



Alcohol and Entertainment Licensing Sub-Committee - Supplementary

Wednesday 29 March 2023 at 2.00 pm
Boardrooms 7 & 8, 3rd Floor, Brent Civic Centre

Membership:

Members

Councillors:

Ahmed (Chair)
Long (Vice-Chair)
Bajwa

Substitute Members

Councillors:

Chohan, Chappell, Collymore, Ethapemi, Georgiou,
Mahmood, Rubin

For further information contact: Devbai Bhanji, Governance Assistant
Tel: 020 8937 6841; Email: devbai.bhanji@brent.gov.uk

For electronic copies of minutes, reports and agendas, and to be alerted when the minutes of this meeting have been published visit:

www.brent.gov.uk/committees

Please note that this is an in-person meeting and the meeting will not be webcasted. The press and public are welcome to attend this meeting in person.

Notes for Members - Declarations of Interest:

If a Member is aware they have a Disclosable Pecuniary Interest* in an item of business, they must declare its existence and nature at the start of the meeting or when it becomes apparent and must leave the room without participating in discussion of the item.

If a Member is aware they have a Personal Interest** in an item of business, they must declare its existence and nature at the start of the meeting or when it becomes apparent.

If the Personal Interest is also significant enough to affect your judgement of a public interest and either it affects a financial position or relates to a regulatory matter then after disclosing the interest to the meeting the Member must leave the room without participating in discussion of the item, except that they may first make representations, answer questions or give evidence relating to the matter, provided that the public are allowed to attend the meeting for those purposes.

***Disclosable Pecuniary Interests:**

- (a) **Employment, etc.** - Any employment, office, trade, profession or vocation carried on for profit gain.
- (b) **Sponsorship** - Any payment or other financial benefit in respect of expenses in carrying out duties as a member, or of election; including from a trade union.
- (c) **Contracts** - Any current contract for goods, services or works, between the Councillors or their partner (or a body in which one has a beneficial interest) and the council.
- (d) **Land** - Any beneficial interest in land which is within the council's area.
- (e) **Licences** - Any licence to occupy land in the council's area for a month or longer.
- (f) **Corporate tenancies** - Any tenancy between the council and a body in which the Councillor or their partner have a beneficial interest.
- (g) **Securities** - Any beneficial interest in securities of a body which has a place of business or land in the council's area, if the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body or of any one class of its issued share capital.

****Personal Interests:**

The business relates to or affects:

- (a) Anybody of which you are a member or in a position of general control or management, and:
 - To which you are appointed by the council;
 - which exercises functions of a public nature;
 - which is directed is to charitable purposes;
 - whose principal purposes include the influence of public opinion or policy (including a political party or trade union).
- (b) The interests of a person from whom you have received gifts or hospitality of at least £50 as a member in the municipal year;

or

A decision in relation to that business might reasonably be regarded as affecting the well-being or financial position of:

- You yourself;
- a member of your family or your friend or any person with whom you have a close association or any person or body who is the subject of a registrable personal interest.

Agenda

Introductions, if appropriate.

Item	Page
3 Application for a Variation to a Premises Licence by for the premises known as The Arch, 324 Harrow Road, Wembley HA9 6LL , pursuant to the provisions of the Licensing Act 2003	1 - 28

Date of the next meeting: **Date Not Specified**



- Please remember to ***SWITCH OFF*** your mobile phone during the meeting.
- The meeting room is accessible by lift and seats will be provided for members of the public.

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Arch – Hearing – Supporting Evidence

A full variation has been submitted to the police for the above venue. The main variation is the extension in hours on Friday and Saturday evenings, amending the capacity and using the external area for the sale of alcohol and regulated entertainment.

Even though there is a history of licensing breaches at this venue, I am not opposing the extension in hours or the use of the front garden for the sale of alcohol, but feel an update of the existing conditions is required to meet the licensing objectives and to make sure there are no further licensing complaints against the venue.

The licensing breaches at the venue are as follows:

Warning Letter – 26th of March 2022 – Failing to close hours before on Match Day

Warning Letter - 1st of January 2022 – Breach of license, using outside area past authorised time

Warning Letter – 19 May 2018 – Over crowding of a TEN on match Day

Warning Letter – 26 May 2018 – Over crowding of a TEN on match Day

Warning Letter – 11 Sep 2018 – Failing to provide CCTV and nine (9) other breaches of license

Copy of Hearing Decisions – 20th February 2019 – application withdrawn during hearing

Copies of the above are all attached.

DPS Mr Patel

On the 26th of March 2022 Mr Patel failed to close the pub one hour before kick off as detailed in his existing license. When I personally spoke to him about this he was unaware that the venue should have closed. This is very concerning. How did Mr Patel who has worked as the DPS for many years not know that he should be closing the venue? When I spoke to him it appeared that he had never read the conditions on his license.

Capacity and Noise complaints:-

As you can see from above there is a history of issues on match days, using the external area past the authorised time, going above the 499 allowed on a TEN on match days, failing to provide CCTV and numerous other breaches.

My main concern is the noise and ASB that could and has arisen from the use of the external garden and the constant breaches on event days at the stadium. Increasing the existing capacity (numbers which has already been agreed) is not a practical option. There has already been complaints and warning letters sent as detailed in the attached, so I don't consider this an option, especially when the police and council have already agreed to an extension in hours.

