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LICENSING SUB-COMMITTEE

Wednesday, 7 February 2024 at 10.00 am
Council Chamber, Civic Centre, Silver Street,
Enfield, EN1 3XA

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SUPPLEMENTARY AGENDA 2 – PART 1

5. THE FOX PH, 413 GREEN LANES, LONDON, N13 4JD (Pages 1 - 12)

Review Application.

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MUNICIPAL YEAR 2023/24 REPORT NO.**COMMITTEE :**

Licensing Sub-Committee
7 February 2024

REPORT OF :

Ellie Green, Licensing Team Manager

LEGISLATION :

Licensing Act 2003

Agenda - Part	Item
<p>SUBJECT : Review Application</p> <p>PREMISES : The Fox PH, 413 Green Lanes, LONDON, N13 4JD</p> <p>WARD : Palmers Green</p>	

SUPPLEMENTARY REPORT 2

- 1.1 On 2 February 2024, the Licensing Authority have provided Additional Information 2, see **Annex I**.

Background Papers :

None other than any identified within the report.

Contact Officer :

Ellie Green on licensing@enfield.gov.uk



LICENSING AUTHORITY REPRESENTATION

ADDITIONAL INFORMATION 2

Name and address of premises: The Fox PH, 413 Green Lanes,
LONDON, N13 4JD

Type of Application: Review of Premises Licence

Licence Inspection

Thursday 1 February 2024 at 11.15am: VPK carried out an unannounced licence inspection at The Fox. Mr James Sharkey, the DPS, was not present, and VPK was advised he was away for another week after the hearing. Tony Curran, regional area manager (Whelans), was in charge of the premises at the time of the visit.

The following conditions were deemed to be non-compliant:

Condition 2: CCTV recordings could not be checked as the mouse was not working. Even though a new mouse was purchased before the end of inspection, it still didn't work. Also, no records of CCTV checks were available.

Condition 3: No incident log was made available upon request.

Condition 4: No PSPO sign displayed.

Condition 5: No leave quietly notices displayed.

Condition 7: No records of noise assessments kept/made available.

Condition 11: No Think 25 poster displayed.

Condition 12: No record of refused sales kept/made available.

Condition 13: As a result of no refusal book, this condition also not met.

Conditions 16 & 17: No training records relating to the sale of alcohol kept/made available, and no evidence that refresher training is carried out at least every 6 months.

VPK gave advice on how to address those conditions, and advised a revisit was required. VPK made an advisory note on an inspection report, which was discussed with and signed by Tony Curran. A copy of the report was issued to Tony Curran and can also be seen in **Appendix 11**.

Friday 2 February 2024: VPK emailed Tony Curran and Star Pubs & Bars Ltd representatives an email with a copy of the inspection report, and material that could help meet some of the outstanding licence conditions. Shortly after, Tony Curran emailed photographs which showed that all posters required are now displayed. Therefore, the only outstanding conditions are now Conditions 2,3, 7, 12, 13, 16 and 17.

Review of Noise Report

Also on Friday 2 February 2024: Ned Johnson (NEJ), Principal Officer on the Pollution Control & Planning Enforcement Team, provided his review of the noise acoustic report. This report was sent to the Licensing Team on 30 January 2024 (see Annex G) on behalf of Star Pubs & Bars Ltd. NEJ comments as follows:

“The sound insulation test shows in general that the sound insulation of the floor separating the bar and function room from the flats [REDACTED] has a good performance, particularly under Flat [REDACTED]. Flat [REDACTED] has a noticeably poorer performance in comparison with the insulation result being 16dB lower than the worst result for Flat [REDACTED]. The sound insulation test results show that the performance of the floor meets the requirements of Approved Document E of the Building Regulations. This does not mean to say that the sound insulation is ideal and weaknesses were identified on site and are stated in the report, which shows that there are flanking paths for sound that allow it to avoid the floor.

The report identifies that the floor is 275mm concrete with a suspended ceiling. The suspended ceiling underneath Flat [REDACTED] stops short at the external doors and window reveals. There is also an aluminium frame and mullions running from the ground floor through the [REDACTED] of Flat [REDACTED]. There is also a brick column which runs through the building from the bar through Flat [REDACTED]. The report by Clement Acoustics identifies the noise in the bar is being transmitted through the aluminium window mullions (the pieces of aluminium that run vertically through the building at the front) and into Flat [REDACTED]. It also identifies that some walls in the bar were unlined leaving exposed brickwork which also gives rise to flanking transmission into the living room of Flat [REDACTED]. This was observed by Clement Acoustics as well as Victor and myself, as when standing by the window in the [REDACTED] of Flat [REDACTED] we could clearly hear that the sound in that location from the bar was louder. Looking at the graph for the sound insulation test for Flat [REDACTED] there is a dip from 300Hz to 1000Hz, which is indicative of flanking due to lightweight block walls.

