals going into the shop or nitrous oxide on them coming out. The very grainy picture shown on the additional papers on page 8, could be individuals inhaling from a balloon, but this was not clear from the images. If they were the same people, it was clear that they did not get the nitrous oxide from the premises. Mr Sollars had searched the premises and had informed that there was no nitrous oxide on the premises. On that particular occasion, the individuals had left the premises without purchasing any items whatsoever. If they were the same individuals, then they clearly obtained the nitrous oxide from somewhere else.
 - The evidence from the Licencing Officer and from the local authority was that the nitrous oxide must have been obtained from somewhere. As it was not from the premises, it must have been from another premises.
 - The evidence was incontrovertible that the premises did not sell nitrous oxide.

Also representing the applicant, Mr Jim Sollars, informed the Sub-Committee that:

- He arrived early at the premises and had a walk around. He walked further and further until he found any nitrous oxide. this was actually the first item of its kind.
- When he visited the premises later on, he searched it thoroughly. There were no gas cannisters in the premises.
- He then looked around the area again and it was when he was coming back to the premises at 00:00 that he found Mr Darvish, one of the Noise Officers asking for the CCTV from the evening. He explained to him that that that there was “no gas” in the premises and therefore the request was not necessary. But in any case, the premises would provide the CCTV. However, he asked Mr Darvish to make the request in writing to make sure it was compliant with the Information Commissioner's Office.
- To this day, he had not received anything back from Mr Darvish.
- Issues in the wider community were being placed as blame on the premises. The Police or the Council had made no test purchases there. These tests would have made it easy for the authorities to review or prosecute further.
- He had a history of reviewing and prosecuting premises and he felt there was an element of confirmation bias against the premises staff when there was little evidence of the allegations made.
- Although it was said that there had been 10 calls made to the Police about anti-social behaviour, this did not tally with the crime figures that had been reported on an official database.

Mr Sutherland further informed the Sub-Committee that:

- The conditions set out in the agenda papers addressed the issues raised fully if imposed on the licence, then they would address the issue.
- Ms Yengin had clearly addressed the issue about the storage of nitrous oxide and the sale of nitrous oxide. The breaches that had been accepted, a proportionate response in relation to those would be a suspension of the licence and not a revocation.
- A suspension for three months was the maximum period that the Sub-Committee could impose if it was felt that that this was appropriate.

- He would ask that any suspension be for a shorter period as this would be more reasonable, though he accepted that in the circumstances, with the breaches that were accepted, three months may be appropriate.

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

- In respect of the CCTV, he had not seen a written request, but if a written request was being made, then there was no reason why footage would not have been provided.
- CCTV would confirm that there was no sale of any nitrous oxide taking place at the premises on that evening.

At this point in the proceedings, at 9:30pm, the Sub-Committee agreed to extend the terminal hour of the hearing past 10:00pm for a short period of time if necessary.

In response to questions, Mr Sutherland and Mr Sollars, informed the Sub-Committee that:

- People were not allowed to just give away data. CCTV data was covered by the same regulations as any other data and the Data Commissioner's Office had said that data should not be divulged unless there was a reason. It also had to be a lawful request and if it was made in writing, then this could be inspected. Council staff had no right to go into a premises requesting CCTV to examine for offences. Mr Darvish had not made any formal request for CCTV.
- Mr Sollars was acting independently, although he had been instructed by the licence holder, the evidence that he had given was what he truly believed and not something which he thought he needed to do because he was being paid to do it. He treated himself as an expert witness.
- In relation to the illegal vapes and the illegal medication, he would agree that the Ms Yengin had done it before and they should have learned a lesson, but the minutes of the meeting from Enfield Council displayed the circumstances in which Ms Yengin had found herself.
- Accepting that certain things should not have happened at the premises was part of looking for a proportionate response and to prevent this from happening again as a deterrence would be a period of suspension in addition to the imposition of additional conditions.
- In relation to the condition relating to deliveries, it did say that deliveries would be made between 09:00 and 17:00 so that neighbours or the public would not be disturbed and the vast majority of deliveries did take place between 09:00 and 17:00. There was nothing preventing the deliveries taking place outside of those hours. The condition could be changed to be better worded.
- The person who uploaded the video on TikTok had been dismissed.

To summarise, Councillor Cawley-Harrison, all councillors present at the meeting were calling for a revocation of the licence based on the continuous disregard for licencing objectives, not just for the sale of nitrous oxide. The Sub-Committee should not specifically concentrate on this, although that had led to a large amounts of anti-social behaviour in the area in addition to the sale of all the other illicit goods.

To summarise, Ms Ahmad stated that it was clear from the photographs that the erectile dysfunction tablets were at visible display to customers, along with all the other goods such as alcohol. The applicant needed to acknowledge that this was a serious criminal offence to sell

illegal medication for which they were not qualified to sell. An apology was not an appropriate response for potentially risking the health and lives of residents.

To summarise, Ms Jennifer Barrett stated that she recommended the revocation of the licence because there was a lack of confidence in Ms Yengin. There were issues in relation to the sale of nitrous oxide and its association with anti-social behaviour. Suitable enquiries had been made into the local shops and believed that nitrous oxide was not sold anywhere else in the area and she supported the revocation of the licence.

To summarise, Mr Squires stated that the issues that Trading Standards had raised was largely not in dispute and since the application had been made, there had been a lot of evidence submitted from the other responsible authorities which the Sub-Committee should take into account and on balance it may be necessary to revoke the licence.

At this point in the proceedings, the Legal advisor to the hearing stated that section 38 of the Licencing Act would come into effect in relation to the issue regarding who was the designated licence holder for the premises. As long as the applicant had marked the correct box on the application to say that they wished for themselves to become the licence holder or DPS, the change would be made with immediate effect. Therefore until the review application was heard on 12 June 2023, the considered DPS holder would be Mr Ahmet Karagoz from the date of the application.

To summarise, Mr Sutherland stated that the review application had started off as an application for a suspension of the licence in a modification of the conditions. That was where the matter should be considered because that would be the proportionate and appropriate response in relation to the application. All of the allegations in relation to other things which were said to have or not have happened, he would ask the Sub-Committee to disregard and look at the best way to prevent the issues from happening again and to promote the licencing objectives. The quickest, surest way to prevent nitrous oxide being delivered to the premises and being kept on the premises was to impose condition 14 which was on page 22 of the agenda papers. Any other decision would not immediately prevent the nitrous oxide being stored on the premises. It was not being sold from the premises in an unlawful way and was not even being sold from the premises at all since the review application was submitted. There was no evidence since the application was processed which indicated that the premises has been operated in breach of the law or in breach of the licence. He invited the Sub-Committee to impose the proportionate response of a suspension of up to three months and to modify the conditions.

At 9:40pm, the Sub-Committee adjourned to consider the application.

RESOLVED

The Licensing Sub-Committee ("the Committee") carefully considered the application for a review of the premises licence pursuant to Section 51 of the Licensing Act 2003 at Maxxi Food & Wine, 42 Topsfield Parade, London N8 8PT (Crouch End) ("the Premises"). In considering the application, the Committee took account of the report pack, the written and verbal representations made by Trading Standards, Public Health, the representations made on behalf of Ms Yengin the licence holder and Designated Premises Supervisor ("DPS") at the time of the review application, Mr Karagoz the current interim licence holder and the other parties including Councillors. The Committee had regard to the Council's Statement of Licensing Policy, the Licensing Act 2003 and the Licensing Act 2003 s.182 guidance.

Having had regard to all the representations the Committee decided that in response to the issues raised it was appropriate and proportionate to revoke the premises license for the promotion of the licensing objectives.

Reasons

The Committee resolved that at the Premises there had been a failure to promote the licensing objectives of the Prevention of Crime and Disorder, the Prevention of Public Nuisance and the Protection of Children from Harm.

Applications dated 26 April 2023 were made to vary the licence to specify Mr Ahmet Karagoz as DPS and to transfer the licence to him.

The Committee were satisfied that unlawful activity has taken place at the premises since Ms Aylin Yengin has been the premises licence holder and despite previous advice from Trading Standards it has continued, even after Mr Karagoz became the interim licence holder and interim DPS pending the determination of his applications of 26 April 2023.

The Committee were satisfied that the following unlawful activity was occurring at the premises:

- stocking for sale non-compliant Electronic cigarettes (vapes)
- stocking for sale and Sildenafil and Kamagra gel (“Viagra”) without a medical registration from Medicines and Healthcare
- selling Nitrous Oxide gas (“NOS”) knowing or failing to have regard to the psychoactive effects and the risks for misuse and in the knowledge that their customers consumed the substance outside the premises.

The Committee noted the complaints history relating to the premises and all other relevant information:

The Committee accepted representations from Councillor Luke Cawley-Harrison who had submitted a complaint on behalf of residents on 28 September 2022 regarding activities related to breaches of the conditions of the licence.

The Committee noted there was a visit to the premises from Trading Standards on 11 January 2023 (“the Visit”) and several items were found at the premises including electronic cigarettes and controlled medication in breach of the Prevention of Crime and Disorder licencing condition. The Committee had regard to Ms Yengin’s email response to the letter issued to her by Trading Standards on 12 January 2023. The Committee concluded that she would have been aware of relevant matters at the premises as she had confirmed that she was the sole owner of the business trading as the licenced premises spent 40 hours per week at the premises. Ms Yengin confirmed that Altun Asya and Maxxi Stores were the same business and that she was previously the owner of Maxxi Stores, 38 Chase side, London N14 5PA (“38 Chase side”). The Committee accepted the Police’s representations that the licence for that premises was reviewed in January 2023 and had been revoked due to unlawful activity including a breach of the licence conditions, selling non-compliant vapes and e-cigarettes; selling Viagra and Sildenafil without a medical registration from Medicines and Healthcare products Regulatory Agency (“MHRA”) and selling drug paraphernalia and NOS. The revocation had not been disputed.

It was noted by the Committee that Ms Yengin confirmed that Mr Uygur Altun formerly/aka Kemal Altun was her partner and that he has been the main point of contact throughout the proceedings. The Committee had regard to the evidence of the history of Mr Altun’s involvement including that in 2006 he had operated from 495 Hertford Road, Enfield and his licence had been revoked in 2015 for breach of Licence conditions and on the ground of the Prevention of Crime and Disorder as the premises had been found to be selling non duty paid tobacco and alcohol. The Committee accepted the evidence to be credible.

It was noted by the Committee from the Companies' House excerpts that Mr Altun continues to be a director and a person with significant control of the business of Altun Asya at the premises. This was not denied.

The Committee concluded that Ms Yengin was aware that the electronic cigarettes offered for sale were not lawful prior to the visit, noting that similar products were seized from 38 Chase side on 4 August 2022 whilst Ms Yengin was DPS there. The Committee also noted that it had not been disputed that erectile dysfunction tablets were being offered for sale prior to the visit.

It was noted that Ms Yengin stated in her email following the visit that she had removed the erectile dysfunction tablets from display for sale, however the Committee failed to accept this version of events. The Committee accepted following a second visit from Trading Standards on 24 January 2023 ("24 Jan Visit") the Police's representations that the fact that the medicines had been removed from their original packaging and displayed in small quantities along the shelf edge was evidence of the licence holder's intention for them to be sold at the premises at affordable prices without controls. The Committee concluded that Ms Yengin was aware that erectile dysfunction tablets were illegal to sell over the counter especially since similar products had been seized by Enfield Council on 4 August 2022 from the other shop trading as Maxi Stores where Ms Yengin had also been the DPS.

The Committee was satisfied on all the evidence that there had been a breakdown in due diligence in respect of sourcing legitimate products to be sold by the business and a general lack of adherence to the licence conditions. The Committee was satisfied that this was due to both poor management by Ms Yengin but also poor company practice/policy over a number of years.

The Committee accepted the evidence of Ms Maria Ahmad the Health Improvement officer from the Public Health department and of the serious risk to the health of members of the public related to the unlawful sale of erectile dysfunction tablets. The Committee acknowledged that there had been an admission that the erectile dysfunction tablets should not have been on display for sale by the Licence holder's representative.

The Committee accepted evidence from Ms Ahmad that the psychoactive substance, NOS is a serious public health concern.

The Committee concluded on the basis of the evidence provided by Trading Standards and the representations made on behalf of the Licence Holder that NOS was being sold at the premises and it was likely that the business could be seen to be indicating to customers that the business has a tolerant attitude towards the sale of these and other psychoactive substances. The Committee concluded that evidence in support of this was the photographic evidence of NOS canisters discarded in the street that matches the brand of canisters sold on the licenced premises. Further, the "TikTok" page associated with the business, named "maxxifoodwine" which had photographs of the shop that clearly marketed NOS alongside electronic cigarettes using imagery and music which would promote NOS and electronic cigarettes could be appealing to young people. The Committee noted that the licence holder's representative acknowledged that videos displaying NOS had been uploaded to TikTok by a member of staff. The Committee decided that regardless of whether the videos and photographs had been uploaded by the Licence holder or a member of their staff it provided evidence that the licencing objective of Protecting Children from Harm was undermined.

The Committee did not accept Ms Yengin's assertion that her staff are trained and informed of every detail of each product given the evidence of the employee at the visit who did not appear to be aware of the psychoactive effects of NOS. They found that the lack of sufficient

training was contrary to the Licensing objective of the Prevention of Crime and Disorder and a breach of the licensing conditions.

The Committee was unconvinced by the explanation given regarding the alternative uses for NOS and concluded that the Licence holder was aware that NOS was being bought from the premises to be misused for their psychoactive effects.

The Council's Statement of Licensing Policy at paragraph 16.6 and 16.7 on page 27 states:

"This Authority is concerned over the frequently observed practice of an application for a transfer of a premises licence being made following an application for a review of that same licence being lodged. Where, such applications are made, this Authority will require documented proof of transfer of the business / lawful occupancy of the premises (such as a lease), to the new proposed licence holder to support the contention that the business is now under new management"

The Committee accepted the Police's unchallenged representations put to Mr Karakov in their email of 2 May 2023 that this was a family business and that as he was a part of the family run business it was not credible that Ms Yengin and Mr Altun would be removed from the business completely and Mr Karakov himself had given no such assurances to the Police.

