LICENSING SUB-COMMITTEE

Thursday 21 December 2017 at 6.00 pm

MINUTES

PRESENT: Councillor Jennie Mosley, Councillor Martin Tiedemann and Councillor Vaila McClure

APOLOGIES:

ALSO PRESENT:

1 ELECTION OF CHAIR

Councillor Vaila McClure explained that the Sub-Committee meeting would need to be adjourned for 20 minutes in order to await the arrival of one of the councillors.

MOVED by Councillor Martin Tiedemann, and

RESOLVED: That Councillor Vaila McClure be elected Chair.

On opening the meeting, the Chair advised that applications for Habesha (item 5b) and (item 5c) had been withdrawn.

2 DECLARATION OF PECUNIARY INTERESTS

There were none.

3 MINUTES

RESOLVED: That the minutes of the previous meeting held on 21 November 2017 be approved and signed by the Chair as a correct record of the proceedings.

4 LICENSING APPLICATIONS FOR THE GRANT / REVIEW OF A PREMISES LICENCE

4a LOCK ‘N’ LOAD EVENTS LTD 2018, SOUTH WEST FOUR, CLAPHAM COMMON EVENT SITE, LONDON (CLAPHAM COMMON)
Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application for a new 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 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 13 of the agenda.

In response to questions from Members, the Licensing Officer confirmed:

- This application had been made by Lock N Load Events Ltd. for a time-limited premises licence in Clapham Common for the annual musical event SW4 held on the August Bank Holiday weekend.
- The application covered a four day period but the applicant had confirmed that they only required three days. However, the required days had not yet been confirmed by the applicant but a decision would be made in the next few months.
- In the agenda pack, the following supporting documents could be found:
  - The application, pages 20-31;
  - The plans, page 33;
  - The House of Commons post-event report, pages 35-45;
  - The business survey analysis, page 47;
  - Lambeth Events Safety Advisory Group minutes, pages 49-57;
  - The Metropolitan Police objection withdrawal, page 59;
  - The residents’ notice for the event, page 61;
  - The weather plans, pages 63-70;
  - The charity funds, pages 71-73;
  - The Temple acoustic report, pages 75-92;
  - Residents’ complaint log, page 93;
  - The noise management compliance report, pages 95-114;
  - House of Commons complaint report, pages 115-120;
  - Trinity Hospice email, page 121;
  - Vanguardia Ltd. report, pages 125-133;
  - Wandsworth Council website, pages 135-136;
  - Representations against the application, pages 137-248;
  - 137 representations in support of the application, pages 249-316; and,
- Jim Griffiths from Vanguardia Ltd. would be available to assist the Sub-Committee if required. Olivia Pearcey, Lambeth Events, was in attendance to observe but was also available to assist Members, regarding the events permission process.
- Although the application proposed to carry over conditions from last year’s event, an additional condition had been agreed with Trading Standards which would be discussed by the applicant’s legal representative, Mr Gareth Hughes.

A map and photographs of the premises were circulated to members.

Presentation by the Applicant

Mr Gareth Hughes, representative for Lock N Load Events, Mr Mattle, Owner and Mr Fiumicelli, Sound Acoustics Expert were in attendance.

Mr Hughes informed the Sub-Committee that:
This was a well-established event which had been running for the past 14 years. Mr Mattle had hosted similar events on the Common and had experience of running large scale events since 1998.

90,000 people attended the event each year over the three days.

The core days for the event would be Saturday and Sunday. The event organisers requested four days which had been granted last year, although only three days were used. A decision was yet to be made on which days would be used for this year's event.

The hours sought for the event complied with the Council’s licensing policy.

Considerable support from more than 100 residents and local businesses had been received. Some residents wished for the sound levels to be increased which had not been requested by the applicant.

On 23 October 2017 Mr Mattle had met with the Council's Safety Advisory Group (SAG) to discuss last year’s and this year’s events. Colleagues from Events Lambeth, London Borough of Wandsworth and Lambeth’s emergency planning also attended the meeting. At the meeting, Wandsworth Council raised no issues pertaining to the sound levels at last year’s event.

Residents were pleased that the event would be taking place in Clapham Common. Trinity Hospice at Clapham Old Town, which had one of the measuring points situated outside their premises, supported the event despite the sensitive nature of the premises. The Hospice’s Chief Executive had confirmed that no issues pertaining to noise had been experienced last year.

No objections from the police or environmental health had been received.

The representation submitted by Wandsworth Council objected to the sound levels. However, the levels accorded with the Lambeth’s Events Strategy.

Last year, a limited number of complaints had been received considering that the event attracted 90,000 people. In Wandsworth the complaints received had been reduced from 52 to 28 from 2016 to 2017 respectively.

Reference was made to the three sound reports included in the agenda pack:
- The South Downs report, on behalf of Wandsworth, mentioned only minor incidents where sound levels had been exceeded.
- Mr Fiumicelli’s report for Lock N Load, indicated that all requirements had been satisfied.
- Vanguardia, confirmed that all sound levels complied with Lambeth’s Events Strategy.

Lambeth’s Events Strategy recognised that residents who lived nearby to the Common would experience some noise when events were held.

The applicants agreed with the Council’s sound levels and therefore requested that the event should be allowed to proceed.