Considering that the report identifies the weaknesses in the sound insulation between Flat [REDACTED] and the bar area it is disappointing that the report does not make specific recommendations to address these issues. I would have expected the author to make recommendations for improvement of sound insulation considering that the problems were clearly identified, especially considering the report states in section 7.3:

‘Further, it was noted that in Flat [REDACTED], a significant degree of flanking noise was being transmitted via the aluminium window mullions on the [REDACTED]. As shown in Table 4.3, this is significantly compromising the performance for the floor to this flat compared to Flat [REDACTED].’

The report does make recommendations to install a noise limiter and has set the proposed sound limit levels at a point which should mean that in Flats [REDACTED] and [REDACTED] the noise from the music will meet Noise Rating Curve 15. If this were achieved it would be a low sound level but without testing on site I cannot say whether this would be quiet enough, especially at low frequencies, which is where the report identifies the biggest issue with the sound insulation performance following the tests. This sound level may be appropriate but it would need to be tested on site to establish its suitability.

Further to this, the proposed sound level in the bar and function room would be significantly quieter than the current situation and the site operators may find it too quiet to have any form of live or recorded entertainment.

I would also say that any acoustic band sessions will not use the in-house sound system and therefore the limiter will not be used. An acoustic performance will have a higher sound level than the recommended sound levels for the bar and the function room and therefore very likely to cause noise issues to Flats [REDACTED] and [REDACTED].

A further point is that when we undertook the sound audibility tests, we initially used the pub’s own sound system and when the manager at the time said it was at full volume, the music was barely audible in Flats [REDACTED] and [REDACTED], which is in contradiction to the evidence we have from Out of Hours visits by officers who witnessed music being audible 75m – 100m from the pub. For this reason, we had to use Clement Acoustic’s own speakers to play music loud enough to reach the noise levels experienced in Flat [REDACTED] during events at the pub. We were not able to repeat this test in the bar area of the pub under Flat [REDACTED] as some customers had entered the pub and the manager didn’t want to move then to another area for a few minutes while we conducted the music test. The problem is that we weren’t able to establish the same inaudibility baseline as in Flat [REDACTED] and therefore the limiter setting for the bar area may not be appropriate.

In short, a limiter may produce the desired noise control results and resolve the noise complaints from amplified music but there is likely to still be an issue with patrons cheering and singing along to bands as they do now, which does form part of the noise problem. I note that the limiter has recommendations for sound pressure levels in 1/1 octave centre band frequencies, it would be better of this was in 1/3 octave band frequencies (this would be dependent on whether the limiter could be set to 1/3 octave band frequencies).

The officer evidence shows that the sound insulation is an issue as talking can be heard in the flats from the bar. Although this is not an unreasonable activity it demonstrates that sound transmission is a problem and there has been nothing in the report to address this issue. I do note that there were sound insulation

recommendations to address a lesser problem with noise from the [REDACTED]

A small observation, the sound insulation test was not carried out exactly to the ISO standard as the consultants put their speakers on the floor, they should have been a minimum of 1m off the floor on speaker stands, but this is a relatively minor point.”

Licence Conditions

The conditions put forward by Star Pubs & Bars Ltd (presented in the statement – Annex G) have also been considered.

Should the Licensing Sub-Committee be minded not to remove regulated entertainment from the premises licence, the Licensing Authority propose the conditions in **Appendix 12** be considered and applied to the licence.

It is noted that the premises licence holder proposed this condition “ A noise-limiting device shall be installed to any amplification equipment in use on the premises. The noise-limiting device shall be maintained in effective working order and set to interrupt the electrical supply to any amplifier and be set at a level as agreed with Environmental Health.”

I would like to make the Licensing Sub-Committee aware that it is not usual for this Licensing Authority to request or agree to any condition that requires the noise level to be set by Environmental Health or the Licensing Authority. The premises licence holder is responsible for noise control. We would not agree the wording of this condition. An alternative is offered in Appendix 12.

Furthermore, if regulated entertainment is permitted to remain on the licence, we respectfully request that the Licensing Sub-Committee amend the hours of the associated licensable activities as follows:

Table 3:

Activity	Current Times	Proposed Times through this Review	Proposed Times if Regulated Entertainment is permitted to remain
Opening hours	08:00 – 01:00 Sun – Thurs 08:00 – 02:00 Fri - Sat	08:00 – 01:00 Sun – Thurs 08:00 – 02:00 Fri - Sat	08:00 – 01:00 Sun – Thurs 08:00 – 02:00 Fri – Sat
Plays	08:00 – 00:00 Everyday	Remove (including seasonal variations)	12:00 – 23:00 Everyday

