MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE HELD ON WEDNESDAY, 8 JUNE 2016

COUNCILLORS

PRESENT (Chair) Derek Levy, Vicki Pite and Eric Jukes

ABSENT

OFFICERS: Ellie Green (Principal Licensing Officer), Charlotte Palmer (Licensing Enforcement Officer), Karen Staff (Metropolitan Police Licensing Officer), Antonia Makanjuola (Legal Services Representative), Jane Creer (Democratic Services)

Also Attending: Ms Songul Aydin (Designated Premises Supervisor) and 4 further representatives on behalf of Turku Art Cafe

19
WELCOME AND APOLOGIES FOR ABSENCE

Councillor Levy as Chair welcomed all those present and explained the order of the meeting.

20
DECLARATION OF INTERESTS

NOTED that there were no declarations of interest.

21
TURKU ART CAFE, 77 BOUNCES ROAD, LONDON, N9 8LD (REPORT NO. 21)

RECEIVED the application made by the Licensing Authority for a review of the Premises Licence held by Berf Catering Ltd at the premises known as and situated at Turku Art Cafe, 77 Bounces Road, London, N9 8LD.

NOTED

1. The introductory statement of Ellie Green, Principal Licensing Officer, including:
   a. This was an application for review of a premises licence, brought by the Licensing Authority.

b. The premises licence had been in force since 2005. Berf Catering Ltd had been the licence holder since 15 June 2015. The Director, Ms Songul Aydin had been the Designated Premises Supervisor (DPS) since 4 August 2015.
c. The licence permitted live and recorded music until 23:00 Sunday to Thursday and until 00:30 on Friday and Saturday.
d. On 15 April 2016 an application for review of the licence was made by the Licensing Authority in relation to the prevention of public nuisance licensing objective and seeking removal of live music from the licence.
e. The review application was supported by the Police.
f. 18 letters of support from local residents / businesses / musicians / performers had been submitted, as set out in Annex 11 of the supplementary report.
g. Copies of noise reports had been submitted by the licence holder and were also included in the supplementary report.
h. On 3 June 2016 an updated noise report was provided, but this was submitted less than five working days in advance of the hearing and had therefore not been circulated.
i. Ms Aydin was present, with her husband, to represent herself. A friend, Ms Aslan, would assist with interpretation as required. Two local residents of 70B Bounces Road and 2 Chester Road were also present in support of the licence holders.
j. The Live Music Act 2012 automatically permitted provision of live music between 08:00 to 23:00 without the need for it to be named on a premises licence. The Licensing Authority did not deem it appropriate for this premises to be able to make use of this provision. Therefore, if the sub-committee was minded to remove live music from the licence before 23:00, an additional condition was sought to address that automatic entitlement. If the sub-committee was minded to permit live music before 23:00, it may be stipulated that relevant conditions on the licence become enforceable before 23:00.

2. The statement of Charlotte Palmer, Licensing Enforcement Officer, including:
a. The Licensing Authority had submitted this review on the grounds of prevention of public nuisance.
b. Since 29/9/15 there had been seven complaints regarding loud music, the most recent being 28/5/16. Some of the times of complaints were relatively early – 9:15pm, 10:42pm and 10:58pm, so it was not just a problem after 11pm.
c. The noise was also witnessed by officers and the premises operators were told about the complaints and advice was given. The noise was at such a level as to be a statutory nuisance. An abatement notice was served, and that was subsequently breached.
d. The Licensing Authority did not consider this a suitable venue for live music.
e. If the sub-committee was minded to remove live music from the premises licence, the Licensing Authority requested that a condition be

added to the licence to prevent the premises making use of the provision of the Live Music Act 2012, and the suggested amendment made to Condition 12.

f. The acoustic report commissioned by the licence holder, included in the supplementary report, confirmed the problem of music escaping and that "neighbouring receivers at a closer distance may experience noise breakout from the front façade of the restaurant. Furthermore, this does not take into account noise generated by audiences within the restaurant, or instances where music levels may increase."

g. It also stated that noise would be expected without mitigation to be audible in the first floor flat and may cause unwanted disturbance. Paragraph 5 refers to proposed upgrade measures to the party floor, but keeping the ceiling of the bar intact if possible. Officers did not know if there was any agreement between the parties however, and the owners of the flat above may not agree to floor works or may withdraw any agreement, or the tenants could change the flooring. The Licensing Authority recommended that any measures should be done to the restaurant itself as the licence holder had control of that.

h. Insulating the floor of the flat above may not solve the noise nuisance in its entirety. Residents from two different addresses had complained: not from the flat above. The statutory noise nuisance was witnessed from another address.

i. A colleague had advised that other residents could be prone to flanking transmission paths: the noise could be going through walls and outwards, and work may need to be carried out for sound insulation to walls too.