The Committee had regard to the fact that on 23 May 2023 photographs were taken outside the premises showing a large delivery of Fastgas NOS canisters to the premises. The Committee accepted the representations made by Councillor Cawley Harrison that the Licence holder had intended for the items from the large delivery to be made available for sale and that there does not appear to be any other supplier of NOS in the area.

Councillor Lester Buxton and Councillor Cawley-Harrison residents and the London Borough of Haringey's Noise and Nuisance officer Jennifer Barrett who gave evidence of the nuisance being caused by the activities in the premises in the locality. The Committee preferred their evidence over that of the Ms Yengin and Mr Karagoz who said that since the review was commenced in February, there had been no sale of NOS from this premises to persons who will have taken it outside and will have consumed it. The Committee considered a number of reports from various residents by email. Despite hearing evidence on behalf of the licence holder that the anti-social behaviour was not outside their premises and that the litter/debris from the NOS cannisters had not originated from their premises, the Committee concluded that the sales of NOS from the premises had caused a significant increase in anti-social behaviour outside the premises especially at unsociable hours including; littering, loud noise played from cars, noisy gatherings and shouting at unsociable hours which had resulted in anxiety, interference with enjoyment for local residents. The Committee concluded that the sale of NOS from the premises had led to anti-social behaviour and nuisance in the vicinity and that it was continuing.

The Committee did not consider that the licensing conditions would be adhered to if conditions were imposed. They also did not consider that it would be able to monitor a condition that Ms Yengin or her partner Mr Altun would not be involved in the running of the business. It therefore concluded that continuing the licence with Mr Karakov as licence holder and a condition that Ms Yengin and/or Mr Altun have no involvement in the licensable activities, would not prevent the licensing objectives from being undermined.

Further, the Committee did not consider that the Licence Holder's representative's suggestion to impose a condition preventing the storage and sale of NOS would be sufficient to prevent the Licence holder from doing so, in light of the continuing sales despite advice being provided by Trading Standards.

The Committee considered whether there would be a difference if Mr Karagoz were the Licence holder and DPS. Since he had become interim licence holder and DPS photographs were taken on 23 May 2023 of a large delivery being made to the premises of NOS gas. Residents also informed the Committee that a delivery of NOS gas had been made to the premises on the evening of 29 May 2023. The Committee concluded the NOS was intended to be made available for sale at the premises. The Committee accepted the Police's reasons why Mr Karagoz would not be a suitable Licence holder and that the licencing objectives of the Prevention of Crime and Disorder, Prevention of Public Nuisance and the Protection of Children from harm would continue to be undermined under him.

The Licence holder proposed a suspension of up to three months and to modify the conditions. The Committee considered suspending the licence as a deterrent to the licence holder and to others to prevent future breaches of the licensing conditions whilst recognising that a suspension of the licence could have a serious financial impact on the licence holder's business. However, it concluded that as previous action taken at the premises had not acted as a deterrent to the licence holder, there having been non-compliance with the law and their obligations as a licence holder, suspension would not be sufficient to promote the licensing objectives.

In reaching its decision, the Committee considered paragraph 11.28 of the s182 Guidance which encourages licensing authorities to seriously consider revocation where the crime prevention objective is being undermined. The Committee decided that given the significant health risks confirmed by the Public Health officer relating to the sale of controlled drugs and the wider interests of the community, the nuisance and anti-social behaviour caused by activities at the premises along with the risk of harm to children. Revocation, whilst not being imposed as a punishment, was the only appropriate and proportionate response to the issues giving rise to the need for this review, that would promote the` licensing objectives.

Appeal Rights

This decision is open to appeal to the Magistrates Court within the period of 21 days beginning on the day upon which the appellant is notified of the decision. This decision does not take effect until the end of the appeal period or, in the event that an appeal has been lodged, until the appeal is dispensed with.

7. NEW ITEMS OF URGENT BUSINESS

There were no new items of urgent business.

CHAIR:

Signed by Chair

Date

MINUTES OF THE LICENSING SUB COMMITTEE HELD ON MONDAY, 7 AUGUST 2023, 7:00PM - 9:25PM

PRESENT:

Councillors: Nick da Costa, Sheila Peacock (Chair) and Reg Rice

1. FILMING AT MEETINGS

The Chair informed all present that the meeting would be filmed.

2. APOLOGIES FOR ABSENCE

None.

3. URGENT BUSINESS

None.

4. DECLARATIONS OF INTEREST

None.

5. SUMMARY OF PROCEDURE

Noted.

6. APPLICATION FOR A NEW PREMISES LICENCE AT PINK ZEBRA, 42A-44 PARK ROAD, LONDON, N8 (CROUCH END)

Daliah Barrett, Licensing Officer, introduced the report as set out in the agenda pack.

Ms Barrett advised that an email had been received from the applicant's agent, Mr Sutherland, after the publication of the agenda, which contained an acoustic noise report and a letter of support. Mr Sutherland advised that this was a letter in support of the application.

The Chair raised concerns that this evidence had not been submitted in good time. The Committee supported this view, and it was decided that the late representations would not be accepted.

Mr Sutherland, applicant representative, presented the application. The following was noted:

- the layout was shown at page 29 of the agenda pack.
- the use of the garden area had been retained as set out in condition 7.

- the sound system was a small domestic system, which would need to be completely replaced if a sound limiter was required.
- there had been a degree of engagement with residents.
- there was no access to the garden from the premises for patrons. Access was for staff only to access the storeroom.

April Smart, Noise & Nuisance Officer outlined the objection to the application:

- since January 2023, the Noise Team had received 21 complaints from 6 different complainants. 16 were regarding loud music and bass.
- A Noise Abatement Notice had been served on 25 May 2023, following a visit from a Noise Officer on 19 May 2023 at 23:25.
- A TEN had been used on 3 June 2023 for a private party, and 3 complaints were received in relation to noise.

Isabelle Langlois spoke in objection to the application:

- Since November 2022, the premises had been difficult to live near. There was constant loud people and music noise, particularly after 23:00.
- The premises were located directly next door to residential properties, and it was unfair for a 02:00 licence to be granted.

Paula Dixon spoke in objection to the application:

- The loud noise and disruption from the premises has had a significantly detrimental effect of residents' mental health.
- it was intimidating to have people gathering so closely to the entrance to residential properties.
- The premises had installed a sensor light in the courtyard over the storeroom – however this meant that there was now a light which shone into the residential properties at all hours of the night.

The Chair asked all present to sum up and advised that the Committee would retire to consider the application. A decision would be provided in writing to the applicant.

RESOLVED

The Licensing Sub Committee carefully considered the application for a new premises licence for Pink Zebra, 42A - 44 Park Road, London N8. In considering the application, the Sub-Committee took account of the London Borough of Haringey's Statement of Licensing Policy, the Licensing Act 2003, the section 182 Guidance, the report pack and the applicant's and objectors' written and oral representations.

Having considered the application and heard from all of the parties, the Sub-Committee decided to grant the application for a new premises licence with the conditions set out below.

Operating times:

Supply of Alcohol

Sunday to Thursday	1000 to 0000 hours
Friday and Saturday	1000 to 0100 hours

Supply of alcohol for consumption **ON** and **OFF** the premises

Late Night Refreshment

Sunday to Thursday 2300 to 0000 hours

Friday and Saturday 2300 to 0100 hours

Live Music, Recorded Music or Performance of Dance

Sunday to Thursday 2300 to 0000 hours

Friday and Saturday 2300 to 0100 hours

Hours open to the public:

Sunday to Thursday 0700 to 0030 hours

Friday and Saturday 0700 to 0130 hours

The following conditions are imposed:

THE PREVENTION OF CRIME AND DISORDER

(1) A digital CCTV system recommended to be installed in the premises complying with the following criteria:

(a) Camera(s) must be sited to observe the entrance doors from both inside and outside.

(b) Camera(s) on the entrance must capture full frame shots of the heads and shoulders of all people entering the premises i.e. capable of identification.

(c) Camera(s) must be sited to cover all areas to which the public have access, excluding toilets if onsite.

(d) Provide a linked record of the date, time of any image.

(e) Provide HD digital quality images in colour during opening times.

(f) Have a monitor to review images and recorded quality.

(g) Be regularly maintained to ensure continuous quality of image capture and retention.

(h) Member of staff trained in operating CCTV at venue during times open to the public.

(i) Digital images must be kept for 31 days. The equipment must have a suitable export method, e.g.

CD/DVD writer so that Police can make an evidential copy of the data they require.

Copies must be

available within seven (7) days to Police on request.

2. An incident log shall be kept at the premises, it will be written at the time of the incident or as near to as is reasonable, it shall be retained for a minimum period of 12 months and subject to the Data Protection Act 2018, shall be made available on request to the Police, which will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received
- (d) any incidents of disorder
- (e) seizures of drugs or offensive weapons
- (f) any faults in the CCTV system or searching equipment or scanning equipment
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service

3. Save for any private pre booked function, alcohol will only be supplied for consumption on the premises to customers who are seated and served by waiting staff.

PUBLIC SAFETY

4. All access to the premises to be via the front entrance.

5. All exit routes and public areas shall be kept unobstructed, shall have non slippery and even surfaces, shall be free of trip hazards and shall be clearly signed.

THE PREVENTION OF PUBLIC NUISANCE

6. A detailed scheme of sound insulation works shall be submitted in writing and approved by the Licensing Authority. The approved works shall be provided in full prior to commencement of any regulated entertainment, and the Licensing Authority is to be notified at least 5 working days in advance of the works being completed and the premises being used for regulated entertainment, should the Premises Licence be granted.

7. A Noise Management Plan shall be submitted to the Licensing Authority and approved by them prior to commencement of any regulated entertainment which outlines all noise control measures that shall be implemented to reduce the noise impact of sources associated with the premises. The Noise Management Plan shall be subject to regular review and communicated to all staff on the premises. As part of the noise management plan no external sound equipment shall be used.

8. From 23:00 until close the maximum number of persons permitted to temporarily leave the premises to smoke immediately outside the front of the premises shall be limited to 3 persons at any one time. No drinks shall be consumed outside the premises by patrons.
9. When a private party is taking place at the premises and the premises is carrying on licensable activities after 2300 hours, at least 1 door supervisor is to be on duty .
10. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
11. Signage shall be erected inside the premises asking patrons to leave quietly.
12. Staff and door supervisors shall actively monitor and control patrons queuing, leaving and entering the premises to ensure they leave the area quickly and quietly. Staff and door supervisors shall actively discourage loitering or waiting outside the premises after closing.
13. The licence holder shall conduct regular assessments of the noise coming from the premises whilst it is open for business and shall take full steps to reduce the level of noise where it is likely to cause a disturbance to residents. A written record should be provided of these assessments in a logbook the logbook shall include the time and date of the checks, the person making them and the results including any remedial actions. This logbook must be available at all times for inspection by Council Officers.
14. Regular liaison meetings will be held where specifically requested by residents to enable neighbours to raise concerns about any aspect of the licensed activities.
15. All internal speakers shall be attached to independent wall linings and not to the ceiling.
16. The storage area shall only be used for storage and not for food preparation.
17. A direct telephone number for the Licence Holder/DPS/manager of the premises shall be publicly available at all times that the premises is open. The number is to be made available to residents and businesses in the vicinity. Any complaints shall be recorded in the incident book including the action taken by the Licence Holder/DPS/manager.
18. The use of the rear courtyard and rear alleyway shall be by staff only. Staff will not congregate, loiter, or smoke in the rear courtyard or rear alleyway.

19. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

20. Signage to be clearly displayed notifying customers that it is a residential area and asking them to leave the premises quickly and quietly and to not idle engines or loiter in the surrounding area.

THE PROTECTION OF CHILDREN FROM HARM

21. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

22. This licence will not be relied upon for the purpose of providing licensable activities until the existing licence for the premises has been surrendered.

Reasons

The Sub-Committee noted with concern the proximity of the premises to the residential dwellings accessed via the rear courtyard, which is shared with the premises, and the history of complaints about public nuisance arising from people noise and loud music.

The Sub-Committee gave serious consideration to the submissions by the applicant and to the concerns raised by the objectors. The Sub-Committee was satisfied that the licence should be granted and that the above conditions were appropriate, proportionate and robust enough to ensure that the licensing objectives would be promoted.

The concerns about the licensing hours were noted and the hours granted have been reduced to make them more in line with the Council's policy for licensed premises in close proximity to residential dwellings. This should help to reduce the public nuisance experienced by the neighbours.

The Committee noted the representations in support of the premises and considered that residents of the properties accessed via the rear courtyard, were most likely to be affected. It found their objections very credible and their evidence was corroborated by the Noise Team.

The conditions added to the licence to promote the licensing objective of the prevention of public nuisance, include the need for soundproofing, a noise management plan and restricting the use of the storeroom to hopefully reduce staff traffic in the rear courtyard, thus reducing the transmission of music and people noise.

The Sub-Committee acknowledged that the applicant had proposed a number of appropriate conditions, agreed conditions with the noise team, and indicated a willingness to engage with the community.

Taking all of these factors into consideration the licence was granted subject to appropriate conditions.

Informative

The Sub-Committee would encourage the licence holder to engage with the community on a regular basis going forwards, with a view to addressing their concerns.

Appeal Rights

This decision is open to appeal to the Magistrates Court within the period of 21 days beginning on the day upon which the appellant is notified of the decision. This decision does not take effect until the end of the appeal period or, in the event that an appeal has been lodged, until the appeal is dispensed with.

7. NEW ITEMS OF URGENT BUSINESS

None.

CHAIR:

Signed by Chair

Date

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MINUTES OF THE LICENSING SUB COMMITTEE HELD ON THURSDAY, 17 AUGUST 2023, 7.00PM - 7.50PM

PRESENT:

Councillors: Anna Abela (Chair), Nicola Bartlett and Nick da Costa

1. FILMING AT MEETINGS

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

2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

3. URGENT BUSINESS

There were no items of urgent business.

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. APPLICATION FOR A PREMISES LICENCE - SWEET PEPPA, 614 LORDSHIP LANE, WOOD GREEN, N22 5JH

Ms Daliah Barrett, Licensing Team Leader, introduced the report as set out and informed the Sub-Committee that:

- The application sought the Supply of Alcohol Monday to Thursday 12:00 to 22:30 and Sunday and Bank Holidays 12:00 to 21:30
- The application also sought supply of alcohol ON and OFF the premises.
- In relation to the Licence, the applicant had agreed to continue on with the hours that are already on the planning.
- There had been a 28 day consultation, the noise officer had made a representation. Police had accepted the conditions put forward in the application. Planning RA also made a representation which has now been withdrawn. There had been two resident applications, the applicant had tried to engage with them via the licensing authority to no avail.

