

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 16 DECEMBER 2015**

COUNCILLORS

PRESENT (Chair) Derek Levy, George Savva MBE and Eric Jukes

ABSENT Chris Bond

OFFICERS: Ellie Green (Principal Licensing Officer), Charlotte Palmer (Licensing Enforcement Officer), PC Gary Marsh (Metropolitan Police Licensing Officer), Antonia Mankanjuola (Legal Services Representative), Jane Creer (Democratic Services)

Also Attending: Mr Richard Wormald, Barrister, 3 Raymond Buildings (on behalf of Metropolitan Police Service)
Mr Agron Xhauri (Applicant)
Mr Alan Aylott, Solicitor, Dadds LLP (on behalf of applicant)

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WELCOME AND APOLOGIES FOR ABSENCE

NOTED that Councillor Bond was unable to attend the meeting and that as a reserve member Councillor Derek Levy as Chair welcomed all those present and explained the order of the meeting.

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DECLARATION OF INTERESTS

NOTED that there were no declarations of interest in respect of items on the agenda.

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ROYAL VENUE, 1 JUTE LANE, ENFIELD, EN3 7PJ (REPORT NO. 147)

RECEIVED the application made by Mr Agron Xhauri for a new Premises Licence at the premises known as and situated at Royal Venue, 1 Jute Lane, Enfield, EN3 7PJ.

NOTED

1. The introductory statement of Ellie Green, Principal Licensing Officer, including the following points:
 - a. She advised that there were now three different applications to be determined for the same venue, Royal Venue, 1 Jute Lane, Enfield, EN3 7PJ, which was previously known as Club Zeros.
 - b. The application for a new premises licence was set out in Report No. 147 in the original agenda. This application had been submitted on 18

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October 2015 and was subject to representations from the Police and the Licensing Authority. The Licensing Authority had objected to the hours sought and had proposed reduced hours and additional conditions. The applicant had agreed to the Licensing Authority's proposed conditions in full and to the proposed hours in part. The Police objected to the new premises licence application in its entirety, but if the sub-committee were minded to grant a licence had requested a number of conditions as set out in Annex 06 of the agenda. The applicant had not indicated if he was in agreement with the proposed conditions.

c. On the previous afternoon, 15 December 2015, the solicitor for the applicant had sent a list of revised conditions. It was understood that the Police had examined these conditions and were not in agreement, and noted that these conditions were already in the operating schedule, or that the conditions proposed by the Police were stronger.

d. The second application was for a Temporary Event Notice (TEN) and was set out in Report No. 149 in the supplementary agenda. This notice was for the provision of late night refreshment, supply of alcohol and regulated entertainment in respect of a proposed event at the premises from 20:00 on Thursday 24 December 2015 to 03:30 on Friday 25 December 2015.

e. A third application was received late yesterday for TEN in respect of a proposed event on New Year's Eve, from 00:00 to 03:30 on 1 January 2016.

f. Objections had been received to both of those TENs from the Police and from the Licensing Authority.

g. Ellie Green advised that the applicant was already aware of the objections to the new premises licence application in November, yet these TENs were submitted in December.

h. There was a significant licensing history at this premises, as set out on page 1 of the agenda.

2. The statement of Mr Richard Wormald of 3 Raymond Buildings, Barrister on behalf of the Metropolitan Police Service, including the following points:
 - a. The Police representations were well set out in the agenda papers.
 - b. This was a bad venue. Historically it had suffered a number of problems. The location was problematic: on one side was warehousing, on the other side of the tracks were residential streets. This had led to complaints in the past relating to disorder and noise from people leaving late at night. The small yard at the back of the premises it was said could be used for car parking, but could not be utilised currently, being full of pallets. The location was problematic for drop off by taxis.
 - c. The previous operators allowed Club Zeros to attract a poor reputation. There had been problems of violence at the venue and a culture of gang members attending.
 - d. The premises needed a "new broom" to make a fresh start. The previous premises licence was recently revoked because of stabbings and disorder. No charges had yet been brought in relation to the most recent incident as no-one wanted to be a witness.