In response to questions from Members, the Mr Mattle and Mr Fiumicelli confirmed:
- No major issues occurred at last year’s event.
- Constant monitoring for noise occurred during the three days of the event and also on the Friday during the sound check. Noise monitoring had occurred simultaneously at all of the mixing desks, main stage, secondary stages and the five agreed fixed monitoring sites across the Common.
- Complaints made by residents during the event were responded to and visits carried out at individual properties to monitor noise. If noise levels were exceeded a radio link was fed-back to the venue and adjustments were rapidly made.
- South Down’s report, on behalf of Wandsworth, identified four 15 minute periods
over three days where noise levels had been exceeded. However, the difference could not be heard as it was less than two decibels and Wandsworth had failed to notify the event so that adjustments could have been made. Over those same periods, despite monitoring being undertaken by the event, it had not noticed that the noise level had been exceeded.

- South Down’s report noted that noise from the traffic on Clapham Common North and South, including from aircraft flying into Heathrow, were also contributing factors during the event. Therefore, their report failed to establish that the music on the Common had been solely responsible for the breach.

- During the last 13 years, event management continually made changes to the sound system. The current sound company used a MLA (multicellular loudspeaker array) sound system, which could have its direction configured and controlled in real-time.

- It would be very difficult to refine and control noise levels breaking out of the event any further without the levels being substantially reduced. The level was already at the limit considered to be adequate and appropriate for such an event.

- In the past, the sound levels of the top cabinets of vertically stacked speakers had been reduced to prevent sound travelling too far.

- The effect of the weather was usually considered to be short-term and wind speeds tended to reduce the impact of noise in the evenings.

- Rotating the event by 180 degrees as suggested by Wandsworth was not considered suitable as it would only reduce the noise levels in Wandsworth situated west and south west of the Common and would have a negative impact on other residents.

- Complaints received from residents were variable but tended to be resolved.

- It had not been brought to their attention that Mr Davidson, local resident, had requested a visit from the event last year. However, Mr Davidson should have received a flyer with details of a hotline to contact in case of issues. The event was aware that the particular area of Clapham Common where Mr Davidson resided remained a source of complaint, but was continuously monitored.

- 5,000 flyers were distributed around Clapham Common publicising last year’s event and similar provisions would be made for 2018. Flyers would also be posted through some residents’ letterboxes which was implemented by Lock N Load.

- No statutory noise nuisance issues regarding the event had been brought to their attention and in their opinion, all noise levels had been adhered to. Although Wandsworth Council appealed the decision to grant the premises licence for 2017 that appeal had been compromised by agreement in relation to the sound levels and monitoring points.

- Mr. Fumicelli told the LSC that the determination by officers of the existence of a statutory nuisance did not address any issue as to reasonableness, which was a critical factor in the assessment of nuisance.

- During performances on Saturday and Sunday, sound levels fluctuated and the noise gradually increased. However, on the third day, a series of bands performed for up to an hour with breaks of 20 minutes for change of band.

- A vast amount of toilets were placed outside the main entrance. Stewards and security were only available on the main exit routes for egress along Clapham South.

- The event welcomed any suggestions for improvements providing they were viable.

- August Bank Holiday weekend was considered very busy as people tended to
travel from other events which also caused noise issues.

Presentation by Interested Parties

Representatives in support

There were no representations in support in attendance at the meeting.

Representatives against

Mr Jas Lally, Residential Services Manager, Richmond and Wandsworth Borough Council, addressed the Sub-Committee by making the following points:

- Regrettably Wandsworth Council had again submitted a representation as a result of 40 complaints from residents made directly to the Wandsworth Council due to loud music from the Lock N Load event last year. Residents had now suffered from loud music from this event for two years running.
- Following the Magistrates Court appeal last year, regarding the Sub-Committee’s decision, levels had been reduced at two of the locations. However, 40 complaints had still been received.
- The complaints showed that the reduction in noise levels were not sufficient and the revised levels sought by Wandsworth should be considered and applied.
- The levels sought would see a significant reduction of noise faced by residents, in particular bass levels should be reduced to that allowed by Westminster Council.
- Complaints had been received from Wandsworth residents living one kilometre away from the Common in which loud bass music caused their windows to rattle. This was considered to be very intrusive.
- The statements produced by noise officers, demonstrated that the noise, in their experience, amounted to a public nuisance. Their statements showed that the complaints made by residents were justified.
- A number of other complaints by email regarding the event had been received by residents but had not been included.
- The event prevented individuals from enjoying the comfort of their own homes and residents should not be disturbed by music that attracted over 90,000 people.
- No survey pertaining to the event had been carried out or a year’s break, such as at Glastonbury, had not been considered. However, the event occurred every year and attracted a large number of complaints.
- The location of some residents’ properties near to the Common, needed to be considered in the proposals. Other authorities, such as Westminster, operated a lower bass level for their events.
- He refuted the assertions made that no public nuisance had been caused last year.
- Wandsworth felt that the permitted levels as suggested should be reduced as outlined to prevent further complaints and the event only be held for two days as the bass noise was too excessive.

In response to questions from Members, the Residential Services Manager confirmed:

- Wandsworth officers worked independently on behalf of the Council. Although they believed that a public nuisance had occurred, an abatement notice could not be served in Lambeth by an officer in Wandsworth.
- No issues were mentioned at the SAG meeting on 23 October 2017 as that forum had no legal jurisdiction. Wandsworth Council felt representations and issues should be
presented to the Sub-Committee instead.