- There was a small park nearby, the premises has operated as a West Indian takeaway and had not had an alcohol licence issued previously. Page 25-27 details the representations which had been submitted by residents, these mainly regarded the potential for anti-social behaviour.
- There have been existing issues with street drinking, extending over to the park area.

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

- There was a Public Spaces Protection Order (PSPO) in 11 wards in Haringey which specifically regarded alcohol. This meant that if you were consuming alcohol in the street antisocially, and you were asked to stop by a police officer you could be fined. Those would be operating until October with a renewal which would follow. Haringey has been targeted due to ongoing street drinking issues.
- The application was for takeaway on and off the premises. The government were going to stop regulatory easement, this allowed pubs and bars to serve customers off premises, through thatched doors or open windows for example. This has now changed and the policy would remain the same.

Ms Rachel Powell (applicant) informed the sub-committee that:

- The main purpose of the application was to enhance the customer experience, in turn this would also increase profits to the business. The applicant had been proactive and had contacted the police and noise representation. It was explained that the people outside of the shop on the street were stopping business for the applicant, they often deterred customers. The applicant had asked them to move several times with no success.

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

- Customers would generally have one drink per meal, due to the nature of the drinks provided. There would be Challenge 25 in place for any customer purchasing alcohol, any orders completed online would also have this. There have been conditions offered that would address how the applicant would operate the business.
- The premises has history but not so much alcohol related. There was an ASB related under the previous occupants. The Licensing Officer did not have specific details.
- There were concerns raised from residents regarding the few tables in the restaurant, this could lead to people spilling out onto the street. The applicant stated her customers did not behave like that, also noting she had never had a full restaurant. If there was no room to sit down, there was a takeaway option. Tables were mainly provided for lunchtime meals.
- There were concerns raised which regarded the close proxemics of the restaurant to schools and Chapman Green, the applicant reiterated there would be Challenge 25 in place and ID checks when purchasing any alcohol.
- For off licence sales, customers would be permitted to use a foam cup. This would be sealed.

- The applicant was happy for a phone number and email address for resident complaints to be listed as a condition.
- There would be no restriction to the amount of alcoholic drinks customers purchase. Guinness punch and rum slush would be the alcohol sold. Most of the customers would take their food home; Customers do not congregate outside of the shop.
- The price of alcoholic drinks had not been set yet.
- The applicant did not have experience running a licensed premises but had worked in bars.

The Chair asked all parties present to sum up.

The Committee retired to consider the application, and informed all parties present that the decision would be provided in writing following the meeting.

RESOLVED

The Licensing Sub Committee carefully considered the application for a new premises licence for Sweet Peppa - 614 Lordship Lane, Wood Green, London N22 5JH ("the 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 section 182 Guidance, the report pack and the applicants and objectors written representations.

Having considered the application and heard from all the parties, the Committee decided to grant the application for a new premises licence with the conditions set out below.

Operating times:

Supply of Alcohol

Monday to Saturday 12:00 to 22:30 hours

Sundays and bank holidays 12:00 to 22:00 hours

The following conditions are imposed:

1. Any alcoholic drinks taken from the premises must be in closed or wrapped/sealed containers, bottles, cups etc.
2. All staff involved in the sale of alcohol shall receive induction and refresher training (at least every three months) relating to the sale of alcohol and the times and conditions of the premises licence.
3. All staff shall receive induction and refresher training in relation to crime prevention.
4. All training relating to the sale of alcohol and the times and conditions of the premises licence shall be documented and records kept at the premises. These

records shall be made available to the Police and/or Local Authority upon request and shall be kept for at least one year.

5. A 'Think 25' proof of age scheme shall be operated and relevant material shall be displayed prominently within the Premises – including in a visible location:
(a) At the entrance to the Premises; ;(b) behind the bar/counter (c) In any other area where alcohol can be purchased by a customer.
6. A written record of refused sales shall be kept on the premises and completed when necessary. This record shall be made available to Police and/or the Local Authority upon request and shall be kept for at least one year from the date of the last entry.
7. The premises licence holder shall ensure that the area immediately outside the premises is kept clean and free from related litter at all material times to the satisfaction of the Licensing Authority.
8. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
9. The licence holder shall provide residents with a contact telephone number and email address that residents can call to raise any concerns.

Reasons

The Committee gave serious consideration to both the submissions by the applicant and to the concerns raised by the objectors. The Committee was satisfied that the licence should be granted and that the above conditions were appropriate and proportionate and would ensure that the licensing objectives were promoted.

The premises are in close proximity to residential premises. The Committee were keen to ensure that nuisance was not caused to nearby residents by noise from the premises and/or from its customers congregating outside of the premises. They also had regard to the potential for customers leaving the premises to engage in anti-social behaviour in the vicinity causing nuisance to the residents. Appropriate conditions therefore have been added to the licence to promote the licensing objective of the prevention of public nuisance. The Committee also had in mind the Public Space Protection order that is in place in the Woodside ward.

The Committee noted that the objectors had concerns about children in the vicinity and that there was a park located close to the premises.

The Committee had regard to the fact that children would need to sleep in the early evenings and the potential for residents to be disturbed at night. The Committee had regard to the fact that the applicant had agreed to reduced hours when alcohol would be served at the premises since the application had been submitted. The Committee found the applicant's account and assurances regarding the measures she would take to ensure that people under the legal drinking age would not be served alcohol credible. The Committee agreed that the conditions imposed and the steps that the Defendant assured the committee she would take (e.g. asking anybody who looked

under the age of 25 to provide evidence of their identity, being vigilant of customers who had an excessive number of drinks, providing details for contact for residents that have any concerns) promote the licensing objectives of the Protection of Children from harm and the prevention of public nuisance.

Appeal Rights

This decision is open to appeal to the Magistrates Court within the period of 21 days beginning on the day upon which the appellant is notified of the decision. This decision does not take effect until the end of the appeal period or, in the event that an appeal has been lodged, until the appeal is dispensed with.

Informative

The Committee notes that before the applicant can serve alcohol on the premises the applicant will need to obtain the relevant personal licence and will be subject to appropriate conditions if the licence is granted. The Committee recommends that the licence holder resolves this issue with the relevant authority.

7. NEW ITEMS OF URGENT BUSINESS

There were no new items of urgent business.

CHAIR: Councillor Anna Abela

Signed by Chair

Date

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MINUTES OF THE LICENSING SUB COMMITTEE MEETING HELD ON THURSDAY 14TH SEPTEMBER 2023, 7:00PM – 9:20PM

PRESENT:

Councillors: Anna Abela (Chair), Barbara Blake and Luke Cawley-Harrison

1. FILMING AT MEETINGS

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

2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

3. URGENT BUSINESS

There were no items of urgent business.

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. APPLICATION FOR A NEW PREMISES LICENCE AT TASTY AFRICAN FOOD, 22 LORDSHIP LANE, TOTTENHAM, LONDON, N17 8NS (WEST GREEN)

Ms Daliah Barrett, Licensing Team Leader, introduced the report as set out and informed the Sub-Committee that the application sought approval for:

- Regulated Entertainment as Recorded Music from Monday to Sunday 1100 to 2300 hours.
- Supply of Alcohol from Monday to Sunday 11:00 to 23:00 hours.
- The opening hours to the Public from Monday to Sunday from 11:00 to 23:00 hours.

In considering the representations received and what would be appropriate for the promotion of the licensing objectives, the steps the Sub-Committee could take were:

- To grant the application as requested.

- To grant the application whilst imposing additional conditions and/or altering in any way the proposed operating schedule.
- To exclude any licensable activities to which the application relates.
- To reject the whole or part of the application

Members of the Licensing Sub-Committee were asked to note that they may not modify the conditions or reject the whole or part of the application merely because it considered it desirable to do so. It must be appropriate in order of Page 1 Agenda Item 6 Page 2 of 4 to promote the licensing objectives.

Ms Dolapo Alao (applicant) informed the Sub-Committee that:

- This application was submitted to rectify an error in her initial application. The application was initially made to supply alcohol on and off the premises. However, the supply of alcohol would be limited to on the premises only and customers would not be permitted to take any alcohol outside the premises.
- There were concerns around nuisance in the area. The installation of CCTV inside and outside the premises would help monitor nuisance, particularly outside the premises.
- Customers were not respecting signages at the premises. The signs set out rules for customers which mentioned customers should leave quietly, not cause any nuisance or disturbance to the neighbours and customers should use the toilets before leaving the premises.
- There were also concerns about the extended hours, so the operating hours were reduced from 11:00 - 23:00 to 12:00 – 22:00.
- The premises managed an incident log to record all incidents and any crime on the premises.
- There was also a complaints register to log any complaints received by residents and service users.
- Some residents had raised their concerns around a new shop/business opening in the area as this would increase traffic and noise.

In conclusion, Ms Alao would like the Sub-Committee to grant the application as requested.

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

- In terms of experience in working in the restaurant industry and licenced premises, she had previous experience in running a shop which was authorised to sell alcohol off the premises.
- She had also completed the Personal Licencing Test and was aware of all the rules and regulations.
- There were concerns around residential litter in the area. There were no litter bins available for some residents living in the surrounded flats which caused dumping in the areas around the premises.
- In terms of managing the restaurant, the premises would be managed by Ms Alao on and off site.

- The premises would provide dine in, takeaway and delivery options. The takeaway orders would be just as busy as dining in. The busier period was expected to be during lunchtime and after working hours.
- In terms of the interior of the premises, there would be 3 tables with 4 chairs in the open area, there would be a counter at the back for takeaway orders and on the left side of the premises there was a hallway leading to the toilets.
- The premises would not have a bar, drinks would be ordered at the table.
- For deliveries, the food would be prepared and ready in advance. The kitchen staff would receive an alert once the delivery driver arrives.
- When queried about interest in having outdoor seating area at the premises, she confirmed there were no plans to have outdoor dining.
- Ms Alao would be a committed to working with neighbours and residents to understand their concerns and to be flexible to mitigate the pre-existing issue around anti-social behaviour in the area.
- In terms of antisocial behaviour at the other branches, the Sub-Committee heard that there was no history of any antisocial behaviour at any of the other branches for this chain of restaurant.

The Chair asked Ms Alao to sum up and the Sub-Committee heard that Ms Alao would like to create positives changes on Lordship Lane by cooperating and collaborating with local residents as soon as the application is granted.

The Sub-Committee retired to consider the application, and informed all parties present that the decision would be provided in writing following the meeting.

RESOLVED

The Sub-Committee carefully considered the application for a new premises licence for Tasty African Food, 22 Lordship Lane, Tottenham, London N17 8NS and the representations made by the applicant and Cllr Ali on behalf of the residents, as well as the Council's statement of licensing policy and the Licensing Act 2003 Section 182 Guidance.

Having fully considered the written and oral representations and questioned the applicant, the Sub-Committee decided to grant the application with the following conditions:

Opening Hours

Monday to Sunday 1200 to 2200 hours

Supply of Alcohol

Monday to Sunday 1200 to 2130 hours

For Consumption ON the premises

The following conditions are added to the licence:

1. All staff will be fully trained in their responsibilities with regard to the sale of alcohol, and will be retrained every six months, with training records kept for inspection. The premises will close 30 minutes after the licensing activities have ceased to allow customers to finish their drinks and leave in a quiet and orderly manner.
2. The premises will use CCTV to an appropriate standard. The CCTV equipment shall be maintained in good working order and continually record when the premises are open. The premises licence holder shall ensure images from the CCTV are retained for a period of 31 days. The correct date and time will be generated onto both the recording and the real time image screen. If the CCTV equipment (including any mobile units in use at the premises) breaks down, the Premises Licence Holder shall ensure the designated premises supervisor, or in his/her absence, other responsible person, informs the Licensing Authority as soon as is reasonably practicable. This information shall be contemporaneously recorded in the incident report register and shall include the date, time, means of reporting and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as it is reasonably practicable and without undue delay. The Licensing Authority shall be informed when faults are rectified.
3. The Premises Licence holder shall ensure that there are trained members of staff available during opening hours to be able to reproduce and download CCTV images into a removable format at the request of a Police Officer or Council Officer.
4. There shall be clear signage indicating that CCTV equipment is in use and recording at the premises during all trading hours.
5. The DPS will keep an up to date DPS Authorisation sheet which will show the list of staff members who have been given the authority to sell alcohol on the premises.
6. An incident record shall be kept at the premises to record all crimes, incidents of disorder and/or antisocial behaviour. The incident log shall be made available on request to the Police or Council officers.
7. A refusals log for the sale of alcohol shall be kept and made available to the Police or Council Officers upon request.
8. A complaints register shall be held on the premises to record details of any complaints received from neighbours or the general public with a note of the remedial action taken. The complaints register shall be made available to the Police or Council Officers upon request.
9. Staff will be trained to be alert to any potential danger to customers and react accordingly. If they are unable to quickly defuse the situation without risk to customer or staff, then they shall call the police.

10. An on-site incident book will be in operation to record any accident or injury incurred on the premises. This document will be retained by the business for inspection for a period of three years.
11. Signage shall be displayed asking customers to leave quietly and use bathroom facilities, if required, before leaving the premises. Customers will be reminded of their responsibility to leave the premises without causing disturbance to any properties who may be affected.
12. Only photographic ID will be accepted (passport, driving licence, proof of age card with PASS hologram, or military ID).
13. Challenge 25 will be in operation and anyone who appears to be under the age of 25 shall be asked to provide ID. If the customer is unable to provide identification, then no sale shall be made. Challenge 25 Posters will be on display in the shop. Any staff members who may be under the age of 18 must call a staff member over 18 to take over the sale and complete the transaction. If it is known that a customer intends to purchase alcohol to provide to minors, then that sale will be refused. All refused sales will be recorded in the refusals book.

Reasons

The Sub-Committee considered the representations made against application and noted the concerns regarding public nuisance, litter and street drinking in the vicinity of the premises. Whilst these complaints were not directly linked to the premises, the Sub-Committee noted that the applicant had made appropriate concessions by agreeing to only have a licence for the sale of alcohol for consumption on the premises and agreeing to close one hour earlier than originally proposed.

