

Licensing Sub Committee B - 12 August 2021

The police officer stated that a number of incidents had occurred at the premises and two officer panel meetings had been held to discuss management of the premises. It had been agreed that the licence holder submit a variation to add conditions to the licence but this had not been submitted. The police representative reported that conditions had now been agreed with all parties except one relating to SIA door supervisors. The police were asking for at least one door supervisor on Fridays and Saturdays from 7pm until closing time and a risk assessment be carried out for more if required. The premises were agreeing door supervisors for Saturday only. The police representative reported that there had been a series of incidents and there had been a loss of confidence that the premises could uphold the licensing objectives of crime and disorder, public safety and the prevention of public nuisance. These were detailed in the papers. Following the Covid lockdown there had been three visits to the premises on the 3, 7 and 9 April where there had been non-compliance with social distancing and the premises were asked to attend an officer panel on the 22 April 2020. The designated premises supervisor was not present on the 7 July. Following further incidents documented in the agenda there was a further panel meeting on the 29 April 2021 and on the 8 May the police met at the premises. On that same day a member of the public called the police to a large scale disturbance from customers outside the premises. On the 25 May staff called the police as customers were refusing to leave and staff could not deal with this issue. Body worn footage of this incident had been circulated and it had also shown the co-owner who appeared to be intoxicated. There had been a large number of issues and some agreement had been reached. It was considered that these issues would not have occurred if there had been an SIA presence.

In response to questions, it was considered that despite multiple visits things had not improved. In relation to the incidents detailed on CCTV it appeared that drinks had been provided after hours.

The Licensing Authority stated that there was a long history of non-compliance with Covid contraventions. A s80 noise abatement notice had been served in 2019 despite noise conditions on the current licence. She fully supported the need for SIA door supervisors and the extra conditions proposed and fully supported the review by the police. The officer from public health stated that she was in support of the conditions indicated by the police.

In response to questions, the Licensing Authority stated that the premises could hold over forty people and fire risk assessments would have the correct numbers involved. She considered that risk assessments on numbers should be carried out for match days or where there were any specific events. It was stated that conditions had been broken on a regular basis. There had been two panel meetings and also meetings at the premises to try and help them. There had been no improvement prior to the review but since the review had been submitted the premises had been quiet. The need for a door supervisor would be for Friday and Saturday evenings.

The resident in support of the review stated that the premises had broken the law in respect of Covid with illegal lock-ins whilst other people were staying in. The

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premises had been served multiple improvement notices. He was concerned that the premises was not capable of upholding the licensing objectives. The premises had been visited almost weekly, at a higher rate than other licensed premises. He did not believe that a single doorman would change anything. He asked that the Sub-Committee consider revocation or suspension of the licence.

The resident stated that the licence holder had breached conditions numerous times and he could provide evidence of this if necessary. The resident stated where he lived in the vicinity of the premises.

Three residents spoke against the review. One resident stated that he lived across the road and had never witnessed any issues or criminal activity. He had found the premises very strict with regard to Covid compliance. Temperatures had been taken, there had been table service. On a Friday evening there may only be 5 or 6 customers and he did not see the point of having SIA door supervisors on those evenings. There were very few local pubs and this premises made you feel welcome and was a pleasant place to go. He could not make comments on issues that he had not seen. A second resident stated that he lived and worked opposite the venue. He had been a police officer for 20 years and he saw the premises adhering to the licensing hours, running very well organised football events. He had seen this local business grow, had been refurbished and decorated and offered employment to local people. A young person would regard the premises as a place of safety. He could not understand why the review had been submitted. There had been no evidence. The place was a friendly clean venue. Covid rules were enforced rigorously. During Euro 2020 there had been no issues and there had been one night of problems when customers did not want to leave the premises. A third resident stated that he was a health professional and considered that the Covid rules at the premises were second to none and he considered that they had addressed procedures very well.

In response to questions, one of the residents stated that he lived opposite and had no issues with the premises. He kept his windows open and had no issues with noise. He found staff to be friendly and efficient. It was accepted that none of the residents had been present on the days that the incidents described had taken place.

The licensee's representative stated that the issues for agreement were narrow. The only condition in dispute was one condition relating to door staff. A whole range of conditions had been agreed. On a normal non match day Thursday/Friday and Saturday they would do a risk assessment whilst the Police would like to see at least one SIA door supervisor on a Friday and Saturday evening. The independent witness had visited on two busy nights. He stated there had been issues previously but moving forward with management, additional licensing holders, conditions and door staff on a Saturday night he considered that the premises would uphold the licensing objectives.

The designated premises supervisor stated that more management structures had been put in place, there was a dispersal policy, policy regarding the pavement

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licence, staff had been retrained in Challenge 25 with till recording, and there was a clear staffing structure. There were two other licensees and three other staff were working towards their licence. Friday was a traditionally quiet night and Mondays to Thursdays were busier. There was a concern that had been raised on the 8th May regarding condition 18 currently on the licence. The issue was that people gathered outside the premises when matches were taking place and there had been discussion that blinds be installed and pulled down when live sport was taking place. There were two points that required consideration:- a) it was considered that there was no need for door supervision on a normal Friday but they agreed to risk assess in advance and agreed to a door supervisor on a Saturday b) an amendment to condition 18 to allow the installation of blinds. A further resident added in support of the premises that he agreed with the other residents against the review and said that the premises had no incidents and were very compliant with Covid regulations.

