



Application for the Review of a Premises Licence or Club Premises Certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

- Before completing this form please read the guidance notes at the end of the form.
- If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.
- You may wish to keep a copy of the completed form for your records.

I Avril O'Brien PC3406SW

apply for the review of a premises licence under Section 51 of the Licensing Act 2003
for the premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises or club premises, or if none, ordnance survey map reference or description:

63 London Road, Morden,

Post town:	Morden	Post code: (if known)	SM4 5HT
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Name of premises licence holder or club holding club premises certificate (if known):

Constantin Mitrofan

Number of premises licence or club premises certificate (if known):

LN/000001917

Part 2 – Applicant details

I am:

Please tick Yes

1	an individual, body or business which is not a responsible authority (please read guidance note 1 and complete (A) or (B) below)	<input type="checkbox"/>
2	a responsible authority (please complete (C) below)	<input checked="" type="checkbox"/>
3	a member of the club to which this application relates (please complete section (A) below)	<input type="checkbox"/>

PROTECTIVE MARKING

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Mr	<input type="checkbox"/>	Mrs	<input type="checkbox"/>	Miss	<input type="checkbox"/>	Ms	<input type="checkbox"/>	Any other title (e.g. Rev.)	<input type="checkbox"/>
Surname:						First Names:			
I am 18 years old or over				<input type="checkbox"/>					
Current postal address if different from premises address:									
Post town:					Post code:				
Daytime Tel. No.:					Email: (optional)				

(B) DETAILS OF OTHER APPLICANT (fill in as applicable)

Name and Address:	
Telephone Number (if any):	
Email address: (optional)	

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT (fill in as applicable)

Name and Address:	
Avril O'Brien	
Telephone Number (if any):	
Email address: (optional)	

This application to review relates to the following licensing objective(s)

Please tick one or more boxes		
1	The prevention of crime and disorder	<input checked="" type="checkbox"/>
2	Public safety	<input checked="" type="checkbox"/>
3	The prevention of public nuisance	<input checked="" type="checkbox"/>
4	The protection of children from harm	<input checked="" type="checkbox"/>

Please state the ground(s) for review: (please read guidance note 2)

Please see attached document.

PROTECTIVE MARKING

Please provide as much information as possible to support the application: (please read guidance note 3)

Please see attached document.

PROTECTIVE MARKING

Have you made an application for review relating to this premises before?

(Please tick yes)

Day	Month	Year

If yes, please state the date of that application:

If you have made representations before relating to this premises please state what they were and when you made them:

Large empty rectangular area for providing details of previous applications or representations.

PROTECTIVE MARKING

Please tick Yes	
I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate.	<input checked="" type="checkbox"/>
I understand that if I do not comply with the above requirements my application will be rejected.	<input checked="" type="checkbox"/>
IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.	

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (see guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature:		Date:	10/03/2023
Capacity:	Police licensing officer		

Contact name (where not previously given) **and postal address for correspondence associated with this application:** (please read guidance note 6)

Wimbledon police Station, 15 - 23 Queens Road, Wimbledon

Post town:	Wimbledon	Post code:	SW19 8NN
Telephone Number (if any):			
If you would prefer us to correspond with you using an e-mail address, your e-mail address (optional):			

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details, for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example, solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

Retention Period: 7 years
MP 321/12

Café La Lavella

My name is Avril O'Brien, I am employed by The Metropolitan Police as a Police Constable. I am currently based in the South West Borough Command unit working on the South West Police Licensing team covering the Borough of Merton.

I am submitting an application for the review of premises licence under Section 51 of the licensing act 2003 for Café La Lavella, 63 London Road, Morden, SM4 5HT, licence number, LN/000001917, the premises licence holder (PLH) and designated premises supervisor (DPS) is shown as, Constantin Mitrofan.

