

## Decision Notice

### **Application (1) by the Licence Holder for Variation; and (2) by the Noise Responsible Authority (“NoiseRA”) for Review; of a Premises Licence at Chez Nicky, 295 West Green Road London N15.<sup>1</sup>**

The Licensing Sub-Committee (“the LSC”) carefully considered both the above application.

In considering the application, the LSC took account of the Licensing Act 2003 (“the Act”), the Revised Guidance issued under section 182 of the Licensing Act 2003 in February 2025 (“the section 182 guidance”), the Haringey Statement of Licensing Policy 2021-2026, the report pack, and representations from the applicant and objectors.

The Variation application (pp9-23) sought to vary the layout of the premises by increasing the licensed area by including an area to the rear, shown on the plan filed with the application, to extend the licensed hours as set out below, and to remove and vary some of the restrictions on the licence as set out at pp18-19.

The Review application (pp73-81) sought variation of the Premises Licence conditions to reduce the licensed hours as set out below and to impose additional conditions as set out at p78.

### **HOURS**

#### **Current hours**

##### ***Recorded Music***

Friday to Saturday 2300 to 0030

##### ***Late Night Refreshment***

Friday to Saturday 2300 to 0030

Christmas Eve, Christmas Day, New Year’s Eve and New Years’ Day from 2300 to 0130 hours.

##### ***Sale of Alcohol***

Sunday to Thursday 1100 to 2330

Friday to Saturday 1100 to 0030

Christmas Eve, Christmas Day, New Years’ Eve and New Year’s Day 1100 to 0130 hours.

##### ***The opening hours of the premises***

Sunday to Thursday 0700 to 0000

Friday to Saturday 0700 to 0100

Christmas Eve, Christmas Day, New Year’s Eve and New Year’s Day from 1000 to 0200 hours.

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#### **Hours sought by Variation**

##### ***Recorded Music***

Friday to Saturday 2300 to 0030

##### ***Late Night Refreshment***

Sunday to Thursday 2300 to 0200

Friday to Saturday 2300 to 0300

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<sup>1</sup> Page numbers in this decision refer to pages in the Agenda Pack

Christmas Eve, Christmas Day, New Year's Eve and New Year's Day from 2300 to 0300

***Sale of Alcohol***

Sunday to Thursday 1100 to 0200

Friday to Saturday 1100 to 0300

Christmas Eve, Christmas Day, New Year's Eve and New Year's Day 1100 to 0300

***The opening hours of the premises***

Sunday to Thursday 0700 to 0230

Friday to Saturday 0700 to 0330

Christmas Eve, Christmas Day, New Year's Eve and New Year's Day from 0700 to 0330

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**Hours sought by Review**

***Recorded Music***

None

***Late Night Refreshment***

None

***Sale of Alcohol***

Monday to Sunday 1000 to 2300

***The opening hours of the premises***

Monday to Sunday 0700 to 2300

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**Decision**

Having considered the Agenda Pack, and heard from the parties present and the Licensee's solicitor:

***Variation:*** The LSC decided to **vary** the Licence by increasing the licensed area to include the rear area as requested. The LSC decided however not to vary or remove any of the conditions variation or removal of which the applicant sought.

***Review:*** The LSC decided to **vary** the Licence by reducing the licensed hours largely as requested by the NoiseRA save that it would permit later opening to midnight on Friday and Saturday nights and the provision of Late Night Refreshments and of Regulated Entertainment in the form of Recorded Music during those later hours.

The LSC also decided to require the Licensee to commission a Noise Impact Assessment and Noise Management Plan dealing with the matters set out in the second bullet point on page 78 of the Agenda Pack from a suitably qualified acoustic consultant and to implement any recommendations to the satisfaction of the NoiseRA before commencing use of the rear area.

The LSC did not consider that it was necessary to consider any action on the Review beyond variation of the Licence.

