

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 26 JULY 2023**

COUNCILLORS

PRESENT Mahym Bedekova (Chair), George Savva MBE, and Edward Smith.

OFFICERS: Ellie Green (Licensing Team Manager), Charlotte Palmer (Senior Licensing Enforcement Officer), Balbinder Kaur (Legal Adviser), and Harry Blake-Herbert (Governance Officer).

Also Attending: Robert Sutherland (Agent representing Ms Nuray Ozdemir (Maxi Food & Wine PLH and DPS)), Mahir Aydin (Atlas Licensing Agency), Jade Haynes (Police Sargent Licensing), Dani Jones (Police Sargent Licensing), Mr Baris Kisa (Southgate Food Centre PLH and DPS), David Tuitt (Representing Mr Baris Kisa), and officers observing.

1 WELCOME AND APOLOGIES

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

2 DECLARATION OF INTEREST

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

3 MINUTES OF PREVIOUS MEETING

AGREED the minutes of the meeting held on Wednesday 3 May 2023 as a correct record.

4 MAXI FOOD & WINE - 38 CHASE SIDE, SOUTHGATE, N14 5PA

On 30 May 2023 an application was made by Enfield Council's Licensing Authority for the review of Premises Licence LN/200600265, at the premises known as and situated at Maxi Food & Wine, 38 Chase Side, Southgate, N14 5PA.

NOTED:

1. Ellie Green reminded the committee that the licence holder had previously requested an adjournment of the hearing, which was refused, and said that Mr Sutherland now wished to make a further request for an adjournment. Mr Sutherland expressed that:

LICENSING SUB-COMMITTEE - 26.7.2023

- a. The reason they had requested an adjournment was because he did not feel the circumstances/ situation had been set out/ explained as clearly as they could have been in the emails sent to the Licensing Team Manager.
- b. He conveyed that Ms Ozdemir was not present because she was in Turkey at her parents' memorial. Mr Sutherland said that Ms Ozdemir had also been suffering from ill health, and was due to be operated on the day of the hearing. He informed the committee that this had been postponed until August, as the recovery period would have prevented her from attending the ceremony, and that she would not be returning to the UK until early September.
- c. Mr Sutherland expressed that Ms Ozdemir wished to be in attendance for the hearing, as she did not accept a number of the allegations that had been made, and wanted to address the committee in respect of these. One such suggestion mentioned was that Ms Ozdemir was not often at the premises; she was said to refute this, and instead felt that she was there for long hours on a regular basis.
- d. Mr Sutherland reiterated that for the reasons he had outlined, they wished for the hearing to be adjourned in the interest of justice, to give Mr Sutherland the opportunity to be present, and he offered to show members of the committee a photo of the memorial if they would like to see it as evidence.

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

- a. The Chair offered her condolences to Mr Sutherlands client, and asked Ellie Green to confirm what reasons for an adjournment she had received in the emails.
- b. Ellie Green responded that she had received an email from Mr Kemal Altun at Happy Food Southgate, on 13 July, which only mentioned that Ms Ozdemir was going to Turkey for an operation. The email had been submitted in a template form, with details not having been inserted. Having gone back to them, Ellie said that the details came back on 14 July, with the review being submitted on 30/31 May, and notice of the review having been sent on 29 June, with hearings always taking place within two months of the notice being submitted.
- c. Cllr Savva extended his condolences to the family, he said that as Ellie Green had explained, his client had been aware of the meeting for many weeks, and that in his experience it takes a long period of time for the foundations at such a memorial to settle, and they would have been aware of this in advance. Cllr Savva asked for advice from legal as to the appropriateness of an adjournment.
- d. The Legal Adviser to the committee replied that from a legal perspective the requirement for an adjournment only arises if it is in the public interest, and that from a legal position, the request which had been received was not in the public interest. She offered her condolences to the family for their loss, and appreciated what they

LICENSING SUB-COMMITTEE - 26.7.2023

were going through. The Legal Adviser to the committee highlighted that the review notice was sent on 31 May, with notice of the hearing given of 29 June, thus the family would have been aware of circumstances regarding their parents' memorial, yet none of this information was provided in the original request, and that in any event it would have no bearing, as a representative could appear on their behalf. She clarified that this was the first hearing in relation to this application, and that another application regarding the same premises had been dealt with in January.

- e. Mr Sutherland conveyed that the application had not been adjourned previously, and that while he was capable of representing his client, he felt it was in the public interest that the hearing be adjourned so that Ms Ozdemir could be present and address the committee herself.
- f. The Chair expressed that she was aware of the details regarding the request for an adjournment, and that following advice from the legal adviser, her decision was that the hearing go ahead.

3. The Introduction by Ellie Green, Licensing Team Manager, including:

- a. The premises, Maxi Food & Wine, located at 38 Chase Side, Southgate, N14 5PA, has previously had a number of different: names, Premises Licence Holders (PLH), and Designated Premises Supervisors (DPS).
- b. On 26 October 2022, Trading Standards submitted a review of premises licence LN/200600265. The review application was submitted as Trading Standards believed that Mrs Aylin Yengin (the then PLH and DPS) was not promoting the prevention of crime and disorder licensing objective. A wide range of unlawful activity, as outlined in the agenda/report pack, had taken place whilst Mrs Aylin Yengin had been the premises licence holder, despite advice to prevent such activity having been provided by the Council previously. The Licensing Sub-Committee determined the review application at a hearing on 4 January 2023, and the decision was made to suspend the licence for 3 months, and to modify the conditions.
- c. On Monday 12 December 2022, a transfer and vary DPS application was submitted to the Licensing Team, naming Ms Nuray Ozdemir as both the new premises licence holder and DPS. It is known that Ms Ozdemir is the sister of Mr Kemal Altun, who is the husband of Mrs Aylin Yengin. Later, on 4 January 2023, the transfer and vary DPS application which were not subject to any representations, were granted by officers in accordance with delegated powers, naming Ms Nuray Ozdemir as the PLH and the DPS.
- d. At the time the report was prepared, the premises licence LN/200600265 annual fee had been overdue since 27 June 2023, despite a reminder being sent on 1 May 2023. In accordance with Section 55A of the Licensing Act 2003, there was a 21-day grace period. If the annual fee, is still not paid, then a notice of suspension would be issued and then the licence suspended at least two working

LICENSING SUB-COMMITTEE - 26.7.2023

days after this. Suspension of premises licences are only lifted once all annual fee payments are up to date.

