



Leicester
City Council

Minutes of the Meeting of the
LICENSING (HEARINGS) SUB-COMMITTEE

Held: WEDNESDAY, 18 DECEMBER 2024 at 5:00 pm

P R E S E N T:

Councillor Singh Johal (Chair)

Councillor Joshi

Councillor Karavadra

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9. APPOINTMENT OF CHAIR

Councillor Singh Johal was appointed as Chair of the meeting.

10. APOLOGIES FOR ABSENCE

There were no apologies for absence.

11. DECLARATIONS OF INTEREST

There were no declarations of interest.

12. MINUTES OF PREVIOUS MEETING

The minutes of the previous meeting held on 26 November 2024 were recorded as a true and accurate record.

**13. APPLICATION FOR A VARIATION OF AN EXISTING PREMISES LICENCE -
Tonne, 1-3 ST. MARTINS WALK, LEICESTER LE1 5DG**

Councillor Singh Johal, as Chair led on introductions and outlined the procedure the hearing would follow.

The Director of Neighbourhood and Environmental Services submitted a report on an application under the Licensing Act 2003 for a variation to an existing premises licence for Tonne, 1-3 St. Martins Walk, Leicester LE1 5DG.

Mr Nicholas Ameer-Beg was present on behalf of the Applicant Habitual Ventures Ltd. PC Karl Turner, Leicestershire Police was also in attendance.

Also present was the Licensing Team Manager (Policy and Applications) and the Legal Adviser to the Sub-Committee and an observer.

The Licensing Team Manager (Policy and Applications) presented the report and outlined details of the application.

A representation was received on 25 November 2024 from the Police. The representation related to the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm. The representee was concerned that overall, the application was vague and did not provide specific details about how the operator would promote and uphold the licensing objectives. The application lacked specific details about the premises CCTV system, its coverage, retention period and how it could be accessed by the responsible authorities. Similarly, there was no reference to the venue's security provision, given the potential risks of operating in the night-time economy, when alcohol violent crime in the city centre increased. Given the high concentration of licensed premises in the area who supplied alcohol into the night-time economy / early hours of the morning, did unfortunately occasionally result in alcohol related violent crime, disorder and anti-social behaviour in the area. The Police proposed conditions to be added to the licence. They were not able to reach an agreement with the applicant.

PC Turner, Police Constable for Leicestershire Police, was given the opportunity to outline the details of the Police's review application and answered questions from Members and officers.

Mr Ameer-Beg was given the opportunity to address the Sub-Committee and answered questions from the Members and officers.

All parties present were then given the opportunity to sum up their positions and make any final comments.

The Sub-Committee received legal advice from the Legal Adviser to the Sub-Committee in the presence of all those present and were advised of the options available to them in making their decision. The Sub-Committee were also advised of the relevant policy and statutory guidance that needed to be taken into account when making their decision.

In reaching their decision, Members felt they should deliberate in private on the basis that this was in the public interest, and as such outweighed the public interest of their deliberation taking place with the parties represented present, in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

The Chair announced that the decision and reasons would be announced in writing within five working days. The Chair informed the meeting that the Legal Adviser to the Sub-Committee would be called back to give advice on the wording of the decision.

The Sub-Committee recalled the Legal Adviser to the Sub-Committee to give advice on the wording of the decision.

RESOLVED:

That the Sub-Committee's decision is that it is appropriate for the promotion of the licensing objectives to vary the Premises Licence as follows:

- (i) to add to the Licence, authorisation for the playing of live music both Indoors and Outdoors seven days a week, from 1pm through to 2am on Sunday to Thursday and from 1pm through to 3am on Friday and Saturday.
- (ii) to add to the Licence, authorisation for the provision of late night refreshment Outdoors and the playing of recorded music Outdoors seven days a week from 12noon to 3am.
- (iii) to extend by one hour to 3am seven days a week, the authorisation for the provision of late night refreshment Indoors and the playing of recorded music Indoors.
- (iv) to extend by 40 minutes to 2.40am seven days a week, the authorisation to supply alcohol for consumption ON and OFF the premises.