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- e. The Police were happy to work with a bone fide operator who wanted to change the venue. They did not accept that Mr Xhauri was that person. There had been meetings between Mr Xhauri and the Police as noted in the agenda pack. The Police were not impressed by Mr Xhauri's candour or willingness to work with them.
 - f. There was no evidence of positive plans with regard to operating the premises as a wedding venue.
 - g. It was known that Mr Xhauri ran night clubs elsewhere.
 - h. The two TENs until 03:30 were said to be family events but officers began to suspect that was not the case and that the intention may be to run the premises as a night club.
 - i. Mr Xhauri ran other premises in this borough. One premises, Tirana 2, was a night club and had experienced problems with repeated breaches of licensing obligations, including keeping of CCTV footage, keeping of records, and in respect of security staff. The breaches had been discovered over a short period of time – three times in three months. Police were considering a closure order.
 - j. The applicant had not demonstrated to Police any frankness or candour.
 - k. It had been suggested by the applicant today that hours could be lopped back to 00:00 / 00:30 on some nights. Police would still object, as they believed arrangements should be agreed properly and convincingly in liaison with the Police and the Licensing Authority and not on the hoof.
3. The statement of Charlotte Palmer, Licensing Enforcement Officer, including the following points:
- a. This premises had a long history of violence, including gun and knife crime, and there had been a number of complaints.
 - b. The premises had had many different names and different operators, none of whom had run the venue successfully or safely.
 - c. There had been licence reviews in 2010, 2013 and most recently in August 2015. The current applicant attended the recent review hearing, so was aware of issues and concerns prior to making the application.
 - d. The venue had been a night club since 2008. In discussions, the applicant had indicated he wished the premises to become a wedding suite, but this was not evident from this application, and the hours sought seemed more appropriate for a night club use.
 - e. The applicant had agreed to Monday to Thursday hours and all conditions suggested by the Local Authority; but not to weekend hours.
 - f. Given the history of the premises, it was appropriate in the interests of the local community to limit the licensing hours.
 - g. In the past there had been noise complaints to the Council from local residents in respect to both music and dispersal noise.
 - h. There was limited parking near the venue, leading to customers having to park in residential streets. This was a large venue. It was not appropriate for residents to put up with noise disturbance which had a detrimental effect on their quality of life.
 - i. When the premises was previously run as a night club the operators had a search policy, including ID scans, etc, but these had not been offered by

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this applicant, and even with those precautions in place the problems had continued. The applicant was seeking the same hours, but with fewer controls.

j. The Police had found breaches at the applicant's other business. This was a much larger venue with at least 300 capacity; which led to officers having grave concerns.

k. This premises had been a repeated source of crime and disorder and noise, so it was not seen as an appropriate site for late night venue.

l. The Environmental Health Service also objected to the TENs as they would have a negative impact on local residents, and they could attract gang activity.

4. Police and Licensing Authority representatives responded to questions as follows:
 - a. The Chair highlighted the premises' blighted history and queried whether that alone influenced the officers' recommendation. Police stated that a premises could attract a reputation and once that had been acquired, a new broom was needed. If a different applicant to Mr Xhauri had come forward, the Police would have taken a different view, and the premises' history had aggravated their concern.
 - b. Mr Aylott on behalf of the applicant questioned the Police statement that Tirana 2 was a night club and what evidence he had for that. Mr Wormald apologised and corrected that Tirana 2 was a restaurant, which had been failing licensing checks.
 - c. In response to Mr Aylott's further queries whether any fixed penalty notices had been issued, or prosecutions made in respect of Tirana 2, it was confirmed there had been none from the Licensing Authority. PC Marsh advised that during a licensing inspection, two forms were issued. The breaches of the licence led to a notice under the Criminal Justice and Police Act 2001 and at the same time a notice of intended prosecution under the Licensing Act 2003. The usual process was that if the problem was fixed in seven days, action would be stopped in respect of the closure order and the prosecution stopped. It was confirmed that the notices were still valid.
5. The statement of Mr Alan Aylott, solicitor, Dadds LLP, on behalf of the applicant, including the following points:
 - a. The Police had said that this had been a bad venue and he would agree. If a new licence was granted it was agreed there should be a 'new broom': Mr Xhauri was just that. He did not run a night club, but does run a bar restaurant in the borough. This application represented a positive step forward.
 - b. In respect of Tirana 2 and any licensed venue, promotion of the licensing objectives was key. He would question whether breaches of a licence necessarily undermined the licensing objectives; for example if a sign was not in place. Not all the alleged breaches undermined the licensing objectives.