The opening hours of the premises are as follows;

Monday	11:00 - 00:00
Tuesday	11:00 - 00:00
Wednesday	11:00 - 00:00
Thursday	11:00 - 00:00
Friday	11:00 - 00:00
Saturday	11:00 - 00:00
Sunday	11:00 - 23:00

Alcohol Sales

Monday	11:00 - 23:00
Tuesday	11:00 - 23:00
Wednesday	11:00 - 23:00
Thursday	11:00 - 23:00
Friday	11:00 - 23:00
Saturday	11:00 - 23:00
Sunday	11:00 - 23:00

Late Night Refreshment (Indoors)

Monday	23:00 - 00:00
Tuesday	23:00 - 00:00
Wednesday	23:00 - 00:00
Thursday	23:00 - 00:00
Friday	23:00 - 00:00
Saturday	23:00 - 00:00
Sunday	-

This application for review of premises licence is made on behalf of the Commissioner of The Metropolitan Police Service (MPS), on the basis of serious concerns relating to the premises undermining the following licensing objectives;

- .The prevention of crime and disorder
- .Public Safety
- .The Prevention of Public Nuisance
- .The Protection of Children from Harm

On Sunday 4th September 2022 at 01:26hrs, a passing member of the public called police stating that a group of people were fighting outside Café La Lavella. Upon police arrival, a male victim was found to have a laceration above his right eye and needed to be transported to hospital to receive medical treatment. Neither the police nor the ambulance service were called by staff from the venue.

After the above incident, On Thursday 8th September 2022, officers from the South West Licensing Team held a meeting with Mr Mitrofan at Café La Lavella. The Police pointed out to him that he must not be operating after his authorised times on the licence and should he ignore this, it could result in his premises licence being reviewed. Officers went through and explained each and every condition on Mr. Mitrofan's licence, as well explaining the licensing objectives. Furthermore, he was told to ensure that all of his staff at the venue were also aware of the licensing conditions.

This was followed up by an email from officers to Mr Mitrofan. The email and a statement from the officer will follow in further evidence.

It appears that very little notice was taken of this early intervention made by police, as Mr Mitrofan continued to operate after hours along with holding live music events, which he advertised within the premises with two phone numbers shown for booking.

Mr Mitrofan does not have regulated entertainment on his premises licence.

Further information was received from a Police Community Support Officer in regards to late night opening and live music events for the weekend of 24th, 25th and 26th February 2023. The police licensing officers attended the venue and spoke to Mr Mitrofan on the phone as he was not on the premises, he was warned not to go ahead with the events as he would be breaching his licence.

Despite this warning, Police officers attended the venue at approximately 00:40hrs on 25th February and the premises was still open with live music playing.

Mr Mitrofan was present and spoken to, he told officers he had a licence to play music and showed them an invoice from PPL PRS. The attending officers noted the information and passed it onto me. This interaction will be covered in a written statement from the attending officer who spoke to Mr Mitrofan.

On 26th February at approximately 00:10hrs, live music again, operating after hours again, fireworks being set off on two occasions outside the venue on the public highway, this was witnessed by an officer from the noise and nuisance team at Merton Council. The venue was witnessed being finally closed at approximately 06:46hrs by Merton council CCTV operators.

The music events were advertised on Facebook from an account by the name of Costy Mitrofan to Romani in Croydon, the music group being in the name of,

Libanezu George and his orchestra. I believe the account of Costy Mitrofan to be that of Mr Constantin Mitrofan.

There are many videos online showing these events, including video's showing young children present. One of the videos shows a child of approximately 2/3 years of age being held by an adult and another of approximately 6 years of age standing by the counter, this was on 18th of February 2023 at 23:48hrs.

On Friday 03rd March 2023 at approximately 13:50hrs, I phoned Mr Mitrofan and advised him not to carry out any music events as his licence did not allow this activity to take place, I also advised him to keep to his operating hours as stated on his licence.

Mr Mitrofan stated that he had a licence for music to take place as he had contacted a company to buy the licence. I explained that this did not give him permission to have music events as it is not on his premises licence.

I followed this up on an email to Mr Mitrofan, he responded by showing a copy of an invoice from PPL PRS, again I explained that did not stand as it was not on his premises licence issued by Merton Council, he would need to apply to make a variation on said licence.