SUBJECT to the conditions detailed in Appendix D of the Licensing Officer's Report.

REASONS

In considering the application by Habitual Ventures Ltd for variation of the Premises Licence it holds for Tonne, 1-3 St. Martins Walk, Leicester, the Sub-Committee has considered the Licensing Officer's Report and all the relevant representations, both written and oral. The Sub-Committee has taken account of all relevant legislation, the Statutory Guidance, the Regulators' Code, and the Council's Licensing Policy. The Sub-Committee has had regard in its deliberations to the steps appropriate to promote the licensing objectives in the overall interest of the local community and has decided the matter on its merits on the evidence presented to it. The Sub-Committee has had regard to the public sector equality duty detailed in section 149 the Equality Act 2010 and has taken a risk based approach to its decision which has been made on the balance of probability. The Sub-Committee has, as it is required to do, limited its deliberation to the promotion of the licensing objectives (with each licensing objective being of equal importance) and nothing outside of those parameters.

Tonne is located within St Martins Square. There are other licensed premises in the area. The premises comprise a ground floor and a first-floor area together with a large external seating area immediately outside the front of the premises on St Martins Walk. The premises has been licensed since 2017 and at the time of the application opened seven days a week from 9am through to 2am. The Sub-Committee was informed that despite the availability of seating, the premises was operated as an alcohol led, stand up bar with a capacity of

approximately 150.

Habitual Ventures Ltd, which holds the Premises Licence, was incorporated in 2017. The sole director and the person with significant control of the Company is Nicholas Ameer-Beg. He is also the Designated Premises Supervisor. The Licence provided authorisation seven days a week from 11pm to 2am for the provision of late night refreshment Indoors, and seven days a week from 9am through to 2am for the playing of recorded music Indoors and the supply of alcohol for consumption On and Off the premises.

The variation sought: (i) addition to the Licence of authorisation for the playing of live music both Indoors and Outdoors seven days a week, from 1pm through to 2am on Sunday to Thursday and from 1pm through to 3am on Friday and Saturday; (ii) addition to the Licence of authorisation for the provision of late night refreshment Outdoors and the playing of recorded music Outdoors seven days a week from 12noon to 3am; (iii) extension by one hour to 3am seven days a week, the authorisation for the provision of late night refreshment Indoors and the playing of recorded music Indoors; and (iv) extension by one hour to 3am seven days a week, the authorisation to supply alcohol for consumption ON and OFF the premises.

The Sub-Committee noted that no representations had been received from residents, local businesses, or any Responsible Authorities other than Leicestershire Police.

Representations were originally received from the Police in opposition to the application based on all the licensing objectives. However, they proposed nine conditions could be added to the Licence which if agreed would deal with their objection. The Applicant had not agreed these conditions in advance but confirmed at the hearing its agreement to eight of the conditions. The only point of contention was in connection with the requested variation to extend the authorisation to supply alcohol for consumption ON and OFF the premises by one hour to 3am seven days a week. The Applicant asked the Sub-Committee to allow that variation while the Police requested that the supply of alcohol cease no later than 2.40am daily. The Sub-Committee did not stray into undisputed areas so that was the only issue to decide.

The Police indicated that crime at the venue was low with only one reported incident in the previous year when at new year the premises was open beyond its licensed hours and an argument between two customers culminated in a fight in the street. However, the Police had been concerned that the variation application had been vague and had lacked specific detail as to how the licensing objectives would be promoted and upheld specifically as regards the provision of CCTV coverage and security at the premises. Their concern related to the possibility of alcohol related crime and disorder and anti-social behaviour in the night-time economy / early hours of the morning. The Police referred the Sub-Committee to the licensed hours of other premises in the area, which the Licensing Officer subsequently confirmed as: Bar Tropicia opening hours Monday to Sunday 10am through to 2am; O'Neills opening hours Sunday to Wednesday 7am through to 12.30am and Thursday to