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- c. The Police were basing their views on these allegations at another premises. There were safeguards in the law and the Police had issued a notice and the issues were being dealt with in an appropriate way.
- d. Mr Xhauri had been in the licensing trade for eight years. He had operated Tirana 2 since 2012.
- e. Since the notice, licensing training had been delivered on 13 December 2015 to Mr Xhauri and two of his senior bar staff at Tirana 2, and he did have a witness statement to that effect from the retired Police officer who provided that training. The Chair noted that it would have been helpful if all the written evidence had been provided in good time to be admissible and included within the agenda pack.
- f. This was a brand new and a valid application, and each case must be determined on its own merits. This was an opportunity for Mr Xhauri to explain his business plan. This venue was going to be a banqueting suite and be used for pre-booked functions only.
- g. Despite the statements of the Police, Mr Xhauri was not intending to operate the venue as a night club. The hours sought were to match those previously in place at the venue. It was a good idea from a commercial point of view to apply for what had been permitted previously.
- h. Mr Xhauri had agreed to claw back the opening hours to 00:30 Monday to Thursday, and he had today given permission to agree to those same opening hours for Sunday. This was formally noted by the Chair.
- i. Friday and Saturday were the usual times that people liked to organise celebratory functions, and some people liked their events to last late into the night. Mr Xhauri wanted to run an effective business and had a business plan.
- j. Mr Xhauri may well not have the venue ready in time for a Christmas Eve event and the TEN in respect of that date may have to be withdrawn.
- k. It may be that Members considered that Friday and Saturday would be suitable for extended hours. The Police and the Licensing Authority suggested a closing time of 00:30. The applicant was proposing 03:30. Members may consider that some time in between was more appropriate, but the applicant would like as long as possible from a commercial point of view.
- l. A list of proposed conditions had been sent to the Licensing Authority yesterday. The Chair clarified that the sub-committee would not accept documentation which was submitted less than five days before the hearing; that this information could have been provided before; and that it was not helpful that it was raised at this stage. He noted that a timely, complete submission would have served to support the applicant's case. Mr Aylott explained that he had only recently received instructions from his client.
- m. With reference to the venue's previously very strict conditions over entry as also raised by the Police, these would not be needed because the premises was not going to be a night club. A condition could be added to the licence that there would be no payment at the door.

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- n. It was not this applicant's premises that had any violent incidents. The previous venture at the premises was night club – that was not Mr Xhauri's.
- o. The main thrust of the Police's argument was that the premises had been a night club and that if the hours sought were granted it would be able to revert back. However, he maintained that conditions could be added to the licence so that the premises could not be a night club, and those conditions would be enforceable.
- p. As a further safeguard, there were measures available whereby a premises could be closed immediately.
- q. He understood that the applicant had met with the Licensing Authority and the Police and that officers had visited the premises. He had been there this morning and considered it had potential to be a fabulous venue.
- r. The only issue around hours related to Friday and Saturday. Mr Xhauri, who was an experienced licensee, anticipated running the venue for pre-booked functions only, and these would be on Friday and Saturday in the main. That was why later hours were sought on those days; to support the commercial venture.
- s. Many measures would be put in place, including a CCTV system which stored 40 days' recording. A risk assessment would be carried out for every event booked at the premises, and the applicant was happy to use a Police form for that.
- t. It was not the case that the venue would become a night club: he wanted to reassure the Police and the sub-committee of that.
- u. Mr Xhauri had not treated the application lightly. He had made commercial decisions. He was aware of previous issues, which was why he had come along to the previous review. He did not want to run a night club.
- v. It was highlighted that no other responsible authorities and that no residents had objected to the application. He considered that they would prefer a more sophisticated venue.
6. Mr Aylott and the applicant responded to questions as follows:
- a. The Chair asked if the two TEN events were going to be pre-booked. It was advised that they had both been left to the last minute and that they would only be advertised at the last minute, because they were dependent on the decisions today, and because the place was being refurbished. In response to further queries, Mr Xhauri advised that these were dinner and dance events he held every year when he met with 200 people from his community. However, the premises was not going to be ready for Christmas.
- b. Mr Xhauri advised that he formally wished to withdraw the TEN relating to 24/25 December 2015.
- c. Mr Xhauri advised that he would be able to provide proof of numbers and names for the New Year's Eve event if required. The Chair also highlighted that if the full application was not granted then the TEN would be unable to go ahead as the venue would not be a licensed premises.