The applicant proposed a range of conditions to address the residents' concerns about public nuisance and showed a willingness to work with residents and the local community. The Sub-Committee therefore felt that the above conditions would be appropriate and proportionate to promote the four licensing objectives.

7. APPLICATION FOR A VARIATION OF A PREMISES LICENCE AT OUSIA 162 FORTIS GREEN ROAD, HORNSEY, LONDON, N10 3DU.(MUSWELL HILL)

Ms Daliah Barrett, Licensing Team Leader, introduced the report as set out and informed the Sub-Committee that the application sought approval for:

- Supply of Alcohol on the premises from Friday to Saturday 12:00 to 23:00 and Sunday 12:00 to 22:30.
- The hours to be open to Public from Friday to Saturday were 12:00 to 23:30 and Sunday 12:00 to 22:45.
- The Sub Committee noted that during the consultation period, the Noise officer had made a representation.

- The premises was situated along a terrace of retail units and there was residential housing above and facing the premises.
- The premises was initially licenced in February 2022.
- The space at the front of the premises was a part of the public highway and does not belong to the premises. A pavement licence would be required if the premise had intentions on using this area for dining.

In considering the representations received and what could be appropriate for the promotion of the licensing objectives, the steps that the Sub-Committee could take were outlined as follows:

- To grant the application as requested.
- To grant the application whilst imposing additional conditions and/or altering in any way the proposed operating schedule.
- To exclude any licensable activities to which the application relates.
- To reject the whole or part of the application.

Members of the Licensing Sub Committee was asked to note that they may not modify the conditions or reject the whole or part of the application merely because it considered it desirable to do so. It must be appropriate in order to promote the licensing objectives.

Mr John Yianni (applicant) informed the Sub-Committee that:

- He was not the DPS but was the Director of the business.
- the variation on the hours were for an additional 30 minutes on Friday and Saturday with the closing time of 23:00. An additional 30 minutes on Sunday, with the closing time of 22:30. The opening times and licencing activity from Monday to Thursday would remain the same.
- The extension requested was in line the with the usual restaurant licencing hours within the area and was seen as a standard closing times for restaurants in the local area.
- The initial application did not include the new proposed time, this was due to factors including operational and staffing issues.
- On Fridays and Saturdays, there were regular occurrences of customers wanting to dine for an extra 30 minutes. The customers were told they were not able to stay longer due to the current licensing agreement.
- Since the opening of the restaurant, there had been no findings of any noise complaints from the police or any other commissioners.

In conclusion, Mr Yianni would like the Sub-Committee to grant the application as requested, without any additional conditions.

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

- The Council's Noise officers had requested a copy of the restaurant's Noise Policy. This policy was not provided, and this was due to logistical issues and

- staff, including Mr Yianni being away on holiday abroad during the summer season.
- The last correspondence by Ms Barret regarding this was on the 2nd of August 2023. However, Mr Yianni and Co-director was away on holiday during this time and was unable to provide a copy of the noise management policy.
 - The request for this policy was seen as an irrelevant request and he did not think this policy was required as there was no suggestion that the business was in breach of any condition relating to noise.
 - My Yianni confirmed that he had been on holiday from the end of July 2023 until the end of August 2023 and providing the Noise Policy to the council's noise officers was not a priority at the time.
 - The restaurant had a noise management policy, but the policy was simple as most diners were middle aged and not a lot had to be done in order to keep the noise down.
 - In terms of noise management, the music in the premises would be lowered 30 minutes before the closing time. This was seen as an effective method to control noise, as when the music was lowered, the tone of people talking also lowered.
 - The premises also had sophisticated lighting system where the lights could be brightened and dimmed in certain areas of the restaurant. The restaurant used a technique where the lights turned brighter as the evening went on, this alerted customer that the restaurant was due to close and prompted them to leave.
 - Regarding the representation, it was not financially viable to have a staff to always operate a CCTV at the premises.
 - Mr Yianni requested that he would like the Sub-Committee to reject or accept the application without any further additional conditions.
 - There were plans to apply for a pavement licence as the premises would like to extend their dining area outside with at least 10-12 seats. The condition to limit 4 people smoking at a time outside the premises would not work if a pavement licence were granted where up to 12 people could be seated.
 - Currently there were two tables with two chairs outside the premises, which was used for smoking.
 - Security would be needed to enforce any limit to the amount of people who leave the restaurant for smoking at any given time, and this would come at a financial cost together with a reputational cost.
 - It would be difficult to control or restrict the number of diners who would leave the premises and smoke while waiting for taxis or others to pick them up.
 - In terms of complaints, there had been a complaint from a resident who lived two floors above the premises. The resident had made complaints relating to smoke from an extractor fan from premises, premises operating beyond licensing hours and the supply of alcohol beyond licensing hours. During investigations, there were no findings of any noise or nuisance complaints from residents from the first floor.

The Sub-Committee sought clarification regarding whether Mr Yianni would prefer to withdraw the application altogether rather than accepting the conditions proposed by the noise team.

Mr Yianni raised concerns around three conditions which were around CCTV, smoking and music and sound from the premises. Mr Yianni would prefer to withdraw the application, keep the conditions as they were and operate with current opening hours, if the three conditions mentioned would apply.

Jennifer Barrett, Noise & Nuisance Manager presented the representations and informed the Sub-Committee that:

- The Noise and Nuisance Team received 13 complaints about noise, dust, odour, and allegations of opening after hours since the 13th of February 2023 which were not substantiated.
- The team visited the premises on two occasions in response to anonymous noise complaints, during this visit the team did not establish any noise issues. However, the concerns raised by the residents were considered and sought to refine the conditions on the current premises licence, which was granted on the 24th of February 2022, in a hope that the refinements would enable the team to address any similar complaints in the future.
- The premises was not permitted to have any tables or chairs for smoking outside on the public highway. This was a licensable matter and any tables and chairs outside the premises must be removed.
- A pavement licence should be submitted for this. The application would be assessed against standards and ensure that there would be required clear space maintained for pedestrian flow. However, pavement licences in the borough does provide a provision for smoking.
- The Noise and Nuisance Team visited the premises, conducted various checks, and had concluded that four people would be the ideal number of people that would be able to stand outside the premises to smoke and talk, without causing any nuisance.
- The panel would determine the exact wording of the conditions to ensure that there would be no conflict if the pavement licence would be granted at a later date.

The Chair asked all parties present to sum up.

Mr Yianni expressed that the extended time request would be proportionate and consistent with other restaurants in the area. He had requested to Sub-Committee to grant or reject his application.

Ms Barrett advised the Committee that there were 5 recommended conditions to the variation of the licence if granted. These conditions were based on the current operations of the premises and would also help address issues that may be raised in relation to public nuisance.

The Sub-Committee retired to consider the application, and informed all parties present that the decision would be provided in writing following the meeting.

RESOLVED

The Sub-Committee carefully considered the application for a variation to the opening and sale of alcohol hours for Ousia, 162 Fortis Green Road, Hornsey, London N10 3DU and the representations made by the noise team and the premises licence holder, as well as the council's statement of licensing policy and the Licensing Act 2003 Section 182 Guidance.

Having fully considered the written and oral representations and questioned those present, the Sub-Committee decided to grant the application to extend the opening hours and licensing hours of the premises and modify/impose additional conditions on the licence as follows:

Opening Hours

Sunday to Thursday 1200 to 2245 hours
Friday and Saturday 1200 to 2330 hours

Supply of Alcohol

Sunday to Thursday 1200 to 2230 hours
Friday and Saturday 1200 to 2300 hours

For Consumption ON the premises

The following conditions are added to the licence:

1. A written Noise Management Policy will be in place that sends out sound attenuation to prevent or control noise breakout from the premises and a copy of the policy is to be provided to the Council's noise team within 10 working days of a request for a copy.
2. CCTV must be installed and maintained. Digital images must be kept for 31 days. The equipment must have a suitable export method, e.g., CD/DVD so that Police can make an evidential copy of the data they require. Copies must be made available to an Authorised Officer or Police Officer (subject to the Data Protection Act 1998) within 24 hours of any request free of charge. There will always be a member of staff on duty during opening times who can operate the system, to allow Officers to view recordings and if required by a Police Officer, provide a copy of images immediately free of charge to assist in the immediate investigation of offences. If the system malfunctions and will not be operating for longer than one day of business, the Police and the Council must be informed.
3. After 2200 hours every night smoking outside the front of the premises shall be limited to five (5) people at a time, so as to minimise disturbance to residents and other members of the public. Ashtrays bins must be provided, and the area must regularly be swept to remove cigarette ends.

4. A complaints book will be held on the premises to record details of any complaints received from neighbours. The information is to include, where disclosed, the complainant's name, location, date, time and subsequent remedial action undertaken. This record must be made available at all times for inspection by Council Officers.

Where there is inconsistency between these conditions and those attached to the existing licence the new conditions apply.

Reasons

The Sub-Committee heard evidence that the premises sit in close proximity to residential premises, with flats on the floors immediately above. The Council's noise team have received since February complaints about noise, dust, odour and allegations of opening after hours but none of those complaints have been substantiated.

The Sub-Committee considered that noise management would become more important with the premises opening later at night, given the close proximity to residential premises. It was concerned to note that a request for a copy of the noise management plan that is a condition of the licence, was not complied with. In order to clarify the position and promote the prevention of public nuisance licensing objective, the Sub-Committee is modifying the current condition to make it clear that the noise management policy must be in writing and a copy provided to Council officers when requested.

The council's noise team reported multiple complaints had been made against the premises within the last year, however these were unable to be substantiated. CCTV is an important tool in addressing crime and disorder and providing evidence in relation to other licensing objectives. It can also assist the licence holder as well as other stakeholders in substantiating any claims or counter claims made. The Sub-Committee consider that the current condition regarding CCTV is not sufficiently robust.

The CCTV condition has therefore been modified to make it appropriate for a business opening late into the night in order to promote the licensing objectives. The Sub-Committee considered the representations made by the licence owner about such a condition being too onerous and the Sub-Committee has therefore modified the condition in such a way that no member of staff has to be at the premises 24 hrs a day to operate the CCTV but footage must be made available and trained staff on the premises when open.

Disturbance to the flats above by people smoking outside the premises was considered and the Sub-Committee felt it appropriate to promote the prevention of public nuisance, particularly as it got later into the night, to limit the number of people smoking outside the front of the premises.

The extension of the opening and sale of alcohol hours may give rise to more complaints and a complaints log is an appropriate and proportionate measure to keep track of complaints and actions taken to address them.

Informative

The Sub-Committee would remind the licence holder of the importance of co-operating with residents, the local community and the licensing authority in order to successfully promote the licensing objectives.

8. NEW ITEMS OF URGENT BUSINESS

There were no new items of urgent business.

CHAIR: Councillor Anna Abela

Signed by Chair

Date

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MINUTES OF THE SPECIAL LICENSING SUB COMMITTEE HELD ON THURSDAY, 30 NOVEMBER 2023, 7:00PM - 8:33PM

PRESENT: Councillors Anna Abela (Chair), Nick da Costa and Sheila Peacock

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

There was no urgent business.

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 AT DISTRICT 22, 83 MAYES ROAD, LONDON, N22 (NOEL PARK)

Presentation by the Licensing Officer

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

- The notice was received on the 14 October 2023.
- The premises intended to use the ground floor of the premises for the celebration of the Albanian Independence Day and enable the use of the rear garden area for later hours and to accommodate restaurant bookings at the premises.
- The Notice Giver stated that security personnel would be on duty both evenings to ensure an orderly dispersal of patrons.
- The Notice Giver had also stated that it was noticeable that the premises had run 14 previous temporary events in 2023.
- The use of temporary event notice notices (TENs) over a period of 19 days that had included the use of the rear garden.
- The notice sought use of the premises for extended hours and the addition of the of late-night refreshment to be available between 11:00 to 00:00 on Friday 1 December 2023 and on Saturday 2 December 2023.

- The licensable activity being sought was an extension for the sale of alcohol at the premises and the provision of late-night refreshment, which the current licence did not have.
- The event was intended for around 120 people.
- An objection to the notice had been received from the Police.
- The operators had applied twice in recent years to extend the hours for licensable activity at the premises and most recently in January 2023. The Sub-Committee determined to partially grant the last variation for the premises but refused to extend the hours for the use of the outside space beyond 22:00 and this was to ensure that the prevention of public nuisance objective would be upheld. The agenda papers contain a copy of the resolution.
- Page 49 of the agenda papers listed the temporary event notices given during 2023.

In response to a question, representing the Notice Giver, Mr Bill Donne stated that the application submitted in December 2022 was for the grant of a new premises licence and the current DPS was then nominated as the DPS. There had only been one variation application since in January 2023 to extend the hours during the day and lift the restriction in the back area. There had not been a change of DPS since District 22 had taken over the premises. Both the ownership and the management of the premises had changed in the summer of 2022. All the incidents listed by the Police were under the previous ownership. The current licence holder had bought the company and applied for the grant of a new licence in December 2022. The previous incidents, with the exception of one which was a temporary event, did not relate to the current ownership.

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

- The temporary events listed on pages 49 and 50 included the use of the rear garden after the regular permitted hours and discussions had been held with the licence holder's representative to ensure that noise had been limited.
- Police had been called to an incident on 16 February 2022 and this incident had occurred under (what the Notice Giver would state as) the previous owner of the business.

Presentation by the Objector

PC Wilkins informed the Sub-Committee that:

- The Police wished to object to the temporary event under the prevention of public nuisance and prevention of crime and disorder.
- There were residential homes directly opposite the rear garden and a care home which housed vulnerable people.
- The applicant was sent a representation on 15 November 2023 which detailed a compromise to allow the event to take place inside the premises.
- The Police agreed that the event in principle could go ahead with the condition of the garden area to close at 22:30 so residents in close proximity could enjoy peace and quiet and not experience potential noise issues as had occurred in the past.
- Police attempted to engage with the Notice Giver and compromise by allowing the event, just not the use of the garden area, but this offer was refused.

