

MINUTES OF THE LICENSING COMMITTEE (2003 LICENSING ACT)
06 June 2006, 6pm start

Councillors: Beacham*, Bloch, Demirci*, Dobbie, Lister, Mughal, Patel (Chair)*, Peacock (Vice-Chair), Reid*, and Vanier*.

* denotes members present

LC01 APOLOGIES FOR ABSENCE (Agenda Item 1):

Apologies were received from Councillors Lister, Mughal, and Peacock.

LC02 URGENT BUSINESS (Agenda Item 2):

No items of urgent business were received.

LC03 DECLARATIONS OF INTEREST (Agenda Item 3):

No declarations of interest were received.

LC04 MINUTES (Agenda Item 5):

RESOLVED

That the minutes of the Special Licensing Committee on 8 May 2006, and the Special Licensing Committee on 25 May 2006 be agreed by the Committee and signed by the chair as a true and accurate record of the hearings.

LC05 MINUTES OF LICENSING SUB-COMMITTEE (Agenda Item 6):

RESOVLED

That the minutes of the Licensing Sub-Committee C on 24 January 2006 be signed by the Chair as a true and accurate record of the hearings that he attended but took place under the remit of the Licensing Committee (and its sub-committees) 2005/6.

LC06 ESTABLISHMENT OF LICENSING SUB-COMMITTEES (Agenda item 7):

The joint report of the Head of Member Services and the Monitoring Officer was presented by Terence Mitchison, Senior Lawyer, who stated that the purpose of the report was to establish three Licensing Sub-Committees to conduct the majority of licensing hearings, to provide for the appointment of substitutes and to amend the Local Procedure Rules on the late evening time limits for hearings.

Mr Mitchison made the following recommendations for the Committee:

- (i) To note the terms of reference of the Licensing Committee in Part E.7 of the Council's Constitution attached as Appendix 1 to the report.
- (ii) That Members agree the establishment of three Licensing Sub-Committees with the membership set out in Appendix 2 to the report.

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- (iii) That Members confirm the terms of reference of the Licensing Sub-Committees in Part E.7 of the Constitution attached as Appendix 3 to the report.
- (iv) That Members confirm the delegation of power to the Head of Member Services, in consultation with the Chair of the Committee, to appoint a substitute Member of a Licensing Sub-Committee from among the Members of the Committee when the permanent Sub-Committee Member is unable to attend for any reason and request full Council, through the General Purposes Committee, to amend Part F.7 of the Constitution as set out in Appendix 4 to the report.
- (v) That Members agree to amend the Local Licensing Procedure Rules so as to provide for late evening time limits for hearings and request full Council, through the General Purposes Committee, to amend Part C.9 of the Constitution as set out in Appendix 5 to the report.
- (vi) To note that hearings are governed by the Local Licensing Procedure Rules and the relevant Regulations on hearings but the Council Procedure Rules in Part E.8 of the Constitution do not apply.
- (vii) To note that the other business of the Committee, except for hearings, is governed by the Council's Procedure Rules (Council Standing Orders) but excluding CSO 43(4) on Substitutes.

RESOLVED

That the Committee agreed to all of the recommendations outlined in the Report.

LC07 APPLICATION FOR A GRANT OF SECTION 34 GAMING PERMIT (Agenda Item 10):

The Licensing Officer, Daliah Barrett, presented the brief report to allow 3 or more machines at the premises of The Tollgate, 26-30 Turnpike Lane N8, and New Moon, 413 Lordship Lane N17. The Senior Lawyer, Mr Mitchison, clarified to Committee Members what the legal position in relation to the grant of permits for amusements with prizes under the Gaming Act 1968.

RESOLVED

That the Committee agreed to the grant the application as asked.

LC08 STREET LIFE FESTIVAL, Finsbury Park N4 (Agenda Item 9):

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RESOLVED

That the Committee agreed to grant the application subject to the following conditions:

- (i) The mandatory statutory conditions under sections 19 and 21 of the Licensing Act 2003.

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- (ii) That the licence holder complies with the provisions of the Operating Schedule and Event Management Plan unless varied in advance with the written agreement of the Licensing Authority.
- (iii) That alcohol shall only be sold to individuals able to produce valid proof of age by means of a:
 - Passport
 - European Union Photo Driving Licence
 - Proof of Age Standard Card, or
 - Home Office Citizen Card
- (iv) That the Council's requirements on food stalls at outdoor events are complied with.
- (v) That all persons working with children are subject to satisfactory CRB checks.
- (vi) That food outlets be supplied with fire extinguishers and subject to fire checks.
- (vii) That site monitors must ensure that there is no dangerous equipment or other hazards.
- (viii) That the schedule of special conditions attached to the Report be complied with (*see appendix one of the minutes*).
- (ix) That the Fire Show shall finish no later than 22:00.