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d. In response to Councillor Savva's queries regarding when the premises would be open, it was confirmed that if there was not a booked event, then the venue would not be open, even on Friday and Saturday.

e. The Chair noted that Mr Xhauri's intention to use the premises as a wedding suite had been indicated in September 2015 and asked if an application for change of planning use had yet been submitted. It was advised that no planning application for change of use had been submitted, and that the planning approval granted on 30 April 2010, reproduced in Appendix 05, was for "change of use from snooker club (D2) to a night club / banqueting suite (Sui Generis)". Mr Aylott confirmed he had not been instructed to look into planning issues.

f. The Chair noted that the plan of the building, on page 23 of the agenda pack, formed part of the application and questioned its resemblance to the layout of the previous venue. In particular he queried the requirement for a VIP lounge in respect of the use that was sought. It was advised that the chairs and tables still needed to be positioned and reflected in the plan and it may be that a minor variation would need to be submitted in due course for the premises to be licensed. There was a kitchen and there was a small bar. He understood that there had been a long bar before: it was now smaller and more befitting a wedding suite. Mr Xhauri advised that the VIP lounge would be a changing room for customers.

g. The Chair referred to statements made that not all breaches would undermine the licensing objectives, but noted that papers mentioned eight or nine breaches and a potential closure order at premises managed by the applicant and this raised concerns. It was advised that Mr Xhauri had been managing the premises referred to for three years and this was the first time it had come to notice. Concerns had been brought to his attention and had been dealt with. He maintained that not all breaches undermined the licensing objectives.

h. Councillor Savva asked how many people the hall could hold. It was confirmed that the maximum capacity would be about 250 but it was not certain as there were no tables and chairs in place yet. Mr Xhauri had also not yet spoken to London Fire Brigade.

i. Mr Wormald asked why there was little evidence of Mr Xhauri's intentions for the venue, such as a business plan, branding, marketing, staffing or a website, and why the layout submitted seemed inconsistent with a wedding suite, and there was no plan set out for the inside. Mr Xhauri advised that the area marked as a ticket desk would be a storage room and did not indicate that he would be selling tickets. The CCTV coverage would also give proof. The venue was unfinished at this stage so he could not give full details.

j. In response to the Chair's query regarding the location, and the active measures proposed to prevent past patrons from coming back, Mr Xhauri advised that it was a good place for a banqueting suite.

k. In response to Charlotte Palmer's further queries regarding procedures to prevent people entering the venue uninvited, Mr Xhauri stated that one of his staff or himself would be on the door at all times, and confirmed that they were SIA registered.

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l. In response to Charlotte Palmer's question why in that case, the proposed condition 23 suggested by the Police was not agreed, Mr Aylott confirmed that a condition requiring six door supervisors was not acceptable because the premises was not a night club and that guests at a wedding did not want to see door supervisors. In response to further queries, it was advised that six door staff was considered very restrictive, particularly for an event such as a 60th birthday until 00:00, and that the cost would be prohibitive. This was why the suggested conditions were resisted in their current format.

m. The Chair highlighted that conditions had been proposed in their own right to address the licensing objectives and queried again any proposals to mitigate uninvited guests. Mr Aylott suggested another way forward would be to utilise the staff that Mr Xhauri already had who were SIA registered, when necessary. As in the proposed condition 31, the applicant was happy to submit the form 696 Metropolitan Police Risk Assessment form 14 days prior to each event and, if there was felt to be a need for door staff a discussion could be had and there would be time to arrange the door supervisors. All issues covered by proposed conditions 23 to 27 relating to door supervision could be dealt with on the form.

n. Councillor Savva regretted that the applicant was not in agreement with the proposed conditions which were for the safety of the premises' customers. Mr Aylott acknowledged the concerns, but maintained that a blanket condition to be applied on each occasion that the premises was open for licensable activities did not allow any scope to the applicant. If each occasion was risk assessed properly in conjunction with the Police it could be decided if there was a need for any female door supervisors and the appropriate number of staff, etc.

