

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 17 JUNE 2020**

COUNCILLORS

PRESENT (Chair) Mahmut Aksanoglu, Vicki Pite and Chris Dey

ABSENT

OFFICERS: Ellie Green (Principal Licensing Officer), Charlotte Palmer (Senior Licensing Enforcement Officer), Catriona McFarlane (Legal Adviser), Jane Creer (Democratic Services)

Also Attending: Mr John Palmer, Solicitor, Akin Palmer Solicitors, on behalf of the Licence Holder
Mr John Edgar, premises owner/landlord (IP17)
Councillor Maria Alexandrou (Winchmore Hill Ward Councillor) and Councillor Daniel Anderson (Southgate Green Ward Councillor), on behalf of interested parties

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WELCOME AND APOLOGIES FOR ABSENCE

NOTED

Councillor Aksanoglu as Chair welcomed all attendees to the meeting, which was being broadcast live online. Sub-committee members confirmed their presence and that they were able to hear and see the proceedings. The Chair explained the order of the meeting.

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DECLARATION OF INTERESTS

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

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**BROOMFIELD COFFEE BAR, 64 ALDERMANS HILL, LONDON N13 4PP
(REPORT NO. 262)**

RECEIVED the application made by **ENFIELD COUNCIL'S LICENSING AUTHORITY** for a review of the Premises Licence (LN/201500949) held by **MR ARJAN BORUFI** at the premises known as and situated at **Broomfield Coffee Bar, 64 Aldermans Hill, LONDON, N13 4PP.**

NOTED

1. The introduction by Ellie Green, Principal Licensing Officer, including:

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- a. This was a review of the licence of Broomfield Coffee Bar, 64 Aldermans Hill N13.
 - b. The premises licence had been in place since January 2016 for the venue, then known as Bambinos restaurant.
 - c. A transfer application was granted in October 2017 to name Mr Arjan Borufi as the premises licence holder (PLH), and in November 2017 to name Mr Borufi as the designated premises supervisor (DPS). No objections were received to those applications.
 - d. Yesterday, a minor variation application was received in respect of the bifold door, and conditions regarding noise prevention, which was available to Members if required.
 - e. Prior to this minor variation application, since the transfer no other applications had been submitted, so the licensable activities remained the same as originally granted. All licensable activities had a terminal hour of midnight. Alcohol was for on sales only.
 - f. On 23 April 2020 a review application was submitted by the Licensing Authority, on the grounds that the prevention of crime and disorder and prevention of public nuisance licensing objectives were not being met. The application sought to remove live and recorded music from the licence, in response to complaints regarding loud music. The full application was set out in Annex 2 of the officers' report.
 - g. Sixteen local residents (IP1 to IP16) had submitted representations under all four of the licensing objectives. Those representations were set out in Annex 4 of the report. The representations also made reference to social distancing breaches etc. The Sub-committee must focus on points in respect of licensable activities only.
 - h. Representations supporting Mr Borufi (IP17 and IP18) were set out in Annex 11.
 - i. No other representations were received from the Responsible Authorities.
 - j. Should the Sub-committee be minded not to remove live and recorded music from the licence, Mr Borufi had agreed to additional licence conditions as set out in Annex 5, and mirrored in the minor variation application received yesterday.
 - k. There had been no response in respect of the proposals for Conditions 13 and 15 in the current licence, and clarification was requested to be provided during the presentation.
 - l. If the Sub-committee was minded to remove live and recorded music from the licence, the Licensing Authority requested that proposed Condition 16 be applied to the licence.
2. The statement on behalf of the Licensing Authority by Charlotte Palmer (Senior Licensing Enforcement Officer), read out by Ellie Green due to sound quality and connectivity issues:
- a. The review was sought on the grounds that the premises have breached a noise abatement notice in respect of statutory nuisance arising

