

## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 30 September 2021 at 10.00 am at Online/Virtual: please contact [andrew.weir@southwark.gov.uk](mailto:andrew.weir@southwark.gov.uk) for a link to the meeting and the instructions for joining the online meeting

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**PRESENT:** Councillor Renata Hamvas (Chair)  
Councillor Dora Dixon-Fyle MBE  
Councillor Maria Linforth-Hall

**OTHER MEMBERS PRESENT:** Councillor Ian Wingfield, ward councillor

**OTHERS PRESENT:** P.C. Ian Clements, Metropolitan Police Service

**OFFICER SUPPORT:** Debra Allday, legal officer  
Toyin Calfos, legal officer  
Titilope Hassan, legal officer  
Andrew Heron, licensing officer  
Ken Andrews, environmental protection team officer  
David Franklin, licensing responsible authority officer  
Andrew Weir, constitutional officer

### 1. APOLOGIES

This was a virtual licensing sub-committee meeting.

The chair explained to the participants and observers how the virtual meeting would run. Everyone then introduced themselves.

There were no apologies for absence.

**2. CONFIRMATION OF VOTING MEMBERS**

The voting members were confirmed verbally, one at a time.

**3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT**

There were no late and urgent items of business.

**4. DISCLOSURE OF INTERESTS AND DISPENSATIONS**

There were none.

**5. LICENSING ACT 2003: WINEMAKERS CLUB 2000 LTD, 78 CAMBERWELL CHURCH STREET, LONDON SE5 8QZ**

The licensing officer presented their report. Members had questions for the licensing officer.

The applicant addressed the sub-committee. Members had questions for the applicant.

Councillor Ian Wingfield, the ward councillor, addressed the sub-committee. Members had no questions for the ward councillor.

The licenisng sub-committee heard from three local residents objecting to the application. Members had no questions for the local residents.

The licensing sub-committee heard from a local resident supporting the application. Members had no questions for the local resident.

The sub-committee noted the written representations from the local residents who were not in attendance.

All parties were given up to five minutes for summing up.

The meeting adjourned at 11.20am for the sub-committee to consider its decision.

The meeting reconvened at 12.15pm and the chair advised everyone of the decision.

**RESOLVED:**

That the application made by the Winemakers Club 2000 Limited for a premises licence to be granted under Section 17 of the Licensing Act 2003, in respect of

the premises known as Winemakers Club 2000, 78 Camberwell Church Street, London SE5 8QZ be granted as follows:

The sale by retail of alcohol (on sales)	Monday to Saturday 11:00 to 22:30 Sunday: 11:00 to 19:30
The sale by retail of alcohol (off sales)	Monday to Saturday 11:00 to 23:00 Sunday: 11:00 to 20:00
Regulated entertainment in the form of recorded music (indoors)	Monday to Saturday: 11:00 to 23:00 Sunday: 11:00 to 20:00
Opening hours	Monday to Saturday: 11:00 to 23:00 Sunday: 11:00 to 20:00

### Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operating schedule highlighted in Parts A, B, C, E, F, G, H, I, J, K, L, and M of the application form and the conditions agreed with the Metropolitan Police Service and the licensing unit during the conciliation process and the following additional conditions agreed by the licensing sub-committee:

1. That the premises licence holder shall provide a contact number to residents so residents can raise any issues as they arise.
2. That all on sales shall be served by table service.
3. That all on sales wine that is going to be taken off the premises shall be sealed with a cork.
4. That no open on sales drinks shall be taken outside or taken to the garden area at any time.
5. That the premises shall signpost patrons to use public transport, to leave the area quietly and not to congregate in front of the premises.
6. That there shall be no more than four smokers at any one time in the rear garden and that the rear garden is to close to smokers by 21:00.
7. That there shall be no external bottling, disposal of glass between 20:00 and 08:00.
8. That no deliveries or waste collection shall take place between 20:00 and 08:00.

9. That the premises agreed not to use single use plastics wherever possible.

### **Reasons**

The licensing sub-committee heard from the licensing officer who explained that the Metropolitan Police Service and the licensing authority had withdrawn their objections to this application after the applicant had agreed, through conciliation to a number of conditions.

The Metropolitan Police Service asked for conditions that related to CCTV and staff training in the use of CCTV.

