LICENSING SUB-COMMITTEE

Tuesday 26 November 2013 at 7.00 pm

MINUTES

PRESENT: Councillor Leanne Targett-Parker, Councillor John Whelan (Substitute) and Councillor Neil Sabharwal (Substitute)

APOLOGIES:

ALSO PRESENT: Councillor Alex Davies

Action required by

1 ELECTION OF CHAIR

MOVED by Councillor John Whelan, SECONDED by Councillor Neil Sabharwal and:

RESOLVED: That Councillor Leanne Targett-Parker be elected as Chair of the meeting.

2 DECLARATION OF PECUNIARY INTERESTS

Councillor Leanne Targett-Parker declared that she was a Councillor for Herne Hill Ward and Salva & Peppe (item 4d on the agenda) was within her ward. However, she did not consider this to be a disclosable prejudicial interest as she had no association with the venue or the applicants.

3 MINUTES

RESOLVED: That the minutes of the previous meeting held on 28 October and 8 November 2013 be approved and signed by the Chair as correct records of the proceedings.
4 LICENSING APPLICATIONS FOR THE GRANT / REVIEW OF A PREMISES LICENCE

4(a) NINETEEN, 19 THE HIGH PARADE, STREATHAM HIGH ROAD LONDON SW16 1EX (STREATHAM WELLS WARD)

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application for a review of the premises licence. The Sub-Committee’s attention was drawn to chapters 8, 9, 10 and 11 of the Statutory Guidance, and to Sections 5, 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 5.10 of the report on page 23.

The Sub-Committee noted that:-

- This is an application for a review of the premises licence submitted by the Council’s Noise Service on the prevention of public nuisance following noise complaints relating to the premises

- An application for the variation of the Designated Premises Supervisor was received by the Council on 11 October 2013. However, the application was rejected by the Council on 11 October 2013

- The Noise Service have stated that despite trying to work with the premises to implement a number of measures to alleviate the problem of noise from amplified music at the premises, the Noise Service were received complaints about nuisance from the premises

- Seven representations in support of the application for the review and five representations in support of the premises had been received

- The premises had not served any Temporary Event Notices during the past year on the Council

- The application was listed to be heard by the Sub-Committee on 6 November 2013. However, it was deferred following a request from Mr Powell, premises licence holder and Designated Premises Supervisor (DPS), for an adjournment based on the grounds that he did not receive notification of the review of the hearing

- A copy of the application for the review was handed into the premises on 20 September 2013. The notification for the review was posted first class on 21 October 2013 and sent to both the premises address and to the home of the premises licence holder. Mr Powell stated that the notification was not received at the premises and that he had moved from the other address in 2006. At the time of writing the report, the Licensing Authority had not
received any formal notification of his change of address

- Mr Powell had confirmed that he was out of the country and would not return until February 2014
- On 19 November an application to vary the DPS had recently been applied for and the Police made no objections. Therefore the application had been granted and Mr Guiliano Bruni, was now the new DPS

A map and photographs of the premises were circulated.

Presentation by the Applicant

Mr Ralph Lewars, Enforcement and Operations Manager, Environment Services and Highways informed the Sub-Committee that:-

- There had been developments made at the premises since his submission for a review
- He had visited the premises on 6 November and set the electronic sound limiter to a level of around 75dB (decibels) for recorded music
- Following a complaint on the weekend of 23 November 2013, a visit had been made to the premises and live music musicians were seen bringing in their own equipment which could not be controlled by the sound limiter. Consequently, this was a cause of concern. Therefore, he looked forward to hearing from the premises on their proposals because if they intended to hold live music events on the premises, he would not be willing to support it

In response to questions from Members, Mr Lewars confirmed that:-

- On referring to the e-mail of 19 November 2013 circulated to the Sub-Committee from the representative, Mr Twyman, Mr Lewars stated that as the roof lights were weak and was part of the building, he recommended that the roof lights should be soundproofed and insulated. Therefore, he felt that as advice from an acoustics consultant was essential, he considered the additional time sought to be reasonable
- Regarding regulated entertainment, the sound level of 75dB was considered reasonable and satisfactory. However, if the required soundproofing was undertaken, the sound level could improve
- An amplifier could not be plugged into the current sound limiter as the device purchased did not incorporate a cut-off device to limit the power
• In terms of the email submitted by Mr Twyman, Mr Lewars confirmed that no time limit had been imposed to the five point requirements, as some of them could be implemented immediately and he was looking for reassurances that these would be in place.