There has been no change to the layout of the venue, so I cannot see how or why the capacity can be increased, when the appropriate numbers have already been calculated and agreed.

Event Days at Wembley Stadium

This then moves onto the issues of televising football matches on event days at the stadium. Wembley is our national stadium and football on this day attracts a world-wide audience. We are all familiar with the grotesque scenes that occurred at the Euro Finals on the 11th of July 2021. Therefore we need to put adequate measures in place to make sure there is no repeat of these barbaric scenes.

Baroness Casey explained the following:-

A review into the disorder that tarnished the Euro 2020 final at Wembley has painted a terrifying picture in which fatalities and widespread injury were only narrowly avoided after authorities failed to plan for the "worst-case scenario" despite a series of warnings.

Led by Louise Casey, the Football Association-commissioned report examines the day of 11 July, when thousands of people without tickets tried to storm the national stadium to see England played Italy, and tens of thousands more created scenes of anarchic disorder on Olympic Way. The review describes what unfolded as a "national shame".

As you can see from this report, fatalities and widespread injury were narrowly avoided all of which was fuelled by alcohol induced ticket-less fans and described as a 'National shame'.

This is the reason police must insist on strict regulations on match days at the stadium. The televising of football matches on event days close to the stadium attracts ticketless fans. As you can see from the Casey report, ticketless fans were those responsible for storming our National stadium and rioting on Olympic Way. The Arch has a history of ignoring licensing conditions on event days, which is all documented above. Therefore every condition possible must be put in place for the prevention of crime and disorder.

I have also attached a statement from PC Paul Jennings who is our dedicated football officer for Wembley stadium and the London clubs. In his statement he details the challenging work of policing the stadium on football event days. He also goes on to explain in his experience the need for pubs to stop the serving of alcohol one hour prior to kick off and not televising the game.

PC Jennings explains that stopping the sale of alcohol one hour before the game makes fans leave the pubs and enter the stadium. Without this in place we are confronted with drunk football fans on the streets of Wembley, resulting in various crimes and assaults.

The entire borough of Brent is covered by a Public Space Protection Order (PSPO) part of which prohibits the selling of alcohol to street drinkers. Football fans drinking on the streets of Wembley

form part of this order. Policing the PSPO on match days is a great strain to the police service. When this order is enforced on match days there is a drastic fall in crime and ASB, proving that alcohol is the major contributor to crime.

This impacts the volume of alcohol sold by off licenses but assists in lowering the crime and disorder. This is why the police need the public houses to play their part and assist the police, local authority and the NHS on match days at the stadium with strict rules on their licenses. Without the pubs and off licenses 'doing their part' on match days by controlling the alcohol consumption, it won't be possible for the police and local authority to maintain a peaceful match day experience for genuine football fans.

Previous Hearing – application withdraw during hearing.

Below is a copy of an almost identical variation submitted in February 2019:-

*The application is for a variation for the licence as follows:
Extend the hours for regulated entertainment to 04:00hrs Thursday to Saturday.
Extend the hours for the sale & supply of alcohol to 03:30hrs Thursday to Saturday
Extend the opening hours to 04:30hrs Thursday to Saturday.
To change condition No. 9 – to extend the hour that the outside drinking area is in use to 00:30hrs.
To change Condition No. 15 – To extend the 'No Entry/Re-Entry' condition to 01:00hrs.
On major event days – to be able to sell and consume alcohol on the forecourt.
On major event days – the sale of alcohol to cease 1 hour before kick-off*

Below is the decision of the committee:-

*The sub-committee have listened carefully to the submissions made by all parties.
During the course of this hearing the Applicant has indicated his desire to withdraw his application for a variation. Accordingly, we dismiss his application.
We also take his opportunity to note that, on the evidence we had heard up until that point, we would have rejected the application in any event. The Applicant accepted that he had not engaged with the Responsible Authorities. We have concerns about the Applicant's level of competence in running a large hotel and bar and simply raise this so that it is recorded for any future applications.*

As you can see, the committee would have refused the application even if the applicant hadn't withdraw it. This was due to the lack of co-operation from Mr Patel with the authorities. I have seen no improvement from Mr Patel in his running of the Arch

Summary:-

1. There is a long history of licensing breaches with Mr Patel as the DPS
2. The extension in hours requested has not been refused by either the police or council as it was previously, showing the police are supportive of business'
3. No evidence for an increase in capacity has been presented in an official capacity by the applicant, even though one which has been risk assessed already exists

4. Evidence from Baroness Casey report and PC Jennings clearly details how ticketless fans were responsible for the disorder at the Stadium and surrounding areas at the Euro finals, emphasising the need to stop the showing of football matches on event days.
5. A previous hearing shows that the sub-committee detailed how Mr Patel was not engaging with the authorities and were going to refuse the application.

WITNESS STATEMENT

Criminal Procedure Rules, r 16. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

Statement of: Paul Jennings

Age if under 18: Over 18

(if over 18 insert 'over 18')

Occupation: Police Officer

This statement (consisting of 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Witness Signature:

Paul Jennings

Date: 22/02/2023

I am the Dedicated Football Officer for Wembley Stadium and Central London, working in the Central Football Unit of MO6 (Public Order and Resources Command) of the Metropolitan Police Service. I have been working regularly within Football Intelligence deployments since 2004 and have been working full time as a Dedicated Football Officer since 2010. I have been the Dedicated Football Officer for Wembley Stadium since November 2021. Since Wembley Stadium officially reopened in May 2007, I have been deployed at the majority of football fixtures there, in an intelligence or Operational Football Officer role.

