

LICENSING SUB-COMMITTEE

MINUTES OF A MEETING of the Licensing Sub-Committee held on Tuesday, 24 January 2023 at 3pm in the executive meeting room, floor 3 of the Guildhall, Portsmouth

Present

Councillor Scott Payter-Harris (in the Chair)
Ian Holder
Charlotte Gerada

1. **Appointment of Chair.**
Councillor Scott Payter-Harris was appointed Chair.
2. **Declarations of Members' Interests**
No interests were declared.
3. **Licensing Act 2003 - Application for variation of a premises licence - Carioca Emporio Limited, 88 Clarendon Road, Southsea, PO5 2PB**
Ben Attrill, Legal Advisor explained the hearing procedure that would be followed and reminded all parties that new matters cannot be raised.

Derek Stone, Principal Licensing Officer introduced his report and in response to questions from members, he explained that an application should have been submitted before the bar was moved to the front of the premises. However, the new location does not alter greatly the premises other than it should have been reflected on the plan.

In response to a question from the Legal Advisor, he explained that there had been no objections to the bar being moved and therefore this should be regarded as effectively granted in its own right.

In response to a further question from members, the Licensing Officer explained that a few visits to the premises had been made and no issues other than noise complaints had been received; these had been responded to by either his office or Environmental Health.

The applicant noted that there had been three visits regarding noise. She informed the panel that she had moved the bar at the suggestion of the Environmental Health Officer during a visit in Summer.

There were no questions from the Principal Regulatory Services Officer nor the other persons.

In response to questions from the Legal Advisor, the Licensing Officer confirmed that under the current licence from Monday to Saturday alcohol can be sold until 2am and under the Live Music Act, both live and recorded music can be played until 11pm. On Sundays, alcohol sales cease and the premises closes at 11pm. The premises owner is seeking for permission to sell alcohol for one extra hour and for regulated entertainment for an extra four hours. This is not a general review of the licence and members were

only able to determine the application i.e. whether the extra hours / licensable activities should be granted.

Monica Souza and Marcia Dray included the following points in their representation:

Ms Souza has lived in England for nine years and visited Southsea three years ago. She lived in Fareham and then moved to Southsea. She loves the location and the fact that it is only three minutes from the beach.

It took a few months to get the premises. Since it opened, anti-social behaviour in the street (drinking, drug-taking, urinating) has disappeared. English ladies have told her that they feel safer since the premises opened a year ago because it is no longer dark. In the year it has been open there have only been two incidents of assault outside in the street. The bar is loved because it is a family place.

She asked for a permit for parties to celebrate both Brazilian days and English days. It does not mean she would use it every day. Normally the bar closes at 8pm during the week.

Southsea is a tourist place and there is life in Summer. She is trying to bring life to the area.

She has tried to do everything that has been suggested including moving the bar to the front of the bar, using two speakers rather than six and hiring somebody to advise about music. The DJs bring their own speakers.

The last year has been a school for her. She has learnt a lot. She has had support from a lot of people who like the bar including a local group of English drummers who visited twice and played for 20 minutes at about 5:30/ 6pm.

Sometimes there are 5-10 customers and when parties are held there are no more than 40 or 45 customers.

There have been no fights in the bar. She assists the nearby club when there are fights. Every time they open, they have a fight. She goes to help whenever there are any types of fights in the roundabout.

People from across the world and England come to the bar. Her goal was only to bring happiness to people, she is sorry that she disturbs some, but that is life and they cannot make everyone happy at the same time. She is trying to do anything that she is asked to do to prevent any upset to the community.

The only way she makes money is by doing the parties. This is not a club. She does not have club speakers. There are two lights on during the parties not a music or light system.

The premises used to be empty and the area full of rubbish. She got it ready, decided what to sell and how to bring people in.