o. The Chair asked if Mr Xhauri knew what he wanted at the venue and in the seeking of the premises licence and how it could be demonstrated. Mr Xhauri stated that he was very clear and ready to operate this premises and everything would be there in due course and that events would be pre-booked. He confirmed that he wished the application to be determined at this time and that he did not wish to withdraw it.

p. Charlotte Palmer added the advice that anyone carrying out security activities could not also be employed behind the bar or elsewhere.

q. Charlotte Palmer asked about the capacity of the largest venue run by Mr Xhauri. He advised that the largest was the Coliseum in Ilford, which he had run for five or six years and operated currently, and this was a banqueting suite which held 600 people.

7. The closing statement of Ellie Green, Principal Licensing Officer, including the following points:
 - a. Having heard all of the representations, the sub-committee must take steps as it considered appropriate for the promotion of the licensing objectives and to assist, the relevant guidance issued by the Secretary of State and the Council's licensing policy were highlighted.
 - b. Members had heard that the TEN relating to Christmas Eve had been withdrawn.

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- c. It was still for the sub-committee to make a decision in respect of the TEN relating to New Years Eve.
8. The closing statement of Mr Richard Wormald on behalf of the Metropolitan Police Service, including the following points:
- a. At best this application could be judged as premature. If Mr Xhauri was a new broom for this premises he needed to provide evidence of his plans to persuade the Police of his intentions.
 - b. All that was evident were applications for TENs to 03:30 and a licence application with a submitted plan showing VIP lounges and ticket booths. This gave rise to scepticism.
9. The closing statement of Charlotte Palmer, Licensing Enforcement Officer, including the following points:
- a. The Licensing Authority was still of the opinion that this location was not suitable for a late night venue.
 - b. This applicant had failed to demonstrate compliance with a premises licence elsewhere in the borough.
 - c. The applicant had advised that he also had responsibility for a venue elsewhere with a capacity of 600. This raised concerns about how he could control all premises at the same time.
 - d. Many other operators had tried and failed to operate this venue successfully.
 - e. Current banqueting suites elsewhere in the borough, such as Kervan and Prince & Princess, all had conditions on the licence in respect of door staff, as they were large capacity venues, and to ensure the safe and quiet dispersal of patrons.
10. The closing statement of Mr Alan Aylott on behalf of the applicant, including the following points:
- a. Mr Xhauri was an experienced licensee and did run large venues.
 - b. This was a valid application, and valid measures had been put in place.
 - c. The application was not done by Dadds Solicitors, and if it had it may have been that there would have been fewer questions arising.
 - d. The applicant had accepted a reduction in hours during the week and Sunday, and had accepted the conditions proposed by Environmental Health.
 - e. The applicant was happy to have door supervisors, but if the venue was only open one or two days for pre-booked events surely the best way forward would be to have discourse with those responsible for maintaining the law rather than a blanket condition which had the potential to be cost prohibitive.
 - f. Planning issues could not be taken into consideration in a licensing decision.
 - g. Those most likely to be affected by the premises licence were the local residents and it should be noted that no residents objected to this application.

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RESOLVED that

1. In accordance with the principles of Section 100(a) of the Local Government Act 1972 to exclude the press and public from the meeting for this item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A to the Act.

The Panel retired, with the legal representative and committee administrator, to consider the application further and then the meeting reconvened in public.

2. The Chairman made the following statement:

“Having considered all the written and oral representations and listened attentively to all parties at the hearing, the Licensing Sub-Committee (LSC) determined that refusing the application is the appropriate measure for the promotion of the licensing objectives.

It was acknowledged by all parties that the blighted history of the premises alone would not be sufficient to take such a disproportionate step, despite a long and troubled association by the venue with crime and disorder, although this was given some weight.

In essence, our decision relied on the respective opinions advanced as to the capability of the applicant to manage the premises under an intended totally new regime, and with a refreshed business dynamic that rendered the venue a banqueting suite rather than a night club.

In either guise, the application remains for a late night venue, and therefore all the licensing objectives have to be addressed in arriving at the decision.