The **hours for Licensable Activities** permitted following these variations are:

***Recorded Music***

Friday to Saturday 2300 to midnight

***Late Night Refreshment***

Friday to Saturday 2300 to midnight

***Sale of Alcohol***

Sunday to Thursday 1100 to 2300

Friday to Saturday 1100 to midnight

***The opening hours of the premises***

Sunday to Thursday 0700 to 2330

Friday to Saturday 0700 to 0030

**Reasons**

***Representations received***

The LSC received the following evidence:

In relation to the **Variation**:

In the Agenda Pack

1. A report from the Licensing Team Leader, Daliah Barrett
2. The Application from the License Holder;
3. Written representations in support of the application from Mampasi Lemba ("the DPS")
4. Written representations opposing the application from Craig Bellringer of the NoiseRA expressed to be generally in support of the 4 licensing objectives
5. Written representations opposing the application from Ms McNamara ("MsM"), a local resident, including links to videos citing undermining of the licensing objectives of the prevention of public nuisance and the prevention of crime and disorder

At the hearing

6. Oral representations from the DPS represented by Julian Overton ("JO")(solicitor)
7. Oral representations from Ameer Darvish ("AD") of the NoiseRA
8. Oral representations from MsM

In relation to the **Review**:

In the Agenda Pack

1. A report from the Licensing Team Leader, Daliah Barrett
2. The Application from the NoiseRA seeking review to promote the licensing objective of the prevention of public nuisance;
3. Written representations in support of the application from Charlene Thorneycroft (set out in the application) and Craig Bellringer of the NoiseRA
4. Written representations supporting the application from MsM with links to the same videos citing undermining of the licensing objectives of the prevention of public nuisance and the prevention of crime and disorder
5. Written representations opposing the application from the DPS.
6. Written representations opposing the application from six individuals who either did not identify their locations or in one case disclosed an address in Harlow, Essex.

At the hearing

7. Oral representations from the DPS represented by Julian Overton ("JO")(solicitor)
8. Oral representations from AD of the NoiseRA
9. Oral representations from MsM

***Substantive representations***

The LSC had considered the Agenda Pack before the hearing.

The premises is located in a terrace of shops with residential above and to the rear. A copy of the existing licence was in the Agenda Pack. That licence prevents the use of the rear area for licensable activities

While there were two applications before the LSC, the common issue for the LSC to determine was what, if any, variations to the Licence were appropriate. The parties did not, and the LSC does not, therefore distinguish strictly as between representations made in relation to the separate applications.

It was common ground between the Licence Holder and the NoiseRA that the licence be varied to extend the licensed area to include the rear area set out on the plan. The parties differed on whether, and if so what, conditions should be attached to that extension.

MsM opposed the application for variation in its entirety and supported the application to review, seeking revocation of the licence.

In written representations the Licence Holder pointed out that the rear area had now been granted planning permission (pp57-60) for use of the rear area as licensed premises.

The written representations from six individuals in support of the Licence Holder were in very similar form (indeed one email included an exhortation to “please just send this email”) and did not address the breaches alleged in the representations from the NoiseRA and MsM. The LSC derived little assistance from these representations, none of whose authors (save the DPS) attended.

MsM in written representations set out a number of breaches of the licence agreement, supplemented by video evidence and reference to promotional videos published by the Licence Holder.

At the hearing, MsM made oral representations.

In written representations the NoiseRA referred to 5 (groups of) breaches of the conditions attached to the licence, set out in detail in the Review application at pp76-77:

- 4 May 2025 – late operation and use of the rear area
- 14 July 2025 – complaint from a member of the public of breaches – late operation, noise and use of the rear area – specifically on 9/10 & 13/14 July, and more generally 3-4 nights a week
- 26 July – late opening, use of rear area. DPS claimed a TEN was in force, but it had been refused
- 18 August 2025 – late opening, denial of entry to identified Council officers
- 24 August 2025 – late opening, audible music, denial of entry to identified Council officers

At the hearing the DPS indicated that his objective was to provide a Congolese restaurant experience. That of necessity would involve late opening – the culture was a late night culture. He stated that without late opening he would lose business.

He explained the apparent breaches referred to by the NoiseRA as being family occasions and/or being covered by TENs. Reference to Council Licensing records at the hearing, though, showed that no valid TEN covered any of those breaches.