- A variation to the premises licence had been submitted on 5 January 2023, which resulted in objections and was heard by the Sub-Committee. The Sub-Committee did not remove the condition in the area at the back of the premises that the back 'shisha' area was to be closed at 22:30 each day.
- On 10 November 2023, the Notice Giver emailed Police stating that the premises had held 14 temporary events since the beginning of 2023 and asked for Police to withdraw their representation.
- The Notice Giver was emailed back on the 11 November 2023, stating that Police would not withdraw their representation and the objection still stood.
- The premises had issues in the past. On 23 May 2022, the premises had been running without a licence as the had licence expired on 17 May 2022. There were reports of loud music from the premises every night, although not confirmed by Police at the time.
- There had been no complaints since April 2023 directly to Police. This could be due to the premises being closed and not operating. An email confirming this was received from the Council on the 9 November 2023.
- The DPS changed in October 2022. It could be argued this was an attempt to negate a review of the licence due to complaints received regarding the premises.
- The past history of the premises had shown worrying concerns around upholding the licencing objectives.
- On 9 April 2022, a staff member of the Council was assaulted after they visited the premises to inform the manager that the premises did not have a licence to operate after 23:00. One of the patrons got upset and approached the officer and assaulted them. A fight broke out and 200 people were seen fleeing the location when Police arrived.
- Officers reviewed the CCTV and none of the cameras covered the location where the incident took place. The area was in the immediate vicinity of the premises and should have been covered by CCTV as per the licence conditions.
- The Police believed that allowing temporary event would cause a public nuisance to residents living nearby and the potential for crime and disorder to take place.

In response to questions, PC Wilkins informed the Sub-Committee that:

- The premises had been closed since April 2023. There had not been any incidents that had occurred in that time.
- The new DPS had been appointed since December 2022.
- Between December 2022 and the closure of the premises, there were not any worrying issues that had come to the attention of the Police.
- Page 26 of the agenda papers which stated the 'agent' of the premises had referred to the licence holder's representative Mr Donne.
- There had been incidents that had occurred at the premises which were prior to the current licence holder running the premises, but he felt that there were still connections with the new licence holder and the previous DPS.

- The application made in December 2022 was for a grant of a new premises licence, there was no licence in place for some time prior to that. The Police had not objected to the licence at the time.
- In 2023, a total of 16 temporary event notices (TENs) were given. Seven of these had been a late TEN, 14 of them had been between January to April 2023 and were not objected to by the Police. There had been no TENs submitted after 12 April 2023 until 9 November 2023, which was a late TEN that had been objected to by Police. Another TEN had been submitted since for the dates of 1 and 2 December 2023. The Police had also undergone a change in staff recently.
- He felt that Police should work in partnership with all stakeholders in the night time economy.
- On 16 February 2022, Police were called regarding violence against a person. There was another incident on 2 May 2022. Both resulted in the victim not wishing to proceed in reporting.
- During the 14 temporary events that had been unopposed covering 19 days, there had been no crimes reported to the Police over that period.

At this point in the proceedings, Ms Barrett stated that the Police had the right to object to a late TEN without having to outline a reason. In relation to complaints, residents may go to the Police if there was a concern about crime and disorder, but complaints of noise nuisance would have been received by the Council and not necessarily by the Police. The business had Mr Aldo Topali, who was involved in the business previously, listed as a director along with the current licence holder.

In response to further questions, PC Wilkins informed the Sub-Committee that:

- The previous TENs did operate past 22:30.

Presentation by the Notice Giver

Mr Bill Donne informed the Sub-Committee that:

- The notice was to extend the hours for the supply of alcohol and for late night refreshment to 00:00 on the Friday and Saturday.
- Identical TENs on 14 separate occasions had been submitted during the year over a period of 19 days, none of which had attracted objections from the Police or Environmental Protection.
- There had been a combination of late TENs and standard TENs and the licence holder had the benefit of the additional days and TENs numbers because of some of the recent easement acts. These events had been run successfully and, on each occasion, submission of the TEN overrode the condition that the rear garden area had to close at 22:30. There were two reasons for this. One was because the Notice Giver wanted to use the area later, but equally it provided evidence that the Notice Giver could run the business successfully up until 00:00, which was still a modest terminal hour for a pub that had been in existence for over 100 years.

- There had been no recent reports of crime and disorder. There was one noise complaint over a tenminute period from the neighbour across the road, which was rectified.
- The Notice Giver and the neighbour has each other's phone number and if there was a concern then, the local neighbour, could phone to address the concern to rectify it.
- The Notice Giver had been successful in running 14 events over 19 evenings without incident.
- It was a surprise that on the event of an Albanian Independence Party which was of a particular interest to the Notice Giver, there had been an objection from the Police mostly on the grounds of noise whilst conditions had already been agreed with Environmental Protection.
- The Police could object and under each of the four licensing objectives, but it would be the prerogative of Environmental Protection if the concern was in respect of noise.
- The Police had said that they objected on the grounds of crime and disorder, but there was no evidence for that.
- It was not clear why, just because of a change of personnel, that the Police would decide that the premises was at risk of not upholding the licensing objectives.
- The Police objection was not justified.

In response to questions, Mr Donne and Mr Meritan Jashari, the Notice Giver, informed the Sub-Committee that:

- The premises was a regular bar and restaurant with exceptionally fine food. It had three main areas, there was an outside eating area (which had a condition to shut at 21:00), there was the main body of a traditional pub with a bar and towards the back, there was a lounge area which had a skylight that could open. It had a rollback ceiling area where food and drink was served. The premises was not an events-led venue.
- There was no entertainment authorised on the licence, something that was also not part of the TEN.
- Work had been done to place speakers and monitor the sound controls to minimise any disruption to any noise sensitive properties.
- Security was present on a Friday and Saturday and this was mainly to aid with dispersal of patrons at the terminal hour to ensure that no disruption was caused in the area.
- The TENs between January to April 2023 was to relieve the pressure on the business, because the Notice Giver wanted to use the back area longer. However, the power company had to dig up an area to reconfigure all the electrical set-up. This caused a major disruption to the business and it was an unfortunate period as premies staff had to be made redundant. These works had now been completed.
- It took a long time for the electric set-up to be reconfigured, but some of the old staff had returned. There were also one or two new members of staff.
- Since Mr Meritan Jashari and Mr Aldo Topali had taken over the premises, there had been no incidents which involved the Police. Previously, there had been some noise

complaints and Noise officers had visited. They had confirmed that there was no noise nuisance.

- The fire capacity was around 240 and across the whole premises. It was possible to easily seat 84-86 people in the rear area and another 18 in the front.
- The premises was a large pub, but it was based on patrons being seated as opposed to vertical drinking. Although a patrons could go up to the bar and buy a drink, but it's actually waitress service style of operation.
- Most of the resident complaints for the premises in the past had come from three or four particular residents, all of whom knew each other. The Notice Giver had provided his hotline number with them. If there was any concern, residents could phone him directly, if they felt there was a noise complaint. One resident had made contact, but the other three residents had not contacted the Notice Giver. Some of the residents lived some distance away from the premises.
- The premises was located in a busy junction and Mayes Road was the main arterial road and was significantly busy all day. On the side road, there were two other licensed premises further up the road that operated until late.
- The event was across the whole of the area, but the justification for the TEN was partly to use the back area which was beautifully decorated with very comfortable areas with seating. Although it was technically an outside area, it had a roof that that covered most of it in adverse weather conditions. The attraction of the area was why patrons would prefer to sit in the back than they would in the main building.
- If the event could not be held in the back area, it would not be possible to host 120 people comfortably at the premises.
- The Notice Giver had taken a conservative view that the TEN may not be granted and had already put in place steps to inform patrons that the area did not appear as if it could be used past 22:30.
- Mr Meritan Jashari and Mr Aldo Topali were both shareholders of the company and both directors of the company. Mr Meritan Jashari ran the premises on a day-to-day basis.
- In the previous 14 TENs, covering the 19 days in the early part of the year, there were no conditions placed. But for this particular TEN, Environmental Protection had asked for a condition to state that there would be no noise emanating from the premises immediately on the outside exterior wall.
- Mr Donne, when conversing with Police regarding a late TEN had said that they were taking a lazy approach to the situation. He had asked Police if they were aware that the premises had 14 TENs over the period of 19 days and the Police had not objected in the past. The officer had stated that she would not look at the file as it was too late to consider it. He was also told that as it was a late TEN, Police did not have to provide an explanation and the file would not be examined. He said that he thought it was a lazy approach to policing. It was important for the Police to explain why they felt the objection was warranted.
- The rear area would be used as a shisha area underneath the open ceiling. There would be food served, background music only and the sale of alcoholic and non-alcoholic drinks. This was ordinary for the business, only difference in relation to the temporary

event was that the Notice Giver could use the back garden area for a later period of time.

- Most of the time, the roof was shut to prevent any emanation of noise. During the period that the roof was open and patrons were smoking shisha, then the music would be turned down even lower. Most of the time, the roof could be kept shut as patrons were just eating or drinking.
- The premises for the last 100 years had been a pub garden. However, at present, the premises was enclosed by four walls and a roof that covered 75% of the area and the last 25% was covered with a retractable roof.
- There was heating inside the premises and although technically it was an outside garden, the area was almost fully enclosed.
- The CCTV was working. The plans showed where they were located. There were about seven heaters used in the outside area. There was also gas heating.

At this point in the proceedings, Ms Barrett stated that the Notice Giver had stated that covered area was 75% covered. Under the Health Act, this area was meant to be 50% unenclosed.

In response to further questions, Mr Donne and Mr Jashari informed the Sub-Committee that:

- The use of the back area was legally compliant. An Environmental Health officer had visited the premises and presented a number of suggestions which were agreed upon regarding the use of the area. Effectively, when shisha smoking would take place, the area would be open. Officers had advised that the smoking of shisha was allowed on one side of the area where the roof was open.
- If patrons were smoking shisha, they would have to be in the designated area. Most patrons were just simply eating meals and having a drink. The Notice Giver had invested in electronic shisha apparatus as well, but patrons wished to smoke standard shisha, then this would have to be done in the open area and the Environmental Health officers seemed satisfied with that.
- Page 45 of the agenda papers showed loose tables and chairs in the rear area.

To summarise, PC Wilkins stated that the Police had objecting to the temporary event as Police believed that allowing the temporary event would cause a public nuisance to residents living nearby and the potential for crime and disorder to take place.

To summarise, Mr Donne stated that the objection from the Police should be disregarded. The premises had successfully run 14 temporary events over 19 days earlier in the year with only one issue caused with the neighbour, which had been rectified within minutes. There was no evidence that the event would cause an increase in crime and disorder. The premises had been running since December 2022. There had been no recorded incidents relating to the period of December 2022 through to April 2023. He accepted that the business had been shut for a number of months due to third party interventions, which was unfortunate, but attempts were being made to get the business running again. There had been no Police objections for the previous TENs. There had been no objections from Environmental Health and this enabled the Notice Giver to proceed with the previous TENs without any issues. That was

evidence that the Notice Giver could manage the place properly. Mr Meritan Jashari was the DPS and had been the DPS since the grant of the premises licence. Anything that happened previously was under previous ownership and not the responsibility of the current DPS. He would ask the Sub-Committee to not issue a counter notice against the event.

At 8:13pm, the Sub-Committee withdraw to consider the application.

RESOLVED:

The Sub-Committee gave due consideration to the submissions made by the Notice Giver and his representative, and to the concerns raised by the objector to the notice both orally and in writing.

It was noted that there had been complaints about breach of License regulations concerning these premises over several years. Police had been called to an incident on 16 February 2022. However, it was noted those complaints did concern previous owners. It was also noted that there was a new management team and that they had put forward proposals to alleviate those concerns and complaints.

The Sub-Committee gave due regard to the representations made by the Notice Giver and the steps taken before the event was due to take place, they gave consideration to the submissions made regarding the previous TENs and that 14 temporary events had taken place since the beginning of 2023. The Notice Giver's representative submitted that previous incidents, with the exception of one which was a temporary event, did not relate to the current ownership. The Sub-Committee considered that the Notice Giver confirmed that they had made an agreement with the Environmental Protection team in terms of noise nuisance. The Notice Giver acknowledged that although there would not be live entertainment background music would be played during the event.

The Police wished to object to the temporary event under the prevention of public nuisance and prevention of crime and disorder. The premises is located on the junction of Mayes Road and Coburg Road. At the side and opposite the premises there are residential homes. Directly opposite the rear garden, which is in Coburg Road there is a care home. There were residential homes directly opposite the rear garden.

The Sub-Committee decided to issue a counter notice as it considers it necessary for the promotion of the Licensing Objectives.

REASONS

The Sub-Committee considered that there would be a creation of or an increase in Public Nuisance through noise nuisance at the premises if the event were to proceed and the rear garden was opened later.

There were residential homes directly opposite the rear garden and a care home which housed vulnerable people. There were concerns that there would be substantial noise from the rear garden area which could disturb the residents. Consideration was given to the fact that there have been previous complaints of loud music, loud talking and engine noises from cars being started in the area by patrons of the establishment. The Sub-Committee did not have confidence that the noise level would be capable of control especially when the rear garden area was uncovered. The Sub-Committee resolved that the licensing objectives of the prevention of public nuisance would not be promoted if the event was allowed to proceed.

CHAIR:

Signed by Chair

Date

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MINUTES OF THE SPECIAL LICENSING SUB COMMITTEE HELD ON THURSDAY, 30 NOVEMBER 2023, 7:00PM - 8:33PM

PRESENT: Councillors Anna Abela (Chair), Nick da Costa and Sheila Peacock

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

There was no urgent business.

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 AT DISTRICT 22, 83 MAYES ROAD, LONDON, N22 (NOEL PARK)

Presentation by the Licensing Officer

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

- The notice was received on the 14 October 2023.
- The premises intended to use the ground floor of the premises for the celebration of the Albanian Independence Day and enable the use of the rear garden area for later hours and to accommodate restaurant bookings at the premises.
- The Notice Giver stated that security personnel would be on duty both evenings to ensure an orderly dispersal of patrons.
- The Notice Giver had also stated that it was noticeable that the premises had run 14 previous temporary events in 2023.
- The use of temporary event notice notices (TENs) over a period of 19 days that had included the use of the rear garden.
- The notice sought use of the premises for extended hours and the addition of the of late-night refreshment to be available between 11:00 to 00:00 on Friday 1 December 2023 and on Saturday 2 December 2023.