The conversation did not seem to make a difference to Mr Mitrofan, he continued to hold live music events, an event was held on Saturday 04th of March 2023, this was witnessed by noise and nuisance officers from Merton Council at approximately 02:00hrs. This will be covered in the way of written statement from the attending officer.

I reserve the right to submit further evidence to support this review prior to any hearing, this will be in the form of written statements from witnesses and digital footage.

It is clear that the premises licence holder has no regard for upholding the licensing objectives, nor did he take notice of the advice/warnings from police to stick to his licence conditions.

The Metropolitan Police South West Licensing Team seek for revocation of premises licence, LN/000001917



LICENSING ACT 2003

Part A Premises licence

Premises licence number

LN/000001917

Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description

**Cafe La Lavella
63 London Road
Morden
SM4 5HT**

Where the licence is time limited, the dates

Not applicable

The opening hours of the premises

Monday	11:00	-	00:00
Tuesday	11:00	-	00:00
Wednesday	11:00	-	00:00
Thursday	11:00	-	00:00
Friday	11:00	-	00:00
Saturday	11:00	-	00:00
Sunday	11:00	-	23:00

Sale & supplies of alcohol, whether these are on and/or off supplies

On the premises



Licensable activities and permitted times authorised by the licence

Alcohol Sales

On the premises

Monday	11:00	-	23:00
Tuesday	11:00	-	23:00
Wednesday	11:00	-	23:00
Thursday	11:00	-	23:00
Friday	11:00	-	23:00
Saturday	11:00	-	23:00
Sunday	11:00	-	23:00

Late Night Refreshment

Indoors

Monday	23:00	-	00:00
Tuesday	23:00	-	00:00
Wednesday	23:00	-	00:00
Thursday	23:00	-	00:00
Friday	23:00	-	00:00
Saturday	23:00	-	00:00
Sunday		-	



Part 2

Name, (registered) address, telephone number of holder(s) of premises licence

Constantin Mitrofan

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Registered number of holder, ie company number, charity number etc.

None

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Constantin Mitrofan

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Issuing authority and licence number of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

London Borough of Merton [REDACTED]

ANNEX 1 TABLE OF MANDATORY CONDITIONS UNDER THE LICENSING ACT 2003

1. That no supply of alcohol may be made under the premises licence
(a) at a time when there is no designated premises supervisor in respect of the premises licence, or
(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. That every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. Where one or more individuals must be at the premises to carry out a security activity, each such individual must be licensed by the Security Industry Authority by a licence granted under the Private Security Industry Act 2001 or entitled to carry out that activity by virtue of section 4 of the Private Security Industry Act 2001.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises –
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to –
 - i. drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - i. drink as much alcohol as possible (whether within a time limit or otherwise);
 - (a) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (b) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (c) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (d) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).



5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -

- (a) a holographic mark, or
- (b) an ultraviolet feature.

7. The responsible person must ensure that -

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

8. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

For the purposes of the condition set out in paragraph 1—

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

where -

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or



(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

Where the permitted price given by paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

9. The admission of children to the exhibition of any film is to be restricted in accordance with any recommendation made by the relevant film classification body or relevant licensing authority.

Annex 2

Conditions consistent with the Operating Schedule

1. The sale by retail of alcohol is restricted to persons taking table meals there and for consumption by such a person as an ancillary to his/her meal.
2. There shall be no vertical drinking.
3. Staff will be trained regularly in promoting licensing provisions.
4. A CCTV system shall be in place, recordings from which will be available for a minimum of 31 days and be made available to a police officer or authorised officer on request, subject to the provisions of Data Protection legislation.
5. A fully functional age verification policy will be in place and staff will be trained in its operation.
6. An incident book will be kept in which all incidents of crime and disorder will be recorded. this will include refused sales of alcohol. The book will be made available to authorised officers of the council or the police on request.

