

**MINUTES OF THE LICENSING SUB-COMMITTEE A
THURSDAY, 14 MAY 2009**

Councillors Patel (Chair), Demirci and Reid

MINUTE NO.	SUBJECT/DECISION	ACTION BY
LSCA14.	<p>APOLOGIES FOR ABSENCE</p> <p>There were no apologies for absence.</p>	
LSCA15.	<p>URGENT BUSINESS</p> <p>There were no items of urgent business.</p>	
LSCA16.	<p>DECLARATIONS OF INTEREST</p> <p>Cllr Reid declared a personal interest, as he had dined at the premises three years previously.</p> <p>NOTED</p>	
LSCA17.	<p>MINUTES</p> <p>RESOLVED</p> <p>That the minutes of the Licensing Sub Committee A held on 7 April 2009 and the special Licensing Sub Committee A held on 28 April 2009 be agreed and signed by the Chair.</p>	
LSCA18.	<p>SUMMARY OF PROCEDURE</p> <p>Noted.</p>	
LSCA19.	<p>KARMENZ WINE BAR AND RESTAURANT, 192 STROUD GREEN ROAD, LONDON N4 (STROUD GREEN)</p> <p>The Licensing Officer, Ms Dale Barrett, presented the report on an application for a variation to a premises licence at Karmenz Wine Bar and Restaurant, 192 Stroud Green Road, N4. Representations had been received from the noise team, and the conditions proposed by the noise team to address the issues of noise nuisance had been accepted verbally by the applicant. Representations had also been received from local residents relating to issues of noise nuisance late into the night, vibrations, anti-social behaviour from patrons at the premises.</p> <p>Eubert Malcolm, Enforcement Response Service Manager, presented the representation of the noise team and reported that, unless conditions were added, the variation of the licence would be likely to affect local residents. Mr Malcolm added that 11 proactive inspections had been carried out at the premises, and that on one occasion the premises had been found to be operating at 2.30am. Mr Malcolm confirmed that the</p>	

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existing licence did not cover music. Mr Malcolm and Ms Barrett confirmed that the conditions proposed by the noise team had been agreed verbally by the applicant.

In response to a question from local residents regarding how the enforcement team could ensure that there would be no further disruption caused by the premises, Mr Malcolm advised that the conditions proposed by the noise team should prevent nuisance occurring in future, but that if problems did continue then local residents could apply for a review of the licence against the licensing objectives. In response to a question from residents on how extended hours could be applied for when the premises had previously been found to be in breach of the conditions of the existing licence, Ms Barrett explained that a licence variation could legally be applied for at any time. A local resident asked whether any survey had been carried out to assess the building's suitability for music in respect of sound insulation and vibration. Mr Malcolm confirmed that no survey had been carried out and that it was not a requirement that such a survey be carried out. Mr Malcolm noted that it was a proposed condition, however, that no noise or vibration should be experienced outside the premises and that a survey may be a consideration for the Committee as a means of addressing this.

In response to a question from the Committee, it was confirmed that the noise team made the assessment of the noise from the premises in order to determine whether it constituted a statutory nuisance from within nearby residences.

The objectors explained that they objected to the application to vary the licence on the grounds of crime and disorder and public nuisance, as local residents were currently experiencing loud noise and vibration from the premises on a very regular basis, which disturbed their sleep. Objectors reported that customers caused a great deal of noise on arrival and at the front and back of the premises, and that children living nearby were being woken up and frightened by noise from the premises. Residents reported that the premises was based in an old building, with no acoustic insulation, making it inappropriate for loud music. One objector reported that tenants of the property he owned had complained on a number of occasions and had moved out as a result of disturbance from the premises. It was also reported that customers of the premises used the back alleyway to smoke, which blocked access to the alley at night. Residents reported that they supported local businesses, but not at the expense of the local community, and that they objected to any extension of the operating hours of the venue, as this was not appropriate to a residential area and would disturb the local community.

In response to concerns raised by local residents that the statutory notices regarding the application had not been posted in a visible place, Ms Barrett reported that when the Council had become aware that the notice had been sited too high, the notice was moved to a lower, more visible, position and the consultation period of 28 days had been re-started from the date that the notice was moved.

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The Committee asked how objectors were sure that the noise disturbance they were experiencing emanated from the premises in question, and local residents replied that they were able to tell by sight that the noise was caused by customers of the premises. In response to a question of clarification by Ms Joyce Golder, Legal Officer, local residents reported that there were no other premises in the area that could be the source of the disturbance, although residents had referred to a terrace at the premises, which did not have any reported outside areas. In response to a question from the Committee about the nature of the noise, residents reported that the noise was not constant, but that they were woken up early in the morning by sudden occurrences of noise, sometimes at 2 or 3am. One resident confirmed that he was disturbed by noise from the premises, despite having a hearing impairment.

The applicant addressed the Committee and apologised for any inconvenience the premises may have caused local residents. She reported that the premises was intended to attract an older clientele, that door staff would be employed to ensure that all customers entered and left the premises quietly and that all the recommendations put forward by the Council's noise team in the report had been accepted and would be put in place. The back door to the premises would be kept closed, and customers were not permitted to use the back alley for smoking. The applicant confirmed that there was no balcony, terrace or garden area at the premises, and that noise from local residents' private parties were being attributed to the premises incorrectly. The applicant stated that she would like to work with the local community to ensure that no nuisance was caused in future, and reported that the premises was under new management from before.

In response to a question for clarification from Ms Golder, the applicant confirmed that she had been the licensee since August 2007, but that she employed premises managers.

