


**Havering Council – Decisions taken by the Licensing Sub-Committee on Tuesday, 23 May 2017**

<b>Agenda Item No</b>	<b>Topic</b>	<b>Decision</b>
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**Note: this decision list is for guidance only. The text of the minutes, which may be different, is definitive.**

**Part A – Items considered in public**

<b>A1</b>	TEMPORARY EVENT NOTICE - SOUL 2 SOUL	<div><b>Havering</b> L O N D O N   B O R O U G H</div> <p align="center"><b>Licensing Act 2003 Notice of Decision</b></p> <p><b>PREMISES</b> Soul 2 Soul 17 Station Parade Elm Park RM12 5AB</p> <p><b>APPLICANT</b> Mr Walter Ojukwu Soul 2 Soul 17 Station Parade Elm Park RM12 5AB</p> <p><b>1. Details of Application</b></p> <p>Soul 2 Soul Restaurant is located in Elm Park in a ground floor purpose built parade of commercial outlets. There is a premises licence in force at this restaurant. Residential properties occupy the floors above the commercial outlets.</p>
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		<p>The temporary event Notice (TEN) provided notification that on 26 May 2017, Mr Walter Ojukwu intends to supply alcohol, provide regulated entertainment and provide late night refreshment from 23:00 to 02:00 the day following for a private birthday celebration at the Soul 2 Soul premises.</p> <p><b>Observations</b></p> <p>The role of the Licensing Sub-Committee with regards to an opposed TEN governed by the Act. 105(2)(a) requires that the licensing authority hold a hearing unless all parties agree that it is unnecessary.</p> <p>The Licensing Sub-Committee is empowered by the provisions of s.105(2) to approve the TEN as submitted or to prevent the TEN's commencement by giving the premises user a counter notice if it considers it appropriate for the promotion of a licensing objective to do so.</p> <p>If the Licensing Sub-Committee is inclined not to approve the TEN as submitted but is also not inclined to issue a counter notice under the provisions of s.105(2) it may impose one or more conditions on the TEN via the provisions of s.106A(2)(b) but only if those conditions are also imposed on a premises licence that has effect in respect of the same premises as the TEN.</p> <p><b>2. Grounds of Objection</b></p> <p>On behalf of the Metropolitan Police PC Oisin Daly submitted an objection notice against the TEN under the authority of s.104(2) of the Act. PC Daly's objection notice expresses concerns further to the prevention of crime and disorder and the prevention of public nuisance.</p> <p>At the hearing PC Daly informed the Sub-Committee that earlier today he had served the applicant with an additional evidence that the Police would be requesting the Sub-Committee</p>

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		<p>to take into consideration. The Sub-Committee admitted a requested to reiterated his representations and</p> <p><b>3. Details of Representations</b></p> <p>PC Oisin Daly reiterated his written objection against the application. He stated that:</p> <p>The likely effect of granting the TEN was detrimental to the Licensing Objectives for the reasons indicated below.</p> <ol style="list-style-type: none"> <li>1. the prevention of crime and disorder,</li> <li>2. prevention of public nuisance</li> </ol> <p>That the applicant, a personal licence holder should be aware of his responsibilities under the Licensing Act. That whilst Mr Ojukwu was a DPS in Waltham Forest, he was warned by the Local Police Licensing officers when he was operating a premises outside his licensable hours, trading until 4am when the venue should have been closed by midnight.</p> <p>PC Daly was of the view that the incident raised questions as to whether the event proposed would be managed in a fashion that will ensure that levels of intoxication are minimized and patrons supervised to prevent any bad behaviour. The event is proposed to end at 02:00 hours, the levels of intoxication at this hour would be significantly increased. No security provisions have been included in the application.</p> <p>In addition the Sub-Committee was informed that the venue had a condition which stated that the venue will operate strictly as a restaurant. The conditions of the existing licence have not been offered on the TEN application and subsequently the event could proceed without the</p>

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		<p>restaurants conditions allowing it to trade in a format not suited to the area.</p> <p>The premises is situated in Elm Park, above the restaurant, are residential flats. The venue has no private smoking area, in order for patrons to smoke they would have to do so below residential flats.</p> <p>The application also included regulated entertainment which was also of to the Police that the flats above may be affected by noise nuisance late in to the night.</p> <p>The Police believe that the venue by its location in a residential area is not suited to operating in a manner that will not cause a nuisance to local residents.</p> <p><b>4. Applicant's response</b></p> <p>The applicant, Mr Walter Ojukwu addressed the Sub-Committee and responded to the points made by PC Daly on behalf of the Metropolitan Police.</p> <p>Mr Ojukwu informed the Sub-Committee that the Planning Consent No: P0268.07 did not relate to his premises. He asked that the planning consent not be taken in to consideration. Soul 2 Soul had been at the location for about two years and there had never been any issues with local resident.</p> <p>The premises had undertaken birthday parties in the past that finished at 23:00 hours. The applicant stated that only one of his clientele goes out to smoke and as such he does not think it was an issue.</p> <p>The Sub-Committee noted from the written response that was submitted by Mr Ojukwu</p>

