

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE  
HELD ON WEDNESDAY, 7 FEBRUARY 2024**

**COUNCILLORS**

**PRESENT** Mahym Bedekova (Chair), George Savva, and Chris Dey.

**OFFICERS:** Ellie Green (Licensing Team Manager), Victor Ktorakis (Senior Environmental Health Officer), Balbinder Kaur (Legal Adviser), and Harry Blake-Herbert (Governance Officer).

**Also Attending:** Derek Ewart (Police Officer), Pantelitsa Yianni (Police Officer), Mansur Duzgun (Premises Licence Holder – Hyde Arms), Cllr Taylor (Palmer's Green Ward Councillor), Austin Whelan (Tenant – The Fox), Matt Markwick (Clement Acoustics), Michael Lee (Area Manager for Star Pubs & Bars Ltd), Andrew Cochrane (Flint Bishop Solicitors representing The Fox), officers observing, interested party (IP) 12, local resident, and press.

**1 WELCOME AND APOLOGIES**

The Chair welcomed everyone to the meeting. There were no apologies received.

**2 DECLARATIONS OF INTEREST**

There were no declarations of interest received regarding any item on the agenda.

**3 MINUTES OF PREVIOUS MEETING**

AGREED the minutes of the previous Licensing Sub-Committee meetings held on Wednesday 4 October 2023 and Wednesday 11 October 2023.

The Chair thanked Charlotte Palmer, former Senior Licensing Enforcement Officer, who had left the council, for all of the work that she had done.

**4 THE HYDE ARMS, PUBLIC HOUSE, 137 VICTORIA ROAD, LONDON, N9 9BB**

On 14 December 2023, an application was made by the Licensing Authority for a review of the Premises Licence LN/200501812. The review was brought as the premises had been the cause of a statutory noise nuisance and providing music after permitted hours. Other unlawful activities had been witnessed at the premises and the prevention of crime and disorder and public nuisance licensing objectives had been undermined. The Licensing Authority

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also lacked confidence in those persons named on the licence and those managing the premises, thus full revocation of the premises licence was sought. The review application, supporting documents and additional information are available in the report packs.

NOTED:

1. The introduction by Ellie Green, Licensing Team Manager, including:
  - a. The committee were to consider a review application of the premises known as The Hyde Arms, 137 Victoria Road, in Edmonton Green Ward.
  - b. The Premises Licence Holder (PLH) had been Mr Mansur Duzgun since March 2018.
  - c. On 21 December 2023, the Licensing Team received a transfer application for The Hyde Arms, by H&K Elite Limited. The company director for which is Milanova Boginka Petrova. The transfer application was to take immediate effect. However, the Police objected to this application, and a copy of their representation can be found in the report packs. H&K Elite Limited subsequently withdrew this transfer application. As a result of this, the licence reverted back to the previous PLH, namely Mr Mansur Duzgun. No other transfer applications had since been received.
  - d. Mr Asen Asenov is the named Designated Premises Supervisor (DPS), and has held this position since 16 June 2023, but had not been at the premises, and no vary DPS applications had been received.
  - e. The review application had been brought by the Licensing Authority for a number of reasons, including: the premises had been the cause of statutory noise nuisance and providing music after permitted hours. Other unlawful activities had been witnessed at the premises and the prevention of crime and disorder and public nuisance licensing objectives had been undermined. The Licensing Authority also lacked confidence in those persons named on the licence and those managing the premises, thus full revocation of the premises licence was sought.
  - f. Conditions had been presented by the Licensing Authority where the committee were not minded to revoke the licence in full, and can be seen in the report packs.
  - g. The Police submitted a representation in support of the review. A copy of the Police representation is produced in the report packs.
  - h. The PLH was provided with the review application; no written response was received, but he was present, though had expressed that he was not able to afford the legal representation it was advised he sought.
  - i. Those in attendance were introduced, and the order of representations was outlined.
2. Victor Ktorakis, Senior Environmental Health Officer, made the following statement:

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- a. The premises is situated on the corner of a residential road, with residential properties behind, opposite, and adjacent to it. Nearby is a small parade of shops with residential flats above.
- b. 22 complaints had been received regarding the premises since the licence had been transferred to Mr Duzgun. Eighteen of these were received within nine months prior to the licencing review application being submitted.
- c. Unauthorised regulated entertainment had been complained about many times and witnessed by officers on four occasions.
- d. The Police had reservations about Mr Duzgun becoming the PLH of the business when he applied to transfer the licence into his name in 2018. These reservations were based on his poor performance at another licensed premises.
- e. Mr Duzgun had to be notified of the complaints and reminded of the relevant conditions attached to this premises licence in 2019.
- f. In 2021 it became apparent that food was being prepared at the premises, despite the premises not being food registered with the council.
- g. In October 2021 out of hours Licensing Enforcement Officers could hear music from the premises from 20 meters away.
- h. In June 2023 an out of hours noise officer investigating a noise complaint visited the premises and witnessed a female customer sniffing something off a plate which she quickly covered when she noticed the officer looking at her. Following this visit, Mr Duzgun was advised of the noise complaints, advised what officers had witnessed at the premises, and reminded of the relevant times and conditions of the licence. He was advised to consider the email as a warning as to future conduct and warned about the possibility of the licence being reviewed. Mr Duzgun was also advised that playing loud music could result in a noise abatement notice being served should the level of music be deemed to be a statutory nuisance.
- i. Also in June 2023, staff at the premises told the Police Safer Neighbourhood Team that the premises was not open to the public, but instead rented out for private parties, and that when they did so, the host would walk away and let what happened happen.
- j. In August 2023, Police discovered a cannabis factory above the licenced premises. As a result, Mr Duzgun was asked to attend a meeting at Edmonton Police Station with the Police Licensing Team. During the meeting Mr Duzgun advised Police that the DPS had disappeared, and the premises was now closed.
- k. On 19 September 2023, Mr Duzgun advised Police that once he knew who his new tenant would be, he would update them with regards to the new DPS.
- l. The premises had since reopened yet no variation of DPS application was received, nor did Mr Duzgun notify the Police of his intention to reopen the business. The meeting with the Police did not improve matters at the premises.