Saturday 7am through to 2.30am (alcohol ceases 30 minutes before daily closing time); Bottle Garden, opening hours Monday to Thursday 11am to 11.30pm, Friday to Saturday 11am through to 1.30am and Sunday 11am to 9.30pm (alcohol ceases 30 minutes before daily closing time); Little Sister opening hours Monday to Tuesday 12 Noon to Midnight, Wednesday to Friday 12 Noon to 4am, Saturday 10am through to 4am and Sunday 12 Noon to 11pm (alcohol ceases 30 minutes before daily closing time). The Police believed that a 20 minute 'drinking up' period to aid customer dispersal was appropriate and proportionate in this particular case.

Mr Ameer-Beg explained that he also runs another licensed venue which has been without incident in the previous seven years. He did not take issue with a 'drinking up' period but mooted why the sale of alcohol should not finish at 3am with the premises closing later at for example 3.30am. He felt that the 2.40am cessation left the business at a commercial disadvantage to other licensed premises in the area.

The Sub-Committee noted that a 'drinking up' period can be appropriate. The consumption of alcohol is not a licensable activity so it is perfectly permissible for premises to allow the consumption of previously purchased alcohol subject to opening hours commensurate with planning permission. In this case, the Police had requested this particular period and it has been an exercise of judgement for the Sub-Committee. Any aspect of 'commercial disadvantage' is not a relevant consideration as it does not relate to any of the licensing objectives. Rather, the Sub-Committee notes the Statutory Guidance which details: "Licensing authorities should look to the police as the main source of advice on crime and disorder." The Sub-Committee believes it is appropriate and proportionate for the supply of alcohol to cease no later than 2.40am daily.

The previous conditions on the Premises Licence were light in detail and the Sub-Committee believes the conditions to which the Licence is now made subject are appropriate for the promotion of the licensing objectives and they are proportionate.

Any appeal against the decision must be made within 21 days to the Magistrates Court.

14. APPLICATION FOR A NEW PREMISES LICENCE - THE CAR PARK AT 73B CHURCH GATE, LEICESTER, LE1 3AN

Councillor Singh Johal, as Chair led on introductions and outlined the procedure the hearing would follow.

The Director of Neighbourhood and Environmental Services submitted a report on an application under the Licensing Act 2003 for a new premises licence for 73b Church Gate, Leicester.

Mr Anup Patel was present on behalf of the Applicant I-Reality Ltd. Also in attendance was PC Karl Turner, Leicestershire Police, Elizabeth Arculus, Licensing Enforcement team, and James Brown, Noise and Pollution team.

Also present was the Licensing Team Manager (Policy and Applications) and the Legal Adviser to the Sub-Committee.

The Licensing Team Manager (Policy and Applications) presented the report and outlined details of the application.

A representation was received on 22 November 2024 from the Noise team. The representation related to the prevention of public nuisance. The Noise Team were concerned that noise associated with the applied for licensable activities at this premises would interfere with the use and may cause nuisance to nearby properties. They had recommended refusal of the application.

A second representation was received on 26 November 2024 from the Licensing Enforcement team. The representation related to the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm. The Licensing Enforcement Team were concerned about the premises and the effects it may have on the local community, both business and residential. They had reached an agreement with the applicant regarding conditions to be added to the licence, if granted.

A third representation was received on 2 December 2024 from the Police. The representation related to the prevention of crime and disorder, the prevention of public nuisance, public safety, the protection of children from harm. The Police were concerned about the application, given the size of the outdoor area, combined with the size of the existing licensed premises. They had reached an agreement with the applicant regarding conditions to be added to the licence, if granted.

Ms Arculus, Licensing Officer was given the opportunity to outline the details of their representation and answered questions from Members.

Mr Brown, Noise and Pollution Control Officer was given the opportunity to outline the details of their representation and answered questions from Members and officers.

PC Turner, Police Constable for Leicestershire Police, was given the opportunity to outline the details of the Police's representation and answered questions from Members and officers.

Mr Patel was given the opportunity to address the Sub-Committee and answered questions from the Members and officers.

