

Public Document Pack



LICENSING SUB-COMMITTEE

Wednesday, 8 June 2016 at 10.00 am
Council Chamber, Civic Centre, Silver Street,
Enfield, EN1 3XA

Contact: Jane Creer
Committee Secretary
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Ext: 4093
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Council website: www.enfield.gov.uk

Councillors : Derek Levy, Vicki Pite and Eric Jukes

AGENDA – PART 1

1. WELCOME AND APOLOGIES FOR ABSENCE

2. DECLARATION OF INTERESTS

Members are asked to declare any disclosable pecuniary, other pecuniary or non pecuniary interests relating to items on the agenda.

3. TURKU ART CAFE, 77 BOUNCES ROAD, LONDON, N9 8LD (REPORT NO. 21) (Pages 1 - 34)

Application to review a premises licence.

4. MINUTES OF PREVIOUS MEETING (Pages 35 - 56)

To receive and agree the minutes of the meetings held on:
Wednesday 20 April 2016
and
Wednesday 27 April 2016

5. EXCLUSION OF THE PRESS AND PUBLIC

If necessary, to consider passing a resolution under Section 100A(4) of the Local Government Act 1972 excluding the press and public from the meeting for any items of business moved to part 2 of the agenda on the grounds that they involve the likely disclosure of exempt information as defined in those paragraphs of Part 1 of Schedule 12A to the Act (as amended by the Local Government (Access to Information) (Variation) Order 2006).
(There is no part 2 agenda)

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MUNICIPAL YEAR 2016/17 REPORT NO.

COMMITTEE :
Licensing Sub-Committee
8 June 2016

REPORT OF :
Principal Licensing Officer

LEGISLATION :
Licensing Act 2003

Agenda - Part	Item
<p>SUBJECT : Review Application</p> <p>PREMISES : Turku Art Cafe, 77 Bounces Road, LONDON, N9 8LD.</p> <p>WARD : Lower Edmonton</p>	

1 LICENSING HISTORY & CURRENT POSITION:

- 1.1 Premises Licence (LN/200502330) was issued to Mertcan Ltd, on 28 December 2005, following a conversion. The premises operated as a restaurant.
- 1.2 Mertcan Ltd dissolved in January 2013.
- 1.3 A new premises licence (LN/201400543) was granted on 30 September 2014, naming Mr Aydin Guven Acay as the Premises Licence Holder and Designated Premises Supervisor (DPS). The application was not subject to representations from the Responsible Authorities.
- 1.4 On 15 June 2015, a transfer application was granted naming Berf Catering Ltd as the Premises Licence Holder. The Director of This was not subject to any representations.
- 1.5 On 4 August 2015, Ms Songul Aydin became the DPS – this vary DPS application was not subjection to any representations.
- 1.6 On 29 September 2015, the variation application was granted with extended hours, following mediation relating to times and conditions with the Responsible Authorities.

1.7 The current Premises Licence permits:

Hours the premises are open to the public: 08:00 to 23:30 Sunday to Thursday, and 08:00 to 01:00 Friday and Saturday.

Supply of alcohol (off supplies only): 08:00 to 23:00 Sunday to Thursday, and 08:00 to 00:30 Friday and Saturday.

Live music (indoors): 20:30 to 23:00 Sunday to Thursday, and 20:30 to 00:30 Friday and Saturday.

Recorded music (indoors): 20:30 to 23:00 Sunday to Thursday, and 20:30 to 00:30 Friday and Saturday.

Performance of Dance (indoors): 20:00 to 23:30 daily.

Late Night Refreshment (indoors): 23:00 to 23:30 Sunday to Thursday, and 23:00 to 00:30 Friday and Saturday.

1.8 A copy of a location map of the premises is attached in Annex 1.

1.15 A copy of the current premises licence (LN/201400543) is attached in Annex 2.

2 THIS APPLICATION:

2.1 On 15 April 2016 an application was made by the Licensing Authority for the review of Premises Licence LN/201400543.

2.2 The review application relates to the prevention of public nuisance licensing objective and is made because the premises has breached a noise abatement notice as a result of noisy singing and music.

2.3 The authority considers that it is now appropriate, for the promotion of the licensing objectives, to remove live music from the Premises Licence, and to modify conditions.

2.4 The review application was advertised in accordance with the requirements of the Licensing Act 2003.

2.5 Each of the Responsible Authorities were consulted in respect of the application.

2.6 A copy of the review application is attached as Annex 03.

3 RELEVANT REPRESENTATIONS:

- 3.1 **Metropolitan Police:** Representations were received in support of this review application, based on the prevention of public nuisance licensing objective.
- 3.2 A copy of the representation is attached as Annex 04.

4 PROPOSED LICENCE CONDITIONS:

- 4.1 The conditions arising from this review application are attached as Annex 05.

5 RELEVANT LAW, GUIDANCE & POLICIES:

- 5.1 The paragraphs below are extracted from either:
 - 5.1.1 the Licensing Act 2003 ('Act'); or
 - 5.1.2 the Guidance issued by the Secretary of State to the Home Office of March 2015 ('Guid'); or
 - 5.1.3 the London Borough of Enfield's Licensing Policy Statement of January 2015 ('Pol').

General Principles:

- 5.2 The Licensing Sub-Committee must carry out its functions with a view to promoting the licensing objectives [Act s.4 (1)].
- 5.3 The licensing objectives are:
 - 5.3.1 the prevention of crime and disorder;
 - 5.3.2 public safety;
 - 5.3.3 the prevention of public nuisance; &
 - 5.3.4 the protection of children from harm [Act s.4 (2)].
- 5.4 In carrying out its functions, the Sub-Committee must also have regard to:
 - 5.4.1 the Council's licensing policy statement; &
 - 5.4.2 guidance issued by the Secretary of State [Act s.4 (3)].

Review:

- 5.5 In reviewing a licence the Licensing Sub-Committee will consider, and take into account, the complaints history of the premises and all other relevant information [Pol s.10.3].

Live and Recorded Music:

- 5.6 The Live Music 2012 permits certain premises in certain circumstances to provide live music between 08:00 – 23:00 without the need for it to be named on a premises licence. The Licensing Authority does not deem it appropriate for this premises to be able to make use of this Live Music Act 2012 provisions.
- 5.7 Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 - March 2015 states the following in relation to this situation:
- 5.8 Section 15.55: On a review of a premises licence or club premises certificate, section 177A(3) of the 2003 Act permits a licensing authority to lift the suspension of live music related conditions and give renewed effect to an existing condition relating to music. Similarly, under section 177A(4), a licensing Authority may add a condition relating to music as if music were regulated entertainment, and as if that premises licence or club premises certificate licensed the music. In both instances the condition should include a statement that Section 177A does not apply to the condition.
- 5.9 Section 15.56: An application for a review in relation to relevant premises can be made by a licensing authority, any responsible authority or any other person. Applications for review must still be relevant to one or more of the licensing objectives and meet a number of further requirements.

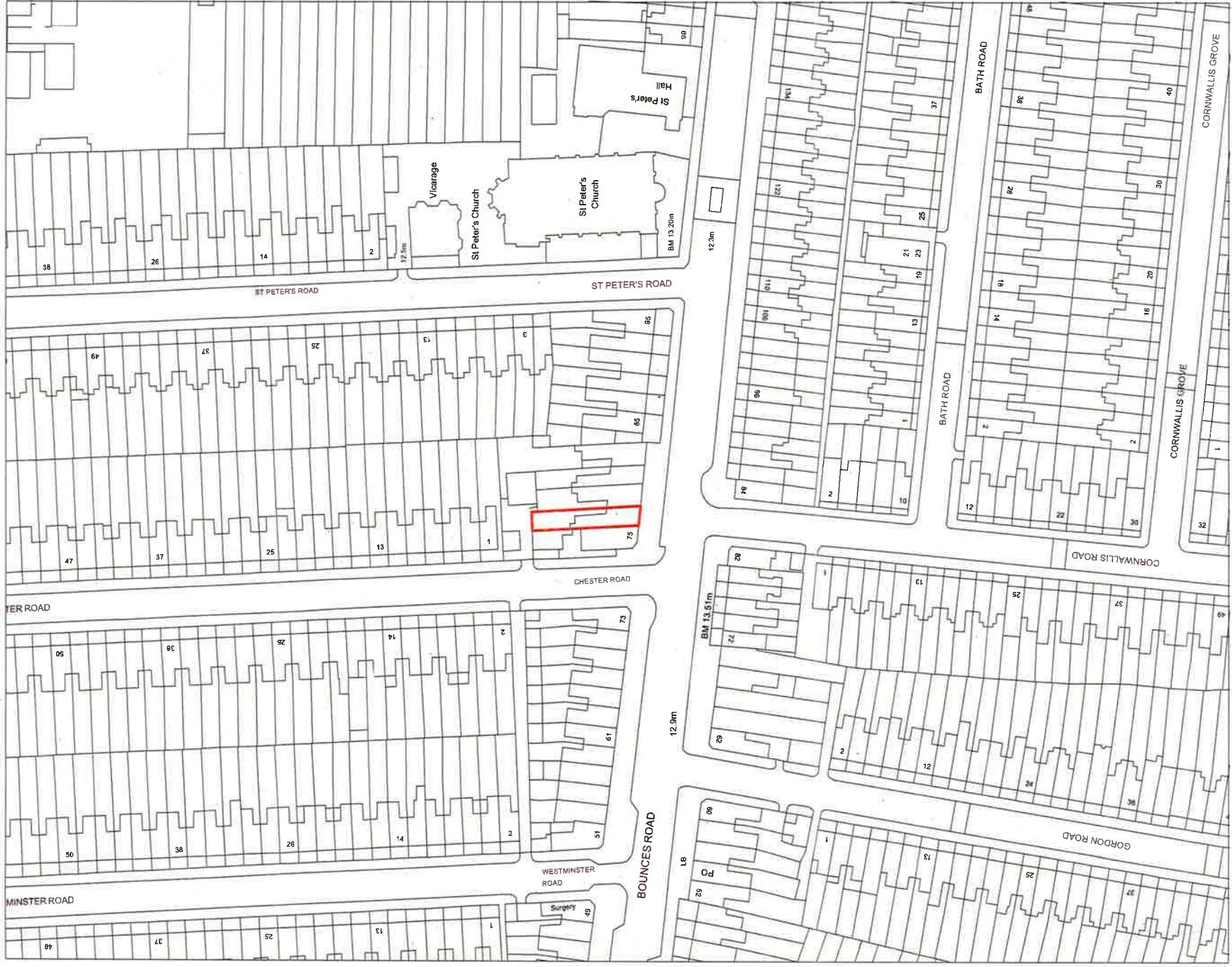
Decision:

- 5.10 Having heard all of the representations (from all parties) the Licensing Sub-Committee must take such steps as it considers appropriate for the promotion of the licensing objectives. The steps are:
- 5.10.1 to modify the conditions of the licence;
 - 5.10.2 to exclude a licensable activity from the scope of the licence;
 - 5.10.3 to remove the designated premises supervisor
 - 5.10.4 to suspend the licence for a period not exceeding three months;
 - 5.10.5 to revoke the licence [Act s.52].
- 5.11 In deciding which of these powers to invoke, the Sub-Committee should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should generally be directed at those causes and should always be no more than an appropriate and proportionate response [Guid s.11.20].

Background Papers :
None other than any identified within the report.

