

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 6 JULY 2016**

COUNCILLORS

PRESENT (Chair) Chris Bond, Vicki Pite and Peter Fallart

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

Also Attending: Mr Luigi Patrascu and Mrs Eugenia Patrascu (premises licence holders, Taverna) and Mr Patrascu (son and spokesperson)

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WELCOME AND APOLOGIES FOR ABSENCE

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

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DECLARATION OF INTERESTS

NOTED that there were no declarations of interest.

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TAVERNA, 290 GREEN LANES, LONDON, N13 5TW (REPORT NO. 50)

RECEIVED the application made by the Licensing Authority for a review of the Premises Licence held by Mr Luigi Patrascu and Mrs Eugenia Patrascu at the premises known as and situated at Taverna, 290 Green Lanes, London, N13 5TW.

NOTED

1. The introductory statement of Ellie Green, Principal Licensing Officer, including:
 - a. This was an application for review of a premises licence, brought by the Licensing Authority.
 - b. The licence had been in force since May 2015.

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- c. Mr Luigi Patrascu and Mrs Eugenia Patrascu were the named premises licence holders since 13 May 2015. Mr Luigi Patrascu had also been the named designated premises supervisor since 26 April 2016.
 - d. The licence permitted live and recorded music from 12:00 to 23:00 Monday to Thursday and from 14:00 to 01:00 the following day Friday to Sunday.
 - e. On 13 May 2016 the Licensing Authority made the application for the review of the licence. The Licensing Authority sought the removal of live music from the licence, and to modify conditions. The review application related to the prevention of public nuisance and public safety.
 - f. A witness statement had been provided in support of the review application by the Metropolitan Police.
 - g. Annex 5 to the report detailed the conditions sought by the Licensing Authority. Some of the conditions would depend on what decision the Licensing Sub-Committee took today. Conditions 1 to 27 were agreed by the premises licence holders. The licence holders were also looking at conditions 28 to 32, but she was yet to hear whether they agreed the wording.
 - h. It was clarified that the Licensing Authority were seeking removal of live music from the licence. If the sub-committee was in agreement with that recommendation, then conditions 18 and 19 as amended, and conditions 24 to 30 and condition 32 were requested to be added to the licence. If the sub-committee were minded to retain live music on the licence, the authority sought additional conditions 28 to 32, and conditions 18 and 19 to be amended to apply to live and recorded music.
 - i. In general, licensed premises were automatically entitled to have live and recorded music between 08:00 and 23:00, and any related conditions would only be enforceable after 23:00. If problems arose and review of a licence was sought, conditions could be added to specify live music as a licensable activity and that conditions would be enforceable throughout the day.
 - j. Mr and Mrs Patrascu were present at this meeting to represent themselves, with their son acting as interpreter and spokesperson.
2. The statement of Charlotte Palmer, Licensing Enforcement Officer, including:
- a. The Council had received 14 complaints about this premises in 14 months, from three different local residents and one neighbouring business.
 - b. Live music on 13 March 2016 had been at such a volume level as to be deemed a statutory nuisance. This led to an abatement notice being served.
 - c. On 26 March 2016 officers advised that the level witnessed was not a nuisance, but this did not mean that the prevention of public nuisance licensing objective was not being undermined.
 - d. There were residential properties above the parade of shops and in streets around the premises.

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- e. Despite being advised, Mr Patrascu still did not appear to understand that the volume level of the music was unnecessarily and uncomfortably loud.
 - f. Mr Patrascu had put up sound proofing over the windows, but needed to have proper control over the music. The sound proofing made it look like the premises were closed. Officers were also concerned that putting shutters down could be a public safety issue.
 - g. Licensing Authority officers had no confidence in the licence holders to control the music volume sufficiently, and therefore sought removal of live music from the licence.
 - h. The plan of the premises which formed part of the licence was still not accurate despite the licence holder being advised of it 10 months ago.
 - i. Music had been played after licensed hours.
 - j. A witness statement had been provided by PC Martyn Fisher, Metropolitan Police, set out in Appendix 3. Police attended the premises at 03:30 on Monday 18 April 2016 and were told an event taking place with live music was a private party. Facebook posts (included in Appendix 2b) had advertised the event with a ticket price of £10. This was therefore not a private party and it was a breach of the licence as the venue should have been closed at 01:00 hours.
 - k. Breaches of the licence had been discovered on three different occasions and the licence holders had been given advice. There was also a breach of planning permission.
 - l. If the sub-committee was minded to retain live music on the licence, Licensing Authority officers requested modified and additional conditions to prevent the premises making use of Section 177A of the Licensing Act 2003.
 - m. If the sub-committee was not minded to retain live music, officers requested a number of additional conditions and licence suspension until submission of an accurate plan and compliance with all conditions had been demonstrated.
3. Charlotte Palmer responded to questions as follows:
- a. In response to Councillor Pite's queries about the future for the business, it was clarified that licence holders had 21 days to appeal a hearing decision and that they could continue to trade while that appeal was heard.
 - b. In response to Councillor Bond's question about noise limiting devices, it was confirmed that anything amplified could be subject to a noise limiter. A company should be employed by the licence holder to set the appropriate level for the premises. Licensing Authority officers would then enforce the relevant conditions.
 - c. In response to Councillor Bond's queries regarding the effects on the shop next door, it was confirmed that their vibration alarm detectors were being triggered by the sound of the music meaning the shop owners had to attend their premises late at night to reset the alarm. Therefore this premises was having a detrimental effect on another business and officers wanted to ensure there was no transfer of vibration.

