

APPENDIX 3

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO 1. ("The Committee")

Thursday 4 February 2021

Membership: Councillor Matthew Green (Chairman), Councillor Jim Glen, and Councillor Rita Begum

APPLICATION FOR A NEW PREMISES LICENCE IN RESPECT OF BASEMENT AND GROUND FLOOR 13 MASON'S YARD, LONDON SW1Y 6BU – 20/08824 LIPN

Officer Support: Legal Advisor: Horatio Chance
Policy Officer: Aaron Hardy
Committee Officer: Cameron MacLean
Presenting Officer: Michelle Steward

Parties Present: Mr Vahram Papazyan, Applicant; Mr James Rankin, Counsel, Francis Taylor Building (for the Applicant); Mr Craig Baylis, Solicitor, BCLP LLP (representing the applicant); Mr Aaron Stevens, Solicitor, King & Spalding LLP (representing the applicant); Mr Tihomir [Tim] Lalic, Objector; Mr Philip Kolvin, QC, Cornerstone Barristers (representing Mr Lalic & Alula Three Ltd); Mr Richard Brown, Citizens Advice Westminster (representing objectors); Mr Bernard Benn, Objector; and Marcus Lavell, Counsel, Keystone Law

FULL DECISION

Premises

Basement and Ground Floor
13 Masons Yard
London
SW1Y 6BU

Applicant

Ground Support Equipment DMCC

Cumulative Impact Area?

The Premises is not located within the West End Cumulative Impact Zone

Ward

St James

Summary of Application

This New Premises Licence application is made as a shadow licence on behalf of the investors and operators of the premises under the Licensing Act 2003 ("The Act"). The premises are licensed under 18/15638/LIPVM

Proposed Activities and Hours

Late Night Refreshment (Indoors)

Monday to Saturday: 23:00 to 05:00 hours
Sunday: 23:00 to 03:00 hours
Seasonal Variations: From the start time on New Year's Eve to the finish time on NYD

Live Music and Performance of Dance (Indoors)

Monday to Saturday: 09:00 to 05:00 hours
Sunday: 09:00 to 03:00 hours
Seasonal Variations: From the start time on New Year's Eve to the finish time on NYD

Recorded Music (Unrestricted) (Indoors)

Monday to Sunday: 00:00 to 23:59 hours

Sale by Retail of Alcohol (On/Off Sales)

Monday to Saturday: 11:00 to 04:45 hours
Sunday: 12:00 to 22:30 hours
Seasonal Variations: From the start time on New Year's Eve to the finish time on NYD

Hours Premises are open to the Public

Monday to Saturday: 09:00 to 05:30 hours
Sunday: 09:00 to 03:30 hours
Seasonal Variations: From the start time on New Year's Eve to the finish time on NYD

Representations Received

- Metropolitan Police Service (Withdrawn)
- 21 Local Resident Representations comprising both of business owners and residents.

Summary of issues raised by objectors

- We are extremely concerned about the application that has gone in for a shadow licence at the Scotch. I really object to someone applying and providing local business with no plans as to how they will operate. Mason's Yard is a community and they simply ignore this.
- I am worried about noise coming from people leaving and coming to the venue, the current management puts a lot of effort to ensure that I am not disturbed. The new operator has submitted no plans as to how they are going to make sure that we are not woken at night. 5am is very late.
- The current Premises Licence Holder has been an asset to St. James's for several years, always showing consideration for the neighbouring residents and businesses. He has had an open dialogue with residents and has worked hard to

identify any concerns that residents might have. The new Licence Holder has shown contempt (and a lack of understanding of the sensitivities of the area in general).

- The current operators go to great lengths to ensure that the licensing objectives are upheld, namely, the prevention of public nuisance. The new operator has not shown us their plans nor has engaged with us.
- I would ask that Licensing Service reject this application until the applicant contacts residents and businesses and inform them how they are going to operate. The Scotch sits in a very sensitive area, with lots of high-end Art and Fashion business like mine in very close proximity. I am extremely concerned that should this licence be granted, these new operators will at some point take over and run the venue.