• Mr Lewars clarified that he was looking for the recommendations suggested to be improved; a discussion with an acoustics consultant regarding insulation of the roof lights and possibly removal of live music from the licence until such time the Noise Service had confidence that this could be regulated and controlled.

Presentation by Interested Parties

Councillor Alex Davies, ward councillor for Streatham Wells said that:-

• He had attended the Sub-Committee to speak on behalf of residents who had concerns regarding the premises.

• On making reference to items 3-5, Annex 2 of the existing licence (page 47), he had cause to make his own complaint, as he had witnessed the door open with loud music emanating from the premises and therefore supported residents’ concerns.

• Numbers of people congregated on the street which disturbed residents that lived in flats above. Also people felt intimidated by exiting in and out of their premises.

• The current condition clearly stipulated that no re-entry should be made at the premises after midnight but there had been complaints made after this time which shows that there had been breaches made to their licence.

• He believed that the hours for the premises were inappropriate, as residents lived in the flats above and activities continued until 03:00 am.

• He felt that the licenced hours and conditions do not accord with each other.

• He sensed that meals were being served up till 03:00 am.

• The noise limiter was imposed by a condition in 2010 but it had only just been installed, which does not seem to deal with noise.

• He felt that the conditions needs to be amended to reflect the licence.

• It was unreasonable for loud music to be played near to residential units which he considered to be unsuitable.
The Chair for the Board of The High (Streatham) Management Ltd said that:

- She had attended on behalf of the Board and also represented residents who lived in the blocks who had experienced problems
- She also lived in a block near to the premises
- Residents underneath had problems with noise coming upwards from the premises and some residents had difficulties sleeping
- She had concerns that patrons on the street from the premises could not be controlled, as people were seen smoking, drinking with some causing anti-social behaviour
- She was concerned about the premises being allowed to remain open until 03:00 am as there appeared to be no level of control by management to the patrons outside
- It seemed that no co-operation had been made by management until the premises was subject to a review
- She wholeheartedly supported a restaurant but did not want a restaurant/nightclub where structural issues and residential units existed

The Sub-Committee had no questions for either Councillor Davies or the Chair of the Board of The High Streatham (Ltd) Management.

**Presentation by the Designated Premises Supervisor**

Mr Paul Tywman, PDS Licensing, representing Mr Dennis Powell, the new DPS, Mr Guiliano Bruni and the bar Manager, Marco Cellamare were in attendance.

Mr Tywman began by thanking Mr Lewars for his cooperation and Carol Jones, Licensing Officer, for dealing with his queries. He then informed the Sub-Committee that:

- He was well aware of the noise issues that residents faced
- He made reference to a letter distributed to residents inviting them to attend the premises to discuss issues, which showed that management had made an attempt to apologise. At this point, the Chair advised that as the Sub-Committee had not seen the letter, it could not be taken into consideration
- He made reference to his email of 19 November 2013, addressed to Mr Lewars and indicated that although Councillor Davies had picked up on some issues, these were contradictory. He had suggested to Mr Lewars that the front doors, situated on the highway, closed after 10:00 pm. The front of the premises had
concertina doors (folding doors). During the winter months, the concertina doors were rarely opened

- He recommended that the use of the outside area should only be permitted until 07:00 pm in order to prevent people drinking outside. He was also content to have a condition imposed that no alcohol be consumed outside that area from 07:00 pm which should stop problems

- He felt that the maximum number of persons allowed outside the premises (smokers) should be 15 at any one time, as the premises were small

In response to questions from Members, Mr Twyman and the Manager said that:-

- A sound limiter had now been installed. On being questioned why the limiter had taken so long, despite this being requested since 2010, Mr Twyman conveyed his apologies to the Sub-Committee and stated that the delay resulted in new management taking over the premises since July 2013. The Manager further explained that he took over the premises in July and had no details regarding the history of the premises. Mr Twyman then clarified that his client did not have a copy of the full licence.