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- m. In November 2023, officers witnessed music being played at such a loud level it was deemed to be a statutory nuisance and a noise abatement notice was served. The music was also being provided after the permitted licence hours. Notices were sent to the registered address of the PLH and DPS and both were returned to sender. The Licensing Authority was not notified of a change of address of either the PLH or DPS, despite this being a legal requirement.
- n. Mr Duzgun had allowed the premises to reopen to sell alcohol, even though the DPS was no longer there, and this was a breach of the premises licence condition.
- o. Even after the noise abatement notice was served, further complaints had been received and officers had witnessed music after the licenced hours, most recently at the beginning of December 2023.
- p. On 21 December 2023 a transfer application was submitted by H&K Elite Ltd. A search of Companies House showed that the director of the company is Milanova Boginka Petrova and until 12 November 2023, the company had been known by a different name. The named director is not the individual officers have spoken to about the noise issues or met at the premises. The person in charge of running the premises seems to be the grandson in law, who was one of the three people served the noise abatement notice. If the music on his first night was so loud as to require a noise abatement notice and was after the permitted licence hours, this did not represent a good start for a new operator.
- q. A full licence inspection carried out on 5 January 2024 demonstrated that licence conditions were being breached, a copy of this report is available in the report packs.
- r. On Friday 26 January 2024, Licensing Enforcement Officers visited the premises at 22:50 and entered the premises which appeared open. Officers noticed a new illuminated sign on the frontage advertising the premises as a coffee shop and restaurant. Four people were setting up the front area of the premises for an alleged birthday party to be held the next day. The tables were covered in tablecloths with matching chairs and coloured bows similar to what would normally be found at a wedding or large function. Officers met the manager Mr Enias Thanasi, who believed the premises licence had already been revoked. No licensable activity was observed at the time of the visit, but alcohol such as spirits were seen on display in the optics.
- s. The officers undertook a licensing inspection with Mr Enias Thanasi. He advised that the street number of the address of the PLH Mr Duzgun was not correct. He also believed that Mr Duzgun was the DPS, but had not seen him. A full licensing inspection was undertaken, and fourteen licensing conditions were found to have been breached; a copy of this report is also available in the report packs.
- t. The Licensing Authority has no confidence in the ability or willingness of Mr Duzgun to uphold the licensing objectives, and as there appears to be no DPS present to take responsibility for the day to day running of the premises, the Licensing Authority feels it has no choice but to recommend the premise licence is revoked.

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- u. If the Licensing Sub-Committee were not minded to revoke the licence in its entirety, then the Licensing Authority would recommend that the committee consider suspending the premises licence until such a time that full compliance with the licensing conditions had been demonstrated by the PLH, his address details updated, a new DPS named on the licence, and the licence conditions be amended as shown in Annex E of the report packs.
3. In response, the following comments and questions were received:
- a. Cllr Savva asked why it had taken so long for a review of the licence to come to the committee, given the history of complaints.
  - b. Officers responded that they were trying to mediate, find a resolution and encourage them to make positive changes, before looking to come to committee recommending the licence be revoked as a last resort. The review had been submitted soon after the noise abatement notice had been served and it took time after the start of a review before it could come to a hearing.
  - c. Mr Duzgun asked for clarification as to the timing of the twenty-two complaints received since he had taken over.
  - d. Officers advised that eighteen complaints had been received within nine months prior to the review application being submitted.
  - e. The Chair asked whether Mr Duzgun knew what was happening at the premises.
  - f. Mr Duzgun replied that the property had been rented out for many years, and that when he was made aware of complaints, he tried to communicate these to those occupying the premises.
4. Derek Ewart, Police Officer, made the following statement:
- a. The Police support the review brought by the Local Authority on the grounds that The Hyde Arms, have an extensive history of complaints over the past four years, totalling forty-eight, occurring under the ownership of Mr Duzgun.
  - b. Noise complaints had been received alleging the premises had been playing loud music, customers had been arguing and fights taking place often at 2-3am in the morning, and as late as 5am, and occurring six times a week on occasion.
  - c. Reports of gambling taking place in the basement had been received, despite this not being a part of the licence at that time.
  - d. A cannabis factory was discovered above the premises by Police on 5 August 2023, and this matter was still being investigated with no suspects having been arrested.
  - e. Old cultivation cannabis equipment had been found behind the premises in the rubbish, which had been linked to staff at the premises in the past, dating back to 2021. This shows a link between the cannabis factory being discovered and how long this had potentially been going on at the premises.