- The event was deemed in accordance with the music levels set by the Lambeth Events Policy. Therefore, to inform Lambeth that the music was considered to be intrusive to residents, the applicant would have informed Wandsworth that the standards set by Lambeth, including the conditions, were being complied with. However, it was the opinion of Wandsworth that the levels set by Lambeth were considered too high in relation to bass levels compared to other local authorities.

At this stage the Legal Adviser to the Sub-Committee read out the appropriate section of the Environmental Protection Act 1990 (sections 81(2)) and clarified that if Wandsworth did deem that a statutory nuisance occurred, they were empowered to act and could have brought the matter to the attention of Lambeth Council.

The Residential Services Manager further confirmed that:

- Wandsworth Council felt the Sub-Committee was the appropriate forum to raise issues.
- It was felt that lower noise levels could be achieved if the stage was turned 180 degrees.
- Holding the event over two days would enable residents to receive a respite as a result of other events being held over the Bank Holiday.
- Wandsworth received complaints from residents regarding other venues but the majority of complaints related to Lock N Load.
- Wandsworth Council only had issues with public nuisance that would affect residents and wanted the event go head. However, it was felt that the bass levels should be reduced as complaints were still being received.
- He was uncertain whether SAG had been notified regarding noise issues as the officer who attended the meeting on 23 October 2017 no longer worked for Wandsworth Council. He informed the LSC that officers had been tasked to attend and observe.

The Chair invited Olivia Pearcey, Lambeth Events, to address the Sub-Committee and she confirmed that:

- Wandsworth Council had been invited to attend SAG to raise any issues pertaining to the event. In addition, Wandsworth officers were invited to attend the debrief, site walks and to look at the sound monitoring points.
- Wandsworth officers raised no issues at SAG.
- On event days officers from Lambeth Events and the Parks team were available for any concerns to be raised.
- If Wandsworth officers had informed Lambeth of the statutory nuisance last year, the matter could have been addressed by arranging for an independent consultant to visit Mr Davidson.
- All concerns raised by residents pertaining to last year’s event had been addressed. Events were proactively monitored with regular liaison undertaken with event management.
- She would be happy to work with Wandsworth to address any issues.

Mr Alex Davidson, local resident, said that:

- He objected to the 2018 event, on the grounds that it would cause a public nuisance to residents.
- His house was situated close to where the event would take place.
• Wandsworth environmental officers had visited his property on four occasions (4pm and 9pm Sunday 27 August 2017 and 4pm and 8.30 pm Monday 28 August 2017). On the two evening visits they determined that the noise classified as a statutory nuisance.

• As a result of the event, he was unable to enjoy the quietness of his home. That weekend was very hot and on opening his windows, he could hear loud bass music which was very intrusive, and was audible even with closed windows.

• The event had increased from two to three days and concluded at 11pm and not 9pm.

• In 2016 Lambeth granted a 40% increase in the dBA level and 50% to the bass level (75dBA and 90dBC). The main stage was located 74 metres away from his property, much closer than any other open air event, and closer than the Clapham Hospice monitoring site (150 metres). Therefore, he experienced higher sounds levels for longer periods than were authorised.

• In order to prevent statutory nuisance, consideration should be given to the distance of the event, crowd size, type of music and the nature of the event regardless of whether properties were situated in Lambeth or Wandsworth.

• The noise limit in relation to background noise should not vary from location to location as at present.

• Although the local authority had a statutory duty to investigate complaints of sound nuisance, his request was refused by Lambeth. He was informed by Lambeth that noise would only be monitored against Event Lambeth levels and not against any statutory nuisance level. Therefore, as he received no support from Lambeth Council, he now sought a rejection of the application to prevent a statutory nuisance being caused by the 2018 event.

• All amplified music events on the Common should be licensed on the same basis regardless of the type and sound of the event. The level should not cause a statutory noise nuisance as he experienced last year.

• The Winterville licence was granted on the basis that the music noise level would be no more than 3dBA above background levels.

• 40 event days were held on Clapham Common that used amplified music. He felt that the licence for each of them, including Lock N Load, should be granted on the same basis to prevent a statutory nuisance being caused this year.

Ms Janet Sunborg, local resident, said that:

• She had lived in Clapham for over 40 years and each year the bass music from events increased.

• Last year, as a result of the loud music, she was prevented from opening her windows.

• On the Friday before the event, the sound system test was extremely loud.

• Each day after last year’s event, revellers continued to shout and scream on the Common until 2am. Evidence of urination, defecation, vomiting, syringes and used condoms could be seen on the Common and pavements.

• No police could be seen outside the surrounding areas of the Common.

• She had called the contact number provided by Lock N Load on their letter, however sometimes the phone was not answered or, if it was, she was informed the event could not deal with her complaint.

• She had not received a flyer pertaining to this year’s event.

• People who attended the event were not local as they could be seen leaving via the underground stations. Therefore local people did not benefit from the event.
In response to questions from the Sub-Committee, Mr Davidson confirmed that:

- He had lived in Clapham since 2011 and the noise from events increased every year.
- He had not requested a visit from Lambeth for this year’s event as he would be informed that noise levels would only be monitored by Event Lambeth levels.
- Although there were breaks in the music last year, when environmental officers attended his property on the evening of Monday 28 August 2017, the noise was regarded as a statutory nuisance.
- When the event ended at 11pm the Common was very quiet.
- He had contacted the event organisers regarding the noise.