There were two complaints and suggestions from local residents in the beginning which she addressed. She paid attention to other businesses and saw how to improve. Mr Stone emailed to suggest that she invite Environmental Health to visit and discuss how things could be improved. She emailed them on 8 January.

She felt it was very said that a resident went door by door to speak to residents about how they could make a complaint about the business. If they had a bit of common sense, they would not have wasted their time and come speak to the owner directly. This clearly shows there were no good intentions at all. She doubted whether they complained when it was empty and a dump. Some of the letters were very discriminative because they referred to the premises as the Brazilian Bar. She asked the panel to note that different communities attend. She felt that the hearing had been called because of the residents' actions and asked the panel to help her improve her business. After all, she is bringing in revenue.

The Chair noted that the hearing would have been called even if there had been no representations from residents because Environmental Health had objected. He stated that people have the right to make representations regardless of whether the premises owner is happy with them. He would not comment on how people chose to organise themselves and to him it is a matter of open democracy. People are allowed to do that in any manner that they choose.

In response to questions from members, Ms Souza explained that:

Residents came to her bar to say that they had been approached by someone and asked if they wanted to complain about the premises.

She agreed with Mr Stone's suggestion to put in a second door.

She had tried to prevent people from smoking in the small backyard by closing the door. People smoke at the front. She is applying to put tables next to the car park where people can smoke. Last week she paid extra for her rubbish collection because she had removed a lot from the carpark.

She stopped the music whilst she waited for this hearing.

December and January were bad months for her. She asked for permission for a party for her birthday and at Christmas.

Just across from her at the club there are 300 people who make noise, smoke and fight.

In the Summer she used to have big tables outside. These were brought in and she applied to have one small one outside which would not block the dropped kerb. Normally when she has a party, if she has a doorman, she works with him. There is no issue with customers outside her premises blocking the dropped kerb because late at night, people do not come with a

wheelchair or things like that. She tells customers not to stay too long outside.

The law prohibits smoking indoors. Customers normally go outside in groups to smoke or chat. She can only advise them not to cause any nuisance. It is not for Carioca where they congregate.

The Chair stated that this was incorrect and explained that one of the four licensing objectives is the prevention of public nuisance which is engaged when people congregate outside. He added that this something that had been raised by Environmental Health.

The Legal Advisor confirmed that the licensing objectives are engaged when there is a clear nexus between the smoking outside and a licensable activity such as the sale or supply of alcohol at the premises. However, the guidance also states that when patrons leave the premises in a more permanent fashion and migrate away, the premises should not be held accountable for the actions of individuals that are not in the vicinity - other forms of enforcement are available. There is case law, such as the case of Luminar Leisure, where the trail of destruction left in the wake of people migrating en masse from one premises to another was properly taken into consideration.

The Chair noted that the incident detailed in the report was of patrons from Carioca congregated outside and clearly still using the premises.

In response to further questions from the committee, Ms Souza explained that the bar usually closes at 8pm on Tuesdays and Wednesdays; Thursday at 00:00/ 00:30. On Thursdays they have open mics with maybe 12 customers who leave once the music stops. It is very hard to keep it open until 3am. It is more likely when there is a party. She requested an extension to 3am to catch people leaving other clubs. She would not open every day until 3am. On Fridays they have live music from 7pm in the Wintertime. In the summertime, they like to go outside until 2am and have live music until 1.30/ 2am at the latest.

The first visit by the Environmental Health service was in the Summer. She put the speakers outside, in the door. On the second visit, she moved the music to the front of the premises at the suggestion of the officer. The third visit was at the Halloween party. There was a complaint about noise and the door being constantly opened and closed. Music after 11pm is not a regular occurrence. After another visit, she cancelled her parties and requested permits for 15 and 24 December.

At the request of the Chair, the Principal Regulatory Services Officer stated that Temporary Event Notices (TENs) application were submitted to extend the opening hours for 19 November and for 10 December. Both the police and Regulatory Services made representations and these events did not take place.

