LICENSING SUB-COMMITTEE

Tuesday 14 March 2017 at 7.00 pm

MINUTES

PRESENT: Councillor Jack Holborn, Councillor Michelle Agdomar and Councillor Liz Atkins

APOLOGIES: Councillor Max Deckers Dowber and Councillor Vaila McClure

ALSO PRESENT:

1 ELECTION OF CHAIR
Councillors Vaila McClure and Max Deckers-Dowber were replaced by Councillors Liz Atkins and Jack Holborn on the Sub-Committee.

MOVED by Councillor Liz Atkins, SECONDED by Councillor Jack Holborn

RESOLVED: That Councillor Michelle Agdomar chair the meeting.

Councillor Agdomar confirmed that Garage Nation (item 4c) would be considered after Omnibus (Clapham Old Library) (item 4a).

2 DECLARATION OF PECUNIARY INTERESTS

3 MINUTES

RESOLVED: That the minutes of the previous meetings held on 16 and 21 February 2017 be approved and signed by the Chair as correct records of the proceedings.
Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application for a variation to the current premises licence. The Sub-Committee’s attention was drawn to Chapters 2, 3, 4, 8, 9, 10 and 15 of the Statutory Guidance, and to Sections 4, 5, 6, 7, 8, 9, 10, 16, 19, 20 and Appendices 1, 4, 6, 7, 8, 9, 10 and 11 of the Statement of Licensing Policy, as the ones particularly relevant to this application. The options available to the Sub-Committee were set out in paragraph 5.8 of the report on page 37 of the agenda.

The Sub-Committee noted that:

- This was an application made by Omnibus, 1 Clapham Common North Side to vary a premises licence;
- The application sought to modify condition 6 found on the licence under ‘Annex 3, Noise Team to read: “The use of the front garden shall be monitored and supervised at all times when in use by patrons. The use of this area shall cease at 23:00 hrs Sunday to Thursday and midnight Friday to Saturday nights”
- A copy of the application is listed as Annex A, pages 45-53 of the agenda papers;
- Representations against the application had been submitted by the Licensing Authority and three residents. The representations were based on the prevention of public nuisance and the protection of children from harm. Of the residents Mr Hill had since withdrawn his representation. The representation was attached as Annex B, pages 55-58 of the agenda papers;
- Representations in support of the application based on the prevention of public nuisance and public safety had been received from nine people. These were included as Annex C, pages 83-90 of the agenda papers;
- Licensing addressed the applicant’s queries to their representation and amendments were made. This was attached as Annex D, pages 91-92 of the agenda papers;
- A supporting statement from a ward councillor and residents received from the applicant's agent was included as Annex E, pages 93-96, main agenda pack;
- A copy of the premises licence was attached at Annex F, pages 97-103 of the agenda papers;
- A copy of the current plans were attached as annex G, pages 105-106 of the agenda papers;
- George Owen and his representative Mr Gareth Hughes, Christine Green, Mark Leffler, Philip and Lynette O'Reilly and Annabel Allott, were in attendance.

Maps and photographs of the premises were circulated to members.

Presentation by the Applicant

Mr Gareth Hughes, Barrister, representing the applicant informed the Sub-Committee that:

- The application being sought was not for an increase in extra hours but merely a modest amendment to a condition;
The application had been discussed with Environmental Health Officers and a condition had been agreed;

The premises had been operating successfully for the past four years without any issues;

The applicant would prefer to match the conditions to mirror the terminal hours on his premises licence;

He made reference to the maps (Annex G) by showing the Sub-Committee the outside area where people congregated at the premises;

The arts centre was well established in Clapham Old Town and during the summer evenings, people carried their drinks outside into the garden area;

As intervals for some performances occurred between 9.30-9.45pm, people had to be ushered back inside the premises by 10.00pm;

No objections had been received from the Police regarding the application;

Two of the objections from residents complained about the area and not the centre itself;

Numerous representations had been submitted in support of the premises;

In relation to the proposed Licensing conditions, the applicant objected to the conditions below for the following reasons:

- The drinking vessels used outside should be Perspex and bottles should be decanted – Bottles had never been decanted at the premises as no issues had arisen;
- Vertical drinking/all patrons using the outside space must remain seated and have a maximum capacity of 30 persons – The applicant did not wish to start directing people outside to sit down;
- All tables and chairs outside will be fixed and there shall be no more than 8 tables and chairs – the applicant would usually take tables and chairs back inside the premises following each performance;
- Children not allowed outside after a certain time – This was objected to by the applicant as “family days” at the arts centre occurred on Saturdays and Sundays.

In response to questions from Members, Mr Hughes and Mr Owen confirmed:

- No complaints had been received from residents pertaining to the premises. This was also confirmed by the Licensing Officer;
- Residential housing existed near to the premises but they supported the application;
- Management had never decanted any alcohol beverages. Patrons tended to take their glasses outside to drink their wine.
- The premises was not a pub where people drank out of bottles;
- Plastic vessels were not required at the premises as it was not a nightclub;
- The garden area was well-contained and would be supervised at all times;
- Although the garden area was not enclosed, any patrons found outside the railings would be asked to return to the garden.

In response to a question from the Legal Adviser, Mr Hughes confirmed that he was unsure whether amended condition 6 had been circulated to residents.
Presentation by Interested Parties

Mark Leffler, resident, informed the Sub-Committee that:

- He was a long-term Clapham resident and supported the application;
- He also represented the views of the Clapham Society, which usually opposed such applications;
- The premises arranged a variety of events that appealed to an audience of all ages and cultures;
- The Clapham Society held monthly meetings at the premises;
- The premises organised activities for children during the summer holidays;
- The premises was professionally managed with support from Trustees and volunteers;
- The extension would enable patrons attending evening events to remain in the garden as opposed to being ushered inside;
- Patrons were not noisy compared to other licensed establishments in the area;
- He believed the one hour extension proposed would pose no problems in the area.

Mr Robert Gardner, Principal Licensing Officer, informed the Sub-Committee that:

- He appreciated that the premises was valued and well managed. However, the venue was situated within the Saturation Zone;
- Restaurants nearby where required to close at 22:00;
- A closing time of 00:00 could create large numbers of patrons congregating outside;
- Altercations could arise at the premises late at night.
- Glasses could be dropped and broken which was why a condition had been made for plastic vessels;
- It was preferable for patrons at the premises to remain seated as this would avoid noise issues;
- Complaints had not been made as a result of the garden area ceasing activity at 22:00 as opposed to 00:00;
- Children under 12 should not be allowed to use the front area unaccompanied after 21:00.

In response to questions from Members, Mr Gardner confirmed:

- Substantial seating was required to discourage vertical drinking. There was a need to consider residents that lived nearby;
- For certain events, the applicant could issue a Temporary Event Notice instead;
- Residential flats existed nearby but no objections had been received from them;
- The area was very close to Saturation Zone which had been designed to prevent intoxicated persons. Therefore, there could be an increase of drunk persons in that area if the application was granted as sought.