- e. The current premises licence LN/200600265 permits: The hours the premises are open to the public: 06:30 to 23:00 daily. Supply of alcohol (off supplies only): 06:30 to 23:00 daily.
- f. Enfield Licensing Team were made aware of a premises licence review in the London Borough of Haringey, with links to/ between persons at Maxxi Food & Wine 42 Topsfield Parade, London, N8 (Haringey) and this premises, Maxi Food & Wine, 38 Chase Side. On 30 May 2023, the Licensing Sub-Committee in Haringey resolved to revoke the premises licence of Maxxi Food & Wine 42 Topsfield Parade, London, N8.
- g. On 30 May 2023 an application was made by Enfield Council's Licensing Authority for the review of Premises Licence LN/200600265.
- h. The review application was submitted as the Licensing Authority believes all four of the licensing objectives are being undermined, as a variety of unlawful activity is taking place at/from the premises, as outlined in the report pack.
- i. The review application seeks to revoke the premises licence in its entirety. The review application was advertised in accordance with the requirements of the Licensing Act 2003. Each of the Responsible Authorities were consulted in respect of the application.
- j. Representations were made by/ received from the Metropolitan Police, and a Southgate Ward Councillor who could not be present and sent their apologies.
- k. A modification to Condition 16 had been proposed as follows, through this review process. Current Condition 16: No Nitrous oxide (laughing gas) should be stored or sold to consumers. Seeks amending to: Nitrous oxide (laughing gas) shall not be stored or sold to consumers from the premises, or any vehicles or storerooms associated with the premises. Ms Ozdemir had not indicated any indication to this amended condition.
- l. It was noted that the plan of the premises attached in annex B did not relate to Maxi Food & Wine, but instead a different premises.
- m. Those in attendance were introduced, the order of representations was outlined, and it was confirmed that all parties would have a limit of 5 minutes to speak.

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

- a. Cllr Smith asked if the premises was currently trading following its licence suspension.
- b. Ellie Green responded that the suspension had been lifted on 26 April, having come into effect 21 days after the hearing in January, for three months, which then lifted automatically, and that the licence suspension only related to the sale of alcohol.
- c. The Chair queried whether the premises annual licence fees had been paid.

LICENSING SUB-COMMITTEE - 26.7.2023

- d. Ellie Green replied that having checked the annual fee had not been paid, and that the 21 days were up, but that as she had been on leave, she had not yet sent the notice of suspension, but could send a notice, as the initial reminder letter was sent on 1 May 2023 and the annual fee licence period ended on 27 June 2023.

5. Charlotte Palmer, Senior Licensing Enforcement Officer, made the following statement:

- a. A large number of complaints had been received alleging that the premises sells illegal tobacco and vapes, and sells nitrous oxide recklessly to members of the public including children. The nitrous oxide is alleged to be being stored in vans outside the premises; the nitrous oxide was said to be resulting in an increase in litter and antisocial behaviour in the area, and its sale undermines all four of the licensing objectives.
- b. On 16 February 2023, trading standards officers visited the premises, seizing a large quantity of vapes, tobacco and nitrous oxide. During this search, staff working at the premises lied to officers, saying that there was no more nitrous oxide in the premises, but more was later found. Whilst in the premises, a member of staff phoned the owner, who officers spoke to, but this was Kemal Altun, not the PLH or DPS. The manager, Mr Ahmet Karagoz refused to sign the seizure notice.
- c. Condition 16 preventing the sale of nitrous oxide was added to the licence following a premises licence review in January 2023, but did not come into force until 24 April.
- d. A test purchase in May 2023 resulted in the sale of nitrous oxide without any questions being asked. This constituted a breach of the licence condition, and the licensing authority is of the opinion that this also constituted a reckless sale, with no due diligence checks having been carried out. This sale was made just two weeks after the previous suspension was lifted.
- e. An inspection a month after the suspension was lifted showed failure to comply with other licence conditions, some of which were still not being complied with when this review application was hand delivered on 30 May.
- f. On 30 June, an out of hours licensing enforcement team observed the premises for just under an hour, and gave a conservative estimate that 30-40 people entered the premises and came out with carrier bags which contained items matching the shape and size of nitrous oxide cannisters, which could sometimes be seen. People were seen inhaling from balloons outside the premises, and in cars directly outside the premises; officers believe this may have impacted some drivers' ability to drive safely. These observations took place from 23:18 to 00:13, after the premises licensed hours. The licensing authority requested a copy of the CCTV footage from the premises be provided by 17 July, in line with condition 18 of the premises licence. The request was emailed to the premises licence holder and their agent; as the footage was not

LICENSING SUB-COMMITTEE - 26.7.2023

received, a second request was made on 18 July, and the footage has still not been provided.

- g. The licensing authority does not believe that the PLH who is also the DPS works at or has control of the premises, the member of staff working at the premises on 22 May said that they had worked there for 3 months and never met them. The licensing authority believes that the premises is controlled by Mr Kemal Altun, who has a long history of wrongdoing; that he knows he will not be granted a licence in his own name, and is applying for them through the names of family members, but is continuing to make the decisions.
- h. Due to the premises having a detrimental impact on the local community and all four of the licensing objectives being undermined, the licensing authority recommends the licence be revoked. If the committee were not minded to do so the licensing authority would recommend the nitrous oxide condition be amended as shown on page 14 of the report.

