

**MINUTES OF THE LICENSING SUB COMMITTEE B
MONDAY, 18 JUNE 2012**

Councillors Beacham, Brabazon and Demirci (Chair)

Also Present: Councillor Reith

MINUTE	SUBJECT/DECISION
PRCE42. APOLOGIES FOR ABSENCE	There were no apologies for absence.
PRCE43. URGENT BUSINESS	There were no items of urgent business.
PRCE44. DECLARATIONS OF INTEREST	There were no declarations of interest.
PRCE45. MINUTES RESOLVED	That the minutes of the meeting held on 30 April 2012 be approved and signed by the Chair.
PRCE46. SUMMARY OF PROCEDURE NOTED	
PRCE47. MARKFIELD ARTS LTD, 100-108 MARKFIELD ROAD, N15 4QF	<p>The Licensing Officer, Daliah Barrett, presented the report on an application by Abhishek Beltharia for a new premises licence at Markfield Arts Ltd, 100-108 Markfield Road, London N15 4QF. Ms Barrett advised the Committee that the representation made by the police in respect of this application had subsequently been withdrawn, but that representations had been made by Environmental Health, Building Control, the London Fire and Civil Defence Authority and from a number of interested parties. It was confirmed that, subsequent to the report being produced, the applicants wished to reduce the capacity sought from 2,000 to 850 persons.</p> <p>Derek Pearce, Enforcement Response, addressed the Committee in respect of the representation made by Environmental Health and raised the following points in his presentation and responses to questions from Members:</p> <ul style="list-style-type: none">• The application did not address the issue of noise nuisance being caused to nearby business units; as a result, wording relating to nearby industrial property had been proposed in respect of the condition relating to sound

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limits.

- Environmental Health recommended that all doors and windows should remain closed during use from 11pm to 10am, when relevant. Mechanical ventilation was recommended in order to address ventilation issues.
- In order to protect residential properties, it was included in the operating schedule that sound limits be managed at the premises such that noise was inaudible at the boundary of residential properties. The specific concern of Environmental Health was that no such proposal had been made in respect of industrial units, which was why appropriate wording was being proposed in their representation.
- The applicants requested a specific dB level to work to, as this could be managed more easily than the subjective definition of 'inaudible'. Mr Pearce agreed that this could be looked into, but would require an assessment of the existing background noise levels. It was emphasised that the essential principle had to be that of inaudibility. A set dB level was not set for most premises, as most did not have acoustic engineers on site.

The Fire Officer addressed the Committee, and raised the following points in respect of their representation and in response to questions asked by the Committee:

- The main concerns were identified as the capacity of the venue and that the risk assessments produced were not suitable for the nature of the vents proposed.
- While the capacity sought had been reduced to 850, it was still felt that this was excessive for the widths of the premises exits and that, until further plans to address this were submitted, the Fire Authority would recommend a maximum capacity of 450.
- With regards to the lack of risk assessments specific to different event-types, the applicants had confirmed that this was an issue that would be addressed.
- In order to increase the safe capacity of the building, the Fire Officer confirmed that there would need to be an increase in the number of exit routes from the building.
- In response to a question regarding access at the rear of the premises by turning left, the Fire Officer confirmed that exiting via this route would require negotiation regarding access with a neighbouring property, and this was therefore not being considered as an exit option at this time.
- The Fire Officer confirmed that they would expect a comprehensive risk assessment to take into account the nature of neighbouring businesses, and issues such as the presence of LPG containers in the adjoining yard.
- The Fire Officer confirmed that their main concern was regarding people getting out of the building safely; other issues would be covered by a management strategy.

Cllr Lorna Reith, Ward Councillor, and a number of local residents and businesses addressed the Committee in objection to the application and raised the following concerns:

- The premises was situated on a busy road used by commercial premises throughout the night. Concerns were expressed about people who might be turned away from the venue congregating in this road, close to

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commercial vehicles.