All parties present were then given the opportunity to sum up their positions and make any final comments.

The Sub-Committee received legal advice from the Legal Adviser to the Sub-Committee in the presence of all those present and were advised of the options available to them in making their decision. The Sub-Committee were also advised of the relevant policy and statutory guidance that needed to be taken into account when making their decision.

In reaching their decision, Members felt they should deliberate in private on the basis that this was in the public interest, and as such outweighed the public interest of their deliberation taking place with the parties represented present, in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

The Chair announced that the decision and reasons would be announced in writing within five working days. The Chair informed the meeting that the Legal Adviser to the Sub-Committee would be called back to give advice on the wording of the decision.

The Sub-Committee recalled the Legal Adviser to the Sub-Committee to give advice on the wording of the decision.

RESOLVED:

The Sub-Committee's decision is that it is appropriate for the promotion of the licensing objectives to **GRANT** a Premises Licence for the Car Park / Courtyard at 73B (rear of 75) Church Gate, Leicester authorising the licensable activities detailed below subject to the conditions detailed below:

The licensable activities authorised are:

- (i) the supply of alcohol for consumption ON and OFF the premises between 2pm to 11pm daily on no more than 25 days per calendar year.
- (ii) The provision of regulated entertainment between 2pm to 11pm daily consisting of the provision of plays, films, indoor sporting events, boxing and wrestling entertainments, live music, recorded music, performances of dance and the provision of anything of a similar description to live music, recorded music or performances of dance.

The Licence is granted subject to the following conditions detailed in Appendix C of the Licensing Officer's Report:

- (i) the conditions consistent with the Operating Schedule
- (ii) the conditions consistent with the Licensing Enforcement Representation Agreement
- (iii) the conditions consistent with the Leicestershire Police Representation Agreement save that the condition which reads "The licence holder will be limited to no more than thirty events in a calendar year, in which amplified music is played. With one event classified as incorporating consecutive days of Friday to Monday only" is deleted.

The Licence is granted subject to the following additional conditions:

- (iv) The Licence holder shall ensure that no licensed activities take place at any time when any licensed or deregulated activity is taking place at the Mix'd Café Bar.
- (v) Amplified music shall be played only on days authorised by the Premises Licence for the supply of alcohol for consumption ON the premises.
- (vi) Amplified music shall not be played on a consecutive day.
- (vii) The Licence holder shall ensure, prior to the first opening of the premises, that a comprehensive Noise Risk Assessment and Noise Management Plan covering all licensed activities at the premises has been prepared in consultation with the Leicester City Council Noise Pollution Team.
- (viii) The Licence holder shall ensure that the Noise Management Plan is fully complied with when any licensed activity is undertaken at the premises.
- (ix) The Licence holder shall ensure, prior to the first opening of the premises, that a full Fire Safety Risk Assessment is conducted by an organisation / person agreed in advance by Leicester City Council Licensing Enforcement.
- (x) The Licence holder shall ensure that the Fire Safety Risk Assessment includes maximum safe capacity figures for the premises including separate figures for the area of the Car Park and the area of the Courtyard and that those figures are confirmed by Leicestershire Fire and Rescue Service.
- (xi) The Licence holder shall ensure that the number of persons present at any one time in the Car Park area and in the Courtyard area, including staff and other personnel, does not exceed the maximum safe capacity figure for those areas confirmed by Leicestershire Fire and Rescue Service.
- (xii) The Licence holder shall ensure that the Fire Safety Risk Assessment is reviewed each calendar year.
- (xiii) The Licence holder shall ensure that only plastic cups or cans are used to serve drinks to customers. No glasses shall be used.