Annex 3

Conditions attached after a hearing by the licensing authority

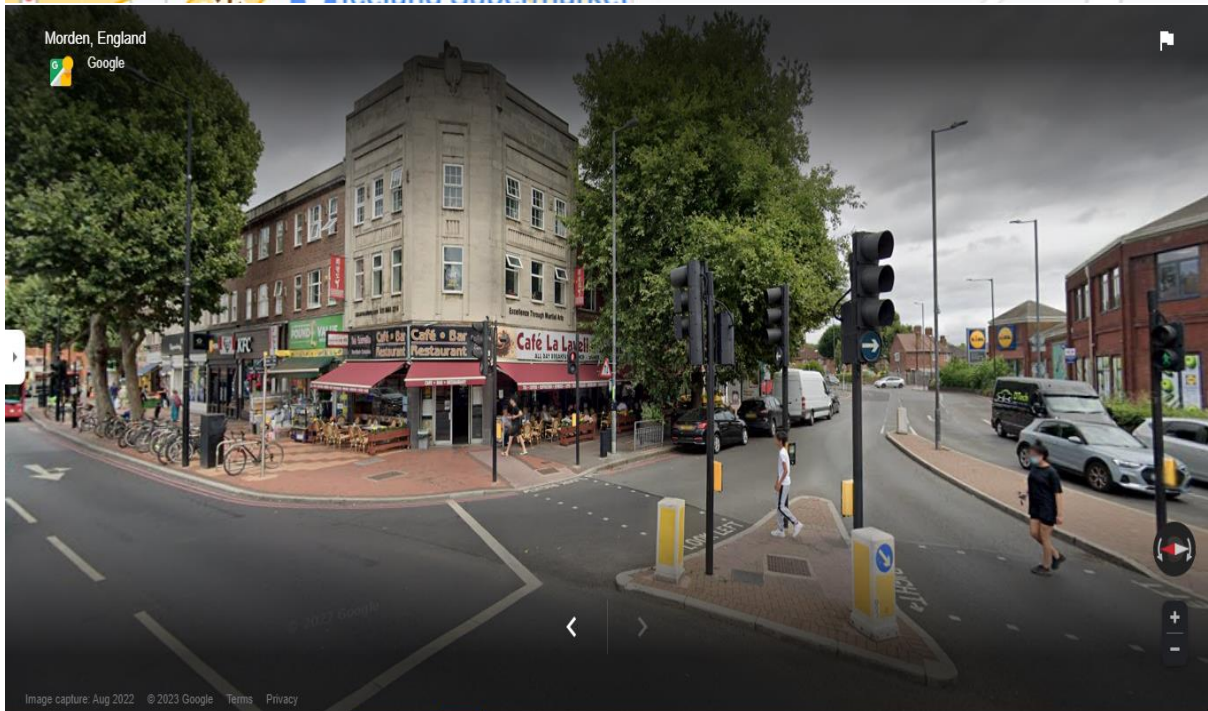
NOT APPLICABLE

Annex 4

Premises Plan: Drawing '017.13/01' of 15/08/2013.

Café La Lavella – 63 London Road, Morden, SM4 5HT.

Supplementary Evidence – Standard Review Of Premises Licence – Section 51 Of The Licensing Act 2003.



WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

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Statement of: Avril O'Brien

Age if under 18: 0 18 (if over 18 insert 'over 18') Occupation: Police Constable

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

Witness Signature:



Date:

My name is Avril O'Brien, I am a police officer with The Metropolitan Police service currently attached to The South West Borough Command Unit in the licensing department. In my current position I cover the borough of Merton, looking after the licensed premises and ensuring the licensing objectives are upheld.

This statement relates to Café La Lavella, 63 London Road, Morden, SM4 5HT, the venue first came to police attention on 04th September 2022, a call was made to police by a member of the public at 01:26hrs stating that there was a group of people fighting outside the venue, upon police arrival, they found an intoxicated male with a laceration above his right eye. He informed officers at scene that he had been approached by the suspect inside the venue, the suspect put his arm around his neck and asked him to go outside, whilst outside, the suspect has punched him to the face and left the scene. Café La Lavella should have been closed at midnight, the licence was breached and as a result there were intoxicated customers taking their fight into the street. After this incident, PC Loizou attended the venue and spoke to Mr Constantin Mitrofan (Premises licence holder) about the incident, this is covered in the statement of PC Loizou.