For many years I have found the policing of Wembley Stadium to be a frustrating role due to the high levels of intoxication and the resulting elevated levels of antisocial behaviour that is a direct result of the alcohol

consumption amongst a significant number of supporters. The correlation between levels of intoxication and patterns of behaviour including antisocial behaviour and pockets of disorder are clear to see.

Mixing of groups of opposing supporters is often the catalyst to spontaneous disorder occurring. This is why we consider it to be prudent for supporters not to mix in licensed premises around Wembley Stadium. It is also the reason for requesting a geographic split of the licensed premises taking different groups. The mixing of supporters both inside licensed premises and around the wider footprint of the event would require an uplift in resources. This not only puts great demands on the already stretched policing resources and operation but inevitably results in the officers being taken away from front line policing in communities around London.

Premises not serving alcohol for an hour before kick-off greatly assists in the safe ingress of thousands of supporters. Without this, we would inevitably see a later walk up of large numbers of supporters, often under the influence of alcohol, putting increased pressure on the stewarding operation and on the turnstiles themselves increasing the rise to both supporters, staff and police officers.

The issue presented by the presence of ticketless supporters was highlighted in Baroness Casey review of the UEFA Euro 2020 Final. Licensed premises showing live football during matches at Wembley matches would only serve to attract ticketless supporters to the area. This would increase the potential for antisocial behaviour in the area but also deprives those with tickets of the opportunity to find somewhere to drink before the match. This then has the knock-on effect of increasing the likelihood of supporters engaging in street drinking in breach of the council's Public Space Protection Order.

Paul Jennings

Witness Signature:

Paul Jennings

Signature Witnessed by Signature:

Page 1 of 1

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**METROPOLITAN
POLICE**

Working together for a safer London

TERRITORIAL POLICING

Mr Savan Patel
The Arch (Public House)
324 Harrow Road
HA9 6LL

Our ref: The Arch – Breach of License

NW BCU Licensing Department - Brent

Harrow Police Station
74, Northolt Road
Harrow
HA2 0DN

Tel: 020 8733 5008

Email: nwmailbox.licensingbrent@met.police.uk

Web: www.met.police.uk

Date: Monday the 4th of April 2022

Dear Mr Patel,

Further to our e-mail chains and the visits from myself and other officers to The Arch since the 26th of March 2022.

Uniformed officers attended The Arch on 26/03/2022 to conduct a licensing check due to the England V Switzerland friendly football match which was played at Wembley Stadium, with a kick off time of 17.30 hours.

The officers that attended on the 26/03/2022 informed me that the pub was still open with alcohol been served / consumed at 17.00 hours. As you know, your pub like the majority within the Wembley footprint must stop serving alcohol one hour prior to kick off, which would have been 16.30 hours.

Due to this report myself and Sergeant Clarke attended the Arch on 29/03/2022 where the three of us discussed this matter. There you confirmed that you had failed to abide with the conditions of your license on 26/03/2022. So there was no misunderstanding of your conditions you produced a copy of your premises license.

We read out the match day restrictions (section 10) which states *'The premises will close one hour prior to the designated kick off time and not to re-open until 15 minutes after kick off (football only)'*

When we read this out you didn't realise that the venue had to close, but were under the impression that you only had to stop serving / consuming alcohol. It is worrying that you, the DPS were unfamiliar with the conditions of your own premises license.

Due to this I asked you to provide me with CCTV from the 26/03/2022 from 16.30 to 18.00 hours. I received a USB stick via recorded delivery that you confirmed was from yourself. This footage would not play and the recordings showed the 29/03/2022 not the 26/03/2022 that I had asked for.

Due to this myself and Sergeant Clarke attended the Arch on 03/04/2022, which was another match day at Wembley Stadium. During this visit the venue was closed to customers with no alcohol been served, as per your premises license

There you showed me the footage of 26/03/2022 on your CCTV system. This footage showed that the pub was still busy with alcohol been served at 16.30 hours on 26/03/2022. The CCTV also showed that there were customers in your pub at 17.00 hours, with alcohol been consumed. I recorded your CCTV footage on my police issued body cam for evidential purposes.

Failing to stop serving and closing the venue at 16.30 hours on 26/03/2022 is a clear breach of your premises license.

A separate warning letter was sent to you on 06th of January 2022 by PC Norton

Please treat this e-mail / letter an additional warning letter.

If there are any other breaches of your license I will have no option but to consider reviewing your license

I have attached a copy of your premises license, so you have a digital copy which is dated 17th of August 2005. Please let me know if this is a different dated license than the one you have.

Moving forward, our visit on 03/04/2022 showed that the venue was closed with no customers inside one hour before kick-off at 15.00 hours (abiding by your match day restrictions). You state that you will be having a meeting with all your staff and SIA to explain the conditions of your license and the seriousness of this breach.

A special emphasis is put on all licensed premises to abide by their licensing conditions on match days at Wembley Stadium, with officers making licensing checks on these days. But please remind your staff that your licensing conditions apply all year round, regardless whether or not football is been played at our National Stadium.