Contact Officer :
Ellie Green on 020 8379 8543

Annex 01



Turku Art Cafe, 77 Bounces Road, LONDON, N9 8LD

LONDON BOROUGH OF ENFIELD
CIVIC CENTRE, SILVER STREET,
ENFIELD, EN1 3XE
www.enfield.gov.uk



Drg.No. 6800GX
Scale 1:1250
Date 18/05/2016

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Licensing Act 2003

PART A – PREMISES LICENCE

Granted by the London Borough of Enfield as Licensing Authority

Premises Licence Number : LN/201400543

Part 1 – Premises Details

Postal address of premises :

Premises name :	Turku Art Cafe
Telephone number :	020 8803 2828
Address :	77 Bounces Road LONDON N9 8LD

Where the licence is time-limited, the dates : Not time limited

The opening hours of the premises, the licensable activities authorised by the licence and the times the licence authorises the carrying out of those activities :

(1) Open to the Public - Whole Premises	
Sunday :	08:00 - 23:30
Monday :	08:00 - 23:30
Tuesday :	08:00 - 23:30
Wednesday :	08:00 - 23:30
Thursday :	08:00 - 23:30
Friday :	08:00 - 01:00
Saturday :	08:00 - 01:00

(2) Supply of Alcohol - On Supplies	
Sunday :	08:00 - 23:00
Monday :	08:00 - 23:00
Tuesday :	08:00 - 23:00
Wednesday :	08:00 - 23:00
Thursday :	08:00 - 23:00
Friday :	08:00 - 00:30
Saturday :	08:00 - 00:30

(3) Live Music - Indoors	
Sunday :	20:30 - 23:00
Monday :	20:30 - 23:00
Tuesday :	20:30 - 23:00
Wednesday :	20:30 - 23:00

Part 2

Name and (registered) address of holder of premises licence :

Name : Berf Catering Ltd

Telephone number : Not provided

e-mail : Not provided

Address : 59-60 Market Square , Edmonton , N9 0TZ

Registered number of holder (where applicable) :

9279876

Name and (registered) address of second holder of premises licence (where applicable) :

Name : Not applicable

Telephone number :

Address :

Name and address of designated premises supervisor (where the licence authorises the supply of alcohol) :

Name : Ms Songul Aydin

Telephone number : Not provided

e-mail : Not provided

Address : Flat 12, Melbourne Court, Sydney Road, London, N10 2NN

Personal licence number and issuing authority of personal licence held by designated premises supervisor (where the licence authorises the supply of alcohol) :

Personal Licence Number : LAPERS/15/50723

Issuing Authority : London Borough of Barnet

Premises Licence LN/201400543 was first granted on 30 September 2014.

Signed :



Date : 22nd April 2016

for and on behalf of the
London Borough of Enfield
Licensing Unit, Civic Centre, Silver Street, Enfield EN1 3XH
Telephone : 020 8379 3578



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

13. The premises licence holder shall ensure that the pavement from the building line to the kerb edge immediately outside the premises, including the gutter/channel at its junction with the kerb edge, is kept clean and free from litter at all material times to the satisfaction of the Licensing Authority.

14. Prominent, clear and legible notices shall be displayed at all public exits from the premises requesting customers respect the surrounding area and dispose of litter in a responsible manner. These notices shall be positioned at eye level and in a location where those leaving the premises can read them.

15. Children under 14 years, not accompanied by an adult, are not permitted to remain at or enter the premises after 21:00 hours.

16. Children under 18 years, are not permitted to remain at or enter the premises after 23:00.

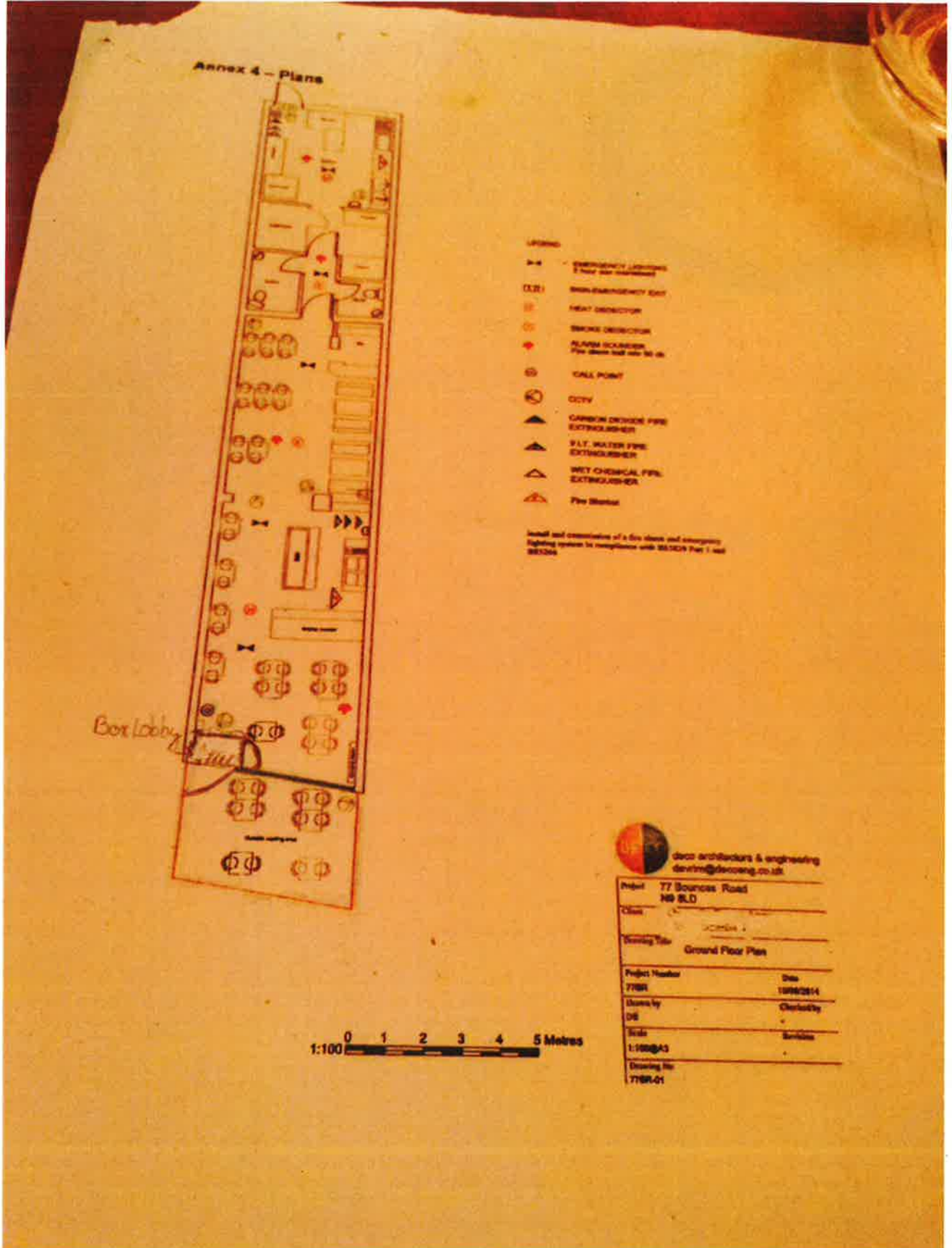
17. The premises shall install and maintain a comprehensive CCTV system.

- All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
- All recordings shall be stored for a minimum period of 31 days with date and time stamping.
- Recordings shall be made available immediately upon the request of Police or authorized officer throughout the preceding 31 day period.
- The CCTV system should be updated and maintained according to police recommendations.
- A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public. This staff member must be able to show a Police or authorized council officer recent data or footage with the absolute minimum of delay when requested.

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

- All crimes reported to the venue
- all ejections of patrons
- any complaints received
- any incidents of disorder
- all seizures of drugs or offensive weapons
- any faults in the CCTV system
- any visit by a relevant authority or emergency service

Annex 4 – Plans



W/A 216003981

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I **Charlotte Palmer Senior Licensing Enforcement Officer**

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
Turku Art Cafe, 77 Bounces Road	
Post town	Post code (if known)
Edmonton	N9 8LD
Name of premises licence holder or club holding club premises certificate (if known)	
Berf Catering Ltd	
Number of premises licence or club premises certificate (if known)	
LN/201400543	



Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
 - a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Charlotte Palmer Licensing Authority London Borough of Enfield PO Box 57 Civic Centre Silver Street EN1 3XH
Telephone number: 020 8379 3965
E-mail address: charlotte.palmer@enfield.gov.uk

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance X
- 4) the protection of children from harm

Please state the ground(s) for review: (please read guidance note 1)

Enfield Licensing Authority is seeking a review of the premises licence on the grounds that the premises have breached an abatement notice in respect of statutory nuisance arising from the production of singing and noisy music.

This review is primarily based on the prevention of public nuisance licensing objective. **The review application is to remove live music from the licence, to amend one condition and to add one condition.**

Background Information:

Please provide as much information as possible to support the application
(please read guidance note 2)

Complaint and Visit History of Premises

Tuesday 30/09/14 - Premises Licence was granted.

Monday 15/06/15 – Licence transferred to current Premises Licence Holder.

Thursday 02/07/15 – 20:55 – 21:10 - Licensing Enforcement Officers (JTE/CLB) carried out a full licence inspection. The following 5 conditions were being breached:

Condition 4: Alcohol Control Zone sign not on display.

Condition 6 and Condition 7: No evidence of staff training.

Condition 9: No refusal book available.

Condition 12: No evidence that sound checks were being carried out during regulated entertainment.

Staff advised that the person named on the licence as the Designated Premises Supervisor (DPS) is no longer involved with the company. Advised vary DPS application needs to be submitted.

Tuesday 04/08/15 – Variation to extend licensed hours submitted.

Saturday 08/08/15 – 01:37 - Out of Hours Noise Officers (JTE/PGB) carried out observations outside the premises following the submission of a variation application. Five males smoking and talking outside. 01:40 3 males left the site. Premises appeared to be closing.

Friday 14/08/15 - 21:30 - 21:50 Licensing Enforcement Officers (CPX/JS) carried out a licence inspection revisit. The following 5 conditions were being breached:
Condition 6 and Condition 7: No evidence of staff training.

Condition 9: No refusal book available.

Conditions 11: Entrance door open on arrival whilst a band was playing – all doors and windows should be closed during music.

Condition 12: No evidence that sound checks were being carried out during regulated entertainment.

The plan attached to the licence no longer matched the actual layout of the premises as a lobby had been installed at the front of the premises. Advised to email new plan to the licensing team. Given 14 days to comply with conditions.

Saturday 15/08/15 – 20:00 – 02:00 Temporary Event Notice

Tuesday 18/08/15 – Designated Premises Supervisors varied.

Friday 28/08/15 - 22:10 - Licensing Enforcement Officers (CLB/JS) carried out a licence inspection revisit. The following condition was being breached:

Condition 7: No evidence of staff training. The officers went through training questions with the DPS - Songul Aydin. Completed inspection report giving 14 days to comply. No noise or anti-social behaviour.

Friday 11/09/15 - 21:20 - 21:25- Licensing Enforcement Officers (CPX/JF) carried out a licence inspection revisit. The following condition was being breached:

Condition 7 - No evidence of staff training. Advised these must be sent to officer within 14 days.

Wednesday 16/09/15 – Training Records received.