The applicant also agreed to conditions suggested by the licensing authority. Those conditions included amending the on sales licensable activity to cease earlier to allow for drinking up time. The applicant agreed to an accommodation limit of 70 and compiled a written dispersal policy, which formed part of the conciliated condition. The applicant also agreed that their staff would be trained to implement the dispersal policy and that any off sales of alcohol would be provided in sealed containers. The applicant agreed amongst other things, that the garden area will close to patrons at 22:00 each day until the start of business hours the following day.

The licensing officer confirmed that the premises was in cumulative impact zone.

The licensing sub-committee heard from applicant. They stated that his premises would be a wine shop, which serves cheese and charcuterie. They expressed that there was nothing similar in the area. The applicant accepted that they had been short sighted in the way he had communicated with some of his neighbours and conceded that more could have been done in relation to the neighbours he had failed to communicate with.

The applicant confirmed that music within the premises would only be background noise and atmospheric in nature as he wanted to create an environment which was not dominated by loud music. In relation the cumulative impact, he stated that three near by licenced premises had closed down, and therefore the grant of this application would not have a cumulative impact in the area.

The applicant informed the sub-committee that the company would impose a £12 corkage fee on each bottle of on sales wine, making the cheaper bottles of on sales wine cost around £30. He said that the garden was never intended to be used other than as a smoking area and anticipated would close at 21:00. They advised that no drinks would be allowed in garden area and said that the garden area did not have seating. They went on to say that drinks could be left behind the bar if required. The applicant also stated that he would not permit drinking outside the premises. The applicant mentioned that there was no outside seating facilities and that that they had intentionally not created an outside seating area and had never applied for permission to do so.

The applicant went on to say that they understood the concerns of the neighbours in relation to anti-social behavior and noise. They stated that they had taken some noise readings of the premises and said that the noise generated from the premises was less than the general noise generated outside of the premises.

They accepted that at the time of the reading, the premises was not functioning at full capacity. He confirmed that sound proofing work will be undertaken at the premises to reduce potential noise further, and the impact that the noise may have on his neighbours. He also stated that he would signpost patrons to use public transport, to leave the area quietly and ensure that they did not congregate in front of the premises when leaving.

He stipulated that the premises capacity was 70 people and that all patrons would be seated either at a table or bar area. He stated that all his wine is corked and that all off sales wines would be seal and patrons would be encouraged not to loiter or open their drinks outside the premises. In relation to off sales, he stated that he had hoped that the wine shop would sell bottles in boxes of 6, and went on to say that he does not use single use plastic.

The applicant stated that he would welcome residents coming in and speaking with him to resolve issues that may arise from the premises and confirmed that he would be able to give a mobile phone number to neighbours on request. The applicant also stated that all bottles purchased via on sales will be corked if unfinished and, this service would be offered with the bill. He went on to say that in his experience, patrons generally drank their bottles on the premises because of the corkage charge.

The licensing sub-committee heard from the four objectors.

The first objector was a local councillor. They stated that the objections that he was aware of, came mostly from residents and that the objections related to the cumulative impact zone, anti-social behavior and change of use. They correctly stated that the change of use was a planning issue and therefore subject to a separate regime. They noted that there were quite a lot of licensed establishments near the premises and put the question, "When is an impact area cumulative?" He urged the committee members to consider this question whilst emphasising the large number of licenced premises in the vicinity and the ramifications of those licenced premises in the area.

The second objector did not believe that the applicant would be able to manage anti- social behavior in the area. They stated that the applicant and/or his staff members would not be able to see customers as they left the premises as their line of vision would be obscured by a wall. In that obscured area, the objector noted that the area was used previously by other persons to urinate, drink and loiter.

This objector also stated that due to the lay out of the building, noise from the garden permeated through the area and disturb the neighbours. The objector went on to say that the residents driveway will now be used by patrons and anticipated

that the impact of patrons would be hard to police. In response, the applicant suggested that the obscured area may have been abused because there was not a business premises operating close by, which in turn, could have discourage the type of use and behaviour complained of.

The final two objectors confirmed that noise in the area does permeate and questioned how young children who are residents, will sleep if the bar is allowed to open until late at night. There were concerns raised about very young residents returning home from school unaccompanied and who they might meet on their way home, if the premises were to open. All of the objectors felt that the venue was inappropriate as it was too close to residential properties.