In response to questions, it was noted that there was now a refusals record on the till to make it easier to record refusals. When asked about what had happened previously, the designated premises supervisor stated that if the customer had no ID, service would be refused and it wasn't recorded. They had been open for three years. When challenged, he stated that refusals had been recorded in a book. He then stated that the premises had upgraded to record on the till and an easier structure had been put in place. New policies and restructured policies had been put in place.

In response to further questions, the independent witness stated that he had made recommendations following visits to the premises. He usually attended unannounced. His report was independent. He was paid for his report but his fee was not dependant on its contents. It was noted that last orders were at 11.45pm and all patrons have left by 12.30. Glasses were collected. Door staff monitored dispersal. Regarding the incident shown on CCTV the door supervisor stated that no drinks had been passed over after midnight. Staff had tried to call Nightsafe but had no response and the issue had escalated. He was not present on that particular evening.

In summary, the police stated that the bar had a lot of support from the community but a local resident had reservations and had invited the Sub-Committee to suspend the licence. Following on-going dialogue it was considered proportionate to agree a tight package of conditions which had been offered and was supported by the Licensing Authority, with one issue outstanding regarding the SIA door staff. The licensee had offered no material evidence regarding the Friday evening and the police considered that the SIA condition be for both Friday and Saturday evenings.

The licensing authority agreed with the stance on risk assessing provision for the weekends. This should be based on numbers and special party and event days. The concerns of neighbouring residents should be taking into account.

The resident in favour of the review stated that there had been a long time line. Serving drinks after hours had been captured on video and the licensee had denied

this. The Sub-Committee had seen evidence that this was the case. The police knew that the premises were already poorly managed.

Residents in support of the premises stated that there was noise from McDonalds and the premises had recently made drastic improvements. A second resident stated that incidents had not been witnessed, businesses should be given a chance and when he had been there the premises had been more than compliant. The residents were glad to have a local and hoped that they would continue to do so.

The licensee's representative stated that the independent advisor had generated a number of updated policies. He stated that a normal Thursday/ Friday and Saturday evening would always be risk assessed and would be covered by this. There was no evidence against the new condition to replace condition 18 and it was asked that this also be considered. It was proportionate to impose conditions to limit door staff to a Saturday.

RESOLVED

- 1) That the designated premises supervisor, Mr John Phelan be removed and the conditions modified in respect of Islington Sports Bar and Grill, 274-276 Holloway Road, N7 6NE.
- 2) Conditions as circulated at the meeting from the licensee's representative shall be applied to the licence with the following amendments and as detailed in full below:-

Proposed condition 2 to read.

On any Friday or Saturday and on any day where there is an Arsenal home or away match or Emirates Event/Screening, a minimum of 2 SIA registered door staff to be on duty at the venue from 1800 hours and to remain until half an hour after closing to assist with quiet dispersal of customers. The licensee shall take into account any advice offered by Police concerning the provision of door supervisors.

Proposed condition 8b to commence.

A pre-match or event risk assessment shall be undertaken by the management and completed on each occasion to consider **additional** SIA provision and any other measures deemed relevant.

- 3) Conditions detailed in full.
 1. There shall be a personal licence holder on the premises throughout the time that licensable activity is taking place. Mr Mick Doherty shall not be engaged in front of house management of the licensed premises whilst licensable activity is taking place, nor shall he be responsible for close-down procedures.
 2. On any Friday or Saturday and on any day where there is an Arsenal home or away match or Emirates Event/Screening, a minimum of 2 SIA registered

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- door staff to be on duty at the venue from 1800 hours and to remain until half an hour after closing to assist with quiet dispersal of customers. The licensee shall take into account any advice offered by Police concerning the provision of door supervisors.
3. [*to replace/update current 2.7*] CCTV shall be installed, operated, and maintained, to function all times that the premises is open for licensable activities. Said CCTV will comply with the following criteria:
- (a) The licensee will ensure that the system is checked every two weeks to ensure that the system is working properly and that the date and time are correct.
 - (b) A record of these checks, showing the date and name of the person checking, will be kept and made available to the police or other authorised officer on request;
 - (c) The Police will be informed if the system will not be operating for longer than one day of business for any reason;
 - (d) One camera will show a close-up of the entrance to the premises, to capture a clear, full length image of anyone entering;
 - (e) The system will provide full coverage of the interior of the premises and any exterior part of the premises accessible to the public;
 - (f) The system will record in real time and recordings will be date and time stamped;
 - (g) At all times during operating hours, there will be at least 1 member of staff on the premises who can operate the system sufficiently to allow Police or authorised Council officers to view footage on request.
 - (h) Recordings will be kept for a minimum of 31 days and downloaded footage will be provided free of charge to the police or other authorised officers on request (subject to the Data Protection Act 2018) within 24 hours of any request.
4. [*to update current 2.14*] The premises will operate the 'Challenge 25' proof of age scheme.
- (a) All staff will be fully trained in its operation.
 - (b) Only suitable forms of photographic identification, such as passport or UK driving licence, or a holographically marked PASS scheme cards, will be accepted.