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- from the production of noisy music. Breaching the notice was an offence. The grounds of the review were based on the prevention of crime and disorder and prevention of public nuisance licensing objectives. The review application sought the removal of live and recorded music from the licence.
- b. A number of representations were received from the public in support of the review and in opposition to the licence. Some of these sought revocation of the licence in its entirety.
- c. It was understood that the PLH's solicitor was concerned that complaints made during the Covid-19 pandemic were included in representations, but the review focused on issues when the licence was in use: when alcohol was sold and when regulated entertainment was taking place. All complaints were included to raise the awareness of the PLH of the concerns, and to support him in coming up with a plan of action. The complaints in respect of social distancing also gave an indication of the PLH's control of customers. However, in the interests of fairness, there should be a separation of typical behaviour and that resulting from the current situation.
- d. The PLH's solicitor disputed information included from before the transfer, the application for which was not submitted until 03/10/17 for immediate effect, but information had been given that he was the owner since June 2017 and he was advised to submit an application as the new owner on 30/06/17. Business rates had been paid by Broomfield Coffee Bar Ltd. As set out in Appendix 18, the certificate of incorporation of Broomfield Coffee Bar Ltd was given at Companies House on 23/06/17 and Mr Borufi was named as Company Director. The Licensing Authority had therefore believed it was appropriate to include information from as far back as June 2017, and issues around loud music and the outside seating area still existed.
- e. There was a list of noise issues between 03/10/17 and 23/03/20 witnessed by LBE officers and Police, including on 08/03/19 a statutory noise nuisance witnessed but no notice served, and on 07/02/20 when a notice was served as a result, and on 14/03/20 when a breach of that notice was witnessed.
- f. Complaints in respect of people outside these premises were noted on 15/11/17, 22/11/17 and 25/09/18. In November 2017 (Appendix 6 showed) Mr Borufi was advised about complaints regarding large groups of males outside the premises, and was asked to ensure those smoking did not block the pavement.
- g. A letter sent to Mr Borufi dated 27/03/19 (Appendix 7) in respect of complaints about loud music coming from the premises warned this could lead to a review of the licence.
- h. A further letter was sent dated 03/06/19 (Appendix 9), and Appendix 11 and 12 showed the noise abatement notices served.
- i. A minor variation form was provided (Appendix 13) with the recommendation to apply to voluntarily strengthen the current conditions in March 2020, and with a warning as to future conduct.

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- j. During an inspection visit on 27/02/20, it was found several licence conditions were not being complied with (Appendix 14). This followed a pattern from other inspection visits.
 - k. The second noise abatement notice of 14/03/20 was set out in Appendix 15.
 - l. Appendix 16 showed Google street view of the premises which had captured an obscene gesture thereby maybe showing typical customer behaviour. Common concerns raised had been around customers blocking the pavement, and acting in an intimidating manner. Also there had been concerns about the number of smokers outside, cigarette butts dropped, spitting, fly tipping, drug use, drinking alcohol without purchasing a meal, additional chairs outside and waste disposal outside permitted times, as well as music between 6:00am and 1:00am. In many representations, mention was made of residents not wanting to walk by the premises because of the behaviour of customers.
 - m. The PLH's solicitor had invited the panel to place more credence on the supporting representations at IP17 and IP18. However it was noted that IP17 as the owner and landlord of the premises had an interest in the success of the business of his tenant. Officers were not aware of any other interested parties having a financial interest in the case. As IP17 was not impartial, officers would not agree they should have more credence.
 - n. The email of support from 64A Aldermans Hill was set out in Annex 12 and submitted as part of the evidence. It was not received during the consultation period. It was questioned whether the party may have been asked to write it rather than having seen the licensing notice on display. It was received after the last date for representations and so was out of time.
 - o. It was understood that a minor variation application was submitted yesterday in respect of the plan and conditions. This was a step forward, but noted that it was received the afternoon before the hearing, having been recommended in February. The PLH had not shown himself to be willing to work swiftly with the Licensing Authority. The PLH had been made aware of concerns since June 2017, but only when faced with possible removal of licensable activities was the application made. If action had been taken sooner, the Licensing Authority may have had more confidence in him. Over a long period, the PLH had been found regularly to be non-compliant with the licence conditions.
 - p. In summary, music had been witnessed to be a statutory nuisance on three occasions, with two notices served. There were residential properties above the premises. The Licensing Authority had lost confidence in the ability of Mr Borufi to operate the licence. If the Sub-committee was not minded to remove live and recorded music from the licence, the Licensing Authority recommended suspension until the minor variation was granted and there was full compliance with the licence.
3. Charlotte Palmer, Senior Licensing Enforcement Officer, responded to questions, including:

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- a. In response to Members' queries, it was advised that the reasons the Police were not in attendance at the hearing were not known. In respect of concerns relating to sexual harassment of women passing by, this had come up in interested parties' representations and they would be able to expand on those concerns. This had not been witnessed by officers, but had been raised a lot in representations.
 - b. In response to Members' queries regarding Licensing Authority liaison with the PLH, it was advised that officers took a graduated approach to enforcement and tried to assist premises, for example by designing notices and a refusals book. Advice was given to premises. In this case, the importance of the notices was not grasped and the premises was reminded in February.
 - c. In response to queries from the PLH's solicitor in respect of noise abatement notices, it was clarified that a statutory noise nuisance was witnessed on 08/03/19 but the officer did not serve a notice but rather spoke to the PLH to turn the music down. A statutory noise nuisance was witnessed on 07/02/20 for which a notice was served. This was breached on 14/03/20 and the premises was given a fixed penalty notice. This was an offence, and related to loud music. Different out of hours noise officers witnessed the nuisance: they were independent and were objective witnesses. This was witnessed from a residential property and was deemed by officers to be a statutory noise nuisance. Other concerns raised by interested parties had not necessarily been witnessed or evidenced by officers, but were highlighted in case the PLH wished to offer reassurance they had been addressed, or to argue that they did not exist. The interested parties may expand on those concerns. It was also confirmed that documentation submitted in support was included and published in the agenda pack.
 - d. Advice on the relevant legislation was also provided by the Legal Services representative.
4. The statement of Councillor Daniel Anderson, Southgate Green Ward Councillor, including:
- a. He was speaking on behalf of IP5.
 - b. It was clear that this resident's concerns were in alignment with those that the officers and other residents had expressed. There was a clear evidence of a pattern of behaviour at the premises and a flagrant disregard of the licence conditions.
 - c. If the Sub-committee was minded to amend the conditions, there was concern whether the PLH would adhere to them as there had been wilful disregard.
 - d. IP5 had endured problems in relation to the venue for a number of years, not just recently. There was considerable noise almost daily, pounding music, intimidation, abusive behaviour, threats, and they were made to feel uncomfortable and not able to relax in their own property. They felt their mental health had suffered, and had documented over a consistent period what they had to endure.

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- e. That noise abatement notices had been issued concurred with the concerns of IP5, but it was concerning it had taken so long to reach the review stage.
 - f. Other concerns included the obstruction of the fire escape, empty boxes and crates left, and pavement noise and overcrowding.
 - g. As a local councillor, he had not received any concerns about other bars or cafes in the area, and never encountered this sort of concern, consistently and not just from one individual.
 - h. The distress suffered by IP5 was concerning, including unpleasant comments and threatening language. Photographs and other evidence supported the concerns expressed and demonstrated that this business did not seem minded to obey rules or listen to concerns raised. He felt there was clear scope for the Sub-committee to rule this licence should be revoked on this basis.
5. Councillor Anderson responded to questions, including:
- a. In response to Members' queries, he confirmed he had been a resident in the area for over 40 years and served as a councillor twice, having been re-elected last in 2014. In all that time he had not experienced this level of concern about a café.
 - b. In response to Members' queries in respect of being open to some degree of compromise in the situation, it was not considered there could be any co-operation given the intimidation and aggression suffered. There had been no signs over the years that this business had taken action recommended by officers and made changes, and there was no confidence this would happen in future. IP5 was not comfortable with anyone from the business entering their residence, and there should be no need for anything to be done there. They would like the licence to be revoked, and had good reasons to ask for a revocation.
 - c. In response to queries from the PLH's solicitor, it was advised that the resident would not feel comfortable permitting access to the flat to an acoustics expert, given the persistence of intimidation; and that sound proofing to the residence would be tackling the symptom and not the cause of the problematic noise which was loud music from the café. Arguments around structural issues were a distraction from the fundamental point that the noise coming from the premises was so loud as to warrant serving abatement notices.
 - d. In response to queries from IP17 regarding landlords' rights of access to property, it was advised those were not relevant questions for the councillor to answer.
6. The statement of Councillor Maria Alexandrou, Winchmore Hill Ward Councillor, including:
- a. She was speaking on behalf of IPs 3, 6, 8, 12, 15 and 16.
 - b. Concerns raised by these local residents included that groups of people were outside this premises all day and displaying behaviour including