- The licensable activity being sought was an extension for the sale of alcohol at the premises and the provision of late-night refreshment, which the current licence did not have.
- The event was intended for around 120 people.
- An objection to the notice had been received from the Police.
- The operators had applied twice in recent years to extend the hours for licensable activity at the premises and most recently in January 2023. The Sub-Committee determined to partially grant the last variation for the premises but refused to extend the hours for the use of the outside space beyond 22:00 and this was to ensure that the prevention of public nuisance objective would be upheld. The agenda papers contain a copy of the resolution.
- Page 49 of the agenda papers listed the temporary event notices given during 2023.

In response to a question, representing the Notice Giver, Mr Bill Donne stated that the application submitted in December 2022 was for the grant of a new premises licence and the current DPS was then nominated as the DPS. There had only been one variation application since in January 2023 to extend the hours during the day and lift the restriction in the back area. There had not been a change of DPS since District 22 had taken over the premises. Both the ownership and the management of the premises had changed in the summer of 2022. All the incidents listed by the Police were under the previous ownership. The current licence holder had bought the company and applied for the grant of a new licence in December 2022. The previous incidents, with the exception of one which was a temporary event, did not relate to the current ownership.

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

- The temporary events listed on pages 49 and 50 included the use of the rear garden after the regular permitted hours and discussions had been held with the licence holder's representative to ensure that noise had been limited.
- Police had been called to an incident on 16 February 2022 and this incident had occurred under (what the Notice Giver would state as) the previous owner of the business.

Presentation by the Objector

PC Wilkins informed the Sub-Committee that:

- The Police wished to object to the temporary event under the prevention of public nuisance and prevention of crime and disorder.
- There were residential homes directly opposite the rear garden and a care home which housed vulnerable people.
- The applicant was sent a representation on 15 November 2023 which detailed a compromise to allow the event to take place inside the premises.
- The Police agreed that the event in principle could go ahead with the condition of the garden area to close at 22:30 so residents in close proximity could enjoy peace and quiet and not experience potential noise issues as had occurred in the past.
- Police attempted to engage with the Notice Giver and compromise by allowing the event, just not the use of the garden area, but this offer was refused.

- A variation to the premises licence had been submitted on 5 January 2023, which resulted in objections and was heard by the Sub-Committee. The Sub-Committee did not remove the condition in the area at the back of the premises that the back 'shisha' area was to be closed at 22:30 each day.
- On 10 November 2023, the Notice Giver emailed Police stating that the premises had held 14 temporary events since the beginning of 2023 and asked for Police to withdraw their representation.
- The Notice Giver was emailed back on the 11 November 2023, stating that Police would not withdraw their representation and the objection still stood.
- The premises had issues in the past. On 23 May 2022, the premises had been running without a licence as the had licence expired on 17 May 2022. There were reports of loud music from the premises every night, although not confirmed by Police at the time.
- There had been no complaints since April 2023 directly to Police. This could be due to the premises being closed and not operating. An email confirming this was received from the Council on the 9 November 2023.
- The DPS changed in October 2022. It could be argued this was an attempt to negate a review of the licence due to complaints received regarding the premises.
- The past history of the premises had shown worrying concerns around upholding the licencing objectives.
- On 9 April 2022, a staff member of the Council was assaulted after they visited the premises to inform the manager that the premises did not have a licence to operate after 23:00. One of the patrons got upset and approached the officer and assaulted them. A fight broke out and 200 people were seen fleeing the location when Police arrived.
- Officers reviewed the CCTV and none of the cameras covered the location where the incident took place. The area was in the immediate vicinity of the premises and should have been covered by CCTV as per the licence conditions.
- The Police believed that allowing temporary event would cause a public nuisance to residents living nearby and the potential for crime and disorder to take place.

In response to questions, PC Wilkins informed the Sub-Committee that:

- The premises had been closed since April 2023. There had not been any incidents that had occurred in that time.
- The new DPS had been appointed since December 2022.
- Between December 2022 and the closure of the premises, there were not any worrying issues that had come to the attention of the Police.
- Page 26 of the agenda papers which stated the 'agent' of the premises had referred to the licence holder's representative Mr Donne.
- There had been incidents that had occurred at the premises which were prior to the current licence holder running the premises, but he felt that there were still connections with the new licence holder and the previous DPS.

- The application made in December 2022 was for a grant of a new premises licence, there was no licence in place for some time prior to that. The Police had not objected to the licence at the time.
- In 2023, a total of 16 temporary event notices (TENs) were given. Seven of these had been a late TEN, 14 of them had been between January to April 2023 and were not objected to by the Police. There had been no TENs submitted after 12 April 2023 until 9 November 2023, which was a late TEN that had been objected to by Police. Another TEN had been submitted since for the dates of 1 and 2 December 2023. The Police had also undergone a change in staff recently.
- He felt that Police should work in partnership with all stakeholders in the night time economy.
- On 16 February 2022, Police were called regarding violence against a person. There was another incident on 2 May 2022. Both resulted in the victim not wishing to proceed in reporting.
- During the 14 temporary events that had been unopposed covering 19 days, there had been no crimes reported to the Police over that period.

At this point in the proceedings, Ms Barrett stated that the Police had the right to object to a late TEN without having to outline a reason. In relation to complaints, residents may go to the Police if there was a concern about crime and disorder, but complaints of noise nuisance would have been received by the Council and not necessarily by the Police. The business had Mr Aldo Topali, who was involved in the business previously, listed as a director along with the current licence holder.

In response to further questions, PC Wilkins informed the Sub-Committee that:

- The previous TENs did operate past 22:30.

Presentation by the Notice Giver

Mr Bill Donne informed the Sub-Committee that:

- The notice was to extend the hours for the supply of alcohol and for late night refreshment to 00:00 on the Friday and Saturday.
- Identical TENs on 14 separate occasions had been submitted during the year over a period of 19 days, none of which had attracted objections from the Police or Environmental Protection.
- There had been a combination of late TENs and standard TENs and the licence holder had the benefit of the additional days and TENs numbers because of some of the recent easement acts. These events had been run successfully and, on each occasion, submission of the TEN overrode the condition that the rear garden area had to close at 22:30. There were two reasons for this. One was because the Notice Giver wanted to use the area later, but equally it provided evidence that the Notice Giver could run the business successfully up until 00:00, which was still a modest terminal hour for a pub that had been in existence for over 100 years.

- There had been no recent reports of crime and disorder. There was one noise complaint over a tenminute period from the neighbour across the road, which was rectified.
- The Notice Giver and the neighbour has each other's phone number and if there was a concern then, the local neighbour, could phone to address the concern to rectify it.
- The Notice Giver had been successful in running 14 events over 19 evenings without incident.
- It was a surprise that on the event of an Albanian Independence Party which was of a particular interest to the Notice Giver, there had been an objection from the Police mostly on the grounds of noise whilst conditions had already been agreed with Environmental Protection.
- The Police could object and under each of the four licensing objectives, but it would be the prerogative of Environmental Protection if the concern was in respect of noise.
- The Police had said that they objected on the grounds of crime and disorder, but there was no evidence for that.
- It was not clear why, just because of a change of personnel, that the Police would decide that the premises was at risk of not upholding the licensing objectives.
- The Police objection was not justified.

In response to questions, Mr Donne and Mr Meritan Jashari, the Notice Giver, informed the Sub-Committee that:

- The premises was a regular bar and restaurant with exceptionally fine food. It had three main areas, there was an outside eating area (which had a condition to shut at 21:00), there was the main body of a traditional pub with a bar and towards the back, there was a lounge area which had a skylight that could open. It had a rollback ceiling area where food and drink was served. The premises was not an events-led venue.
- There was no entertainment authorised on the licence, something that was also not part of the TEN.
- Work had been done to place speakers and monitor the sound controls to minimise any disruption to any noise sensitive properties.
- Security was present on a Friday and Saturday and this was mainly to aid with dispersal of patrons at the terminal hour to ensure that no disruption was caused in the area.
- The TENs between January to April 2023 was to relieve the pressure on the business, because the Notice Giver wanted to use the back area longer. However, the power company had to dig up an area to reconfigure all the electrical set-up. This caused a major disruption to the business and it was an unfortunate period as premies staff had to be made redundant. These works had now been completed.
- It took a long time for the electric set-up to be reconfigured, but some of the old staff had returned. There were also one or two new members of staff.
- Since Mr Meritan Jashari and Mr Aldo Topali had taken over the premises, there had been no incidents which involved the Police. Previously, there had been some noise

complaints and Noise officers had visited. They had confirmed that there was no noise nuisance.

- The fire capacity was around 240 and across the whole premises. It was possible to easily seat 84-86 people in the rear area and another 18 in the front.
- The premises was a large pub, but it was based on patrons being seated as opposed to vertical drinking. Although a patrons could go up to the bar and buy a drink, but it's actually waitress service style of operation.
- Most of the resident complaints for the premises in the past had come from three or four particular residents, all of whom knew each other. The Notice Giver had provided his hotline number with them. If there was any concern, residents could phone him directly, if they felt there was a noise complaint. One resident had made contact, but the other three residents had not contacted the Notice Giver. Some of the residents lived some distance away from the premises.
- The premises was located in a busy junction and Mayes Road was the main arterial road and was significantly busy all day. On the side road, there were two other licensed premises further up the road that operated until late.
- The event was across the whole of the area, but the justification for the TEN was partly to use the back area which was beautifully decorated with very comfortable areas with seating. Although it was technically an outside area, it had a roof that that covered most of it in adverse weather conditions. The attraction of the area was why patrons would prefer to sit in the back than they would in the main building.
- If the event could not be held in the back area, it would not be possible to host 120 people comfortably at the premises.
- The Notice Giver had taken a conservative view that the TEN may not be granted and had already put in place steps to inform patrons that the area did not appear as if it could be used past 22:30.
- Mr Meritan Jashari and Mr Aldo Topali were both shareholders of the company and both directors of the company. Mr Meritan Jashari ran the premises on a day-to-day basis.
- In the previous 14 TENs, covering the 19 days in the early part of the year, there were no conditions placed. But for this particular TEN, Environmental Protection had asked for a condition to state that there would be no noise emanating from the premises immediately on the outside exterior wall.
- Mr Donne, when conversing with Police regarding a late TEN had said that they were taking a lazy approach to the situation. He had asked Police if they were aware that the premises had 14 TENs over the period of 19 days and the Police had not objected in the past. The officer had stated that she would not look at the file as it was too late to consider it. He was also told that as it was a late TEN, Police did not have to provide an explanation and the file would not be examined. He said that he thought it was a lazy approach to policing. It was important for the Police to explain why they felt the objection was warranted.
- The rear area would be used as a shisha area underneath the open ceiling. There would be food served, background music only and the sale of alcoholic and non-alcoholic drinks. This was ordinary for the business, only difference in relation to the temporary

event was that the Notice Giver could use the back garden area for a later period of time.

- Most of the time, the roof was shut to prevent any emanation of noise. During the period that the roof was open and patrons were smoking shisha, then the music would be turned down even lower. Most of the time, the roof could be kept shut as patrons were just eating or drinking.
- The premises for the last 100 years had been a pub garden. However, at present, the premises was enclosed by four walls and a roof that covered 75% of the area and the last 25% was covered with a retractable roof.
- There was heating inside the premises and although technically it was an outside garden, the area was almost fully enclosed.
- The CCTV was working. The plans showed where they were located. There were about seven heaters used in the outside area. There was also gas heating.

At this point in the proceedings, Ms Barrett stated that the Notice Giver had stated that covered area was 75% covered. Under the Health Act, this area was meant to be 50% unenclosed.

In response to further questions, Mr Donne and Mr Jashari informed the Sub-Committee that:

- The use of the back area was legally compliant. An Environmental Health officer had visited the premises and presented a number of suggestions which were agreed upon regarding the use of the area. Effectively, when shisha smoking would take place, the area would be open. Officers had advised that the smoking of shisha was allowed on one side of the area where the roof was open.
- If patrons were smoking shisha, they would have to be in the designated area. Most patrons were just simply eating meals and having a drink. The Notice Giver had invested in electronic shisha apparatus as well, but patrons wished to smoke standard shisha, then this would have to be done in the open area and the Environmental Health officers seemed satisfied with that.
- Page 45 of the agenda papers showed loose tables and chairs in the rear area.

To summarise, PC Wilkins stated that the Police had objecting to the temporary event as Police believed that allowing the temporary event would cause a public nuisance to residents living nearby and the potential for crime and disorder to take place.

To summarise, Mr Donne stated that the objection from the Police should be disregarded. The premises had successfully run 14 temporary events over 19 days earlier in the year with only one issue caused with the neighbour, which had been rectified within minutes. There was no evidence that the event would cause an increase in crime and disorder. The premises had been running since December 2022. There had been no recorded incidents relating to the period of December 2022 through to April 2023. He accepted that the business had been shut for a number of months due to third party interventions, which was unfortunate, but attempts were being made to get the business running again. There had been no Police objections for the previous TENs. There had been no objections from Environmental Health and this enabled the Notice Giver to proceed with the previous TENs without any issues. That was

evidence that the Notice Giver could manage the place properly. Mr Meritan Jashari was the DPS and had been the DPS since the grant of the premises licence. Anything that happened previously was under previous ownership and not the responsibility of the current DPS. He would ask the Sub-Committee to not issue a counter notice against the event.

At 8:13pm, the Sub-Committee withdraw to consider the application.

RESOLVED:

The Sub-Committee gave due consideration to the submissions made by the Notice Giver and his representative, and to the concerns raised by the objector to the notice both orally and in writing.

It was noted that there had been complaints about breach of License regulations concerning these premises over several years. Police had been called to an incident on 16 February 2022. However, it was noted those complaints did concern previous owners. It was also noted that there was a new management team and that they had put forward proposals to alleviate those concerns and complaints.

The Sub-Committee gave due regard to the representations made by the Notice Giver and the steps taken before the event was due to take place, they gave consideration to the submissions made regarding the previous TENs and that 14 temporary events had taken place since the beginning of 2023. The Notice Giver's representative submitted that previous incidents, with the exception of one which was a temporary event, did not relate to the current ownership. The Sub-Committee considered that the Notice Giver confirmed that they had made an agreement with the Environmental Protection team in terms of noise nuisance. The Notice Giver acknowledged that although there would not be live entertainment background music would be played during the event.