Tuesday 29/09/15 – A variation application was granted amending the plan and hours as follows:

Activity	Hours at time of transfer	New current hours
Open	08:00 - 00:30 everyday	08:00 – 23:30 Sun – Thurs 08:00 – 01:00 Fri - Sat
Alcohol (on sales)	12:00 – 23:30 everyday	08:00 – 23:00 Sun – Thurs 08:00 – 00:30 Fri – Sat
Live music Performance of dance	20:00 – 23:30 everyday	20:30 – 23:00 – Sun – Thurs 20:30 – 00:30 Fri – Sat
Recorded music	N/A	20:30 – 23:00 – Sun – Thurs 20:30 – 00:30 Fri – Sat
LNR	23:00 – 23:30 everyday	23:00 – 23:30 Sun – Thurs 23:00 – 00:30 Fri - Sat

Friday 25/12/15 – 23:00 – 02:00 Temporary Event Notice

Thursday 31/12/15 – 23:00 – 03:00 Temporary Event Notice

Thursday 21/01/16 – The Licensing Enforcement Team received a complaint in relation to loud music coming from the premises on a regular basis and affecting local residents. An officer (CPX) phoned the premises and left a message with a female member of staff called Esme advising that a noise complaint had been received and that they needed to ensure the music did not affect residents. The officers asked for the DPS to call them. DPS returned call and was advised of the complaint.

Friday 22/01/16 – 21:16 – The Out of Hours Noise Team (CLB/RCA) received a noise complaint in relation to loud music coming from the premises. 22:46 – officers visited the complainant entered the living room and could clearly hear an amplified voice over a microphone and acoustic music (not heavy bass). It was live music which was audible when the television was on at normal level and when off. Windows shut in complainant living room. The noise could also be heard in the bedroom. The complainant advised the officers that this occurred every day and went on from 21:00 until midnight and sometimes until 01:00. Officers noted that there appeared to be poor sound insulation. The music could also be heard from Bath Road which they noted is approximately 50m away from the premises. The officers did not enter the premises. The music level was deemed to be a statutory nuisance taking into consideration the volume and that it was amplified. Left at 22:55.

Saturday 23/01/16 – 22:04 - The Out of Hours Noise Team (CLB/RCA) received a noise complaint in relation to loud music coming from the premises. 22:55 – Visited premises and no noise evident. 23:00 – music was audible at a low level. 23:15 – voice on microphone audible and musical instruments over the volume of the television. The music was audible in the complainants bedroom and was a nuisance. Officers visited the premises and spoke to the DPS. They requested the volume of the music be reduced. There were shown sound records sheets.

Friday 05/02/16 – Environmental Protection Act 1990 s.79(1)(g) Abatement Notice in respect of statutory nuisance served by hand to the registered address which is an accountants. Yousf took the document, opened it, read it and said he would notify the owners. The notice required that they abate the nuisance forthwith and prohibit the recurrence by exercising proper control of the volume of sound generated at the premises as to ensure that the total volume of sound emitted was not likely to cause a nuisance to person residing in the vicinity. **See Appendix CPX/01.**

Monday 08/02/16 – The DPS telephoned the noise officer (NEJ) to discuss the notice and said they would keep the music turned down. They advised that they have had a quote for sound insulation works and are considering this.

Sunday 28/02/16 - 00:09 - The Out of Hours Noise Team (CLB/RCA) received a noise complaint in relation to loud music coming from the premises. 00:54 - called complainant from outside the premises but call went to voicemail. The officers went to the front of the premises. They saw people leaving and about five people sat at a table. No music audible but saw that a stage was set for a live band. At 01:00 they spoke to the owner. He said he'd have the people leave in the next 10-15 minutes. The officers advised that they would report back to the Licencing Enforcement Team and reminded them that the premises should be closed and must have patrons out within the licensed times given.

Friday 04/03/16 – 23:24 – 23:50 - The Out of Hours Noise Team (DD/CLB) received a noise complaint in relation to loud music coming from the premises. 23:50 – Visited complainant, music was clearly audible - speech and guitar type instruments, appeared to be amplified. **Unreasonably loud and a statutory nuisance.** Audible over the volume of the TV. Sound insulation again appeared to be poor as normal speech could also be heard.

Friday 11/03/16 – 22:43 - The Out of Hours Noise Team (NEJ/JI) received a noise complaint in relation to loud music coming from the premises. 23:00 - Visited complainant. Singing and music clearly audible in the front room. The lyrics were clear as was the guitar being used. The music could be heard clearly above the level of normal conversation. In the bedroom, which is next to the living room, the noise was equally as loud and the music and signing would prevent sleep. **The noise was unreasonably loud for the time of day and deemed to be a Statutory Nuisance and a breach of the noise Abatement Notice.** 23:10 – the officers visited the premises and spoke to both owners and told them to turn the music down, which they did. They all went outside to discuss the noise issue. The Officers told both owners (a male and a female) that the music volume was a breach of the noise Abatement Notice. The officers said they would be served a Fixed Penalty Notice and that they could choose to pay it to discharge the offence or choose not to in which case they would be consider prosecution for breach of the notice. The owners asked for another chance and were told that they must control the volume of the music.

Friday 18/03/16 – Fixed Penalty Notice served for breach of a section 80 Noise Abatement Notice as witnessed on 11/03/16. **See Appendix CPX/02.**

23:35 – Out of Hours Licensing Enforcement Officers (EVG/VPK) visited the premises and carried out a full licence inspection with the DPS. The following conditions were being breached:

Condition 6 and Condition 7: Induction and refresher training carried out but recent records only produced. Requested list of staff and historical training records to be sent in.

Condition 12: Records of sound checks kept but concerned checks are not accurate in light of two noise nuisances witnessed. Advised they must have stricter noise control and turn the music down.

Condition 17: Unable to check that CCTV recordings kept for 31 days.

Discussed recent breaches of noise abatement notice. Advised that in light of this a review of the premises licence may be sought and an interview under caution. Smoking shelter/front outside area more than 50% enclosed as sliding side windows. Officers advised that the side panels of the outside seating area must be removed to achieve less than 50% enclosed before smoking can be permitted in that area. Mr Ceki stated he would remove them on Monday. Given 7 days to comply with licence conditions. During the conversation the DPS alleged that neighbours wanted to close down the business as they wanted to open a bakery. When asked she said they have live music every day and that on 11/03/16 they had a famous Turkish musician performing. Officers saw the sound check sheet for 11/03/16 and every night from Tues 08/03/16 - half hourly checks carried out. No problems recorded at any point and they were signed daily by the DPS.

Monday 21/03/16 – Email received from DPS with copies of training records. An Officer (EVG) called the DPS and confirmed receipt of the email and training records. They advised the officers that they would pay the Fixed Penalty Notice.

Conclusion:

Live music has been provided at such a level to be deemed a statutory noise nuisance and an abatement notice has been served. This notice has subsequently been breached despite the premises being aware that noise complaints were being received. There are residential properties directly above this parade of shops and sound insulation between the premises and residential properties appears to be poor. **The Licensing Authority does not think that this is a suitable venue for live music and is therefore seeking to remove live music from the premises licence.**

The Live Music Act 2012

The Live Music 2012 permits certain premises in certain circumstances to provide live music between 08:00 – 23:00 without the need for it to be named on a premises licence. As noise complaints have been received as early as 21:16 and statutory noise nuisance has been witnessed as early as 22:46 the Licensing Authority does not deem it appropriate for this premises to be able to make use of this Live Music Act 2012 provisions.

Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 - March 2015 states the following in relation to this situation:

Licence reviews: Live and recorded music

- 15.55 On a review of a premises licence or club premises certificate, section 177A(3) of the 2003 Act permits a licensing authority to lift the suspension 71 and give renewed effect to an existing condition relating to music. Similarly, under section 177A(4), a licensing authority may add a condition relating to music as if music were regulated entertainment, and as if that premises licence or club premises certificate licensed the music. In both instances the condition should include a statement that Section 177A does not apply to the condition.
- 15.56 An application for a review in relation to relevant premises can be made by a licensing authority, any responsible authority or any other person. Applications for review must still be relevant to one or more of the licensing objectives and meet a number of further requirements 72.

If the Licensing subcommittee is minded to remove live music from the premises licence then the Licensing Authority requests that the following condition be added to the licence to prevent the premises making use of the provision of the Live Music Act 2012:

Additional condition

Live music shall not be provided at the premises at any time. Section 177A of the Licensing Act 2003 does not apply to this condition.

Condition to be amended:

If the committee is minded to remove live music from the premises licence then the Licensing Authority also asks that the following condition be amended as follows:

Condition 12:

The management shall make subjective assessments of noise levels at the perimeter of the premises. These shall be undertaken at approximately hourly intervals, whilst

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

Amend to:

The management shall make subjective assessments of noise levels at the perimeter of the premises. These shall be undertaken at approximately hourly intervals, whilst **recorded music** is provided to ensure that noise from the premises does not cause a disturbance to local residents. Records shall be kept of the times, dates and any issues discovered. These records shall be kept for six months. Records must be made available to an authorised officer of the Council, upon request. Where monitoring by staff identifies that noise from the premises is audible at the perimeter, measures shall be taken to reduce this i.e. turning volume down. **Section 177A of the Licensing Act 2003 does not apply to this condition.**

The Licensing Authority reserve the right to add any additional information to support this review application.

Suspension of Licence:	N
Revocation of Licence:	N
Recommended period of suspension (max 3 months):	

Please tick yes

Have you made an application for review relating to this premises before Yes

If yes please state the date of that application

Day Month Year

If you have made representations before relating to these premises please state what they were and when you made them.

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent
(See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**


Signature:**Date:** 15th April 2016**Capacity:** Licensing Enforcement Officer

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

LONDON BOROUGH OF ENFIELD

REF NO WK/215077534

CPX101

ENVIRONMENTAL PROTECTION ACT 1990 – SECTION 80

ABATEMENT NOTICE IN RESPECT OF STATUTORY NUISANCE

To: **Berf Catering Ltd**
of: **59-60 Market Square**
Edmonton
N9 0TZ

TAKE NOTICE that under the provisions of the Environmental Protection Act 1990 the Council of the London Borough of Enfield, being satisfied of the occurrence and likely recurrence of a noise amounting to a nuisance under section 79 (1) (g) of the above Act at **Turku Art Cafe, 77 Bounces Road, LONDON, N9 8LD**, within the district of the said Council arising from:

The production of singing and noisy music

HEREBY REQUIRE YOU as the person responsible for the said nuisance of the premises, **Turku Art Cafe, 77 Bounces Road, LONDON, N9 8LD** from which the noise is or would be emitted **forthwith** from the service of this notice, to abate the same, and also HEREBY PROHIBIT the recurrence of the same and for that purpose require you to:

Exercise proper control of the volume of sound generated at the premises so as to ensure that the total volume of sound emitted is not likely to cause a nuisance to persons residing in the vicinity.

IN the event of an appeal this notice shall NOT be suspended until the appeal has been abandoned or decided by the Court, as, in the opinion of the Council,

the noise to which this notice relates is likely to be of a limited duration such that suspension would render the notice of no practical effect

the expenditure which would be incurred by any person in carrying out works in compliance with this notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period form such compliance.

/contd

REF NO WK/215077534

IF YOU CONTRAVENE without reasonable excuse any requirement of this notice you will be guilty of an offence under section 80 (4) of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine not exceeding level 5 on the Standard Scale*, together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after conviction. A person who commits an offence on industrial, trade or business premises will be liable, on summary conviction, to a fine not exceeding £20,000. The Council may take proceedings for securing the abatement, prohibition or restriction of the nuisance.

Signed

Ned Johnson
Principal Officer Pollution Control

Dated **5th February 2016**

*Currently £5000, subject to alteration by Order.