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- f. The premises had a catalogue of known licensing issues and a history of non-compliance. Noise complaints among other issues/events, as mentioned, were numerous.
  - g. Mr Duzgun had had multiple interactions with Police and the Local Authority Licensing and Noise teams, all of which despite advice, had resulted in no change in the mismanagement of the premises, continued breaches and lack of upholding the licensing objectives.
  - h. Mr Duzgun had for an extended period of time said that he had left the management of the premises to third parties, and endeavoured to distance himself from breaches and mismanagement.
  - i. On visits to the premises, when asked, staff had advised that Mr Duzgun was responsible for the running of the premises, but was never actively running the premises on a day-to-day basis; having sub-let the premises to third parties who were effectively acting as a front in his name only.
  - j. Despite being named on the licence, Mr Duzgun had very little to do with the running of the business. When requested, he had attended meetings, but had never been seen working at the premises he was connected with; instead, he appeared to be the landlord with tenants running the business.
  - k. Dates of incidents had been detailed in the Local Authority representations; therefore, the Police would not duplicate these entries.
  - l. On 2 January 2024, a premises licence transfer request had been submitted by Mr Duzgun to change the licence holder to a limited company. Police objected to this transfer as it was believed that the application was designed to give the impression of the removal of the current PLH, Mr Duzgun, in an attempt to negate the review procedure and to picture the premises as under new management.
  - m. The Police support the review submitted by the Local Authority and made representations to request full revocation of the premises licence. As stated by the Licensing Enforcement Team, it is not believed that Mr Duzgun was able to uphold the licensing objectives. The Police took this view on the grounds of the prevention of crime and disorder objectives and the prevention of public nuisance.
5. In response, the following comments and questions were received:
- a. Mr Duzgun asked for clarification as to the historic instance of cannabis being found on the premises.
  - b. The Police responded that this was found in 2021, within the confines of the premises, inside the bin area on the premises land.
6. Mr Duzgun, The Hyde Arms PLH, made the following statement:
- a. He owned the Hyde Arms premises but had been renting it out for many years, evidence/documentation of this, for instance business rates, waste collection etc. was available at the Council.

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- b. He had not had the opportunity to put a bundle/response together, as he had been largely working abroad over the past few years.
- c. Of the twenty-two complaints received since he had taken over the licence, the majority had taken place within nine months prior to the licence review being submitted, which went back to around February 2023. Prior to this only four complaints had been received in five years which was described as good for a public house, given they always had incidents. The premises had always tried its best to stick to the licencing objectives.
- d. The other premises he had dealings with was also rented, and a condition arising from a Licensing Sub-Committee hearing was that he was not involved in the running of that business. He had always tried to communicate with the Licensing Authority over any issues at his premises.
- e. Last year, since February 2023, under the management of the DPS, Mr Asen Asenov, there had been an escalation in issues and complaints, which Mr Duzgun had investigated.
- f. In the instance of a customer having been witnessed sniffing something off the table, he had looked at the CCTV and could not see anything clear, but wondered why officers present did not escalate the issue at the time.
- g. The DPS, Mr Asen Asenov, had disappeared since August 2023 following the discovery of a cannabis factory above the premises, and since this time the premises had been closed.
- h. A meeting had taken place with the Police, and Mr Duzgun had gone back to them on 19 September 2023.

### 7. In response, the following comments and questions were received:

- a. The Chair asked why the PLH's change of address had not been updated. Mr Duzgun responded that his address had not changed. Officers advised that a letter sent to Mr Duzgun had been returned as though he was not registered as living at the address. Mr Duzgun replied that there were two other properties at this address, and it was possible the letter had gone to one of them by mistake, but that it was not delivered to him, and he had not changed address.
- b. Cllr Dey asked who the premises DPS was. Mr Duzgun responded that since August 2023 the business was closed, and on 1 November he had sold the business on, with Mr Enias Thanasi looking after it. Mr Duzgun had been away, but when he returned in late December, he had looked to transfer the licence, which was objected to by the Police. Mr Duzgun expressed that beyond his name still being on the premises licence, he had nothing to do with the business, and would be happy to relinquish the licence, and have it be for Mr Enias Thanasi to make a new application. Since 1 November he could not comment on anything that had happened at the premises, and he had not changed his address, or he would have let the Licensing Authority know. Officers

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confirmed that Mr Duzgun was the PLH not the DPS, which was Mr Asen Asenov.

- c. Cllr Dey queried, given the number of conditions that were not being complied with, why when given warning by officers, did Mr Duzgun not act to rectify the issues. Mr Duzgun advised that the majority of the issues had been from February onwards, and he had been informed of the complaints around April-June. He added that when he was in the country, he attended the premises, and that from August, following the discovery of a cannabis factory, the premises had been closed. He had since also found new tenants and sold the business.
- d. Ellie Green asked when Mr Enias Thanasi had taken over the business. Mr Duzgun replied that this had taken place from 1 November 2023, and he had made clear to Mr Thanasi that he would need to apply for the licence.
- e. Ellie Green enquired why Mr Duzgun had not asked his previous tenants to transfer the licence. Mr Duzgun responded that he had leased the premises to Mr Asen Asenov on 1-year leases, that he looked at how the business was being run, and Mr Asenov had moved on last year. Mr Asenov was said to have been this licence holder in 2020, and was present again from January 2022. Mr Duzgun added that when the cannabis factory was discovered above the premises, he had gone out of his way to provide CCTV. Mr Duzgun said there had been a survey on the premises in April 2023 which had not found the cannabis factory.
- f. The Chair asked if Mr Duzgun was aware of the issues with the premises from August onwards. Mr Duzgun advised that from August to 1 November the premises had been shut whilst he found a new tenant, had advised Mr Enias Thanasi to apply for the licence, and tried to communicate any complaints received from that point on to Mr Thanasi. Mr Duzgun reiterated that he was happy to give up the licence, and the business was now Mr Thanasi's responsibility.
- g. The Chair queried whether Mr Duzgun had notified the Licensing Authority that he had sold the business. Officers replied that Mr Duzgun was still the PLH, and until a transfer application was received, Mr Duzgun was responsible for the premises, and that if this was not the case, the licence should be transferred.
- h. The Chair enquired why the licence had not been transferred. Mr Duzgun responded that at his first opportunity after returning to the UK, he had worked to get the transfer application submitted, but this was refused/objected to. Officers said that Mr Enias Thanasi's name had not appeared on the application, the transfer application was instead for H&K Elite Ltd, which he was not the director of. Mr Duzgun responded that he believed this was the name he was going to trade under, and if he was not the director of this company, this was Mr Thanasi's mistake/issue. Mr Duzgun reiterated that had no affiliation with the premises.
- i. Officers asked why Mr Duzgun had not surrendered his licence. Mr Duzgun replied that he was not aware the premises had reopened and