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

- a. Mr Sutherland expressed that the licence holder did not accept what was being said.
- b. The Chair responded that the licence holder had not even submitted a written statement/ representations explaining the situation or outlining her opinions.

7. Jade Haynes, Police Sargent Licensing, made the following statement:

- a. The Police Licensing team were made aware that the Enfield Licensing Authority were seeking a review of the premises, on the grounds that it had been selling nitrous oxide, despite a condition being added to the licence following a premises licence review hearing on 4 January, stating that no nitrous oxide should be stored or sold to consumers.
- b. It is further believed that the premises has been negligent in the sale of nitrous oxide, failing to exercise due diligence and being reckless in its sale of nitrous oxide, and knew or ought to have known that the nitrous oxide was being purchased to be used for the purpose of intoxication by inhaling.
- c. It is also suggested that the PLH and DPS, Ms Ozdemir, does not have overall supervision of the day to day running of the business, and is fulfilling this role in name only.
- d. The police support the local authority in this review, in that they feel all four licensing objectives are not being upheld.
- e. It is understood that these premises, due to their past activities and failings of the then PLH and DPS, Aylin Yengin, to uphold the prevention of crime objectives, were reviewed by the LBE trading standards, this review having been submitted on 26 October. While awaiting the review hearing scheduled for 4 January 2023, a premises licence transfer and DPS application, were submitted on 12 December

LICENSING SUB-COMMITTEE - 26.7.2023

2022. The review took place on 4 January and the decision notice shows the premises licence was suspended for 3 months, and additional conditions had been added to prevent the sale of nitrous oxide products once the suspension expired.

- f. Since the review on 4 January, 11 complaints have been received to the LBE from members of the public and trading standards alleging incidents of littering, anti-social behaviour, and nitrous oxide canisters continuing to be sold from the premises. Photographic evidence had been provided showing staff working at the premises including, Mr Ahmet Karagoz, unloading canisters.
- g. On 22 May 2023, members of the Police Licensing Team and Charlotte Palmer carried out a full licensing check of the premises and found the following non-compliant licensing conditions: 2, 9, 14, 17, 18 and 19.
- h. Mr Ahmet Karagoz was the interim DPS and is believed to be running another Maxxi Wine premises situated at 42, Topsfield Parade, N8, pending a DPS and PLH change from Ms Aylin Yengin. These premises have also been reviewed for a number of breaches of the licensing act, failing to uphold the licensing objectives and the prevention of crime and disorder, including the sale of nitrous oxide. The sub-committee met on 12 June 2023, and Haringey licensing sub-committee determined/ resolved to revoke the licence. The Police are of the view that Maxi Food & Wine is a family run business with Mr Ahmet Karagoz playing a leading role in the operations/ running of the businesses located at Topsfield Parade and Chase Side, and that these unlawful business practices are not independent. Mr Karagoz had knowledge of unlawful activity at Chase Side premises, acting as a manager, and taking part in lying to officers, leaving officers with no confidence/ trust in staff to uphold the licensing objectives.

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

- a. Cllr Smith asked what the relationship between Mr Karagoz and Mr Altun was.
- b. Police representatives responded that they were unsure of the relationship, but that Mr Karagoz was involved with the family in both premises, and that there was photographic evidence of him unloading goods into both premises.
- c. Charlotte Palmer queried if the Police had been called to the premises recently.
- d. Police representatives replied that a 999 call had been received regarding the premises at 05:44 on 23 July, which had become a regular occurrence, with 3 males fighting outside the premises. This was then taken inside, with 2 men running off and 1 man being arrested, and still under investigation. CCTV was requested at the time, but a copy could not be provided.
- e. Cllr Savva asked if the video had since been provided, and if the premises had worked with officers.

LICENSING SUB-COMMITTEE - 26.7.2023

- f. Police representatives responded that the 999 response officers who attended saw the video and made notes off the screen, but a copy of the video had not been received.
- g. Cllr Savva enquired if those involved were intoxicated.
- h. Police representatives replied that this could not be confirmed, but that it was in the early hours of the morning.
- i. Ellie Green asked if there had been any other ASB incidents since the police representation.
- j. Police representatives responded that ward officers had seen nitrous oxide cannisters on the street, and felt the premises were still selling it, but that proving this was difficult. They emphasised that it may not be solely the responsibility of this premises, but that it did seem to be contributing. Another incident at a local pub, which took place a few weeks ago, was believed to involve people taking nitrous oxide and spilling into the pub, with 999 calls in the area becoming frequent.
- k. Mr Sutherland queried whether there was a report documenting the incident mentioned as occurring on 23 July at 05:44, and whether it had been provided before the meeting.
- l. Police representatives confirmed that there was a report, which they could provide to Mr Sutherland, and that it had not been provided to the committee previously due to the fact that the incident had only taken place 3 days ago.
- m. Mr Sutherland asked where the incident started, suggested that the premises was a victim of the altercation. He made clear that there was no requirement for the premises to be closed at this time, and no evidence that alcohol had been sold.
- n. Police representatives replied that the incident started outside the premises; that they could not comment if the shop was a victim; if those involved had been into the shop before or were involved with it; and that the shop commonly attracted crime, disorder and anti-social behaviour. The officer said that there was no evidence that alcohol had been sold, that they were allowed to be open but that it was attracting anti-social behaviour, crime and disorder. The Chair followed up to ask how the premises was open at 05:44am when the opening time was set out as 06:30am. Ellie Green responded that these opening hours were not enforceable/ did not have to be complied with unless a licensable activity was taking place.
- o. The Chair enquired whether the police had requested CCTV.
- p. Police representatives responded that officers who arrived on seen at the time requested it, that they saw the footage but that no copy was provided.
- q. Mr Sutherland asked for confirmation that no written request for CCTV had been made. He said that the condition for providing such footage was subject to the Data Protection Act; that the shop were victims and had not acted unreasonably; that staff had shown the footage to the police, and he was sure the CCTV would be provided within a reasonable time frame.