"Note - The person served with this notice may appeal against the notice to a magistrates' court within the period of twenty-one days beginning with the date on which they were served with the notice."

NB See attached explanatory notes N6B

Address for all communications:
London Borough of Enfield
Environmental Protection Team
Environment Department
PO Box 57, Civic Centre, Silver Street, Enfield, EN1 3XH

Contact: **Ned Johnson**

Telephone: **020 8379 3701**

ENVIRONMENTAL PROTECTION ACT 1990-SECTION 80
ABATEMENT NOTICE IN RESPECT OF STATUTORY NUISANCE

NOTES N6B
(as amended)

The Statutory Nuisance (Appeals) Regulations 1990 provide as follows:
APPEALS UNDER SECTION 80(3) of the ENVIRONMENTAL PROTECTION ACT 1990
("the 1990 Act")

2. - (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.

(2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case -

(a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);

(b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);

(c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;

(d) that the time, or where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;

(e) where the nuisance to which the notice relates -

(i) is a nuisance falling within section 79(1)(a), (d), (e), (f), (fa) or (g) of the 1990 Act and arises on industrial, trade, or business premises, or

(ii) is a nuisance falling within section 79(1)(b) of the 1990 Act and the smoke is emitted from a chimney, or

(iii) is a nuisance falling within section 79(1)(ga)[4] of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes, that the best practicable means were used to prevent, or to counteract the effects of, the nuisance; or

(iv) is a nuisance falling within section 79(1)(fb) of the 1990 Act and

(aa) the artificial light is emitted from industrial, trade or business premises, or

(bb) the artificial light (not being light to which sub-paragraph (aa) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility (within the meaning given by section 80(8A) of the 1990 Act)

(f) that, in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act (noise emitted from premises), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of -

(i) any notice served under section 60 or 66 of the 1974 Act (control of noise on construction sites and from certain premises), or

(ii) any consent given under section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise abatement zone), or

(iii) any determination made under section 67 of the 1974 Act (noise control of new buildings);

(g) that, in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice

relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the 1993 Act (loudspeakers in streets or roads);

(h) that the abatement notice should have been served on some person instead of the appellant, being -

- (i) the person responsible for the nuisance, or
- (ii) the person responsible for the vehicle, machinery or equipment, or
- (iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
- (iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;

(i) that the abatement notice might lawfully have been served on some person instead of the appellant being -

(i) in the case where the appellant is the owner of the premises, the occupier of the premises, or

(ii) in the case where the appellant is the occupier of the premises, the owner of the premises, and that it would have been equitable for it to have been so served;

(j) that the abatement notice might lawfully have been served on some person in addition to the appellant, being -

- (i) a person also responsible for the nuisance, or
- (ii) a person who is also owner of the premises, or
- (iii) a person who is also an occupier of the premises, or
- (iv) a person who is also the person responsible for the vehicle, machinery or equipment, and that it would have been equitable for it to have been so served.

(3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(4) Where the grounds upon which an appeal is brought include a ground specified in paragraph (2)(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which these regulations apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.

(5) On the hearing of the appeal the court may -

- (a) quash the abatement notice to which the appeal relates, or
 - (b) vary the abatement notice in favour of the appellant in such manner as it thinks fit, or
 - (c) dismiss the appeal;
- and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.

(6) Subject to paragraph (7) below, on the hearing of an appeal the court may make such order as it thinks fit -

- (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
- (b) as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.

(7) In exercising its powers under paragraph (6) above the court -

- (a) shall have regard, as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of any relevant tenancy and to the nature of the works required, and
- (b) shall be satisfied before it imposes any requirement thereunder on any person other than the appellant, that the person has received a copy of the notice of appeal in pursuance of paragraph (4) above.

Suspension of notice

3.- (1) Where -

(a) an appeal is brought against an abatement notice served under section 80 or section 80A of the 1990 Act, and -

(b) either -

(i) compliance with the abatement notice would involve any person in expenditure on the carrying out of works

before the hearing of the appeal, or

(ii) in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act, the noise to which the abatement notice

relates is noise necessarily caused in the course of the performance of some duty imposed by law on the appellant,

and

(c) either paragraph (2) does not apply, or it does apply but the requirements of paragraph (3) have not been met, the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.

(2) This paragraph applies where -

(a) the nuisance to which the abatement notice relates -

(i) is injurious to health, or

(ii) is likely to be of a limited duration such that suspension of the notice would render it of no practical effect, or

(b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.

(3) Where paragraph (2) applies the abatement notice -

(a) shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect

notwithstanding any appeal to a magistrates' court which has not been decided by the court, and

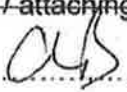
(b) shall include a statement as to which of the grounds set out in paragraph (2) apply.

CERTIFICATE OF SERVICE BY HAND

I **Charles Le Besque** of the London Borough of Enfield, hereby certify that I served **Berf Catering Ltd of 59-60 Market Square, Edmonton, N9 0TZ.**

with the notice of which a true copy is attached, by delivering
by hand to **Turku Art Café 77 Bounces Road N9 8LD** ~~the above / through the
letterbox / attaching it to the vehicle~~ **on 5th February 2016 at 22:15 hours**

Signed ...



Reference **WK/215077534**

***delete where appropriate**



CPX102



Berf Catering Ltd
59-60 Market Square
London
N9 0TZ

Please reply to: Joynul Islam
Environment and Regeneration
E-mail : joynul.islam@enfield.gov.uk
Phone : 020 8379 5570
My Ref : WK/215087600
Your Ref :
Date : 18/03/2016

Dear Sir/Madam,

**Environmental Protection Act 1990, Part III, Section 80(4)
London Local Authorities Act 2004
Fixed Penalty Notice for a breach of a Section 80 Noise Abatement Notice
Re: Turku Art Café, 77 Bounces Road, London, N9 8LD**

I write in regard to the Noise Abatement Notice served upon on 5th February 2016 and the breach of the terms of that Notice on 11th March 2016.

The Council have decided to issue you with a Fixed Penalty Notice (FPN) for this offence. The FPN offers you an opportunity to discharge any liability to conviction for the offence of breaching the Abatement Notice by payment of the FPN. No proceedings will be taken for this offence before the expiration of twenty eight calendar days following the date of the FPN. If you fail to pay the FPN within the twenty eight day period, legal proceedings for the offence may be commenced against you.

I hope this explains the situation clearly; should you wish to discuss this matter further please do not hesitate to contact me.

Yours sincerely

Joynul Islam
Environmental Protection Officer (Commercial Nuisance)

Copy also sent to Turku Art Café, 77 Bounces Road, London, N9 8LD

Ian Davis
Director – Regeneration & Environment
Enfield Council
Civic Centre, Silver Street
Enfield EN1 3XY

Website: www.enfield.gov.uk

For help with this document, please contact the above officer who will be able to assist in line with our accessible information policy



The Owners
Turku Art Cafe
77 Bounces Road
London
N9 8LD

Please reply to: Joynul Islam
Environment and Regeneration
E-mail : joynul.islam@enfield.gov.uk
Phone : 020 8379 5570
My Ref : WK/215087600
Your Ref :
Date : 18/03/2016

Dear Sir/Madam,

**Environmental Protection Act 1990, Part III, Section 80(4)
London Local Authorities Act 2004
Fixed Penalty Notice for a breach of a Section 80 Noise Abatement Notice**

I write in regard to the Noise Abatement Notice served upon on 5th February 2016 and the breach of the terms of that Notice on 11th March 2016.

The Council have decided to issue you with a Fixed Penalty Notice (FPN) for this offence. The FPN offers you an opportunity to discharge any liability to conviction for the offence of breaching the Abatement Notice by payment of the FPN. No proceedings will be taken for this offence before the expiration of twenty eight calendar days following the date of the FPN. If you fail to pay the FPN within the twenty eight day period, legal proceedings for the offence may be commenced against you.

I hope this explains the situation clearly; should you wish to discuss this matter further please do not hesitate to contact me.

Yours sincerely

Joynul Islam
Environmental Protection Officer (Commercial Nuisance)

Copy also sent to Berf Catering Ltd, 59-60 Market Square, London, N9 0TZ

Ian Davis
Director – Regeneration & Environment
Enfield Council
Civic Centre, Silver Street
Enfield EN1 3XY

Website: www.enfield.gov.uk

For help with this document, please contact the above officer who will be able to assist in line with our accessible information policy

Notice number: **WK/215087600**
 FPN_LLA & EPA 1990



FIXED PENALTY NOTICE:

London Local Authorities Act 2004
(Schedule 2)

OFFENCE: BREACH OF A SECTION 80 ABATEMENT NOTICE

Berf Catering Ltd
59-60 Market Square
Edmonton
N9 0TZ

I, Joynul Islam, an authorised officer of Enfield Council have reason to believe that you have committed an offence details of which are contained in this notice. This notice offers you the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty of **£400**. No proceedings will be taken for this offence before the expiration of **28 calendar days** following the date of this notice. The expiration date is **17th April 2016**. You will not be liable to conviction for the offence if you pay the fixed penalty before **17th April 2016**. An early payment discount will apply if the penalty is paid before the end of the period of **14 calendar days** beginning with the date of the notice. The last date for early payment is **1st April 2016**. The amount to be paid for an early payment discount is **£240**.

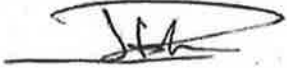
Date of offence:
11th March 2016

Location of offence:
Turku Art Cafe, 77 Bounces Road, LONDON, N9 8LD

Offence:
 Breach of a Section 80 Abatement Notice served under the Environmental Protection Act 1990

Circumstances alleged to constitute the offence:
Music emanating from Turku Art Café 77 Bounces Road, LONDON, N9 8LD, on 11th March 2016 constituted a Statutory Noise Nuisance which is a breach of the Section 80 Abatement Notice served on 5th February 2016.

PLEASE NOTE: If you do not pay the fixed penalty within the period of 28 calendar days, you are liable to be prosecuted for the offence described above and if convicted could receive a fine of up to £1,000 in the Magistrates Court.

Signature of Authorised Officer	Name	Joynul Islam
	Date	18th March 2016

Environmental Protection Team, PO Box 57, Civic Centre, Silver Street, Enfield, EN1 3XH

PAYMENT INFORMATION IS GIVEN ON THE BACK OF THIS NOTICE

Notice number: **WK/215087600**
FPN_LLA & EPA 1990

HOW TO PAY YOUR FIXED PENALTY NOTICE

You can pay by debit/credit card, cheque, cash or Postal Order:

 **Online:** by visiting the Council website: www.enfield.gov.uk

Click '**View more payments**' in 'Make a Payment' home page
Then click '**View more payments**' on the 'Pay a Bill page'
Click on **Penalty Notices**

 **By Post:**

Please make cheques/Postal Orders payable to Enfield Council and return to the address below. Please write the notice number and reference **ES0182 67703** on the back of the cheque or Postal Order.

If sending cash by post please include details of the notice number and quote reference **ES0182 67703**

If sending by post to qualify for early payment we must receive the payment before the expiration of 14 days starting with the date of this notice (you should post your payment in good time to allow delivery of it within the stated period).