Ms Souza further clarified that one event was to show the World Cup when Brazil was playing. She was told by the officer who visited to turn off the music after 11.

The DJ advertised the second event on Facebook, but this party did not happen, it happened until 11 because she did not have permission to carry on after with loud music.

On 31 October she did enter the premises next door with customers to carry on the party, but she had asked the owner beforehand. It finished before 11 because it did not have enough people to fit there. They did not sell anything.

The Legal Advisor explained that if there was no licensable activity taking place in the adjoining premises (provision of regulated amplified music or sale of alcohol) that would be permissible. However, it was reported that in this case there was live music after 11pm and therefore would constitute a breach.

There were no questions from the Licensing Officer, but he informed the panel that when he visited, Ms Souza was not sure whether she should or should not have any music after 11pm. After taking advice, she applied for the variation and stopped providing any entertainment. She then applied for TENS for parties.

The Principal Regulatory Services Officer explained that she did not receive the email that Ms Souza said she had sent her.

In response to questions from the Principal Regulatory Services Officer, Ms Souza explained that:

She did not realise that she should have contacted that department but had followed the advice given. She knows that she must be more aware of the laws as this is her country now but there are too many little things like this one. She is sorry about that. She is going to try to do take all the advice to make Carioca better.

DJ Mark's speakers are better quality than hers, so he brings his two. DJ Alex brings only one speaker. She takes care that they do not play so loud as they know it is not a club. She told them not to bring more than two speakers. DJ Mark said on FB that customers could talk to 11, then he would play music to 3am loud. He meant there would be dancing, he did not mean they would terrify the neighbourhood for music or things like that.

She had not thought about installing a volume-limiting device at the bar, but it seemed a good idea. Her advisor monitored the noise levels across the street.

Door staff were on duty at the Halloween party.

In response to questions from Ms Hadley, she explained that customers stay on the street when they go to smoke, then stay around the bar and sit at the

tables. If they have an argument or talk loudly, is the only time that she can have any control. She agreed that people go outside to enjoy the sun.

One customer says the bar brings life to his life. He listens to the music which he can hear in his home when he has the windows open. Other people close their windows because the music bothers them. You cannot please everyone. The music is not played late every day.

If she is granted the extension, she would use it to play late music only on Mondays, Tuesdays, for birthdays and parties. She could be flexible and respond to customers' requests for parties.

When the Chair explained what a sound lobby is, she agreed that she would like that.

A question regarding air conditioning from Dr Campbell was not allowed by the Chair.

In response to questions from Mrs Matthews, she explained that after having no noise from neighbouring properties for a long time, any noise can seem loud. The children play in the back yard during the day and evening. The bar is open at the moment until 2am. In summertime, there is life in the evening. In the wintertime, she is very quiet.

In response to questions from Ms Hadley, she explained that she had considered renting a premises in Albert Road and Palmerston Road, but they were too far from the beach. She invited her to take the opportunity to get to know her and the bar.

Lorraine Astill, Principal Regulatory Services Officer included the following points in her representation:

The premises is in a predominantly a residential area.

A number of complaints were received two months after the licence had been issued. The main concern was noise from the entertainment provided. Some around 9pm and some after 11pm. As heard earlier in the hearing, the applicant was not aware of the hours she was permitted to have regulated entertainment.

She spoke to the licence holder on numerous occasions but continued to receive complaints. The last one was on 12 December. The officer who attended did not witness anything on that occasion. The main concern is with the front of the building because it is fully glazed and noise escapes from the door when it is opened and closed dependent on the type of music that is played. Bass music can penetrate the glazing quite easily and reach the residents. There is no lobby door at the front, so it opens straight out into the street.

During events, there has been concerns about the number of people congregated outside the premises. It is not being controlled adequately.

The background noise levels drop so any noise is heightened for residents.

Door staff are only employed when parties are taking place.

The TENS that were applied for in December were refused because it was felt that the applicant could not reasonably control the noise.