If you have any questions or need any assistance please don't hesitate to contact me.

Yours Sincerely,

**PC Phil Graves 3122NW
NW BCU - Brent Licensing
Philip.Graves@met.police.uk**



Mr Savan Patel
The Arch
324 Harrow Road
Wembley
HA9 6LL

Brent Borough Licensing Department
South Harrow Police Station
74, Northolt Road
Harrow
Middlesex
HA2 0DN

E-mail: Gary.L.R.Norton@met.police.uk
Web: www.met.police.uk

Date: 06/01/2022

Dear Mr Patel,

On New Years Day, at approximately 0030hrs, police officers from the Town Centre Team conducted a visit to your premises as part of their duties that evening. PC Richard Campbell reported that there were around 20 people drinking alcohol in the outside enclosure and it was noisy due to music being played in the same area. Officers liaised with the manager, who requested customers to return inside and who then turned off the external amplified music.

One of your premises licence conditions states:

The outside drinking areas shall cease at 2330hrs.

You also have conditions relating to preventing a noise nuisance to local residents. Having music playing in the early hours of the morning in the outside area which should not have been in use is also questionable, no matter what the celebrations might be for.

Pursuant to section 136 of the Licensing Act 2003 it is an offence to carry on or attempt to carry on a licensable activity on or from any premises other than under and in accordance with an authorisation. A person guilty of this offence is liable to be imprisoned for up to 6 months and/or an unlimited fine.

You were not operating in accordance with an authorisation, due to breaching conditions on your premises licence. On this occasion, we have decided to take no further action other than to send this warning letter regarding the

breach. If further licensing issues arise in future, this incident will be taken into account should further action be deemed necessary.

Yours Sincerely,

Gary Norton 2965NW
Licensing Constable – Brent Police

From: Nicola.McDonald@met.pnn.police.uk

Sent: 11 September 2018 13:09

To: Business Licence <business.licence@brent.gov.uk>

Cc: Patel, Yogini <Yogini.Patel@brent.gov.uk>; Legister, Linda <Linda.Legister@brent.gov.uk>; Chan, Esther <Esther.Chan@brent.gov.uk>; Pearce, Chris <Chris.Pearce@brent.gov.uk>

Subject: The Arch Harrow Rd Wembley

Dear team

Savan Patel DPS has not been forthcoming with CCTV for a serious crime that occurred outside the venue.

After my interference it became apparent the CCTV had only been recording for 14days breaching condition 1.

Savan contacted me on Friday to say CCTV engineer attended and now recording for 40days.

Visited premises today with Mike

Prem licence summary that was displayed was dated 2014 in the name of star pubs, it was to the side of the bar.

Asked to see the full part A, the one he produced was again the old licence from 2014 with no full set of plans.

I had taken prem licence dated 9/12/2015 with me.

Savan had no idea of the conditions except the football match day conditions.

I went through all the conditions

Breaching

3. Door supervisors not working 4 hours prior to designated kick off

7. No incident log

9. Outside areas are open until 0100hrs

11. Not one visible

12. No noise limiter

14. Not sure if this is a true capacity, one fire exit locked and not in use as it leads on to a new structure. Chris and Esther visiting tomorrow

15. No entry re-entry policy. People can come and go at will.

18. No notices

Annexe 3

4. No signs.

Told that until he complies with the licence conditions he will be committing an offence if he sells alcohol or has LNR and entertainment after 2300hrs.

Advised to contact licensing authority immediately to obtain the correct premises licence with plans. Without this he has no idea of his conditions.

He was still struggling to operate the CCTV.

There is a new structure outside the front of the premises (large retractable canopy) that has been subsidised by Heineken, the premises licence needs to be varied to include new plans.

Nicola

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QK - Brent Borough
QD - Wembley Police Station

Mr Savan Patel

Wembley Police Station
603 Harrow Road
Wembley
HA0 2HH
Telephone: 0208 733 3206
Facsimile:
Email:
Gary.L.R.Norton@met.pnn.police.uk
Your ref: FA Cup Final 2018/EFL
Championship/League 1 Finals 2018

12th July 2018

Dear Mr. Patel,

Sent via e-mail and post

I am writing this letter in response to two police visits to The Arch, Harrow Road, Wembley, which took place on 19th May and 26th May 2018. On each of these days there were major football events at Wembley Stadium, namely the FA Cup Final (Chelsea v Manchester United) and the EFL Championship Final (Aston Villa and Fulham).

I was present on both visits in the company of another colleague wearing body worn video. On both occasions, the venue was overcrowded and this clearly presented a concern for public safety. SIA security were present on the entrance and were utilising clicker counters to measure the flow in and out of the venue. On both occasions, the number of customers far exceeded the safe capacity of the premises as set out in your premises licence. For example, when asked how many fans were in when we attended at 1330hrs on 26th May 2018, security stated "650". Despite this, they were still allowing people in.

You applied for a TEN to allow licensable activities in the courtyard area, i.e. the sale of alcohol in the courtyard. However, having a TEN granted doesn't preclude the health and safety conditions in your licence, nor does it allow you to "add" to the safe number allowed. The safe capacity on your premises licence is 340 (not including staff). Having a TEN does not mean you can have as many as 499 in total to supersede your existing licensing conditions, nor 499 on top of the 340. When Security were asked how many were allowed in, he said 500. Either way, the premises clearly exceeded capacity.