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was receiving complaints, and when he phoned the Licensing Authority upon returning to the UK, he was advised to transfer the licence. Officers added that the Licensing Officers would not have been aware of the complaints, that there were separate enforcement and processing teams, and they would have to offer the same advice to Mr Duzgun as they would for any other premises owner. The Council's legal adviser made the point that as the PLH, Mr Duzgun was still responsible for the business and could have, but did not take the opportunity to surrender the licence.

- j. Officers queried what checks Mr Duzgun had in place before he took on tenants who would be undertaking licensable activity. Mr Duzgun advised that he conducted standard landlords, accounting and solicitors checks, all of his tenants had passed. Mr Duzgun reiterated that he did not know the premises had reopened in November, and that he was not involved in the running of the business.
- k. Cllr Savva asked how and when Mr Duzgun became aware of the cannabis factory. Mr Duzgun responded that he was made aware by neighbours of the premises, who had phoned him to say Police were outside the premises; he then attended, and Police informed him that there was a cannabis factory.
- l. Cllr Savva felt that officers had given Mr Duzgun fair warning/ notice of the issues and he had time to rectify them.
- m. Cllr Dey enquired again why Mr Duzgun had not surrendered his licence. Mr Duzgun replied that when he had spoken to Mr Enias Thanasi, he had said that he would not be opening for a few months, and so did not believe there was a rush, and that once he had returned to the UK, he made the transfer application.
- n. Officers expressed that it was worrying for a PLH not to know when their premises was open. Mr Duzgun apologised for this.
- o. Cllr Dey sought confirmation that Mr Duzgun was happy to give up the licence. Mr Duzgun confirmed this to be the case. He said it should be for Mr Enias Thanasi to submit his own/ a new application, and that he was not aware of the issues which started around February until around April-May.
- p. Officers conveyed that they had not previously received an offer of licence surrender. Mr Duzgun said he did not have the chance to send anything over to them as he had been working abroad.
- q. The Chair felt that Mr Duzgun did not understand his responsibilities as a licence holder. Mr Duzgun expressed that he did, that the premises was being rented out, that prior to February 2023 there were no real issues, and that for a public house this was very impressive.

8. The following closing summaries/ points were made:

- a. Ellie Green outlined the options available to Members of the committee to make, and directed them to the relevant guidance.
- b. Victor Ktorakis confirmed that he had nothing further to add.

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- c. Derek Ewart reiterated the Police position that the premises was a beacon for public nuisance, crime and disorder; they were of the belief that the PLH was completely disregarding the conditions of his licence, and the licensing objectives were not being upheld, as had been illustrated. Police had taken steps to engage with the owner and gave opportunities for them to turn the issues around, but the PLH had not acted upon this. If the premises were allowed to continue trading it is the belief of the Police that breaches of the Licensing Act and a clear nuisance to the public will continue, and therefore ask that the sub-committee revoke the premises licence, to prevent the continued disregard for the licensing objectives.
- d. Mr Duzgun expressed that he just wanted to get his name off the licence.
- e. Cllr Bedekova made clear that Mr Duzgun had had the opportunity to surrender his licence which he had not done. Mr Duzgun accepted this.

The Chair thanked everyone for their time and adjourned the meeting at 10:52, while the committee went away to deliberate. The Panel retired with the legal adviser and committee administrator to consider the application further, and then the meeting reconvened in public at 11:30.

The Licensing Sub-Committee **RESOLVED** that it considers it to be appropriate for the promotion of the licensing objectives **to revoke the licence.**

The Chair made the following statement:

“The Licensing Sub-Committee (LSC) have listened to and considered written and oral submissions made by the Licensing Authority, the Metropolitan Police and the premises licence holder, Mr Mansur Duzgun. In particular the evidence concerning previous activities at the premises concerning breaches of the licence conditions and the law. The LSC are of the view that the premises licence holder, Mr Mansur Duzgun, has not been able to demonstrate to the LSC that he has an understanding of the obligations of holding a licence, and the licensing objectives, in particular the prevention of crime and disorder and the prevention of public nuisance. Nor has he demonstrated that he is able to, or would be able to, adhere to any licence conditions. Further, given the past history of a failure to adhere to the imposed licence conditions and the licensing objectives, the LSC do not consider there is a likelihood of compliance, should the licence be permitted to continue to operate. It has been noted by the LSC that Mr Mansur Duzgun set out that he was happy to surrender the licence.

Accordingly, the LSC, on balance, has made the decision to **REVOKE THE LICENCE** held by Mr Mansur Duzgun in its entirety.