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d. Councillor Fallart asked if free standing speakers would be preferable. Officers considered that these may reduce vibration through the walls, but that they could still be big and cause a problem; and they would still wish for installation of a sound limiter to be conditioned. Mr Patrascu advised that speakers were currently on stands and not wall mounted and that vibrations had been made by renovations works not by the music. Charlotte Palmer advised that it was known that the bass and music was very loud and conditions sought would be preventative to ensure that problems did not occur in future. Officers would like to see acoustic reports prepared and tests carried out so that documents could be submitted to and approved by the Licensing Authority team to their satisfaction.

4. The statement of PC Martyn Fisher on behalf of the Metropolitan Police Service, including:
 - a. Appendix 3 to the report set out his supporting witness statement and outlined four calls made to Police from neighbouring properties.
 - b. The fourth complaint, made on 18 April 2016 relating to the supposed private party included comments on the CAD that Police were to expect the shutters to be down and for the premises to appear closed and that they should lift the shutters or enter by the alleyway at the back.
 - c. It was noted that all complaints received related to Sunday night / Monday morning, which was unusual. Most people would be expecting to go to work on a Monday morning and excess noise into the very early hours would affect the quality of life of local residents.
5. The statement of Mr Patrascu on behalf of Mr Luigi Patrascu and Mrs Eugenia Patrascu, the premises licence holders, including:
 - a. Noise could only be heard outside when the door was opened: that had to happen at some point, but the door would not be open all the time.
 - b. They had spent £2,000 on panels to prevent the noise going out.
 - c. If they got help from the Council that would teach them how to make the situation better, and what would be better than the panels.
6. The premises licence holders responded to questions as follows:
 - a. Councillor Bond queried, regardless of noise insulation, why the business was operating at 03:45 when the terminal hour permitted by the licence was 01:00. It was advised this had only happened twice and the mistake was now realised and it would not happen again.
 - b. Councillor Bond asked if the licence holders understood the licence, as it appeared that they did not. The concerns were acknowledged, but advised that it was understood and the licence would not be breached any more.
 - c. Councillor Bond expressed concern that shutters were down, trapping people inside, and there would only be one way out in case of a fire. It was advised that the curtains were always shut, Mr Patrascu was unsure of the reason why, but it was not for the reason to make it seem like the premises was closed. The reason for shutters being down was to stop customers going outside with alcohol.

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- d. In response to Councillor Pite's query, it was confirmed by the licence holders that they realised the supposed private events were still subject to the terms and conditions of the premises licence.
- e. In response to Councillor Pite's further queries whether the licence holders accepted the wording of conditions about a noise limiter, it was advised that Mr Patrascu was looking into this but did not know where to find it. If he got help he would do it straight away.
- f. Councillor Fallart made reference to shutters being down to stop people leaving the premises with alcohol and asked whether door supervisors were present when this happened. It was clarified that there had not been 40 people. When there were more than 40 customers the premises did have security staff. It was also advised that the restaurant was not a big space and may look like it was full when there were only 25 to 30 customers.
- g. Councillor Fallart referred to the licence being conditioned as a restaurant and asked whether customers had to be at a table at all times. It was confirmed that people sometimes got up to dance, but every customer did get a seat at a table and more people would not be permitted to come in if there were no seats.
- h. In response to Councillor Bond's query why the plan for the restaurant was not adhered to, Mr Patrascu advised that he did understand licensing law. Charlotte Palmer in explanation added that Mr Patrascu had taken part in meetings with officers several times in respect of the plan and each time it had not been done correctly: he had been given a list of what needed to be shown but they still had not been done. Mr Patrascu confirmed that he had drawn the plan three times, but something had been missing on each occasion. Charlotte Palmer highlighted that officers still awaited the correct version.
- i. Charlotte Palmer asked about visits she had made to the premises on two or three occasions and that Mr Patrascu accepted that she had personally asked for the volume of the music to be reduced as it was too loud. Mr Patrascu advised that he had tried to do that but someone must teach him. He was also aware that sound escaped when the door was opened, but the door had to be opened for customers to go out. When requested for a yes or no response, Mr Patrascu did acknowledge that officers had told him and his colleagues that the volume needed to be reduced.
- j. In response to further queries from Charlotte Palmer, Mr Patrascu acknowledged that when officers visited they had to go outside to have a conversation as they could not hear themselves speak in the restaurant.
- k. Charlotte Palmer asked who had control over the volume of the music. Mr Patrascu responded that he did and the musicians / band too.
- l. Charlotte Palmer asked if the musicians / bands were given a briefing or if there were sound checks beforehand to ensure that the music was set at a level that was reasonable. Mr Patrascu confirmed that sound checks and preparations were carried out beforehand.