Within your premises license, the following condition is present.

Annexe 2- Conditions consistent with the operating schedule, condition 14:

The maximum number of persons within the premises shall not exceed 340, not including staff.

By not complying to this condition you are breaching section 136 Licensing Act 2003, which carries a fine of up to £20,000 and/or up to 6 months imprisonment.

Operating a licensed premises on a major football event day is no easy task and requires a vast amount of responsibility. On this occasion the Police are prepared to give you a written warning for these breaches.

Yours Sincerely,

Gary Norton

Brent Police Licensing Officer

London Borough of Brent

**Decision of the Alcohol and Entertainment Licensing Sub-Committee following a hearing
on 20 February 2019 at Brent Civic Centre, Engineers Way, Wembley HA9 0FJ**

NOTICE OF DECISION

PREMISES

The Arch
324 Harrow Road
Wembley
HA9 6LL

1. Members of the Sub-Committee

Councillors Ahmed (Chair), Long, Hector

2. The Application

The application is for a variation for the licence as follows:

Extend the hours for regulated entertainment to 04:00hrs Thursday to Saturday.

Extend the hours for the sale & supply of alcohol to 03:30hrs Thursday to Saturday

Extend the opening hours to 04:30hrs Thursday to Saturday.

To change condition No. 9 – to extend the hour that the outside drinking area is in use to 00:30hrs.

To change Condition No. 15 – To extend the ‘No Entry/Re-Entry’ condition to 01:00hrs.

On major event days – to be able to sell and consume alcohol on the forecourt.

On major event days – the sale of alcohol to cease 1 hour before kick-off

3. Representation

Police: PC McDonald

Licensing: Susana Figueiredo

Nuisance Control: Jennifer Barrett

Applicant: Mr Savan Patel

4. The Hearing

Susana Figueiredo set out her objection to the application. She explained that the premises were operating without an updated plan in place. It was submitted that the Applicant had been reminded that he needed to update the premise plan, as it was out of

date, but he had failed to do so. Furthermore, there was concern about the late terminal hour. On the application, the form did not express what the non-standard timings for seasonal hours were to be. On the 30 January 2019 a visit was carried out and a follow up email was sent to the Applicant asking for further information in relation to the application, but there had been no response to her questions. The plans accompanying the application was not correctly labelled. The sub-committee were asked to reject the application.

The Nuisance Control team explained that they were concerned about the terminal hours, in particular over the weekend connected with the potential for nuisance. It was explained that the premises was close to residential properties. There had been a noise complaint in June 2018 following an event at the premises. They also asked for the Application to be rejected.

PC McDonald set out the Police objections to the Application. She explained that the police opposed the Application, along the same grounds as the other Responsible Authorities. There had been no response from the Applicant to the police. The police set out that there were concerns about the premises operating on football event days. In addition, the premises did not have sufficient parking, resulting in patrons parking vehicles on pathways and along the road, which was causing a public nuisance. PC McDonald conducted a planned visit to the premises on the 11 September 2018 seeking CCTV in relation to an alleged offence nearby. It transpired that the CCTV was only recording for 14 days, in breach of the licence. Furthermore, door supervisors had not been working for the minimum number of hours prior to kick off; there was no incident book; no noise limiter had been installed and no notices were displayed. A warning letter was issued. Furthermore, in May of 2018 PC McDonald visited the premises, on the day of the FA Cup Final. She explained that there were over 600 patrons present, which raised concerns about public safety. A further visit was carried out the following week, on this occasion 650 patrons were present. The police suggested that the Applicant did not wish to co-operate with the police.

Under questioning, it was confirmed by the Responsible Authorities, that the plans were not up to date. For example, on a visit to the premises the fire exits were locked, which did not match the current plans. It was explained that the premises was a hotel as well as a bar.

The Applicant accepted that he needed to communicate more, and that he needed to do more. He accepted the complaints made by the Responsible Authorities. It was suggested that the error with the plans were out of his hands, and that this was the responsibility of his architect. He now accepted that the terminal hour of 4:00am was too late, and he would be happy to reduce it down to 02:00am.

In the course of his submissions, the Applicant stated that perhaps it was better to withdraw his application and re-submit it, having spoken to the Responsible Authorities. The legal advisor to the panel explained to the Applicant that this was his decision, and there was no requirement to withdraw. The Applicant stated that, having heard what had been said, he accepted that it was better to withdraw the application and re-submit it when he was ready to do so.

5. Determination of the Application

The sub-committee determined the applications in accordance with the provisions of the Licensing Act 2003. Further the sub-committee considered the matter with a view to promoting the licensing objectives, namely:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

In making its decision the sub-committee also had regard to the Guidance issued under Section 182 of the Licensing Act 2003 and Brent's licensing policy. In addition, the sub-committee took account of its obligations under section 17 of the Crime and Disorder Act 1998.

The sub-committee were mindful of the need to reach a decision that was necessary, proportionate, and justified on the evidence before them.

6. Decision

The sub-committee have listened carefully to the submissions made by all parties.

During the course of this hearing the Applicant has indicated his desire to withdraw his application for a variation. Accordingly, we dismiss his application.

We also take this opportunity to note that, on the evidence we had heard up until that point, we would have rejected the application in any event. The Applicant accepted that he had not engaged with the Responsible Authorities. We have concerns about the Applicant's level of competence in running a large hotel and bar and simply raise this so that it is recorded for any future applications.

