

# **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 .....