The LSC has taken into account the statutory guidance and in particular, the provision at paragraph 11.20 regarding the causes of concern raised in the

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representations and the London Borough of Enfield's Policy Statement. It has made its decision in promoting all of the four licensing objectives and in particular that of the prevention of crime and disorder and the prevention of public nuisance.

It should be noted that The Hyde Arms can continue to operate at the premises for any unlicensed activities and that there are no limits concerning unlicensed activities."

The Chair thanked everyone for their time and adjourned the meeting following the completion of item 4 at 11:33, the meeting resumed at 13:30 for item 5.

### **5 THE FOX PH, 413 GREEN LANES, LONDON, N13 4JD**

On 19 December 2023 an application was made by Enfield Council's Licensing Authority for the review of Premises Licence LN/201900900, and is produced in the report packs. The review application was submitted as the Licensing Authority believed that the provision of music undermined the licensing objective for the prevention of public nuisance. Several complaints had been received from local residents regarding loud music emanating from The Fox, statutory noise nuisances had been witnessed, and a noise abatement notice served. This notice had been subsequently breached as officers witnessed further statutory noise nuisances. The review sought to remove all regulated entertainment from the premises licence LN/201900900 and disapply the automatic entitlement under the provisions of Section 177A of the Licensing Act 2003 by adding a condition to the effect that regulated entertainment is not permitted at any time.

NOTED:

1. The introduction by Ellie Green, Licensing Team Manager, including:
  - a. The committee were to consider a review application of the premises known as The Fox, 413 Green Lanes, in Palmers Green Ward.
  - b. The premises licence was held by Star Pubs & Bars Ltd, and Mr James Sharkey was the named DPS. The premises licence was granted in February 2020, but the premises only opened to the public last year.
  - c. The review application was submitted on behalf of Enfield Council's Licensing Authority, and seeks to remove regulated entertainment from the premises licence in order to support the prevention of public nuisance licensing objective. This is in response to a number of complaints from local residents in the new flats adjacent to The Fox which had resulted in several statutory noise nuisance being observed by Council Noise Officers. The review application and additional information can be found in the report packs.
  - d. The Licensing Authority have sought a condition be added to the licence to disapply the music entitlement at the premises, the effect of

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which would remove music above background level from the licence at all times and days. If the Licensing Sub-Committee were not minded to remove regulated entertainment, specifically music, the Licensing Authority sought amended times and conditions as outlined in the report packs.

- e. The review attracted representations supporting the review from one local resident, but also received representations objecting to the review by an MP, a ward councillor and 14 local residents, who were in support of The Fox.
- f. The PLH, Star Pubs & Bars Ltd had responded to the review and submitted an evidence bundle, including a noise acoustic report. A review of this noise acoustic report had taken place on behalf of the Licensing Authority, and both can be seen in the report packs.
- g. The existing premises licence only provides for live and recorded music as a licensable activity from 11:00pm. Due to deregulatory changes to later amendments of the Licensing Act, live and recorded music can be provided to an audience of no more than 500 people, at any premises licensed for the on sale of alcohol, between 8:00am and 11:00pm, without being required to be a specified licensable activity on the licence.
- h. Conditions relating to music are attached to the licence. Since the deregulation, these conditions relating to music are suspended between 8:00am and 11:00pm, and only become effective after 11:00pm.
- i. Under section 177A of the Licensing Act, there is a provision to disapply this entitlement to provide live and recorded music by adding a condition to that effect through a review process.
- j. Those in attendance were introduced, and the order of representations was outlined. Apologies were received from the local resident who had supported the review, as they were unable to attend the hearing. It was asked that those speaking refrained from mentioning the names and addresses of the complainants.

2. Victor Ktorakis, Senior Environmental Health Officer, made the following statement:

- a. The premises is situated on the junction of Green Lanes and Fox Lane in Palmers Green. It has held a premises licence since 2005. The Fox closed at some point in 2018 to allow for the commencement of construction works which would see part of the pub and car park developed into residential flats.
- b. On 20 February 2020 a new premises licence application was granted to The Fox, naming Star Pubs & Bars Ltd as the PLH. The pub reopened on 3 February 2023.
- c. Since its reopening a total of twelve noise complaints from residents had been received by the council, eleven of which were made between 5 June and 2 December 2023, and the other on 20 January 2024. The complaints had been made by three different residents, each on more

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than one occasion. The times of the noise complaints were generally between 7:00pm and 1:00am with most complaints being received between 9:00pm and midnight.

- d. Officers had provided advice to staff at the premises at the time of the complaint, and after the event on ten occasions. In response to these complaints, noise officers had witnessed music to be at such a level that it was deemed to be a statutory nuisance on four separate occasions. Three different noise officers had established that statutory noise nuisances were witnessed. These occasions took place at: 10:30pm on 22 July, 10:25pm on 14 October, 11:25pm on 21 October, and 10:32pm on 2 December 2023. As a result, officers served a noise abatement notice on the PLH, Star Pubs & Bars Ltd and the DPS at the time, Austin Whelan, on 1 November 2023, which could be found in the report packs.
- e. On 20 November 2023, officers spoke to Mr Whelan by phone, who confirmed that he had received the noise abatement notice, and advised that the managers had not informed him of the noise concerns until that time. He had stated that the main building contractor for the flats had gone bankrupt, that he thought the sound insulation at the pub was not likely to be adequate, and would do whatever he could to reduce the noise so that it would not cause a nuisance to residents.
- f. On 2 December 2023 the councils out of hours noise service received a complaint. They visited the premises at 10:32pm where they could hear music through the pub entrance doors. The officer visited the complainant and deemed the level of noise to be a statutory nuisance. The noise officer entered The Fox at 11:45pm and spoke to Mr James Padrick, who was advised that a statutory nuisance had been witnessed and would be brought to the attention of the Licensing Enforcement Team. Mr Padrick advised the noise officer that the music had been louder earlier in the evening, and he had reduced the volume following his findings on his sound check walkabout. Due to the noise officer's arrival and observations, the band ceased playing for the night.
- g. As a result of a witnessed breach of the noise abatement notice, an officer served a fixed penalty notice to Star Pubs & Bars Ltd on 15 December 2023.
- h. A further statutory nuisance and breach of the abatement notice was witnessed on 20 January 2024 at 10:05pm, bringing the total witnessed statutory nuisances to five. This was just ten days after discussions with the PLH representatives regarding the issues, and three days after the sound tests were carried out under the instruction of the PLH. The officer was able to hear the music 75-100 meters away from the entrance of The Fox pub. Music could also be heard from approximately 75 meters away on 14 October 2023.
- i. The nuisance witnessed on 20 January 2024 was brought to the attention of Flint Bishop Solicitors and Star Pubs & Bars Ltd, via email on 22 January 2024. They were advised that an additional noise abatement notice would be served on the current DPS, Mr James