7. Right of Appeal

The parties have a right of appeal to Brent Magistrates' court against this decision.

If you wish to appeal you must notify Brent Magistrates' Court within a period of **21 days** starting with the day on which the Council notified you of this decision.

Dated 21 February 2019

LONDON BOROUGH OF BRENT COUNCIL

**IN THE MATTER OF THE HEARING FOR
ARCH, 324 HARROW ROAD, WEMBLEY, HA9 6LL
IN RESPECT OF A MAJOR VARIATION APPLICATION**

**SUBMISSIONS ON BEHALF
OF THE PREMISES**

I. INTRODUCTION

1. Arch is a long-established pub which plays a vital role within the local area of Wembley. The site has operated as a Public House for many years, and the current operator and Designated Premises Supervisor (DPS) has been in situ for nearly 10 years. The Premises Licence Holder (PLH) is Indes Bar Limited, and the Designated Premises Supervisor (DPS) is Savan Patel.
2. The PLH hopes that by way of a committee led discussion this application can be determined in a manner which promotes the licensing objectives, and which provides the Licensing Sub-Committee (LSC) with sufficient reassurance that the licensing objectives will be promoted.

II. APPLICATION

3. The application submitted is to extend the opening and licensable hours of the premises on Fridays and Saturdays only, as well as to incorporate the outside garden into the licensable area and to remove the condition in relation to capacity.
4. The reason for the variation application is to allow the customers to continue their night in a safe and comfortable environment and give the premises slightly more flexibility around trading, which is especially relevant given the tough times premises are facing with effects of the pandemic and the rise in energy prices.
5. With any application, communication and collaboration with authorities is of upmost importance, especially in ensuring that the proposal of the application upholds the licensing objectives. Therefore, prior to submission, consultation with the responsible authorities, police, licensing authority and environmental health, did take place to obtain their thoughts and feedback. As part of this, no initial issues to the application were identified.
6. Importantly, it is also relevant to note that no other responsible authorities have submitted objections to the application.

III. REPRESENTATION

7. The representation has been made by PC Phil Graves on behalf of the Police Licensing Authority. From the PLH's legal representative's discussions with PC Phil Graves, the objection submitted purely relates to four conditions that the parties have been unable to agree upon. Prior to the hearing the PLH has engaged extensively with PC Phil Graves to compromise on the conditions but were unable to come to an agreement.
8. The objection submitted by the police requested the addition of numerous conditions, many of which the PLH are happy to agree to following some amendments. Unfortunately, though, the PLH and PC Phil Graves have been unable to agree on the following four conditions, which are set out below for ease:
 - The playing of live or recorded music shall not be permitted in any garden or external area.
 - The premises will not show live domestic or international televised football matches on football event days.
 - External – The outside seating area / garden shall not exceed 50 persons on any day. This includes those using the area to smoke.
 - The outside drinking areas shall cease at 00.00 hours (midnight), except for customers using this area to smoke. This shall not exceed ten people including staff and SIA.
9. The LSC will note that each condition is addressed separately, and reference is given as to the PLH's reasoning behind the disagreement to the addition of these conditions on the licence. However, it is important to note that the PLH does not object in principle to the addition of the two conditions in relation to capacity, but are purely requesting that the capacity figure be altered to ensure that it is appropriate and proportionate.
10. The LSC will be aware that the objection submitted by the Police is not against extension of hours or increase in licensable area. Therefore the decision to be considered by the LSC is whether the four conditions proposed should be implemented on the licence.

IV. BACKGROUND

11. The LSC will have noted from the evidence submitted on behalf of the police, the premises have had some historic breaches, with these being in 2018 and 2022. The PLH apologises profusely for these and has since remedied their actions to ensure that the premises remains compliant, including submitting this variation application to bring their licence in line with neighbouring venues.
12. As the LSC will see from the previous breaches though, these do not relate directly to the conditions looking to be imposed by the police. Therefore, it is prudent to ensure that when considering the addition of these conditions, that this application is taking on its own merits.

V. CONDITION 1 – LIVE OR RECORDED MUSIC

13. When considering regulated entertainment, it is important to consider the deregulations. Currently, live and recorded music have been deregulated as to not be considered regulated entertainment under paragraph.12A of Schedule 1 of the Licensing Act 2003 where the requirements of section 177A are made out. These requirements are:
- (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, premises are open for purpose of selling alcohol for consumption on the premises;
 - (c.) audience not more than 500 persons (if music amplified);
 - (d.) music takes place between 08:00 and 23:00.
14. Whilst the licence states, Live and recorded music is permitted on the premises licence indoors only, due to deregulation the premises is permitted to have live and recorded music in any garden or external area between 8am and 11pm as long as the above criterions are complied with. As such, placing this condition on the licence would be redundant and unenforceable. It would be possible at a licensing review hearing but not in this instance.
15. The LSC will already be aware that the Licensing Act 2003 is a permissive piece of legislation and the Premises Licence itself allows the operator to decide to utilise their permissions or not.

