

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 objected 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