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- Sharkey, which it was on 23 January 2024, a copy of which could be found in the report packs.
- j. On 25 January 2024 officers visited The Fox, and spoke to the partner of the DPS, Mr Padrey, about the noise complaints and noise abatement notice. He advised that there had been an event in the function room and the front of the pub had been busy that night. It was claimed that only recorded music had been played through the pubs sound system that night, that staff carried out sound checks which were documented, but these were not produced at the time as the DPS was not present. Officers pointed out that even if there were issues due to poor sound insulation, the music still should not be heard 75-100 meters down the road, and that this was likely due to poor management of the sound by staff. This information and advice was relayed in an email to the DPS, Mr Sharkey, who responded to confirm that there was only background music on 20 January 2024.
  - k. On 1 February 2024 officers carried out an unannounced licensing inspection at the premises, Mr Sharkey, the DPS was not present, and officers were advised that he would be away for another week. Mr Tony Curran, the Regional Area Manager, was in charge of the premises at the time and assisted with the inspection. The inspection revealed that ten licensing objectives were not being complied with, a copy of this is available in the report packs. Whilst it could be argued that Mr Curran could not find the written documentation relating to some of the conditions, three of the condition breaches related to signage, which should have been in place regardless. It was also not possible to operate the CCTV on the day.
  - l. On 2 February 2024, officers emailed Mr Curran and Star Pubs & Bars Ltd representatives with a copy of the inspection report and material which could help them meet some of the outstanding licensing conditions. Shortly after Mr Curran emailed photographs, showing that all posters required were now on display.
  - m. Also on 2 February 2024, a review of the acoustic report produced by The Fox and sent to the Licensing team on 30 January 2024, was received from Ned Johnson, Principal Officer (H S & PC), both of which are available in the report packs.
  - n. On 6 February 2024, Mr Curran emailed officers a copy of the sound checks to demonstrate compliance with one of the conditions. A visit carried out the same day confirmed compliance with four of the other conditions. Only two conditions remained outstanding/uncompiled with, namely: there was no evidence to suggest the refusals book was being checked by the DPS and one member of staff had not received refresher training within a 6-month period.
  - o. The conditions put forward by Star Pubs & Bars Ltd, which can be seen in the report packs, were considered. Should the Licensing Sub-Committee, be minded not to remove regulated entertainment from the premises licence, the Licensing Authority propose that the conditions outlined in the report pack be considered and applied to the licence. One of the conditions proposed by The Fox representatives was: a

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noise limiting device shall be installed to any amplification equipment in use on the premises, it shall be maintained in effective working order, and set to interrupt the electrical supply to any amplifier and be set at a level agreed by environmental health. It was expressed that it was not usual for the Licensing Authority to request or agree a condition which requires the noise level to be set by Environmental Health or the Licensing Authority, as the PLH is responsible for noise control. The Licensing Authority will thus not agree to the wording of this condition and had provided an alternative also available in the report packs.

- p. If regulated entertainment were to remain on the licence, the Licensing Authority would also request that the Licensing Sub-Committee amend the hours of the associated licensable activity, as outlined in the report packs.
- q. The noise acoustic report did not satisfy the Licensing Authority and believe a noise limiter would be only partly, not wholly effective in addressing the issues. Officers had concerns that in the absence of sound insulation works to the building, the noise nuisance despite the noise limiter may still persist, thus the following condition is sought to be applied to the licence, that section 177A not apply to the premises licence and therefore no regulated entertainment be permitted at any time including live or recorded music.

3. In response, the following comments and questions were received:

- a. Mr Andrew Cochrane asked whether the noise complaints pertaining to the review had emanated from the flat complex at the premises. He also queried when the officer had spoken to residents in those flats, whether any of them had indicated as to any inquiries they had made about noise insulation at the premises when they bought the flat, knowing the proximity of the public house. Officers confirmed that the complaints had emanated from the flat complex at the premises, and that conversations as to enquiries regarding the noise insulation of the premises prior to purchase were not had.
- b. IP12 enquired where the report mentioned no regard being given to neighbours, whether officers had taken account of: The Fox offering the function room for free for Palmers Green Ward Forums, and the business and residents associations; the free food and refreshments offered to residents in the flat complex, and the flowers outside the front. Officers responded that the no regard likely referred to neighbours not being respected in relation to the volume of music/noise.
- c. IP12 asked where the report mentioned that the Fox was not suitable for regulated entertainment, was this relevant to the current redevelopment given its history. Officers replied this was correct, that currently the premises were unsuitable.
- d. IP12 queried the distance the noise could be heard from the premises. Officers confirmed that music had been heard up to 100 meters from the premises, and this made clear that it was a noise management not

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just insulation issue. IP12 questioned whether complaints had been received from any of the surrounding residences besides the flat complex on site, or from the Police. Officers said that complaints had not been received from these parties.