The Police wished to object to the temporary event under the prevention of public nuisance and prevention of crime and disorder. The premises is located on the junction of Mayes Road and Coburg Road. At the side and opposite the premises there are residential homes. Directly opposite the rear garden, which is in Coburg Road there is a care home. There were residential homes directly opposite the rear garden.

The Sub-Committee decided to issue a counter notice as it considers it necessary for the promotion of the Licensing Objectives.

REASONS

The Sub-Committee considered that there would be a creation of or an increase in Public Nuisance through noise nuisance at the premises if the event were to proceed and the rear garden was opened later.

There were residential homes directly opposite the rear garden and a care home which housed vulnerable people. There were concerns that there would be substantial noise from the rear garden area which could disturb the residents. Consideration was given to the fact that there have been previous complaints of loud music, loud talking and engine noises from cars being started in the area by patrons of the establishment. The Sub-Committee did not have confidence that the noise level would be capable of control especially when the rear garden area was uncovered. The Sub-Committee resolved that the licensing objectives of the prevention of public nuisance would not be promoted if the event was allowed to proceed.

CHAIR:

Signed by Chair

Date

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Report for: Licensing Committee - 4 January 2023

Item number: 7

Title: Review of Fees and Charges 2024-25 - Licences

Report authorised by : Eubert Malcolm – Assistant Director – Stronger & Safer Communities

Lead Officer: Daliah Barrett – Licensing Team Leader –
Daliah.barrett@haringey.gov.uk

Ward(s) affected: All

**Report for Key/
Non Key Decision:** Non-Key

1. Describe the issue under consideration

- 1.1 The Councils income policy requires an annual review of the level of the fees and charges levied upon service users the aim of the review is to ensure that income generated ensures full cost recovery and that charges remain in line with increases being experienced in the cost of delivering services.
- 1.2 A small number of items relating to certain approvals, consents, permits and licences cannot be made by the Executive and are therefore reserved for consideration and decision by the Council's Licencing Committee. That committee is being asked to approve the fees and charges for 2024 - 25

This report proposes an inflationary increase of fees for those licencing regimes where the council has the power to set its own fees for 2024 - 25 the fees will enable the council to recover its costs in managing and administering these licencing regimes. There is one new charge being proposed for administrative procedures for the consideration of a location for a market. This is a growing request and will correlate with the Market Strategy that is being formulated.

2. Recommendations

- 2.1 That the licencing committee approve fees set out in appendix 1:
 - i) An increase of 7% on existing discretionary fees for 2024 - 25
 - ii) The introduction of a new Market operator licence application fee as set out in section 5.7 of the report.
- 2.2 Note Licencing Act and Gambling Act premises are already set at statutory maximums and make up a significant proportion of the fees collected.
- 2.3 Pavement licence fees will be presented in a separate report following the Levelling up Act receiving royal assent in October 2023. Fees are stipulated in the Act. At the time of writing this report the Government has not released any regulations or guidance on the new regime. The temporary Pavement licence provisions remain in place under the Business and Planning Act 2020 (as amended).

3. Reasons for decision

- 3.1 It is a requirement of the Council's income policy to review fees and charges annually. The financial position of the council supports the view that levels of fees and charges should be maximised commensurate with full cost recovery of costs taking into account all relevant factors including the effect on service users and any consequent demand for services. A licencing scheme must be reasonable and proportionate to the cost of all the procedures and formalities under the scheme.
- 3.2 The Supreme Court case of *Hemmings and others v Westminster City Council* concluded that the amount of the fee is required to be determined every year and further to that a local authority was precluded from making a profit from the licencing scheme.

4. Alternative options considered

- 4.1 Do nothing - this has been discounted as our expenditure costs have not disproportionately reduced and if we were not to increase fees we would be subsidising the licencing process.
- 4.2 Reduction in discretionary fees - consideration has been given to reducing the discretionary fees such as street trading and special treatment but this has been discounted as our expenditure costs have not disproportionately reduced and if we were to reduce fees, we would therefore be subsidising this expenditure, which is not permitted.
- 4.3 An increase in fees greater than inflation has been considered but discounted due to this not being cost neutral to do so and likely to result in a surplus which is not permitted and may impact negatively on businesses during the current financial climate.

5. Background information

- 5.1 Income received from fees and charges during 2023/24 continues to be affected by ongoing economic recovery following the pandemic. A number of income streams continue to be experiencing reduced demand, this may be due to a reduced number of businesses seeking licences. The Service is doing enforcement checks on businesses that were previously licensed but have not renewed licences.
- 5.2 The overall position on charging is that the Council must not charge for a service if legislation prohibits it from doing so. If legislation requires the Council to provide a service and to charge for it then we are required to do so. Charges may be set differentially, so that different locations and services being offered are charged differently. The Council cannot use these powers to make a profit, but should take into account the full cost of all aspects of the service provision when calculating the costs. The underlying principle behind the legislation is that one service should not be cross subsidising another as each service must be viewed as distinct for charging purposes.
- 5.3 An RPI increase of 7% for the discretionary fees, is proposed for 2024-25. The traditional street traders will see an increase in their monthly invoices so the increase will be spread over the year. Massage and Special treatment businesses will be provided with sufficient notice for the increase in fees at the renewal of licenses in September 2024.
- 5.4 Other boroughs have chartered markets for which they have funds made available for the street trading operations. This enables them to have various charging rates and specified teams that deal with street trading. Whilst Haringey is not a market borough but there is a commitment implement a market strategy to support more markets.

5.5 Central Government has also determined to increase the number of days per year a market can take place to 28 days a calendar year. All of these changes will result in an increase in workload for the Licensing Team. This will impact on licencing resources to keep up with demand in administering applications for temporary street trading licenses for these pop up markets.

5.6 In the past the Licencing Service has provided a subsidised fee for the traders at The various pop up market events that have been taking place across the borough, but the fees have not fully covered the cost of administration and it is therefore not sustainable, particularly as demand increases. The increase of 7% in line with inflation relates to the existing charges for one day market trading per stall holder and the three day market trader fee as well as the yearly market trader fee. These fees will not be interchangeable between pop up market locations. The traders will be able to apply for permissions per location.

5.7 The Council allows the market operators to run a market on the public highway without any direct charge being made to the market operator. This is not sustainable as various Services are consulted prior to permission being given. This involves officer time in undertaking assessment of the suitability of the location. There is a new fee proposed for the Market Operator to submit an application with supporting documents such as a plan, risk assessments and an event management plan of how the proposed location may be used to offer a temporary market. This will then be shared and consulted with Highways, Police, Transport for London Roads, Transport Planning and other internal services. The initial fee proposed is £175:00 for the application fee. The market operator makes their own financial charge/profit from each trader that registers their interest to trade at the various pop up market events.

6.0 Contribution to the Corporate Delivery Plan 2022-2024 High level Strategic outcomes.

6.1 Placemaking and Economy

6.2 **High level 1 - Towards an Inclusive Economy** - Haringey has a thriving and fair economy from which everyone benefits, supported by a community wealth building approach

6.3 **High Level outcome 2 - High Streets, Town Centres & Businesses** - Haringey's economy has resilient high streets & town centres at its heart, and businesses are supported to start and grow. The income from fees and charges help to manage demand and cover costs for providing services.

7.0 Carbon and Climate Change

7.1 The Council is committed to updating its standard street trading conditions, so the following matters are included:

- Ban on single use plastic and polystyrene in street trading;
- Ban on the sale of plastic and helium balloons;
- Requirement and guidance on the use of sustainable food packaging, utensils, drinks containers and bags
- Traders encouraged to make use of litter bin for recycling.
- Commits to encouraging and providing guidance to street traders:
- Encourage traders to use sustainable sourcing of food and drink;
- Encourage traders to use sustainable sources of energy for their trading activities;
- Traders to have adequate receptacles in place to deal with customers' rubbish responsibly.

8. Finance

8.1 The recommendation is that for all discretionary fees and charges to apply a 7% RPI increase in line with the wider Council's Fees & Charges for the year 2024-25. The council in addition seeks to introduce a new Market operator licence application fee.

For all statutory fees and charges there is no increase in-line with the council not being able to vary/set price under legislation.

9. Head of Legal & Governance [Name and title of Officer completing these comments]

9.1 The Head of Legal and Governance has been consulted in the preparation of this report and comments as follows:

9.2 There are a variety of legislative powers that entitle the Council to charge fees for different licensing activities. In some instances, the Council has no discretion as to the level of the charge. In other cases, the specific legislative provisions allow authorities to decide whether to charge and how much. The new market fee is in accordance with section 32 of the London Local Authorities Act 1990.

9.3 Regulation 18(4) of the Provision of Services Regulations 2009 requires that any discretionary charges that the Council imposes must be reasonable and proportionate to the costs, the procedures and formalities under the licensing scheme and must not exceed the cost of those procedures and formalities.

9.4 Regulation 2 and Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 provide that decisions on certain approvals, consents, permits and licenses (for example premises licences; licenses for street trading) cannot be made by the Executive. Likewise, fees and charges for such approvals, consents, permits and licenses may not be determined by the Council's Executive.

9.5 In accordance with Part Three Section B of the Constitution, the Licensing Committee has responsibility for the determining fees and charges under the Licensing Act 2003 and the Gambling Act 2005. In addition, the Committee exercises the functions which are stated not to be the responsibility of The Executive/Cabinet In Regulation 2 and Schedule 1, Paragraph B (Licensing and Registration) of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and in any Statute or subordinate legislation further amending these Regulations. This includes the fees and charges that are the subject of this report.:

9.6 The fees and charges for 2024-25 are being increased by inflation and reflect the cost of service provision, therefore there is no legal reason why the proposed fees and charges cannot be imposed.

10. Equality

10.1 The council has a Public Sector Equality Duty (PSED) under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share protected characteristics and people who do not
- Foster good relations between people who share those characteristics and

people who do not

10.2 The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty. Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.

10.3 An EQIA screening tool has been prepared. These changes will have a low impact overall and are not expected to have a disproportionate impact on any protected groups. The legislation itself does not allow authorities to issue street trading to licenses to any one under the age of 17. The Council has no discretion in this regard.

11 Use of Appendices

11.1 Appendix 1 -List of fees and charges showing 7% increase on discretionary fees.

A new fee proposed for an application to consider suitability of location for a pop up market event.

Appendix 2 – EQIA Screening tool

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Statutory Fees

	A	B	D	E
1	Regulatory Services contd.	Current Charge	Proposed Charge	% Increase
2		£	£	
3	THE FEE MAXIMUMS ARE PRESCRIBED BY THE SECRETARY OF STATE AND THE LEVEL OF FEE APPLIED LOCALLY IS DETERMINED BY THE FULL LICENSING COMMITTEE (Fees set to comply with Secretary of State Maximum Levels)			
4	Premises Licence			
5	Bingo Club			
6	New Application	3,150	3150.00	N/A
7	Annual Fee	900	900.00	N/A
8	Application to Vary	1,575	1575.00	N/A
9	Application to transfer	1,080	1080.00	N/A
10	Application for re-Instatement	1,080	1080.00	N/A
11	Application for Provisional Statement	3,150	3150.00	N/A
12	Licence Application (provisional Statement Holder)	1,080	1080.00	N/A
13	Copy Licence	15	15.00	N/A
14	Notification of change	23	23.00	N/A
15	Betting Premises (excluding Tracks)			
16	New Application	2,700	2700.00	N/A
17	Annual Fee	600	600.00	N/A
18	Application to Vary	1,350	1350.00	N/A
19	Application to transfer	1,080	1080.00	N/A
20	Application for re-Instatement	1,080	1080.00	N/A
21	Application for Provisional Statement	2,700	2700.00	N/A
22	Licence Application (provisional Statement Holder)	1,080	1080.00	N/A
23	Copy Licence	15	15.00	N/A
24	Notification of change	23	23.00	N/A
25	Tracks			
26	New Application	2,250	2250.00	N/A
27	Annual Fee	900	900.00	N/A
28	Application to Vary	1,125	1125.00	N/A
29	Application to transfer	855	855.00	N/A
30	Application for re-Instatement	855	855.00	N/A
31	Application for Provisional Statement	2,250	2250.00	N/A

32	Licence Application (provisional Statement Holder)	855	855.00	N/A
33	Copy Licence	15	15.00	N/A
34	Notification of change	23	23.00	N/A
35	Family Entertainment Centres			
36	New Application	1,800	1800.00	N/A
37	Annual Fee	675	675.00	N/A
38	Application to Vary	900	1000.00	N/A
39	Application to transfer	855	855.00	N/A
40	Application for re-Instatement	855	855.00	N/A
41	Application for Provisional Statement	1,800	1800.00	N/A
42	Licence Application (provisional Statement Holder)	855	855.00	N/A
43	Copy Licence	15	15.00	N/A
44	Notification of change	23	23.00	N/A
45	Adult Gaming Centres			
46	New Application	1,800	1800.00	N/A
47	Annual Fee	900	1000.00	N/A
48	Application to Vary	900	1000.00	N/A
49	Application to transfer	1,080	1080.00	N/A
50	Application for re-Instatement	1,080	1080.00	N/A
51	Application for Provisional Statement	1,800	1800.00	N/A
52	Licence Application (provisional Statement Holder)	1,080	1080.00	N/A
53	Copy Licence	15	15.00	N/A
54	Notification of change	23	23.00	N/A
55	Temporary Use Notices - £500.00 per application	500	500.00	N/A
56	Licensed Premises Gaming Machine Permit (more than two machines) Occasion on which fee may be payable			
57	Grant	150	150.00	N/A
58	Existing operator Grant	100	100.00	N/A
59	Variation	100	100.00	N/A

