

## **LONDON BOROUGH OF LEWISHAM**

MINUTES of the meeting of the LICENSING COMMITTEE, which was open to the press and public held on TUESDAY 27 AUGUST 2019 in Room 3 Civic Suite, Catford Road, Catford SE6 4RU at 7.15pm.

### **Present**

Councillor Stamirowski (Chair) Councillors Campbell, Hordjenko, Howard, and Powell.

Apologies for absence were received from Councillors Anwar, Elliott, Hall Handley and Wise.

### **Also Present**

Lisa Spall - Crime, Enforcement and Regulatory Manager  
Petra Der Man – Lawyer  
P.C Nick Gerry – Metropolitan Police

**Club Vibes 2<sup>nd</sup> floor 100-104 Lewisham High Street SE13**

### **Applicant**

Kelly Hickmott – Crime and Enforcement Officer  
2 local residents

### **Representation**

William Rees – Counsel to Club Vibes  
Richard Whyte – Manager Club Vibes  
Luke Russell – Bar Manager/Club Vibes  
Ricardo Gordon – Club Owner

**The Brockley Brewing Company Ltd 31 Harcourt Road SE4**

### **Applicant**

Peter Maddison, Mike Basquill and Deborah Canavan.

### **Representation**

Sarah and Jason Emo.

#### **1. Minutes**

RESOLVED that the minutes of the meeting of the Licensing Committee held on 30 July 2019 be confirmed and signed.

#### **2. Declarations of Interests**

None.

**3. Club Vibes 2<sup>nd</sup> floor 100-104 Lewisham High Street SE13**

- 3.1 The Chair welcomed all parties to the meeting and introductions were made. She then invited Ms Spall to introduce the application.
- 3.2 Ms Spall said that members were being asked to consider the application for a review of a premises licence for Club Vibes 2<sup>nd</sup> Floor 100-104 Lewisham High Street SE13. The review had been sought by the Crime, Enforcement and Regulation service under the licensing objectives of public safety and the prevention of public nuisance. She outlined the current licensable activities for the premises.

**Applicant**

- 3.3 Ms Hickmott said that the Crime and Enforcement Service (CER) have been receiving complaints of excessive loud music since 13 February 2019. A resident who lives near the property has complained about the noise nuisance particularly from the bass. Officers have been mediating between Club Vibes and the resident but have been unable to resolve the issue.
- 3.4 On 16 March 2019, officers visited the complainant's house and witnessed loud music from the Club that could be heard at street level and in the property. Officers deemed the noise to be a statutory nuisance and an abatement notice was issued on 27 March 2019. However, officers continued to receive complaints of noise nuisance from the resident.
- 3.5 On 27 April, and 18 and 26 May 2019, officers visited the complainant's property and witnessed loud music at street level and in the property. Patrons were also seen to be allowing entry beyond 2am which is in breach of their licence conditions. The CER team received two more complaints from residents in close proximity of the club.
- 3.6 Ms Hickmott said that parking is also a problem when the club is open. Officers have witnessed in excess of 50 cars parked in the area. On one occasion, an ambulance was unable to get through parked cars to attend to a patron at the club. Officers explained to management that patrons who park close to the club were causing a problem.
- 3.7 On 16 June 2019 at 0145, officers were again in the resident's property and witnessed a statutory nuisance. Ms Hickmott spoke to Mr Gordon about the excessive noise and was told that they were installing a sound limiter but had not yet received documentation from the installer to prove that the work had been done. Complaints of noise nuisance have continued up until this weekend. Mr Rees gave Ms Hickmott a copy of the receipt received following the installation of the sound limiter.
- 3.8 In an effort to relieve the pressure of cars parking in Lewisham High Street, patrons have been encouraged to park in the car park in Clarendon Rise.

However, officers have received noise complaints from residents near the car park.