The Chair invited Mr Griffiths from Vanguardia Ltd to address the Sub-Committee and he made the following points:

- Hyde Park, Blackheath, Victoria Park and Queen Elizabeth Park had the same noise levels as Lock N Load for their events.
- Noise measurements were carried out close to Mr Davidson’s address but no breaches to the conditions had been identified. However, there were occasions where noise levels were close to being exceeded but the event was informed.
- He believed that no public nuisance occurred in respect of the Lock N Load event last year.
- If the noise level was reduced to 70dBA (Leq 15 minutes) and 80dBC (Leq 15 minutes) as suggested by Wandsworth, this would have an effect on the event, as people would not be able to enjoy the music.

The Chair invited Mr Hughes and Mr Mattle to the Sub-Committee and they made the following points:

- Wandsworth officers had ample opportunity to raise their concerns regarding last year’s event at the SAG meeting held on 23 October 2017 but decided not to.
- In relation to other complaints from residents made to Wandsworth in respect of other events, 579 representations against an event in Battersea Park had been received.
- The EPA 1990 made it clear that adjoining boroughs could serve an abatement notice to another borough in respect of noise, which had not been carried out by Wandsworth.
- The sound levels for the Winterville event held on the Common had to be lowered as the event lasted for 42 days.

**Adjournment and Decision**

At 8.24pm, 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 Mattle, Mr Fiumicelli, Mr Jazz, Ms Pearcey, Mr Davidson, Ms Sunborg and Mr Griffiths.

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 new application as sought.
RESOLVED: To grant the application as sought for a new licence.

Announcement of Decision

Members returned to the meeting and the Chair informed those present of the decision to grant the application for a new licence as sought. The Sub-Committee had considered all the options available to them and ultimately felt that the applicant met the concerns which had been raised. The Chair confirmed that written notification of the decision would be sent in due course.

5 CONSIDERATION OF AN OBJECTION TO TEMPORARY EVENT NOTICES

5a CASA BRIXTON, 24 POPE’S ROAD, LONDON, SW9 8JH (COLDHARBOUR)

The application was withdrawn by the applicant.

5b HABESHA, 256 - 258 BRIXTON ROAD, LONDON SW9 6AQ (VASSALL) - 24 DECEMBER 2017

This application had been withdrawn by the premises licence holder.

5c HABESHA, 256 - 258 BRIXTON ROAD, LONDON, SW9 6AQ (VASSALL) - 31 DECEMBER 2017

This application had been withdrawn by the premises licence holder.

5d BUREAU OF SILLY IDEAS, ARCH 555, 18 VALENTIA PLACE, LONDON, SW9 8PJ (COLDHARBOUR)

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application to consider a counter notice for two temporary event notices. The Sub-Committee’s attention was drawn to Chapters 7, 9 and 15 of the Statutory Guidance, and to Sections 5, 6, 8, 14 and Appendices 6, 7 and 9 of the Statement of Licensing Policy, as the ones particularly relevant to these applications. The options available to the Sub-Committee were set out in paragraphs 5.6 to 5.10 of the report on pages 3444 to 3455 agenda papers and pages 4 to 5 of the second despatch agenda papers.

The Sub-Committee noted that:

- These were two applications received by Mr Roger Hartley for Temporary Event Notices (TENs) at Bureau of Silly Ideas. One of the events was planned for Friday 22 December to Saturday 23 December 2017 for 150 people from 18:00 to 02:00 hours. The second event was planned for Sunday 31 December 2017 between 21:00 and 00:00 hours and Monday 1 January 2018 between 00:01 and 04:00 hours for 120 people. Both events authorised licensable activities for the provision
of the sale by retail of alcohol (on and off license), the provision of late night refreshment and the provision of regulated entertainment. The applications were attached at Annex A (pages 463-470 of the agenda papers and pages 11-18 of the second despatch agenda papers).

- Objection to the TENs had been received from the Council’s Community Safety Area Team on 8 and 12 December 2017 based on the licensing objective of the prevention of public nuisance. Representations could be found as Annex B (page 471 of the main agenda papers and page 19 of the second despatch agenda papers).
- Noise officers had advised that they would be providing further supporting information in the form of video footage with regard to their objections to the TENs.
- A premises licence was not in place for the venue as the premises was currently unlicensed.
- The premises was located in close proximity to other licensed premises. Copies of those premises could be found as Annex D on page 473 of the main agenda papers and page 21 of the second despatch agenda papers.
- Six TENs applications had been received this calendar year in respect of the premises.

A map and photographs of the premises was circulated to members.

**Presentation by Responsible Authorities**

Mr Calvin McLean, Community Safety Area Manager, and Mr Sean Biggart, Community Safety Officer were present.