Policy Position

- HRS1
- MD1
- PB1

DECISION

The Presenting Officer, Ms Steward summarised the application to the Committee. She confirmed that this was an application for a Shadow Licence made on behalf of the Applicant Ground Support Equipment DMCC ("The Applicant"). It was confirmed that a slight amendment had been made to the report in that an updated version of the Premises Plan had been provided on Page 24 of the Agenda Pack which had been circulated to the Committee and all relevant parties. It was confirmed that the Licensing Authority had received 21 local objections comprising of residents and businesses. Mr Richard Brown of Citizens Advice Westminster, Licensing Project, would be representing several of the objectors. Mr Tim Lalic represented by Philip Kolvin, QC, and Mr Bernard Benn, Resident Landlord, were present and would make submissions opposing the application. The Metropolitan Police Service (MPS) had also made representations but, after discussions with the Applicant, subsequently withdrawn their representations. Late submissions had been received from the Applicant and Mr Lalic and these were included in the Additional Information Pack which had been circulated. The premises were located within the St James's Ward and were not within a cumulative impact area.

Mr Rankin appearing on behalf of the Applicant referred the Committee to his skeleton argument at Pages 7-14 of the Additional Information Pack, and the statement of the Applicant Mr Vahram Papazyan, at Pages 21 & 22 of the Additional Information Pack, both of which described the background history to the application. It was stated that there was a commercial dispute between the Applicant and Mr Tihomir [Tim] Lalic. Mr Rankin confirmed that the Applicant had purchased the Premises in 2012 for £280,000 without any contribution from Mr Lalic. He then refurbished the Premises at a cost of £675,000. Mr Lalic was a salaried employee and that the Applicant received an income from the property. The Applicant and Mr Lalic, with the assistance of consultants, operated the premises together until relations had broken down.

Mr Rankin advised the Committee that in 2014, the Applicant ended up compensating staff who had been unfairly dismissed by Mr Lalic. He then stated that on the 3 September 2020 Mr Lalic illegally, informed Companies House that the Applicant had

ceased to be a Director of Alula Three Ltd. The Committee noted that the Applicant was contending he was still a Director of Alula Three Ltd.

Mr Rankin's stated that Mr Lalic had conducted himself unlawfully in the way in which he had operated and managed the Premises. The Committee was advised that the City Councils Licensing Inspectors had visited the Premises on 3 October 2020 and had found the Premises to be operating in breach of the Coronavirus Regulations resulting in a Prohibition Notice being served, thereby putting the premises licence at risk.

Mr Rankin was of the opinion that the solution to these problems was for the Applicant to apply for a shadow licence for the following reasons.

1. It preserved the status quo until such time as the ownership of the premises could be resolved. The shadow licence would be in the name of "Ground Support Equipment DMCC", a company based in Dubai of which the Applicant was a Director.
2. It protected the licence i.e., the way in which Mr Lalic had been operating the premises had attracted a Prohibition Notice. Therefore, Mr Papazyan wished to protect the licence.
3. It would prevent Mr Lalic from using the licence as a bargaining chip or some form of leverage in the pending litigation.

Mr Rankin then referred to the leading case of R (OTA) Extreme Oyster v Guildford Borough Council [2013] which established the principle of shadow licences. He stated that landlords and others frequently applied for shadow licences. He proceeded to explain the operation of shadow licences and the interest the Applicant derived in the Premises. Reference was made to the Land Registry Documents Page 25 of the Agenda Pack. Mr Rankin stated that it was the Applicants equitable interest that brought him within the provisions of section 16 of the Licensing Act 2003, allowing him to apply for a shadow licence.

Mr Rankin stated that, if the Committee had concerns about a shadow licence being in the name of a company based in Dubai, a condition could be imposed on the licence prohibiting it from becoming operative until such time as the licence had been transferred into the name of a UK company or UK resident.

Referring to his skeleton argument, Mr Rankin explained the operation of section 16 of the Act which provided a "gateway" for applications for a premises licence, noting how the Applicant met the gateway no prejudice to Mr Lalic, the residents, or any other party, and that this would simply be a holding position.

Regarding the lack of an Operation Plan, Mr Rankin stated there was nothing remarkable in this in that the application would be granted on exactly the same terms and conditions as the existing licence and the shadow licence would not become operative until such time as the existing licence was surrendered or transferred.

Mr Rankin accepted that residents had not been consulted but only because in reality their position would not change if the licence was granted by the Committee. Furthermore, he asserted that concerns about the operation of the premises was not relevant to this application as the appropriate remedy, should there be concerns about the operation of the premises, would be to seek a review of the premises licence.

Mr Rankin addressed the specific issue as to whether the Applicant had experience in managing licenced premises, Mr Rankin stated that the Applicant had been involved in the running of these Premises since 2012 as well as being involved in the running of other licensed premises.