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verbal abuse and intimidation and following people. Car racers were also being attracted to this area to meet. Customers were crowding the pavement on both sides of the road, making it difficult for pedestrians to pass and meaning they had to walk in the road. Female passers by had received unwanted attention from the men outside the premises, and made to feel intimidated and uncomfortable.

- c. Customers were groups of men and they were smoking across the pavement and were using the chairs and tables to drink outside without purchasing food. Some were openly taking drugs.
- d. There was loud music from this premises from 8:30am to 1:00am. At a time when many people were working from home, it was difficult to work with all the noise, and to take part in video conferences or tutorials for example. There were also late night parties. Staff made no attempt to monitor noise. Those making complaints received aggressive responses.
- e. Staff had been witnessed throwing refuse into residents' bins.
- f. The premises had become a place for people to behave inappropriately. It attracted male customers from outside the local area who engaged in anti-social behaviour.
- g. With the constant playing of loud music and the harassment and aggression, it was clear that the premises' management were not responsible business owners.

7. Councillor Alexandrou responded to questions, including:

- a. In response to Members' queries regarding the type of establishment this premises was, and the PLH's solicitor's description as a restaurant, bar and café, it was advised that the residents had made it clear they had never seen anyone eating at the venue. It seemed to provide all-day drinking and showed televised football. It looked like a bar and operated like a bar.
- b. In response to Members' queries, it was confirmed that the interested parties wished to see the licence revoked. Their lives had been made unbearable by this premises and they were scared to walk by it.
- c. In response to a query from IP17 regarding having absolute proof of drug taking at the venue, it was advised this was what residents asserted and residents had witnessed it. They had told her in emails and phone calls.
- d. In response to queries from the PLH's solicitor in respect of evidence for residents' claims in the representations, it was advised that residents walked past the venue all the time and were seeing mostly men gathered there. They reported that women and girls felt threatened when going about their business in the locality. The representations were consistent in these concerns. Residents had rarely witnessed food being consumed at the venue, and they had seen alcohol being purchased and taken off the premises.

8. The statement of IP17, including:

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- a. He was the owner of 64 Aldermans Hill. He had originally rented this shop in 1971 and sold motor accessories. From the outset he was persecuted by local residents who did not like the business or the clients it attracted. Twelve years later he purchased the freehold with his brother, and three years' ago purchased his brother's share. Serving Palmers Green for so long showed his commitment and passion for the property and the area.
- b. He considered a lot of what was said in the representations as hearsay, though he did not condone wrongdoings if any. Everyone made errors and he asked for leniency and compassion to be shown.
- c. He believed the complaints may have been orchestrated by local residents' organisations, and may be xenophobic.
- d. The PLH had been the tenant since 17/10/17. He would ask that any representations prior to then be discounted.
- e. There had been seven different tenants in the last 17 years of the premises being operated as a restaurant. Previous tenants had given up in the face of resident complaints and local competition. Mr and Mrs Borufi had been successful in their vision for the premises.
- f. Above the premises were six well equipped bed-sits, and most of these were rented out to males. It was known that one of these tenants had complained to the local authority despite having lived there over twenty years, and without ever seeking to be re-located. This tenant had complained about previous restaurant operators below, and had been involved in disagreements with other tenants. He refused permission for entry to the flat by an acoustic engineer to carry out a survey and clarify audible decibel readings. His email response to the request was that the visit would be inconvenient as he was working from home and due to health conditions was a vulnerable person during the current situation, and that the survey would be unnecessary as the Licensing Authority had already made an assessment of noise levels and were also in the process of liaising with Mr Borufi, and he would prefer to leave it in their hands.
- g. One of the other bed-sit residents had written a letter in support of Mr Borufi, as set out in Annex 12.
- h. At the rear of the restaurant, at 64B Aldermans Hill, was a small office suite rented to an accountancy firm, and therefore in business use rather than residential.
- i. If any of the representations came from competitor restaurants or their associates, they should be disregarded.
- j. It was likely that all businesses would struggle and face recession as the Covid-19 crisis passed. He wanted to work with Mr and Mrs Borufi to succeed and to gain respect in the local community.
- k. He had concerns about the licence notice placed in the premises window in respect of the review: that it was barely legible and difficult to scrutinise the details and email address. Despite this there had been 16 objections. He believed there had been a lot of interaction between residents to orchestrate these.
- l. He believed one of the representations was from a resident who had previously complained about mismanagement of rubbish. Those were