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		<p>that stated the incident referred to by PC Daly happened in April 2014 at another venue whilst the applicant was the DPS and since then, the same venue had utilised a TEN every month until present, a total of 30 events with a closing time of 05:00 hours.</p> <p>Mr Ojukwu along with his friends; Mr Ifeanyi Okonkwo and Mr Uchena Needi spoke in support of the applicant and the operation at the venue in Waltham Forest. The Sub-Committee was informed that there had not been any further incident that breached any of the four Licensing objectives during any of the 30 mentioned TEN. It was also mentioned that the premises had recently been granted extended trading hours without any objections from residents and responsible authorities in April 2017.</p> <p>The Sub-Committee noted that the premises in Waltham Forest had developed a good working relationship with the Police Licensing Team at Waltham Forest.</p> <p>PC Daly stated that he had not communicated with his counterparts in Waltham Forest to verify the applicant's comments.</p> <p>Following the concern raised by PC Daly in relation to door security, Mr Ojukwu offered to provide security at the premises for the event.</p> <p>Mr Ojukwu concluded by informing the Sub-Committee that the proposed event was merely a private party offering light musical performance to entertain his very well behaved and matured customers, not to be mistaken for a Club like activity.</p> <p>In response to a question, the applicant explained the event would end at 01:30 hours and the additional 30 minutes was for the guests to depart.</p>

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		<p><b>5. Determination of Application</b></p> <p><b>Consequent upon the hearing held on 23 May 2017, the Sub-Committee’s decision regarding the application for a Temporary Event Notice for Soul 2 Soul is as set out below, for the reasons stated:</b></p> <p>The Sub-Committee considered a Temporary Event Notice submitted in respect of “Soul 2 Soul”, 17 Station Parade, Elm Park, Hornchurch RM12 5AB.</p> <p>A written objection notice had been received from PC Daly on behalf of a relevant person (the Metropolitan Police), objecting to the application on the grounds of the prevention of crime and the prevention of public nuisance.</p> <p>At the hearing, PC Daly referred to the submissions in his written notice. He also produced a copy of a planning permission granted in 2007 in respect of the change of use of the premises to a pie and mash shop. PC Daly pointed out that the terminal hour for that permitted use was 20.00 hours and argued that it would be inconsistent with that permission for a temporary event to be permitted until 02.00 hours.</p> <p>The premises user had submitted an email response to the objection notice, in which he pointed out that following the complaint referred to by the police in April 2014 at premises in Waltham Forest, there had been close liaison with the responsible authorities and 30 temporary events had taken place without any problems. The response also clarified that those expected to participate in the event were mature customers.</p> <p>At the hearing, the premises user maintained that the planning permission produced by PC Daly was not relevant as it related to different premises. He pointed out that the premises had</p>

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		<p>been operating for 2 years without difficulty. His clientele were professionals such as doctors and lawyers. It was a family-orientated restaurant. He explained that the Nigerian cuisine that would be on offer at the event was not fast food, but would be prepared and brought out to the customers slowly throughout the evening. He stated that there was only one regular customer who goes outside the premises to smoke, between the main course and the dessert. An offer was made to provide door security if that was felt necessary.</p> <p>The premises user and the relevant person were given some time to consider whether the temporary event notice might be modified pursuant to section 106(2) of the Act to allow for an earlier terminal hour. However, following discussion, PC Daly confirmed on behalf of the relevant person that no changes in the notice would remove his objections. Accordingly, the notice was considered in its original form.</p> <p>The Sub-Committee must promote the licensing objectives and must have regard to the Statutory Guidance issued under s.182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy.</p> <p>In particular, the Sub-Committee took into account part 7 of the Guidance and Policy 23 of the Statement of Licensing Policy.</p> <p><b>6. Decision</b></p> <p>Having considered and heard all of evidence the Sub-Committee was of the view that the notification should be refused and a counter notice given under section 105(2) because it considered it appropriate to do so for the promotion of the licensing objective of the prevention of public nuisance.</p> <p>The Sub-Committee took into account the fact that the premises is located in a primarily residential area and there was a likelihood of disturbance to local residents if the event were</p>

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		<p>permitted.</p> <p>The Sub-Committee did not take into account, in reaching its decision, the planning permission produced by PC Daly.</p> <p><b><u>Reasons:</u></b></p> <p>The Sub-Committee considered that the Temporary Event to which the notice related would undermine the licensing objectives, in that it was likely to cause disturbance to residents near the premises.</p> <p><b>7. Appeal</b></p> <p>Any party to the decision may appeal to the Magistrates Court within 21 days of notification of the decision. On appeal, the Magistrates Court may make an order for costs as it sees fit.</p>
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