LC09 STAR BAR, 18-20 PARK ROAD N8 (Agenda Item 8):

The Licensing Officer, Daliah Barrett, presented the Report to the Committee outlining the details about the timings applied for in the application compared to those hours permitted by their current license. Ms Barrett, also highlighted to the Committee details about the premises in relation to information gathered from the Licensing Service, surveyors, and a scientific office in relation to noise complaints. This information was included in detail in the Report before Committee Members.

The Chair invited the Noise Team officer, Derek Pearce, to address the Committee. Mr Pearce confirmed to the Committee that there had been up to three noise abatement orders taking against the licensee of the premises, and that since these, there had been a subsequent four records of noise nuisance emanating from the premises, although this represented a slight improvement on previous records. The Committee heard from Mr Pearce that a number of officers from the Noise Team had visited the premises, and that despite the measures being suggested by the Scientific Officer on noise reduction, he felt that the current situation constituted a noise nuisance. He also stated that the last visit by a Noise Team officer was on Friday 2 June 2006, when loud music was clearly observed in the living room of the neighbours who occupied the flat above the premises. This particular visit took place between 12:50am and 01:05am and was considered to be a hindrance to sleep and intrusive to the neighbours. The Committee heard from the Haringey Council Legal Representative, Terence Mitchison, that this was unlikely to be a contravention of the 1998 Human Rights Act, but that it could be considered under the public nuisance objective of the Licensing Act 2003.

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An objector to the application, Ms S Barlow, asked Ms Barrett if the licensee was licensed to have table and chairs outside of the premises, and if the audio speaker sizes had been reduced. Ms Barrett responded that there was no license to allow this at present, as far as she was aware, and that a street traders' license would need to be obtained. In response to the speakers, Mr Pearce replied that the speaker sizes had in fact been reduced, despite this being stated as not done in the Report, but that he was not sure if they now adequate for the size of the premises given that there had a noise nuisance issue more recently.

The Chair invited the Objectors to the application to address the Committee. A statement was read out by Ms Barlow outlining the main issues of the objection that were contained in the letters which were included in the Report. Ms Barlow stated that issues relating to floor levels (sound softeners) had been used as a diversion to the issue of noise nuisance. There had been complaints from six other neighbours in the vicinity of the premises relating to noise and the licensee's alleged disregard for neighbours' concerns. There had also been problems caused by smoke penetrating through the roof of the premises into the flats above it. Ms Barlow stated that crime and disorder had also been an issues caused by the premises because she and other had felt unsafe by the anti-social behaviour displayed by patrons of the premises.

Another objector to the application, Tom Walters, addressed the Committee stating that his sleep had been disrupted by the noise emanating from the premises into his flat which backs on the premises, and the smell of cigarettes penetrating into his bedroom. Mr Walters highlighted however that there was no evidence of this because Haringey Council had not recorded his complaints. Mr Walters referred to tables and chairs outside of the premises which also contributed to disturbances. He informed the Committee that the licensee had organised a *DJ House Music* event on Friday 26 June 2006 which finished at 03:00 the next morning and the flyer advertising this event had been sent to the Licensing Service. Miss Barrett confirmed that the Licensing Service had processed a Temporary Events Notice for this particular event, but it had received o objections from the police; this was despite pending noise prosecutions. In response to questions from Committee Members, Mr Walters stated that he could see and hear patrons of the premises from his windows and had witnessed fighting in his door way which is next to the premises. Although he could not attribute the sight of vomit and urination to patrons of the premises, he had witnessed in the vicinity of his flat.

Committee Members continued to question the objectors. Miss Barlow did not accept that the floor in her flat had been lowered, stating that work had been undertaken to restore it to the previous state, after a dispute with the previous licensee. She referred to a letter from the Freeholder of the premises and her flat which explained what had been done; namely than the current floor levels were at the same levels of high installations, but that noise nuisance continued to penetrate through it such was the level of noise. The Committee heard from Alex Wallace, objector, that there had been alterations to certain sections of the flooring to the flat above the premises throughout the 24 years

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of their occupancy by the Wallace family. However, Mr Wallace stated that a surveyor of the works carried out had confirmed that for enough sound installation to be added for maximum affect, it would reduce the size of the premises to an inoperable size.