j. The acoustic report made reference to sound insulation, noise limiter, and triple glazing of windows. It was noted that the statutory nuisance notice was served in February 2016, breached in March, and the licence review was submitted in April. Acoustic reports were not prepared until 19/5/16 and 2/6/16 and the work had not been done. The licence holder was also made aware of issues before 2016.

k. The performance of mitigation measures was dependent on good workmanship, without which sound insulation performance could be greatly reduced.

l. The length of time to take action was a concern, and added difficulties as officers did not know if the measures would work. If works had been carried out sooner, they could have been tested, and this hearing prevented.

m. Therefore, the Licensing Authority was still recommending removal of live music from the licence. The licence holder could apply to add or amend conditions later when officers had had a chance to test the mitigation works.

n. If the sub-committee was not minded to remove live music from the licence, officers requested a condition in respect of maintenance of mitigation measures etc, and suspension of live music until the works were completed to the Licensing Authority's satisfaction. Draft wording had been prepared by officers.

3. Charlotte Palmer received one question from Councillor Jukes in respect of the impact of bass / treble levels as well as how loud the music was played, and advised that tests had been done in relation to music at 85dB level and mitigation works suggested in line with that. Louder music would be more difficult to control and the recommendations made may not be sufficient to deal with the problem.

4. The statement of Karen Staff, Metropolitan Police Licensing Officer to confirm that no issues of crime and disorder had been reported in respect of this premises, but that the Police supported this application based on public nuisance grounds.

5. The statement of Ms Songul Aydin, Designated Premises Supervisor (DPS), and Mr Aydin, with translation assistance, including:
   a. As operators, they had been concerned about the impact on the property above the premises and had wished to rent it to use for storage rather than there being a tenant living there, to reduce potential noise problems. They had been in touch with the landlord for a few months, but had been unable to take over the flat.
   b. After February 2016 and receipt of the notice from the Council, they had tried to find solutions and did some insulation. They believed this would cut the noise, but had found that was not good enough. So an acoustic survey was then commissioned and a report done and measures had been found which would be a solution. A quote for the works was awaited from a named company, who had done a lot of jobs like this previously. They believed the noise could be controlled, and were confident that there would not be a problem for the flat above the shop any more.
   c. When triple glazing was installed there would be no more noise.
   d. Many people living around the premises did not have a problem. Many neighbours were supportive of the business, and two local residents had come to this hearing to speak in support.
   e. This was a family business and the operators were also musicians. They apologised that speakers on the walls had caused vibration and there was now a new system and the sound level was better and noise was not going out. Information in the supplementary report showed how the situation had been improved.
   f. The biggest problem involved the flat above the premises. They were prepared to do everything possible to insulate it from noise. They had spoken to the landlord and offered to let the flat or do soundproofing on the floor, but the landlord had not been co-operative and every week seemed to change to new tenants.
   g. The acoustic company would make a final survey.

6. The suggestion of the Chair, in the light of the operators' intentions and the Licensing Authority's requirements, was that the parties may wish to take some time out for an informal discussion and may be able to reach an

agreement without having to review the licence. This suggestion was accepted by all parties and the meeting was adjourned for 45 minutes.

7. The statement of Ellie Green, Principal Licensing Officer, following the adjournment that a number of conditions had been discussed between the Licensing Authority and the licence holder and all had been agreed. A printed copy of agreed additional conditions was distributed to the sub-committee members.

8. The statement of Charlotte Palmer, Licensing Enforcement Officer, that officers were in agreement with the additional conditions, and that the request for live music to be removed from the licence was withdrawn.

9. Ms Songul Aydin, Designated Premises Supervisor, confirmed her agreement with the additional conditions and advised that the works would be started as soon as possible.

RESOLVED that the Licensing Sub-Committee resolved that it considered the steps listed below to be appropriate for the promotion of the licensing objectives:

(a) to modify the conditions of the licence.

Conditions (in accordance with Annex 07):

(i) Conditions 1 to 21 which are not disputed, AND
(ii) New Conditions 22 to 27.

Agreed Additional Conditions

22. 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 should be set so that noise does not emanate from the premises so as to cause a nuisance to nearby properties.

23. The noise limiter shall be recalibrated annually 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.

24. Live music shall not be provided until triple glazing has been installed to the front of the premises.

25. Speakers shall not be mounted to the walls or ceiling of the premises.

26. Only unamplified live music shall be permitted between 20:30 and 23:00, until such time as a scheme detailing provisions to be made for the control of noise emanating from the building shall be submitted to and approved by the local Licensing Authority team. The approved details shall be implemented prior to amplified live music being provided at the premises and shall thereafter be maintained.

27. Section 177A of the Licensing Act 2003 does not apply to conditions 11, 12, 22, 23, 24, and 25.

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MINUTES OF PREVIOUS MEETING

RECEIVED the minutes of the meetings held on Wednesday 20 April 2016 and Wednesday 27 April 2016.

AGREED that the minutes of the meetings held on Wednesday 20 April 2016 and Wednesday 27 April 2016 be confirmed and signed as a correct record.