The LSC was fully persuaded by the cases submitted by the Metropolitan Police Service (MPS) and the Licensing Authority and share their lack of confidence in the applicant to promote the licensing objectives. We heard evidence that in all prior dealings with the MPS the applicant had shown no candour, little co-operation, lack of clear intentions, and with vague physical plans for the premises which, if not accurate, could alone invalidate any licence.

Submitting two Temporary Event Notices, so close to the hearing, when there was plenty of time to have done so sooner, was deemed to be obstructive, and was unsupported by evidence to justify that the licensing objectives would be fully and effectively promoted.

In short, the application, we were told, and as was asserted by way of questioning during the hearing, was at best premature, and was lacking

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in any substantive evidence, plans or materials to persuade the MPS over time or the sub-committee here today that the licence should be granted in any form.

The written application of 18th October 2015 was considered to be incomplete and did not reflect the stated intention for how the business, going forward, might be operated. The physical plan of the premises was unchanged from the previous use, and further fuelled the scepticism of the responsible authorities that the “new broom” was ready to make a significant change to the way the venue has operated in the past.

The LSC was additionally persuaded by the case made by the Licensing Authority that the premises was not suitable to be operated as a late night venue. There was nothing in the application to inspire any confidence that Mr Xhauri had taken sufficient or appropriate preventative steps to determine otherwise.

The applicant himself has been identified as being non-compliant over a number of licensing breach allegations at other premises, some of which are sufficiently serious to warrant alternative legal proceedings. The point made in summary that all other banqueting suites in the borough operate to conditions similar to those proposed by the MPS but not agreed by the applicant, was compelling.

Such lack of compliance, the fact that the applicant is also involved in a number of other licensed establishments of varying sizes, also raises doubts as to his capacity to devote sufficient time to a premises which has, as acknowledged, had a troubled past. The issue is one of confidence, and the LSC was not persuaded by the ability of the applicant, under questioning, or by the evidence submitted to justify granting of a licence at all.

The application was weak. The application was incomplete. The application was premature. The evidence provided was inconsistent and failed to demonstrate that sufficient preventative action was now being taken to support the licensing objectives.

Non-compliance from managing much smaller venues was deemed an aggravating factor.”

3. The Licensing Sub-Committee resolved that the application be refused.

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ROYAL VENUE, 1 JUTE LANE, ENFIELD, EN3 7PJ - GIVING A TEMPORARY EVENT NOTICE (REPORT NO. 149)

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Notice was given by Mr Agron Xhauri to use the premises known as and situated at Royal Venue, 1 Jute Lane, Enfield, EN3 7PJ for licensable activities at a proposed event at the premises from 20:00 on Thursday 24 December 2015 to 03:30 on Friday 25 December 2015.

NOTED that the Temporary Event Notice was withdrawn at the hearing.

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ROYAL VENUE, 1 JUTE LANE, ENFIELD, EN3 7PJ - GIVING A TEMPORARY EVENT NOTICE

Notice was given by Mr Agron Xhauri to use the premises known as and situated at Royal Venue, 1 Jute Lane, Enfield, EN3 7PJ for licensable activities at a proposed event at the premises from 00:00 to 03:30 on Friday 1 January 2016.

NOTED that the Temporary Event Notice was considered in parallel with the application for a new premises licence.

RESOLVED that

1. In accordance with the principles of Section 100(a) of the Local Government Act 1972 to exclude the press and public from the meeting for this item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A to the Act.

The Panel retired, with the legal representative and committee administrator, to consider the application further and then the meeting reconvened in public.

2. The Chairman made the following statement:

“The application for what, at the hearing, became a single Temporary Event Notice, was rejected on the basis:

- (a) that it was incoherent and provided no details of what the event was to be, and how it was going to run in a way that satisfied the sub-committee that the licensing objectives would be promoted;
- (b) that the reasons given for refusing the application for a new premises licence at the same venue all pertain.”

3. The Licensing Sub-Committee resolved that it is appropriate, for the promotion of the licensing objectives, to give Mr Xhauri a counter notice for the event.

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MINUTES OF PREVIOUS MEETING

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RECEIVED the minutes of the meeting held on Wednesday 25 November 2015.

AGREED that the minutes of the meeting held on 25 November 2015 be confirmed and signed as a correct record.