- Concern was raised regarding the proximity of the venue to schools which ran early-morning activities, and the risk of people leaving the premises at the same time as pupils were arriving at school.
- Concerns were raised regarding noise controls at the premises, as residents had been disturbed by noise during previous events held under TENs – with issues such as people coming and going from the premises and standing outside to smoke and take phonecalls, it was felt that it would not be realistic to control noise levels. Previous events had been clearly audible from Yarmouth Road and Keswick Close.
- In response to questions from the Committee, Cllr Reith confirmed that she had been able to hear music from the event at 7am when she had opened her window. Residents on Yarmouth Close had reported that noise had been audible even through closed windows, and that it would not have been possible for them to sleep, had their windows been open.
- It was confirmed that, although not an official walking route to the nearby schools, pupils did use the road past the premises to reach Gladesmore School.
- Residents agreed that, if noise from the venue was no louder than background levels, there would not be an issue, but this would have to be at a very low level.
- The applicants clarified that the hours applied for were such that there would be no overlap between patrons of the premises and school opening hours – it was only on Bank Holiday Mondays that the premises would seek to be open through until Monday morning, every other Sunday the premises would close at midnight.

It was confirmed that the opening hours being applied for should read as follows:

Sunday to Thursday: 0900 to 0000

Friday and Saturday: 24 hours

- Objectors raised concern regarding the proximity of the premises to Markfield Park, as there had been issues with antisocial behaviour in the park in the past. The premises would have limited control over the behaviour of people outside the venue and there was a concern that this would lead to a recurrence of antisocial behaviour and the public perception of the park and wider area.
- It was felt that the premises would make it difficult for businesses to operate in the local area, and complaints regarding litter had been received after the previous events. There were also concerns regarding the 24/7 nature of neighbouring businesses, and health and safety concerns both in respect of the proximity of people attending the venue throughout the night to commercial vehicles, and in respect of staff arriving at and leaving their businesses late at night or in the early hours of the morning, when there was potentially a large crowd of people in the area associated with the premises.
- It was confirmed that there were a number of 24-hour businesses operating in the area and that business owners may need access to their premises at any time, regardless of their hours of operation. Were access compromised for the owners, their customers or their suppliers, there was a risk that these businesses may relocate.

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- It was felt that there were not sufficient control measures on the road itself; there had been issues previously in respect of security and parking and it was not felt that adequate control measures could be put in place to mitigate the risks.
- A previous premises of a similar nature had led to security issues in the past and had also affected access to nearby businesses. There were concerns that this application would lead to recurrence of these issues.
- It was reported that at previous events, night-shift staff at nearby businesses had encountered problems with people trying to break into the premises and exhibiting threatening behaviour, as well as littering. Drivers of HGVs had been concerned regarding the safety of people standing in the street, as it was not always possible to see where people were.
- Local businesses confirmed that they had complained to the Council and the police regarding previous events held under TENs.
- Concerns were raised in respect of health and safety, due to the nature of the materials stored in the property adjacent to the premises as well as the proximity of the railway. There was felt to be a lack of safe access, particularly as neighbouring businesses required access to their properties throughout the night, including the use of HGVs.
- It was felt that regardless of the intentions of the applicant, it would be difficult to control the behaviour of patrons.
- The premises was located in an industrial area, and was not suitable for entertainment of this nature.
- Concern was expressed that, while the applicants professed to be an arts organisation they were limiting access to the premises to over-18s only by the nature of their events; concern was expressed in respect of the business model as set out on the Abitance webpage, and the impact of patrons leaving the premises at the times proposed.
- Artists who worked in units on the site operated at all times during the day and night, and concerns were raised regarding people's safety coming and going if the premises were operating as proposed.
- Concern was raised regarding the lack of public transport in the vicinity of the premises, and how those attending events would get to and from the site.
- There was a concern that the premises would have a negative impact on the area.

In response to questions from the Committee, it was reported that during a previous event, two large vehicles had been called out on Sunday morning and had difficulty getting into the depot, and had then had to drive out very slowly, guided by security staff, due to concerns regarding a crowd of people in the road. It was confirmed that this was at 6am.

The applicants addressed the Committee and made the following points:

- They were not intending to operate as a nightclub, but an arts organisation with a whole range of events, including some music events. Music events would not be held every night.
- They had reduced their capacity in line with guidance from the Fire Officer.
- It was intended to work with nearby businesses, the local authority and police to resolve any issues; the building had been chosen as it was felt it would be possible to run events without causing a nuisance to others.

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- The applicants had run many successful events without problems, and were willing to undertake acoustic tests to ensure that there were no issues.