Mr Philip Kolvin, QC appearing on behalf of Mr Lalic addressed the Committee. Mr Kolvin stated he would concentrate on the licensing merits of the application as it was the role of the Committee to consider what was appropriate for the promotion of the licensing objectives, having regard, amongst other things, to the City Council's Statement of Licensing Policy ("SLP").

Mr Kolvin explained that, for the following reasons, there was no need for the Committee to be distracted by the technical workings of section 16 of the Act or the details of the commercial dispute between the parties.

- The case of *R (OTA) Extreme Oyster v Guildford Borough Council [2013]* concerned the application of section 16 of the Act and it was not in dispute that the requirements of section 16 had been satisfied.
- The SLP, under the heading "Licence Conditions and Enforcement", states, at paragraph H20, that –

"The Act permits more than one licence to be in effect at any one time at the same premises and it has to be established in law that the landlord may apply for a second or subsequent licence."

Because of problems created by multiple licences, Paragraph H24 states –

"To support the Council's approach to multiple licences for the same premises it is the licensing authority's policy that all licences take effect when granted and continue to have effect in accordance with Section 26 of the 2003 Act and that the imposition of a condition which purports to suspend the effect of a licence would not promote the licensing objectives."

Therefore, as the Council would be granting a live licence, if the application was approved, it was necessary to apply the policy requirements of the SLP to the application.

- The civil dispute between the Applicant and Mr Lalic did not alter the focus on the licensing objectives as required by the Act.

Mr Kolvin then considered the licensing merits of the application under the following headings: -

- The Locality

The locality was sensitive with Mason's Yard being a small enclosed yard with reverberant surfaces and residential dwellings all around. Any noise within the square would have a high propensity to cause nuisance to adjoining residents, particularly at night. Therefore, this was a case where the Council's Public Nuisance Policy (specifically, PN1: B1 & 2) would be engaged.

- The Proposal

The proposal was for music and dance extending 5 to 6 hours beyond the Council's core hours. Therefore, Core Hours Policy HRS1 was relevant, particularly given the residential nature of the Yard.

- The Applicant

The Applicant was an unincorporated Association registered in Dubai and, as its name suggested, it was a ground support equipment company. The Committee has no information about the applicant company, either here or in the Middle East, and there was no evidence that it had ever operated licensed premises.

Contrary to the advice on Page 6 of the SLP, the applicant had not consulted with residents. The applicant was of the view that the licence would not impact upon residents as the premises were already licensed. However, the real question was whether the applicant should be licensed as it was the applicant who wished to operate the premises. Consequently, several residents had spoken up to say that they had not received the courtesy of being consulted.

In this sensitive location, and the current operating hours, it was a serious job to avoid harming the licensing objectives and the support of residents was hard won, requiring operational experience, consistent management and stakeholder engagement. Mr Lalic had never had a day-to-day operational role in these premises and had provided no evidence that he could operate the premises without harming the licensing objectives.

- The Operating Plan

In the circumstances, the Operational Management Plan was key, but the Committee had not been presented with any plans, policies or supporting documents, contrary to the advice on page 6 of the SLP. There were no risk assessments in accordance with CD1 (Prevention of Crime and Disorder Policy): Paragraph B1; or PS1 (Public Safety Policy): Paragraph B1; or PN1 (Prevention of Public Nuisance Policy): Paragraph C12; or Appendix 7A (Metropolitan Police Crime Prevention and Effective Management Checklist): Paragraphs A2 & H2; or Appendix 11 (Guidance on Noise): Paragraph 3.

In addition, the Committee had no information about staffing structures, security engagement, compliance monitoring, and so on. The application before the Committee simply stated, "Attach all conditions attached to the current licence". Mr Kolvin submitted that it would be remarkable if that was all that was required to get a premises licence in Westminster until 05:00 hours.

Mr Kolvin contended that the application failed Policies MD1 (Music & Dance Premises and Similar Entertainment Policy): Paragraphs A1&2; and PB1 (Public Houses and Bars Policy): Paragraphs A1&2. There was no provision in the SLP to be ignored because the premises were already licensed. Mr Kolvin stated that the Applicant was not a landlord wanting a fallback licence, but a company wishing to operate the premises pursuant to the licence it was seeking. Therefore, the Applicant was subject to the same policies as everyone else. Furthermore, the Licence Plan submitted by the applicant had been superseded. Finally, the applicant had no legal interest in the property, such as a lease or sublease, or an option, or an agreement for a lease, and the landlord had no interest in granting the applicant a legal interest. Consequently, there was no evidence as to how the applicant was going to exert the control required by the licence conditions or any conditions of its own that might be deemed necessary to promote the licensing objectives.