Lynette O’Reilly, resident informed the Sub-Committee that:

- She had lived in the area for 50 years and seen many changes;
- Omnibus was considered one of the best establishments in the area, as no noise issues or problems existed;
- Although not a member of the Clapham Society, she appreciated their support with
In response to a question from Members, Ms O'Reilly confirmed she had not experienced problems arising from the premises.

**Adjournment and Decision**

At 7.41pm, the Sub-Committee withdrew from the meeting together with the legal advisor and clerk to deliberate in private.

The Sub-Committee had heard and considered representations from Mr Hughes, Mr Owens, Mr Leffler, Mr Gardner and Ms O'Reilly.

Legal advice was given to the Sub-Committee on the options open to them and the need for any decision to be proportionate. The Sub-Committee decided to grant the applicant as sought subject to the amended condition wording as outlined on page 41, paragraph 1.3 listed below.

**RESOLVED:** To grant the application as sought subject to the amended condition wording as outlined on page 41, paragraph 1.3 of the main agenda papers as follows:

**Amendment to Annex 3, Noise Team – Condition 6**

The use of the front garden shall be monitored and supervised at all times when in use by patrons. The use of this area shall cease at 23:00 hrs Sunday to Thursday and midnight Friday to Saturday nights.

**Announcement of Decision**

Members returned to the meeting and the Chair informed those present of the decision to grant the application as sought subject to the amended condition wording as outlined on page 41, paragraph 1.3 of the main agenda papers. The Chair confirmed that full written reasons and notification of the decision would be sent in due course.

**4c GARAGE NATION, STREATHAM COMMON (STREATHAM SOUTH)**

**Presentation by the Principal Licensing Officer**

The Sub-Committee was informed that this was a new application for a time-limited premises licence. The Sub-Committee’s attention was drawn to Chapters 2, 3, 8, 9 and 10 of the Statutory Guidance, and to Sections 4, 5, 6, 7, 16 and Appendices 1, 4, 6, 7 and 8 of the Statement of Licensing Policy, as the ones particularly relevant to this application. The options available to the Sub-Committee were set out in paragraph 5.9 of the report on page 37 of the agenda papers.

The Sub-Committee noted that:

- This was an application from We Are the Fair Ltd for a time-limited premises licence on Streatham Common for an event known as ‘Garage Nation’ to take place on 22 to 23 July 2017;
- The event would consist of regulated entertainment that included live amplified
music and the supply of alcohol;

- The event will take place from 11:00 to 22:00 hours on Saturday and 11:00 to 21:00 hours on Sunday;
- Up to 9,999 staff and paying guests would be permitted on site;
- The event was also supported by Lambeth Events who were present at the meeting;
- Two representations against the application had been received. One from a member of the public and the other from Streatham Lodge Community, a large community organisation of residents who lived close to the common;
- Details of the application together with supporting documents can be found from pages 169-193 of the agenda papers
- Representations and supporting material could be found on pages 195-232;
- The applicant had provided additional material consisting of a Noise Compliance Report dated 2016; a Noise Management Strategy; a Technical Note – Noise (Garage Nation, Licence Application Response to Objections); a Noise Feasibility Study and Management Plan and a standing instructions for staff at the event site, pages 27-85 of the additional papers;

Map and photographs of the premises were circulated to members.

**Presentation by the Applicant**

Mr David Dadds, Solicitor, representing Mr Robert Dudley were in attendance.

Mr Dadds, sought clarification on the following issues:

- He requested that the person who submitted the representation on page 195 of the agenda papers be named. If the name could not be made publicly available, he requested that the details be provided to him;
- In relation to the objection received from the Streatham Lodge Community, the signatory details had not been supplied. He enquired who would be speaking on that community’s behalf, as it appeared from his research at Companies House, that the company had been dissolved and replaced with Streatham Lodge Ltd. Therefore, he sought clarification on this point.

In response to a question from the Chair, Mr Robert Gardner, Principal Licensing Officer confirmed:

- He had communicated with Dr Ming Tung of Streatham Lodge Community who should be able to provide further information on the issues raised;
- He would be willing to provide the details of the anonymous resident to Mr Dadds.

In response to a question from the Chair, the Legal Adviser to the Sub-Committee clarified that:

- Mr Dadds and his client were entitled to know who would be speaking in relation to the application;
- Normally it was expected for the Sub-Committee to hear from persons who had made representations, dependent upon the number of persons;
- The Licensing Act 2003 (Hearing) Regulation 17 stated that the Sub-Committee
were entitled to ask any questions of any party or other person appearing at the hearing. Therefore, the Sub-Committee were entitled to ask any other persons only present specific questions to assist them with their deliberations;

- He suggested that the Sub-Committee might be minded to ask if the anonymous objector was present at the meeting.

Mr Dadds further explained that only the author of Community Lodge should be entitled to make a representation, although they may wish to call witnesses. He had also spoken to a resident who had not produced a representation within the 28 day period but wished to speak. He expressed the importance of ensuring that a fair hearing for his client was conducted.

Mr David Dadds, informed the Sub-Committee that:

- The event applied for was in its third year;
- The event would take place on Streatham Common which was favoured by the Council to hold out-door events;
- The location was well served by public transport;
- Responsible authorities had raised no objections to the event;
- The premises did not fall within the cumulative impact area (Saturation Zone);
- The application sought licensable activities from 11:00 to 22:00 hours on Saturday and until 21:00 on Sunday;
- Joint work had been undertaken with Public Health to ensure no unreasonable noise disturbance would occur;
- Noise levels would be set and monitored throughout the event;
- Numerous plans for the event had been put place;
- The Safety Advisory Group (SAG) had been consulted to consider any issues raised;
- All responsible authorities felt that previous events had been well managed with no licensing objectives having been undermined;
- He endeavoured to respond to any comments from the Streatham Society following their representation.

In response to questions from Members, Mr Dadds and Peter Nash confirmed:

- The noise figures for last year’s event outlined in the papers had been undertaken with monitoring recording sound equipment at the identified monitored locations within the Council’s 2008 policy and other places as identified in the Noise Compliant Report;
- Staff were present at the event with the recording sound equipment at all times;
- Last year’s noise figures had been significantly impacted by wind on that day. Within British standards, there were limits at which wind would impact on a microphone which would affect monitoring equipment. The limit was 5 metres per second and wind was experienced at 15 metres per second that day. The Council’s own monitoring company had monitored the same weather conditions;
- The noise reduction levels for this year were dependent upon where the stage would be located but details would be included in the Management Plan. The staging might be moved around to ensure that the best possible noise reduction was achieved;
- The Council’s 2008 policy selected the points that need to be measured to monitor
noise. This had been adhered to by the applicant. The Council also employed its own contractor to independently undertake noise measurements;

- The points were set by the Council’s Environmental Health Officers. It had been agreed that the same points for this year were the most appropriate measures to monitor;
- The noise limits within the Council’s 2008 policy set fixed background noise levels at specific locations within the common. This was why different noise limits existed at different locations in the common. This was also the reason for the applicant having to adhere to the same locations;
- There was no evidence of any noise breaches last year. As a result of wind factors, noise levels could not be accurately recorded in the three locations within the common. The applicant had visited all complainants to solve issues.
- A different PA company had been engaged for this year’s event. They would be using a Martin MLA speaker system designed to deliver accuracy of consistent sound coverage for the audience whilst reducing noise pollution;
- Noise levels would continue to be monitored by the applicants to prevent disturbance to residents;
- Letters would be sent to residents in the area 2-3 weeks prior to the event. A hotline number would be included in the letter for residents to lodge complaints. The hotline number would also be advertised on the perimeter of the common;
- All complaints lodged last year had been responded to despite some residents not being content with the occurrence of the event;
- The Noise Plan would be completed following the outcome of the hearing. Once drafted, the Noise Plan would be shared with the SAG and the Council’s Environmental Safety Officers. Any recommendations received would be incorporated into the plan;
- An alleged complaint made from a resident regarding the applicant’s conduct was refuted by the applicant but this was a matter for the Sub-Committee to consider during their deliberations. However, case law suggests little weight should be used if the parties involved in the incident were not present at the meeting;
- The applicant intended to use the sound levels outlined in the Council's 2008 policy.

