

**Decisions taken by the Licensing Committee on Tuesday, 31 October 2023**

Agenda Item No	Topic	Decision
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**Part A – Items considered in public**

A1	Minutes	The Minutes of the meetings on 6 September 2023 and 26 September 2023 were agreed.
A2	Declarations of Interest	None.
A3	Maestro - 44 - 45 Deptford Broadway SE8 4PH	<p><b>Maestro - 44 - 45 Deptford Broadway SE8 4PH</b>                      Lewisham LBC, Licensing Committee                      Application for variation of premises licence                      31 October 2023</p> <p align="center"><b>DECISION NOTICE</b></p> <p>1. Louis Armand Tchanagoum Tchatchouang (“the Applicant”) has submitted an application for a variation to the premises licence for Maestro - 44 - 45 Deptford Broadway SE8 4PH (“the Premises”).</p> <p>2. The application seeks authorisation for the following licensable activities:</p> <ul style="list-style-type: none"> <li>• Amendment to Annex 3 Conditions</li> <li>• Vary Hours for Live Music, Recorded Music &amp; Alcohol sales ON the premises.</li> <li>• To add Alcohol for the consumption OFF the premises to match current alcohol for the consumption ON the premises hours and proposed extended hours.</li> <li>• To change the licence opening hours to 30 minutes after the last licensable activity</li> </ul>

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		<p><b><u>Remove Annex 3 conditions:</u></b></p> <ol style="list-style-type: none"> <li>2. There will be no live music or the playing of recorded music between the hours of 23:00 and 07:59.</li> <li>6. Two SIA registered door staff, one of whom ought to be female (if labour is available) and must be independent of and in addition to the Maestro staff working that day, to be on duty while the premises is open to the public between 21:00 till close and until all customers have left the premises and vicinity.</li> <li>7. A 'no search, no entry' policy will also operate at these times. All persons entering and re-entering the premises will be searched. If they refuse, they will not be able to enter the premises.</li> <li>8. At the commencement of work, security personnel must ensure that they are recorded on the CCTV system and that a clear head and shoulders image showing their face clear of any hat, glasses or other obstruction is recorded.</li> <li>9. A register of security personnel employed on the premises shall be maintained in a legible format and made available to Police or local authority officers on request. The register should be completed by the DPS/Duty Manager at the commencement of work by each member of security staff and details recorded should include: <ul style="list-style-type: none"> <li>Full name</li> <li>Badge number</li> <li>Time of commencement of duties</li> <li>Security operative to sign their name against their details</li> </ul> </li> </ol> <p><b><u>To add the following:</u></b></p> <p><u>Live Music (Indoors)</u> 23:00 – 01:00 Friday – Sunday</p>

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		<p><u>Recorded Music (Indoors)</u>            23:00 – 01:00 Monday - Thursday            23:00 – 03:00 Friday &amp; Saturday            23:00 – 02:00 Sunday</p> <p><u>Late night Refreshment</u>            00:00 – 01:00 Monday - Thursday            00:00 – 03:00 Friday &amp; Saturday            00:00 – 02:00 Sunday</p> <p><u>Alcohol for consumption ON &amp; Off the premises</u>            23:30 – 01:00 Monday - Thursday            01:30 – 03:00 Friday &amp; Saturday            23:30 – 02:00 Sunday</p> <p>3. There were three representations in response to the application from local residents, in addition there was one representation from a Responsible Authority all received before the deadline.</p> <p>4. The Licensing Committee held a hearing on 31 October 2023 to consider the representations, all of which related to the licensing objective; prevention of public nuisance.</p>

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		<p>The Licensing Authority</p> <p>5. The Licensing Authority introduced Application, they explained that there were objections from three local residents and one from the Licensing Authority as a Responsible Authority.</p> <p>The Applicant</p> <p>6. The Applicants representative set out the agreed amendment offered by the Licensing Authority relating to the SIA door supervision requirements in addition to further conditions that the Applicant had agreed.</p> <p>7. The Applicant expressed that they were willing to agree to reduced hours from the Application in relation to Live Music but wished to retain the extended hours for Recorded Music.</p> <p>8. The Applicant explained that there has been no complaints or objections from Environmental Health or the Police as Responsible Authorities and that the expectation is that the Police would be the main source of advice on crime and disorder.</p> <p>9. They maintained that there was a working noise limiter in operation which would promote the licensing objectives. The Applicant is satisfied that if noise limiter set</p>