Mr Kolvin stated that the high watermark of the applicant's case was that there was a licence which was a relevant consideration under Policy HSR1: The Core Hours Policy. But this alone was not determinative. Mr Kolvin accepted that the Prohibition Notice was a serious matter and Mr Lalic had apologised for the breach and had complied with the terms of the Notice. However, this could not affect the principle of whether a new licence should be granted to the Applicant.

In conclusion, Mr Kolvin stated that this was an unusual application in that applications for shadow licences were usually made by landlords as a backup. However, this was a predatory application from a disgruntled actual or former Director, who was not recognised by the SLP as being subject to special consideration. Mr Kolvin maintained that the application should be refused.

Mr Brown on behalf of the local residents stated to the Committee that the resident's primary concern was that the late-night premises in Mason's Yard was operated properly. He stated that the application had to be considered on its merits and that the Licensing Authority was under a duty, in accordance with the provisions of the Act, to exercise its functions with a view to promoting the licensing objectives.

Mr Brown said that in response to the submission by Mr Rankin that, should the shadow licence be granted, this would not impact upon residents, it was noted that the residents had a good relationship with the current licence holder who was alive to the sensitive nature of the area. Mr Brown stated that from the information presented to the Committee, it was not clear what experience the Applicant had of running licensed premises as opposed to investing in such premises.

Mr Brown expressed concern that an Operating Plan had not been submitted and the lack of engagement with residents. Mr Brown said that the Applicant remained an unknown entity as far as residents were concerned. Should the shadow licence be granted, residents were concerned that this may jeopardise the positive steps that had been taken thus far by the current licence holder.

Mr Brown said that Mr Kolvin had appraised the Committee fully regarding the policy requirements under the SLP and did not feel the need to repeat them. Mr Brown posed the rhetorical question: should an application for a licence to 05:00 hours in this location by an Applicant with little or no track record or experience of operating licensed premises; who had failed to provide a detailed operating schedule with the application; and who had not given any indication that the application complied with the Home Office Section 182 Guidance, be granted?

Mr Brown stated that, in his view to grant such an application on the evidence before the Committee would be a leap of faith.

Mr Brown said that regarding possible conditions that could be added to the licence to ensure that the premises were operated in a way that promoted the licensing objectives, if there was a condition to the effect that the shadow licence would not be operative while the current licence was in operation, that would afford a degree of protection to the residents. If there was then an application to vary the licence and remove the condition preventing its use, the expectation would be that there would be a lot more information available at that time, and residents could decide whether they wished to make representations on the application.

Mr Brown went further on to state that in his view there was a difference between a shadow licence and a new premises licence. The fact there was an existing licence was a relevant factor but not the only one. As the operating hours of the current licence

were until five in the morning, this necessitated greater scrutiny of the application than might be the case for premises operating within core hours.

Mr Brown stated in conclusion that applications for a shadow licence by a landlord who was not going to operate the premises but transfer the licence to an unknown entity were more likely to raise concerns than would an application by a landlord for a shadow licence for the purpose of preserving the landlord's position, rather than with the intention of operating the premises. He said that the application before the Committee was slightly unusual and, for this reason gave rise to concerns on the part of residents regarding the applicant's ability to operate the premises in a responsible manner. This concern was based on their being insufficient information to allow residents to come to an informed decision on the matter.

Mr Benn stated to the Committee that he was the residential landlord of the property and that he resided on the top floor of the property in the mansard roof, and that he had lived there for the last five years. During that time, he had built up a relationship with Mr Lalic whom he saw two or three times each week. He said that in the last five years, he had never met the Applicant and only became aware of his existence in the last few weeks. He noted that, as Mr Lalic's landlord, Milestone Investments Ltd. managed various property holdings in central London and the company tried to harness strong relationships with all its tenants. As such, Milestone Investments would not be keen to enter into a lease with a party that was unknown to them.

Mr Benn stated that he was unclear as to why the Applicant was seeking a shadow licence while the applicant company was still based in Dubai. He proposed that the application should not have been made until such time as there was a UK company to make the application. He advised that he had no concerns about the way in which Mr Lalic operated the Premises, noting that, whatever the premises were operating, noise barriers were erected and there were 2 to 3 security guards present preventing people from congregating outside the premises. He stated that there was no noise pollution or criminal damage as a result of the operation of the premises, and he commended the way in which Mr Lalic managed the Premises.