- Regarding the DPS variation that had been applied for on three occasions, the Licensing Officer clarified that in terms of the first application, an email dated 31 October explained the reasons why the application had been rejected

- The Manager confirmed that Mr Powell was still the premises licence holder but he could not indicate the exact date he had taken over management of the premises

- The Manager confirmed that the sound limiter had been purchased on 23 September 2013 and the reason for the delay was due to cash flow issues. However, when it was purchased, he had invited Noise Officers to attend the premises but this had only been undertaken three weeks ago. The speaker issue had been dealt with straight away. Also, following a complaint made on 23 July 2013, a sound proof panel had been suggested but this had not been accepted by Mr Lewars. It was the intention to carry out soundproofing to the windows but additional time was need to do this

- The Manager confirmed that he had obtained expert advice regarding the sound proofing but a report was not available

- Although complaints had been lodged regarding loud music, the Manager explained that an apology to residents had been made regarding the activities held in the summer. Following further
complaints, the doors and windows were closed, plus the speakers, as requested had been removed

- Regarding late night refreshment, the Manager confirmed that kitchen staff remained at the premises until 12 midnight or 01:00 am. On seeking clarification, the Legal Advisor to the Sub-Committee also confirmed that the current licence did not permit late night refreshment after 11.00 pm. Mr Twyman then confirmed that as he now had the opportunity to examine the documents in further detail, he believed that an application seeking variation of the licence should be made, especially as the plans did not reflect how the premises was laid out as the bar had since been relocated.

- The Manager explained that dinner commenced at 7:00 pm and music was played. Occasionally, DJs performed at the premises. Re-entry to premises only occurred when parties took place, as patrons stayed late. Currently the premises closed at 02:00 am and no dancing took place due to space restrictions, as the tables remained in situ.

- Mr Twyman felt that residents would be content if the external area to the front of the premises could only be used until 7:00 pm, irrespective of the summer. The amount of patrons re-entering the premises would be controlled by management.

- Mr Twyman would be content to have the recommended maximum number of persons outside reduced from 15 to 6.

Adjournment and Decision

At 8.06 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 Lewars, Mr Twyman, Mr Guiliano Bruni, Mr Marco Cellamare, Councillor Davies and the Chair for the Board of The High (Streatham) Management Ltd.

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 for a review with additional conditions and amendments for the following reasons:

- This is an application for a review of the premises by the Noise Team. A number of complaints have been made with regards to the noise from patrons and the music. Mr Lewars stated that he had visited the premises on 6 November 2013 and discovered that a basic noise limiter device had been installed which addressed the matter of recorded music and that it had been set at 75dB. The issue was live music and the lack of sound proofing. Live
music could not be addressed as the noise limiter installed was unable to cope with live music, only recorded.

- Mr Lewars was keen to hear the proposals from the premises on how to address this issue. He recommended that the roof lights be sound proofed and this is reflected in the written submissions by the premises licence holder's representative.
- Mr Lewars applied for the removal of live music if the noise nuisance could not be adequately addressed.
- The Sub-Committee heard from Councillor Davies and the Chair of the Board for The High (Streatham) Management Ltd with regards to breaches of the premises licence and noise nuisance.
- Mr Paul Twyman represented the new DPS, Mr Guiliano Bruni, whose variation had been approved on 19 November 2013. Mr Dennis Powell was still the premises licence holder, however he had been abroad since August 2013. The representative accepted that there had been previous issues and the new management had apologised to the residents concerned for the nuisance.
- The representative reiterated the conditions offered up in his written submission however he did not propose how to deal with the live music until the sound proofing was completed. Justification was given with regards to the number of breaches of the licence particularly by the new management since July 2013.
- The Sub-Committee did not find either the submissions made on behalf of the management of the premises or the new management to be credible in explaining the premises delay in complying with the conditions on its licence and the breach of these conditions in particular leaving the doors open in the summer after hours, which was justified by it being hot. The management conceded that it was not necessary for dancing to be a licensable activity as there was neither the demand nor the facilities for dancing.
- This application engages the licensing objectives of crime and disorder (with regards to the significant breaches of the licence particularly Annex 2 - 1.3; 1.4; 1.5 and 1.6; Annex 3 - 1.1; 1.3; 1.6 and 1.7) and public nuisance. The proposals put forward by the management of the venue neither addressed the concerns of the Noise Team and the Sub-Committee nor provided adequate reassurance that future breaches would not take place.
- Therefore, the Sub-Committee has decided to grant the application for a review with amendments and conditions.

RESOLVED: To grant the application for a review with additional conditions and amendments as follows:-

Amendments

1. The removal of dancing and the provision of facilities for similar entertainment.
2. The removal of live music.

**Conditions**

1. The front doors facing on to Streatham High Road must be kept closed from 10:00pm onwards save for ingress and egress.