The licensing sub-committee heard from one person who supported the application. In essence they said that they were familiar with the business. They said that the business was a place to learn about wine. They stated that the wine tasting events gave patrons a chance to experience wine, which they may never have a chance to experience ordinarily. They empathised with the resident's objections but stated that they believed that the premises would enhance the area.

The licensing sub-committee considered all of the objections put forward. The committee formed the view that the objections put before it, could be allayed by the applicant being made subject to the additional conditions listed in the conditions section of this notice of decision.

The licensing sub-committee were confident that the applicant would adhere to the conditions placed on his licence as he had indicated that he could work within the conditions in the meeting.

In reaching this decision, the licensing sub-committee had regard to all the relevant considerations, the four licensing objectives and considered that its decision was appropriate and proportionate in all the circumstances.

### **Appeal rights**

The applicant may appeal against any decision:

- a. To impose conditions on the licence
- b. To exclude a licensable activity or refuse to specify a person as premises supervisor.

Any person who made relevant representations in relation to the application who desire to contend that:

- a. The licence ought not to be been granted; or
- b. That on granting the licence, the licensing authority ought to have imposed different or additional conditions to the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the Magistrates' Court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

**6. LICENSING ACT 2003: A T NEWSAGENTS, 86 BRANDON STREET, LONDON SE17 1ND**

The licensing officer presented their report. Members had no questions for the licensing officer.

The applicant and their legal representative addressed the sub-committee. Members had questions for the applicant and their legal representative.

The sub-committee heard from local residents objecting to the application. Members had questions for the local residents.

The sub-committee noted the written representations of the local residents who were not in attendance.

All parties were given up to five minutes for summing up.

The meeting adjourned at 1.30pm for the sub-committee to consider its decision.

The meeting reconvened at 2.22pm and the chair advised everyone of the decision.

**RESOLVED:**

That the application made by Thirukumar Selvaratnam to vary the premises licence granted under the Licensing Act 2003 in respect of the premises known as A T Newsagents, 86 Brandon Street, London SE17 1ND to be granted under Section 34 of the Licensing Act 2003 as follows:

<b>Activity</b>	<b>Hours</b>
The sale by retail of alcohol (off sales only)	Monday to Sunday 08:00 to 00:00
Provision of Late Night Refreshments	Monday to Sunday 23:00 to 00:00
Opening Hours	Monday to Sunday 06:00 to 00:00

## **Conditions**

The operation of the premises under the licence shall be subject to relevant mandatory conditions, existing conditions of the premises licence and those derived from the operation schedule, the conditions agreed with the Metropolitan Police Service during consultation prior to the submission of the application and the following additional conditions agreed by the sub-committee:

- 1) That a contact telephone number for the management of the premises shall be clearly displayed at the premises.
- 2) That the premises will endeavour not to use single use plastics wherever possible.
- 3) That the applicant shall make a litter bin available outside of the premises.
- 4) That at least one litter pick is carried out per day in the vicinity of the area, the last which will take place when the premises closes.

## **Reasons**

The licensing sub-committee heard from the licensing officer. He outlined the discrepancies in the supporting documents provided by the applicant's legal representative. He confirmed that no representations were made by the responsible authorities. The licensing officer confirmed there were four objectors.

The licensing sub-committee heard from the applicant's legal representative who acknowledged the discrepancy in the supporting documents and advised that the opening hours applied for was as written in the application form, a time of 06:00 to 00:00 (the following day) daily.

They explained that A T Newsagents is to be a convenience store. They provided a breakdown of the business stating that sales consisted of 80% groceries, 10% tobacco and 10% alcohol. He opined that the alcohol floor space equated to 5% of the business.

They addressed the main concerns of the objectors, crime and disorder and anti-social behaviour in a nearby park to the premises, Nursery Row Park. They said that those who participate in anti-social behaviour in the park would be looking to buy cheap alcohol which they would not be able to get at the premises. He proposed that a condition requiring the applicant to provide a contact number to residents could be included on the licence to help alleviate the concerns of the objectors.