**Presentation by Interested Parties**

Dr Ming Tung who submitted the representation on behalf of the Streatham Lodge Community confirmed that:

- He wished for Mr Anthony Conker to speak on behalf of residents;
- The Streatham Lodge Community consisted of 700 residential homes. As Mr Conker attended meetings held by the lodge, it was felt he should represent the neighbourhood.

The Chair explained to Mr Conker that he could only speak regarding the contents set out in the representation submitted on behalf of the lodge.

Mr Anthony Conker, representing the Streatham Lodge Community, said that:

- The Streatham Society Lodge opposed the application as there were concerns on how noise levels had been conducted for previous events;
• Although Garage Nation had complied with the Council’s requirements regarding the positioning for the noise monitoring at the common, they had not yet set those positions;
• He queried where the points that monitored noise levels existed within the common as it had not provided a fair representation of the volume of noise that occurred on the common. It also affected residents who chose to remain on the common but not attend Garage Nation;
• Residents would be faced with two whole days of loud noise. Therefore, it was important to ensure that the applicant complied with the noise reduction proposals;
• Last year, numerous complaints by residents had been raised on the hotline provided by the applicant. However, no details of the responses given had been provided by the applicant in the agenda papers;
• It was felt that the event failed to accord with other events held on the common and was not considered suitable for children;
• The Noise Monitoring Plan had still not been finalised;
• He would like to be consulted on the Noise Management Plan, operation of the hotline, parking restrictions and lack of enforcement issues;
• Although content submitted in conjunction with the consultant appointed to set the noise levels, he felt that another company should be engaged to check whether this had been done correctly;
• A reduction in the terminal hour of licensable activity to 20:00 should be considered to enable young children to sleep;
• He urged the Sub-Committee to allow a young person to speak regarding the issues she faced when the event was held last year as it affected persons in the neighbourhood.

In response to questions from Members, Mr Conker and Dr Ming Tung confirmed:

• Last year, cars had been parked on surrounding roads and the applicant had made no effort to remove them. Therefore, he requested to be consulted on how parking issues would be enforced for this year’s event;
• He also required further details pertaining to the hotline that would be available for residents;
• The current location of the points being monitored in the common were not correct;
• The event effected residents that lived on Streatham Common South. The representation document produced had been sent to all those residents. More than 20 persons signed the document before it had been sent to the Council;
• The Noise Management Reports failed to indicate how the applicant worked out their figures for the decibel levels at the monitored locations within the common. The lodge would like to see further information for this year’s event;
• Additional monitoring points should be placed in the common, such as “in the middle”, to reduce noise levels;
• One resident had made three calls before staff answered the hotline. Although a visit was made to that resident, a staff member confirmed that an accurate reading could not be achieved because the monitoring point was in the wrong place. The applicant should provide assurances to residents that a more extensive monitoring system that detected where noise was exceeded should be used;
• Noise experts can only confirm if noise levels were suitable if additional monitoring points were put in place and appropriate background checks carried out in the
common before the event was held.

The Chair explained that a request had been made for a young person to address the Sub-Committee.

Mr Dadds confirmed that he objected to this request as he would be unable to pose any questions. He felt that if she was allowed to speak, the public should be excluded from the meeting as her guardian was present.

The Legal Adviser to the Sub Committee explained that as the young person had not made a valid representation, the Sub-Committee can only ask her questions as outlined in Regulation 17 of the Licensing Act 2003. Licensing hearing regulations allowed exclusions of the public where it was in the public interest to do so, such as a matter coming to court or potential jurors. The young person wishing to speak did not justify the public being excluded from the meeting. However, he suggested that the young person’s parent or guardian should be consulted to ascertain their views.

At 8.42pm the Sub-Committee called for a short recess to discuss the matter. The meeting re-convened at 8.55pm.

The Chair invited the young person and her guardian to the table. In response to questions from Members, the guardian confirmed that her daughter was happy to speak at the meeting but would prefer that members of the public be excluded while she gave her representation.

At 8.56 pm the Sub-Committee asked all parties to leave the room, except the applicant’s representative, Mr Dadds.

In response to questions from Members, the young person informed the Sub-Committee that:

- The living room was situated at the back of her house;
- The noise from the music was very unpleasant and made her feel very uncomfortable;
- She felt that the common should not be dominated by Garage Nation and the public should be able to use the common for their own enjoyment.

The Chair thanked the young person for attending the Sub-Committee to answer questions.

At 9.05pm all parties were re-admitted to to the meeting.

The Chair invited the applicants back to the Sub-Committee to answer further questions.

In response Pete Nash, Noise Consultant and Mr Dadds said that:

- The new 2016 guidance set the decibel limit at 75dB at every residential premises with identified monitored positions. However, under the Council’s 2008 adopted policy, limits had been derived from specific locations identified in the policy. Although monitoring could be undertaken at a different location within the common, this was not part of the Council’s policy, as only three positions were used;
If another monitoring location was used within the common, a noise limit could not be set and decibel limits would not be breached;

Mr Dadds suggested that the Sub-Committee note the concerns raised and when the Noise Team had developed the plan. The monitoring positions could be re-examined to ascertain the best position for monitoring noise levels. The applicant could only use the monitoring positions set by the Council;

Olivia Pearcy, Lambeth Events Operation Manager, was asked what input the public could have into SAG and she replied that:

- SAG held debrief sessions following every large scale event held at the common;
- All issues were referred back to organisers to address any concerns;
- Any new applications made from organisers were assessed by SAG and the applicant’s previous performances would be taken into account. Details were the included into a pro forma document and sent to the community groups for comment.