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totally unfounded criticisms of his management, but rather the result of Council refuse teams not entering the private service road meaning that the commercial bins had to be brought to Grovelands Road, and the recyclables had to be left in sacks at the kerbside which were then opened by foxes overnight.

9. IP17 responded to questions, including:

- a. In response to Members' queries whether he would regard himself as impartial in this case, it was acknowledged that he had a financial interest as he owned the property and received rent from the restaurant.
- b. In response to Members' queries regarding the office at the rear, it was advised this was a long way from the music area of the café and he did not think any noise would reach them; and that this was only thought to be a resident problem. It was acknowledged that if the office had experienced a nuisance they were able to make representation. Confirmation was provided by the Principal Licensing Officer that all the representations received were from residents.
- c. In response to Members' queries regarding abilities to evict problematic tenants, it was advised this was a lengthy and costly process and was not feasible.
- d. In response to Members' queries whether there was evidence of an orchestrated campaign by residents, he had not been permitted to know the roads where objectors lived and he knew that some local residents belonged to organisations with online presence. It was his honest belief there had been a network of residents compiling a dossier against the café and the objections were not all the result of seeing the inconspicuous licensing notice.
- e. In response to Members' queries around the need for mistakes to be quickly corrected, and for compassion to be shown to those raising concerns, it was advised that he did not now live locally and was not at the premises on a daily basis, but he did not condone any wrongdoings. There was an economic shock coming and he was asking for leniency to be shown to the PLH. He would do his best to work alongside his restaurant tenants to ensure adherence to requirements. He had done extensive investigation work and found a professional company who had advised that the noise problem related to speakers in the ceiling, and these needed to be moved to wall speakers and anchored with a rubber buffer so there was no direct metal contact with the wall and the bass noise could not travel up. There was also a need for a sound limiter and for everyone to agree an acceptable level so this could be set and sealed with a tamper-evident seal. He wanted to work with all parties to find a solution.
- f. Charlotte Palmer asked about information in Annex 1 appendix 2 that Mr Borufi had been sent an email on 31/07/17 asking if he had ceased to use the ceiling speakers and appendix 5 inspection report 20/10/17 noting that the ceiling speakers were now disconnected, and questioning why they would be back in use. IP17 was unable to offer explanation, advising that he leased the premises out and had little authority, but having spoken to

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Mr Borufi around one week ago he understood the ceiling speakers were in operation.

g. Councillor Alexandrou asked why the interested parties' representations were not believed. It was advised that it would have been helpful if there was more concrete evidence and not just allegations, but he had not said he disbelieved the parties and apologised if it had come across that way.

10. The statement of Mr John Palmer, Akin Palmer Solicitors, solicitor on behalf of Mr Borufi (PLH), including:

a. On behalf of the PLH it was accepted that things should have been handled better since the initial notice in February. Before the current shutdown Mr Borufi had difficulty obtaining advice and assistance in respect of noise issues. On every occasion he was spoken to he tried to do something about it and when the notice was served he sought to address the issues. It was believed the problem was the construction / structure of the property. The steps taken had been notified to the Licensing Authority in respect of contacting an engineer. Unfortunately, the request for access to the upstairs flat was refused. A minor variation had been submitted as requested. A firm of sound specialists had been instructed with regard to noise escape. Conditions applied for in the variation would deal with the sound limiter as requested; with an agreed level and an automatic cut-off, servicing of the equipment, and sound checks before any amplified music was played.