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		<p>and calibrated, this would adequately address issues around breakout of sound.</p> <p>10. It is unclear of the proximity of the local resident objections. Given the operational noise limiter, if properly managed, there will be no breakout of noise.</p> <p>11. It was accepted that whilst there has been a recent noise complaint, this is quite common following an Application and encouraged the Committee to attach appropriate weight.</p> <p>12. The Applicant accepted that he had a 'private party' in August and his representative has given advice given that it shouldn't happen again. It was submitted that this was a unique and isolated occasion and encouraged the Committee to give applicant the benefit of the doubt.</p> <p>13. The Committee were told that that the Applicant is working with Local Authority and have been cooperative with requests.</p> <p>The Licensing Authority</p>

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		<p>14. The Licensing Authority have agreed to amend one of the conditions to change the SIA condition as we understand that this has a significant impact on the Applicants finances.</p> <p>15. The Licensing Authority are concerned that extended hours would lead to complaints.</p> <p>16. The LA confirmed that when they requested the CCTV relating to the incident in August, this was promptly provided. The CCTV provided confirmed that a breach of the Licence occurred during the consultation period.</p> <p>17. It was said that the breach was relatively serious particularly during the consultation period where the Applicant would be under extra scrutiny.</p> <p>18. The Licensing Authority confirmed that they were able to investigate the reported noise complaints and witnessed that the noise nuisance complained of was not from this Premises.</p> <p>19. In making its decision, the Committee has taken into account all of the papers in the reports pack and the evidence and submissions presented by the parties at the</p>

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		<p>hearing. It has also taken into account the Council’s Statement of Licensing Policy and the Home Office’s statutory guidance.</p> <p>20. The Committee’s decision is to GRANT the variation IN PART subject to conditions modified to such extent as the authority considers appropriate for the promotion of the licensing objectives.</p> <p><b><u>To ADD the following:</u></b></p> <p><u>Live Music (Indoors)</u> 23:00 – 00:00 Friday – Sunday</p> <p><u>Recorded Music (Indoors)</u> 23:00 – 00:00 Sunday - Thursday 23:00 – 00:00 Friday &amp; Saturday</p> <p><u>Alcohol for consumption ON &amp; Off the premises</u> 10:00 – 23:30 Sunday - Thursday 10:00 – 01:30 Friday &amp; Saturday</p> <p><b><u>To AMEND the following condition:</u></b></p> <ul style="list-style-type: none"> <li>• There will be no live music or the playing of recorded music between the hours of <b><u>00:00</u></b> and 07:59.</li> </ul>

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		<p>21. The variations below were agreed by the Parties and the Committee were satisfied that adopting them would be appropriate for the promotion of the licensing objectives.</p> <p><b><u>To REMOVE the following condition;</u></b></p> <ul style="list-style-type: none"> <li>• Two SIA registered door staff, one of whom ought to be female (if labour is available) and must be independent of and in addition to the Maestro staff working that day, to be on duty while the premises is open to the public between 21:00 till close and until all customers have left the premises and vicinity.</li> </ul> <p><b><u>To ADD the following conditions;</u></b></p> <ul style="list-style-type: none"> <li>• One SIA registered door staff who is independent of and in addition to the Maestro staff working that day, to be on duty while the premises is open to the public on Friday and Saturday nights as well as any day preceding a bank holiday, between 22:00 and close of business, and until all customers have left the premises and vicinity. When there are more than 50 customers on the premises, there will be two SIA registered door staff on duty. 1 SIA registered staff member will be outside the premises during these times.</li> <li>• A proof of age scheme, such as Challenge 25, must be operated at the premises where the only acceptable forms of identification are (recognized photographic identification cards, such as a driving license or passport /</li> </ul>



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		<p>Holographical marked PASS scheme identification cards) appropriate signage must be displayed (to replace Annex 2, condition 5).</p> <ul style="list-style-type: none"> <li>• All windows and doors must be kept shut whilst entertainment is in progress except for the immediate entrance/egress of patrons (to replace Annex 2, Condition 6).</li> <li>• No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.</li> <li>• Loudspeakers shall not be in the entrance lobby or outside the premises building.</li> <li>• A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.</li> <li>• No waste or recyclable materials, including bottles, shall be moved, removed from, or placed in outside areas between (23.00) hours and (08.00) hours on the following day.</li> <li>• The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff to ensure that there is no public nuisance or obstruction of the public highway.</li> <li>• The premises Licence Holder and/or Designated Premises Supervisor shall keep up to date policies and staff training records in relation to the following:</li> </ul>