 **In Person:** The payments office at the Civic Centre can also accept payments. Please quote the notice number and the cashier reference **ES0182 67703**

 **By phone:** Call 020 8379 1000. Please quote the notice number (above) and have your card details to hand

Address:

Environmental protection Team, PO Box 57, Civic Centre, Silver Street, Enfield, EN1 3XH

CERTIFICATE OF SERVICE BY HAND

I, Joynul Islam, of the London Borough of Enfield, hereby certify that I served **Berf Catering Ltd of 59-60 Market Square, Edmonton, N9 0TZ** with the Notice of which a true copy is attached, by delivering same by hand on this day of 18th March 2016 at 11:58am, with a further copy of the same notice being delivered by hand to **Turku Art Café 77 Bounces Road N9 8LD** on 18th March 2016 at 12:08pm.

Signed



Reference WK/215087600

Annex 04


**METROPOLITAN
POLICE**
Working together for a safer London

POLICE REPRESENTATION

Name and address of premises: Turku Art Café
77 Bounces road
N9 8LD

Type of Application: Review Application

Worksheet number: WK/216003981

This is a supporting statement for a review application submitted by Charlotte Palmer for the London Borough of Enfield's (LBE) licensing enforcement team.

In summary I wish to make representation on the following:

- Prevention of public nuisance

Enfield Licensing Authority are seeking a review of the premises licence on the grounds that the premises has breached an abatement notice with regard to nuisance arising from music and singing.

As detailed in the report the premises has been visited on 5 separate occasions by council officers between July 2015 and March 2016 for licensing checks and on every occasion breaches of the licensing conditions have been found.

The council have also received at least 6 noise complaints between those times from local residents. Visits have been made by council officers who have also found the level of music and singing to be unacceptable. An abatement notice was issued, however the premises continued to breach this.

The premises is situated on a parade of shops which has residential properties above with poor sound proofing between.

It is apparent that the current DPS is either unwilling or unable to adhere to the terms of his licence regarding noise levels and therefore it is the view of the police that this premises is no longer able to host live music events. I fully support this review application and recommend that the ability to have live music held at the premises be removed from the premises licence, and the conditions suitably amended for the reasons set out above and in Miss Palmers review application.

Officer: Karen Staff PC237YE

Tel: 0208 345 4565

Karen.staff@met.pnn.police.uk

Date: 26th April 2016

Karen Staff PC237YE

F K01/37

Proposed Licence Conditions

Annex 1 - Mandatory conditions

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

Annex 2 - Conditions consistent with the Operating Schedule

1. There shall be no adult entertainment or services, activities or matters ancillary to the use of the premises that may give rise to concern in respect of children.
2. Signs shall be prominently displayed on the exit doors advising customers that the premises is in a 'Designated Public Place Order' and that alcohol should not be taken off the premises and consumed in the street. These notices shall be positioned at eye level and in a location where those leaving the premises can read them.
3. Alcohol shall only be served to people taking table meals or waiting to be seated for a meal.
4. All staff shall receive induction and refresher training (at least every three months) relating to the sale of alcohol and the times and conditions of the premises licence.
5. All training relating to the sale of alcohol and the times and conditions of the premises licence shall be documented and records kept at the premises. These records shall be made available to the Police and/or Local Authority upon request and shall be kept for at least one year.
6. The Local Authority or similar proof of age scheme shall be operated and relevant material shall be displayed at the premises. Only passport, photographic driving licences or ID with the P.A.S.S. logo (Proof of Age Standards Scheme) may be accepted.
7. A written record of refused sales shall be kept on the premises and completed when necessary. This record shall be made available to Police and/or the Local Authority upon request and shall be kept for at least one year from the date of the last entry.
8. Prominent, clear and legible notices shall be displayed at all public exits from the premises requesting customers respect the needs of local residents and leave the premises and area quietly. These notices shall be positioned at eye level and in a location where those leaving the premises can read them.

9. All external doors and windows shall be kept closed but not locked during regulated entertainment.

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

11. The premises licence holder shall ensure that the pavement from the building line to the kerb edge immediately outside the premises, including the gutter/channel at its junction with the kerb edge, is kept clean and free from litter at all material times to the satisfaction of the Licensing Authority.

12. Prominent, clear and legible notices shall be displayed at all public exits from the premises requesting customers respect the surrounding area and dispose of litter in a responsible manner. These notices shall be positioned at eye level and in a location where those leaving the premises can read them.

13. Children under 14 years, not accompanied by an adult, are not permitted to remain at or enter the premises after 21:00 hours.

14. Children under 18 years, are not permitted to remain at or enter the premises after 23:00.

15. The premises shall install and maintain a comprehensive CCTV system:

(a) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.

(b) All recordings shall be stored for a minimum period of 31 days with date and time stamping.

(c) Recordings shall be made available immediately upon the request of Police or authorized officer throughout the preceding 31 day period.

(d) The CCTV system should be updated and maintained according to police recommendations.

(e) A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public. This staff member must be able to show a Police or authorized council officer recent data or footage with the absolute minimum of delay when requested.

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

(a) All crimes reported to the venue

- (b) All ejections of patrons
- (c) Any complaints received
- (d) Any incidents of disorder
- (e) All seizures of drugs or offensive weapons
- (f) Any faults in the CCTV system
- (g) Any visit by a relevant authority or emergency service

17. No glass drinking vessels to be taken outside the main building of the venue after 2300 hours.

18. Staff shall ensure that patrons do not remain in the external seating area of the premises after 2300 hours except to enter or leave the premises.

19. No entry to new patrons after 00:00 hours on Fridays and Saturdays.

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

LICENCE CONDITIONS SOUGHT BY LICENSING AUTHORITY, NOT AGREED BY PREMISES LICENCE HOLDER:

Amend Condition 12:

The management shall make subjective assessments of noise levels at the perimeter of the premises. These shall be undertaken at approximately hourly intervals, whilst **recorded music** is provided to ensure that noise from the premises does not cause a disturbance to local residents. Records shall be kept of the times, dates and any issues discovered. These records shall be kept for six months. Records must be made available to an authorised officer of the Council, upon request. Where monitoring by staff identifies that noise from the premises is audible at the perimeter, measures shall be taken to reduce this i.e. turning volume down. Section 177A of the Licensing Act 2003 does not apply to this condition.

Insert Condition 20:

Live music shall not be provided at the premises at any time. Section 177A of the Licensing Act 2003 does not apply to this condition.

LICENSING SUB-COMMITTEE - 20.4.2016

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 20 APRIL 2016****COUNCILLORS****PRESENT** (Chair) Chris Bond, George Savva MBE and Jim Steven**ABSENT****OFFICERS:** Ellie Green (Principal Licensing Officer), Charlotte Palmer (Licensing Enforcement Officer), PC Martyn Fisher (Metropolitan Police Licensing Officer), Antonia Mankanjuola (Legal Services Representative), Jane Creer (Democratic Services)**Also Attending:** Barrister for Metropolitan Police Service
Mrs Ebru Govtepe (Director of Enfield Food Store Limited)
Barrister and Licensing Agent and 2 further representatives on behalf of Enfield Food Store Limited**526****WELCOME AND APOLOGIES FOR ABSENCE**

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

527**DECLARATION OF INTERESTS**

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

528**NEW HERTFORD FOOD STORE LIMITED, 236 HERTFORD ROAD,
ENFIELD EN3 5BL (REPORT NO. 220)**

RECEIVED the application made by Enfield Food Store Limited for the premises now known as and situated at Hertford Food Store Limited, 236 Hertford Road, Enfield, EN3 5BL for a transfer of Premises Licence LN/201500517.

NOTED

1. The introductory statement of Ellie Green, Principal Licensing Officer, including:
 - a. This hearing was to deal with two applications in relation to the premises: a transfer and a review application. It was proposed to discuss

LICENSING SUB-COMMITTEE - 20.4.2016

- both applications at the same time then for the sub-committee to make a decision on each application after hearing all the submissions.
- b. The shop had been known as various names, but all the paperwork referred to the same premises of 236 Hertford Road and the same licence number LN/201500517.
 - c. The current licence permitted sale of alcohol from 08:00 to 00:00 and opening hours to 01:00 daily.
 - d. The licence was granted in August 2015, with Mr Deniz Altun named as both the Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS).
 - e. The transfer application to be determined was submitted on the afternoon of 24 February 2016 by Enfield Food Store Limited. This transfer application was received a couple of hours after a transfer application was withdrawn during the Licensing Sub-Committee hearing on the morning of 24 February 2016.
 - f. Mrs Govtepe was the Director of Enfield Food Store Limited.
 - g. Also on 24 February 2016 a vary DPS application was submitted by Enfield Food Store Limited naming Mr Necip Karagoz as the DPS. This application was not subject to any representations.
 - h. The Police had submitted an objection to the transfer application, as set out on page 48/9 of the agenda pack.
 - i. The Police objection was supported by the Licensing Authority.
 - j. The review application was submitted by the Licensing Authority and related to the prevention of crime and disorder licensing objective. The authority considers that it is now appropriate, for the promotion of the licensing objectives, to revoke the Premises Licence. A large quantity of non-duty paid alcohol and tobacco were found in connection with the premises on three separate occasions. Breaches of the premises licence were also established.
 - k. The Licensing Authority review application was supported by the Police.
 - l. The transfer had immediate effect. However, there were links in the evidence which showed that the review related to Mr Altun or Enfield Food Store Limited.
 - m. Supporting evidence from Mr Govtepe, Mrs Govtepe and Mr Altun was provided in the supplementary Part 2 agenda.
2. The statement of Charlotte Palmer, Licensing Enforcement Officer, including the following points:
- a. The review application seeking revocation of the licence arose following the discovery of non-duty paid alcohol and tobacco and breaches of conditions.
 - b. Licensing Enforcement officers also supported the Police's objection to the transfer application.
 - c. A new premises licence was issued to Mr Deniz Altun on 18/09/15. Within three months, non-duty paid products were found in connection with the premises on three separate occasions.
 - d. An inspection in October 2015 found non-duty paid rolling tobacco and cigarettes hidden in a drawer under the butchers chopping table, and a

LICENSING SUB-COMMITTEE - 20.4.2016

number of breaches of conditions. A warning letter was sent to Mr Altun on 20/10/15. A voluntary declaration form was provided to confirm that the whole of the premises had been checked to ensure that there were no further non-duty paid products there: this declaration was signed by Mr Altun and dated 26/10/15. Yet further non-duty paid products were found in November and December 2015.

e. On 10/11/15 Trading Standards and HMRC officers seized non-duty paid bottles of bitter.

f. On 21/12/15 over 4,500 packets of non-duty paid cigarettes were seized from a hidden place in the toilet area in the storage area used by the shop. The efforts taken to hide these products showed that it was known they were illegal. This was the biggest seizure of non-duty paid products made in Enfield. The disregard shown for the law undermined the prevention of crime and disorder licensing objective.

g. Guidance from the Secretary of State was that there was certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These included the use of the premises for the sale or storage of smuggled tobacco and alcohol. Where reviews arose in respect of these criminal activities and the Sub-Committee determines that the crime prevention objective is being undermined it is expected that revocation of the licence – even in the first instance – should be seriously considered.

h. Non-duty paid products had been found here on more than one occasion, and two previous premises licences had already been revoked for the same issues. The husband of the current applicant had held one of those licences and a business partner had held the other licence which was revoked.

i. Illegal products had previously been discovered in a chest of drawers with a false bottom. The time put into making the drawers showed this was a large scale operation that was taken seriously. A total of £24,244.37 of tax was lost.

j. Conditions were already attached to the licence to prevent this type of activity. Condition 24 also prevented Mr Govtepe or Mr Erdogan or their immediate family being involved in any way in the operation and / or management of the business or be permitted to work in the business in any capacity. This condition was offered by Mr Altun when making the new premises licence application. Officers would argue that “immediate family” would at the very least include spouse and children.

k. The transfer application was made by a company, the Director of which was Mrs Govtepe.

l. There had been no application to remove Condition 24 from the licence, and if there had been the Licensing Authority would have objected.

m. Mrs Govtepe had stated that she was the only person who was responsible for day to day management of the business, but all invoices were noted to have Mr Govtepe’s name printed on them. This would breach Condition 13: Only the Premises Licence Holder or Designated Premises Supervisor shall purchase alcohol and cigarette stock.