They explained that prior to submitting the application, it was put forward to the Metropolitan Police Service for their consideration. The police had requested that the application to include specific conditions in the operating schedule which the applicant complied with.

They stated that as the Metropolitan Police Service have not made a representation regarding the application they must be content with the licence being granted with the conditions applied for and in accordance with section 182 of the Licensing Act 2003 (April 2018) para 9.12, the licensing sub-committee should interpret this as there being no concern on crime and disorder from the Metropolitan Police Service. Similarly, the lack of a representation from the Environmental Health team should be interpreted as there being no real concern on the licensing objective of public nuisance. They stated that granting the premises licence would not undermine the promotion of the licensing objectives.

The applicant informed the licensing sub-committee that he had been running a business for nine years. He explained his procedure when dealing with intoxicated customers who were looking to purchase alcohol. He would refuse these sales and explain why they could not be served. If they refused to leave the premises he would call the police.

The licensing sub-committee heard from the objectors. The majority of the objectors resided near Nursery Row Park and observed anti-social behaviour in the park at night such as: violence, abuse, litter and drug and alcohol misuse. One objector resided in the neighbouring property to the premises. The objectors were mainly concerned that if another premises was allowed to operate and serve alcohol late at night it would further the anti-social behaviour in the park.

The members asked the objectors if they believed any or the perpetrators of the anti-social behaviours were buying alcohol from the premises. The objectors suggested that perpetrators were not currently but that they would start buying from the premises if the licence was granted until 00:00. One of the objectors (Other Person F) expressed that there was a serious litter problem in the area particularly broken glass bottles. They stated that many of these bottles were Nigerian Guinness. As of the date of the licensing sub-committee, the premises did not have a licence to sell Nigerian Guinness and the applicant explained that he did not have the intention to sell this product in the near future.

The applicant's legal representative suggested that a condition could be included to refuse to serve anyone causing anti-social behaviour in the area.

The chair of the licensing sub-committee reminded the objectors that they could ask for the license to be reviewed if they felt that the premises was not being managed in accordance with its conditions.

The licensing sub-committee were referred to R (on application of Daniel Thwaites plc) v Wirral Magistrates' Court and Others (2008) EWHC 838 (Admin) in which the Honourable Mrs Justice Black said at para 63: "The fact that the police did not oppose the hours sought on this basis should have weighed very heavily on them whereas, in fact, they appear to have dismissed the police view because it did not agree with their own".

The licensing sub-committee were mindful of the concerns raised regarding anti-

social behaviours within Nursery Row Park and had compassion for the residents. They were also aware that nationwide there had been a rise in anti-social behaviour and an increase in parties since the national government lockdown ended in June 2021. However, there was no evidence to suggest that the concerns raised here were caused by the premises or that the responsible authorities as experts in their fields shared the same concerns. Furthermore, there had been no complaints regarding the premises since the licence was granted in 2012.

The licensing sub-committee formed the view that the objections put, had been allayed by the applicant including the conditions suggested by the Metropolitan Police Service, the lack of representations by the other responsible authorities and that the hours applied for the licensable activities were in accordance with Southwark statement of licensing policy 2021 - 2026.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate in all the circumstances.

### **Appeal rights**

The applicant may appeal against any decision:

- a. To impose conditions on the licence
- b. To exclude a licensable activity or refuse to specify a person as premises supervisor.

Any person who made relevant representations in relation to the application who desire to contend that:

- a. That variation ought not to have been made; or
- b. That, when varying the licence, the licensing authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the Magistrates' Court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

**7. LICENSING ACT 2003: H&G CUISINE, 5A WESTMORELAND ROAD, LONDON SE17 2AX**

The licensing officer presented their report. Members had no questions for the licensing officer.

The applicant for the review addressed the sub-committee. Members had questions for the applicant for the review.

The licensing sub-committee heard from another local resident supporting the review. Members had questions for the local resident.

The licensing sub-committee noted the written representations from the other local residents who were not in attendance.

The licensing sub-committee heard from the environmental protection team officer, supporting the review. Members had no questions for the environmental protection team officer.

The Metropolitan Police Service officer, also supporting the review, addressed the sub-committee. Members had questions for the police officer.

The licensing responsible authority officer, also supporting the review, addressed the sub-committee. Members had no questions for the licensing responsible authority officer.