Activity	Current Times	Proposed Times through this Review	Proposed Times if Regulated Entertainment is permitted to remain
Films	08:00 – 00:00 Everyday	Remove (including seasonal variations)	12:00 – 23:00 Everyday
Performance of Dance	08:00 – 00:00 Everyday	Remove (including seasonal variations)	12:00 – 23:00 Everyday
Live Music	23:00 – 00:00 Sun – Thurs 23:00 – 01:00 Fri – Sat	Remove (including seasonal variations)	12:00 – 23:00 Everyday
Recorded Music	23:00 – 00:00 Sun – Thurs 23:00 – 01:00 Fri – Sat	Remove (including seasonal variations)	12:00 – 23:00 Everyday
Late Night Refreshment	23:00 – 00:30 Sun – Thurs 23:00 – 01:30 Fri – Sat	23:00 – 00:30 Sun – Thurs 23:00 – 01:30 Fri - Sat	23:00 – 00:30 Sun – Thurs 23:00 – 01:30 Fri - Sat
Supply of alcohol (on and off)	10:00 – 00:00 Sun – Thurs 10:00 – 01:00 Fri - Sat	10:00 – 00:00 Sun – Thurs 10:00 – 01:00 Fri – Sat	10:00 – 00:00 Sun – Thurs 10:00 – 01:00 Fri - Sat

Conclusion

The noise acoustic report has **not** satisfied the Licensing Authority, and believe a noise limiter will only be partly but not wholly effective in addressing the current noise issues. We have concerns that in the absence of sound insulation works to the building, the noise nuisance, despite the noise limiter, might still persist. Therefore, the following condition is still sought to be applied to the licence:

Section 177A does not apply to this premises licence, therefore no regulated entertainment is permitted at any time, including live music and DJ.

Duly Authorised: Victor Ktorakis, Senior Licensing Enforcement Officer

Contact: victor.ktorakis@enfield.gov.uk

Signed: Victor Ktorakis

Date: 02/02/24

REF: WK/

LICN_1

LICENSING ENFORCEMENT INSPECTION REPORT

Premises Name	The Fox
Premises Address	413 Green Lanes N13 4JD
Time of Visit:	Start: 11:15 Finish: 12:05

During an inspection of your premises on 1st February 2024, the following was checked:

Part B of Premises Licence displayed? Yes No
 Address & tel no. of PLH & DPS on licence correct? Yes No (If incorrect, insert new details below)
 Conditions of licence checked? Yes No

No. of condition not in compliance	Evidence/Advice
	visit to conduct full licence inspection. DPS not available.
2 (h)(b)	CCTV Recordings could not be checked because mouse not working. You must demonstrate that recordings are stored for at least 31 days.
	(b) Records of CCTV checks must be kept and made available.
3	An incident log shall be kept and made available on request.
4	Signs shall be prominently displayed on exit doors advising customers that a PSPD is in place and alcohol must not be taken off premises and consumed in street.
5	Notices shall be displayed on exit door requesting customers to leave quietly.
7	Records of noise assessments must be kept and made available on request.
11	Think 25 poster must be displayed.
12	A record of refused sales must be kept and made available.

Any other matter(s) that need addressing:

- 13. DPS must check refusals system to ensure it is used by staff
- 16/17. Training records relating to sale of alcohol must be kept and made available. Refresher training relating to sale of alcohol required at least every 6 months.

You are required to have the above matters attended to within 7 days of this notice. Failure to rectify the above breaches may constitute a criminal offence and result in legal proceedings being brought against you.

LICENSING ENFORCEMENT	RECIPIENT OF NOTICE
Print Name of Officers in Attendance: Victor Klobavici	Signature: [Redacted]
[Redacted]	Print Name & Position: Tony Curran Area Manager
If you have any queries relating to this report please contact licensing@enfield.gov.uk	Email/Tel of recipient: [Redacted]

Application forms can be downloaded at: <https://new.enfield.gov.uk/services/business-and-licensing/>



Appendix 12

Proposed Conditions Arising from the Review Application – If music is not removed from the licence

Annex 1 - Mandatory Conditions

The Mandatory Conditions are attached and form part of the Operating Schedule of your licence/certificate. You must ensure that the operation of the licensed premises complies with the attached Mandatory Conditions as well as the Conditions in Annex 2 and Annex 3 (if applicable). Failure to do this can lead to prosecution or review of the licence.