There is no downtime as happens in other premises, where music is stopped about an hour before closing time to calm the atmosphere.

Management of the dispersion of customers at 3am was not discussed. Therefore, it is anticipated they would hang around waiting for taxis outside.

In response to a question from the committee, she explained that reducing the glazed area and installing a lobby would have a significant effect on reducing the amount of noise escaping.

In response from a question from the Legal Advisor she explained that acoustic curtains would only reduce the level to a certain amount. A more solid structure is needed to prevent the bass from exiting the property.

In response to questions from the applicant, she explained that reducing the number of speakers from six to two has reduced the noise levels but the door opening and closing means that any bass music would still escape from the building. Some venues erect noise baffles at the window. She recommended that the owner take advice from an acoustic consultant.

There have been no complaints since December. The Christmas and New Year's Eve party were considered acceptable by residents. They would have more tolerance to hear music until 11pm than 3am.

The suggestion of putting up a notice in the window with details of forthcoming events is not relevant to the issue of noise escape.

In response to a question from Mrs Matthews, she explained that as no complaint had been made to Environmental Health, she was not aware of any problems from the back of the premises.

In response to a question from the applicant, the Chair advised that it is for the committee to decide whether the installation of noise-limiting measures should be added as a condition to the licence.

Ms K Hadley included the following points in her representation:

The owner's year of education as she calls it, should have been done before the licence was obtained.

She can currently cope with the noise, knowing it will stop around midnight. Her main concern is that an extension to the licence would mean that the premises owner could change her mind and hold parties on any day.

Setting up in a night-time economy area would have been better for her business in terms of policing and a higher footfall.

The nearby nightclub has invested considerably in soundproofing and security staff. The lack of security staff on duty regularly at Carioca is a problem. The owner has not understood that the security staff remit's is to control the behaviour of the people outside and ensure that the premises is compliant with sound regulations.

The playing of drums during the showing of the football match was very distressing to her. She did not make a complaint, because the Brazilian football team was kicked out of the World Cup.

She works as a Door Supervisor at another club and when she arrives home, she knows that the music will have stopped by the time she goes to bed. She understands that installing adequate soundproofing is costly.

Having an active business is an improvement to the empty run-down one that replaced.

Mrs Matthews included the following points in her representation:

There should never have been a restaurant there.

She is not able to sleep because of the noise from the premises.

The police were pleased when all clubs moved to the Guildhall.

There is a lot of noise from the club with car doors being slammed, screaming and shouting.

Dr Chris Campbell included the following points in her representation:

The restaurant is lovely, but she lives a block away and can still hear noise and music from it. She knows the music stops at about 11pm and the talking about an hour later. She would not be able to cope with the music going on until 3am and noise at 4am.

The owner has described it as a family bar, but it is a club. When it is warm, she goes outside with her customers to have a street atmosphere.

People spill out onto the pavement all the time. There have been little scuffles in the bar.

Moving the bar has had no impact in noise escaping because it is only one room.

There were no questions for the residents.

Summing Up.

Ms Hadley added that she did not want this business to fold. She feels that the location is wrong. She would like to see it thrive somewhere more beneficial to her business and the community.

Ms Souza added that she did not have the money to move the business and that she does not need a permit for late music every day of the week. The committee could give her permission for some days.

Ms Dray asked the committee to give Ms Souza the opportunity to try to implement these new ideas and continue with the parties. It's just an adjustment. After a year, she now has better idea of how she can make it better for the community and her clients. The suggestions made today look affordable.

Everyone confirmed that they had nothing to add.

The committee went into closed session to deliberate and when it reconvened, the Chair read out the decision and reasons.

DECISION

The Sub Committee has considered very carefully the application for variation of a premises licence at Carioca Emporio. It gave due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of licensing policy.

The Sub Committee considered the relevant representations, both written and given / expanded upon at the hearing, by all parties. Human rights legislation and the public sector equality duty has been borne in mind whilst making the decision.

