

# Licensing Sub-Committee Report

**Item No:**

5b

**Title of Report:**

Habesha  
256 - 258 Brixton Road London SW9 6AQ

**Applicant:**

Metropolitan Police (Licensing)/Community Safety)

**Application Type:**

Temporary Event Notice TENS9992

**Application Date:**

4th December 2017

**Ward:**

Vassall

**Premises Type:**

Restaurant

**Policy Context:**

Lambeth Statement of Licensing Policy 2014 - 2019

**Report Author:**

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**Contact Details:**

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**Application Summary:**

This is an application by the Police and Lambeth Community Safety service (discharging the Council's Environmental Health function) for a Counter Notice to be issued against the Temporary Event Notice served on the Licensing Authority.

<b>Consultation Information:</b>			
Department(s) or Organisation(s)	Consulted (Y/N)	Date Response Received	Comments summarized in report (Y/N)
<b><u>Internal</u></b>			
Noise Service	Applicant	06/12/2017	Y
<b><u>External</u></b>			
Police Licensing Unit	Applicant	04/12/2017	Y

<b>Policy implications:</b>
<p><b><u>Licensing Objectives (chapters 6, 9, and 14, pages 12, 16 and 23 of the policy)</u></b></p> <p>The Licensing Objectives engaged by this application are:-</p> <p><b>Prevention of Crime and Disorder</b>  <b>Public Safety</b>  <b>Prevention of Public Nuisance</b></p> <p>The policy on page 23, paragraph 14.2 strongly recommends that those giving TENs for premises already holding a premises licence in order to extend the hours of operation, should carefully consider applying any conditions on their licence to the TEN. This, it states, is particularly relevant for conditions relating to noise control as any noise sensitive area is likely to become more noise sensitive with later hours.</p>

<b>1. Application:</b>
<p>1.1 Mr. Heraney Asres on the 4<sup>th</sup> of December 2017 gave the Licensing Authority a Temporary Event Notice (TENs) under section 100 of the Licensing Act 2003</p> <p>1.2 The Notice will authorise the following licensable activities:</p> <ul style="list-style-type: none"> <li>• The sale of retail of alcohol</li> <li>• The provision of Late Night Refreshment; and</li> <li>• The provision of regulated entertainment</li> </ul> <p>It is proposed to provide these activities and entertainment during the following times:-</p> <p><b>From:- 22:00 on 24<sup>th</sup> December 2017 to 04:00 on 25<sup>th</sup> December 2017 (Christmas Eve to Christmas Day) for 120 people.</b></p> <p>A copy of the application is attached to this report as <b>Annex A</b></p>

## **2. Representations:**

2.1 Objections to the TEN were received from the Metropolitan Police on 4<sup>th</sup> of December 2017 and Community Safety on the 6<sup>th</sup> of December. The objections engage with the licensing objectives:-

- **The prevention of crime and disorder**
- **Public Safety; and**
- **Prevention of public nuisance.**

2.2 The objections state that a recent visit to the premises conducted by responsible authority officers found the premises to be operating in a manner not too dissimilar from a night club, even though it was granted a licence to operate as a restaurant. And that the TENs would undermine the licensing objectives.

2.3 Following the visit referred to in the objection, police, licensing and community safety officers invited the premises to a meeting on 30<sup>th</sup> October 2017 a copy of that letter is attached as **Annex B**.

2.4 A copy of the minutes of the meeting is attached as **Annex C**

Both the Police and Community Safety have provided Mr. Heraney Asres (Notifier) with a copy of the objection to this TEN via email and that email is attached to this report as **Annex D**

2.5 The last date for giving an objection notice was 7<sup>th</sup> December 2017.

## **3. Current Licence:**

3.1 There is a current premises licence in place for this venue. A copy of the premises licence is attached as **Annex E**.

The premises licence holder is LMA Enterprise Limited, a registered charity and Mr Tewodros Mesmer is the designated premises supervisor (DPS) of the premises.

## **4. Background History:**

4.1 A premises previously licensed as BXT used to operate on the same site. That premises licence was revoked following a review and on 23rd May 2017, a new premises licence was applied for the venue known as Habesha. This premises licence was granted in July 2017 by the Licensing Sub-Committee, following a Hearing as the application had attracted several representations.

Subsequent to the meeting in November 2017, the minutes and a final warning letter were sent to the premises following the visit to the premises and meeting referred to in paragraph 2. A copy of the letter is attached to this report as **Annex F**.

4.2 The premises is located in a parade of shops along Brixton Road, the majority of building along the parade have residential accommodation on their upper floors, and is the same either side of the premises. Immediately behind the premises.

The premises has applied for seven (7) TENs, including this one, this calendar year of which 5 received objections. Altogether, the premises has applied for a total of 16 days this calendar year.

#### **5. Observations:**

5.1 The parts of the Statutory Guidance (April 2017) relevant to this application and the representations received are Chapters:

- 7 – Temporary Event Notices;
- 9 – Determining Applications;
- 15 – Regulated Entertainment.

5.2 The parts of the Statement of Licensing Policy that relevant to this application and the representations are Sections:

- 6. The Prevention of Crime and Disorder
- 8. Prevention of Public Nuisance
- 14. Temporary Events
- Appendix 7 – Crime and Disorder
- Appendix 8 – Public Safety
- Appendix 9 – Public Nuisance

#### **6. Conclusion:**

6.1 Section 106A(2) of the Act provides that the licensing authority may impose one or more conditions on the standard TEN if:

- it considers it appropriate for the promotion of the licensing objectives to do so;
- the conditions are also imposed on a premises licence or club premises certificate that has effect in respect of or in any part of the same premises as the TEN;
- the conditions would not be inconsistent with the carrying out of licensable activities under the TEN.

6.2 Members have three options when determining this Notice,

- To issue a Counter-Notice,
- To impose conditions on the TEN where those are already imposed on the premises licence
- To refuse to issue a Counter Notice

#### **Appendices:**

Annex A – TEN Applications

Annex B – Copy of letter inviting premises to an engagement meeting

Annex C – Copy of minutes of the meeting held with the premises

Annex D – Copy of the objection letter from the Police

Annex E – Copy of current premises licence

Annex F – Copy of Final Warning Letter to premises.

#### **Reference Documents:**

Local Government Act 1972 – Access to information documents used in the preparation of this report

1 The Licensing Act 2003 (“the Act”)

2 Amended Guidance issued under Section 182 of the Licensing Act 2003 (April 2017) (“the Guidance”)

	3 Lambeth Statement of Licensing Policy 2014 - 2019 ("the Policy")
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