Mr Biggart, informed the Sub-Committee that:
- Community Safety raised objections to the two TENs received from Mr Hartley based on the prevention of public nuisance.
- Over the last few months several complaints from residents regarding noise nuisance had been received by the Council in relation to events held on 28 October, 31 October and 4 November 2017. Following investigations and having spoken to local residents, on a balance of probabilities, the noise was coming from the Valentia Place area from one or two premises.
- He made reference to the video footage provided to the Sub-Committee, in particular, the second video taken by a witness on Saturday 16 December 2017 showed noise nuisance and evidence that the premises was not promoting the licensing objectives.
- He had recently spoken to a further complainant on 20 December 2017 who advised that loud music could be heard up until 04:00 hours in the morning.
- Although it was felt that the noise was not solely from Silly Ideas, the Council believed the premises frequently used Valentia Place to hold TENs.

Mr McLean then addressed the Sub-Committee and confirmed that:
- The video footage showed that the outbuilding situated on the right hand side of Valentia Place was regularly used by Bureau of Silly Ideas to hold events. As a result, Mr Harley was contacted regarding the issues.
- He was familiar with the premises and therefore believed the premises could be responsible for the noise nuisance.
- Other licensed establishments within the area such as Brixton Roof Top ceased
trading at 01:00 and Casa Brixton by 00:00. Therefore, he was confident the noise issues came directly from the Bureau of Silly Ideas where residential properties nearby was affected.

In response to questions from Members, Mr McLean and Mr Biggart confirmed:

- Mr McLean was unsure who operated the other building in Valentia Place. However, he knew the building was being used by the venue to hold parties, as none of the other establishments were suitable for loud amplified music.
- It was uncertain which building in Valentia Place would be used to hold the TENs but Mr McLean felt that no building would be suitable to hold TENs of that nature.
- The Council relied on the complaints received and times provided by residents. Following their investigations this week, an event took place on 16 December 2017 and a TEN had not been applied. The video footage supplied clearly showed that public nuisance had occurred on that date.

In response to a question from the Legal Adviser to the Sub-Committee, Mr McLean confirmed that the licensable activity undertaken on 16 December 2017 was the provision of regulated entertainment.

Mr McLean and Mr Biggart further confirmed that:

- During the week, a local business had informed the Council that residents had submitted a complaint regarding a public nuisance from their premises. As that business knew they were not responsible, they provided video evidence from 02:00hrs to support their claim to the Council.
- Mr Hartley had also raised concerns to the Council regarding events at other premises that caused issues.
- Since early November complaints pertaining to the premises had been received from four residents and two business owners in the area. One of the complainants made several complaints to Network Rail, who failed to inform the Council regarding this, and to other premises in the area concerning nuisance from licensed activities.

Presentation by Premises User

Mr Roger Hartley, Director, informed the Sub-Committee that:

- He had been a resident at the premises since 2002.
- The Bureau of Silly Ideas was a public realm arts organisation specialising in community cohesion that held numerous events.
- He had been aware since Halloween that noise issues existed in the area.
- He had met with Mr McLean when his premises originally resided in the Arch. The Arch was a steel yard workshop which was also used as a performance space. He had previously let the space for use by another organisation for a party that had caused a public nuisance and had decided to no longer let this space.
- The TEN for 23 December 2017 would no longer be going ahead as he wanted to liaise with neighbours regarding issues.
- He had liaised with residents that claimed he was responsible for the loud music until 04:00 as a result of a Halloween Party and had video evidence. However, following further negotiations, residents admitted they had made a mistake. He now notified the local Tenants Resident Association regarding any events.
- He disputed that licensable activities occurred at his premises, as he usually
applied for a TEN to hold such events.
- He had spent a considerable amount of money on soundproofing the premises and invited Mr McLean to attend the premises but to date he had not turned up.

In response to questions from Members, Mr Hartley confirmed that:
- The event scheduled for 23 December 2017 was to support young emerging artists who also wished to have a New Year’s party.
- The premises was run as a not for profit non-commercial organisation.

In response to a question from the Legal Adviser to the Sub-Committee, Mr Hartley confirmed that, although the event on 23 December 2017 had been cancelled, he still wished the hearing to proceed.

In response to further questions from Members, Mr Hartley confirmed that:
- The building was a railway arch at the back that consisted of a block structure with a steel door. The walls had been double skinned with heavy ply.
- He had spoken to Network Rail regarding the complaints, as he wanted to work with residents to solve issues.
- Following a complaint, he no longer allowed sub-bass music to be played at the premises.
- He always endeavoured to employ security for events and had established a good relationship with two companies.
- A minimum of two SIA staff would be employed for the event on 31 December 2017.
- There were four railway arches in Valentia Place. They tended to be used as a production space workshop, studios and for rehearsals.
- The event would be held in the Arch within the steel yard workshop, as described above, to limit the amount of persons allowed outside.
- Sound proofing at the premises had been completed in October 2016.
- There were numerous incidents that occurred in the area which was regarded as a public nuisance. For instance, some people were known to play loud music out of their car which affected residents.
- He had applied for four TENs this calendar year.
- The event for 23 December 2017 was planned for skateboarders, with alcohol on sale. A guest list had been compiled.
- The event on 31 December 2017 was arranged for ‘The Place’ a young person’s company that wished to hold a New Year’s party.
- Experienced security staff would be engaged to assist with dispersal and the music would also be reduced to ensure the staggered dispersal of patrons.
- An organisation called ‘Club Residents’ tended to use the space for some of their activities. As a result, it was hoped that further engagement with residents would be achieved.
- He would be willing to print flyers for any events at the premises. However, he presumed that the local tenants association did this.
- He expected persons to arrive by 22:30 to 23:00 hours to celebrate the New Year.
- He would be willing to devise a cut-off time for persons to enter the premises.