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5. [*to update current 2.22*] The total number of persons on the premises, including customers and staff, shall not in any circumstances exceed the number determined on the current fire risk assessment.
6. The premises shall no open before midday on the date of any Premier League, Football League, Football Association or FIFA designated football match played within the boundaries of the M25 unless otherwise agreed with Islington Police Licensing Team and the Local Authority.
This condition shall not be applied to the licence.
7. [*to update current 2.19*] On days when Arsenal Football Club are playing at home at the Emirates Stadium:
 - (a) The designated premises supervisor (or a personal licence holder who has been approved by the Police to deputise for the designated premises supervisor) will be present for the duration of the match day opening unless exceptional circumstances apply.
 - (b) There shall be no alcohol sales in glass containers at any time. All sales will be supplied in plastic receptacles, and any bottled drinks will be decanted into a suitable receptacle.
 - (c) A pre-match risk assessment shall be undertaken by the management and completed for every upcoming match day to consider the SIA provision cover and any other measure deemed relevant. Said assessment will take account of any advice offered by the Islington Licensing Police Team and Local Authority in relation to that particular game, as well as the licensee's own knowledge of the previous history of any fixture in past seasons and the profile of any persons likely to attend the venue during that matchday. Said assessment will be recorded in a suitable log and made available to the Police and Local Authority on request.
 - (d) There shall be a minimum of 2 SIA licensed security staff on duty at the premises from 4 hrs before kick off until closure. Said members of SIA shall be clearly identifiable, in every case wearing suitable high visibility clothing and with SIA accreditation clearly and openly displayed.
 - (e) The lead door supervisor shall wear a working body camera.
 - (f) The management will ensure security staff and other staff members assist police or local authority officers at all times with any enquiries they make in the execution of their duties.
 - (g) On match days and any other days when the management anticipate attendance approaching capacity a suitable clicker or other monitoring system shall be employed to monitor and manage capacity.

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8. On days when Arsenal Football Club are playing away or at any neutral or foreign venue and the match is being screened at the premises or when other ticketed events or boxing/UFC or MMA events are shown or the Emirates Stadium is hosting major non-football events:
 - a) The premises will not open before midday unless otherwise agreed with the Islington Metropolitan Police Licensing Team and the Local Authority.
This condition shall not be applied to the licence.
 - (a) A pre-match or event risk assessment shall be undertaken by the management and completed on each occasion to consider **additional** SIA provision and any other measures deemed relevant. Said assessment will take account of any advice offered by the Islington Licensing Police Team and Local Authority in relation to that particular game, as well as the licensee's own knowledge of the previous similar events and the profile of any persons likely to attend the venue during the event or matchday. Said assessment will be recorded in a suitable log and made available to the Police and Local Authority on request.
 - (b) When the management anticipate attendance approaching capacity a suitable clicker or other monitoring system shall be employed to monitor and manage capacity.
9. Door Supervisors Register - A register, in a hardback book, shall be maintained recording all SIA door supervisors employed at the premises. Security personnel registered with the Security Industry Authority [SIA] and employed at the premises must enter their full name, valid phone contact details, SIA Badge Number in full, employing company, along with the time that they are working in the register upon commencement of their work at the premises. The Designated Premises Supervisor/manager at the time will be responsible for ensuring this is done, that working staff are in possession of their badge and for confirming the security staff details and permission to work. The book is to be endorsed by the management at the end of each night.
10. [*to update current 2.23 ,15 ,16 ,17,23*] The licensee shall ensure that all staff are trained on relevant matters, including the conditions of the premises licence, age restricted products, the operation of the CCTV system and how to deal with visits from authorised officers.

The licensee shall keep written records of training and instructions given to each member of staff , detailing the areas covered to include the Licensing Objectives , identifying persons under 25, making a challenge, acceptable proof of age & checking it, making & recording a refusal, avoiding conflict & responsible alcohol retailing.

Staff shall sign to confirm that they have received and understood the training.

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All staff who work at the premises will be trained for their role on induction and be given refresher training every six months thereafter.

The written training records kept for each staff member will be retained on the premises and produced to police or any authorised officer upon reasonable request.

11. Where the premises licence holder receives a request from a third party to hire out the whole of the premises, a risk assessment shall be undertaken and the booking shall be notified to the Police in advance of the event. Such notification to the Police shall be submitted where reasonably practicable, at least 7 days in advance of the event.
12. The premises to operate a zero tolerance policy to drugs will be adopted and enforced and posters shall be prominently displayed to this effect. Toilet cisterns shall be provided with sloping lids or similar and toilet seats without seat covers to discourage drug and psychoactive substances use, however this requirement can be waived by the Police if suitable alternative drug use prevention measures are agreed.
13. [*to update and replace 2.38 and 39*] The premises licence holder shall endeavour to eliminate or minimise any nuisance arising out of its licensable activities. In doing so the premises licence holder will work with enforcement authorities where any issues are identified. A complaints procedure will be maintained in order that local residents have a means of contact if necessary the contact telephone number for the premises licence holder/designated premises supervisor/duty manager shall be displayed at the premises such that it is clearly visible without the need to enter the premises.
11. [* to update condition 18]

The front windows of the premises shall be clear and transparent, without any form of concealing film or curtain, so as to allow an unobstructed view of the interior from the street. However, it is permitted for blinds to be installed and closed during standard hours for licensable activities when a sporting event is being shown

This condition shall not be applied to the licence.

REASONS FOR DECISION

The meeting was facilitated by Zoom.

The Sub-Committee listened to all the evidence and submissions and considered the material provided. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

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The Sub-Committee considered Home Office Guidance, paragraph 9.12 which sets out that the police should usually be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. The Sub-Committee noted that the guidance sets out that it remains incumbent on all responsible authorities to ensure that their representations can withstand scrutiny.

The police review was brought in relation to three of the licensing objectives:

- 1) The prevention of crime and disorder
- 2) Public Safety
- 3) The prevention of public nuisance.