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		<p>Requirements of the challenge 25 scheme, drugs, identification &amp; recognition of drunks, identification recognition and responsibilities of dealing with vulnerable persons and the correct procedures to be followed when refusing service regular training must be provided to all staff at least every six months, a record of the training will be maintained for at least twelve months.</p> <p><u>The Committee's decision is to grant the variation IN PART subject to conditions modified.</u> Its reasons are as follows:</p> <ol style="list-style-type: none"> <li>i. The committee were not satisfied with the reasons given for the recent breach of the licence conditions which occurred as recently as during the consultation period.</li> <li>ii. The Committee accepted that the breach was mitigated by the candidness and cooperation of the Applicant with the Licensing Authority following the breach.</li> <li>iii. The Committee noted that the Applicant provided the CCTV relating to the date of the breach upon request.</li> <li>iv. They were satisfied that the breach was significant enough to have reservations about the Premises Licence Holders ability to uphold the licence conditions should the full variation be granted.</li> <li>v. The Committee were not satisfied that the Application itself at Part M or the representations made at the hearing offered sufficient steps on how they would promote the licensing objectives.</li> </ol>

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		<ul style="list-style-type: none"> <li>vi. The committee are required to consider the application and apply the Council's Statement of Licensing Policy 20-25 unless there is good reason to depart from it. The Applicant was unable to demonstrate why it wanted the Licensing Committee to disapply the Policy or depart from it.</li> <li>vii. It considered the Licensing Authority's preferred operating hours as set out at 15.7. It identified that the Premises was located within a Local Hub, as such it applied the 'Preferred latest end time' for Recorded and Live music.</li> <li>viii. The Committee provided extensions for music both live and recorded having due regard to the Policy.</li> <li>ix. The Committee were concerned that if it were to grant the variation as applied for, it would undermine the Licensing Objectives.</li> </ul> <p>22. There is a right of appeal against this decision. Any appeal should be made to the magistrates' court within 21 days beginning with the day on which the appellant was notified of this decision.</p>
<b>A4</b>	Catford Food Centre, 91 Rushey Green, SE6 4AF	<p>Catford Food Centre, 91 Rushey Green, Catford, London, SE6 4AF                      Lewisham LBC, Licensing Committee                      Application for variation of premises licence                      31 October 2023</p> <p align="center"><b>DECISION NOTICE</b></p>

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		<p>1. FK Food Centre Ltd (“the Applicant”) has applied for a variation to its existing premises licence for Catford Food Centre, 91 Rushey Green, Catford, London, SE6 4AF (“the Premises”).</p> <p>2. The application proposes to remove the condition on the current licence at Annex 3, number 1, which states;</p> <p style="padding-left: 40px;"><i>‘Mr Hassan Sircan is not to be allowed in the premises whilst it is open for licensable activities and during all times when customers remain on the premises’</i></p> <p>And to replace this condition with:</p> <p style="padding-left: 40px;"><i>‘Mr Hassan Sircan will be excluded from any involvement in the ownership and/or management of the business but he is permitted to be employed on the premises’</i></p> <p>3. Relevant representations were received from two Responsible Authorities; The Police and the Licensing Authority on the grounds of Prevention of Crime and Disorder and Public Safety. The Licensing Committee held a hearing 31 October 2023 to consider the application.</p> <p>The agent for the applicant</p>

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		<p>4. The Applicants representative brought to the Committee’s attention the most recent statutory guidance published as per section 182 of Licensing Act 2003, drawing particular attention to paragraph 2.5;</p> <p>5. <i>“Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.”</i></p> <p>6. In raising the above, the Applicant was drawing the distinction that the Application seeks to modify a condition that the guidance says ought to be the responsibility for the Premises Licence Holder and not that of the Licensing Authority.</p> <p>7. The committee should consider that in determining the application that the condition offered would mean that Mr Sircan would never be left alone in the Premises unsupervised and thus</p>

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		<p>there be no negative impact on upholding the Licensing Objectives.</p> <p>8. It was accepted that Mr Sircan was previously involved in the employment of illegal workers and subject to a fixed penalty notice as a result. It was submitted that the incident referred to dated back to 4 years ago, and that under the Rehabilitation of Offenders Act 1974 (“the ROA”), such a disposal would only be held against or have an adverse impact on Mr Sircan for one year.</p> <p>9. It was submitted that Mr Sircan is not applying to become the Premises Licence Holder, neither the Designated Premises Supervisor and this was Application from the current Premises Licence Holder to employ Mr Sircan under supervision.</p> <p>10. It was noted that there had been no representations made by any Responsible Authority about the <i>current management</i> of the Premises or the Premises Licence Holder.</p> <p>11. The Committee should also note that the Application was made one day after an extensive visit by the Licensing Authority where by at least eight officers attended the Premises, the equivalent of a ‘raid’. The staff, CCTV, alcohol and tobacco. No concerns were identified and the business has been run and will continue to be run impeccably.</p>