The Sub Committee noted that the application sought an extension in hours for the sale / supply of alcohol, the provision of live music and recorded music and an extension to the hours for late night refreshment with a corresponding extension to opening hours at the premises. The application also sought to move the location of the bar. There had been a representation from environmental health, outlining a history of noise complaints, and objection representations from 21 residents. Letters of support of the premises had also been presented in advance of the hearing. Those objecting raise concerns broadly in relation to the licensing objectives of public nuisance and crime and disorder with issues of concern relating to patrons outside and the structure of the premises with its glass frontage and the door to the premises being left open. It is stressed the premises are located in a residential area.

After having heard all of the above evidence the Sub Committee determined to refuse the proposed application, save for the bar being moved to the front of the premises.

Reasons

The Sub-Committee accepted advice that it was considering the application to vary only i.e. whether the premises ought to be granted the additional licensable activities and timings sought and not a general review of the premises.

The Sub Committee also accepted advice that it must focus its attention on the licensing objectives and cannot take issues such as commercial need / demand, planning or car parking, for example, into consideration.

The Sub-Committee listened very carefully to residents' concerns - and has had to balance those concerns against the interests of the business. In doing so it has had to determine the extent of the impact that the proposed variation might have upon the licensing objectives of the prevention of public nuisance and crime and disorder.

The applicant explained that the premises had improved the area and anti-social behaviour that had existed before the premises were open. It was explained it is a community venue, that caters for families. It is not intended that the hours applied for will be used to their full extent every night of the week but to allow flexibility. The premises has tried to work with the authority and had accepted proposed changes to the bar and positioning of speakers within the premises. A function (party) is what generates the largest income for the premises and involves 45 patrons. No fights are associated with the applicant's premises. The premises have improved the location generally (including cleaning litter etc.). The premises are not a nightclub and does not have nightclub speakers. It was brought to their attention that objections had been encouraged / generated by one person calling door-to-door. They had tried to meet with environmental health as suggested, but a visit hadn't yet been possible. The premises is willing to accept suggestions, advice or proposals for improvement. It was asserted the premises can't be blamed for actions of those smoking away from the premises. It is a small venue and if a DJ comes to the premises only one speaker is used.

Environmental health informed the Sub Committee the premises is in a row of shops in a predominantly residential area. There is a nightclub nearby but the area is not within the night time economy areas. Most of the noise complaint is generated by the music at the premises and from large numbers of patrons outside the premises, particularly when events are organised. The structure is not appropriate, front elevation is single glazed and the lack of lobby means noise escape is greater when the door opens.

Residents confirmed the proximity of residential properties and that noise escape is from the rear as well as the front. It was reiterated that the premises are not in a location that is suitable for late night noise and other premises had made clear steps to prevent noise escape but even then associated noise existed. Fears were expressed about the number of patrons outside the property and the potential for issues of disorder. It was clear that the business was welcome but late-night noise was having a disproportionate impact.

The Sub Committee has concerns about how the premises is currently operating and is currently unconvinced that there are sufficient measures in place to prevent public nuisance. Whilst the premises are

keen to work with the authority and implement suggested improvement, the current position means it would not be appropriate, in accordance with the Licensing Act, to approve an extension to 3.00am or indeed any extension in this location. All of the options available were carefully considered.

There is a right of appeal for all parties to the Magistrates' Court and formal notification of the decision will set out that right in full.

4. Licensing Act 2003 - Temporary Event Notice 4 February 2023 - Consideration of Objection Notice - Carioca Emporio Limited, 88 Clarendon Road, Southsea, PO5 2PB

Derek Stone, the Principal Licensing Officer introduced his report.

There were no questions.

Ms Souza, the premises licence holder included the following points in her representation:

The TENS application had been submitted to allow them to invite the Brazilians in the community around to celebrate the premises' one year anniversary and to see if she can pay this month's rent.