The premises licence holder and their legal representative addressed the sub-committee. Members had questions for the premises licence holder and their representative.

All parties were given up to five minutes for summing up.

The meeting adjourned at 4.15pm for the sub-committee to consider its decision.

The meeting reconvened at 4.58pm and the chair advised everyone of the decision.

**RESOLVED:**

That the council's licensing sub-committee, having considered an application made under Section 51 of the Licensing Act 2003 by a local resident for the review of the premises licence issued in respect of H&G Cuisine, 5a Westmoreland Road, London SE17 2AX having had regard to all relevant representations has decided to modify the conditions of the premises licence as follows:

## Hours

Sale of alcohol (indoors)	Monday to Saturday: 10:00 to 23:00 Sunday: 10:00 to 21:30
Late night refreshment (indoors)	Monday to Saturday: 23:00 to 23:30
Opening hours	Monday to Saturday: 10:00 to 23:30. Sunday: 10:00 to 22:00

## Conditions

1. That an acoustic lobby shall be installed.
2. That Condition 353 be amended to read "That no drinks shall be taken outside the premises".
3. That the premises licence holder shall ensure that all staff shall attend a recognised training course on the Licensing Act 2003 and the conditions of the premises licence.
4. That at least one SIA licensed door supervisor shall be on duty at the entrance of the premises on Fridays and Saturdays from 21:00 until the last staff member leaves the premises.
5. That a maximum of four smokers shall be permitted outside at any one time.
6. That all windows and external doors shall be kept closed at all times save for immediate access and egress.
7. That a direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number shall be made available to residents in the vicinity.

## Reasons

The licensing sub-committee heard from the applicant to the review who advised that she had moved to Westmoreland Road in April 2016, when the premises was still an off-licence which was also run by the current premises licence holder.

The applicant advised that they worked from home and since the summer, the noise from the premises had been intolerable. The windows to the applicant's home were directly opposite from the premises and they were regularly disturbed by the operation of the premises with loud music coming from the premises and customers congregating outside, shouting to one another.

They advised that the premises were regularly open after midnight. The disturbances on Sundays appeared to have the worst effect on the applicant as it

would have a detrimental effect on her work on a Monday after what should be relaxing weekends.

The applicant informed the sub-committee that the premises often breached the conditions of the licence and it was only after they submitted the review application, had there been any change in the licensee's behaviour. The applicant then showed some short video clips to the committee to demonstrate some of her recent experiences from the operation of the premises.

The licensing sub-committee then heard from the Metropolitan Police Service officer who supported the review of the premises licence on the grounds of the prevention of crime and disorder and the prevention of public nuisance licensing objectives.

The officer explained that the premises were having a significant impact on the lives of local residents. The evidence provided by the residents related to complaints of noise nuisance and anti-social behaviour associated with the operation of the premises.

Furthermore, the officer also advised that on 29 April 2021, at 21:05, the police attended the premises and found it to be operating in contravention of the Coronavirus Regulations. A Prohibition Notice was issued on this date after police found seven people inside the premises watching football. The DPS said they were waiting for take away food but there was no sign of food being cooked. On viewing CCTV, the same customers were seen to have been at the premises for an hour before the police had arrived. The DPS had stated that some of the people in the venue were working, which was not the case.

The police officer contended that the premises licence holder had opened the premises to the public when it should have been closed, exposing both them and the wider community to the possibility of becoming infected with the disease. The officer asked the sub-committee whether this was the behaviour of a responsible licence holder.

The licensing sub-committee then heard from the officer from the council's environmental protection team who confirmed from records there had been several complaints of loud noise from amplified music from within the premises in addition to loud customers from the premises congregating on the pavement outside and alcohol drunk outside the premises. The complaints had been received on 12, 25 and 26 July 2021 and on 9 and 16 August 2021. The complaints came from different households which suggested that the community had been affected by the disturbance from the premises.

The officer advised that there was considerable evidence to support the allegations of public nuisance as detailed in the applicant's review application and suggested an inability of the premises management to control the patrons from causing disturbances outside of the premises and to prevent noise escape from the premises despite intervention from officers from the noise and nuisance team prior to the review application being submitted.