- 3.9 Ms Hickmott said that Mr Gordon has installed heavy duty fire doors in an effort to reduce noise nuisance, but the noise continues to affect the resident's quality of life. She said that although the club is licensed 7 days a week, it only holds special events during the week but the resident states that noise nuisance during the week is a major problem for him.
- 3.10 Ms Hickmott read out a number of recommended conditions that she had previously shown to the representatives of Club Vibes.
- 3.11 Mr Rees said that his client agrees to the conditions but did not consider the reduction in hours to be fair because of the efforts that had been made to reduce the noise including the installation of a noise limiter. Ms Hickmott said that she needs to visit the premises to check the installation.
- 3.12 Councillor Campbell said that Clarendon Rise car park is a fair distance from Club Vibes. She asked whether residents near the car park could hear the music. Ms Hickmott clarified that complaints received were with regard to patrons who came back to their cars after a night in the club. They do not leave immediately, preferring to stay to talk noisily, shout then slam car doors shut as they leave.
- 3.13 Councillor Campbell asked whether licensees are responsible for the noise patrons make when they are outside the premises and for poor parking. Ms Spall said that if it is proved that they are patrons of the club, then the licensee has responsibility.

### **Representation**

- 3.14 Mr Rees said that when the abatement notice was served, the following action was taken:
  - Sound proofing was installed in all walls to adjacent properties.
  - Sound proofing was installed to external windows.
  - The fire doors were upgraded.
- 3.15 Mr Rees said that two breach letters have been served and a witness statement. On 19 May 2019, there was a witness statement from Ms Mullin-Murrell. Following this, the club have made a number of upgrades and modifications to the sound system and the infrastructure.
  - There is an additional layer of sound proofing to all the previously applied areas to further decrease noise.
  - A wireless controlled audio management system, with limiters, and compressor was put in place to limit the input signals to the main amplifier.
  - Large speakers were replaced with smaller ones.
  - Contact was made with the main complainant about further adjustments. He was experiencing a noise nuisance on all three floors.

- 3.16 Club Vibes is very close to the Club Alpha Lounge and Mr Rees said that it is difficult to differentiate the noise emanating from each club. It could be that Club Vibes is not responsible for the entire noise nuisance.
- 3.17 On 18 June 2019, Mr Adu-Brobby produced a witness statement. This was as a result of a visit to the property of a complainant called Alex on 15 June 2019 at 0140. The officer's view was that the threshold of the breach of the abatement notice applied. He states that the music and lyrics and bass could be heard on the ground and first floors. This was confirmed by his colleague Mr Bahannack.
- 3.18 After 28 May 2019, Mr Rees said that there were more upgrades to reduce noise.
- The bases output was reduced.
  - The main output level was lowered.
  - The sub-woofer was repositioned to face away from neighbouring properties.
- 3.19 There was a further witness statement on 11 June 2019 from Mr Anthony. This was in relation to a resident whose property is near to both Club Vibes and Alpha Lounge.
- 3.20 Mr Rees said that it is unfortunate that Club Vibes is in this position because they have undertaken a lot of work to mitigate noise issues for local residents and the resident Alex has acknowledged this. He said that he has given Ms Hickmott a report of the installation of a sound limiting device. He said that it relates to point 7 in the proposed conditions which he read out. All the conditions within this point have already been carried out and his client agreed with all the other conditions. However, his client has concerns about the proposed reduction in hours.
- 3.21 Mr Rees said that on 14 June 2019, the engineer returned from Club Tech and produced a final report. It points out that final adjustments were made in conjunction with the next door neighbour. Measurements of sound were taken and the report states that given that the premises are in a busy shopping centre, noise was surprisingly low. All parties were happy with the results, the SL 22 sound limiter was locked and sealed at the agreed levels and the club has not received any complaints since then.
- 3.22 Mr Rees referred to the breach in conditions in Annex 3. Patrons had been allowed to re-enter the premises after 2am. Security staff were briefed by management and they know that post 2am entry is banned. However, the patrons said that they were going in to Alpha Lounge and so security allowed them access. They did not know that Alpha lounge have a re-entry ban and allowed them to enter and this was an error.
- 3.23 Club Vibes have spent £744 on improvement works and management believe that the situation has improved significantly.
- 3.24 There was an incident reported by Ms Spall dated 31 May 2019 regarding a late night on Sunday 25 May 2019. Ms Spall said that there is a page of her statement missing which relates to the issues that Mr Rees had been alluding to earlier in this meeting. The missing information refers to re-entry and the fact that people