LICENSING SUB-COMMITTEE - 26.7.2023

- r. Police representatives replied that it had not, that officers who attended had requested the footage and that it was a premises licensing condition that this be provided. They detailed how the licence states that CCTV footage should be retained for 31 days, that someone at the premises should be able to operate the system and provide copies when lawfully requested. The legal adviser added that the police had a right to request the data/CCTV where they consider criminal activity has taken place.
- s. Cllr Savva queried what charges had been brought against the individual who was arrested.
- t. Police representatives responded that the individual had been bailed, had gone to hospital due to some injuries following the fight, and was still under investigation.
- u. Mr Sutherland enquired about incidents similar to that which took place on 23 July occurring on a regular basis, and asked if there were any specific incidents which could be linked to the shop.
- v. Police representatives replied that ASB, crime and disorder in general in the area was taking place on a regular basis, that the premises was not solely to blame, that they did not have any specific examples relating to the shop, but that it was contributing to the issues.
- w. Mr Sutherland conveyed that the premises had said they were not selling nitrous oxide and had not been doing so for some time, and asked if there were any incidents beyond the test purchase which showed nitrous oxide was being sold. Mr Sutherland also expressed that nitrous oxide was being sold at other premises and vehicles in the area.
- x. Police representatives responded that the test purchase had proven the premises was still selling nitrous oxide, that there was not another confirmed example of it being sold, but that there was evidence of it in stock, and customers were seen leaving with bags resembling the same shape and size of the products in question. Police representatives replied that they were aware of nitrous oxide being sold at other premises, that in their personal experience they had not come across nitrous oxide being sold from vehicles. They said that vehicles were taking nitrous oxide to the premises in question, and that regardless of what other premises were doing, nitrous oxide was being sold and stored at this premises.
- y. Cllr Smith asked how much nitrous oxide had been found at the premises during the inspection.
- z. Charlotte Palmer directed members to page 76 of the report, to see what goods were seized and in what quantity.

9. Mr Sutherland, agent representing Ms Nuray Ozdemir, made the following statement:

- a. The premises was a family business, and there was a distinction to be made between ownership of the business and operation of the premises, and that while Mr Altun may be involved, Ms Ozdemir was

LICENSING SUB-COMMITTEE - 26.7.2023

very much the owner, and was at the premises on a near daily basis for many hours.

- b. No nitrous oxide was being sold at the premises since the licence was reinstated in April.
- c. The way to ensure nitrous oxide was not sold or stored at the premises was to maintain/ keep the premises licence in place. He said that the law was not in a place everyone agrees on in relation to nitrous oxide, that it is a lawful product to be sold, but that with regards to this premises licence, it was not permitted.
- d. In respect of the rewording of the condition, there were no objections to this.
- e. If the committee felt it was appropriate to suspend the licence, the owners would seek to comply with the terms of the licence.
- f. In respect of the CCTV, he had no doubt this would be provided, and that it was important the details of what was wanted were provided so that this could be achieved.
- g. He felt the way of ensuring the licensing objectives are promoted would be to modify the licence but not take further action at this stage.

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

- a. The Chair asked whether Mr Sutherland had been made aware that the outstanding fees had not been paid; if the premises had changed its name; if the premises were trading out of hours, and if nitrous oxide had been sold to children.
- b. Mr Sutherland responded that he was not aware that the annual fee had not been paid, but that he would ensure this was brought to the attention of the licence holder and resolved. In relation to the name change he said it would have been helpful if these changes have been made, they were brought to the attention of the licensing authority; that this was perhaps not lawfully wrong, but that it was not helpful/ did not give a good impression, and they would check this and get it corrected. In respect of the trading times, he said the store could open outside of the general opening times, as long as licensable activity was not taking place, and accepted that it had a negative impact on the area. Mr Sutherland reiterated that he had been informed/ instructed that nitrous oxide was not being sold, that the challenge 25 system was being operated at the premises, and all staff were trained.
- c. Cllr Savva expressed that Ms Ozdemir had plenty of time to make corrections since the last hearing in January, and that this should have been treated as a warning.
- d. Mr Sutherland agreed with this, he said that his clients had heeded and followed this; that there were inconsistencies between trading standards and the licence holder's version of events, and that nitrous oxide was not being sold at the premises.
- e. The legal adviser queried that a request for CCTV footage had been made by Charlotte Palmer on 30 June, before the 23 July incident, detailed on page 86 and that this had not been provided.

LICENSING SUB-COMMITTEE - 26.7.2023

- f. Mr Sutherland replied that he had no explanation for this.
- g. Charlotte Palmer enquired that in the decision notice at the last review, it says that Atlas Licensing would be carrying out test purchases of the premises, and she asked if they had carried out any nitrous oxide test purchases.
- h. Mr Sutherland explained that they did not have this information to hand, but that if one had been conducted, he probably would be aware of this.
- i. Charlotte Palmer asked why, if no sale of nitrous oxide had been taking place, the manager could be seen in a photo unloading nitrous oxide from a van as seen on page 67.
- j. Mr Sutherland asked when the photo was taken and it was confirmed to have been taken on 22 April, he said that premises would have been operating without a licence on that date, and had no further instructions.
- k. Charlotte Palmer queried what systems were in place to ensure nitrous oxide was not being sold by staff without the owner's knowledge.
- l. Mr Sutherland responded that Ms Ozdemir informed him she was at the premises on an almost daily basis for long hours, had not seen any sales, and had instructed staff that the licence must be complied with; and that behind her presence, he did not know of any additional systems. He was surprised and did not accept that a member of staff had said they did not know Ms Ozdemir.
- m. Charlotte Palmer enquired that she had made two requests for CCTV and had received no response, she asked why this may be the case, and if this would prove whether nitrous oxide had been sold on this date.
- n. Mr Sutherland agreed that if a lawful request for CCTV had been made, it should be provided; that he had not been instructed in relation to this, and that the CCTV would show what was sold.
- o. The Chair asked if the client had made him aware of nitrous oxide being unloaded into the store from a van.
- p. Mr Sutherland replied that his instructions were that the client did not accept this allegation to be the case.