- e. IP12 enquired whether it was possible to tell whether the doors were open when the noise was heard from up to 100 meters away. Officers advised that the observations taken at the time were available in the report packs.
- f. IP12 made the point that the details regarding the distances were key, as they provided the basis that the levels of noise being generated by the premises were too loud and yet these were not completely clear. Officers advised that the fact the music/noise could be heard down the road meant that the pub was not in control of the volume and that if it was the case that the doors were open this was a management issue.
- g. IP12 queried whether officer's conclusion was that the premises management was not being honest as to the volume of music/noise emanating from the premises. Officers responded that the point was that residents were being affected by the noise, that on this basis an abatement notice had been served, that the complaints had been received from the flat complex located at the site, but being able to hear noise/music from the distance it could be heard meant that it was not solely a sound insulation issue but also management problem.
- h. A local resident asked whether any conclusions had been drawn regarding how the sound had travelled, and whether the noise emanated from the function room or public bar area. Officers advised that they could not confirm/ comment on this. They added that the PLH had produced an acoustic report and were unable to test the function room on the day due to being open to customers and the DPS not wanting to disturb them.
- i. IP12 questioned whether during officer visits, had any noise been picked up from other establishments in the vicinity. Officers advised that they could not comment on/confirm this, and that all the details available were in the report packs.

4. Mr Andrew Cochrane, Flint Bishop Solicitors representing The Fox, made the following statement:

- a. The noise transmission from the public bar area and function room (which was noise tested, not the public bar as was indicated by the officer) to three of the 54 flats was described as an unfortunate situation. Star Pubs & Bars Ltd accepted that the situation could not continue and needed resolving.
- b. The relationships between those present representing The Fox were explained. Andrew Cochrane of Flint Bishop Solicitors was representing Star Pubs & Bars Ltd who owned the premises, were the PLH and managed the premises on behalf of a tenant, Heineken. Mr Wheelan was the sub-tenant and operator of the premises subject to a lease.



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- c. Mr Wheelan was regarded as an extremely good operator. He had come into the premises about a year ago, and ran it in a similar way to other premises he had run, providing entertainment. This was initially fine, but as people moved into the nearby newly built flats/apartments, complaints started.
- d. The complaints were described as disappointment. About £1million was said to have been spent in total between Mr Wheelan and Star Pubs & Bars Ltd on the refurbishment. Some adjustment was said to be needed.
- e. The difference between The Fox and the Council's Environmental Health Officer was said to be that The Fox believe the problem should be managed by the installation of a noise limiter. This solution was said not to be ideal because it was accepted that it would need to be set at a very low level, probably not much above background noise. This was described as a starting point which would allow them to provide something, whilst they investigated and resolved the structural issues, which could then allow the level of volume to be raised.
- f. The noise limiter would allow all music, including incidental, to be played through it.
- g. The Chair allowed Mr Cochrane to continue speaking beyond his 5-minute limit.
- h. The setting of proper limits would help to ensure the abatement notices were complied with, as it would remove any subjectivity.
- i. Films, TVs and plays were said to be facilities that the Licensing Authority were seeking to withdraw from The Fox.
- j. It was accepted that on 6 October, there was entertainment and it was possible for noise to be played in a way that was not a statutory nuisance.
- k. The conditions proposed by the Environmental Health officer were accepted, barring the removal of entertainment altogether, but on condition 20, it was asked that an amendment be made for noise to relate to their nearest sensitive premises, not the boundary of the premises, and they could propose some revised wording.

#### 5. In response, the following comments and questions were received:

- a. Cllr Savva asked whether free standing speakers would help to resolve the noise issues and if traffic noise was at the same level and acceptable. Officers replied that the statutory noise nuisance was witnessed within the complainant's premises. The distance the noise could be heard had been provided to demonstrate that it was not purely an issue of sound insulation but was also a problem of management of the noise. The Council's legal adviser made clear that traffic noise would not breach the bar of a statutory noise nuisance whereas the noise at the premises did, so the comparison to traffic did not fit into this argument.
- b. Cllr Dey queried given the number of licence conditions breached, how the premises could be said to be operating and managed well. Mr

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Wheelan advised that the manager had taken the review quite hard and had taken a week to 10 days away. The Fox had tried to invite residents in, to see what they could do better moving forward. A number of the conditions which were not met related to information on a laptop which Mr Curran, who was present at the time, did not have access to, and the premises had since provided these. This and the provision of CCTV he accepted should have been handed over. The signage issues were confirmed to have been fixed. Across their other premises, these issues were said not to have occurred, and they had taken steps to address the issues raised. Mr Wheelan had invested £500,000 in the property, which he stood to lose on 1 March. The issues at the premises were said to be causing everyone concerned problems, and felt they had done a good job of bringing the public house back into the community. He could appreciate the issues that residents were experiencing, made clear that they were doing everything in their power to address the issues, and expressed that staff had been conducting walkabout noise readings.