In response to a question from the Regulatory Services Officer, she explained that entertainment would start at 6pm with live music.

In response to a question from the committee, Ms Dray explained that they would look into the noise-measuring equipment that had been mentioned by Environmental Health. She had also spoken to a DJ earlier that morning and been given tips.

In response to further questions from the Regulatory Services Officer, she added that Ms Souza would use noise monitoring equipment rather than volume-limiting. This would be done by the door and be set at the level recommended by the council.

There were no more questions.

Ms Astill, Regulatory Services Officer included the following points in her representation:

The concerns are regarding the suitability of the building in preventing noise disturbance to residents, the door, and the lack of control over the smoking area. The applicant has highlighted that they will deal with noise levels by monitoring it but not try to limit them. 2am is still in the early hours of the morning when the background noise levels would be low. There has been no mention of how the dispersal of customers would be managed or whether the music would be lowered before the cut off time.

The applicant added that she and the door staff take care of people smoking outside. It is not for many people. There are 300 people outside on the other side of the road fighting.

Ms Dray asked that rather than refusing this application, tell them what they needed to do before the event.

The Chair noted that each application is determined on its own merit and a decision on this application had not yet been made.

In response to the question from Ms Dray, the Regulatory Services Officer explained that the committee will decide whether this event would go ahead and that it was too late for the application to be withdrawn. They could only consider what is present at the time. If the application were to be refused, another application could be submitted. However, the responsible authorities only have three days to respond which would not give the applicant time to put new processes in place. The measures need to be in place before an application is made so that the responsible authorities are less likely to make representations.

In response to questions from the Legal Advisor, Ms Souza explained that a doorman had been on duty at the Halloween event from 6pm until the last person left. His role was to control IDs, ensure people do not take drinks outside, not to allow many people to congregate and to refuse entry to people under the influence of drugs. At the other events mentioned in the report, no door staff was present because there were fewer than 30 or 40 customers. She agreed that having door staff on 4 February may help improve things. Every half an hour the door man goes to the roundabout to check the noise.

In response to a further question from the Regulatory Services Officer, she stated that the doorman stays outside.

No-one had anything else to add.

The committee went into private session to deliberate.

The Chair read out the decision and reasons.

DECISION

The Sub Committee has considered very carefully the application for a Temporary Event Notice (TEN) at Carioca Emporio for 4th February 2023 and whether to issue a counter notice. It gave due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of licensing policy.

The Sub Committee considered the representations, both written and given / expanded upon at the hearing, by both parties. Human rights legislation and the public sector equality duty has been borne in mind whilst making the decision.

After considering all of the above the Sub Committee has determined to issue a counter notice.

Reasons

The Sub Committee noted that the application sought provision for the sale / supply of alcohol (although it was noted this is already permitted by the existing licence), the provision of regulated entertainment and an extension to the hours for late night refreshment. There had been a representation from environmental health.

The premises is not located in a night-time economy area and is in a predominantly residential area despite being next to commercial premises. There is a history of noise complaint from residents close to the premises. The complaints are continuing and noise nuisance has been witnessed inside a complainant's property. Noise was described as being very loud at times and aggravated by the opening of the door to the premises - allowing noise escape. The structure of the premises is not suitable for late night noise from amplified music (particularly given the single glazed frontage) and there are issues surrounding large numbers of patrons outside the premises. These concerns have led to previous objection from environmental health and the police to temporary events.

Whilst the Sub Committee heard that a door supervisor would be employed and noise levels monitored outside the premises, it was not satisfied that these measures would be sufficient to address the concerns of environmental health.

As there is a clear risk to the licensing objective of the prevention of public nuisance, in particular, the Sub Committee does not consider it appropriate to allow the event to proceed and accordingly a counter notice shall be issued.

There is a statutory right of appeal to the Magistrates' Court and formal notification of the decision will set out that right in full.