The review was brought following a number of incidents at the premises. There were various incidents in April 2021 when the premises was not complying with Covid regulations. On 8 May 2021 police received a call from a member of the public regarding a fight outside the premises. On 18 May 2021 there was an alarm call at the premises and on 25 May 2021 staff called police as there were 40 people in the bar refusing to leave. Police were concerned that alcohol had been served to intoxicated customers and that alcohol had been served outside licensed hours. Police also expressed concern that the management of the premises did not take action to tackle incidents at the premises; it was a member of the public who called police on 8 May 2021 and CCTV footage of the incident shows management observing the fight and taking no action. The Sub-Committee heard that the premises management had largely agreed conditions following the review, but that there was disagreement with regard to the use of SIA door supervisors, and the management had initially disagreed with the mandatory conditions attached to the licence.

The Sub-Committee heard that there had been two panel meetings with premises management and the police had proposed extra conditions to be added to the licence. The police were particularly concerned with the behaviour of the co-owner, who had been found on the premises clearly intoxicated.

The Sub-Committee heard from the Licensing Authority that there had been a long history of non-compliance at the premises including Covid contraventions and the service of a noise abatement notice in 2019. The Licensing Authority stated that residents are still suffering. The Sub-Committee heard from an interested party who lived above the premises that the premises were chronically mismanaged, that they had been given many chances to improve and that there were still huge failings.

The Sub-Committee heard from three neighbours speaking in support of the premises that the premises was a safe and pleasant place to go that served good food and made everyone feel welcome. The neighbours stated that they had never witnessed problems at the premises and that the premises had stringent Covid procedures in place.

The Sub-Committee heard from the licence holder's representative that the premises had agreed a range of conditions with the police and that the only real

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issue remaining was the question of SIA door staff at the premises. The police were requesting that the premises employ SIA door staff on a Friday and Saturday as well as Arsenal match days. The licensee stated there was no need for SIA door staff on Fridays as this was not traditionally a busy day for the premises and the premises had agreed to conduct risk assessments to assess the need for further SIA cover. The licence holder's representative also requested an amendment to existing condition 18 so that the premises could install blinds to cover the windows.

The Sub-Committee noted the report of Mr Studd, which confirmed details of his visits to the premises and his impression of the management of the premises and the structures that have been put in place moving forward.

Upon responding to questions, the Designated Premises Supervisor (DPS) stated that the premises now had a refusals logging system on the till at the premises. The DPS stated that previously, ID would be requested and if it was not provided service would be refused but the refusal was not recorded. Upon further questioning the DPS stated that the premises did previously have a refusals book but this was now done on the till which was a better system. The DPS was asked whether any new policies had been put in place since the review, and confirmed that the policies were already in place but had been restructured e.g. the pavement licence management policy. There was also a dispersal policy, retraining on Challenge 25 and a clear staffing structure.

The Sub-Committee was concerned that there had been a history of issues at the premises and it appeared that new procedures had only recently been put in place. It appeared from the evidence that there had been multiple breaches of the licence before the review and the premises management had been given ample opportunity to rectify the problems and apply to have suggested conditions added to the licence. However, the premises management had not taken any of the recommended steps and breaches of the licence continued.

The Sub-Committee was concerned that the current standard of management at the premises was insufficient and that there was a real danger that the licensing objectives would not be promoted, particularly in respect of crime and disorder, public safety and public nuisance, if the premises was allowed to continue under the current management. The Sub-Committee agreed with the Police that the co-owner, who had been found intoxicated on the premises, should not be allowed to have any ongoing involvement with management. The Sub-Committee also concluded that the current DPS, who had been responsible for the premises throughout the period of concern, should be removed as the Sub-Committee was not satisfied that the premises would comply with any extra conditions when it had not complied with previous conditions under his management.

In light of the evidence of incidents at the premises that required police attendance, the Sub-Committee concluded that SIA door staff should be present at the premises on Fridays and Saturdays as well as match and other event days. The presence of SIA door staff would also control any customers congregating outside and so there was no need to change existing condition 18.

The Sub-Committee concluded that the removal of the DPS together with the addition of further conditions, including preventing the co-owner from having further involvement with management, was the most appropriate course of action that would balance the amenity of those local residents who found the premises a valuable community resource, and the needs of the business and amenity of those resident living immediately around the premises. The removal of the DPS and addition of conditions would promote the licensing objectives and was a reasonable and proportionate response to the Police review.

270 **MCDONALDS, 13-15 SEVEN SISTERS ROAD, N7 6AJ - PREMISES LICENCE REVIEW (Item B2)**

The licensing officer introduced the attendees for this item and stated that copies of the delivery driver reports, a licensing action plan, an expert witness report and video footage had been circulated following publication of the agenda.

The community safety officer reported that complaints relating to delivery driver nuisance had been received since 2017. These included noise nuisance, dangerous driving and intimidating behaviour and even deliveries to McDonalds at the early hours of the morning. 31% of complaints had occurred after 11pm although they did occur all times of the day and night. McDonalds had attended meetings with the council and residents. The introduction of electric bikes and marshals for the outside area were welcomed but marshals had not been effective. Displacement of this behaviour would also need to be monitored. The proposals to block Hercules Place were also welcomed although the officer was under the impression that this had already been happening for some time. The Council had arranged workshops and met with delivery drivers. Parking enforcement had carried out joint patrols with the police and dedicated parking spaces had been trialled. The council recently agreed a traffic management order for Hercules Place from 6pm and it appeared that McDonalds were asking for the local authority to do works that had already been discussed and were unattainable. This was by far the most problematic site. Other sites had been able to manage their drivers so that they did not impact residents. The community safety officer requested that the delivery service be no longer offered or, at the very least, double the number of marshals to manage the area with the other proposals put forward.