The licensing sub-committee then heard from the officer representing licensing as a responsible authority whose representation was based on Southwark's statement of licensing policy 2021-2026 and the prevention of crime and disorder and the prevention of public nuisance licensing objectives.

The officer stated that there had been nine complaints during 2021 to the licensing unit regarding noise, anti-social behaviour from patrons of the premises, in addition to allegations of the premises operating past its licensed hours. The officer referred to a log of complaints received by the licensing unit in addition to a log of officer's visit notes. In particular a licensing officer visited the premises on 6 August 2021 at 00:01 and witnessed the premises open past its licensed hours and as a result a warning letter was sent to the licensee concerning this.

Other person G, then presented their representation to the sub-committee. They advised that they had moved to Westmoreland Street in 2012 and after a period away, had lived at their current address since 2019. They had known the premises when it was previously an off-licence and there had never been any problems to report of that impacted residents.

They advised that the premises had changed significantly over the previous 18 months, even more so since the Covid restrictions had been lifted. There was a greater footfall to the premises from when it was an off-licence. They stated that she had witnessed the premises regularly flouting its licence conditions, causing severe nuisance and disturbance to her and other local residents in the vicinity regularly.

Routinely, loud music was being played until late, often past the terminal licensing hour of 23:30. Customers habitually gathered on the pavement outside the premises to smoke, or when leaving and entering the premises, while drinking alcohol, and shouting. They advised that this was a particular issue when patrons leave the premises in the early hours of the morning and take a while to disperse. The disturbances were worst on most Friday, Saturday and Sunday nights.

They advised that more recently, since they had made complaints, the premises had taken to closing the front shutter while events continue. Because of this, customers would bang on the shutters to gain entry, which woke residents up.

They further advised that they had never previously been required to report any incidents from any other premises in the area as none of the other premises in the area have had such an impact on them. However, the constant disturbances from the premises have had such an impact upon them that they made complaints to the noise and nuisance team on 24 and 25 July 2021, 2 and 15 August 2021.

The representative for the premises licence holder addressed the licensing sub-committee and advised that the premises licence holder had held a premises

licence for 10 years, during which there had never been any issues, with the exception of complaints from the Ibbs and the Marquis when there had been the sale of alcohol in the rear yard of the premises.

The premises accepted that it had operated outside its licenced hours. This was not a case of wilfully flouting the licensed conditions, but was more of being misguided. Prior to the complaints, no one had approached the licensee with their concerns. As soon as the licensee became aware of the extent of the problem, he tried to reach out to the residents, but the licensing unit would not provide the complainants' details.

This was the first time that the licensee had operated a bar. The premises was primarily operated by the licensee, but was sometimes assisted by his partner or one of his relations. There were four staff usually present in the bar, but on Fridays and Saturdays he usually employed six staff. There was no kitchen on the premises. Food would be prepared by the licensee's partner in their home across the road and brought over when ready.

The licensee stated that there was no dancefloor in the premises and that he only had book shelf speakers. Any loud music disturbance would be when the front door was opened and closed for ingress/egress. There was air conditioning within the premises, so there was no reason for any windows to be open. The licensee also advised that he had discussed the installation of an acoustic lobby with his partner.

Concerning the breach of the Coronavirus Regulations, the premises licence holder accepted the breach. He had put the football on and some customers had simply sat down and started watching it instead of waiting outside.

Regarding the allegation made by other person G that the premises operated whilst the shutters were down on 15 August 2021, the licensee advised that he (and staff) would ordinarily clean the bar for approximately one hour after the terminal during which time the shutters to the premises would be down.

The premises licence holder advised he had a temporary event notice (TEN) on 15 August 2021 until 03:00. This was to celebrate his partner's birthday, with family and friends. Three SIA door security staff were employed on this occasion. Because of the number that of people turned up, the licensee put the shutters down at 01:30. The people knocking on the shutters were friends that had turned up late when the bar had already reached capacity.

The licensee's representative then showed a video demonstrating that there was no noise emanating from the premises and the nearest disturbance came from Arnside Street.

In summing up, the licensee's representative informed the sub-committee that the licensee admitted certain breaches of the premises licence, but it was neither reasonable nor proportionate to revoke the licence. The application could be

resolved by a modification of licence conditions and suggested a reduction in hours or installing an acoustic door.