VI. CONDITION 2 – LIVE SHOWING OF EVENTS

16. Similarly, to the above condition, the PLH would submit under the above deregulation, the showing of a live broadcast is not an actual licensable activity and therefore cannot be conditioned. This deregulation can be noted under guidance issued under paragraph 16.5, as well as Schedule 1, Part 2, Paragraph 8 of the Licensing Act 2003 which clearly states this.
17. The PLH has added the relevant extracts below from each authority for reference:

Paragraph 16.5 of the Revised Guidance issued under section 182 of the Licensing Act 2003-

*‘Overview of circumstances in which entertainment activities are not licensable 16.5
There are several exemptions that mean that a licence (or other authorisation) under the 2003 Act is not required. This Guidance cannot give examples of every eventuality or possible entertainment activity that is not licensable. However, the following activities are examples of entertainment which are not licensable: -
Television or radio broadcasts – as long as the programme is live and simultaneous.’*

Schedule 1, Part 2, Paragraph 8 of the Licensing Act 2003-

'The provision of any entertainment is not to be regarded as the provision of regulated entertainment for the purposes of this Act to the extent that it consists of the simultaneous reception and playing of a programme included in a programme service within the meaning of the Broadcasting Act 1990 (c. 42).'

18. The PLH submits that based on the authority provided, placing this condition on the licence would again be redundant and unenforceable.
19. The PLH recognises the comments made by the police in respect of ticketless fans, however the PLH does also have the following condition imposed on their premises licence that requires the need for door staff on days when football matches are taking place at Wembley Stadium:
 - *The number and timings of SIA registered door staff required shall be risk assessed, but a minimum of two (2) SIA registered security shall be put in place at least 4 hours before the designated kick-off time. They will remain on site until at least 2 hours after the game has finished.*

VII. CONDITION 3 – EXTERNAL CAPACITY

20. When looking at the issue of capacity, this is normally something that would fall within the Fire Regulatory Authority remit, and the PLH submits that it is important to note that no relevant objection was made by them.
21. Under the current permitted licence, the condition currently reads as follows:

“Outside seating area at any time shall not exceed 50 at any time (in line with the plans submitted with the application [but no more than a maximum of 100 provided the overall combined occupancy of 300 on normal trade days and 380 on football event days is not exceeded”
22. The PLH submits that based on this wording the premises presently could have a maximum of 100 persons in the outside seating and garden area on any day provided the overall capacity is not exceeded.
23. The actual capacity of the outside seating and garden area is above 150+ persons. Therefore, the PLH is simply wanting to bring the outside capacity in line with what they can comfortably accommodate for within that area.
24. The PLH is not requesting an increase in capacity but rather the flexibility to allow customers to go between the internal and external areas of the premises.

25. The PLH proposed condition is as follows:

“The total capacity (not including staff) for both internal and external shall not exceed 350 on non-event days at Wembley stadium. On Wembley stadium event days, when internal seating for 80 persons is removed, the total capacity (not including staff) for both internal and external shall not exceed 430 persons. On any day, there shall be no more than 150 persons in the outside seating area / garden at any time”.

26. Within the objection that has been raised in relation to capacity, emphasis has been placed on the fact that increasing the external area would give rise to noise nuisance. However, noise disturbance is within the realm of Public Nuisance, which is normally within the remit of the Environmental Health Office (EHO), who are the experts within the field. The PLH submits that it is relevant to point out that the EHO have not submitted an objection to the application either and the premises licence already has conditions placed on it to ensure that any use of the external area is controlled and has the thoughts of residents at the forefront.

27. The premises have also implemented an external management plan, which outlines the additional measures that the premises would implement to limit the impact of any noise nuisance and disturbance that could be caused. These measures include for external patrols to be carried out on regular intervals; notices to be placed outside reminding patrons to respect the needs of local neighbours; and for any complaints made by residents to be recorded and contact made and for reasonable issues to be dealt with swiftly.

28. The PLH welcomes the proposal of appropriate and proportionate conditions to the licence, and submits that this can be achieved with the amendment of the condition proposed and with the external management plan that has been drafted.

VIII. CONDITION 4 – CAPACITY OF SMOKERS AFTER MIDNIGHT

29. The PLH accept and welcome the condition in relation to restricting the use of the external area until midnight and this is not something that is disagreed with. However, the capacity limit for smokers proposed by the Police Licensing Authority is completely disproportionate and would be something that the PLH would struggle to comply with.

30. By limiting the external area to 10 smokers after midnight including SIA and staff, this means that at any one time, especially when staff are clearing the area, the number of smokers within the external area could be limited to as few as 3 people. Considering the capacity of the internal area of the premises, this is completely impractical and could lead to further issues with disgruntled patrons.

31. The PLH would of course ensure that the outside area is monitored and kept under observation to ensure that, with a risk assessed approached being taken if the outside area were needing to be limited.
32. The PLH refers to the Revised Guidance issued under section 182 of the Licensing Act 2003 and in particular to paragraph 1.16 which stated that any conditions imposed on the licence need to be proportionate and capable of being met.

Licence conditions – general principles

1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:

- must be appropriate for the promotion of the licensing objectives;
- must be precise and enforceable;
- must be unambiguous and clear in what they intend to achieve;
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- must be tailored to the individual type, location and characteristics of the premises and events concerned;
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- should not replicate offences set out in the 2003 Act or other legislation;
- **should be proportionate, justifiable and be capable of being met;**
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format.