Ms Barrett advised the Committee that the premises had used temporary event notices (TENs) to hold events in 2009, but that the maximum number of 12 TENs had been reached for the year, as each event counted for 2 TENs. TENs would permit music to be played at the premises even if this was not covered by the premises licence. In response to a question from Mr Malcolm, the applicant reported that she had not initially been aware that her licence did not permit music, but that as soon as she had become aware of this, TENs had been applied for to cover events at the premises.

In response to a question from local residents regarding the hours applied for, the applicant reported that other local venues closed at 0200hrs, and that by staggering the closing times and staying open later, it would reduce the number of customers coming out of different local venues all at the same time. The applicant reported that the premises would operate in a different way from other local venues, and that her customers might wish to stay out late in order to listen to jazz music. Local residents asked about the disturbances that had been caused in

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the past, and the applicant reported that these had been caused by private parties, which the premises was looking to move away from. The licensee confirmed that live music would be played at the venue once or twice a month, and that the double-doors to the venue would be kept closed during any live music performance.

In response to a question from the Committee about customers smoking at the back of the premises, the applicant reported that customers were not permitted to use the back of the premises, but that other local residents might be using that area to smoke. The applicant confirmed that music had only been played at the premises in recent months at private functions when TENs had been applied for. The Committee asked whether the applicant had been aware of the noise nuisance caused by the premises. The applicant responded that she had not been aware of the disturbance caused or she would have addressed the issue. In response to questions from the Committee, the applicant reported that she had experience of running a venue from working with her father, but that she had originally not been aware of the full implications of the statutory notice served by the noise team, as she had not handled these issues before.

The Committee asked how the concerns raised in the notice served had been addressed, and the applicant replied that she had given instructions that music at the premises was not to be played loudly, and that only the in-house sound system should be used, and the sound level limited. Any hire of the premises for private functions would be vetted, to ensure that they complied with this. The applicant confirmed that she had not been present at the time when the fixed penalty notice was served, as the premises had been under the designated premises supervisor. In response to a question from the Committee regarding the nature of the premises, the applicant confirmed that it would be a wine bar and eatery with music, and not a club.

In response to a question from Ms Golder regarding the nature of the music to be played at the premises, the applicant reported that generally it would just be background music, but that she wanted the facility to have performances by live bands and parties. The applicant reported that she was willing to reduce the applied for opening hours and hours for the provision of regulated entertainment, recorded music, late night refreshment and sale of alcohol as follows on Thursdays and Sundays:

Thursday	1100 – 0000
Sunday	1200 - 2200

In response to further questions from the Committee, the applicant confirmed that most customers would walk to the premises, but that taxis would be called for any customers requiring them and that doormen would ensure that customers waited for and entered the taxis quietly. The applicant confirmed that she was not aware of any issues regarding public urination in relation to customers of the premises.

In conclusion, Mr Malcolm reported that the current operating schedule

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did not adequately address the issue of noise nuisance, but that the applicant had confirmed that they would comply with the conditions proposed by the noise team. The objectors concluded that they still objected to the application for a variation of the licence as the nature of the building and the area meant that loud music was not appropriate, and the late hours applied for did not appear consistent with the nature of the business that the applicant stated she wished to operate and would cause disturbance to local residents. The objectors felt that this licence would not enhance the local community and opposed the application. The applicant reported in conclusion that she had taken on board the comments made by the local authority and local residents, that she would comply with the conditions proposed and would do her best to ensure that the premises did not cause a nuisance and did not disturb local residents.

RESOLVED

The Committee considered the representations of the responsible authorities, local residents and the applicant, as well as the licensing objectives and was mindful that this case had a particular emphasis on public nuisance, namely nuisance generated as a result of noise from the premises.

The Committee took on board the issues affecting those individuals and families located near to the premises, especially those where young children reside.

The Committee had been addressed by the responsible authority, namely the noise team, on how they felt noise nuisance could be minimised and felt the noise could be minimised by the imposition of the conditions set out in pages 35 - 37 of the report, which the Committee noted had been accepted by the applicant. The Committee added the conditions proposed by the applicant in the operating schedule, and added further conditions to those, namely that the licensee shall appoint a noise consultant registered with the Institute of Acoustics or Association of Noise Consultants to prepare a scheme of sound insulation and noise control measures, which may include the installation of a noise limiting device, to prevent persons in the neighbourhood from being unreasonably disturbed by noise of music or vibrations from the premises. The scheme shall be submitted for approval by the Council and the licensee notified in writing accordingly, prior to the premises being used for music and dancing. In addition, two SIA registered door supervisors shall be employed on Friday and Saturday, from 2100hrs to 0200hrs.

The Committee further allowed the variation of the premises licence but reduced the hours to:

Opening hours:

Sunday 1200 – 2200
Monday – Thursday 1100 – 0000

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	<p>Friday – Saturday 1100 – 0200</p> <p>In relation to the Supply of Alcohol, Late Night Refreshment and Live and Recorded Music, these licensable activities shall cease 30 minutes before closing time, namely:</p> <p>Sunday 2130 Monday – Thursday 2330 Friday – Saturday 0130</p> <p>The Committee would encourage the noise team to be vigilant with ensuring the applicant complies with her responsibilities under the Licensing Act, especially in relation to noise nuisance and would encourage local residents to keep a watchful eye and contact the noise team should they have cause to do so, and they are reminded of the opportunity to review this license at any time once it is in use by the applicant. Please remember that the applicant cannot use the premises licence until she has implemented the scheme approved by the noise consultant, to the satisfaction of the Council.</p> <p>The Committee also reminded the applicant that all doors and windows are to be kept closed while music is playing, as provided in the operating schedule.</p> <p>The meeting closed at 21:40hrs.</p>	
<p>LSCA20.</p>	<p>ITEMS OF URGENT BUSINESS</p> <p>There were no new items of urgent business.</p>	

Cllr Jayanti Patel

Chair