11. The following closing summaries/ points were made:

- a. Ellie Green outlined the options available to members of the committee to make.
- b. Charlotte Palmer expressed that the licensing authority was of the opinion that the premises was recklessly selling nitrous oxide for recreational use and that this undermines all four of the licensing objectives. She highlighted the test purchase and photographic evidence of staff unloading nitrous oxide from a van to the premises. The premises was found to be selling other illicit goods such as unsafe vapes and tobacco by trading standards, which were seized in February, and were found to be breaching licence conditions. At least 15 complaints from at least 11 different sources have been received

LICENSING SUB-COMMITTEE - 26.7.2023

since the last review hearing, which demonstrates the effect this is having on the local area. The licensing authority does not believe that the PLH and named DPS is running the business. Two requests for CCTV have been made following the observations carried out on 30 June, both of which have been ignored; she argued this was likely the case because it would be damning evidence that would back up the allegations. The dangers to health along with all other reasons given left the licensing authority with no choice but to recommend in the strongest terms that the licence be revoked.

- c. The police representatives conveyed that they believed Ahmet Karagoz is involved in the family run Maxi Food & Wine business; that he is not independent in his business practices as illustrated through the evidence provided, relating to two premises, with unlawful activity taking place under his supervision. If allowed to continue trading, the police believe breaches of the licensing act and dubious business practices will continue; previous suspension has not acted as a deterrent, and they therefore asked that the licence be revoked.
- d. Mr Sutherland urged the committee to suspend the licence and modify conditions instead of revoking the licence.

The Chair thanked everyone for their time and adjourned the meeting whilst the committee went away to deliberate. The Panel retired, with the legal adviser and committee administrators, to consider the application further, and then the meeting reconvened in public.

RESOLVED that:

The Licensing Sub-Committee RESOLVED that in order to promote the licensing objectives, the licence be **REVOKED**.

The Chair made the following statement:

“The Licensing Sub-Committee (LSC) having listened to and considered written and oral submissions made by the Licensing Authority, Metropolitan Police, a Southgate Ward Councillor and on behalf of the named Licence Holder in particular the evidence concerning previous activities at the premises including breaches to the licensing conditions and the law. The LSC are of the view that Mr Kemal Altun and/or Mr Ahmet Karagoz are the persons who are running the premises and thus the de facto persons in charge of the business and have been for a number of years. It is clear that the named Premises Licence Holder Ms Nuray Ozdemir is not in attendance at the premises as she does not appear to be known to the staff. The Premises Licence Holder has not been able to demonstrate to the LSC that she has an understanding of the obligations of holding a licence and the licensing objectives of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm or demonstrate that she is able to or would be able to adhere to any licensing conditions imposed on the licence at Annex A (pages 23-28 of the Document

LICENSING SUB-COMMITTEE - 26.7.2023

Pack). Further, given the past history of a failure to adhere to the imposed licensing conditions and the licensing objectives which continued during the suspension of the licence 25 January to 24 April 2023 and more recently during the licence being re-instated the LSC do not consider there is a likelihood of compliance should the licence be permitted to continue to operate.

Accordingly, on balance, the LSC has made the decision to **REVOKE** Premises Licence (LN/200600265) held by Ms Nuray Ozdemir in its entirety.

The LSC has taken into account the statutory guidance and the London Borough of Enfield's Policy Statement in making its decision and has made its decision in promoting all four of the licensing objectives and in particular that of the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm.

It should be noted that **HAPPY FOOD & WINE, PREVIOUSLY KNOWN AS MAXI FOOD & WINE** can continue to operate at the Premises for any unlicensed activities and that there are no limits concerning unlicensed activities.”

The Chair thanked everyone for their time and adjourned the meeting following the completion of item 4 at 12:40, the meeting resumed at 13:30 for item 5.

5 SOUTHGATE FOOD CENTRE - 30-32 CHASE SIDE, LONDON, N14 5PA

On 30 May 2023 an application was made by Enfield Council's Licensing Authority for the review of Premises Licence LN/200501160, at the premises known as and situated at Southgate Food Centre, 30-32 Chase Side, London, N14 5PA.

NOTED:

1. The Introduction by Ellie Green, Licensing Team Manager, including:
 - a. The premises, Southgate Food Centre, located at 30-32 Chase Side, London, N14 5PA, has previously had a number of different: names, Premises Licence Holders (PLH), and Designated Premises Supervisors (DPS).
 - b. On 21 May 2019, a transfer and vary DPS application which were not subject to any representations, was granted by officers in accordance with delegated powers, naming Mr Baris Kisa, as the Premises Licence Holder (PLH), and the DPS.
 - c. On 6 June 2023, Mr Kisa provided up-to-date address details to the Licensing Team, and the premises licence was subsequently amended. The premises has not been subject to any review or formal action under licensing previously.