- c. The Chair asked whether the two conditions which were still outstanding had now been met. Officers advised that one member of staff who had since left had not received their refresher training within the necessary time period, and there was no evidence to suggest the refusal system was periodically checked by the DPS. These outstanding conditions were 13 and 17 in the report packs.
- d. Officers asked what amendments to condition 20 were being proposed. Mr Cochrane asked that the condition be changed to read '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 volume of the music at noise sensitive premises and/or to ensure the noise does not emanate from the premises so as to cause a nuisance to nearby properties'. Mr Matt Markwick added that this would bring the wording in line with relevant British standards (namely BS442 2014), with regards to control of commercial noise at a premises, and that this placed the focus on the person who would be affected. Mr Cochrane confirmed that his clients were happy with the addition of the other conditions, but not the condition to disapply of the provision to provide music/ entertainment.
- e. IP12 asked whether it was the case that the management were in talks to leave the business. Mr Whelan said that they were in discussions at the moment, but that from a financial point of view the premises was pulling the rest of his business under, and it was getting to a point whereby it was unsustainable, and they were losing £7000-£8000 a week.
- f. IP12 queried on the issue of noise being heard up to 100 meters away whether closing the door would help. Mr Whelan responded that if people were looking for faults they would find faults in any business, and that the restaurants over the road were just as if not louder than his.

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6. IP12 and Cllr Taylor, Palmers Green Ward Councillor, made the following statement:

- a. IP12 reemphasised that The Fox was a local landmark, with 300 years history, was locally listed and the borough's first asset of community value.
- b. IP12 highlighted a recent petition which demonstrated the community's support for the premises, and the benefits it brought to residents and local businesses alike.
- c. IP12 asked the committee that it do whatever possible to allow the premises to continue having regulated entertainment.
- d. Cllr Taylor thanked officers for bringing the issue to the attention of the committee as it would not be acceptable to allow residents to continue experiencing the noise levels which had been witnessed, and expressed that any solution should be to ensure that residents can enjoy their properties going forwards without being disturbed.
- e. Cllr Taylor felt that the discussion by the committee was premature and that he had and would suggest again to adjourn a decision on the matter.
- f. Cllr Taylor welcomed the proposals for a noise limiter, but was sceptical whether this would be enough in its own right, as some of the noise which had contributed to the issue was not amplified music. He believed that extra sound proofing was likely to be required.
- g. Cllr Taylor expressed that he wished for a short-term solution which worked for the public house and residents above in the flat complex, and gave those residents a long-term protection for the noise.

7. In response, the following comments and questions were received:

- a. Mr Cochrane asked Cllr Taylor whether the use of a noise limiter in the short term, to allow entertainment to continue, whilst carrying out the investigation and rectifying the issues, which would then allow the noise level to be raised was the preferable solution. Cllr Taylor responded that he did not know whether or not this would work in practice. He felt that the noise limiter would potentially not be sufficient, and that he was unsure as to the details of what would be required, financially practical, and the time frame for the issues to be address. For this reason, he had proposed an adjournment to allow the relevant parties to work together to come up with a workable solution for all.

8. The following closing summaries/ points were made:

- a. Ellie Green outlined the options available to Members of the committee to make, and directed them to the relevant guidance.
- b. Victor Ktorakis said that were the Licensing Sub-Committee minded not to remove regulated entertainment, and impose additional conditions instead, the Licensing Authority would accept the proposed amended

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wording that had been made with regards to the sound limiter in condition 20.

- c. Mr Cochrane expressed that there was a real willingness from everyone to make this work, that the issues had affected everyone involved including his clients, and the noise affecting the three residents needed to be resolved. He felt that the best resolution was to maintain regulated entertainment, and all music including incidental be played through a noise limiter, which would remove any subjectivity issues and prevent further statutory noise nuisances. He added that The Fox could then also conduct their investigations into the noise insulation issues and rectify them before the sound levels could be increased.
- d. Cllr Taylor said that while soundproofing might allow for an increase in volume for regulated entertainment, the primary objective should be protecting the residents affected by the noise.

The Chair thanked everyone for their time and adjourned the meeting at 14:36 while the committee went away to deliberate. The Panel retired with the legal adviser and committee administrator to consider the application further, and then the meeting reconvened in public at 15:22.

The Chair apologised for the delay in returning with/ finalising/ agreeing a decision.

The Licensing Sub-Committee **RESOLVED** that it considers it appropriate for the promotion of the licensing objectives **to modify the conditions of the licence as follows:**

Conditions (in accordance with Appendix 12, page 8-11 of the LSC Supplementary report no.2):

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.

(Modified) 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 volume of the music at noise sensitive premises and/or to ensure the noise does not emanate from the premises so as to not 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

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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.

The Chair made the following statement:

“The Licensing Sub-Committee (LSC) having listened to and considered written and oral submissions made by the Licensing Authority, the premises licence holder’s representative, the premises licence holder, and the Other Parties.

The LSC, on balance, has made the decision to modify the conditions to the premises licence (as above).

The LSC makes no modification to the licensable hours on the current licence. The LSC expects all licence conditions to be complied with, particularly non-compliance of conditions 13 and 17 to be addressed as soon as possible.

The LSC has taken into account the statutory guidance and in particular the provision at paragraph 11.20 regarding the causes of concern raised in the representations, and the London Borough of Enfield’s Policy Statement, and has made its decision in promoting all of the four licensing objectives and in particular that of the prevention of public nuisance.

The LSC reminds the premises licence holder where issues continue to arise concerning noise nuisance and/or other concerns and/or other breaches to the licence conditions, these matters may be brought for further review.”

The Chair thanked everyone for their time and contributions and the meeting ended at 15:25.