LICENSING SUB-COMMITTEE - 20.4.2016

- n. Mr Govtepe stated that his son started work at the business on 26/11/15, and that his wife took over the business on 24/12/15. These were breaches of Condition 24. This did not fill the Licensing Authority with confidence.
- o. The behaviour of Mr Govtepe's son on 21/12/15 gave cause for concern. He obstructed officers during the attempts to access the storage facilities and forced his way through the door. Officers had to ask for Police assistance twice that day.
- p. This premises had the worst history in the borough in relation to non-duty paid alcohol and tobacco. A pattern had emerged, with the same individuals linked, involving repeated undermining of the prevention of crime and disorder licensing objective. Licensing Authority officers had no confidence in those running the business now and in the past; and recommended that the licence be revoked. It was also noted that a criminal investigation was underway.
3. Charlotte Palmer responded to questions as follows:
- a. In response to queries from the legal representative of the PLH regarding the inspections and the products found, it was advised that the 4,500 packets of cigarettes were found in the store room at the premises at a café next door. In October, non-duty paid tobacco products were found under the butcher's table at the back of the premises and non-duty paid alcohol was found in the premises.
- b. In response to queries that there was no evidence that Mr Govtepe or Mr Erdogan were involved in the operation of the premises since 24/12/15, it was advised that Mr Govtepe's name appeared on invoices for alcohol and tobacco and so it looked like he was making the purchases.
- c. In response to queries about the meaning of "immediate family", Charlotte Palmer's view was that various circumstances including co-habiting partners could be considered immediate family and each case may be considered on its merits, but discussion about this licence involved a husband and wife and son.
4. The statement on behalf of the Metropolitan Police Service, represented by Mr Asitha Ranatunga, Cornerstone Barristers, including:
- a. The primary reason for Police representation at this hearing was to object to the transfer application. The Police objection was set out on pages 48-49 of the agenda pack.
- b. The Police also endorsed and supported the review application brought by the Licensing Authority.
- c. The objection to the transfer application was made on the basis that the Police were satisfied that there were exceptional circumstances and granting this application would seriously undermine the prevention of crime and disorder licensing objective.
- d. He also highlighted the statements of Charlotte Palmer and Victor Ktorakis; the finding of 4,500 packets of non-duty paid cigarettes; and the two previous revocations of licences at the premises.

LICENSING SUB-COMMITTEE - 20.4.2016

- e. In respect of Condition 24, granting the transfer application would be a breach of that condition. It was right to note that this condition was put forward by the premises in support of a new licence for the premises using their own wording. There might be room for legal discussions about who constituted “immediate family” but it was known in this case that Mrs Govtepe was the wife of Mr Govtepe, and taking a common sense approach such a relationship would come within the meaning of immediate family, and it was noted this was a licensing issue and not subject to the strict definitions set out in other legislation.
- f. The statement from Mrs Govtepe in the supplementary pack confirmed that she was the wife of Mr Govtepe, and she should be considered immediate family.
- g. The applicant for the transfer was a company, of which Mrs Govtepe is a Director.
- h. He highlighted, as detailed in the Police representation on page 49 of the agenda pack, that Police visited the business on 18/01/16 and issued a Closure Notice, serving upon Mr Govtepe, who was at the shop, having been contacted by a member of staff.
- i. The Police asserted that the common denominator was Mr Govtepe, the lease holder throughout. Police believed that he had been in control at all times, and that was a further concern.
- j. The four main points were highlighted as:
- The application for transfer was to a company, of which Mrs Govtepe was the Director. To grant the transfer would mean an automatic breach of Condition 24. There was no power to amend that condition on a transfer, and no amendment had been put forward by the applicant.
 - The concerns regarding the history of the premises, which included two revocations and five occasions when non-duty paid goods were found. Mr Govtepe held the lease, and was the PLH on an occasion the licence was revoked, followed by the process whereby he and his family were removed from operating the business by condition.
 - The surrounding facts included using the licensing system to circumvent reviews, and a previous transfer application was withdrawn to circumvent proper scrutiny.
 - The type of offence and the nature of it was important. Even in the first instance of finding non-duty paid goods, a licensing sub-committee should be considering revocation of the licence. In this case, the amounts found, the number of times goods were found, and the ways they were hidden were relevant facts and the circumstances were sinister.
- k. All the points raised supported this Police objection in the exceptional circumstances in this case.
- l. PC Fisher stated in evidence of the exceptional circumstances, that this was the only objection by the Police to a licence transfer application that he could recall in his seven years’ experience.
- m. PC Fisher confirmed that Condition 24 came to be on the licence because it was offered as a condition by the applicant at the time. There were very few licences in the borough with conditions that referred to

LICENSING SUB-COMMITTEE - 20.4.2016

particular named individuals. The wording including “immediate family” was offered by the applicant and accepted in good faith.

5. Mr Ranatunga responded to questions as follows:
 - a. In response to queries from the legal representative of the PLH, Police confirmed that as far as they were aware, Mrs Govtepe was of good character and had not received any cautions. Police were not aware of any issues with counterfeit goods at the shop since 24/12/15, but there had been no inspections since then. It was confirmed that in respect of matters before that, there was no evidence to link Mrs Govtepe directly. There was no evidence of Mr Govtepe being at the shop since 24/12/15. From officers’ personal experience there was no evidence of Mr Erdogan being at the shop since 24/12/15.
 - b. In response to the Chair’s request for clarification, it was confirmed that as reported in PC Marsh’s statement on page 49, PC Marsh visited the shop on 18/01/16 and Mr Govtepe was on scene at the shop on that day.

6. The statement on behalf of New Hertford Food Store Limited, represented by Mr Duncan Craig, Citadel Chambers, including:
 - a. As referred to in the supplementary agenda, there was evidence that Mrs Ebru Govtepe was out of the country at the time when counterfeit goods were found on the premises.
 - b. Mrs Govtepe’s witness statement was made and signed by her on 25/03/16 and she confirmed she had no involvement in the shop prior to 24/12/15. She was now the only person who was responsible for day to day management of the business, and had been operating the store independently from her husband Mr Sefer Govtepe since 24/12/15.
 - c. Photos had been provided to illustrate the operation by Mrs Govtepe of the stock control system, and copies of invoices provided. Efforts had been made with the cash and carry to change the name appearing on invoices to Mrs Govtepe, but the amendment had not been made yet. Mrs Govtepe operated a business account with Santander. There was clear evidence that she was present and operating the business and not just superficially. This demonstrated the commitment that Mrs Govtepe had to operating the business.
 - d. Further photos were provided to show that the premises licence and notices were displayed as required.
 - e. A photo of the toilet area showed that the metal partition behind which cigarettes were found, had been removed.
 - f. He disagreed with points made in respect of Condition 24. It was not Mrs Govtepe who proposed the condition and wording, but Mr Altun. The term ‘immediate family’ was ambiguous. There was nothing to have prevented the Licensing Authority including the word ‘spouse’ in a condition. A ‘wife’ could also have various meanings, and relationships within the Islamic faith may not be recognised under English law. It was questionable whether co-habiting or separated partnerships would be covered by such a term.

LICENSING SUB-COMMITTEE - 20.4.2016

- g. Statutory guidance s.182 dealt with the nature of licensing conditions. Wording should be precise and enforceable. Conditions must be unambiguous and clear about what they wished to achieve. The wording of Condition 24 was not clear and the condition was not capable of being met. This imprecisely worded condition should therefore carry little weight.
 - h. Evidence on page 2 of the report referred to Mrs Govtepe's various appointments and resignations as Director of Enfield Food Store Limited. The reason for these in short time was that her accountant had included the wrong date of birth on the forms and it had been necessary for Mrs Govtepe to resign and be re-appointed.
 - i. Mrs Govtepe had been operating the shop since 24/12/15, and there was no evidence of her husband having any involvement, or of any counterfeit goods being found since then.
 - j. Mrs Govtepe was a person of good character and there was no evidence linking her to misdemeanours which occurred previously.
 - k. He would submit that the transfer could be granted, and it followed that the sub-committee could quite properly not revoke the premises licence. He advised that Mrs Govtepe was well aware that she would be under significant scrutiny going forward. The licence transfer should be considered first by the panel, before the review.
 - l. He wished for Mrs Govtepe's gratitude to the Licensing Authority for granting of an adjournment of the hearing earlier this month to be recorded. The Chair added that he was sorry for Mrs Govtepe's loss.
7. Representatives of Enfield Food Store Limited responded to questions as follows:
- a. In response to the Chair's queries in respect of Condition 24 and the wording offered, Mr Craig clarified that he was not instructed at that time, and that the condition had been offered by Mr Deniz Altun.
 - b. In response to further queries from the Chair, it was advised that Mr Altun was not part of Mrs Govtepe's family and was nothing to do with her. That was a significant part of her submission. The way he behaved should not be linked to Mrs Govtepe in any way. It was at Mr Altun's behest that Condition 24 was put onto the licence. Mrs Govtepe had no part in that condition.
 - c. Councillor Savva asked Mr Craig what the wording in Condition 24 would mean to him. He stated that it would be insufficiently precise because it did not set out what "immediate family" was. That could be the subject of academic debate. It was incumbent on those devising conditions, and the Licensing Authority played a role in that, to ensure conditions were worded in a way that did not allow lawyers to argue over them.
 - d. In response to Councillor Savva's question about the involvement of Mr and Mrs Govtepe's son in the business, it was confirmed that their son Eren Govtepe had previously worked at the shop.
 - e. In response to Councillor Savva's queries regarding the Companies House check, it was confirmed that all matters of Mrs Govtepe's resignation and re-appointment as Director were due to errors by the

LICENSING SUB-COMMITTEE - 20.4.2016

accountant in respect of her date of birth, which had to be corrected that way. All corrections were completed within three days, between 29/02/16 and 02/03/16.

f. Charlotte Palmer highlighted the statement of Mr Sefer Govtepe on page 202/3 of the agenda, where his occupation was given as "Shop Keeper" and asked what shop was being referred to and why he would describe himself as such. Mr Govtepe was not present at the hearing. It was advised that Mr Govtepe did not operate any shop business. This was more of a statement of his previous occupation. There was no other shop.

g. Charlotte Palmer also quoted from the statement "I asked my son Eren Govtepe to be at the premise so he can learn about stocking and shelving until we take over. He began to work at the shop from the date we assigned the lease..." and questioned how Mr Govtepe could do this if he had no control over the operation. She also asked for Mrs Govtepe to provide answers directly if possible. It was confirmed that Mrs Govtepe spoke little English and a family friend assisted with translation. She advised that the reason her son Eren was there was because she was away on holiday and she had asked her son to keep an eye on the shop. Instructions were given by Mr Govtepe because Mrs Govtepe had not taken over by that point. She became responsible from 24/12/15.

h. In response to Charlotte Palmer's further queries, Mrs Govtepe stated that her husband was responsible for managing the business before 24/12/15. Before that time, Mr Altun was struggling financially and he tried to sell the business back again.

i. In response to Charlotte Palmer's further question of the date that Mr Sefer Govtepe took over control of the premises, Mrs Govtepe advised that it was not her husband, but Mr Altun was still running it.

j. Charlotte Palmer also quoted from Mrs Govtepe's statement in the supplementary agenda that "Sefer Govtepe is owner of the shop since we took the business back on 24/12/15.." and why that was said. Mrs Govtepe advised that she meant that the shop was officially in her husband's name. She had taken over operating the store.

k. Charlotte Palmer asked what if any family connection there was between Mrs Govtepe and Mr Altun. Mrs Govtepe stated that Mr Deniz Altun was her aunt's son, and confirmed that made him her cousin.

l. In response to Charlotte Palmer's question of who she would consider her immediate family, Mrs Govtepe listed brothers and sisters, mother and father, children, and husband.

m. Charlotte Palmer asked why the last transfer application was withdrawn during the hearing of 24/02/16. Mrs Govtepe advised that she was not sufficiently prepared at that time, and she wanted to prepare herself and gain more evidence.

n. Charlotte Palmer asked why the transfer application was made again around two hours after the hearing of 24/02/16. Mrs Govtepe advised that she was not ready at that hearing, but afterwards she was satisfied that a transfer application be submitted. In the meantime she knew the hearing date and that she had time to get prepared.