Adjournment and Decision

At 9.28 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 Biggart, Mr McLean and Mr Hartley.

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 not to issue a counter notice in respect of the TEN so that the event can proceed for the following reasons:

- These are two applications for counter notices against TENs. The Licensing Sub-Committee (LSC) heard from Mr Biggart and Mr McLean who referred to noise complaints from local residents and businesses on 31 October, 4 and 7 November 2017. The representation contained very little detail. Mr Biggart accepted that there were two possible premises that could have caused the problem and he accepted that he could not be certain which premises it was from.
- The LSC noted also that there was very little information available about issues in respect of previous TENs. It was also believed that licensable activity was taking place without TENs.
- The LSC also heard from Mr Hartley who disputed that licensable activity took place when it was not authorised.
- The LSC could not accept on a balance of probabilities that licensable activities had taken place without authorisation. Mr Hartley gave the LSC information about the event, how he conducted events, the use of SIA staff and how he engaged with the local tenants association. These were events over the Festive season and there was no doubt there would be many other venues open later.
- The LSC was not satisfied that allowing the TEN to go ahead will undermine the licensing objectives and therefore it would not issue a counter notice in respect of either TEN.

**RESOLVED:** Not to issue counter-notices so that the events can go ahead.

**Announcement of Decision**

Members returned to the meeting and the Chair informed those present of the decision not to issue counter notices so that the events can proceed 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. The Chair confirmed that written notification of the decision would be sent in due course.

---

**6 CONSIDERATION OF OBJECTION TO A TEMPORARY EVENT NOTICE**

**6a BUREAU OF SILLY IDEAS, ARCH 555, 18 VALENTIA PLACE, LONDON SW9 8PJ**

**Special circumstances justifying urgent consideration**

A meeting of the Licensing Sub-Committee has been convened as a result of an objection raised by the Council’s Noise Team regarding a Temporary Event Notice (TEN), Section 105(2)(a) of the Licensing Act 2002 [part 5] requires a minimum of two days’ notice to be given. The event is due to take place on 31 December to 1 January 2018.

The Chair is of the opinion that although the meeting has not been convened with at least
five clear days’ notice, it should proceed now as a matter of urgency to consider the objections to the TEN because of the special circumstances of the need to comply with the statutory requirements of the Licensing Act 2003.

This item was considered under item 5d.

7 CONSIDERATION OF A TEMPORARY EVENT NOTICE

7a NUMBER 82 BAR AND CLUB, 82 - 84 NORWOOD HIGH STREET, LONDON SE27 9NW

Special circumstances justifying urgent consideration

A meeting of the Licensing Sub-Committee has been convened as a result of an objection raised by the Council’s Noise Team regarding a Temporary Event Notice (TEN), Section 105(2)(a) of the Licensing Act 2002 [part 5] requires a minimum of two days’ notice to be given. The event is due to take place on 29 December to 31 December 2017.

The Chair is of the opinion that although the meeting has not been convened with at least five clear days’ notice, it should proceed now as a matter of urgency to consider the objections to the TEN because of the special circumstances of the need to comply with the statutory requirements of the Licensing Act 2003.

Presentation by the Licensing Officer

The Sub-Committee was informed that this was an application to consider a counter notice for a temporary event notice. The Sub-Committee’s attention was drawn to Chapters 7, 9 and 15 of the Statutory Guidance, and to Sections 8, 14 and Appendix 9 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 paragraphs 5.6 to 5.10 of the report on pages 4 to 5 of the third despatch agenda papers.

The Sub-Committee noted that:

- This was an application for a Temporary Event Notice (TEN) for Number 82 Bar and Club. The event was planned for Friday 29 December to Sunday 31 December 2017 from 01:00 to 04:00 hours for the provision of the sale by retail of alcohol, the provision of late night refreshment and the provision of regulated entertainment. The application was attached at Annex A, pages 13 to 20 of the third despatch agenda papers.
- Objection to the TEN had been received from the Council’s Community Safety Area Team on 13 December 2017 based on the licensing objective of the prevention of public nuisance. This representation could be found as Annex B on page 21 of the third despatch agenda papers.
- A premises licence was in place for the venue, Annex C on pages 23 to 39 of the third despatch agenda papers.
- In December 2016 an application was received by Community Safety to review the premises licence in respect of public nuisance. A copy of the Sub-Committee’s decision and consent order could be found as Annex D on pages 41 to 54 of the third despatch agenda papers.
- Six TENs applications had been received this calendar year, three of the TENs
were late which resulted in counter notices being issued following objections from both Community Safety and the Metropolitan Police.

A map and photographs of the premises was circulated to members.

In response to a question from the Sub-Committee, the Licensing Officer confirmed that as the premises already had a licence in place, Mr Elliot Blake, Premises Licence Holder, was seeking an extension of three hours on Friday 29 December and an additional hour on 30 to 31 December 2017.

In response to a question from the Legal Adviser to the Sub-Committee, Mr Blake confirmed that he did not intend to offer sexual entertainment at the premises and therefore did not require a sexual entertainment venue licence.