2. No drinks at all to be served outside after 7.00pm.

3. Strictly no entry or re-entry save for smokers to the premises after midnight.

4. There is to be a maximum of 6 people outside the premises at any one time.

5. There is to be door supervisor on Friday and Saturdays from 10pm to 30 minutes after the terminal hour to monitor persons outside the premises and dispersal.

6. There are to be no loud speakers at the rear of the bar.

7. The sound system and equipment is to be kept in a lockable cupboard.

8. All DJs’ equipment must be played through the sound limiter.

9. The sound limiter to be set at 75dB;

10. A dispersal policy shall be drafted and implemented and approved by the LA’s licensing department

**Announcement of Decision**

Members returned to the meeting of and the Chair informed those present of the decision to grant the review with additional conditions and amendments and provided reasons for the decision as outlined above. The Sub-Committee had considered all the options available to them and ultimately felt that the applicant had met the concerns which had been raised and that its decision was appropriate and proportionate. The Chair confirmed that written notification of the decision would be sent in due course.
4(b) WAHACA, 20 ATLANTIC ROAD, LONDON SW9 8JA (COLDHARBOUR WARD)

The application was resolved after agreement was reached between the applicant and the objectors; therefore no hearing was required.

4(c) PREMIER FOOD AND WINE, 139 SOUTH LAMBETH ROAD, LONDON SW8 1XB (STOCKWELL WARD)

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application for a review of the premises licence. The Sub-Committee’s attention was drawn to chapters 9, 10, 11 and 13 of the Statutory Guidance, and to Sections 5, 7, 8, 9 and 17 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 23.

The Sub-Committee noted that:-

- This is an application for a review of the premises licence submitted by the Council’s Trading Standards under all four licensing objectives following test purchase operations and inspections of stock and the premises
- No representations were received in support or against the review application
- No history of noise complaints against the premises and no Temporary Event Notices had been given

A map and photographs of the premises were circulated.

Presentation by the Applicant

Mr Bernard Conmy, Lambeth’s Trading Standards informed the Sub-Committee that:-

- There had been developments made at the premises since his submission for a review. Following a discussion with the premises licence holder representative Mr Samaroo, it had been brought to his attention that Mr Najib Mohammed, had only taken over the running of the premises in May 2012. Therefore, the incidents outlined in paragraphs 1-18 on page 79 of the report were not associated with Mr Mohammed. Only the Trading Standards inspections on 16 July 2013, which concerned complaints regarding street drinkers and associated anti-social behaviour and staff/management concerns remained
- He had spoken to Mr Samaroo who, on behalf of his client, had accepted conditions that tackled street drinking. Although Mr Najib
Mohammed had been mentioned in his representation, regarding the failed under-age sale On 25 October 2011, this was an error made by staff who named him as the owner and DPS

In response to questions from Members, Mr Conmy confirmed that:-

- If it was accepted that Mr Najib Mohammed took over management of the premises in May 2012, he could see how the Council could hold him responsible for what had happened
- Although, he originally sought revocation of the premises licence, due to the new DPS, he believed that the shop could be managed adequately by imposing the following conditions:-
  1) No single can sales
  2) Minimum of 4
  3) No larger beers ales over 6% abv
  4) No sale to street drinkers
  5) Maintain a refusals register
  6) Challenge 25 policy with signage

The Chair also suggested an additional condition that ‘no spirits in 50ml bottles should not be sold’ and Mr Conmy was happy for this condition to be included.

**Presentation by the Premises Licence Holder**

Mr Noel Samaroo, the premises licence holder’s representative, Mr Mohammed Najib, premises licence holder and Mr Parviz Mohammed, Manager were in attendance.

Mr Samaroo informed the Sub-Committee that:-

- There had been confusion regarding the previous and current premises licence holder as both had the same surname Najib. However, he had a copy of the new licence in his possession that confirmed that his client Mr Najib Mohammed took over the management of the premises in May 2012
- Following Mr Conway’s visit on 16 July 2013, where it had been highlighted that as a result of problems the licence would be reviewed, Mr Mohammed had decided that he wanted to be the premises DPS
- In relation to the two bottles of non-duty paid alcohol found on the premises, the invoice requested by Trading Standards had been supplied. However, he could not provide any further explanation relating to the issue but the matter had been taken up with the relevant supplier, from whom the bottles had been purchased in boxes of six. It could only been assumed that when the bottles had been purchased, no duty was paid, but his client had been
unaware of this.