REASONS

In considering the application by I-Realty Ltd for a Premises Licence for the Car Park / Courtyard at 73B (rear of 75) Church Gate, Leicester, the Sub-Committee has considered the Licensing Officer's Report and all the relevant representations, both written and oral. The Sub-Committee has taken account of all relevant legislation, the Statutory Guidance, the Regulators' Code, and the Council's Licensing Policy. The Sub-Committee has had regard in its deliberations to the steps appropriate to promote the licensing objectives in the overall interest of the local community and has decided the matter on its merits on the evidence presented to it. The Sub-Committee has had regard to the public sector equality duty detailed in section 149 the Equality Act 2010 and has taken a risk-based approach to its decision which has been made on the balance of probability. The Sub-Committee has, as it is required to do, limited its deliberation to the promotion of the licensing objectives (with each licensing objective being of equal importance) and nothing outside of those parameters.

The Car Park / Courtyard sits outside Mix'd Café Bar on Church Gate. Entrance to both the Car Park / Courtyard and the Bar is through a gate on Church Gate. The surrounding area is made up of shops, cafes, licensed premises, small businesses, and residential properties. It is busy during the day, evening, and night-time economy. The Car Park / Courtyard is enclosed by high brick walls with the south side enclosed by a residential façade where windows have a view down into the Car Park / Courtyard.

The applicant is I-Realty Ltd which was incorporated in 2012. It has three directors. Mr Anup Patel is a director and the person with significant control of the Company. He is to be the Designated Premises Supervisor. The Company owns the Mix'd Café Bar but the Car Park / Courtyard is leased. The Mix'd Café Bar has a large ground and first-floor area with a combined one thousand capacity. The Company has held a Premises Licence for the Mix'd Café Bar since 2013, the current licensed hours being from 8am through to 4.30am daily. The Mix'd Café Bar Premises Licence authorises the supply of alcohol for consumption ON and OFF the premises so that the Company is able to sell alcohol to customers who may take it outside into the Car Park / Courtyard to drink it. The Mix'd Bar Café Premises Licence details a condition that "the licence holder will ensure that there will be no amplified music or voice in the outside areas."

Mr Patel informed the Sub-Committee that the Lease for the Car Park / Courtyard provides that a Licence must be held for licensable activities held in the Car Park / Courtyard area. The Car Park / Courtyard has previously been licensed without incident by the use of Temporary Event Notices.

In its written application for the Premises Licence for the Car Park / Courtyard, the Company indicated "30 events per year cap as discussed prior to the application with both the Leicester City Council Licencing and Sound teams as well as Leicestershire Police" before then setting out the timings for the authorisation requested for the provision of regulated entertainment and the supply of alcohol.

That written application by itself, might easily be read as an application for a Premises Licence authorising the use of the Car Park / Courtyard for the requested activities on no than 30 occasions per year. The application presented to the Sub-Committee at the hearing was far more extensive.

The Company explained at the hearing that it viewed its original application as correctly made with a request for authorisation of the requested licensable activities on a daily basis from 12 noon to 11pm and a cap of 30 occasions per year on which amplified music would be played. However, and although it preferred the original application details and did not see the need for movement on timings, it was prepared to reduce the requested daily licensed hours to run from 2pm to 11pm and for the cap to be set at 25 for the occasions per year when amplified music could be played, with none of these occasions being consecutive days apart from bank holidays and public holidays. On this later aspect, during the hearing, the Company indicated that amplified music would not be played on consecutive days (without reference to bank or public holidays).

The Company sought a Premises Licence authorising the daily provision of regulated entertainment consisting of the provision of plays, films, indoor sporting events, boxing and wrestling entertainments, live music, recorded music, performances of dance and the provision of anything of a similar description to live music, recorded music or performances of dance. It additionally sought authorisation for the daily supply of alcohol both ON and OFF the premises.

Both the Licensing Enforcement Team and Leicestershire Police originally provided written representations based on all of the licensing objectives opposing the application. They subsequently agreed conditions with the Applicant and they no longer opposed the application at the hearing.