Annex 2 - Conditions consistent with the Operating Schedule

NO CHANGE TO THESE EXISTING CONDITIONS

1. There shall be no adult entertainment or services, activities or matters ancillary to the use of the premises that may give rise to concern in respect of children.
2. CCTV shall be installed, operated, and maintained, to function all times that the premises is open for licensable activities. Said CCTV will comply with the following criteria:
 - (a) The licensee will ensure that the system is checked every two weeks to ensure that the system is working properly and that the date and time are correct.
 - (b) A record of these checks, showing the date and name of the person checking, will be kept and made available to the police or other authorised officer on request;
 - (c) The Police will be informed if the system will not be operating for longer than one day of business for any reason;
 - (d) One camera will show a close-up of the entrance to the premises, to capture a clear, full length image of anyone entering;
 - (e) The system will provide full coverage of the interior of the premises and any exterior part of the premises accessible to the public;
 - (f) The system will record in real time and recordings will be date and time stamped;
 - (g) At all times during operating hours, there will be at least 1 member of staff on the premises who can operate the system sufficiently to allow Police or authorised Council officers to view footage on request.

(h) Recordings will be kept for a minimum of 31 days and downloaded footage will be provided free of charge to the police or other authorised officers on request (subject to GDPR) within 24 hours of any request.

3. An incident log shall be kept at the premises in either handwritten or electronic format and made available, on request, to an authorised officer of the Council or the Police, which will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received
- (d) any incidents of disorder
- (e) any visit by a relevant authority or emergency service

4. Signs shall be prominently displayed on the exit doors advising customers that the premises is in a Public Space Protection Order Area (or similar) and that alcohol should not be taken off the premises and consumed in the street. These notices shall be positioned at eye level and in a location where they can be read by those leaving the premises.

5. Prominent, clear and legible notices shall be displayed at all public exits from the premises requesting customers respect the needs of local residents and leave the premises and area quietly. These notices shall be positioned at eye level and in a location where those leaving the premises can read them.

6. All windows and external doors shall be kept closed during regulated entertainment, except for the immediate access and egress of persons.

7. The management shall make subjective assessments of noise levels outside at the perimeter of the premises approximately hourly whilst regulated entertainment is provided to ensure that noise from the premises does not cause a disturbance to local residents. Records shall be kept of the times, dates and any issues discovered. These records shall be kept for six months. Records must be made available to an authorised officer of the Council or police, upon request. Where monitoring by staff identifies that noise from the premises is audible at the perimeter, measures shall be taken to reduce this i.e. turning volume down.

8. The outside seating area shall be cleared of all tables and chairs by no later than 23:00 hours.

9. Customers shall not be permitted to take drinks outside after 23:00 hours.

10. All off sales shall be made in a sealed container.

11. A 'Think 25' proof of age scheme shall be operated and relevant material shall be displayed in the premises.

12. A record of refused sales shall be kept on the premises and completed when necessary. This record shall contain the date and time of the refusal, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused. This record shall be made available to Police and/or the Local Authority upon request and shall be kept for at least one year from the date of the last entry.
13. The Designated Premises Supervisor shall regularly check the refusals system to ensure it is being consistently used by all staff.
14. Children aged under 18 years shall only be permitted on the premises when accompanied by an adult.
15. Children under the age of 16 shall only be permitted on the premises until 21:00 hours and children over 16 but under the age of 18 shall only be permitted on the premises until 23:00. An exception to this shall be when the premises are hired out for private functions such as weddings.
16. All staff shall receive induction and refresher training (at least every six months) relating to the sale of alcohol and the times and conditions of the premises licence.
17. All training relating to the sale of alcohol and the times and conditions of the premises licence shall be documented and records kept at the premises. These records shall be made available to the Police and/or Local Authority upon request and shall be kept for at least one year.
18. The premises licence holder or DPS shall give the Licensing Authority at least 7 days' notice prior to using the non-standard timings relating to a recognised international sporting event including the timings of the event.

Annex 3 - Conditions attached after a hearing by the Licensing Authority

NEW CONDITIONS PROPOSED BY THE LICENSING AUTHORITY, NOT AGREED BY PLH

19. Section 177 (A) of the Licensing Act 2003 does not apply to this premises licence. This means that regulated entertainment is a licensable activity at all times in accordance with the licensing hours, and associated conditions are effective throughout the hours of operation.
20. A noise limiting device shall be installed to any amplification equipment in use on the premises and shall be maintained in effective working order. The noise limiter shall be set to interrupt the electrical supply to any amplifier should the volume of the music be audible at the boundary of the premises and/or to ensure the noise does not emanate from the premises so as to cause a nuisance to nearby properties.
21. DJs and musicians/bands shall be reminded of the requirements and be trained in the proper use of noise limiting equipment and the appropriate control of sound systems.

22. The noise limiter shall be recalibrated twice a year to ensure that the music volume does not exceed the level at which a noise nuisance to neighbours will occur. A copy of the calibration certificate shall be kept on the premises and made available to the Police or Council Officer on request.

23. All loudspeakers should be isolated from the building structure. For fixed speakers, this should be achieved using neoprene fixings for all speaker mountings. For free standing speakers, these should be sited on a suitable isolating material.

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