• Issues relating to the bread machine, fire extinguishers and other matters outlined on Mr Conmy’s representation had now been resolved

In response to questions from Members, Mr Mohammed Najib, Mr Parviz Mohammed and Mr Samaroo said that:

• In regards to the conditions agreed with Mr Conmy, Mr Samaroo stated that a refusals register and a Challenge 25 policy were already in place. He would also be content with no sales of cider in plastic bottles

• Regarding the additional condition suggested by the Chair above, Mr Parviz Mohammed confirmed that no plastic bottles sales took place at the premises and street drinkers did not purchase miniatures but his ordinary customers did. Therefore, he would not be happy for this condition to be added onto the licence

• Mr Parviz Mohammed confirmed that he did not have a personal licence but had been the owner since 2012 and intended to apply for his personal licence

• Mr Parviz Mohammed stated that although the suppliers had been alerted regarding the non-duty alcohol, nothing had been done. However, to avoid this problem, only single bottles of alcohol would be purchased from the same suppliers in the future. He preferred to keep the same supplier, as they were situated close to where he lived. On being questioned further on this point, Mr Samaroo clarified that the suppliers were well-known and in order to be competitive, his clients preferred to remain with that particular supplier

Adjournment and Decision

At 9.13 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 Conmy, the premises licence holder representative Mr Samaroo, Mr Mohammed Najib and Mr Parviz Mohammed.

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 for a review with additional conditions for the following reasons:

• This is an application for a review of the premises due to under-age sales and other breaches of the licence including health and safety matters. Mr Conmy stated that paragraphs 1-18 of his
representation now fell away as he accepted that Mr Mohammed had taken over in May 2012 after many of the incidents took place. Mr Conmy had discussed conditions to address street drinking.

- Mr Samaroo represented the premises licence holder and DPS and Mr Parviz Mohammed the Manager attended. The conditions to address street drinking proposed by Mr Conmy had all been agreed save for the non-sale of miniatures. Mr Mohammed voluntarily agreed to restrict the sale of cider in plastic bottles.
- The representative stated that the other issues addressed by Mr Conmy had been addressed.
- This application engages the licensing objectives of crime and disorder, however, the conditions agreed by the premises licence holder and imposed by the Sub-Committee, adequately addresses the licensing objective.
- This application has been granted and the following conditions are to be added to the licence:

RESOLVED: To grant the application for a review with additional conditions and amendments as follows:-

Additional Conditions

1. No single cans of beer, lager or cider.

2. A minimum of 4 cans only can be sold.

3. No beer, lager or cider to be sold greater than 6% ABV.

4. No sale of alcohol to street drinkers.

5. A refusals register to be keep and made available to any officer who requests it.

6. A Challenge 25 policy to be implemented with appropriate signage.

7. No sale of 50ml bottles of spirits (miniatures).

8. No cider to be sold in plastic containers.

Announcement of Decision

Members returned to the meeting of and the Chair informed those present of the decision to grant the review with additional conditions and provided reasons for the decision as outlined above. The Sub-Committee had
considered all the options available to them and ultimately felt that the licensee had met the concerns which had been raised and that its decision was appropriate and proportionate. The Chair confirmed that written notification of the decision would be sent in due course.

4(d) SALVA & PEPPE, 135A DULWICH ROAD, LONDON SE24 0NG (HERNE HILL WARD)

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application for a new premises licence. The Sub-Committee’s attention was drawn to chapters 8, 9 and 10 of the Statutory Guidance, and to Sections 5, 7, 8, 9 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 5.9 of the report on page 22.

The Sub-Committee noted that:-

- This is an application for a new premises licence seeking the supply of alcohol (consumption on the premises only) from Monday-Sunday 12:00-00:00 hours
- Two representations had been received from local residents based on public nuisance. On 20 November 2013, the Council received a petition signed by eight people, two of which made valid representations. A copy of the petition and enclosures had been distributed to the applicant and Members of the Sub-Committee at the meeting and a decision would need to be made whether it could be considered
- No Temporary Event Notices had been given and there was no noise history associated with the premises

A map and photographs of the premises were circulated.

The Chair confirmed that having read the first two pages and skimmed through the rest of the information, she had decided that the additional representations were out of time. Therefore, only the two valid representations previously received would be accepted and considered by the Sub-Committee during the decision-making process.