The Police proposed a condition detailing: "The licence holder will be limited to no more than thirty events in a calendar year, in which amplified music is played. With one event classified as incorporating consecutive days of Friday to Monday only". The Company agreed that condition with the Police before subsequently offering a "Cap of 25 events (instead of 30)"

A representation was received from the Noise and Pollution Control Team opposing the application based on the prevention of public nuisance licensing objective. They believe noise from licensed activities including in particular amplified live and recorded music will cause noise nuisance and interfere with the use of nearby residential properties. They acknowledge previous successful TENs without complaint and the Company's advance engagement with residents about those events. However, the cumulative impact of frequent events was likely to be detrimental over time. Different activities bring different noise types. They explained that outdoor venues are particularly difficult to manage regarding noise control. Environmental factors such as wind direction and speed can carry music noise. Live and recorded music could vary greatly between events and likely include bass which can travel across long distances

and affect an increasing number of residents, not just those living in the immediate area surrounding the Car Park / Courtyard. Mitigation can come in the form of a noise limiting device that is permanently fitted to the speaker system which all amplified music or voice is run through for events. However, due to the size of the Car Park / Courtyard and the proximity to residential properties, most sound produced by licensable activities in the Car Park / Courtyard will likely lead to unacceptable internal noise levels in the nearest residences. To avoid noise nuisances, the sound level in the Car Park / Courtyard would have to be significantly limited, undermining the intended licensable activity, and impacting the experience for patrons. Crowd noise is also likely to be a factor, with incidents of random loud crowd outbursts generated at sporting events being particularly intrusive and very difficult to control. The Noise Team was not impressed with the Noise Management Plan submitted by the Company which it opined had the look of an AI created document lacking in detail on information regarding proposed decibel levels. The Noise Team believed the application should be refused and that the Company should continue to give TENs so that events could be considered on individual merit.

Mr Patel addressed the Sub-Committee at length on behalf of the Company. He pointed to a good record as regards the Premises Licence held for the Mix'd Café Bar which has been operated since 2013 without any adverse involvement of the Police or other Responsible Authorities. He indicated that having purchased the building, the Company had invested heavily in the Mix'd Café Bar and was looking at ways to ensure a sustainable future with the benefit to the Church Gate area such longevity would bring. He referred to the Car Park / Courtyard as a 'golden nugget' being the only place in the City Centre perfect for music events. Historically, TENs had been given to hold outdoor events in the summer months. Mr Patel pointed to a proven track record of management and noise control since 2015. There have been 36 TENs since 2015 with 16 since 2022. There have been 9 years of successful TENs for the Car Park / Courtyard (limit of 499 Car Park & limit of 499 Courtyard each time) without 'verified' statutory nuisance or complaint from neighbouring businesses or residents.¹ The TENs involved hiring a marquee, portable toilets, a sound system and the provision of catering facilities at an increasingly prohibitive cost of approximately £3,000 each time. The Company wanted to use / install permanent equipment going forward. The Company has shown a willingness to engage with Responsible Authorities regarding the current application such that the original objections from the Licensing Team and the Police had been resolved. The Company does not accept the Noise Team's concerns. It indicates: "We use a modern sound setup that mitigates noise impact such as Cardioid to direct the output of subwoofers in order to limit excessive amounts of bass in undesired locations." Noise management plans and regular hourly monitoring during events together with an onsite sound engineer to maintain control and react to variables will be in place for events. Mr Patel emphasises that no objections to the present application have been received from neighbouring businesses (who were actually in support of

¹ The reference to 'verified' statutory nuisance should be read in light of the emails from 2017 which the Applicant has presented where the Noise Team does indicate; "We have witnessed nuisance from events at Mix'd within residential properties."

the application and the additional trade and business increased footfall would bring to the area) or from residents, and that community engagement ahead of events will continue as it has done in the past. Mr Patel explained that residential flats overlooking the Car Park / Courtyard had sound insulation as referenced in emails involving the Noise Team and Panning in 2017 which were included in the supplemental material submitted in support of the application. Photographs included in that material showed windows open in the overlooking flats during an event in 2017.