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		<p>12. The representative submitted that Mr Sircan will be supervised at all times and the Licensing Objectives will not be undermined.</p> <p>13. The Business Rates are paid by F K Food Centre Limited from the company business account and this has been confirmed by the accountant in writing. It appears that Mr Sircan's name is on the bill but F K Food Centre Limited retain the actual liability. The issue around not discharging Mr Sircans liability is merely clerical issue of the Council rates department.</p> <p>14. Moreover, during the Covid pandemic, the relevant relief grants were paid direct to the Company, whom the Applicant is the sole director and shareholder.</p> <p style="text-align: center;">The Licensing Authority</p> <p>15. The Licensing Authority accept that there have been no complaints in relation to the Premises in the last four years, however, there are concerns as to why Mr Sircan remains liable on the Business Rates account. There would have been an expectation that he would've had himself removed from such liability.</p>

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		<p>16. There are also concerns around how there is sufficient staff to supervise Mr Sircan and how the practicalities of how that supervision would be undertaken.</p> <p>17. The Licensing Authority sympathise with Mr Sircans situation but acknowledge that the reason for agreeing the condition to exclude him was for a serious reason and the Licensing Authority have to ensure that the right persons are in the right roles to ensure the Licensing Objectives are upheld.</p> <p>The Police</p> <p>18. The Committee was initially brought for employing illegal workers and blatantly breaking the law, this has other implications such as people trafficking.</p> <p>19. The Police also acknowledge that given the Annexe 3 condition was included and agreed by the Parties, the Licensing Committee would be the appropriate forum for the condition to be varied or modified.</p> <p>20. The Police acknowledge Mr Sircans current position but say that the Committee should also</p>



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		<p>consider the fact that this is a 24-hour flagship store in the Borough, a licence not often granted. They would be concerned with Mr Sircan having any part of the business. It is also difficult to understand how, practically, the supervision would be undertaken.</p> <p>21. The Police accept there is no other history in relation to the current licence for the past 4 years, the only history relates to the previous Premises Licence Holder.</p> <p>22. Having considered the written and oral evidence and representations made by the parties, the Committee has decided to refuse the application for a variation. Its reasons are as follows:</p> <ul style="list-style-type: none"> <li>• The Committee were not satisfied with the practicalities of the Premises Licence Holder / Designated Premises Supervisor being able to comply with the suggested amended Licence Condition.</li> <li>• The Committee were not satisfied that if the variation was granted, the Licensing Objective of the prevention of crime and disorder would be upheld.</li> <li>• The Committee considered that whilst the incident relating to the previous breach to the licence conditions was historic, it was serious enough to require the said Licence Condition having been agreed at the time.</li> </ul>

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		<ul style="list-style-type: none"> <li>• The Committee considered that the condition was agreed following a revocation decision by the Committee and that the breach was significant enough to warrant a revocation since this only happens in the most serious cases.</li> <li>• It noted that given the good track record since this condition was added, it was satisfied that the condition necessary to promote the Licensing Objectives.</li> <li>• It considered the statutory guidance issued under section 182 of Licensing Act 2003 and the necessity to depart from the guidance for the promotion of the Licensing Objectives.</li> <li>• The Committee were not satisfied with the rationale provided in relation to the Business Rates liability and were of the view that Mr Sircan may have continued to have some involvement with the business.</li> <li>• The Committee did not make any finding of fact in relation to the relationship and/or involvement but noted there was sufficient evidence to suggest an indication of involvement.</li> <li>• It considered the provisions relating to the Rehabilitation of Offenders Act 1974 (“the ROA”) and how the principles could be applied to this Application.</li> <li>• It accepted as a matter of law that under the ROA, criminal convictions can become spent or ignored after a rehabilitation period.</li> <li>• It noted that the ROA was concerned with those previously convicted of offences and how they would be treated following a period of ‘rehabilitation’.</li> </ul>

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		<ul style="list-style-type: none"> <li>• On balance, the Committee considered the purpose of its function and how that related to promoting Licensing Objectives of Premises as such, the ROA is merely persuasive but not binding on how the Committee reaches its decision where a condition relates to the exclusion of a person.</li> <li>• The Committee sympathised with Mr Sircan’s situation but emphasised its primary function was to ensure the promotion of licensing objectives and that it could not be satisfied that allowing the variation would do that.</li> </ul> <p>23. There is a right of appeal against this decision. Any appeal should be made to the magistrates’ court within 21 days beginning with the day on which the appellant was notified of this decision.</p>
A1		
A2		