b. It was accepted his client did not act quickly enough. This was his first time running such an establishment. Delays were exacerbated by the current shut down. The acoustic engineer could not come before July to install the noise limiter, but had sent confirmation they could attend on 01/07/20 when the engineers returned to work. The PLH did want to work with the Council, and wanted to exercise proper control over the volume of amplified music. The penalty had been paid promptly.

c. In the interests of fairness it seemed reasonable that the PLH should be given the opportunity to put the measures in place. It was understood that interested parties sought revocation of the licence, but that would not be a proportionate and reasonable response. Since the abatement notice was served, steps had been taken to comply.

d. The Council's Legal Services representative advised that the serving of the abatement notice and the fixed penalty fell under the umbrella of 'crime and disorder'. He disagreed, but the alleged crime had been addressed and the penalty had been paid.

e. There had been a series of complaints related to conduct of members of the public, but there was no evidence linking the premises or the PLH to any crime. The complaints by residents were brought to his client's attention, but there was no evidence of crime and disorder which was part of the licensing objectives in respect of the premises. There were objections raised about people on the other side of the street or in the park

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or sexual harassment, but it was hard to see how this was the fault of his client.

f. Requests to put up signs to encourage patrons to conduct themselves properly in the vicinity were complied with. Photographic evidence had been provided of the notices displayed. There was also evidence of the 12 month contract for the premises to be set up and disinfected monthly. This was not the action of an establishment which did not take its responsibilities seriously. To the extent that people may gather outside the premises, the PLH had complied with what was required to be done. He was happy to take advice on how he should be responsible for the conduct of patrons: that was not down to the proprietor.

g. In respect of allegations of drug taking and of taking alcohol off the premises, the Police nor any other responsible authority had made any representations in this matter, and this absence of input was notable.

h. In terms of representations in support, IP17 had spoken earlier and it was acknowledged that he had a commercial interest, but his underlying point was around support to the premises after he tried to assist but was denied by the resident above. The other representation in support, from IP18, had been included in the documentation at Annex 11 and was a fair and balanced representation. Additional evidence were the supporting signatories saying complimentary comments and observations about the café, and these people gave their details and did not comment anonymously. Annex 12 also set out an email dated 04/06/20 from an occupier of one of the bedsits above which was supportive of the café.

i. The criticisms in respect of refuse and rubbish dumping contained a lot of assumptions and half-truths under anonymity. A lot of the comments in the representations could be deemed slanderous and some libellous. It would be wrong to give credence to bold statements that linked the premises somehow to crime and disorder.

j. The premises displayed a sign requesting patrons to keep the noise down and respect our neighbours. The PLH was complying with those obligations. He was remedying the noise issues, albeit with little co-operation.

k. A revocation of this licence would be disproportionate and not supported by evidence. There was hearsay evidence for revocation with people saying things happened there, that the business was illegally run. There was suspicion but no fact. The Police were not involved in this review. The enforcement officers sought removal of live music from the licence, not its revocation, and the noise issue had been addressed.

11. There was a 30 minute lunch break adjournment at this point before the hearing resumed.

12. Mr Palmer responded to questions, including:

a. In response to Members' queries that the Licensing Authority was itself a responsible authority and had brought this review, this was acknowledged, but that the point raised was there were no representations

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from responsible authorities apart from the Council. It was accepted that the Council was entitled to make an application.

b. In response to Members' queries regarding repeated reminders given to the PLH by officers of their requirements, and why issues were not rectified immediately, it was confirmed that signage requirements had been complied with. He had not seen allegations that proof of age and refusals book requirements were not complied with. The only recurring issue was noise, and the PLH was investigating structural issues and looking to address the problem. In response to particular points raised in the inspection reports regarding staff training, measures had been put in place and those were not part of this application by the Council.

c. In response to Members' request for a response to those residents reporting the PLH's behaviour as unacceptable, it was advised these were allegations and told one side of the story only.