Mr Dadds, Solicitor, further informed the Sub-Committee that:

- The applicant wanted to work with residents and welcomed further discussions with the Council pertaining to the monitoring levels within the common;
- As a result of the 2016 guidance, the maximum allowed sound levels for other premises in Lambeth had been increased to 75dB. Therefore, when the policy concludes its review, it was possible that the levels could be increased from 61dB to 75dB for this event;
- Although it was stated that 20 persons from the lodge had contributed to the representation submitted from Dr Tung, no evidence had been supplied that supported this;
- Public consultation and notices had been displayed pertaining to the event around the common and only two representations had been received against the application;
- Responsible authorities would be duty bound to raise objections if they felt that any of the licensing objectives had been undermined. However, none had been received;
- The event had been held for two previous years and SAG considered previous performances from applicants but had raised no concerns;
- Although concerns had been raised regarding the use of the common and the playing of loud music, he urged the Sub-Committee to consider the good conduct and record of the event;
- In relation to the Council’s policy, there was a need to consider the use of the common for events. Residents living nearby the common were expected to experience some noise;
- The applicants intended to use a new sound system to reduce noise leakage and would be willing to work with the Council to address any issues.

**Adjournment and Decision**

At 9:19 pm, the Sub-Committee withdrew from the meeting together with the legal advisor and clerk to deliberate in private.
The Sub-Committee had heard and considered representations from Mr Dadds, Mr Conker and Dr Ming Tung.

Legal advice was given to the Sub-Committee on the options open to them and the need for any decision to be proportionate. The Sub-Committee decided to grant the application subject to the following conditions listed below.

**RESOLVED:** To grant the application subject to the following conditions:

**General**

1. The maximum licensed capacity for this event will be 9999 inclusive of all persons on site (staff, contractors, attendees, artists and guests). However, it is planned to operate the event with a maximum capacity of 7000 paying customers.
2. The proposed event is a daytime music festival.
3. The event will be ticketed and open to over 18’s only.
4. Security staff and stewards will be present on site to ensure the safety of persons present and to help prevent crime and disorder.
5. A dedicated, paid-for Police presence from the Metropolitan Police will also be on site during the course of the event.
6. All structures and stage areas will be erected and maintained by professional contractors who will ensure that all structures are in accordance with the relevant British Safety Standards.
7. There will be no amplified music or other entertainment after 22:00 (Saturday) and 21:00 (Sunday).
8. Alcohol will only be served on site to adults - under 18’s will not be permitted to enter.
9. Security staff and bar staff will monitor alcohol consumption to prevent drunken behaviour.
10. An event and site specific Event Management Plan will be developed and shared with the Licensing Authority and Safety Advisory Group.
11. The Event Management Plan will be a “living” document that outlines the management structure, roles and responsibilities, organization, control, monitoring and review mechanisms as identified by the event specific Risk Assessment.
12. The legal duties of the Premises Licence Holder (PLH) are such that a “pop concert” is considered a “work activity” and are therefore subject to the Health and Safety at Work etc., Act 1974 and the various regulations made under it and any EC directives, which may also apply to the activity.
13. The PLH is directly responsible for the event. The PLH will have responsibilities for the health and safety of third parties affected by the event including the audience and irrespective of whether they are employees. Any employer contracted by the PLH shall be responsible for the health and safety of their employees.
14. The co-ordination and implementation of all safety procedures should be the duty of the event SAFETY OFFICER (who shall be a competent person working in the field of health and safety) who is fully conversant with health and safety law, regulations and approved codes of practice.
15. The PLH, HEAD OF SECURITY, and SAFETY OFFICER should make themselves fully conversant with the guidance set out in the current Health and Safety Commission “EVENT SAFETY GUIDE”. hsg 195
16. Control and management of the accommodation limit shall be by the use of a
counting in system, an inspection of all of the counters used for counting in and counting out, shall be undertaken by council officers periodically on both days throughout the event. Under no circumstances must the counters be clicked back to 0000.

17. The PLH shall ensure that all promoters, contractors and other personnel involved with the event are made aware of any condition contained within the licence and attached conditions that will affect their involvement in the event.

18. The event organisers shall ensure any reasonable alterations and or amendments to the event management plan document shall only be implemented if agreed by the Lambeth Council's Safety Advisory Group no later than 28 days from the date of the event.

19. The PLH shall take all reasonable steps to ensure that people with disabilities are catered for and will assist with access and facility requirements.

20. Admission shall be by ticket or wristband only.

21. To ensure security and integrity of the site a level of search as pre-agreed with the relevant authorities prior to the event shall be instigated.

22. Pedestrian flow rates and queues shall be monitored throughout ingress to establish attendance.

23. The event organisers shall have a means of counting in the people entering the event site to ensure that they are able to provide on request, the number of people on site at any point in time to authorised officers.

24. Amnesty bins shall be provided for the disposal of alcohol and other waste.

25. Staff will not permit illegal substances (whether known or unknown) into the venue. Any illegal substances found will be confiscated where possible.

26. Staff are to look out for signs of illegal substance use or illegal substance dealing. The HEAD OF SECURITY and the event management shall be informed through the Event Control. Police shall be requested to collect these from the eviction centre.

27. Once the event site is at approximately 75% capacity entry lanes shall be progressively closed and barriers cleared to allow additional egress routes but provisions shall be made at the entry points for late arrivals.

28. Information about potential delays or interruptions will be relayed to the attendees as soon as they are known and it is possible to do so.

29. Matrix signage will be deployed at the exit to indicate the direction of transport and travel routes. The signage will be installed and deployed prior to the event opening.

The Prevention of Crime and Disorder

1. A reputable and experienced SIA-accredited security and stewarding company will be appointed to ensure public safety and to prevent crime and disorder.

2. A specific Crowd Management Plan, Crowd Dispersal Plan, Drugs Policy, Search Policy and Security Risk Assessment will be drawn up and implemented.

3. A specialist security response team will be deployed on the exterior of the site to engage with crowds building up on the site perimeter.

4. A dedicated and paid-for, event-specific Police presence will be on duty during the course of the event. Numbers and shift times will be agreed with the Police during the event planning.

5. An Alcohol Management Plan will be drawn up and implemented.

6. Alcohol sales will be approved by the Designated Premises Supervisor.

7. A Challenge 25 policy will be implemented.
8. All alcohol consumption will be monitored by bar staff and SIA security staff.
9. Safe maximum numbers of attendees (as prescribed by the H&S officer and agreed with LFB) will not be exceeded.
10. The Personal licence Holder (PLH) shall ensure that nobody under the age of 18 years of age is employed to sell alcohol.
11. The Designated Premises Supervisor (DPS) shall ensure that each bar on site is referred to by number consistent with the event's site plans.
12. The Designated Premises Supervisor (DPS) shall ensure that all staff are instructed about the acceptable forms of identification (ID) for proof of age and are fully aware of the Challenge 25 scheme.
13. The Designated Premises Supervisor (DPS) shall close any third party structure serving alcohol if required due to any serious breach of the licensing objectives or if so requested by any licensing official.
14. Each bar on site shall have a dedicated bar manager or supervisor and team who shall be conversant with the requirements and responsibilities for the sale of alcohol and shall be given written designation of their responsibilities.
15. The dedicated bar manager or supervisor for each bar shall directly instruct, monitor and support their staff in ensuring the requirements of the Licensing Act 2003 are adhered to at all times.
16. The dedicated bar managers shall brief all their staff before each event.
17. All drinks shall only be sold in opened cans, plastic cups or PET containers. No glass will be permitted into the festival arena.
18. The bars shall close in line with the premises licence.
19. All bars shall be provided with sufficient lighting, and fire-fighting equipment, as well as sanitary and hand washing facilities for staff.
20. When a crime or other incident requiring police attendance is reported to or discovered by a security operative, they shall obtain as much detail as possible with particular importance being place on identifying victims, suspects, witnesses and scenes of crime.
21. A sterile space located near the main entrance will be created to allow security to engage with any attendees who are behaving in a stressed manner.
22. Queue lanes will be designed in a snake/zig zag fashion to prevent the potential of crowd surges.