In response to questions from the Committee, the applicants gave the following responses:

- The applicants described the events held under TENs as varied in nature, but all had been positive and with no incidents. It was confirmed that without a premises licence, it was not possible for them to run exhibitions for a full week or ten days.
- The applicants hoped that, as other aspects of the business grew, there would be a reduction in the number of music events, as these were intended to raise funding. The licence sought would enable events to be held weekly, and it was possible that events would be run on this basis to start off. Were the venue hired out for use by a film production company, as was intended as its primary use, there would be no events for the duration of the hire period.
- The applicants confirmed that they had experience working in a range of venues and locations and with production companies, and did not consider the nature of events proposed to be challenging.

In response to a question from the Committee, the meeting was adjourned for 10 minutes to allow officers to clarify with the applicants the hours being applied for.

It was confirmed that the hours applied for were:

Late Night Refreshment:

Sunday to Thursday: 2300 to 0000
Friday and Saturday: 2300 to 0500

Supply of Alcohol:

Friday: 2000 to 0300
Saturday: 2000 to 1000

It was confirmed that a Late Night Refreshment licence was not required for the provision of hot food after 5am.

- The Committee asked about the concerns raised by the Fire Officer in respect of the risk assessment supplied, and that fact that this document was marked up as 'first draft'. The applicants confirmed that they had employed a fire management consultant to review the documentation and make the necessary improvements.
- In response to concerns raised by local residents, the applicants denied that the littering reported was a consequence of their events, as they had personally helped to clean up after each event.
- The applicants confirmed that they had submitted an appeal in respect of the previous refusal of planning consent, and advised that they would enter into a waste contract once a licence were granted, as there would be no requirement for such a contract until they had obtained a licence.

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- It was confirmed that all events held would be invite-only private events, so attendance numbers would be known in advance. In light of the advice from the Fire Officer, the number of invites issued would be amended to ensure that safe capacity was not exceeded. It was confirmed that 2,000 had originally been applied for in order to maximise the flexibility of the business.
- The applicants advised that they had written to nearby businesses in advance of submitting their application, but acknowledged that in future it may be better to visit them in person to discuss any issues.
- The applicants believed that the location of the premises was suitable for a business of this nature, and wished to create a legal, properly-run space for events.
- It was expected that most people would arrive at the venue by means of public transport, and the events held so far had not led to any traffic management issues.
- The applicants confirmed that they would abide by the measures proposed by their fire management consultant in order to improve arrangements for managing fire risk.
- The applicants accepted that they were not fully aware of the nature of neighbouring businesses, and agreed to speak with business owners to get a better understanding.
- The applicants advised that they had not undertaken as much of their core arts work as they would have wished, but were now in a position to develop this side of the business. It was confirmed that the building contained permanent exhibition space, and that they had run instrumental workshops and were happy to provide further information on any of these events.
- In response to a question around trance events, it was confirmed that the demographic of people attending such events was small, and amounted to around 2,000 people in the country. Depending on the promoters and acts employed, those attending would be a known group of people.

In summing up, Ms Barrett advised that any traffic management measures would need to be undertaken by the Highways department. As a multi-use venue, there would be a need to address the issue of medical support available, dependent on the nature of the event being held. It was confirmed that activities such as set-building, etc, would not be governed by licence.

The Fire Officer advised that their objection stood, until further documentation was received with regard to fire risk management.

Objectors confirmed their concerns regarding overspill of people outside the venue, public safety, the negative impact on local businesses, the unsuitability of the location, fire risk, lack of public transport and the risk of antisocial behaviour.

The applicants confirmed that they had taken on board all the comments made and had engaged a fire consultant to look at some of the issues. They reported that the events so far had been well-run and no issues had arisen, and they believed that if granted a licence there would continue to be no problems and the venue would be well-managed. The applicants confirmed that they would work within the conditions on their licence to prevent any issues arising; the management team had the experience to run the venue properly and

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successfully, and wanted to develop a good relationship with local businesses.

RESOLVED

The Committee carefully considered the application and all the representations, the Council's Statement of Licensing Policy and section 182 of the guidance, and it was the Committee's decision that on this occasion it would not grant a premises licence. The Committee considered the possibility of granting a premises licence and imposing a number of conditions, however based on the questions asked of and the answers given by the applicant, the Committee were not convinced that the applicant had fully and properly considered the responsibility of the Licensing Act 2003.

Safety

The Committee heard and expressed concern at the fire safety officer's objections that appropriate, clear and safety-orientated arrangements had not appeared to have been put in place by the applicant. It was clear from the documents provided in advance of tonight's hearing that the fire authority still had outstanding concerns and serious reservations in relation to fire safety at the premises. The applicant, in advance of tonight's committee, should have ensured that the concerns were dealt with rather than attend tonight without a properly detailed fire safety plan.