5. **Licensing Act 2003 - Temporary Event Notice 5 March 2023 - Consideration of Objection Notice - Carioca Emporio Limited, 88 Clarendon Road, Southsea, PO5 2PB**

Derek Stone, the Principal Licensing Officer introduced the report.

There were no questions for the Licensing Officer.

Lorraine Astill, the Regulatory Services Officer included the following points in her representation:

The objections are based on the likelihood of public nuisance occurring from entertainment provided until 2am, dispersion of customers and noise from customers smoking outside.

Ms Dray asked whether the application could be agreed subject to the measures suggested in the previous hearings being put in place.

The Legal Advisor explained that the premises licence holder is expected to approach Environmental Health, the police and the Licensing Authority before submitting an application to discuss what they are proposing and the steps that could be taken to mitigate any issues. Unfortunately, it would be impossible for the committee to take into account at this point any potential proposed measures to be agreed, because members would not know what they would be or whether they would be acceptable.

Ms Dray explained that Ms Souza had spoken to the Licensing Officer, and he suggested she ask Regulatory Services to visit the premises. She emailed them on 8 January but did not receive a response. Therefore, there was no time to implement anything.

The Chair explained that the mitigation should already be on the table; it is not something you can negotiate in the meeting.

In response to questions from the Legal Advisor, Ms Souza explained that she would employ a doorman to prevent too many people being outside and she hopes to measure the sound outside and people drinking outside. After 11pm there would not be too much noise outside. She helps people go to the taxis.

Summing Up.

The applicant added that she could put a soundproof board to cover the glass at the front during parties.

Everyone confirmed that they had nothing else to add.

The committee went into private session to deliberate.

The Chair read out the decision and reasons.

DECISION

The Sub Committee has considered very carefully the application for a Temporary Event Notice (TEN) at Carioca Emporio for 4th March 2023 and whether to issue a counter notice. It gave due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of licensing policy.

The Sub Committee considered the representations, both written and given / expanded upon at the hearing, by both parties. Human rights legislation and the public sector equality duty has been borne in mind whilst making the decision.

After considering all of the above the Sub Committee has determined to issue a counter notice.

Reasons

The Sub Committee noted that the application sought provision for the sale / supply of alcohol (although it was noted this is already permitted by the existing licence), the provision of regulated entertainment and an extension to the hours for late night refreshment. There had been a representation from environmental health. This mirrored the previous application.

Similarly environmental health confirmed the premises is not located in a night-time economy area and is in a predominantly residential area despite being next to commercial premises. There is a history of noise complaint from residents close to the premises. The complaints are continuing and noise nuisance has been witnessed inside a complainant's property. Noise was described as being very loud at times and aggravated by the opening of the door to the premises - allowing noise escape. The structure of the premises is not suitable for late night noise from amplified music (particularly given the single glazed frontage) and there are issues surrounding large numbers of patrons outside the premises. These concerns have led to previous objection from environmental health and the police to temporary events.

Whilst the Sub Committee heard that a door supervisor would be employed to control those outside the premises and noise levels would be monitored, it remained unsatisfied that these measures would be sufficient to address the concerns of environmental health.

As there is a clear risk to the licensing objective of the prevention of public nuisance, in particular, the Sub Committee does not consider it appropriate to allow the event to proceed and accordingly a counter notice shall be issued.

The Sub Committee heard that the premises licence holder would be willing to engage with environmental health and that a planned visit had not occurred due to miscommunication. There may still be time for a meeting to be arranged and for steps to be discussed and possibly agreed to try and ameliorate the impact of the planned event. It is positive that the premises is keen to work with the responsible authorities and this should be encouraged, but clearly the Sub Committee can make no guarantees as to the potential for sufficient measures to be available to satisfy environmental health.

There is a statutory right of appeal to the Magistrates' Court and formal notification of the decision will set out that right in full.

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Councillor Scott Payter-Harris
Chair