**Public Safety**

1. The event site will fully accord with HSE guidance and public safety is paramount.
2. The event site will also accord with Fire Safety measures.
3. Security and stewards will ensure that emergency vehicle access to the site is maintained at all times.
4. Security and stewards will also ensure that emergency exits from the site are kept clear at all times.
5. Security and stewards will be on duty from the beginning of the site build until the completion of the site breakdown. Numbers and positions will be agreed with members of the Safety Advisory Group.
6. An event and site specific Event Management Plan will be developed and shared with the Licensing Authority and Safety Advisory Group. The Event Management Plan will be a “living” document that that outlines the management structure, roles and responsibilities, organization, control, monitoring and review mechanisms as identified by the event specific Risk Assessment.
7. The SAFETY OFFICER will conduct a site inspection prior to opening on both
8. A Traffic Management plan will be agreed with Highways and other members of the Safety Advisory Group and will be implemented by a specialist Traffic Management Company.

9. The Traffic Management Plan will address areas of the Crowd Dispersal Policy and CSAS accredited Traffic Marshals will be deployed alongside SIA security and crowd safety stewards in managing the egress of public from the event site. Particular attention will be paid to the crossing points along Streatham High Road.

10. The SAFETY OFFICER will have absolute power of veto where they are not satisfied with any measures proposed to ensure public safety.

11. No drinks promotions i.e. 2 for the price of one.

12. All bars shall be fitted with fire extinguishers, employees are only to operate the extinguisher if they consider that it is safe to do so and have been trained.

13. No flammable materials shall be stored in the bars.

14. The PLH shall carry out a suitable and sufficient risk assessment as well as use the Health and Safety Executive (HSE) "purple guide" on outdoor events to determine the level of first aid provision for the event, such that there is no undue demand on National Health Service resources.

15. Evidence shall be provided that the two nearest hospitals with Accident & Emergency facilities, i.e. St. George's Hospital in Tooting and King's College Hospital, Camberwell, have been notified at least a month in advance of the event so this can be programmed into their work schedule.

16. The PLH shall have in place suitable and sufficient first aid provisions available from build up to breakdown of the site.

17. It shall be the duty of the PLH to ensure that all those providing medical care on site are registered with their respective professional bodies and or organisation and that this registration is current for the duration of their presence at the event site.

18. Medical responses team shall patrol the event site and respond to incidents reported via Event Control.

19. Tent(s) shall be provided for the treatment of visitors to the event, these shall also be provided with suitable lighting, drinking water, tables and chairs. It must be such that privacy and decency can be guaranteed whilst attending to the patient.

20. A record shall be made and kept of each visitor to the first aid tent and anybody that receives first aid on site. These records shall be retained by the PLH for at least 7 years or at least 3 years beyond the age of 18 years of age in the case of a child.

21. It shall be the responsibility of the PLH to ensure that all such incidents that are classified as reportable under RIDDOR 2013 are duly reported to the HSE within the reporting time stipulated in the regulations.

22. All medical provision planning shall take into consideration the likelihood of a major incident and shall delegate powers to the statutory identified body for such major incident e.g. the Police and the London Ambulance Service.

23. RVP’s shall be agreed with the first aid providers and identified on any site plan(s) before the event. Should these change in any way or form, the facts should be made known to the first aid providers, HEAD OF SECURITY, SAFETY OFFICER and the plan(s) amended accordingly.

24. Stage/Tents/Temporary Demountable Structures - All built structures shall have a completion certificate issued by a competent person from the supplying company
and provided to the SAFETY OFFICER. All tents shall be supplied with the appropriate fire retardancy certificate.

25. There shall be sufficient separation between structures to prevent fire spread.

26. All items of plant and machinery are to be parked in a secure area when not in use with regular patrols by security staff.

27. All EMERGENCY EXITS, TOILETS AND FIRST AID POSTS shall be clearly indicated, such that it is visible from all parts of the licensed area. The preferred style is for these signs to be written on material/fabric and flown on goal post signs.

28. Four types of fencing shall be provided to this event site.
   a. Pedestrian barrier – low level crowd control barrier used to creating queue lanes
   b. Met barrier – similar to pedestrian barrier but capable of withstanding greater crowd pressure – used for entrance lanes
   c. Heras - 2.5m block and mesh, used to segregate areas.
   d. Steel Shield - These shall be braced and forms the outer shell of the perimeter fence.

29. Pit Barriers - these shall have a ratings of at least 5kN/M2 and shall be used in areas of high crowd density such as front of stage, and around structures in close proximity to the stage.

30. All temporary electrical supplies, including all generators, distribution cabling and end connection for the arena shall be installed by specialised contractors in accordance to BS7909, fitted with RDC or RCBO protection where necessary and suitably earthed in accordance with the site plan and power specifications.

31. No petrol generator is allowed on site.

32. All electrical contractors working on site shall ensure that all works undertaken are in accordance with BS7671:2008 and the Electricity at Work Regulations 1989.

33. All portable electrical equipment and temporary installations associated with all work shall be protected by a Residual Current Device (RCD) and suitably earthed.

34. All electrical equipment must be isolated when not in use.

35. All portable electrical equipment brought on site must be subject to the appropriate Portable Appliance Testing (PAT) and records of these kept on site and available for inspection if required by authorised officers.

36. All temporary electrical works must have an appropriate electrical sign off certificate issued at the time of works to the SAFETY OFFICER and be available for inspection if required by authorised officers.

37. The SAFETY OFFICER and SITE MANAGER shall ensure that adequate and appropriate measures are taken to guard against live and overhead cables and services laid underground.

38. In the unlikely event that the show has to stop, which may be temporary whilst a problem is resolved or the first step in an evacuation of the site either due to crowd related issues, or structural collapse, off site events, extreme weather conditions or at the direction of the Metropolitan Police, Fire Brigade or the SAFETY OFFICER or EVENT CONTROL the PLH shall ensure procedures are in place that are familiar to all key role players and rehearsed such that all concerned know what their role is in any scenario and that the plans can be effected immediately.

39. There must be a clear framework of information flow procedure to enable the right people to receive the correct information.
40. In the event of an emergency the PA system will be used to broadcast announcements. In the event of either the PA system or the power supply failing, there will be loud hailers available on each stage.

41. The wording for the show stop and the procedure must be agreed with the police and fire brigade before the event.

42. EVENT CONTROL ROOM - This area shall be provided with key documentation e.g. current site plans, key contact details, alerting cascades, A&E telephone numbers for the 2 designated hospitals, message pads, log sheets, suitable and adequate means of communication including both mobile phone and radio.

43. The contact details of all key players shall be provided to all authorised council workers at least two weeks before the event.