queuing up for entry to Club Vibes after 2am. Along with her colleague they went up to the first flight of stairs but could not get any higher because there were so many people trying to re-enter the club.

- 3.25 The Chair asked Mr Rees whether he needed to take instruction from his client. He said that his client was there on that evening and could explain the situation. Mr Gordon said that security were briefed to close the doors at 2am. The queue on the stairs was for the id scanner. Ms Spall said that at this time it was 0205.
- 3.26 Mr Rees said that his client has concerns about the proposed reduction in hours. He said that the club does not open on Monday to Wednesday unless there is a special event and this does not happen every week. Mr Gordon said that these special events have stopped. Mr Rees said that reducing the opening hours until 2am on Friday and Saturday would be a real problem for the club because it does not open until 10pm and it would not be a night club if it does not operate for long at night. It would have a negative effect on management and the viability of the business. His client has agreed to all eight of the proposed new conditions; some have already been implemented.
- 3.27 The Chair asked how patrons are managed outside the premises. Mr Gordon said that they block off the entrance and direct patrons to the Clarendon Rise car park. Mr Whyte said that over the weekend, two licensing officers told him that directing cars is illegal. Ms Spall said that the officers were not aware of the agreement that had been made with the club. Mr Gordon said that he also goes out to help manage the parking of cars.
- 3.28 The Chair said that Club Vibes have breached the abatement notices twice; these are serious legal documents. Sound proofing has not made much difference to the level of noise. Mr Gordon said that the sound limiter has reduced the level of bass noise.
- 3.29 The Chair asked about noise from the Alpha Lounge. Ms Spall said that their licence is also up for review and will be considered on 10 September 2019. She said that when she visited the premises on 25/26 May 2019, Mr Evans who manages this Club, was asked to turn his music off. The music could then be heard clearly from Club Vibes, and it was very loud. It was pulsating so much so that the windows were vibrating. This was after the abatement notice had been issued.
- 3.30 Councillor Powell asked how licensing officers know that the cars parked in the car park are not from Alpha Lounge. Ms Hickmott said that the information about parking has been given to both clubs. She agreed that both clubs could be responsible for the noise made by patrons in the car park before they leave the area.
- 3.31 Councillor Powell asked whether the Alpha Lounge consistently turn off their music. Ms Spall said that they turned off the music at the request of officers on the evening of 25/26 May 2019 so that they could identify the source of the loud music. Mr Gordon came into the street and they both witnessed the sound and the vibration of the windows. Mr Gordon confirmed this and said that there had been a Tim Westwood event that evening. He said that a window was shaking because it

was open. This was rectified on the night. Mr Rees said that Tim Westwood has now been banned from the club. The Chair commented that this is a large name to ban. Mr Gordon said that his licence is more important.