Regarding investment in the premises, as far as he was aware, it was Mr Lalic who had invested in the premises, including noise abatement measures and the installation of air-conditioning.

In conclusion, Mr Benn stated he had not had any contact with the Applicant and that, if the Applicant was serious about obtaining a shadow licence, he would have thought that the Applicant might have extended the courtesy of contacting him.

The Committee noted the following from Mr Benn in response to questions by the Chairman and Members of the Committee: -.

- He had never had any contact with the Applicant, although he could see that he was named on the Land Registry's "Register of Title", which was before the Sub Committee.
- Regarding a proposed condition that a shadow licence would only become operative when it was transferred to a UK based company, it would make more sense to him if it were a UK company that made the application. It would then be possible to undertake a search of the company personnel and determine their suitability to operate premises in a commercial and residential area. The approach adopted by the applicant had not put him on a strong footing.

- He met regularly with Mr Lalic and the tenants on the first and second floors of the property to ensure that the building was being well managed. He also took this opportunity to ensure that his tenants were able to survive in the present economic climate by making suitable arrangements for the payment of rent.
- He had no knowledge of the time that the Applicant had managed the premises with Mr Lalic and that any dealings that the applicant may have had as a tenant with the landlord of the premises would have been before he took over responsibility for managing the premises from his father.

The Legal Advisor to the Committee sought clarification from the parties in relation to proposed conditions on offer. Mr Rankin confirmed that the Applicant would be willing to have the Council's Model Condition (MC) 62 or any modification added to the licence conditions. The Applicant would also be content with a condition requiring a shadow licence to be transferred to a UK based company or UK resident before it became operative.

Mr Kolvin confirmed that such a condition would not be acceptable to his client for reasons that he would set out in his summing up. However, if the Sub Committee was against him on that point, then MC62 would be a starting point. However, to require that an operational plan be submitted to the Licensing Authority and the Environmental Health Service for approval would preclude consultation with any other parties. He noted that it was one of the principles of the Act that there should be consultation and, for there to be any consultation, it would be necessary for a formal application to be made which could then be advertised in the normal way, thereby allowing parties the opportunity to make representations on the application.

Mr Brown concurred with the points made by Mr Kolvin, noting that, if an application was made to remove a condition from the shadow licence restricting its operation, then his clients would expect to see detailed operating plans and supporting documentation at that stage.

The Committee having carefully considered the Agenda Papers and the information in the Additional Information Pack that was before it; and having heard the submissions by Mr Rankin on behalf of the applicant, and Mr Kolvin, QC, on behalf of Mr Tim Lalic, opposing the application; and having heard the oral representations by Mr Richard Brown, Citizens Advice Westminster, on behalf of businesses and residents opposed to the application; and having heard the oral representation of Mr Bernard Benn, resident landlord of the premises, opposing the application; and having asked the various parties several questions during the course of the proceedings, the Committee was satisfied that it was reasonable, proportionate and appropriate to **Refuse** the application in all of the circumstances of the case.

The Committee had not been persuaded by the Applicant's submission that, because the Premises had been issued with a Prohibition Notice for a breach of the Coronavirus Regulations, that this was indicative of the Premises being badly managed and that, therefore, the Applicant had to protect his interest in the Premises Licence. The Committee's duty is to determine each case on its individual merits and did not conclude based on the evidence before it that Mr Lalic was a poor operator who would not promote the licensing objectives. The Committee felt that Mr Lalic acted responsibly after being served with the Prohibition Notice and was satisfied that he took all reasonable steps to ensure compliance with the Notice and this was confirmed by Mr Kolvin during his submissions to the Committee.

The Committee considered the evidence presented by Mr Benn in his capacity as resident Landlord and accepted that he had developed a good working relationship over time with Mr Lalic, who operated and managed the Premises. The Committee noted that the Responsible Authorities had not objected to the application save for the MPS who later withdrew their application.

The Committee noted that the Applicant and Mr Lalic were currently embroiled in a commercial dispute which led to the Applicant applying for a shadow licence in the first place to protect his interest given the large sums of investment in the business. However, it is not the role of the Committee to get involved in what is essentially a commercial dispute or comment upon any pending litigation between the parties but to deal with the merits of the shadow licence application and ultimately decide whether the licensing objectives are to be promoted and whether the policy implications as amplified by all parties under the terms of the SLP are met.