LICENSING SUB-COMMITTEE - 20.4.2016

- o. Councillor Savva queried further the interpretations of marriage and immediate family. Mr Craig agreed that there could be various definitions and interpretations, and that as licence conditions formed a contract they must be worded to avoid ambiguity.
8. The summary statement of Ellie Green, Principal Licensing Officer, including:
- a. Having heard the representations from all parties, it was for the Licensing Sub-Committee to consider whether the transfer and review applications were appropriate.
 - b. The steps which the sub-committee may take were set out.
 - c. Members' attention was directed to relevant guidance, particularly s.11.27.
 - d. In respect of the transfer application, the sub-committee must decide whether to grant or reject the application. Guidance 8.93 / 8.94 was highlighted in particular, and Policy 10.1 and 12.1.9.
9. The closing statement of Charlotte Palmer, Licensing Enforcement Officer, highlighting the significant history of wrong-doing at the premises, that sufficient conditions were already in place, but licence holders had shown total disregard for the law, and officers had no confidence in those who were running the premises.
10. The closing statement on behalf of the Police Service, highlighting the relevant legislation under which Police had raised objection, and that in this case there was clear evidence in respect of the crime prevention objective, linked to Mr Govtepe's involvement in this business. Giving consideration to what was appropriate for the prevention of crime and disorder, the Police considered it was appropriate to refuse the transfer application.
11. The closing statement on behalf of Enfield Food Store Limited, including the following points:
- a. Mr Govtepe's involvement with the lease had no bearing on the operation of the business, and there was no evidence to link him to the operation since 24/12/15.
 - b. Details regarding invoices had been covered, setting out the difficulty of getting suppliers to change the name on delivery notes and invoices.
 - c. Condition 24 was not sufficiently precise to make it enforceable and it should be given little or no weight.
 - d. Mrs Govtepe was a woman of good character, with no evidence to link her to the premises before 24/12/15. No counterfeit goods had been found since that time. The sub-committee could therefore grant the transfer and reject the revocation of the licence.
 - e. The licence was sufficiently conditioned.
 - f. In respect of Condition 24, the Police had made clear from the outset that they would object to any move to amend that condition so no

LICENSING SUB-COMMITTEE - 20.4.2016

application was therefore made. The Police representation could therefore be rejected on the terms sought.

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 listened to the evidence from all parties concerned and given them due attention and consideration we have resolved the following: To refuse the transfer of the licence giving due attention to the prevention of crime and disorder.

Granting this application would seriously undermine this licensing objective.

We have listened to Mrs Govtepe’s statements around running a business which would comply with licensing conditions. However, this panel is of the view that granting this application would be a breach of Condition 24 of the licence.

We note that Condition 13 on the current licence in our view is being breached now; proof being the name on the very recent invoices submitted, which have Mr Govtepe’s name on them.

Paragraph 1.1.6 of the Licensing Guidance is clear to this panel. Representations made on this point by the applicant were not persuasive on the meaning of “immediate family”.

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

529

NEW HERTFORD FOOD STORE LIMITED, 236 HERTFORD ROAD, ENFIELD EN3 5BL (REPORT NO. 221)

RECEIVED the application made by the Licensing Authority for a review of the Premises Licence held by Enfield Food Store Limited (previously Mr Deniz Altun) at the premises known as and situated at Hertford Food Centre, 236 Hertford Road, Enfield, EN3 5BL.

LICENSING SUB-COMMITTEE - 20.4.2016

NOTED that this application was discussed at the same time as the application to transfer a premises licence at the same premises (see Minute 528 above).

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 listened to the evidence from all parties concerned and giving due consideration we have resolved to revoke this licence.

The licensing history of these premises and the family involvement we believe breaches the prevention of crime and disorder licensing objective.

Conditions have been broken on several occasions, and the amounts and times contraband has been found on the premises shows a history of disregard of this licensing objective.”

3. The Licensing Sub-Committee resolved to revoke the licence.

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LICENSING SUB-COMMITTEE - 27.4.2016

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 27 APRIL 2016**

COUNCILLORS

PRESENT (Chair) Chris Bond, Derek Levy and Dogan Delman

ABSENT

OFFICERS: Ellie Green (Principal Licensing Officer), Charlotte Palmer (Licensing Enforcement Officer), PC Martyn Fisher (Metropolitan Police Licensing Officer), Dina Boodhun (Legal Services Representative), Jane Creer (Democratic Services)

Also Attending: Mr Ali Serbet (Premises Licence Holder & Designated Premises Supervisor)
Solicitor and 1 further representative on behalf of Euro Express

551

WELCOME AND APOLOGIES FOR ABSENCE

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

552

DECLARATION OF INTERESTS

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

553

EURO EXPRESS, 212-214 CHASE SIDE, ENFIELD EN2 0QX (REPORT NO. 233)

RECEIVED the application made by the Licensing Authority for a review of the Premises Licence held by Mr Ali Serbet at the premises known as and situated at Euro Express, 212-214 Chase Side, Enfield, EN2 0QX.

NOTED

1. The introductory statement of Ellie Green, Principal Licensing Officer, including:
 - a. This was an application to review a premises licence, brought by the Licensing Authority.
 - b. This premises licence had been in force since 2005. Mr Ali Serbet had been the premises licence holder (PLH) since August 2015 following a transfer application.

LICENSING SUB-COMMITTEE - 27.4.2016

- c. The business was licensed as a 24 hour operation, with sale of alcohol permitted from 08:00 to 23:00 Monday to Saturday and 10:00 to 22:30 Sunday.
 - d. On 18/3/16 the Licensing Authority made the application for review of the licence. The authority was seeking revocation of the licence based on the prevention of crime and disorder licensing objective.
 - e. A history of the premises was set out in Annex 3, which included details in respect of non duty paid products, selling after hours, breaches of conditions, and trading without an accurate plan.
 - f. Mr Serbet was notified of the review on 18/3/16: a copy of the notification letter was sent to his home address and a copy was hand delivered to the shop.
 - g. On 11/4/16 the agent was provided with a copy of the Licensing Authority information and the Police representation, and was notified of the hearing date. On 18/4/16 a copy of the hearing agenda was provided.
 - h. Since 19/4/16, officers had been dealing with a solicitor and a barrister acting on behalf of the PLH. Today, Mr Serbet was being represented by a third solicitor: Ms Victoria Ibe. It was understood that she would like to make an application for an adjournment of the hearing.
2. The statement of Ms Victoria Ibe of Adel Jibs & Co Solicitors, representing the PLH, including:
- a. She was instructed by Mr Serbet, the PLH.
 - b. She was instructed yesterday and felt it would be in the interest of just and fair play to have time to look at all the paperwork and points raised by officers. She appealed for more time to get to know the case and to speak to her client and to advise him what was in his best interest in respect of the allegations.
 - c. In response to queries raised by the Chair that as the third representative instructed by the applicant and the possibility this was a delaying tactic, Ms Ibe acknowledged the concern but stressed that she needed to receive full instructions and give advice accordingly.
 - d. In response to concerns raised by Councillor Levy that a delay could lead to more breaches of conditions happening and whether the possibility of surrendering the licence had been considered, it was confirmed that her client had been asked to give consideration to surrendering the licence, but it was not believed that was in his best interest. She acknowledged the need to protect public interest, and that the PLH has considered surrender or transfer of the licence to someone else.
3. RESOLVED 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.

LICENSING SUB-COMMITTEE - 27.4.2016

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

The Chair confirmed that the Panel had discussed the request to adjourn this hearing, but did not believe that a delay would be in the public interest.

The Licensing Sub Committee resolved that the hearing would proceed.

4. The introductory statement of Charlotte Palmer, Licensing Enforcement Officer, on behalf of the Licensing Authority, including:
 - a. This application was for revocation of the premises licence.
 - b. The review application was primarily based on the prevention of crime and disorder licensing objective.
 - c. Officers started investigating the premises following complaints received from local residents, and Annex 3 set out information regarding officer visits and observations made in July, August and September 2015 and February 2016.
 - d. During test purchase visits, officers witnessed a number of people attempting to purchase alcohol at the premises after hours and expressing surprise when they were told that staff could not sell alcohol after 23:00. The PLH and DPS were invited in for formal interview.
 - e. Copies of advisory letters sent for the attention of the owner and DPS were included in the agenda pack in respect of underage alcohol sales, and sale of single cigarettes to persons under eighteen.
 - f. In August 2015 PC Fisher reported five conditions being breached. In February 2016 the same five conditions were found to be breached.
 - g. The premises plan on the licence was not accurate. This was first raised in September 2015, but an up-to-date plan had still not been submitted. As the plan formed part of the licence it must legally be accurate.
 - h. On 19/2/16 a seizure was made of 192 packets of cigarettes, 89 packets of rolling tobacco, and nine bottles of vodka with foreign labelling, all non duty paid. Secretary of State advice was that where reviews arose in respect of such criminal activities, it was expected that revocation of the licence – even in the first instance – should be seriously considered.
 - i. At no point during investigations, had officers seen the PLH or DPS at the premises and there was a lack of confidence about the control over activities taking place.
 - j. Due to the number of difficulties at this premises, officers considered it would be appropriate to revoke the licence.
5. Charlotte Palmer responded to questions as follows:
 - a. In response to Councillor Levy's query whether officers had seen or asked for copies of receipts for goods, it was advised that it was not a condition on the licence that invoices should be made available so they were not checked. She did not recall that receipts were voluntarily offered at any point to authenticate the sources of goods.