d. In response to Members' queries regarding PLH's responsibilities and steps which could be taken to tackle problems related to people gathered outside and of blocking of the pavement, it was advised that to the extent that the PLH was notified of an individual being unpleasant he would take measures. This was the first time there had been indication of such complaints. He would be happy to agree a suitable condition on the licence. He did not encourage any form of social misbehaviour. When people purchased items and moved away from the premises there was little a PLH could do. Photographic evidence did not support that the PLH was irresponsible with the outdoor tables and chairs. Pictures from pre-lockdown showed patrons sitting outside the premises and ample space on the pavement, and other people clearly able to walk past. Of course, he would be more vigilant going forward.

e. In response to Members' enquiries regarding the noise issues, clarification was received of officers' assessment of a statutory nuisance. Mr Palmer confirmed that acoustics engineers had been instructed by the PLH and he considered the request to access the flat above acceptable.

f. In response to Members' queries regarding the date Mr Borufi took responsibility for the premises, it was advised the relevant date was 02/10/17.

g. In response to questions from Charlotte Palmer, he was not sure about the connection of the ceiling speakers but confirmed the PLH had offered to install a sound limiter and had instructed an acoustics firm.

h. When asked if the PLH would consider a reduction in the number of smokers permitted in the smoking area, it was confirmed this would be accepted and a suggestion of 6 smokers rather than 10 was offered.

i. With regard to comments received about many clients not being from the UK, it was agreed that the notices required by condition should be multi-language.

j. When asked how often the DPS was at the premises and how many of the staff were personal licence holders, it was advised that Mr Borufi was there most days 11am until closing and his wife was usually there too. There were two other personal licence holders. At all times there was a

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personal licence holder on site: he would be agreeable to this being added as a condition.

k. With regard to comments received about litter, it was confirmed that the PLH would be agreeable to an additional condition in respect of sweeping up at the end of each evening.

l. Confirmation was sought and given in respect of the proposals for Conditions 13 and 15.

m. When asked whether those customers who left complimentary comments about the café were aware of the reason their details were being collected, it was advised that they did, and that those comments were a response to points made by some representations that the premises did not serve the community and was linked to crime.

n. In response to a query conveyed online by IP13 as to how Mr Palmer could justify there was no evidence of sexual harassment by café patrons, it was advised he was not looking to belittle what had been said to passers-by or that looks given had been perceived as offensive. The evidence was those persons' words. He accepted that the PLH was in control of patrons within the shop and at the outdoor tables but questioned the definition of 'control' away from the premises.

o. Councillor Alexandrou questioned why Mr Palmer thought that no crime was committed when prevention of noise nuisance and control of the behaviour of customers was the job of a PLH. Mr Palmer clarified that he did not disparage the perceptions of people in the vicinity walking by, but he distinguished the reference to issues as crime in the premises. The behaviour of men outside the venue in how they looked at passers by could not be said to be linked to the PLH, and did not necessarily translate as a crime connected to the premises. He could not agree there were any grounds against the PLH in respect of crime and disorder.

13. The summary statement by Ellie Green, Principal Licensing Officer, that having heard the representations from all parties, it was for the Licensing Sub Committee to consider the steps appropriate in support of the licensing objectives, highlighting the relevant policy and guidance as set out in the officer report.

14. The summary statement by Charlotte Palmer, Senior Licensing Enforcement Officer, including:

a. Music had been at such a level as to be a statutory nuisance leading to an abatement notice being served, which was subsequently breached.

b. The length of time taken by the PLH to take action since June 2017, and the reported breaches of licence conditions, were concerning.

c. The Licensing Authority felt the recent action was too little too late. The recommendation remained removal of music from the licence and addition of suggested conditions to the licence. The two minor amendments were agreed.

d. Consideration should be given to adding conditions discussed during the hearing and agreed on behalf of the PLH.