- 3.32 For clarification, Ms Spall said that one window was open, but all the windows were shaking. Mr Rees said that this was an unusual event; his client accepts that mistakes were made but that is not the general position. It was exceptional but unacceptable. Mr Gordon said that after this event, management made significant efforts to improve conditions at the premises. Mr Rees said that the main improvements were completed on 14 June 2019.
- 3.33 The Chair asked whether there has been a reduction in the number of complaints. Ms Hickmott said that officers are still receiving complaints. Ms Spall said that a complaint had just been received with regard to the events of the previous weekend. Ms Hickmott said that the main complainant has asked him to come to his premises during the week to witness the noise, because he said that events are being held during the week on Tuesdays and Thursdays. Mr Gordon asked to be present when Ms Hickmott attends the premises during the week. This was agreed. Mr Rees said that there will be a resolution to this problem.
- 3.34 Councillor Howard said that £774 has been spent on improvement works. She did not consider this to be a large sum of money. She asked what it had been spent on. Mr Gordon said that it had been spent on the sound limiter only.
- 3.35 Councillor Powell asked for the capacity of Club Vibes. She was advised that maximum capacity is approximately 200 people. She asked about the capacity of Alpha Lounge. Ms Spall said that the numbers vary each night. Councillor Powell said that the emphasis has been on Club Vibes to ensure that cars are parked correctly and drugs had also been mentioned, she said that Alpha Lounge should take some responsibility for this. Ms Spall agreed, she said that the licence for Alpha Lounge will be reviewed at the next meeting of this Committee on 10 September 2019.
- 3.36 Ms Hickmott said that she has been trying for 5 ½ months to ensure that Club Vibes install a sound limiter. Complaints are still being received. Once installed, the sound limiter must be maintained regularly and be tamper proof. Mr Whyte said that the limiter was installed in June, it has been set at the agreed level and only Club Tech can change it because they have the code. The Chair said that complaints about noise are still being received. Mr Whyte said that they know now that it is their responsibility to manage parking. Staff will encourage patrons into their cars but cannot force them to drive away.
- 3.37 The Chair asked whether officers have visited the property since June 2019. Ms Spall said that officers visited on Saturday night and there were no noise issues.
- 3.38 Members of the Committee then withdrew to make their decision. When they returned it was:

**RESOLVED** that the hours for all licensable activity be amended as follows:

Sunday to Thursday reduction to Midnight

Friday and Saturday reduction to 3am.

The following conditions were added to the licence.

- At all times the premises are open to the public, including a promoted event, they shall be managed by the Premises Licence Holder/DPS.
- During the provision of regulated entertainment, a personal licence holder employed by the premises must be on duty at all times.
- The premises must take all reasonable steps to encourage onward journeys and ensure the customers of the premises do not loiter outside so not to cause a disturbance to the local residents and businesses.
- When the premises is open to the public and door staff are employed, the premises must provide a member of staff to act as a parking/taxi marshal thus to prevent a nuisance to the local residents and other road users. This marshal must be clearly visible and must wear a hi-visibility jacket or tabard and to help ensure the safe journey home of its patrons.
- A zero tolerance to illegal drugs shall be operated. Any person found in possession of illegal drugs, or who is witnessed offering illegal drugs or asking other for illegal drugs, will be ejected (or refused entry) and permanently banned from future entry to the premises.
- The Premises licence Holder will allow uniformed Police to periodically attend the premises upon prior agreement with the Premises Licence holder/DPA in order to carry out advance drug searching techniques, including (but not limited to) requiring customers to take part in the drug analyser testing as a condition of entry and passive drug dog sweeps of the premises and queue.
- A noise limiter must be fitted and maintained within the premises. The level of this meter must be set in accordance with required legislation and standards by a qualified sound engineer, so as not to cause a noise nuisance. The limiter must be sealed in such a way that no unauthorised person can tamper with it. All amplified music played at the premises must be passed through the noise limiter. An annual calibration of the noise limiter must take place by a qualified sound engineer and recorded in the incident book.
- All windows and doors to remain closed when entertainment or live music is in progress.

- 3.39 Ms Spall said that an appeal may be made against this decision to the Magistrates Court within 21 days from the date of the decision letter which would be sent out within 5 days of the meeting.

#### **4. The Brockley Brewing Company Ltd 31 Harcourt Road SE4**

- 4.1 The Chair welcomed all parties to the meeting and introductions were made. She then invited Ms Spall to introduce the application.