**Presentation by Responsible Authorities**

Mr Calvin McLean, Community Safety Area Manager, Community Safety Area Team, informed the Sub-Committee that:

- The Community Safety Area Team had submitted an objection to the TEN made by Mr Blake as it was felt that the proposed hours for the event would likely result in public nuisance.
- Objections had also been made to three previous TENS submitted late by the premises and, as a result, counter notices had been issued to prevent the events going ahead.
- The premises already had a non-standard licence on New Year's Eve and Day from 11:00 to 06:00.
- He referred the Sub-Committee to the consent order dated 19 September 2017 signed on behalf of the solicitors that represented Mr Blake (page 54, third despatch agenda papers). Part of the consent order condition 10 (page 48, third despatch agenda) imposed that a sound limiter must be fitted to the musical amplification system at the premises. The noise level should be determined by the Council's Environmental Health Officer to prevent noise nuisance caused to local residents or businesses.
- Since the consent order had been made, Community Safety tried to make arrangements with Mr Blake on 19 October 2017 to set the sound limiter in accordance with condition 10 but the device was not available at the premises. However, the sound limiter device was eventually set by officers in late October 2017.
- Since installation of the sound limiter, several complaints from residents had been received regarding noise and disturbance caused by the venue.
- As a result of the complaints, the Council needed to be satisfied that the sound level had been correctly set and that the device was correctly being used by the premises in order to prevent further noise issues.
- Mr McLean made reference to the additional documentation (a letter from the Council to the premises dated 23 October 2017 and a complaints table regarding the premises) sent to the licensing authority. On 23 October 2017, prior to the limiter being set and as a result of a complaint received by a resident on 5 August 2017 regarding loud amplified music, an abatement notice was issued to the premises. He was concerned that the premises was now in breach of that notice.
- An investigation pertaining to the complaints received by residents was being carried out.
As a result of the issues, the Council was not satisfied that noise nuisance would not occur and that the dispersal of 300 persons would be carried out effectively. Therefore, he requested that a counter notice be issued until appropriate checks to the sound limiter had been carried out and investigations completed.

The Legal Adviser to the Sub-Committee enquired whether the additional documentation had been by Mr Blake. Mr McLean confirmed that the documentation had been sent to Mr Blake by email. Mr Blake confirmed that he raised no objections to the documents being discussed by Mr McLean.

In response to questions from Members, Mr McLean confirmed that:

- Since the premises had been rebranded, monitoring by council officers had been conducted. Although some improvements in respect of dispersal and noise from patrons had occurred, nonetheless, public nuisance to nearby residents existed.
- Although the sound limiter had been set there was a need to engage with other residents in the area whom had made complaints by visiting their homes to ascertain if the sound level had been correctly set. This was required in order to comply with condition 10 of the abatement notice. Arrangements were being made by the Council to ensure that this issue was carried out as quickly as possible.
- Clear instructions had been given to council officers to ensure that the matter pertaining to the premises was concluded by the end of January 2018.
- The Council had not been given the opportunity to visit the premises to ascertain whether the sound limiter was working correctly. Therefore, if the event was allowed this would cause concerns to other residents.

Presentation by Premises User

Mr Elliot Blake, Premises Licence Holder, informed the Sub-Committee that:

- He admitted that when council officers arrived at the premises on 19 October 2017, the sound limiter was not available. However, no licensable activity at that time was being carried out at the premises.
- Five council officers attended the premises to set the sound limiter. One of the officers, Mr Ali Peyvandi, was regarded as one of the Council’s most experienced acoustics specialists. They also visited the premises next door and opposite to his establishment as well as residents in Windsor Grove. Officers played the music to its maximum level without a limiter. The sound level was then set to a level agreed by all five council officers.
- The sound limiter was available in a room that could only be accessed by himself.
- Council officers had ample opportunity to examine the sound limiter as the premises was open every weekend.
- The complaints from residents produced by Mr McLean appeared to be edited.
- Other licensed establishments existed within the area that also played music.
- The representations received from residents did not list his premises as responsible for the noise nuisance.
- He would have expected officers to liaise with him regarding the complaints, especially as they frequented his premises on a weekly basis. He always conversed with officers to ascertain if there were any noise problems.
- Despite submitting five TENs for his premises all of them had been declined. Nevertheless, a TEN submitted on 21 October 2017 by another individual for an event on 23 December 2017 had been agreed. Therefore, he felt that council
officers had an issue with him.

In response to questions from Members, Mr Blake confirmed that:

- The agreed TEN submitted for the event on 23 December 2017 had the same timings as this TEN.
- He had agreed with the Council to change the clientele that attended the premises and the TEN events was for mature ravers only.
- Extra security was now engaged at the premises. Three sets of doors were available inside the premises and security ensured that those doors only opened and closed by them to prevent noise.
- The smoking area situated at the rear of the premises where patrons smoked outside was within an industrial area.
- The TENs applied for on 29 to 31 December 2017 was a result of the festive period. Although some people had to work, people would still wish to be out drinking to celebrate.
- He believed that the extra hours applied for were not considered to be excessive.
- Staff would be on hand to clean the street up to 50 metres away from the premises and security staff would be available to disperse patrons.
- People were allowed to enter the premises up until 02:00 hours. During the last 30-45 minutes at the premises, the lights were turned on to prevent patrons leaving at the same time to accord with the dispersal policy of the premises.
- He liaised with all residents and posted letters within the area. 40 residents attended the venue to raise concerns and council officers had also been invited to attend. Although the meeting had occurred a while ago, a number of residents were in support of the premises.
- At a previous Sub-Committee, an 80 year old resident attended the meeting in support of the premises.
- He made arrangements for the road opposite Windsor Close which had a gate, to be manned by security and prevent cars entering the road.
- He found it unfair that council officers now wished to return to the premises and reset the limiter, considering the TENs had been submitted on 11 December 2017 and complaints had been going on since October 2017.
- The event was aimed for mature adults aged from 40 years upwards upon advice received from the Council.
- The event on Friday 29 December 2017 would enable customers to eat their food within a relaxed environment. On Saturday 30 December 2017, the event was aimed at mature adults and should be stress free.
- The music played would consist of old school reggae classics as opposed to garage music.
- A conservatory was situated at the back of the premises. However, no speaker was in that area to cause noise nuisance. He had invited council officers on numerous occasions to the visit the premises over year.
- Although the premises was constantly manned by security, he was, nevertheless, considering limiting the amount of persons allowed outside to smoke.
- It was unfair that the Council did not want his events to proceed within the hours specified, especially as the events would be held during an important time of the year.

The Sub-Committee invited Mr McLean to answer some questions and he made the following points:
Although the music could not be heard outside this did not prevent residents from being affected by the music.

He believed that the sound was coming into the conservatory area at the back of the premises as a result of possibly low frequency sound travelling outside the premises.

It was not uncommon that the level set on a sound limiter might need to be changed and the Council were entitled to do that if necessary.

He refuted that the representations received had been modified.

The Council had no personal issues with Mr Elliot, however, as a result of the complaints received, officers were duty bound to respond.

All issues pertaining to the premises would be dealt with as soon as possible.

He refuted that officers had been invited to meetings by Mr Elliot.

Following further checks in relation to the TEN event that had agreed for 23 December 2017, Mr McLean confirmed that a counter notice by the Council had been issued to Mr Blake on 20 December 2017, to ensure that the event could not proceed.

Mr Elliot referred to an incident dated Monday 9 October 2017 documented on the noise complaint log produced by the Council (additional documents) and confirmed that the premises did not open for business on a Monday.

Adjournment and Decision

At 10.59pm, 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 McLean and Mr Blake.

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 issue a counter notice for the following reasons:

- This was an application by Lambeth Community Safety for a counter notice against a Temporary Event Notice (TEN) issued by Mr Elliot Blake. The objection centred on the use of a sound limiting device required as a condition of the licence. Mr McLean explained that this was finally set at the end of October and had tried to get it set for a period of time. Since the limiter was set they continued to receive noise complaints. Mr McLean said that the authority needed to be satisfied that the level was set appropriately and it appeared that it might not. It was also possible that the sound limiter was being by-passed in some way which had happened in the past. Prior to that the noise abatement notice had been issued on 23 October.

- Mr McLean accepted that there had been some improvement in respect of dispersal and noise from patrons but there were nonetheless still issues and the premises was within a residential area. Mr McLean remained very concerned that if the event was permitted to proceed that it would result in public nuisance to nearby residents.

- The LSC then heard from Mr Blake and his view was that the limiter had been set and it was not his fault if the authority needed to come back and revise it. He suggested the complaints produced by Mr McLean might have been edited and questioned the validity of them. He took the view that officers were issuing counter
notices for TENs that he applied for but not for others. It was the festive season and he had tried hard to work with the Council to resolve all the issues. He did accept the possibility of some noise escaping from the rear courtyard.

- The LSC did not accept that the complaints were not genuine. One incident relating to 9 October 2017 was a night when Mr Blake said the premises was closed. Nonetheless, there was sufficient evidence of other complaints that had been ongoing both before and after the sound limiter was set.
- The LSC also noted the previous review which related to a considerable number of issues and the consent order in August 2017 at which the sound limiter condition was made. Whatever the reasons that clearly took some time and quite possibly the service of the abatement notice to get the limiter set at least provisionally.
- The LSC accepted that if the limiter did need further resetting that was not necessarily the fault of Mr Blake but nonetheless the LSC had to consider the likely impact of public nuisance which would seem likely from this application. The TEN would allow an extra three hours on the Friday night and an extra hour on the Saturday night in a residential neighbourhood and there was clearly a risk that the licensing objective of the prevention of public nuisance will be undermined.
- The LSC did not think imposing the licence conditions would suffice. There was an issue over the level to which it had been set and so the risk to public nuisance would remain. The LSC therefore considered that the only appropriate action was to grant the application and issue a counter notice.

**RESOLVED:** To issue a counter-notice to prevent the event going ahead.

**Announcement of Decision**

Members returned to the meeting and the Chair informed those present of the decision to issue a counter notice 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. The Chair confirmed that written notification of the decision would be sent in due course.

The meeting ended at 11.40 pm

CHAIR
LICENSING SUB-COMMITTEE
Thursday 18 January 2018

Date of Despatch: Monday 8 January 2018
Contact for Enquiries: Jacqueline Pennycook
Tel: 020 7926 2167
Fax: (020) 7926 2361
E-mail: jpennycook@lambeth.gov.uk
Web: www.lambeth.gov.uk