44. The local authority shall be informed of the intended use of pyrotechnics in advance. This shall be in form of written notification and should contain details of quantity, effect type, drawing or set plans showing the positions of each effect.

45. The company providing the display shall also complete a risk assessment, complete the HSG123 and notify the Civil Aviation Authority (proof of this required).

46. A demonstration may be requested for any unfamiliar effects or if there are any concerns.

47. All concession caterers shall be provided with suitable fire-fighting equipment, suitable hand washing facilities and sanitary facilities for staff.

48. Mains supply drinking water shall be available at all times whilst the venue is open to the public.

49. The PLH shall arrange to have the water points tested prior to opening to the public to confirm portability of the water supply and the result provided to authorised officers.

50. Water shall be available in the pit areas to members of the audience who may be in need of it.

51. No glass shall be allowed within the licensed area, glass shall not be sold at any concession outlet or bar. Any trader found selling glass containers shall be asked to remove them from sale or face closure.

52. Additional toilets shall be provided externally to the event to reduce anti-social behaviour in the local community. Location of these shall be agreed with local council officers.

53. All grey waste water toilet effluent shall be the responsibility of the event organiser and arrangement shall be sought to ensure the correct transfer and disposal away from the site.

54. The event site shall be cleared of all vehicles at least 30 minutes before the public are allowed on site and 30 minutes after the site is cleared of all visitors.

55. Should it become absolutely necessary for a vehicle to move or be moved either for emergency or serious public health hazards, the SAFETY OFFICER shall liaise with parks officers and the vehicle shall be escorted at all times on to, or off the site and going at speed of not more than 5 mph.

56. The Council reserves the right to evict from the site any vehicle found moving around the site between the times specified above.

57. LPG cylinders - These shall only be used by the concessions and managed on a basis of one cylinder in use per appliance plus one spare. All other cylinders shall be stored in agreed cylinder store at strategic points on site. The SAFETY OFFICER shall ensure that the stores are clearly marked on the site plans in the Event Control Room and that they are monitored at all times for correct use. The store shall be clearly signed with flammable gas and no smoking signs. Suitable
and sufficient fire-fighting equipment shall be sited nearby.

58. All gas installations shall have current Gas Safe compliance certificates copies of which shall be provided to the SAFETY OFFICER and shall be produced on request by authorised officers.

59. There shall be adequate fire separation between units of approximately 2.5m.

60. Regular patrols by security are to be undertaken to ensure that all emergency exits and escape routes are kept free of obstructions.

61. Routes for fire appliances shall have a road width of not less than 3.7m clear and at gates of not less than 3.1m and clear height of not less than 3.7m. Routes provided for fire appliances should be such that no part of the event where firefighting may be required is greater than 50m from a fire lane or existing suitable thoroughfare. These are to be clearly signed and marked on the site plan.

62. The appropriate type and number of fire-fighting equipment shall be provided throughout the site. Locations and numbers will be specified in the Event Management Plan.

63. Suitable and sufficient lighting shall be provided to the event site especially as it is getting dark such that all health and safety information and notice signage are be easily seen and read and at the close of the event to enable visitors to leave the site safely.

64. All efforts should be made to prevent or reduce light pollution especially to residential properties in the vicinity.

65. The PLH shall have in place an arrangement (contract) with a reputable waste management company to manage the event site for the duration of the event.

66. The PLH shall ensure that sufficient, suitable and adequate purpose built refuse receptacles are provided to the site to facilitate the cleaning of the site.

67. The PLH shall ensure that cleaning teams are deployed where necessary, prior to, during and after the event, both within the event site, the wider Common and in neighbouring streets and roads.

68. The PLH is to ensure that all areas are left litter free and completed at the end of the event and after breakdown.

69. The PLH shall ensure that where necessary during the night the waste management company deploy cleaning teams to clean the site and ensure that all waste are removed from site either by the next opening time or after breakdown.

70. A suitable and sufficient risk assessment shall be carried out to determine the adequate level of waste infrastructure to be provided at the event, which may include, yard skips, bins and RCV waste trucks.

71. Placement of the bins in their designated positions for the duration of the event will be completed by the day before the commencement of the event.

72. The PLH shall ensure that waste management operatives litter pick and remove all waste as infrastructures are removed and ensure that all waste equipment, are removed from site and handed back to the council.

The Prevention of Public Nuisance

1. The proposed live and recorded music will only operate between the hours of 11:00 – 22:00 (Saturday) and 11:00 – 21:00 (Sunday).

2. A qualified and suitably experienced Noise Management Consultancy will be appointed to produce a Noise Management Plan and provide representatives on site during sound checks and throughout the festival.

3. The Premises Licence Holder shall employ a minimum of 2 noise consultants to
control all amplified music, speech and vocals within the event. The consultants must contact the Noise Department prior to the event to agree an acceptable level for the duration of the event.

4. Noisy construction works audible beyond the site boundary shall only be undertaken between the hours of 08:00 – 18:00hrs Monday to Saturday and 08:00 – 13:00hrs on Sunday.

5. All site deliveries and collections shall be undertaken with due care, attention and diligently to minimise disturbance to residents and noise sensitive premises within the vicinity.

6. Devise and implement a robust dispersal policy to ensure that patrons leave the premises and vicinity as quietly and speedily as possible. Ensure that patrons are verbally advised by SIA/staff upon leaving to be mindful of the neighbouring residents so as not to disturb the peace.

7. Local residents will receive prior notification of the event including details of the event timings. The distribution radius for the notification letter will be agreed with the Local Authority and Ward Councillors.

8. A noise “hot line” number will also be included to allow residents to contact an event representative should they need to make a complaint.

9. The noise “hot line” number will also be displayed around the event perimeter during the event.

10. Attendees to the festival will be advised that there is no parking provision and will be directed to all local public transport links.

11. Security and stewards will be positioned around the perimeter of the Common to direct attendees to and from the event.

12. The appointed security company will provide and implement a Crowd Dispersal Policy to prevent public nuisance as attendees leave the event.

13. The event will feature a phased closure of music stages to assist in a gradual egress from site.

14. A Traffic Management plan will be agreed with Highways and other members of the Safety Advisory Group and will be implemented by a specialist Traffic Management Company.

The Protection of Children from Harm

1. The event is a ticketed, 18+ music festival.
2. No person under the age of 18 will be permitted to enter the event site.
3. A Challenge 25 policy will be in force on all festival bars.
4. There will be no adult or other unsuitable activity taking place during the festival that would be visible to children passing the event.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to grant the applicant subject to conditions. The Chair confirmed that full written reasons and notification of the decision would be sent in due course.

At 9.29 the Sub-Committee adjourned the hearing and re-convened at 9.35 pm.
PAYLESS (AKA LOWCOST SUPERMARKET), 324 COLDHARBOUR LANE, LONDON, SW9 8QH (COLDHARBOUR)

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application for a review to the current premises licence. The Sub-Committee’s attention was drawn to Chapters 2, 3, 9, 10 and 11 of the Statutory Guidance, and to Sections 1, 4, 5, 6, 7, 8, 9, 10, 11, 13 and 19 of the Statement of Licensing Policy, as the ones particularly relevant to this application. The options available to the Sub-Committee were set out in paragraph 5.10 of the report on page 37 of the agenda papers.