LICENSING SUB-COMMITTEE - 26.7.2023

- d. The current premises licence LN/200501160 permits: The hours the premises are open to the public: 24 hours daily. Supply of alcohol (off supplies only): 24 hours daily. Late night refreshment (indoors): 23:00 to 05:00 daily.
- e. On 30 May 2023 an application was made by Enfield Council's Licensing Authority for the review of Premises Licence LN/200501160. The review application was submitted as the Licensing Authority believe that the four licensing objectives were being undermined, with a range of unlawful activity taking place at/from the premises, as outlined in the report/agenda pack.
- f. The review application seeks to revoke the premises licence in its entirety. The review application was advertised in accordance with the requirements of the Licensing Act 2003. Each of the Responsible Authorities were consulted in respect of the application.
- g. Representations were received from a Southgate Ward Councillor, who was unable to attend and sent her apologies.
- h. If the committee were minded not to revoke the licence, additional conditions were sought, as set out in annex E on page 207 of the report/agenda pack, which had been agreed.
- i. A previous request for adjournment had been refused, following discussions with the Chair and legal adviser, as it was not in the public interest to do so.
- j. In point 1.1 of the report the premises was mistakenly referred to as Maxi, this oversight was acknowledged, and it should have read that Southgate Food Centre was the current name of the premises.
- k. Those in attendance were introduced, the order of representations was outlined, and it was confirmed that all parties would have a limit of 5 minutes to speak.

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

- a. Cllr Smith asked for clarification as to where in the report the representations submitted by the Ward Councillor could be found.
- b. Officers responded that this could be found on page 206 of the agenda pack.

3. Charlotte Palmer, Senior Licensing Enforcement Officer, made the following statement:

- a. Following a complaint in July 2022 alleging that the premises was selling nitrous oxide, Trading Standards sent an advice letter to the PLH explaining the legislation regarding nitrous oxide and how to prevent illegal sales, and warning that this activity not be repeated.
- b. In October 2022, the premises was visited by Trading Standards Officers and nitrous oxide was found for sale. The licence holder was again advised not to sell it to anyone under the age 18, or anyone who may misuse it.

LICENSING SUB-COMMITTEE - 26.7.2023

- c. In November 2022, a full licence inspection was carried out, and five licence conditions were found not to be being complied with.
- d. The PLH's home address had changed, and he was advised to contact the licensing team to update his details. The premises licence holder has since updated his home address, but the Licensing Authority have requested evidence that he lives at the address provided, as Companies House lists his country of residence as Wales. Council Tax checks were carried out and found that Mr Baris Kisa was not registered at the address he had provided, nor had he been registered at that address previously. On 23rd July, an email was received from the licence holder's agent showing a copy of his personal licence which gave the premises address, and was different to the address he recently provided the licensing team. Still no evidence has been provided showing which address he is registered at.
- e. Further visits showed that the premises were still stocking nitrous oxide. In January 2023 the Premises Licence Holder was written to, and asked that, to help tackle the problem of anti-social behaviour in the area, they cease selling all nitrous oxide and amend their premises licence conditions to reflect this, but no such application was submitted.
- f. On 10 May 2023, an officer entered the premises to see if they would be sold nitrous oxide, and whether any checks would be carried out by staff to see why they wanted to buy it. The officer was sold a large cannister of nitrous oxide without question. The Licensing Authority believes that this constituted a reckless sale, given the failure to carry out any due diligence checks to ascertain whether the nitrous oxide was likely to be consumed by the person to whom it had been supplied, and that this undermines all four licensing objectives.
- g. Following this test purchase and a further complaint about the sale of nitrous oxide, another full licence inspection was carried out at the premises by council and police licensing officers, on 22nd May 2023. Several conditions were found not to be being complied with, most of these were the same conditions that were not being complied with when the previous inspection took place. Whilst at the premises, officers noticed: five boxes of nitrous oxide behind the counter (six cannisters per box), four loose cannisters on the shelf opposite, a box of nitrous oxide (six cannisters per box) behind the same counter, and packets of balloons on a shelf under the counter and hanging up opposite the counter. Officers spoke at length to a member of staff about the dangers of nitrous oxide and who it could/could not be sold to; when asked this member of staff said that there was no more nitrous oxide in the premises, but officers found five more boxes of nitrous oxide (six cannister per box) in the toilet area. Whilst in the premises, police officers witnessed a male enter, walk up to the counter, and say to staff "got any balloons mate?" After seeing the police officers, he purchased a packet of balloons from the display, and as he left said "it's alright mate I'm a chef" and laughed.
- h. Since this review was submitted, further complaints have been received alleging that this premises sells nitrous oxide to those under

LICENSING SUB-COMMITTEE - 26.7.2023

the age of 18. The reckless sale of nitrous oxide is having a detrimental impact on the local area and all four licensing objectives are being undermined. The Licensing Authority lacks confidence in the ability or willingness of the licence holder and or his staff to uphold the licensing objectives and therefore recommends that the premises licence be revoked.

4. In response, the following comments and questions were received:
 - a. Cllr Savva queried whether the address of the PLH had now been established.
 - b. Officers responded that they had not, that on 23 July they had received information about the personal licence issued by another borough, which had the address of the premises; and that when the address provided to the licensing team Enfield for the premises licence was updated this was an address above the premises, but the council records do not show him as living there, and no further communication had been received.
 - c. Cllr Smith asked Mr Kisa to explain where he lived.
 - d. Mr Kisa replied that he lived in a sharing house, and always lost his letters, and so had given the shop address, to make sure he got them all. He said he did not have proof of his address but had a contract he could provide, but had not put his home address because he wanted to receive all communications at the store premises.
 - e. Cllr Savva, Cllr Smith, Charlotte Palmer and Ellie Green reemphasised that the committee wanted to know his residential address and not his correspondence address.
 - f. Mr Kisa said that he was in a sharing house in the Shoreditch area, not far away from his shop, but that he could not prove this as he did not use the address a lot, and would sometimes go to see his children.
 - g. The legal adviser and Ellie Green expressed that where his ordinary residence was different from the correspondence address, it was required that he provide his residence address. Charlotte Palmer asked if he lived at the address above the premises that he had provided on the premises licence.
 - h. Mr Kisa confirmed that he did not, but had an arrangement with the person who lived there, that the post be passed on to him.
 - i. Cllr Savva and Ellie Green confirmed that the information would stay confidential. Ellie Green expressed that the point had been made, and they would attempt to obtain this information after the meeting concluded.
5. Mr Tuitt, representing Mr Kisa, made the following statement:
 - a. The premises was a small convenience store selling a wide range of goods. Mr Kisa had accepted the proposed licence condition modifications.