The objectors were asked if they would be appeased by conditions to prevent noise nuisance to which the unanimous response was that although this would be ideal, it was largely unattainable because of the fabric of the building which allows music to penetrate through walls and ceilings. Given that the noise continues into the night, any noise prevention conditions would not be effective. In addition, Mr Walters stated that it was the penetration of cigarette smells through the floor boards that was a major problem too, especially during the weekends when the bar is open – and that this was not because windows are left open. Mr Walters also confirmed that he had seen tables placed outside of the premises on most Friday and Saturday nights and remained there until later hours.

Ms Barrett confirmed to the Committee that the licensee that applied for 4 or 5 Temporary Event Notices (TENs) over the previous six months, and that as a personal license holder, the licensee was entitled to up to 50 TENs per year, although only 12 per premises.

The Chair invited the applicant to address the Committee. Ms Jane Michaels, representing the applicant, stated to the Committee that no tables had been left outside of the premises late at night, and that tables were provided for a month during the hot weather in the daytime. She also informed the Committee that the licensee had applied for TENs on all of the occasions when late night events had occurred. In response to objectors' concerns about cigarette smoke penetrating from the premises through the floor, Ms Michaels referred the Committee to a letter from Mr Fred Robotham, Scientific Officer to the licensee on 10 April 2006 who wrote that he "...caught a whiff of what could have been tobacco smoke when entering the front bedroom, but it went quickly..." whilst on a visit to the property above the premises. Ms Michael later attributed this smoke to that generated by fumes from the roadside.

Ms Michaels also stated that she was not aware that flooring in the property above the premises had been re-instated to its original level, but that a 146 Notice had been served to the tenants relating to this matter. Ms Michael stated that reports from the objectors of alleged anti-social behaviour occurring outside of the premises were completely untrue, adding that there had been no fights, and that door supervisors had never witnessed fights and the police had never been called.

In relation to noise, Ms Michael stated that complaints to the noise team are not always investigated and that on one occasion of a complaint to the noise team, the premises were not open. Ms Michael, with reference to the letters of objections contained in the Committee's Report, stated that the addresses of some of the complainants were not near enough to the premises to be affected.

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The Committee heard that a report on noise survey at the premises was conducted on 2 July 2002 by Shaun Murkett Acoustic Consultants Ltd in response to complaints from residents who lived above the premises at the time. The Committee largely agreed that the findings of this report of 2002, should be considered out-dated. In response to a question asking if the licensee had ever invited any of the objections to discuss the problems, Ms Michaels replied that the licensee had invited Ms Barlow to speak to him if there had been any problems, but that she had declined to do so but continued to make complaints against him and the premises. Ms Michaels confirmed that the licensee had not witnessed the noise and smells himself from the property above the premises.

During a round of questioning, the Committee sought to establish whether the complaints lodged to the noise team corresponded with the dates and times of TENS that had been granted to the licensee but this information was not available and thus could not be confirmed at the hearing. Ms Barrett highlighted that the recommendations contained in the Shaun Murkett Acoustic Consultants Ltd Report of 2002 did not highlight or recommend the level of the flooring to the property above the premises as an issue for concern. Ms Michaels informed the Committee that she and the licensee were unaware that a license was needed for the provision of tables outside of the premises. Ms Michael also confirmed that the sound system used in the premises had been reduced in size from its previous size and that six to eight speakers were now used after a contractor had been brought in to deal with this. Sound proofing had also been installed as per the Shaun Murkett recommendations. Ms Michaels also confirmed to the Committee that she or the licensee had not seen if the floors in the property above the premises had been put to their original levels. In response to a question from an objector, Ms Michael stated that she was not aware that planning permission was required for the premises. She also noted that a majority of the complainants to the application resided on the same road (Park Road), but stated that some of them did not reside near to the premises.

In summation, Ms Barrett asked the Committee to have regard to the Shaun Murkett Report and comments from the noise team. Ms Michael re-iterated that the licensee deserved to be granted the extended hours applied for because he had great concern for the protection of children and harm and was therefore running a decent family business. She stated that the licensee was being "picked on" by the same complainants despite having tried to work with them. The objectors collectively summed up by re-iterating that the noise nuisance at present infringed on their quality of lives, adding that 3am closures in Crouch End were unnecessary.

RESOLVED

That the Committee decided not to grant the application. This decision was based on the following grounds:

- (i) it was felt that any extension of hours would contribute to further public

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nuisance in the form of noise.

LC10 Urgent Business

None.

The meeting ended at 22:00.

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Councillor JAYANTI PATEL
Chair of the Licensing Committee 2006/7

Date.....