The Sub-Committee noted that:

- This was an application to review the premises licence of Payless (Lowcost Supermaket), 324 Coldharbour Lane;
- The review had been submitted by Lambeth’s Trading Standards service following several visits to the premises where alleged breaches of the licence conditions and other offences had been observed. These included the sale of alcohol to minors and the employment of illegal workers;
- Details of the full application could be found on pages 113-124 of the agenda papers;
- The review was based on the licensing objectives of the prevention of crime and disorder; prevention of public nuisance, public safety and the protection of children from harm;
- Four representations had been received in support of the review from the Police, Public Health, Community Safety and the Licensing Authority. Mr Bernard Conmy, Lambeth Trading Standards, also added a supporting statement. These could be found on pages 129-147 of the agenda papers;
- On 11 January 2017, the premises licence holder and Pauline Wojnowska, Designated Premises Supervisor (DPS), attended a joint meeting with Trading Standards, Police and Licensing at the council offices. The meeting discussed the two visits made by Trading Standards in November and December 2016. The minutes from that meeting could be found at pages 139-140 of the agenda papers;
- The licence had been granted in 2005 to Mr Azan Hussain and Mr Haroon Rehman. A variation was granted in July 2009 which permitted the sale of alcohol for consumption off the premises 24 hours a day; 7 days a week;
- Pauline Wojnowska had been the DPS at the premises since July 2012. A copy of the premises licence could be found from page 153 of the agenda papers;
- On 28 February 2017, a transfer application to Mr Abdul Ghafar was made by their agent Dadds LLP. At the same time a new DPS was also applied to the premises licence; Mr Mohammad Nisar Choudhary;
- Confirmation had been received that Dadds LLP would be representing Payless;
- Information was also requested by Dadds LLP and licensing had responded. This included changes made to the premises licence, statement of test purchase visits and a copy of the signed conditions agreed between the police and applicant on 29 June 2009. Copies had been circulated to the Sub-Committee prior to the meeting;
- On 13 March 2017, Dadds LLP submitted an additional statement which had been forwarded to all parties including the Sub-Committee;
- Mr Conmy had also submitted a decision notice and copies had been circulated to
the Sub-Committee.

Maps and photographs of the premises were circulated to members.

**Presentation by the Applicant**

Mr Bernard Conmy, Trading Standards Officer, informed the Sub-Committee that:

- His application could be found from page 117 of the agenda papers;
- On a visit conducted on 2 April 2013, nine 375ml bottles of Wray & Nephew white rum and eight 750ml bottles of Appleton Jamaican rum were found. Those bottles did not display a HMRC duty paid stamp. Mr Rizwan Zab, Manager did not know the actual roles of management and when Ms Wojnowska, DPS was notified, she stated that the premises was managed by her partner who was currently on holiday. Single cans and super strength cans of lager/cider were also identified;
- A Test Purchaser, aged 15, entered the premises on 26 April 2013 and managed to purchase two 500ml cans of Becks Beer 5.6% abv without being challenged. Mr Asif Rasheed, who sold the alcohol, was unhelpful and denied working at the premises. Eventually, Mr Rasheed admitted to being in the UK illegally. Staff refused to provide the contact number for Ms Wojnowska, DPS but the manager, Mr Fayyaz, arrived at the shop after receiving a call from staff. Out of date food was on display for sale and single cans of high strength products favoured by street drinkers had been found;
- On 28 March 2014, although the alcohol stock appeared to be satisfactory, staff members could not operate the CCTV system. An out-of-date fire extinguisher was found on the premises and the refusals register was devoid of any entries;
- On 6 August 2015, five 200ml bottles of Wray & Nephew white rum which had no details of an EU/UK importer, no details of alcohol units but did have a foreign health warning. This suggests they were UK HMRC duty not paid and were sized. Super strength lagers/cider for sale in single cans were also found at the premises. Ms Wojnowska was away on holiday at the time but Mr Fayyaz was issued with a trading standards notice;
- On 26 November 2016, an individual was observed by council officers stacking shelves but he could not be located when officers entered the premises. Mr Fayyaz denied at the time that another person was on the premises. However, the individual was later found to be laying/hiding under a duvet at the rear of the premises. Although immigration checks were carried out on the individual found, he was not arrested as his status was unclear. As a condition had been imposed on the licence that at least two members of staff must be on the premises after 23:00 hrs it was considered a breach of the licence. Ms Wojnowska, DPS was informed;
- The CCTV cameras could not be accessed and a refusal log was not at the premises.
- On 21 December 2016, a test purchaser aged 13 purchased a bottle of wine at the premises. On entering the premises, Mr Asif, who sold the wine, confirmed that he was not eligible to work or live in the UK. As a result, he was arrested by Police. At the Police Station he was identified as Mr Asif Rasheed and had been previously arrested working illegally on 26 April 2013;
- The DPS, Ms Wojnowska, had failed to manage the premises and had employed illegal workers. Paragraph 11.27 of the Revised Guidance issued under section 182 of the Licensing Act 2003, confirmed that this should be treated seriously;
• If the premises failed to comply with the conditions on the licence, then the premises should not be allowed to sell alcohol;
• A change of management would not have any effect on the premises. Therefore, the Sub-Committee was urged to revoke the licence.

In response to questions from Members, Mr Conmy confirmed:

• Mr Fayyaz was Ms Wojnowska’s partner;
• He had not received an update pertaining to Mr Masood's immigration status;
• Three Trading Standard Notices had been issued on 2 and 26 April 2013 and 6 August 2015 at the premises;
• The new premises licence holder, Mr Abdul Ghafar also managed another premises (Loco) located nearby. That particular premises had been reviewed on four separate occasions and was in the process of being reviewed again;
• He had received no details pertaining to the new designated premises supervisor Mr Choudhary;
• He believed that no further conditions could be imposed as a result of the premises employing illegal workers;
• He believed that the first review for Loco resulted in Mr Ghafar’s licence being revoked. On another occasion the premises licence was suspended;
• The reviews for Loco also involved the employment of illegal workers.

Presentation by Interested Parties

Mr Robert Gardner, Principal Licensing Officer, said that:

• He supported the application to review the premises licence made by Trading Standards;
• He felt that the premises licence would be granted as no application had been submitted by the Police;
• Although he could suggest additional conditions to the Sub-Committee he urged that the licence be revoked.

In response to questions from Members, Mr Gardner confirmed:

• Although Mr Ghafar was not allowed to be the DPS at Loco, the premises licence had been transferred to him;
• He could not recall the hearing date when issue regarding the illegal worker was considered by the Sub-Committee.

At this point in the proceedings, the Chair requested Mrs Williams, Licensing Officer to obtain further details pertaining to Loco.

Mr David Dadds, Barrister, explained that despite the history associated with Loco, Mr Ghafar was granted a premises licence in May 2016.

The Legal Adviser clarified that two applications had been made by Mr Ghafar in May 2016 in respect of Loco. These were to become the premises licence holder and designated premises supervisor at Loco. The Sub-Committee decided not to grant the application to vary the DPS but it had allowed the application to transfer the premises
licence to him. It was a matter for the Sub-Committee as to how much weight to give to that.