LICENSING SUB-COMMITTEE - 26.7.2023

- b. He would not downplay the seriousness of the alleged sale and impact of nitrous oxide. That nitrous oxide was a national problem.
 - c. He referred the committee to the guidance issued by the home office under section 182 of the licensing act and in particular paragraph 11.20 of the government guidance, which said that, 'is it expected that the licensing authority should in so far as is possible seek to establish the cause(s) of concerns that the representations identify'; 'the remedial action taken should generally be directed at these causes and shall always be no more than appropriate/proportional response to address the causes that instigated the review'.
 - d. Mr Kisa was described as having agreed not to sell nitrous oxide, and it was felt that the proposed modifications would adequately promote the licence objectives that the council officers felt were being undermined.
 - e. It was conveyed that the alleged breaches of licence conditions had been addressed and the agent, had provided proof of this, with the required notices having been displayed along with additional training for staff.
 - f. Mr Tuitt concluded that they did not feel revocation or suspension of the licence were proportionate or necessary, given that they had acknowledged the negative impacts of nitrous oxide being sold at the shop, and had agreed to stop.
6. In response, the following comments and questions were received:
- a. Cllr Smith asked for clarification from Mr Kisa as to how many times he was visited by council trading standards officers, and why he had not heeded their advice/warnings.
 - b. Mr Kisa responded that they had visited three times, that he had not been at the premises for the past 6-7 months, as he was trying to open another business in Stevenage, and he was now trying to take control of the store and stop the unlawful activity. He said he had been at the shop only one-time officers had visited and had explained the issues to his staff, but that they did not always listen.
 - c. The Chair queried if he was not aware as to what was happening in the shop whilst he was away, and what the repercussions there were for staff who had not listened.
 - d. Mr Kisa said that he was aware, but his staff did not always listen, and that he had moved on most of these staff members who were not following his directions. The Chair reminded Mr Kisa that the issues with the store had been going on for about a year, longer than the 6 months he had not been at the premises. Mr Kisa replied that he had not been at the premises for a period of time, that he had been at the store for the last month, and that he was trying to take control and stop the unlawful activity.
 - e. The Chair enquired how Mr Kisa would prevent staff at his store from conducting unlawful activity and breaching the premises licence.
 - f. Mr Kisa responded that staff had been selling nitrous oxide for a long time, and that he had heard about this but did not sell it himself. He

LICENSING SUB-COMMITTEE - 26.7.2023

said that some customers had been using it for themselves and lying about it, and that once he was aware of this, they stopped selling it to them.

- g. The Chair asked when the premises had stopped selling nitrous oxide.
- h. Mr Kisa replied that he had been at the store for the last month, and that he had conveyed to staff previously not to sell to those under 18, not to sell nitrous oxide with balloons, and that if they saw customers inhaling it, not to sell to them again, but that sometimes they did not understand, and they often had new staff joining. The Chair followed up by asking who was employing the new staff. Mr Kisa responded that he hired staff, that he explained the rules to them, that the licensing officer had also conveyed this/these to them but that they did not always listen. The Chair enquired whether the staff members who Mr Kisa had alleged were causing the issues, were still employed at the shop. Mr Kisa said that he had asked some of them to leave, that he now had 5 staff, and that they listened to him and did not do anything wrong.
- i. The Chair asked why a number of the licence conditions had not been complied with.
- j. Mr Kisa said that in the past month he had rectified all of the issues laid out in the report. The Chair asked officers if this could be confirmed. Charlotte Palmer responded that no visits had been made which had not been mentioned in the report. Mr Kisa added that he was now at the premises, and making sure everything was being done correctly. He said that he had closed the other store in Stevenage after the issues started so that he could sort them out.
- k. Ellie Green queried whether Mr Kisa had plans to stay at the premises or open another one.
- l. Mr Kisa replied that he had tried to open another shop which was a big premises and open 13 hours. He said this had caused too much of a headache, and the landlord wanted to take the premises back again, thus he had come back to this premises. Ellie Green enquired why he had not varied the DPS to whoever was running the shop in his absence. Mr Kisa said that he tried to sell the premises, but had lost the other store, so came back. He explained that he had now got everything in place: CCTV, staff training etc.
- m. Cllr Smith asked that given Mr Kisa was the designated premises supervisor with a legal responsibility to supervise the premises, why he had left for several months, not fulfilled his duties, and allowed the issues to occur.
- n. Mr Tuitt responded to say that his client acknowledged his past errors, and the problems which had occurred at the premises, that he had learnt his lesson and did not want to be in this situation again.
- o. The Chair queried whether any local residents had approached Mr Kisa to complain about the issues which had been raised.
- p. Mr Kisa expressed that he had received a couple of complaints from residents, and had tried to explain to them that they were trying to do the right things, i.e., not selling to those under 18. The Chair enquired how much time Mr Kisa spent at the premises. Mr Kisa replied that he

LICENSING SUB-COMMITTEE - 26.7.2023

was at the premises up to 15 hours every day, and that following the issues, he tried to be present as much as possible.