**Licensing Officer**

4.2 Ms Spall said that members were being asked to consider objections, received and raised by members of the public, to the application for a full variation of a premises licence lodged by The Brockley Brewing Company Ltd 31 Harcourt Road SE4. She outlined the current licence for the premises and the proposed new licence. One objection had been received from a member of the public in close proximity of the premises.

## **Applicant**

4.3 Mr Maddison gave a brief history of the premises and said that the business has a strong ethical focus. They want to do business the right way by aiming to be a good employer by creating employment opportunities for young people. They currently employ 10 staff on a full and part time basis and they are a London Living Wage employer.

4.4 Mr Maddison said that they also create a place for the community to come together:

- The Tap room – a low key, friendly place to meet and share a beer and meet friends.
- Teaching brewing skills at regular Brew School classes.
- Supporting local art and charity events, for example:
  - Brockley Open Studio – offering sponsorship and venue.
  - Brockley Max Art Events – offering sponsorship and venue.
  - Sunday evening “Brockley Shuffle” spoken word evenings have raised money for St Mungo’s Homelessness Charity.

4.5 Mr Maddison said that if their application is granted, it will allow them to expand their ability to host a range of activities for local people in the brewery and provide increased employment opportunities for young people. The revised hours will help sustain the business and enable them to plan further ahead bringing in further investment to improve the building and its environment.

4.6 Mr Maddison said that they fully recognise that the brewery is on a residential road and they are determined to be good neighbours. They will do everything reasonably possible to prevent any disturbance to neighbours. If the business causes a disturbance, then they will stop it and put in place reasonable measures to make sure it does not happen again.

4.7 Feedback has been received from residents and the following changes have been made:

- Live amplified music will not be used on the premises.
- Door management has been strengthened. Drinks are not taken outside and customers encouraged to leave the road as quickly and quietly as possible.
- Rubbish is taken out in the daytime to avoid making unnecessary noise in the late evening.

4.8 A conscious decision was made not to apply for a later licence because they respect the quiet residential nature of the road and recognise the concerns of some of the neighbours.

- 4.9 In the lead up to this application a door to door survey was undertaken and a letter sent to local residents. The feedback received was overwhelmingly positive and supportive of the proposals. The concerns raised by a very small number of neighbours have been noted and addressed.
- 4.10 Mr Maddison said that in June 2018, a complaint was made direct to the Council regarding a boisterous group of customers who made a disturbance while waiting for cabs outside the brewery in the early evening. A response was made to this complaint and the approach to dispersal of customers leaving the premises was reviewed. There have not been any further complaints in relation to this kind of activity.
- 4.11 Clear lines of communication have been established with neighbours. Feedback is encouraged and neighbours are updated on activities at the brewery to provide advance notice of any events.
- 4.12 A very small number of complaints have been received in the seven years that the brewery has been in operation. They have not received any complaints about noise nuisance or customers drinking outside in the 14 months preceding this licence application.
- 4.13 Mr Maddison said that it has been noted that there has been one objection received from a resident of Harcourt Road in relation to this license application. The same resident has since made a complaint direct to the London Borough of Lewisham in the week commencing 12<sup>th</sup> August 2019. This person complains that the lights were on in the brewery at 11pm on Saturday 10<sup>th</sup> August and that “exuberant voices” could be heard from inside the brewery.
- 4.14 It is not clear what infringement is actually being alleged in this complaint and no further details or evidence has been provided. Mr Maddison has spoken to the bar team who were working on Saturday 12<sup>th</sup> August; they have clarified that staff stopped serving at 9pm in accordance with the terms of the licence. The last customer left at around 9.30pm and the bar team left the building having cleaned up in the building. They did not keep a specific record of the time they left the building, but it may have been around 11pm.
- 4.15 The complainant's home is around 50 metres from the brewery. The brewery has carried out its own basic sound tests between the brewery and this house and have found that even loud shouting could not be heard over this distance when the brewery door is closed. It is therefore reasonable to assume that “exuberant voices” would not be audible at the complainant's home, or in fact in any of the neighbouring homes.
- 4.16 Mr Maddison said that management believe that this complaint is vexatious and that the complainant is trying to support their objection to the licensing application. The fact that all complaints received from this resident have been made direct to the Council, rather than to the brewery, supports this assertion. Furthermore, he believes that some of the allegations in the objection are factually incorrect and are also vexatious, for instance, no beer casks or cushions, or any form of seating, is left outside the brewery as seating as the objector alleges.