IX. London Borough of Brent Statement of Licensing Policy (LBB SLP)

33. The LSC must come to a decision which is proportionate and appropriate. It must interfere with the rights of the PLH and of those who use the premises to the least extent necessary. The LSC must of course also have regard to the LBB SLP in this regard.
34. The Mayor of London launched a vision for London to become a 24-hour City to encourage the development of London as a vibrant and diverse city with a Night Time Economy that is of global significance.
35. The SLP shows the support for the Mayor’s vision and the need in focussing support in two main areas, with Wembley being one of them.

Page 4. The Council support the Mayor's vision for these areas and will support applications which facilitate an enhancement of leisure and entertainment functions and the night time economy, with appropriate safeguards.'

36. Of course, a business cannot be allowed to operate in a manner which is inconsistent with the licensing objectives, however, the PLH has taken every recourse to ensure that disturbances from their premises are limited. The external management plan and conditions agreed and amended, in the PLH's opinion, providing sufficient measures.

X. PROPOSED CONDITIONS

37. To this end the premises propose that the following conditions be added to the licence in addition to those already agreed with the police:

- 1. The total capacity (not including staff) for both internal and external areas shall not exceed 350 on non-event days at Wembley stadium . On Wembley stadium event days, when internal seating for 80 persons is removed, the total capacity (not including staff) for both internal and external shall not exceed 430 persons. On any day there shall be no more than 150 persons in the outside seating area / garden at any time**
- 2. No customer shall be permitted to use the outside seating areas / garden after midnight, except for customers permitted to temporarily leave the premises to smoke.**

XI. CONCLUSION

38. The PLH submits that in addition to the external management plan implemented, several proportionate & appropriate conditions have already been agreed with the Metropolitan Police Licensing Team which will form part of the Premises Licence. Additionally, no other relevant responsible authority has objected to the application which is a very important consideration for the LSC when arising at the decision.
39. The Fire Authority are the experts in Public Safety, and the Environmental Health authority are the experts in noise nuisance. Both authorities are happy to give the premises the opportunity to prove themselves, and the PLH suggests that it is reasonable for the LSC to do the same, with the safeguard that the matter can be reviewed should issues arise in the future.
40. The PLH would draw the LSC's attention to paragraph 6.3 of the statutory section 182 guidance. This paragraph reads that the authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
41. The presumption of grant is possible as there is provision within the legislation for the authorities and local residents to issue a Review of the licence should concerns arise

in the future, not that the PLH is saying they will, at which we expect we will be given short shrift.

42. The PLH looks forward to working with the LSC to ensure that the Licensing Objectives are promoted in the future.

**George Domleo
Flint Bishop LLP
St Michael's Court
Derby**

27.03.22

External Management Plan

The venue is committed to develop and maintain good relations with local residents, neighbours and local authority. The objective of this policy is to minimise disturbance or nuisance caused to local residents and to ensure that any licensing objectives or other controls at the venue are being upheld. This policy sets out the measures which have been considered and will be adopted.

The staff will operate the following procedures and systems, as required, to ensure that the premises are operating in a responsible manner with regards to the management of the external area, particularly later in the evening:

Premises Operation:

- Notices shall be prominently displayed at all public exits requesting customers to respect the needs of local residents and to leave the premises and area quietly.
- All members of staff involved in the provisions of licensable activities will be aware of the conditions on the premises licence, particularly those relating to the use of the external area.
- A strong management and staff presence in the customer area during closing time period to ensure all customers leave quietly and in an orderly manner.
- Staff will regularly monitor the outside area to ensure that patrons are not causing a disturbance or nuisance.
- The sale of alcohol in the front outside area shall be permitted from 10.00hrs until 22.00hrs daily.
- The collection of glasses and bottles shall be undertaken at regular intervals to ensure there is no build-up of empties in and around the outside of the premises.
- The outside drinking areas will cease at midnight, except for customer using the area to smoke.
- A noise limiter set at a level agreed by Brent Council's Licensing Unit shall be used at all times during regulated entertainment.

Football Match Days Only

- A minimum of two (2) SIA registered security shall be put in place at least 4 hours before the designated kick-off time. They will remain on site until at least 2 hours after the game has finished.
- No drinks shall be served in glass containers, but decanted into plastic, polycarbonate or toughened plastic drinking vessels.
- Customers shall not be allowed to congregate outside the premises / garden area.
- The capacity for the outside area will be monitored by the way of clickers.

Staff will:

- Draw attention to exiting customers to the notices and asking them to be considerate to neighbours.
- Ensure the removal of glass/bottles from any customers who attempt to leave the premises carrying such items.
- Actively encourage customers not to assemble outside the front of the premises.
- Display telephone numbers for taxis in the premises and be aware of them. Customers will be encouraged to wait inside the premises for taxis and staff to be aware that large groups of customers lingering outside can be noisy and cause disruption to local residents.
- The external areas will be cleared of customers in accordance with the conditions of the premises licence.
- Ensure that customers do not cause any disturbance or nuisance to any local residents within the vicinity of the premises.
- To prioritise and assist wherever possible in ensuring that customers leave as safely, quietly and in an orderly manner as possible.
- Monitor customers and eject anyone who is obviously intoxicated and no longer able to exert reasonable control over their behaviour, staff will ensure that help is given to the intoxicated individual where possible.

Please sign this document to acknowledge that you have understood this policy and what you are required to do.

Date Read & Understood	Staff Member	Signature	Managers Signature