LICENSING SUB-COMMITTEE - 27.4.2016

- b. In response to queries regarding underage sales, it was confirmed that officers had attempted test purchases but alcohol had not been sold. At least two complaints had been received about the issue, but the premises had not sold to the authority's underage volunteers.
- c. In response to queries about explanations given at the time about non duty paid goods, Charlotte Palmer confirmed that when she noticed the non duty paid cigarettes at the counter on 19/2/16 the manager claimed that they were his, but behind the counter she had then found piles of cigarettes piled up by brand on shelves under the counter as if ready to sell.
- d. In response to further queries it was confirmed that the Licensing Authority had not tried test purchases, but she had happened to go behind the counter, been conscious the manager covered something with a bag and found that was cigarettes, and then discovered the other tobacco products behind the counter. It became clear all those products were not his personal supply. There were also non duty paid bottles of vodka under the counter.
- e. In response to Members' queries about the building of an extension to the premises, Licensing officers had been given no information from the premises in respect to updating the licence. It was understood that a single storey extension and a condenser unit on the roof to the rear of the premises had been carried out without planning permission and that the PLH lost an appeal against an enforcement notice issued by Enfield Council. The plan on the premises licence was inaccurate as a door had been moved, the counter was in a different place, and the shop had a different layout. It was confirmed that there had been no communication with the Licensing Team by the PLH regarding the matter. This issue had led to a further lack of confidence in those running the premises. It was also confirmed that as the plan on the licence was inaccurate, the licence was illegal.
- f. In response to the Chair's queries regarding the cigarettes discovered on the counter and indications that they were being sold singly, it was advised that officers normally gave shop staff the benefit of the doubt if told cigarettes were for their personal use, but given the intelligence received regarding this premises, these cigarettes were seized.
6. The statement of Ms Victoria Ibe, Adel Jibs & Co Solicitors, representing the PLH, including:
- a. She was the second party to represent the PLH. The first representative was a licensing agent.
 - b. Architects were working with the local authority on the building matter. There was planning permission for an extension, but there was another part added to the back that was contentious.
 - c. Her client had instructed her to let the panel know that he had received all notification about issues raised. He accepted that he could have supervised more and been at the premises more often, but he has a back injury and went to Turkey for treatment. He was angry about what had happened while he was away. He had not been aware of the cigarettes

LICENSING SUB-COMMITTEE - 27.4.2016

and vodka being sold. When he came to know, he suspended the manager. Mr Serbet as PLH accepted he had ultimate responsibility. He was here today to assure the sub-committee that he was taking steps to be compliant and that it would not happen again. He had not been aware of or been a participant to what occurred when officers visited the shop.

d. The staff member who was involved with the cigarettes and vodka had been trusted by Mr Serbet and they had worked with him for five years, so this had been a breach of trust. To hold Mr Serbet responsible for the actions of others who were trying to rip off his business was unfair.

e. Mr Serbet was prepared to transfer the licence to someone else. It was not his intention to commit breaches. He was not aware, but he took responsibility for not supervising.

f. Mr Serbet had frequent training for staff. Systems had been put in place for regular training and keeping of records of training, and keeping of records of any attempted under age purchase. He had tried to introduce an IT system to control the till that had a time alert, but that did not work. The programme for a system that would cut off sale of alcohol at 23:00 was unfortunately unable to be installed, but an alternative programme was installed (EPO).

g. Mr Serbet had also been asked to do something about language barriers, which had contributed to problems.

h. It was understood that the DPS has to be on the premises when alcohol was being sold.

i. Mr Serbet was willing to work with the Licensing Authority to ensure that breaches did not happen again.

j. Mr Serbet would be willing to surrender or transfer the licence rather than lose his business and he asked the panel to give consideration to that.

7. Ms Ibes and Mr Serbet responded to questions as follows:

a. With reference to the five licence breaches found in August 2015 and the same breaches in February 2016, and that Mr Serbet was unaware, the Chair asked if greater assurance could be provided. Ms Ibes advised that it had not been implied that Mr Serbet did not know about the breaches in February. Due to his poor health Mr Serbet had not been at the premises as often as he might.

b. In response to the Chair's further queries that if Mr Serbet knew he would be unable to work at the shop for a long period he should have made proper provision, it was advised that there had been two people with personal licences who helped him run the business. The person found selling alcohol after hours had been sacked and the other suspended, so all those who committed the licence breaches were no longer there. He would invite officers to make another visit.

c. Councillor Levy asked why the plan, which had been advised as inaccurate seven months ago, had still not been correctly submitted to the Licensing Authority. It was advised that once the matters were brought to the PLH's attention they started working with the local authority to rectify

LICENSING SUB-COMMITTEE - 27.4.2016

them, but that was still ongoing. It was acknowledged that the plan on the licence was currently inaccurate.

d. Councillor Levy asked about the staff member who followed the officer out of the shop on 12/9/15 to sell alcohol after hours. It was advised that person was not a member of staff, but was someone who visits regularly and has friends there. The actual staff member had to go off quickly on a personal matter and had asked that person to 'hold the fort' while he rushed off.

e. In response to further queries, it was advised that the PLH attends the premises three or four times a week. Unfortunately he was not there at the times of incidents recorded, but there were other employees with a personal licence.

f. Councillor Levy asked for an explanation of the customers' expectation that alcohol could be sold after hours. It was advised that it would be unfair to blame a shop for that, and people could ask. The PLH's representative felt it was unfortunate to draw a conclusion that customers' expectation could only come about if the premises was consistently selling after hours. It was acknowledged that there had been four after hours sales, as detailed by officers. Awareness of Home Office guidance was also understood. The employees involved in the four after hours sales had been sacked and suspended, and training had been given to workers. In respect of a history of underage sales, this PLH did not own the shop six years ago and was not responsible, and refuted allegations on underage selling.

g. In response to the Chair's queries about the planning application, Ms Ibes advised that she did not have a copy of the application and hence her reason for asking for an adjournment so that she could look at all issues and advise appropriately, but she had only been confirmed as the PLH's representative at 4pm yesterday.

h. Charlotte Palmer referred to mention made that Mr Serbet attended the premises three to four times a week, and asked at what hours he attends. It was advised that he 'comes and goes'. Mr Serbet stated that he attended first thing in the morning or sometimes in the afternoon: it would vary as he needed to check all stocks and deliveries – that was the main reason he would come and go – he could not give definite times.

i. In response to Charlotte Palmer's further queries why it would not be considered more appropriate for the PLH and DPS to be at the premises at closing time, given the concerns relating after hours sales, to ensure staff did not sell alcohol after 23:00, Mr Serbet stated that he did keep telling all staff they should not be selling alcohol after 23:00, but he could not control all staff: this was the reason he put the EPO system in, to avoid future complications.

j. In response to further queries regarding awareness of guidance that the DPS should have day to day control over sale of alcohol, Mr Serbet advised that it was because people had worked for him for four or five years he gave them permission to take control on his behalf. He did get training from ADA group every three months. He did not know how after

LICENSING SUB-COMMITTEE - 27.4.2016

hours sales happened as he trusted the person who managed on his behalf.

k. Charlotte Palmer asked whether Mr Serbet owned any other business of a similar nature. Mr Serbet stated that he owned one other business, in Bush Hill Park, Enfield. That business was on sale at the moment and its sale was almost complete. He should not be working at all due to his health condition.

l. When asked, Mr Serbet provided the names of the other licence holders employed. It was confirmed that Umit Goven was there when officers seized non duty paid goods. He ran the premises in Mr Serbet's absence. He was one of the people who had sold after hours and he was suspended in the first place and was not employed any more. There were two personal licence holders working there now, who were needed as someone had to be there to sell the tobacco and alcohol.

m. Councillor Delman queried when Mr Serbet had seen the notices of alleged offences. It was confirmed that he got the notice when he came back from Turkey after going there for treatment for his back, and took action to remedy issues at the shop. Ms Ibes stated that her client was the victim. Ultimately, Mr Serbet had responsibility but it was not his intention to commit any breaches and he was not part of it – he would not take such risks.

n. PC Fisher asked if Mr Serbet felt he was managing the business and the licence effectively since he had held it. Mr Serbet stated that due to his health condition he had to attend hospital so he was not managing regularly, but it was not his fault: he had put people in place and he was a victim of their actions.

o. In response to PC Fisher's further queries, Mr Serbet advised that he knew his health was not good and he had plans to sell the business on in the future. At the moment he was more concerned with his health than the business. Ms Ibes confirmed that Mr Serbet would be happy to transfer the licence to someone else because as had been said, he should not have held the licence if he was not able to be there, and he should transfer the management to someone better.

p. On his behalf, Ms Ibes advised that Mr Serbet wished to reply further on previous comments about people's expectations of late alcohol sales: this premises was on a high street on a prominent corner and people came in and asked for items like we all do, who were passers by. In response to Councillor Levy's query with reference to the evidence of active expectations of customers, it was stated that it was unfair to hold the shop responsible for public expectations.

q. Ms Ibes wished to add that Mr Serbet was also happy to close the shop for all business at 23:00 every day until the Licensing Authority was satisfied that all breaches had been rectified and they were complying with all conditions on the licence.

8. The summary statement of Ellie Green, Principal Licensing Officer, including:

LICENSING SUB-COMMITTEE - 27.4.2016

- a. She clarified that there had been no variation application received by the Licensing Authority in respect of the plan. Officers' advice had been to make a variation to amend the plan to reflect the layout, then make a further variation when the works were done. There were two processes which were separate. Licensing officers had no sight of anything received by Planning.
 - b. It was for Licensing Sub-Committee to consider the application and take such steps as it considers appropriate for the promotion of the licensing objectives.
 - c. Relevant policies and guidance were listed in paragraph 5 of the report, and those particularly related to reviewing a licence were highlighted.
9. The closing statement of Charlotte Palmer, Licensing Enforcement Officer, to confirm the significant history of illegal activities at the premises, including licensing breaches, non duty paid products, and an inaccurate plan, which all undermined confidence in the business. Reducing the shop hours would not deal with the non duty paid goods or other licence breaches. There had been nothing to stop the PLH from closing the premises at 23:00 voluntarily. The Licensing Authority had no choice but to continue to recommend revocation of the licence.
10. The closing statement of PC Martyn Fisher, Metropolitan Police Service, to confirm that Police were aware of a number of after hours sales and non duty paid goods found, as well as a number of breaches of conditions, and despite the interventions of himself and licensing enforcement officers these had continued. It was apparent that the PLH and DPS was incapable or unwilling to operate the licence as it stands; and he supported revocation.
11. The closing statement of Ms Victoria Ibe, Adel Jibs & Co Solicitors, representing the PLH, including:
- a. She would appeal to the panel to consider not revoking the licence because it would interfere with Mr Serbet's business and livelihood. He had suspended and sacked employees who had acted wrongly. He was working to put systems in place to rectify breaches.
 - b. Mr Serbet was willing to transfer the licence to someone else.
 - c. Mr Serbet was happy for modifications to be made to the licence and for him to be removed as DPS.
 - d. Mr Serbet would comply with a temporary suspension of the licence until the Licensing Authority was satisfied that the premises was being run by someone capable.
 - e. To revoke the licence would be disproportionate to the situation. Mr Serbet was a victim, although ultimately responsible for the licence, and asked for leniency. He was willing to work with the Licensing Authority on any conditions. He takes responsibility that he should have been at the premises more. He was doing all he could now to ensure compliance with the licence, and would be happy for officers to visit and note the systems in place.

LICENSING SUB-COMMITTEE - 27.4.2016

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 panel has listened to all parties concerned and the views expressed.

We resolve to revoke the licence to safeguard the residents of Enfield in line with the aims and objectives of Enfield’s Licensing Policy in particular the prevention of crime and disorder.

In their own admission the present licence holder is incapable of operating the licence effectively. The breaches that have occurred have contravened national guidance and in particular paragraphs 11.27 and 11.28 of Statutory guidance March 2015.”

3. The Licensing Sub-Committee resolved to revoke the licence.

554

MINUTES OF PREVIOUS MEETINGS

RECEIVED the minutes of the meetings held on Wednesday 16 March 2016 and Wednesday 6 April 2016.

AGREED that the minutes of the meetings held on Wednesday 16 March 2016 and Wednesday 6 April 2016 be confirmed and signed as a correct record.

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