The Church Gate area is well known to Sub-Committee Members who raised questions regarding safe access and egress to the Car Park / Courtyard and capacity levels. Mr Patel explained that there is a main point of access and egress via a wide front gate on Church Gate. There is additionally a smaller side entrance which runs parallel to the front gate. Mr Patel was not able to accurately assess the capacity of the Car Park / Courtyard, although previous TEN numbers provided some assistance. No Fire Risk Assessment was yet in place but he proposed that the capacity level should be that set in the Fire Risk Assessment in due course. The Company did not intend to hold events in the Car Park / Courtyard and the Mix'd Café Bar at the same time and did not object to a licensed condition prohibiting that.

Mr Patel referred to the public benefit in use of the premises by local bodies and the increased footfall and trade to the area as a result of its events. He also questioned the viability of the Mix'd Café Bar going forward if the Premises Licence was not granted for the Car Park / Courtyard. Those commercial considerations do not relate to the licensing objectives so they are not relevant considerations for the Sub-Committee.

Mr Patel believes the Noise Team opposition is based on speculation that noise nuisance 'might' occur whereas the TEN history showed a proven ability to handle noise without complaint. Mr Patel emphasised that the Company was able to undertake a number of deregulated activities at the Car Park / Courtyard in particular as a 'workplace' in any event and he could not see why the Noise Team had objected to the application. Mr Patel felt the Noise Team had failed to engage with the Company in what he described as the helpful manner which had been adopted by the Licensing Team and the Police.

The Sub-Committee found the original written application light in explanation. It is an application with potential serious consequences for residents (both in the immediate area and further afield). No residents have objected to the application. The Sub-Committee simply notes it is at least possible that some may not have appreciated the full import of the application. This possibility has played no part in the Sub-Committee's decision.

In considering whether to grant a Premises Licence the Sub-Committee has looked exclusively at the licensing objective of the prevention of public nuisance.

The Company is wrong to seek to equate the previous limited TEN history (36 TENs since 2015 with 16 since 2022) with a Premises Licence authorising

licensable activities 365 days a year.

The Company has referred to the deregulatory changes which have amended the Licensing Act 2003 (The Live Music Act 2012; Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013; The Legislative Reform (Entertainment Licensing) Order 2014; and the Deregulation Act 2015) and Mr Patel expressed surprise at the Noise Team objections in view of what the Company was able to undertake in the Car Park / Courtyard as a 'workplace'. Deregulated activities in a 'workplace' have certain limitations and if premises are licensed under the Licensing Act 2003, they cannot also be treated as a workplace for the purpose of the Live Music Act 2012. In addition, the Sub-Committee notes the condition detailed on the Mix'd Bar Café Premises Licence that "the licence holder will ensure that there will be no amplified music or voice in the outside areas."

However, it is important to appreciate the effect of deregulation. The effect of the Licensing Act 2003 Schedule 1 Part 2 Exemptions paragraph 12A(1), in so far as it is relevant to this application, is that the provision of entertainment consisting of a performance of live music and/or the playing of recorded music, is not to be regarded as the provision of regulated entertainment for the purposes of the Act if (a) music takes place on premises which are authorised by a premises licence to be used for the supply of alcohol for consumption on the premises; (b) at the time of the music, the premises are open for the purposes of being used for the supply of alcohol for consumption on the premises; (c) if the music is amplified, it takes place in the presence of an audience of no more than 500 persons, and (d) the music takes place between 8am and 11pm on the same day.

Again in so far as it is relevant to this application, in accordance with paragraph 12A(2) any condition of the premises licence which relates to live music, recorded music or both does not have effect in relation to the music. Such a condition only has effect on a review of a Premises Licence if the condition either falls within paragraph 12A(3) or is added to the Licence in accordance with paragraph 12A(4).

So, no licence permission is required for a performance of amplified live music between 8am and 11pm on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500. Similarly no licence permission is required for any playing of recorded music between 8am and 11pm on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.

The proposed condition agreed by the Company with the Police that: "The licence holder will be limited to no more than thirty events in a calendar year, in which amplified music is played. With one event classified as incorporating consecutive days of Friday to Monday only" would in these circumstances be of effect only if, for example, the audience exceeded 500.