The Committee felt that the Applicant had met the requirements of section 16 of the Act as this could be interpreted widely to take account this type of scenario and circumstances of the application before the Committee and not necessarily where a landlord was applying for a shadow licence as a fall-back position in order to protect their interest. The Committee noted that the Applicant company was based in Dubai.

The Committee did not doubt the intention of the Applicant's proposal to carry on a business from the Premises which is a requirement of section 16 of the Act in any event. The Committee noted that the Applicant was a guarantor under the terms of the existing lease arrangements for the Premises and previously held a Directorship, however, the Committee was not entirely convinced that the Applicant was an experienced Operator because no documentary evidence had been provided to establish or indeed demonstrate how the Premises would be run and managed on a day to day basis and to the mind of the Committee this was one fundamental obstacle that had to be overcome to ensure the promotion of the licensing objectives.

The Committee was surprised that if the Applicant claimed to have been an experienced Operator as expressed by Mr Rankin, then why the Applicant did not take the time to engage with local residents given the strength of feeling opposing the application. The Committee considered that a responsible operator would have done so as to preserve good relations with all parties and start matters on the correct footing.

The Committee considered it appropriate that the Applicant should have submitted an Operating Management Plan as part of its operating schedule but failed to do so. The Committee could not ignore the weight of objection by residents who had objected and whom should have been afforded the opportunity to comment specifically upon such a plan and maybe if that had happened this would have gone some way to alleviate the many concerns. The Committee considered that the Applicant should have engaged with residents right from the outset and this was a costly mistake made by the Applicant.

The Committee considered the Operational Management Plan to be a key document and therefore an essential component in its determination of the matter. It was simply not enough for the Applicant to state that the conditions that already existed on the Premises Licence would merely be replicated for the purposes of the shadow licence because the Committee has to be persuaded when considering matters that the licensing objectives are to be upheld in particular the public nuisance licensing objective.

The Committee was fully persuaded by residents that the public nuisance licensing objective was to be severely undermined particularly as the Committee could potentially be granting a licence until 05:00 hours with an Operator that it knew nothing about and failed to provide any detail regarding this aspect of the application. This was an important material factor and would not be in the spirit of policies PN, PB 1& 2 under the SLP when considering a new application for a licence.

The Committee was of the view that Mr Rankin's interpretation of Paragraph D20 of the SLP and the operation of MC62 was cogent and compelling. However, the Committee agreed with Mr Kolvin that the Committee should not rely on Paragraph D20, which sets out the reasons for Cumulative Impact Policy CIP1 (Spatial Policies) and was a commentary on applications for shadow licences, but that the Committee should, instead, rely on the specific policy requirements as set out in the SLP.

The Committee noted the arguments Mr Rankin advanced to the Committee regarding the specifics of Paragraph D20 of the SLP in that when the shadow licence holder applied for a variation of the licence to remove any conditions preventing the use of the licence, it was at that point that the Licensing Authority would consider whether the operation of the Premises was likely to be an exception to policy, and it was at that point that the Applicant would submit an operating schedule and supporting documentation to demonstrate how the Applicant would promote the licensing objectives. The Committee also noted and carefully considered the condition offered by Mr Rankin requiring the licence to be transferred to a UK-based company or to a UK resident.

The locality of the area was a crucial factor in the decision making of the Committee because whilst it is accepted the area has a mix of commercial and residential there are also residential properties in close proximity to the Premises. With that specific issue in mind, it could not ignore the fact that granting the application would cause problems for residents for all of the above reasons. The Committee felt that the major problem with the application was that there was insufficient detail that would comply with the requirements of the SLP and the absence of an Operational Management Plan which should have been supplied with the application so residents could have expressed their views.

The Committee felt that it needed to strike the right balance when considering the merits of the application and the evidence before it and did not arrive at the decision to refuse the application lightly having regard to the full set of circumstances of the case the Home Office Guidance and the promotion of the licensing objectives in particular the public nuisance licensing objectives. It did properly consider whether the proposed conditions offered as aforesaid would mitigate the concerns raised.

The Committee came to the overall conclusion that granting the application without the detailed information required to assess the application properly on its merits and how the Applicant is to manage the Premises by way of an Operational Management Plan would have a negative impact leading to the licensing objectives being undermined which is not what the 2003 Act is designed to do thus leading to poor decision making by the Committee.

In all of the circumstances of the case the matter was **Refused**.