The Licensing Authority stated that they had seen the Action Plan and most of the proposals had been tried before and had not worked. Security had been put on the door for a couple of weeks and then had been discontinued. Permanent stewarding of the front door needed to be provided. There should be a system to be able to report drivers to the delivery companies if they misbehaved. This was a problematic premises and residents were suffering whilst the delivery drivers were not controlled. Officers had worked with the store but still the problems were arising. The police stated that significant efforts had been made to engage with McDonalds. There was a long history of anti-social behaviour at the venue with no improvement and management needed to improve. Security outside the venue was required to manage delivery drivers which should be SIA security staff rather than venue staff. There was the option of revoking the hours beyond 11pm. It was noted

that the moped riders caused the majority of the anti-social behaviour. The police fully supported the application for review.

Councillor Gary Heather, speaking on behalf of the Finsbury ward councillors, stated that McDonalds had not adhered to the four licensing objectives. Many issues were related to after the hours of 11pm although there were also issues throughout the day. The delivery system could not adequately be controlled with drivers they did not directly employ. Mopeds parked as close to the forecourt as possible, using pedestrian pavements. There was anti-social behaviour and public nuisance from the delivery drivers which would not stop with the use of electric vehicles. There was a concern that parking enforcement would displace the delivery driver problem to neighbouring streets. Islington Council had invested time dealing with issue. They had arranged community meetings. Parking issues regarding the 24 hour red route had been raised with TfL. Food delivery needed to be regulated in order to protect the amenity of residents. A local resident stated that he had been abused by delivery drivers and there were issues regarding criminal activity including drug dealing, abuse, fighting and speeding. Police had been called in response. There was constant loitering. Groups of riders were intimidating and were not always delivering, but just loitering. Helmets were worn so talking was louder. Deliveries to the premises took place at 1.30 am recently which was not conducive with being a good neighbour. Engines were left running and evidence was compelling that this has been since 2017. Car engines were kept running outside the premises, playing loud music. The disturbance for neighbours was constant. A second resident stated that the groups were intimidating, there was noise late at night and residents could not go into the street. Cars sat with their engines idling, horns beeping, there was a huge amount of drug dealing and recently McDonalds jet washed the outside of their shop at 3am further disturbing residents.

In response to questions, the resident stated that she had a lot of video evidence. She had a pram and she could not get along the pavement because of the groups of riders and it was intimidating. Councillor Heather stated that there was a lot of evidence of nuisance, video, many emails from residents. Regarding partnership working he had organised community meetings. There had been no recognition of the efforts made by the Council. He wanted to continue to work with McDonalds.

The licensee's representative stated that 28 minutes had been given in support of the review and requested a time extension. This was refused by the Chair and the licensee's representative asked that it be minuted that the request had been made and refused.

The licensee's representative accepted that residents had been disturbed over a long period. The licensee took over the licence in December 2019 and problems had existed before then. Since then, the licensee had been managing the premises under Covid. There had been an large increase in home delivery services from March to November of 164%. The delivery drivers were there to serve all residents including key workers and people with disabilities. These residents had the overwhelming majority of deliveries. He stated that there was a more proportionate step than to stop deliveries after 11pm and these were detailed in the Action Plan

detailed in the bundle. His client had taken the exceptional step of using bicycles after 11pm. He had taken steps to block delivery drivers in Hercules Place and these steps had been proven to be effective and had worked. The independent expert witness, whose report had been separately circulated, stated that he had seen progressive improvements with the implementation of the Action Plan over the course of three visits. On the 7 August 2021 and after 11pm he had witnessed no drivers outside the front of McDonalds. There was only one pedal cyclist and one food collection on the Saturday. No other drivers seen were in relation to McDonalds. He had seen other bad behaviour, not related to McDonalds, and could understand the frustration of residents. The supervisor present was proactive. He watched him with customers and talking to drivers. He was not able to control members of the public but he had informed customers that they were at risk of a parking ticket. The front was clean, tidy and quiet. If the premises continued to be managed in this manner he was confident that there would be no problem. The licensee's representative highlighted the police response on page 129 of their supplementary pack which stated that the police was happy with the Action Plan and had nothing further to add. He stated that if deliveries were stopped at 11pm it would only punish residents and the proposals in the Action Plan had been working and were proportionate and appropriate.

In response to questions, the licensee stated that he had not been aware of the jet washing to the windows at 3am and would look into this. He had met with the distribution company and deliveries to the premises would take place between the hours of 8am and 5pm. The licensee had signed up to the Mayors Night Safety Charter. He took his business very seriously. The Action Plan had been sent to the Licensing Authority prior to the review and no response had been received. There were no parking spaces for delivery drivers which was an issue. Only non-motorised bikes would be used after 11pm. The licensee stated that he used Uber Eats and Just Eats and any driver who did not follow the rules would be excluded from delivery from this premises permanently. There was an anti-social behaviour log in the restaurant. They were unable to control the other businesses and McDonalds was one of many. The policies they now had in place after 11pm had dealt with the issues and these would be expanded to 24 hours by the 1 October. Much of the noise disturbance was from moped activity. Action had been taken and this had now stopped after 11pm and non-motorised vehicles would be used throughout the day from October. Parking spaces were allocated on Seven Sisters Road. Drivers were allowed to come into the restaurants now. The premises took identification from each courier. Cameras were in Hercules Place and Bowmans Mews and so the licensee could see if they had parked illegally. The licence numbers were then taken and drivers were excluded from delivering to the premises. He had spoken to the delivery providers and they were in agreement with this. There were records available if required. The majority of deliveries were made to Islington residents and residents would be harmed if the licence was revoked.