Where his account differed from the NoiseRA account, the LSC preferred the NoiseRA account, which was consistent and when tested against documentary evidence proved correct.

He pointed out that the promotional videos were staged, and did not represent how the premises were actually used in particular in relation to the lack of meals on tables. He also pointed out that MsM’s own videos were taken before the work was done to the rear area, and he invited her to come to the restaurant to see for herself.

At the hearing AD was able to speak from personal knowledge to the incident on 24 August 2025.

The LSC accepted that each of the breaches set out in the NoiseRA written representations was made out.

At a more general level the position articulated by the NoiseRA at the hearing (shared with MsM) was that while the DPS was seeking to provide a Congolese, late night, experience, this was the wrong place, with so many residential premises around it, to seek to provide that experience.

MsM made oral representations consistent with her written representations. Her position could perhaps be summed up in the question she asked the DPS during the hearing; *"Why should me, myself, or any of the neighbours believe one word that you say, given that you broke the terms of every condition of your previous licence by using the back area, having all night music parties in there not operating as a restaurant when it technically yes you do serve food but it was a condition that you serve food with drink?"*

While the DPS pointed out that there were no complaints of use of the rear area since the summer, MsM pointed out that that was *"because the back area was out of commission because Mr Lemba obviously was doing renovations and so it was because it wasn't being used as a function room"*.

### **Evaluation**

The LSC reminded itself that it is required by section 4 of the Act to exercise its functions with a view to promoting the licensing objectives:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

The main objective concentrated on at the hearing was the prevention of public nuisance.

#### *Prevention of public nuisance*

The LSC accepted the NoiseRA's representations which set out 4 dates when Council officers witnessed breach of the licence conditions – 4 May, 26 July, 18 August & 24 August, all 2025; and gave information as to a complaint made by a member of the public on 14 July detailing two specific dates – 9-10 and 13-14 July 2025 when they experienced nuisance from the premises resulting from breach of the licence conditions, together with a pattern of breaches 3-4 nights a week.

It also accepted that MsM's written, oral and video evidence confirmed licence breaches particularly from late use of the rear area.

The LSC did however accept that the videos published by the Licence Holder, promotional as they were, did not represent the normal use of the premises and so did not give them significant weight in considering the pattern of breaches.

It accepted that the representations on both the application to vary and for review collectively evidenced late user of the premises, noise nuisance from the premises, and also impermissible denial of access by Council officers to the premises.

In each case, the LSC did not accept the DPS's explanations of the events witnessed. The LSC took the point from the DPS that the noise from the rear area had not recurred since the summer, but did not consider that this weighed in favour of the licence holder. It noted firstly that the rear area was excluded from use for licensable activities so there would have been no opportunity - before and during the summer - for noise to emanate from this area had the licence terms been adhered to; and secondly that, as MsM pointed out, that was likely the result of the area being subject to building work.

The LSC was satisfied that local residents experienced significant levels of noise nuisance from the premises; and that that nuisance continued after the current licensed hours, with the premises remaining open for licensable activities beyond those hours.

Accordingly, the LSC was satisfied that the current operation of the premises undermined this licensing objective.

*The appropriate action*

For the above reasons, the LSC determined it appropriate to exercise its statutory powers so as to promote the licensing objectives.

The LSC considered that additional conditions on the licence restricting use of the premises, and shortening the hours during which licensable activities could take place would suffice and that it was not necessary to consider revocation.

Broadly, the LSC considered the additional restrictions proposed by the NoiseRA were appropriate; but felt it appropriate to adopt the later hours at the weekend, to midnight, that MsM was prepared to accept.

Accordingly, the LSC resolved to **vary** this license as set out above.

**Informatives:**

- (1) The LSC recommends that the DPS should, with a licensing agent or lawyer, carefully consider and identify any areas of relevant licensing practice with which he is not familiar and take appropriate training courses to fill those gaps
- (2) The DPS is advised that Regulated Entertainment in the form of Recorded Music provided by playing recorded music on or through a television is Regulated Entertainment

**Appeal rights**

Both these decisions are 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 that period, or, in the event that an appeal has been brought, until that appeal is either finally determined or abandoned.