Presentation by the Applicant

The applicant and his friend/representative and owners of the premises were in attendance:-

The applicant’s friend/representative informed the Sub Committee that:-

- There were many restaurants plus a public house which was licensed until 00:30 and 02:00 hours Friday and Saturdays. The
hours requested for this licence was until 00:00 hours, which he considered to be suitable

- The venue would be a small Italian restaurant with no music
- The venue would be a selective restaurant, attracting mainly couples and families
- Noise issues would be limited and his friend intended to include soundproofing
- On making reference to the representations received he made the following points:
  - Noise at back of building – as the public house had a licence until 00:30 hours, he questioned how the area would be quiet after 22:00 Noise from extractor fans – quieter fans with built-in silencers, designed to quieten sounds and smells would be used. The fans would be positioned 1 metre in height on the building. Therefore any smells would be curtailed
  - Vermin – he made reference to photographs of bins behind his friend’s shop which showed overflowing bins belonging to residents. On asking to produce the pictures, the Legal Adviser to the Sub-Committee confirmed that the photos were not relevant

In response to questions from Members, the Manager confirmed that:

- Around 35-40 covers (tables for diners) would be in the restaurant. The tables would be situated between the kitchen and restaurant. Tables would also be placed outside, as a pavement licence had been obtained. The applicant had applied for planning permission
- He would have sufficient staff members (between 3-4) to cope with any issues
- He had only obtained his licence two months ago but had 30 years’ experience in the catering business
- He had applied for an alcohol licence until 00:00 despite not applying for late night refreshment, as he thought that the kitchen would not close until 23:00
- Due to complaints, if necessary, he would carry out soundproofing to the restaurant. However, he had been advised by a building engineer that as the building was less than 25 years old, soundproofing was not necessary at it was only a restaurant. The Manager reassured the Sub-Committee that no noise would emanate from the premises as no music would be played

Presentation by Interested Parties

Ms Kara Johnston, a resident who had made a representation against the application, said that:

- She represented eight other residents that had signed the petition. At this point, the Chair reminded Ms Johnston that she was only
entitled to address her concerns as the petition was considered to be out-of-time

- She raised a question regarding the notices that had been displayed, as she explained that she had not seen the notices. In response, the Licensing Officer explained that under the licensing act, A4 blue notices must be advertised. Checks were also made to ensure the notices had not been removed
- Although the public house was located within her vicinity, no noise issues occurred as management controlled the crowd
- She believed that residents would be faced with noise from the restaurant as a result of customers leaving and staff cleaning the restaurant
- She had no objections to the restaurant itself but just felt that it should not be open until midnight and serving alcohol, which was unacceptable
- The sound emanating from the premises caused problems, as it travelled upwards into residents’ properties, which she believed was why the soundproofing issue from management was mentioned

Members posed no questions to Ms Johnston.

**Adjournment and Decision**

At 9.49 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 the applicant, the applicant’s friend/representative and owner of the premises.

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, with one amendment to the operating schedule for the following reasons:

- This is a new application for the sale of alcohol to 12:00 am. The Sub-Committee did not accept the additional representations dated 18 November 2013 as they were not a petition but representations and out of time. The documents lodged by the residents who had made representations within time were accepted as additional information.
- The applicant was accompanied by a friend and also the owner of the premises. The friend addressed the issues raised by the residents stating that the venue was to be a family and selective restaurant appealing to couples and families.
- Whilst the applicant had only been granted a premises licence within the last 2 months however he had 30 years’ experience in the catering industry.
- The applicant had not applied for late night refreshment and
therefore food cannot be served after 11pm.

- A local resident, Ms Kara Johnston, submitted that the residents were concerned with noise from the venue, patrons leaving and staff at the rear of the building.
- This application engages the licensing objective of public nuisance. However, the amendment implemented by the Sub-Committee adequately addresses the licensing objective of public nuisance and therefore the application is granted subject to the one amendment set out below.

**RESOLVED:** To grant the application, with one amendment to the operating schedule as follows:-

**Amendment**

**Supply of Alcohol (consumption on the premises only)**
Monday – Sunday   12:00 – 11:00

**Announcement of Decision**

Members returned to the meeting and the Chair informed those present of the decision to grant the application, with one amendment to the operating schedule and provided reasons for the decision as outlined above. The Sub-Committee had considered all the options available to them and ultimately felt that the applicant met the concerns which had been raised, whilst being proportionate. The Chair confirmed that written notification of the decision would be sent in due course.

The meeting ended at 10.00 pm

CHAIR
LICENSING SUB-COMMITTEE
Tuesday 10 December 2013

Date of Despatch: Wednesday 4 December 2013
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