In summary, the community safety officer reported that this was by far the most problematic location. The council had been working with the licensee since he had taken over the premises. There had been 114 complaints about delivery drivers since January 2021 and 43 of these had been after 11pm. The need for a delivery

service would grow and this was even more reason to provide respite for residents. Delivery orders for local residents would be provided by another McDonalds. There had been a two week period of quiet before the review was heard but issues had been going on for a number of years.

The police stated that they were shown the Action Plan and considered that if this was actioned properly it could go a long way to relieving issues for residents. If it was not, then they would like to see the hours cut as this is not fair for local residents. The Licensing Authority agreed with the Community Safety officer and the Police and stated that it would be interesting to see the exclusions for deliveries that had been made so far. The Action Plan sounded as though it should be an improvement but she stated that the authority had been in this situation before.

Councillor Heather was concerned that measures had taken so long. He did not consider that measures were working. The platform system did not control the drivers and with the lack of parking, the location could not cope. He did not consider that the Action Plan had been proven in two weeks. The licensing objectives were not being upheld. A local resident stated that nobody seemed to be accountable for the drivers, they could not be controlled and other McDonald sites could better facilitate deliveries.

The licensee's representative stated that the Action Plan had been working for two weeks and this was the evidence as to how it was working now and would be in the future. The best evidence was in the reports from the expert witness. He considered that there was a transformation in the environment. If there was any slippage the premises would be reviewed again.. This gave the chance to the licensee to demonstrate the steps worked. 50% of business were deliveries, there were 65 employees and the premises served 1000s of residents. Solutions through the Action Plan had been found to be effective and could be imposed as conditions rather than to ban all deliveries after 11pm.

RESOLVED

- a) That the premises licence in respect of McDonalds, 13-15 Seven Sisters Road, N7 6AJ be modified and the following conditions be added to the licence:-
 - There be no collection for delivery services from the premises between 11pm and 5am.
 - The premises licence holder shall employ at the premises at least 2 SIA door supervisors on Friday and Saturday and 1 SIA door supervisor on Sunday to Thursday from 23:00 until 05:00 or 30 minutes after the end of licensable activity for walk in customers if earlier.
- b) The following conditions in the Action Plan numbered 2d, 2e, 4a, 4b, 4c, 5a, 6a and 11 shall also be applied to the licence as detailed below.

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- 2d. A contact telephone number of the on-duty manager shall be prominently displayed at the premises and made available to local residents to enable issues to be resolved swiftly.
- 2e. The licence holder shall be responsible for the installation and maintenance of CCTV cameras to the side of the building in Hercules Place and, with the permission of the landowner, in Bowman's Mews.
- 4a. The licence holder shall set up an Anti-Social Behaviour ("ASB") log and regularly report to the local policing team and via the Metropolitan Police Service website including any supporting CCTV evidence.
- 4b. A manager who is fully trained in McDonald's procedures on ASB shall be deployed at the premises whilst it is open to the public.
- 4c. At all times the premises shall risk assess the need for security provision.
- 5a. No deliveries by vehicles of food and consumables to the premises shall take place outside the hours of 08:00 – 17:00hrs.
- 6a. The licence holder shall facilitate quarterly resident meetings at the premises to discuss any issues arising out of the operation of the restaurant.
- 11. Proposal to re-start consultation with local residents who are affected by the matters raised in the review application with the purpose of discussing the points of this action plan and their feedback.

REASONS FOR DECISION

This meeting was facilitated by Zoom.

The Sub-Committee listened to all the evidence and submissions and considered the material provided. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The Sub-Committee heard evidence from the Community Safety Officer that since 2017 there had been multiple complaints regarding delivery drivers collecting deliveries from McDonalds, including complaints of noise, littering, urinating and defecating, dangerous driving and violence. The Community Safety Team had been monitoring the complaints since January 2021 and 30% of the complaints were after 11pm, although the problems were at all times of the day. The Sub-Committee heard that no other restaurants in the area have an equivalent late licence. The Community Safety Team had been in contact with the premises and welcomed the Action Plan put in place but questioned why this had not been done earlier. The Community Safety Team was concerned that the use of electric bikes rather than motorised vehicles would not tackle the problem of groups congregating, and that marshals had previously been used but were not effective. The Community Safety

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Team was concerned that the problems would be displaced to other areas. The Sub-Committee heard that the Community Safety team had done a great deal of work with McDonalds, the delivery platforms, the drivers and residents to try to tackle the problems but there was still a negative impact on residents. The Community Safety Team wanted to balance the competing needs of the business and local residents but was seeking the removal of the licence or, if this was not considered proportionate, extra marshals to be added as a condition.

The Sub-Committee heard evidence from the Licensing Authority that many of the actions set out in the Action Plan had already been tried and had not worked. The Licensing Authority suggested that the premises required permanent security and policing of the front door and drivers and questioned whether there was any way to report drivers to the delivery platforms to get rid of rogue drivers. Residents were suffering and drivers were not controlled, Community Safety had done so much work but problems were still arising.

The Sub-Committee heard evidence from the Police that since June 2020 there had been a number of calls to police involving delivery drivers and/or the premises. The police were of the view that the venue management needed to improve significantly and that SIA security could assist but another option could be the revocation of hours beyond 11pm.