Mr Dadds responded that as the matter regarding Mr Ghafar’s status as premises licence holder had only been raised at the meeting, he might need an adjournment as he felt this to be unfair.

Mr Henry Umeh, Senior Community Safety Officer, informed the Sub-Committee that:

- The Lambeth Community Safety Area Team had submitted a representation in support of the review application;
- A four year history was associated with the premises that included numerous incidents, breach of their licensing conditions and falling foul of the licensing objectives;
- Visits made by council officers to the premises found alcohol on display that were non-UK compliant and did not have the requisite “HMRC Duty Paid” stamps on them;
- The illegal worker engaged at the premises had twice sold alcohol to an under-age person which undermined the licensing objective of protecting children from harm;
- Inspections carried out by Trading Standards and other agencies noted that:
  - No refusal register was found at the premises to illustrate refused sales, despite this being one of the licensing conditions. On another occasion, although a refusals register was found, it was not kept up-to-date;
  - The designated premises supervisor although not present, could not be contacted;
  - No staff training records were available for inspection;
  - Out-dated food and expired fire extinguishers were found at the premises which undermined the prevention of public safety objective;
- Based on the numerous incidents over the years, he recommended that revocation of the premises licence was the only option;
- He only became aware of the application made to transfer the premises licence at this meeting and expressed his concerns regarding that change.

In response to questions, Mr Umeh confirmed that:

- In relation to the incidents listed above, he felt that no attempts had been made by management to make improvements at the premises;
- Despite the licence being transferred, he was not confident that improvements would be made at the premises based on its history;

At this point in the proceedings, Mrs Sarah Williams, Licensing Officer confirmed that:

- On 12 June 2007, the Licensing Sub-Committee heard the review and the premises licence was suspended from 12 June 2007 to 12 September 2007 and the designated premises supervisor had been removed. The licensee appealed the decision but later withdrew his appeal. On 29 October 2007, the licence was surrendered;
- On 29 October 2007, Mr Ghafar applied for a new premises licence for the sale of alcohol 24 hours a day Monday to Sunday. This was granted by the Sub-Committee on 27 November 2007;
- On 22 January 2008, an application was made by Trading Standards to review the
premises licence. This was heard on 4 March 2008 and the licence was revoked. That review involved illegal workers and underage sales;

- On 20 May 2013, Mr Ghafar applied to transfer the premises licence and became a designated premises supervisor;
- On 29 February 2016, Mr Ghafar applied to become the premises licence holder and designated premises supervisor. The police objected to both the transfer and variation of designated premises supervisor on 14 March 2016;
- On 10 May 2016, the transfer applications were heard by the Sub-Committee who decided to transfer the licence to Mr Ghafar but the Sub-Committee refused to change the designated premises supervisor to Mr Ghafar.

At 10.14pm, Mr Dadds, Barrister, representing Mr Ghafar, requested a five minute adjournment to speak to his clients. The hearing resumed at 10.19pm.

**Presentation by the Premises Licence Holder**

Mr David Dadds, Barrister, representing Mr Ghafar confirmed that:

- In relation to the review applications in respect of the premises licence held by Mr Ghafar, no warning letters regarding selling to underage children had been sent by the Council. Each application must be considered on its own merits by the Sub-Committee;
- Premises staff had provided invoices to the Council on 9 May 2013 in relation to the alcohol that had been found at the premises;
- Mr Ghafar, as landlord, sought advice and as a result, immediately gave the tenant notice to leave the premises. Mr Ghafar had now engaged Mr Choudhary as tenant and new DPS;
- No objections or complaints from residents in relation to the premises had been made. Paragraph 9.42 of the Revised Guidance issued under s182 of the Licensing Act 2003, clearly stated that the authority's determination should be evidence-based;
- Mr Ghafar was a man of good character with a clean CRB. He had not received any warning letter from the Immigration Service or had any convictions;
- The issues heard regarding Mr Ghafar's character was associated with another premises. The Guidance clearly stated that each application should be granted on its own merits;
- The applicant was required to show that Mr Ghafar had undermined the licensing objectives and as this was a new application, this was not the case;
- Mr Ghafar was granted a personal licence in 2016 and the issues raised were associated with his previous premises licence holder and designated premises supervisor;
- Mr Choudhary, who held a personal licence also had vast experience;
- Training had been provided to all staff and the relevant documentation had been provided by Dadds LLP to the DPS, Mr Choudhary, to ensure the licensing objectives were promoted.
In response to questions from Members, Mr Dadds and Mr Ghafar confirmed:

- Although Mr Ghafar’s licence had been revoked in 2008, he had since been granted a licence;
- Mr Ghafar met Mr Choudary through friends;
- Mr Choudhary had no association with the previous premises licence holder or designated premises supervisor;
- Appropriate checks regarding Mr Choudhary’s employment status and other staff had been carried out;
- Mr Ghafar had known the previous tenants as a result of working with them at different premises since 2002;
- Mr Ghafar visited the premises as landlord on a weekly basis;
- Mr Ghafar would undertake a CRB check on Mr Choudary and obtain references. Mr Ghafar clarified that he had already spoken verbally to Mr Choudary’s previous employers;
- Mr Ghafar had never previously been a premises licence holder or designated premises supervisor at Payless but only a landlord. Mr Dadds quoted the case of *Hall and Woodhouse v the Borough and County of the Town of Poole* [2009], where the court decided that an owner was not criminally liable for the tenant’s breach of the premises licence, to support his argument.

The LSC asked the Legal Adviser for a comment on this case. He explained that it was correct that a landlord was not automatically liable for such an offence. S.136 Licensing Act 2003 created two offences: the first was the carrying on of licensable activity without authorisation, the second was knowingly allowing a licensable activity to be carried on. The landlord in that case had been charged with the first offence and the court found that it was not carrying on the activity in that particular case. It had not been charged under s.136(b) and it was possible that a landlord could be convicted of such an offence even if not actually carrying on the activity.

**Adjournment and Decision**

At 10.46pm, the Sub-Committee withdrew from the meeting together with the legal advisor and clerk to deliberate in private.

The Sub-Committee had heard and considered representations from Mr Comny, Mr Gardner, Mr Dadds and Mr Ghafar.

Legal advice was given to the Sub-Committee on the options open to them and the need for any decision to be proportionate. The Sub-Committee decided to grant the review application and revoke the licence.

Legal advice was given to the Sub-Committee on the options open to them and the need for any decision to be proportionate. The Sub-Committee decided to grant the review application and revoke the licence.

**RESOLVED:** To grant the review application and revoke the licence.
Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to grant the review application and revoke the licence. The Chair confirmed that full written reasons and notification of the decision would be sent in due course.

The meeting ended at 10.57 pm

CHAIR
LICENSING SUB-COMMITTEE
Tuesday 28 March 2017

Date of Despatch: Wednesday 22 March 2017
Contact for Enquiries: Jacqueline Pennycook
Tel: 020 7926 00282167
Fax: (020) 7926 2361
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