However, it is clear that the Company and the Police had in mind capping the

occasions on which amplified music would be played. Unfortunately, the Company has not provided occupancy figures for the Car Park / Courtyard other than to make general reference to previous TENs for each area where the maximum permitted number of people attending at any one time was 499. Had the Company arranged a Fire Safety Risk Assessment ahead of the hearing and confirmed the safe capacity figures with Leicestershire Fire and Rescue Service, those occupancy figures would have been available to the Sub-Committee.

The Company in its application for a Premises Licence has sought authorisation for the daily supply of alcohol for consumption ON and OFF the premises. If granted as requested, the Company would benefit from deregulation so that it could on a daily basis play live amplified and/or recorded music to an audience which does not exceed 500. That is clearly unacceptable for these premises from the perspective of the cumulative impact of noise nuisance to residents. In addition, it renders of limited if any value, any benefit in providing a condition capping to either 25 or 30 days per calendar year, the number of days on which amplified music can be played.

Live music remains licensable where a performance of amplified live music takes place at a time when the relevant licensed premises are not open for the purposes of being used for the sale or supply of alcohol for consumption on the premises.

The Sub-Committee has therefore limited authorisation for the supply of alcohol for consumption ON and OFF the premises to no more than 25 days per calendar year. On those occasions, the Company will be able to benefit from deregulation for the performance of amplified live music and the playing of recorded music where the audience does not exceed 500. In the event the audience exceeds 500, then subject to being within the maximum safe capacity figures confirmed by Leicestershire Fire and Rescue Service, the performance will be authorised by the Premises Licence.

The Company is therefore able to sell alcohol between 2pm and 11pm on 25 days per calendar year and amplified music can be played on those occasions. Outside of those 25 days, the Company is able to continue to give up to 15 TENs for up to 21 days in a calendar year. This is in addition to any deregulated activities which the Company may carry on.

The Company did not refute the Noise Team's suspicion that the Noise Management Plan presented had been AI generated. Regardless of whether it was, the Sub-Committee expects the Company to work with the Noise Team. The conditions provide for that cooperation prior to the first opening of the premises by way of the preparation of a comprehensive Noise Risk Assessment and Noise Management Plan in consultation with the Noise Team covering all licensed activities.

The Sub-Committee was concerned with the absence of a Fire Safety Risk Assessment for the Car Park / Courtyard. The Licensing Team indicated that it had in meeting with the Company agreed to remove a proposed condition

regarding such an Assessment. They indicated that the Company agreed there would be an Assessment prior to the opening of the Car Park / Courtyard but the Company did not feel the need to have one repeated annually. Mr Patel clarified at the hearing that the Company agreed there should be an Assessment but as it was required under legislation other than the Licensing Act 2003, he believed on advice that it was not appropriate to include it as a Licence condition. The Sub-Committee was concerned at the lack of information provided by the Company regarding safety and capacity limits. It also noted the inclusion on the Premises Licence for the Mix'd Café Bar of a condition: "the licence holder will ensure that a full fire risk assessment will be conducted and reviewed yearly."

Licensed premises are covered by the Regulatory Reform (Fire Safety) Order 2005, SI 2005/1542 which requires 'the responsible person' to carry out a fire risk assessment of the premises. The fire risk should consider the adequacy of the means of escape, fire safety signs and notices, emergency lighting, fire warning systems, fire-fighting equipment and training. The Sub-Committee would have preferred that the significant outcomes of this risk assessment, including occupancy figures, designated escape routes, evacuation procedures etc. should have been included in the Operating Schedule accompanying the application to allow a full evaluation of the information.

In those circumstances, the Sub-Committee has decided that the need for a Fire Safety Risk Assessment and its annual review should be a condition of the Licence for the Car Park / Courtyard.

The Sub-Committee believes the conditions subject to which the Licence is granted deal with the representations which have been made. The conditions are appropriate for the promotion of the licensing objectives and they are proportionate.

Any appeal against the decision must be made within 21 days to the Magistrates Court.

15. ANY OTHER URGENT BUSINESS

With there being no further business, the meeting closed at 10.10pm.