- q. Charlotte Palmer asked Mr Kisa to confirm that she had completed an inspection on 21 November with him, and had explained everything to him. She added that it was not mentioned at this time that he had been away for 6-7 months.
- r. Mr Kisa confirmed this to be the case, that he had listened to the advice and discussed the circumstances surrounding the premises with her. He said that leaving the premises had not been in his plans, but that he had returned to try and stop the issues.
- s. Charlotte Palmer asked who brought the premise stock.
- t. Mr Kisa responded that he would buy the stock, including during the 6-7 months he was not at the premise, and that sometimes a member of staff would do it on his behalf. Mr Tuitt clarified that it was not that Mr Kisa was not at the premises at all, but that he was not involved in the day to day running during this period as he was focussed on the other business. Mr Kisa said the nitrous oxide would be brought to the shop by a door-to-door peddlers, and that he and his staff would purchase this.
- u. Charlotte Palmer said that if Mr Kisa was attending the premises from time to time during this period, he should have seen the boxes of nitrous oxide in the shop. She said that there was a lot of nitrous oxide, and did Mr Kisa not think it was unusual the amount of stock they were getting through.
- v. Mr Kisa replied that customers would tell them they would use the nitrous oxide for cakes, and that he could not follow them after they left to make sure that this was the case. Mr Tuitt added that nitrous oxide use legitimately was limited, that they were not disputing the situation and harm it causes, and that they had agreed not to sell it anymore. The modification of a condition in which Mr Kisa would be the sole purchaser of alcohol and tobacco stock, from a registered wholesaler, be changed to Mr Kisa being the sole purchaser of stock and to prevent purchases from door-to-door sales, was also discussed. Mr Tuitt said that they would be prepared to accept this condition, but that there was a distinction between stock that would be resold to customers and purchases that would not be sold on. Mr Kisa explained that stock had often been sourced by staff from cash and carries, and all stock was legal sourced.
- w. Cllr Smith asked whether Mr Kisa had personally been ordering any of the nitrous oxide, and how he justified the quantities that were being brought if they did not think it was being sold for unlawful activity.
- x. Mr Kisa confirmed that he had been purchasing some of it, that they had been selling it to over 18s only, that customers had said they were using it for cream/cake, that he had explained this to his staff, and they could not help/ know if customers were lying. Cllr Smith, said that they had to use their judgement, and that it was reckless to not consider what a customer might use the nitrous oxide for.

LICENSING SUB-COMMITTEE - 26.7.2023

- y. The Chair queried that in October 2022 officers had told Mr Kisa not to sell nitrous oxide anymore, and yet in May a test purchase had confirmed they were still doing this.
- z. Mr Kisa responded that he would stop this. Charlotte Palmer asked if they were still stocking and selling nitrous oxide. Mr Kisa said that they were not doing much of this, that he had asked the seller to take it back, but they could not, and that they still had some left over, but that they would stop selling it.

7. The following closing summaries/ points were made:

- a. Charlotte Palmer said that the PLH had failed to demonstrate compliance with the licence conditions, the licensing authority were concerned by the situation regarding the address details provided, and the DPS had not been in day-to-day control of the premises for a period of time. They believed that the premises was recklessly selling nitrous oxide as evidenced by the test purchase which undermines all four of the licensing objectives. Due to the impact on the area and health, the licensing authority have no choice but to recommend that the licence be revoked.
- b. Mr Tuitt expressed that they understood the concerns regarding the activity associated with the premises, and referred the committee back to the extract of home office guidance he had brought their attention to. He confirmed that the premises would cease sales of nitrous oxide and they had addressed the alleged breaches highlighted by the licensing officers. Mr Tuitt felt that revocation of the licence was not proportionate, that Mr Kisa had learnt his lesson, and that nitrous oxide would no longer be sold at the premises.
- c. Ellie Green outlined the options available to the committee to make, and said that she would send the conditions discussed to all parties.

The Chair thanked everyone for their time and adjourned the meeting whilst the committee went away to deliberate. Cllrs Savva and Smith would attend all of the deliberations on the decision, but could not attend the presentation of the decision due to other engagements. The Panel retired, with the legal adviser and committee administrators, to consider the application further, and then the meeting reconvened in public.

RESOLVED that:

The Licensing Sub-Committee RESOLVED that in order to promote the licensing objectives, the licence be **REVOKED**.

The Chair made the following statement:

“The Licensing Sub-Committee (LSC) having listened to and considered written and oral submissions made by the, the Licensing Authority, a Southgate Ward Councillor and the named Licence Holder and his Legal

LICENSING SUB-COMMITTEE - 26.7.2023

Representative in particular the evidence concerning previous activities at the premises concerning breaches to the licensing conditions and the law. The LSC are of the view that the Premises Licence Holder, Mr Baris Kisa, has not been able to demonstrate to the LSC that he has an understanding of the obligations of holding a licence and the licensing objectives of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm or demonstrated that he is able to or would be able to adhere to any licensing conditions on the licence or the proposed amendments at pages 120-122, 207-208 of the Document Pack and those discussed during the hearing and provided by the Licensing Officer Annex E Proposed Licensing Conditions Amended. Further, given the past history of a failure to adhere to the imposed licensing conditions and the licensing objectives and the LSC do not consider there is a likelihood of compliance should the licence be permitted to continue to operate.

Accordingly, the LSC, on balance, has made the decision to **REVOKE** the licence held by Mr Kisa, in its entirety.

The LSC has taken into account the statutory guidance and in particular the provision highlighted by the Legal Representative for Mr Kisa at paragraph 11.20 therein and the London Borough of Enfield's Policy Statement in making its decision and has made its decision in promoting all of the four licensing objectives and in particular that of the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm.

It should be noted that **SOUTHGATE FOOD CENTRE** can continue to operate at the premises for any unlicensed activities and that there are no limits concerning unlicensed activities.”

The Chair thanked everyone for their time and the meeting ended at 15:04.