Public nuisance

Local residents also provided examples of public nuisance, specifically noise nuisance, littering and anti-social behaviour. The Committee had no confidence that the applicant had given clear thought to these concerns and how to allay residents' fears.

An applicant must show resolve and commitment to the Licensing Act 2003 and meet any outstanding concerns, and the committee did not feel that the applicant had shown this. The applicant is entitled to reapply at a later date. However, the Committee would encourage the applicant to seriously consider all the issues and concerns raised by the residents, local businesses and responsible authorities before doing so.

PRCE48. OBJECTION TO TEMPORARY EVENT NOTICE AT THE PAVILION, 185A PARK ROAD, LONDON N8

The Licensing Officer, Dale Barrett, presented the report on an objection made by Environmental Health to a Temporary Event Notice (TEN) at The Pavilion, 185A Park Road, N8. As a consequence of the recent Police Reform and Social Responsibility Act, Environmental Health were now a responsible authority with the ability to lodge objections to TENs.

Derek Pearce, Enforcement Response, outlined the objection to the TENs application for the 30th June, for the provision of alcohol and regulated entertainment between 0000 and 0400. Mr Pearce made the following points:

- The specific concern was the Regulated Entertainment aspect of the application, as there was a background of noise complaints associated with the premises, particularly in relation to an event held on 26 May 2012.

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- On 26 May, complaints had been received in respect of music being played in the ground floor being audible outside the premises.
- It was felt that such events should not take place until the applicant had worked with the Council to protect local residents from noise nuisance.

In response to questions raised by the Committee, Mr Pearce made the following points:

- The measures suggested to address the issues raised would be sound-proofing, and addressing the issue of noise escape from the doors opening and closing, ideally by means of a lobby door.
- It was confirmed that it would be difficult to make the necessary changes in advance of the proposed date for this TEN.
- Without the issues being resolved, concern was expressed regarding the proposed time of 000 to 0400 as this was a particularly noise-sensitive time and, were the music at a similar level to previously, there would be an expectation of complaints.

Peter Mudahy addressed the Committee on behalf of the applicant, Mr Cornelius, and made the following points:

- The event had been running for three years, once a month, but in recent months there had been negative information circulated to residents about the event, encouraging people to make complaints.
- This was the applicant's sole source of income, and was an event catering to an older, respectable clientele, who respected the residential nature of the area. 20 employees relied on income from the monthly events.
- This was a well-managed, ticket-only event, which the community looked forward to each month.
- It was felt that the complaints being made were only as a result of the letters being circulated against the event; whereas the event had been running for three years without problems.
- It was acknowledged that improvements could be made to the fabric of the venue, and discussions were taking place with the premises owner regarding this, but there were no issues in respect of the way the event itself was managed.

In response to questions from the Committee, the applicants advised that they did turn the music down when requested in order to manage noise, and were looking into the possibility of a device to minimise the escape of noise.

Ms Barrett advised that Committee that, were they to grant the application, they had the ability to apply a condition from the main premises licence to that permission, or to add a new condition.

Mr Pearce advised that, were the application granted, he would wish there to be a condition attached in respect of protecting nearby noise-sensitive residences from noise nuisance, although his recommendation would remain that the application for a TEN be refused.

Mr Muhady concluded by saying that the applicant was reliant on revenue from this event, which was welcomed by the community as an opportunity to relax with food, music and friends once a month. The event had been running for 36 months in a row, and the Committee was asked to give the applicant the opportunity to

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continue with it.

RESOLVED

The Committee carefully considered the application, the representation from Environmental Health, the Council's Statement of Licensing Policy and section 182 of the guidance, and it was the Committee's decision to allow a temporary event notice for the 30th June, but only on the following terms:

- 1) That the hours of the event will be from 0000 to 0300.
- 2) That the applicant is to keep a log of complaints and a contact person is to be on site to deal with any complaints that may arise.
- 3) That the applicant take steps to ensure that no music played in the licensed premises is audible at or within the site boundary of any residential property.

As an informative, the Committee would like to stress that it is the applicant's responsibility to adhere to the terms of the TEN and ensure that necessary arrangements are made to control noise nuisance.

PRCE49. ITEMS OF URGENT BUSINESS

There were no items of urgent business.

The meeting closed at 23:15hrs.

CLLR ALI DEMIRCI

Chair