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- m. Charlotte Palmer asked what actions were taken by the premises after getting the noise abatement notice. Mr Patrascu advised that he attempted to take action and he did put the music volume down.
 - n. Charlotte Palmer asked if the premises had any acoustic reports done or if contact had been made with anyone in respect of getting them done. Mr Patrascu advised that if music stayed on the licence he would take actions and get a noise limiter. But Mr Patrascu needed to know details of where this could be obtained and where it could be installed.
 - o. Councillor Pite referred to Mr Patrascu asking the Council to trust that he would take actions if music stayed on the licence, yet simple compliance with the closing time specified on the licence had not been managed. Mr Patrascu confirmed that he would respect closing times. He had also tried to discuss a smoking area and a second door at the front, which would also reduce the noise. To enforce the closing time he would take charge and send people out on time.
7. The summary statement of Ellie Green, Principal Licensing Officer, that having heard the representations from all parties it was for the Licensing Sub Committee to take such steps as it considered appropriate for the promotion of the licensing objectives. The officers' report directed members to the relevant policies and guidance, and in particular to the Live Music Act.
8. The closing statement of Charlotte Palmer, Licensing Enforcement Officer, including:
- a. The Licensing Authority was still requesting that live music be removed from the licence. Music at this premises had been so loud that she had been unable to hear her own voice in the restaurant and officers had been able to feel vibrations through their bodies. The music had also set off vibration alarms at another business. The premises licence holders had been present at the times of officer visits.
 - b. Carrying out sound checks outside, and turning down the volume should be measures that were simple to do. Yet the noise had been so loud as to lead to serving a noise abatement notice.
 - c. The Licensing Authority therefore had no confidence in the ability of the licence holders to comply with the conditions of the licence.
9. The closing statement of PC Martyn Fisher on behalf of the Metropolitan Police Service, including:
- a. There had been a number of noise complaints in relation to this premises, and a noise abatement notice had been issued.
 - b. Reference had been made to acoustic reports and other mitigation, but all the licence holders had to do was to ensure the music volume was turned down sufficiently so as not to annoy neighbours.
 - c. Therefore the Police supported this review application by the Licensing Authority to ensure that local residents had the peace and quiet which they rightly deserved.

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10. The closing statement of Mr Patrascu on behalf of Mr Luigi Patrascu and Mrs Eugenia Patrascu, the premises licence holders, including:
- a. The description of the issues had been a bit exaggerated, especially in respect of vibration. The music was not like at a concert. The premises was a small space with two speakers.
 - b. The licence holder would close the premises in August for a month and do everything for the sound not to go out, but he would need help and advice to do that, then he would do everything required.

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:

“We have listened to evidence presented to us. We have come to the following conclusion to fulfil the licensing objectives of public safety and the prevention of public nuisance. Live music to be removed from the licence. Therefore imposing conditions 18 and 19 as amended and conditions 24 to 30 and 32. Conditions 1 to 17 and 20 to 23 were accepted by all parties.”

3. The Licensing Sub-Committee resolved:
 - (a) to modify the conditions of the licence; and
 - (b) to exclude a licensable activity from the scope of the licence.

Conditions (in accordance with Annex 05):

- (i) Conditions 1 to 17, and 20 to 23 which are not disputed; and
- (ii) Conditions 18 and 19 as amended, plus Conditions 24 to 30 and 32

Condition 18: The management shall make subjective assessments of noise levels outside at the perimeter of the premises approximately hourly, 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 or Police, 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

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volume down. Section 177A of the Licensing Act 2003 does not apply to this condition.

Condition 19: All external doors and windows to be kept closed but not locked whilst recorded music is provided.

Condition 24: 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 25: The windows of the premises shall be kept clear of obstruction at all times to enable view into the premises from outside.

Condition 26: The security shutters shall not be pulled down whilst people are still inside the building.

Condition 27: There shall always be a member of staff on the premises who knows how to use the CCTV system.

Condition 28: A noise limiting device shall be installed to any amplification equipment in use on the premises and shall be maintained in effective working order. The noise limiter should be set so that noise does not emanate from the premises so as to cause a nuisance to nearby properties. Section 177A of the Licensing Act 2003 does not apply to this condition.

Condition 29: The noise limiter shall be recalibrated annually to ensure that the music volume does not exceed the level at which a noise nuisance to neighbours will occur. A copy of the calibration certificate shall be kept on the premises and made available to the Police or Council officer on request.

Condition 30: Speakers shall not be mounted to the walls or ceiling of the premises. Section 177A of the Licensing Act 2003 does not apply to this condition.

Condition 32: No open alcohol shall be taken outside of the licensed area.

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MINUTES OF PREVIOUS MEETING

RECEIVED the minutes of the meeting held on Wednesday 8 June 2016.

AGREED that the minutes of the meeting held on Wednesday 8 June 2016 be confirmed and signed as a correct record.