60	Transfer	25	25.00	N/A
61	Annual Fee	50	50.00	N/A
62	Change of name	25	25.00	N/A
63	Copy of Permit	15	15.00	N/A
64	Licensed Premises Automatic Notification Process (Up to two machines) Occasion on which fee may be payable			
65	On notification- up to 2 category C or D machines only	50	50.00	N/A
66	Club Gaming Permits Occasion on which fee may be payable			
67	Grant	200	200.00	N/A
68	Grant (Club Premises Certificate holder)	100	100.00	N/A
69	Existing operator Grant	100	100.00	N/A
70	Variation	100	100.00	N/A
71	Renewal	200	200.00	N/A
72	Renewal (Club Premises Certificate holder)	100	100.00	N/A
73	Annual Fee	50	50.00	N/A
74	Copy of Permit	15	15.00	N/A
75	<i>Club Machine Permits Occasion on which fee may be payable</i>			
76	Grant	200	200.00	N/A
77	Grant (Club Premises Certificate holder)	100	100.00	N/A
78	Existing operator Grant	100	100.00	N/A
79	Variation	100	100.00	N/A
80	Renewal	200	200.00	N/A
81	Renewal (Club Premises Certificate holder)	100	100.00	N/A
82	Annual Fee	50	50.00	N/A
83	Copy of Permit	15	15.00	N/A
84	<i>Family Entertainment Centre Gaming Machine Permits Occasion on which fee may be payable</i>			
85	Grant	300	300.00	N/A
86	Renewal	300	300.00	N/A
87	Existing operator Grant	100	100.00	N/A
88	Change of name	25	25.00	N/A

89	Copy of Permit	15	15.00	N/A
90	Prize Gaming Permits Occasion on which fee may be payable			
91	Grant	300	300.00	N/A
92	Renewal	300	300.00	N/A
93	Existing operator Grant	100	100.00	N/A
94	Change of name	25	25.00	N/A
95	Copy of Permit	15	15.00	N/A
96	Registration of small Lotteries			
97	Fee for initial registration:	40	40.00	N/A
98	Fee for annual renewal:	20	20.00	N/A
99	1. REGISTRATION OF PREMISES FOR COMPETITIVE BIDDING (Locally set – no present holders) (GREATER LONDON COUNCIL GENERAL POWERS ACT 1984)			
100	Fee for Registration	320	320.00	N/A
101				

Other

	A	B	D	E	F
1	Regulatory Services contd.	Current Charge 2022/23	2023/24	increase 10%	rounded figure
2		£			
3					
4	6. Sex Entertainment Venue				
5	New Registration fee:	3433	3673.31	7.00%	3673
6	Annual Renewal fee	2214	2368.98	7.00%	2369
7	Hypnosis	572	612.04	7.00%	612
8	7. Special Treatment Premises(See Regulations for Class Classification)				
9	Class 1:				
10	Applicants fee	622	665.54	7.00%	665
11	Per additional person authorised to give treatment	452	483.64	7.00%	484
12	Class 2:				
13	Applicants fee	622	665.54	7.00%	665
14	Per additional person authorised to give treatment	117	125.19	7.00%	125
15	Class 3:				
16	Applicants fee	234	250.38	7.00%	250
17	Per additional person authorised to give treatment	111	118.77	7.00%	119
18	Class 4:				
19	Applicants fee	176	188.32	7.00%	188
20	Per additional person authorised to give treatment	100	107.00	7.00%	107
21	Exempt MST applicants to pay 50% of the relevant Class fee for registration.				
22	Scrap Metal				
23	Collectors	293	313.51	7.00%	313
24	Site	409	437.63	7.00%	438
37	Licence to store explosives where no minimum separation distance or a 0 metres minimum separation distance is prescribed	1 year	111.00		
38		2 years	144.00		
39		3 years	177.00		
40		4 years	211.00		
41		5 years	243.00		

42		1 year		55.00	
43	Renewal of licence to store explosives where no minimum separation distance or a 0 metres minimum separation distance is prescribed	2 years		88.00	
44		3 years		123.00	
45		4 years		155.00	
46		5 years		189.00	
47		All year round licence - in addition to storage licence fee			500.00
48	Variation (i.e. changing name/address of licence holder on current licence)			37.00	
49	Regulatory Services. Exhibition Licenses	Proposed Charge			
50		£			
51					
52	(Licensing Fees set locally)				
53	(Only one Licence at the present time – Alexandra Palace)				
54					
55	FEEES PAYABLE ARE ON THE FOLLOWING SCALES Capacity (Maximum permitted number of persons)				
56	Up to100	976.00	1044.32	7.00%	
57	101-200	1,940.65	2076.50	7.00%	
58	201-300	2,916.60	3120.76	7.00%	
59	301-400	3,849.55	4119.02	7.00%	
60	401-500	4,826.55	5164.40	7.00%	
61	501-1000	6,590.20	7051.51	7.00%	
62	1001-1500	8,964.55	9292.07	7.00%	
63	1501-2000	12,557.35	13436.36	7.00%	
64	2001-2500	15,532.25	16619.51	7.00%	
65	2501-5000	32,814.80	35111.84	7.00%	
66	5001 plus	53,383.25	57120.08	7.00%	
67	For new applicants an introductory discount of 50% for the Licenses up to 100 persons non-refundable				

68	Additional charge for each extension of hours beyond 11.00 p.m. per day	976.00	1,044.32	7.00%	
69	Additional charge for each extension of hours beyond 2.00 a.m. per day	1,940.65	2,076.50	7.00%	
70	Transfer Fee	2,916.60	3,120.76	7.00%	
71	Duplicate Licence	3,849.55	4,119.02	7.00%	
72	Exhibition Licenses	4,826.55	5,164.41	7.00%	
73	Booking Office Licence	6,590.20	7,051.51	7.00%	
74	Transfer of above	8,964.55	9,592.07	7.00%	
75	Variation of Annual Licence	12,557.35	13,436.36	7.00%	

Street Trading

	A	B	D	E	F	G
1	Regulatory Services	Current Charge 2023/24	2024/25	increase 7%	rounded figure	
2		£				
3						
4	1. STREET TRADING					
5	a) APPLICATION FEES FOR LICENCES					
6	Traditional Stalls, Tottenham Hotspur Match day	153	163.7	7.0%	164	
7	Trading and Displays Outside Shop Premises	153	163.7	7.0%	164	
8	Application/renewal for 3 Years	153	163.7	7.0%	164	
9	Application/renewal for 2 years or less	103	110.2	7.0%	110	
10	Application for temporary licence for six months or less	62	66.3	7.0%	66	
11	Application for temporary licence for six month or less on private land	290	310.3	7.0%	310	
12	Street Festivals/approved events Temporary licence for 1 day	31	33.2	7.0%	33	
13	Tables and chairs outside catering establishments Application/renewal for 1 year	81	86.7	7.0%	87	
14	Temporary Licence for six months or less	51	54.6	7.0%	55	
15	Variations of Licences					
16	Application for variation made at time of renewal	no fee				
17	Application for variation made during term of Licence	101	108.1	7.0%	108	
18	b) WEEKLY CHARGES PAYABLE IN ADDITION TO ABOVE FEES					
19	Tottenham Hotspur Match day stalls selling refreshments	61	65.3	7.0%	65	
20	Tottenham Hotspur match day non-food stalls	24	25.7	7.0%	26	
21	Small stalls trading 6 days or more	42	44.9	7.0%	45	
22	Temporary small stalls trading two fixed days	31	33.2	7.0%	33	
23	Refreshment and all other large stalls	79	84.5	7.0%	84	
24	Approved extensions to large stalls (per sq. metre)	19	20.3	7.0%	20	
25	Displays of good outside shops (per Sq. metre)	19	20.3	7.0%	20	

26	Tables and chairs outside catering establishments (per sq. metre)	17	18.2	7.0%	18
27	Temporary licence for 6 months or less on private land	31	33.2	7.0%	33
28	Other Additional Charges				
29	Removal by council of goods, stalls, tables, chairs left in street outside trading hours	267	285.7	7.0%	286
30	Daily storage of same by Council	184	196.9	7.0%	197
31	Removal and disposal of refuse by council in default of licence holder				
		Actual cost incurred + 30% Establishment Charge			
32	Refunds by Council Refusal to renew licence (other than temporary licence)	Whole Fee			
33	Refusal to grant a licence	50% of fee			
34	Enforcement				
35	Release fee for the removal and one day storage of a vehicle seized in lieu of legal proceedings	288	308.2	7.0%	308
36	Additional daily charge (excluding Saturdays, Sundays and Public Holidays)	164	175.5	7.0%	175
37	Refunds by council Refusal to renew licence	Whole Fee			
38	Refusal to grant licence	50% of fee			
39	Markets in Haringey (POP UPS)				
40	1 trading day	30	32.1	7.0%	32
41	3 trading days -(1 LOCATION ONLY NON TR	48	51.4	7.0%	51
42	Yearly /12months trading at a market (1 day per month) non transferable or refundable	150	160.5	7.0%	160
43					
44					

45	Market Operator application fee - (CONSIDERATION OF APPLICATION TO OPERATE A TEMP/POP UP MARKET AT A GIVEN LOCATION)		175
46	1 TO 50 PITCHES PER DAY		100
47	1 TO 75 PITCHES PER DAY		150
48			
49			
50			
51			
52			
53	STREET TRADING ENFORCEMENT		
54	CONTRAVENTIONS	PENALTY	
55	Contravention of a condition of a street trading licence or temporary licence	100	100
56	Making a false statement in connection with an application for a street trading licence or temporary licence	125	125
57	Resisting or obstructing an authorised officer	250	250
58	Failure to produce a street trading licence when asked to by an authorised officer	100	100
59	Illegal Street Trading	150	150
60			
61	Non football trading day/Events		200

Animal

	A	B	C	E	F	G
1	Activity	type	Current Charge 2022/23	2023/24	increase 10%	rounded figure £
2						
3	Animal Boarding (commercial)	App Fee	468	500.76	7%	501
4	1 year licence	Grant fee	176	188.32	7%	188
5	2 year licence	Grant fee	176	188.32	7%	188
6	3 year licence	Grant fee	352	376.64	7%	377
7	Vet Fees - dependant on inspection		393	420.51	7%	420
8						
9	Animal Boarding (Domestic)	App Fee	468	500.76	7%	501
10	1 year licence	Grant fee	176	188.32	7%	188
11	2 year licence	Grant fee	176	188.32	7%	188
12	3 year licence	Grant fee	352	376.64	7%	377
13	Vet Fees - dependant on inspection		393	420.51	7%	420
14						
15	Dog Breeding	App Fee	468	500.76	7%	501
16	If also a				7%	
17	1 year licence	Grant fee	176	188.32	7%	188
18	2 year licence	Grant fee	176	188.32	7%	188
19	3 year licence	Grant fee	352	376.64	7%	377
20	Vet Fees - dependant on inspection		237	253.59	7%	245
21						
22	Pet Shops	App Fee	468	500.76	7%	501
23	1 year licence	Grant fee	176	188.32	7%	188
24	2 year licence	Grant fee	176	188.32	7%	188
25	3 year licence	Grant fee	352	376.64	7%	377
26	Vet Fees - dependant on inspection		399	426.93	7%	427
27						
28	Keeping or training animals for exhibition (3 year licence by default) (performance)	App Fee	468	500.76	7%	501
29		Grant fee	176	188.32	7%	188
30	Vet Fees - dependant on inspection		112	119.84	7%	120
31						
32	Dangerous Wild Animal					
33	1 Species	App Fee	468	500.76	7%	501
34		Grant fee	176	188.32	7%	188
35	Additional species of variation to add		176	188.32	7%	188
36	Vet Fees - dependant on inspection		651	696.57	7%	697
37						
38	Additional Licensable activites		176	188.32	7%	188
39						
40	Variation to licence/ re-evaluation of star rating		176	188.32	7%	188
41						
42	Transfer of licence due to death of licensee		176	188.32	7%	188
43						
44	Replacement of licence		25	N/A		25
45						
46						
47	any additional visits by city of London Vets will be charged seperately.					
48						
49	each activity is broken down to number of animals which is shown on your website but does not change the fees					

36	Vet Fees - dependant on inspection		651	696.57	7%	697
37						
38	Additional Licensable activites		176	188.32	7%	188
39						
40	Variation to licence/ re-evaluation of star rating		176	188.32	7%	188
41						
42	Transfer of licence due to death of licensee		176	188.32	7%	188
43						
44	Replacement of licence		25		N/A	25
45						
46						
47	any additional visits by city of London Vets will be charged seperately.					
48						
49	each activity is broken down to number of animals which is shown on your website but does not change the fees					

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Equality Impact Assessment Screening Tool

1	Lead officer contact details: DALIAH BARRETT			
2	Date: 11/11/23			
3	Summary of the proposal: FEES AND CHARGES			
	Response to Screening Questions	Yes	No	Please explain your answer.
a) Type of proposal				
4.	Is this a new proposal or a significant change to a policy or service, including commissioned service?		X	The various pieces of legislation administered in the team all require a fee to be paid by the applicant to ensure a valid application is submitted. The fee submitted pays for the processing and or enforcement of that particular licensing regime.
5.	Does the proposal remove, reduce or alter a service or policy?		X	
6.	Will there be a restructure or significant changes in staffing arrangements? Please see the restructure pages for guidance for restructure EqlAs .		X	
7.	If the service or policy is not changing, have there been any known equality issues or concerns with current provision. For example, cases of discrimination or failure to tackle inequalities in outcomes in the past?		X	
b) Known inequalities				
8.	Could the proposal disproportionately impact on any particular communities, disadvantaged or vulnerable residents?		X	We do not have geographical locations held of applicants as the traditional traders reside all over London and any temp traders are able to apply and get a temporary one off trading

				at any given time and the only thing that can impede them from getting this permission is if there would be insufficient space in the street or they are selling commodities such as knives, second-hand heaters etc.
9.	<p>Is the service targeted towards particular disadvantaged or vulnerable residents?</p> <p><i>This can be a service specifically for a group, such as services for people with Learning Disabilities. It can also be a universal service but has specific measures to tackle inequalities, such as encouraging men to take up substance misuse services.</i></p>		X	We do not have any evidence that certain wards are more affected than others or any proxy indicators that certain groups are disproportionately impacted.
10.	<p>Are there any known inequalities? For example, particular groups are not currently accessing services that they need or are more likely to suffer inequalities in outcomes, such as health outcomes.</p>		X	
11	<p>If you have answered yes to at least one question in both sections a) and b), Please complete an EqIA.</p>			<p>If a decision is taken not to proceed with a full EqIA, please document carefully your reasons here:</p> <p><i>For example:</i></p> <ul style="list-style-type: none"> • <i>The proposal is likely to have no/minimal impact on groups that share the protected characteristics or other disadvantaged groups</i> • <i>The service currently is effective in tackling inequalities and it is not changing</i> • <i>Any changes will not have any impact on service users, residents or staff</i>

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