The Sub-Committee heard from a Ward Councillor that problems occurred all day and night and that McDonalds had no control over delivery drivers. There was noise, crime and disorder and traffic offences and the use of electric vehicles would not stop this. It was important not to displace the problem elsewhere. Much partnership working had been done but the amenity of residents must be protected. The Sub-Committee heard that the area was not suitable for this kind of delivery service as there were no parking spaces for drivers. The Sub-Committee heard from two local residents that problems caused by delivery drivers were relentless day and night. There was noise, intimidation, loitering, blocking the pavement, idling engines, screaming and shouting and, most recently, McDonalds staff were jet washing outside the premises at 3am.

The Sub-Committee heard evidence from the licensee's representative that it was agreed that residents had been disturbed over a long period. The current licensee only took over the franchise in late 2019 and three and half months later, the Covid pandemic hit and there was an extraordinary explosion of requests for home delivery. Drivers were there to serve Islington residents including key workers and residents with disabilities. The proportionate response to the review would be to implement, as conditions, the Action Plan put forward by the premises. The Sub-Committee heard that the police had stated in an email that they agreed with the steps in the Action Plan and had nothing further to add.

The Sub-Committee heard evidence from Mr Bamber that, over the course of three visits to the premises, he had observed the progressive implementation of the Action Plan. Mr Bamber stated that the current environment at the premises was

clean, tidy and quiet and that if the premises continued as it was on his last visit there would be no further problems for residents.

The Sub-Committee heard from the licensee that he took the issues seriously and personally and that he had made a note of the issue regarding jet washing and would look into this. He had met with the distribution company regarding deliveries to the premises and had changed the window of delivery to 8am to 5pm only. The licensee took the issue of women's safety very seriously. He was trying to create a long term solution for delivery businesses that could be used as a future blueprint. The licensee confirmed that whenever a driver collected a delivery from the premises the driver had to show an ID number, and that any driver causing ASB was reported to the delivery platform and would not be allowed to collect from the premises again. CCTV was in place to allow the premises to see if drivers were parking in Hercules Place. The licensee's representative confirmed that the premises only deliver within a one and a half mile radius and that it would not just be the premises that would suffer if the licence was revoked, it would also be the thousands of residents who order deliveries.

The Sub-Committee noted the concerns of the responsible authorities that the steps set out in the Action Plan had previously been tried and had not worked. The Sub-Committee was therefore not satisfied that the imposition of the proposed conditions would be sufficient to tackle the problems caused by the delivery drivers, and promote the licensing objectives. Although the Sub-Committee noted the evidence of Mr Bamber that the premises had been quiet following the implementation of the Action Plan, the evidence of the local residents, the Ward Councillor and the responsible authorities was that the issues were continuing despite the implementation of the Action Plan. The Sub-Committee therefore concluded that it was necessary and proportionate to remove the premises' ability to have deliveries, whilst allowing them to continue to serve late night refreshment to walk in trade. The Sub-Committee was concerned that there could still be noise and other issues from the premises even without delivery drivers, but concluded that the addition of conditions would tackle any such issues and promote the licensing objectives.

271 VIVA LA PIZZA, 367 HOLLOWAY ROAD, N7 0RN - PREMISES LICENCE REVIEW (Item B3)

The licensing officer reported that an additional statement from the licensing holder and an additional statement from the police had been circulated separately.

The police representative reported that on the 25 June three young women stopped off at the venue and staff invited themselves back to their flat nearby. On the 26 June an ambulance was called by one of the women requiring medical assistance as one of the women had been seriously sexually assaulted by one of the staff members. A police investigation ensued however, throughout this, the venue seriously undermined the police investigation and revocation was sought for the following key reasons:-

- 1) The serious nature of the criminal offence. It is alleged that a member of staff seriously sexually assaulted a female customer. Staff members had

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drinks at the premises, went back to their flat and later that morning an ambulance was called to a serious sexual assault. One incident alone was sufficient to link the premises to crime and disorder.

- 2) The obstruction of investigation by the premises relating to the identity of the suspect. This included active steps taken to obstruct the police by warning off the suspect. The venue turned a blind eye and did nothing to prevent future crime and disorder. The police knew that staff, including the designated premises supervisor, had been in touch with the suspect.
- 3) The owner initially stated he would end the tenancy, however, then decided to give consent to transfer the licence to a company owned by the current designated premises supervisor. His failure to oversee the premises and his active role in attempting to transfer this licence to the same designated premises supervisor showed it was necessary to revoke the licence.
- 4) Where crime was involved revocation could be considered as a deterrent, and this was a valid basis to revoke the licence.

In summary, the premises did not co-operate with the authorities contrary to the licensing objectives and assisted with serious crime leading to a risk of further serious crime which would be addressed with revocation of the licence.

The Licensing Authority stated that this was a very serious incident and the licence holder had taken no responsibility. Islington premises should be committed to promoting the safety of women and vulnerable people. There had been no demonstration of good management. The premises were serving alcohol to intoxicated customers, obstructing the police and it was recommended that the licence should be revoked. The noise officer reported that there had been a pattern of bad management with a pattern of noise disturbance with complaints from neighbours. He supported the revocation of the licence.

The licensee's representative stated that it was disputed that the key person in the investigation was linked to the premises. This was denied and any link to the premises was tenuous. There had been no serious crime on the premises and if anything had happened it had been at the home address. He had seen nothing to suggest that any staff had been charged with obstruction. If the police had considered that this was the case they would have taken action and little weight should be given to this. In reality, there had been no attempt to book an appointment to speak to staff but police had shown up at the premises in a heavy handed manner. He stated that to expect staff to neglect their customers was remarkable. If the police had booked an appointment, staff would have been happy to comply. He had seen nothing regarding a pattern of bad management about noise complaints set out in the papers. The issue about serving customers whilst intoxicated was only an allegation and not proven. This was a vague application. There was no over-riding duty to co-operate with the police where a crime occurred off the premises. The designated premises supervisor (DPS) denied suspect engagement and had stated that he was not a member of staff. The man of interest had been in the premises that evening but had not worked at the premises.