- 4.17 The Brockley Brewery is committed to being good neighbours and will continue to take all reasonable steps to prevent nuisance and disturbance to residents. They do not believe that the revised licensing hours will cause disturbance to neighbours and the majority of residents in the road support the business and the extended opening hours. Finally, Mr Maddison said that he has recently received an email of support for his application from Councillor Penfold.
- 4.18 The Chair asked whether representations had been received from any of the relevant authorities. Ms Spall said that there were no other representations and conditions had been agreed with Brockley Brewery.

### **Representation**

- 4.19 Mr Emo said that he wanted to refer to the disturbance last year on St Patrick's day. There was a lot of disturbance in the street. Mr Madison said that the celebrations ended in the early evening but patrons were leaving at midnight. Patrons were urinating in the street and two people who had been fighting were being restrained.
- 4.20 Mr Emo said that his wife went to speak to management regarding a previous event, but they treated her with contempt. They told her that they do not need a licence and can play music when they want. It is for this reason that they have objected to this application
- 4.21 When they first moved to the area, the brewery had a licence until 6pm and Mr and Mrs Emo were customers. At that time he considered that a licence until 8 or 9pm would be acceptable. He still believes 9pm to be acceptable although sometimes they close later than this. He said that things have improved but he considers this is only because they have made complaints.
- 4.22 Last year the summer was very hot, and he believes that if he had not complained there would have been more noisy events. On St Patrick's day 2018, there were between 40-50 people coming out of the premises very drunk. Things have improved and they have gone back to the model they had when he and his wife first moved there and there has been more civilised drinking.
- 4.23 Mrs Emo said that the premises are applying for increasingly late hours and she expected them to apply for a licence until 11pm. The Brewery is the only business in the road and the only premises that creates noise nuisance. Although they are applying for a licence until 9pm, on many occasions patrons have been in the premises until after 10pm. She said this could be due to drinking up time. On one occasion they came back at 11pm to witness noise of talking and laughing and all the lights on. Mr Emo said that this impacts on their environment and is 5 hours after they used to close at 6pm.
- 4.24 Mrs Emo referred to the survey circulated to members. She said that there may not be any negative responses but two families who lived close to the Brewery have moved out. Tenants renting properties may not be there for a long time and may not feel compelled to move. Music has not been heard from the premises recently and this may be due to good will. However, if this application is granted, music can be played until 11pm. She said that she understands why they would

not play music in the run up to their application. If music had been played before this application, responses may have been different.

4.25 The Chair asked whether there have been any other complaints from residents in Harcourt Road. Ms Spall said that CER team have received very few complaints about Brockley Brewery.

4.26 Members of the Committee then withdrew to make their decision. When they returned it was:

**RESOLVED that** the application, as applied for, be approved.

4.27 The Chair encouraged both parties to remain in contact; Brockley Brewery may be willing to give the residents a contact number to ring if they have are experiencing a noise nuisance.

4.28 Ms Spall said that an appeal may be made against this decision to the Magistrates Court within 21 days from the date of the decision letter which would be sent out within 5 days of the meeting.

**5/6 Catford Food Centre 91 Rushey Green SE6 4JD**

The Chair advised members that this case had been postponed until the next meeting of the Licensing Committee to be held on 10 September 2019.

The meeting ended at 8.50pm

Chair