The licensing sub-committee noted the representations of five other persons (residents) who had submitted representations but were not present.

The licensing sub-committee found the evidence presented by the applicant and other person G was extremely compelling. Whilst the licensee accepted that he had on occasions, operated after hours, it was felt that this acknowledgement was more by way of mitigation to the damning evidence of the residents when the review application was submitted. Only when the review application was submitted did the licensee abide to the licence conditions. Other person G complained about the premises on 15 August 2021, which the licensee stated was when there was a TEN in place for his partner's birthday celebration.

The sub-committee questioned the licensee of the need for SIA door supervisors when the premises had a maximum capacity of 35 and also, why SIA door supervisors would be employed when the event was for invited friend and family. The licensee's version of the event of 15 August 2021 was found to be less than credible.

The licensing sub-committee unanimously found that the licensee had regularly caused noise nuisance and had also breached the terms of the premises licence in operating after hours. The sub-committee also found that the premises had breached a number of the conditions on its licence:

- Condition 351 - The premises will use signage to inform patrons and staff to please leave premises quietly.
- Condition 352 - No clustering of people outside premises permitted.
- Condition 354 - The premises will discourage patrons from leaving premises drinking on open cans.
- Condition 355 - The premises will ban people from premises who do not cooperate.
- Condition 325 - No unaccompanied children under the age of 16 will be permitted after 19:00 (29 April 2021 at 19:05).

The licensing sub-committee also found that there had been an unacceptable and inexcusable breach of the Coronavirus Regulations in discussions in the closed session, raised concern that the breaches were due to weak management.

When considering the review application, the licensing sub-committee were reminded that having regard to the application and relevant representations it must take steps it considered appropriate for the promotion of the licensing objectives. Those steps are: revoking the licence; excluding a licensable activity; removing the designated premises supervisor; suspending the licence for a period not exceeding three months or modifying the conditions of the licence by altering, omitting or adding any condition.

The licensing sub-committee considered each of the available options in turn:

### **Revoking the premises licence**

It was accepted by the licensing sub-committee that the Coronavirus restrictions had a devastating effect on the leisure industry for in excess of a year. H&G Cuisine had effectively only been in operation for a matter of weeks. It was felt that this was insufficient time for the licensee to demonstrate whether these complaints were teething problems to this new business venture, or if the licensee was an irresponsible operator. At this early stage, the sub-committee felt that it would not be reasonable or proportionate to revoke the licence.

### **Excluding a licensable activity**

The primary licensable activity for the premises was the sale of alcohol. The licensee had previously operated an off-licence at the location with no complaints made from local residents. The sub-committee were of the view that the excluding the sale of alcohol from the licence would be tantamount to revoking the licence. In view of this, it was felt it would not be reasonable or proportionate to exclude a licensable activity.

### **Removing the designated premises supervisor (DPS)**

The licensee did state that his partner was the chef. He did not give any indication of any other suitable person that would be appropriate to who had a personal licence and could take on the DPS role. For this reason, the licensing sub-committee felt it would not be appropriate to remove the DPS.

### **Suspending the licence**

The licensing sub-committee did consider period of suspension. However, in view of this determination any period of suspension in addition to the modifications to the licence would be deemed excessive.

### **Modifying the licence conditions**

The licensing sub-committee considered it proportionate and reasonable to modify the conditions of the premises licence as detailed above.

The licensee is reminded that the modified condition that the all staff attend a recognised training court on the Licensing Act and conditions of the licence is in addition to the condition 293 (That all staff are trained in their responsibilities under the licensing act 2003 and training records to be kept and updated every six months and shall, upon request, be made immediately available to officers of the police and the council).

Notwithstanding, the premises licence holder's appeal rights, the premises is not to operate until the installation of the acoustic lobby.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate.

### **Appeal rights**

This decision is open to appeal by either:

- a) The applicant for the review
- b) The premises licence holder
- c) Any other person who made relevant representations in relation to the application

Such appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court for the area within the period of 21 days beginning with the day on which the appellant was notified by this licensing authority of the decision.

This decision does not have effect until either

- a) The end of the period for appealing against this decision; or
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

The meeting ended at 5.05 pm.

**CHAIR:**

**DATED:**