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15. The summary statement of Councillor Maria Alexandrou, that in respect of this review, everything in the documentation was evidence. The representations were predominantly from residents in the area, where they had asked for the music to be lowered at the premises and received threats and abuse. She urged consideration of the comments from the residents.
16. The summary statement of IP17 that he had listened to concerns raised and was a reasonable person who took care of that property, and his tenants in the restaurant, bedsits and office. He hoped the licence would not be revoked, and that compassion and leniency would be shown. He would work with the restaurant tenant to comply with requirements and was available to the Council if needed.
17. The summary statement of Mr John Palmer, on behalf of the PLH, including:
 - a. He did not claim that there was no blame on the part of the PLH, or seek to belittle the concerns and complaints raised. It was acknowledged that issues could have been dealt with quicker, and this may reflect the PLH's inexperience.
 - b. The PLH had tried to liaise with the upstairs tenant. Effective remediation of noise issues would need attendance to the premises. A noise limiter with automatic cut-off was proposed to be installed in the cafe.
 - c. There was no evidence to support allegations that the premises was not legitimate, or that it was a drinking club, or that there was drug taking. There had been no Police input to the hearing and if crimes had been substantiated surely they would have been involved.
 - d. Going forward, the minor variation application had been submitted and would not be withdrawn. Mr Borufi would see the review as an object lesson in what was properly expected of him. He was agreeable to suggested additional conditions proposed by the Licensing Authority, and he should be afforded the opportunity to put those in place and operate correctly, potentially with a time limit imposed. To revoke the licence would be a draconian measure and would impact the livelihood of Mr Borufi and his staff. If Mr Borufi allowed the licence conditions to be breached he would have no-one to blame but himself. He had not reached revocation point, but deserved to be severely chastised.
 - e. It was confirmed that Mr Borufi was on the line and was happy to adhere to the variations in the licence as indicated during the hearing.

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

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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 a decision announcement meeting reconvened.

2. The Chair made the following statement:

"Having read and listened attentively to the written and oral representations, the Licensing Sub-Committee (LSC) has resolved that the appropriate step to be taken to support the promotion of the licensing objectives is to revoke the licence. The LSC were particularly mindful of the words of Mr Palmer that his client "deserves to be severely chastised".

However we were mindful of Mr Edgar's words about leniency and compassion and therefore the LSC are offering the licence holder a final opportunity to demonstrate he can work within his licence. We have included some of the conditions that were agreed and those that we think the evidence makes necessary."

3. The Licensing Sub-Committee **RESOLVED** that it considers the steps listed below to be appropriate for the promotion of the licensing objectives:

To revoke the licence; HOWEVER, we are prepared to offer the premises licence holder a last chance to demonstrate he can comply with the terms of his licence. On that basis we suspend his licence for 3 months whilst he complies with conditions listed below to the satisfaction of the local authority and on receiving their written confirmation within the three month period the suspension can be lifted allowing them to resume licensable activities.

From the Current Conditions

Condition 13. No bottles or glasses shall be taken off the premises to be removed.

Condition 15: 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.

To be amended to: A 'Think 25' proof of age scheme shall be operated and relevant material shall be displayed at the premises.

Additional conditions to be added to the licence:

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- i. A noise-limiting device shall be installed to any amplification equipment in use on the premises. The noise-limiting device shall be maintained in effective working order and set to interrupt the electrical supply to any amplifier should the volume of the music be audible at the perimeter of the premises.
- ii. Prior to the commencement of any live/recorded music staff shall check that all amplified equipment to be used is connected to the noise limiter. Records of these checks shall be documented and records kept for 6 months.
- iii. The noise limiter must 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.
- iv. Speakers must not be attached to, or located in, the ceiling.
- v. Section 177A of the Licensing Act 2003 does not apply to this premises licence (meaning conditions relating to music must be complied with at all times that the licence is in use).
- vi. To demonstrate that staff training records are up to date to the local authority satisfaction.
- vii. All notices must be displayed in dual languages (English and Albanian).
- viii. The number of smokers outside of the premise is limited to no more than 4 people.
- ix. There shall be a personal licence holder at the premises at all times when alcohol is sold.
- x. Ashtrays shall be provided outside at all times the premises are open.
- xi. The pavement area outside the premises shall be swept at least every three hours from opening until close of business.

Should the licence holder fail to comply within the three-month suspension period then the licence will be revoked.

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MINUTES OF PREVIOUS MEETINGS

AGREED the minutes of the meetings held on Wednesday 18 March 2020 and Wednesday 8 April 2020 as a correct record.