He response to questions, the licensee's representative stated that there were three men who had met three women. One of whom misbehaved but he had no link to

the premises or to the other two men. There was a skeleton staff at the premises, one waitress and one chef, and it was difficult to answer whether it was more important to answer police questions or to serve customers. He was aware of a code of conduct for staff but did not know about which code of ethics was referred to. It would be difficult to conduct police inquiries when there were only two members of staff present at the premises and he would have been more patient than the police when asking questions of the staff.

In summary, the police asked that the interim steps remain in place if the Sub-Committee revoked the licence. The Licensing Authority and the Noise Team agreed with the police.

The licensee's representative stated that the person of interest by the police was nothing to do with the premises. He was the one who met with the three females on the evening and not the DPS. There was no clear breaches of the licence or pattern of bad management. It was disproportionate to suspend the licence for a one off incident, involving someone off the premises. The review application was scant. Not giving answers to the police was not a breach of the licence. The incident happened off the premises. The DPS stated that nobody had called him. The women invited the men to their home and the police had his details.

RESOLVED

- 1) That the licence in respect of Viva La Pizza, 367 Holloway Road, N7 0RN be revoked.

- 2) That the interim steps of suspension to remain in place pending the final determination of any appeal.

REASONS FOR DECISION

The Sub-Committee listened to all the evidence and submissions and considered the material provided. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The Sub-Committee considered Home Office Guidance, paragraph 9.12 which sets out that the police should usually be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. The Sub-Committee noted that the guidance sets out that it remains incumbent on all responsible authorities to ensure that their representations can withstand scrutiny.

The police summarised the reasons for bringing the review under three headings in respect of an incident that occurred on 25 June 2021:

- 1) The serious nature of the criminal offence that occurred;
- 2) Obstruction of a police investigation;
- 3) The action of the premises licence holder in attempting to transfer the licence.

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The Sub-Committee heard that on 25 June 2021 three women had been out drinking and stopped at the premises for food on the way home. They had more drinks and were talking to three members of staff who invited themselves back to the home of the women. The following morning an ambulance was called to the home of the women as one of the women had been seriously sexually assaulted. Police have been investigating the identification of the suspect which had been undermined by staff and management at the premises. The Sub-Committee heard that the police believed that staff at the premises had been in contact to warn the suspect of the police investigation.

The Sub-Committee heard from the licensing authority that Islington was committed to promoting the safety of women and vulnerable people and that the police evidence showed that standards of management at the property were woeful. The Sub-Committee heard from the Noise Team that there had been a pattern of nuisance and poor management at the premises and that the Noise team was in favour of revocation.

The Sub-Committee heard from the Licence Holder's representative that it was hotly disputed that the individual wanted by the police in connection with the incident was linked to the premises at all. It was wholeheartedly denied that the individual was a member of staff. Nothing is known about this man other than that he was at the premises on the night. It was denied that anyone at the premises had been in contact with the suspect. The alleged offence was not supposed to have happened at the premises; if there was a crime at all then it took place at the home of the complainant. There was no evidence that anyone had been interviewed or charged with obstruction and it was a bone of contention that the premises were not co-operating or were actively obstructing the investigation. The Sub-Committee heard from the Licence Holder's representative that the police had attended at the premises heavy-handed while the restaurant was open. The customer must come first and to expect staff to neglect customers was remarkable. The premises management had asked the police to book a mutually convenient appointment to ask whatever questions they wished to ask of staff but this had not been done. This was not obstruction. The Licence Holder's representative had not seen any evidence of a pattern of bad management causing nuisance over a period of time. It was against natural justice for the premises to have to respond to so vague an application and there was no over-riding duty on the licence or in the policy requiring the Licence Holder to assist in any police investigation.

The Licence Holder's representative submitted that the individual of interest to the police was nothing to do with the premises and that there was nothing to justify revocation. It would be disproportionate to suspend the licence let alone revoke it. The police application was very scant. The representative was not arguing that the premises management did not have to co-operate with the police, but that this was not a breach of the licence.

The Sub-Committee decided that it was proportionate and appropriate for the licence to be revoked.

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The Sub-Committee considered the option of imposing additional conditions but concluded that there were no conditions that could have been applied that would have tackled the issues raised by the police in respect of the obstruction of their investigation.

The Sub-Committee also considered the option of suspension but concluded that in circumstances where the management of the premises did not accept that the incident had any connection to the premises and did not accept that they have failed to co-operate with the Police, a suspension would not have served to resolve the problems identified by the Police and would not be sufficient to promote the licensing objective of crime and disorder.

The Sub-Committee referred to paragraph 11.20 of the Home Office guidance and was satisfied that the appropriate and proportionate remedial action was for the licence to be revoked. Whilst the Sub-Committee noted the submissions made on behalf of the licence holder, the Sub-Committee considered Home Office Guidance, paragraph 9.12 which sets out that the police should usually be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective and concluded, on the basis of the police evidence, that revocation was required to promote the licensing objectives.

The Sub-Committee considered whether it was appropriate for the promotion of the licensing objectives for the interim steps to remain in place, or if they should be modified or withdrawn. For the reasons as detailed above, the Sub-Committee decided that it was proportionate and appropriate for the suspension to remain in place until any appeal was finally determined.

The meeting ended at 11.00 pm

CHAIR