The South West licensing team were informed by Police Community Support Officer Dickson that Café La Lavella was operating after their permitted hours with live music, it was said that they had been known to be open until 06:00hrs some mornings.

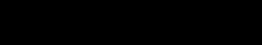
After hearing this information, PC Lelas attended the venue on 24th of February 2023 to speak to Mr Mitrofan, he was not present and so she managed to get hold of him by phone. She advised Mr Mitrofan not to breach his licence by holding music events after hours and if he did so he could be taken to a review of his licence.

On 24/02/23 at approximately 00:40hrs, officers attended the venue, it was still open with live music, customers inside and outside drinking. Mr Mitrofan was spoken to and told that he was breaching his licence by staying open past midnight, Mr Mitrofan had told PC Anderson that the music had stopped and people were leaving, however this did not appear to be the case.

On Saturday 25th February 2023 into Sunday 26th of February 2023, the venue was observed by Merton Council CCTV cameras to be open after hours again, fireworks being let off on the public footpath outside the venue at 00:18hrs, a large crowd gathering, a child of approximately six years old present and Mr Mitrofan filming on his mobile device.

People are seen to be leaving the venue at approximately 06:10hrs, the disco lights are still on and people can still be seen inside.

Witness Signature:



Signature Witnessed by Signature:.....

Continuation of Statement of:

The breaches continued, on Sunday 05th March 2023 at approximately 02:00hrs the venue was still open and operating, this was witnessed by noise & nuisance officers from Merton Council.

On Saturday 11th of March 2023 at approximately 00:20hrs, myself and PC Lelas attended Café La Lavella, the venue was still open, customers consuming alcohol, live music playing that could be heard from down the street, there was also young children inside the premises, one an approximate age of two years old.

Mr Mitrofan stated that he was open late because it was his birthday and this was ok. It was explained that he should have closed at midnight, however Mr Mitrofan did not seem to care. I advised him that the music should stop and customers should leave. I stayed on scene until approximately 00:45hrs, many people turned up to enter the premises, they were told it was closed by a male stood by the door, these customers seemed confused as to why the venue was closing early, clearly showing that customers are used to being in the venue until the early hours.

I do not believe that Mr Mitrofan will run the business in a manner that upholds the licensing objectives, he has ignored many warnings, intervention and will do what he wants.

Mr Mitrofan has total disregard for the licensing act as he continually fails to promote the licensing objectives.

Mr Mitrofan has shown that he cannot manage the premises as expected of such a person with the responsibility of a premises licence holder and designated premises supervisor.

It is clear that Mr Mitrofan fails to operate the premise in accordance with its premises licence.

In this case, The Metropolitan Police Service seeks revocation of the premises licence.



Witness Signature: 

Signature Witnessed by Signature:

STATEMENT OF WITNESS*(Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9)*

URN

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Statement of: Band E Derek Dickson

Age if under 18: Over 18

Occupation: Police officer

This statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature:



Date: 01 Mar 2023

I am PCSO 7131SW Derek Dickson i am posted on Lower Morden SNT i have been on this team for 8 years. This statement refers to incidents which have happened when i have been off duty as I live very local to the incident location often meet up with friends to catch up.

The location is Café La LAVELLA 63 LONDON RD MORDEN SM4 5HT

As stated above i have been a regular customer for several years , the original owners sold some of the business to a male known as Constantine MITROFAN approximately in July 2022, this partial owner has slowly changed how the café operated first selling alcohol without food to customers which i was sure was part of the licencing agreement. He then started holding live music events until the early hours of the morning approx. 6am most weekends he advertised this by putting posters up in the café.

I was later informed by a customer that he had been open all night and has been entertaining/selling alcohol to his mates.

the breach of licencing regulations have continued to this current weekend of 24th,25th and the 26/02/2023 all information has been passed on to the licencing officers .

I have also received information that Mr MITROFAN has been paying his staff cash in hand and allowing them to claim benefits and not declaring any national insurance or tax.

This information was received from a member of staff whom did not want to work under those conditions and decided to leave he wished to remain anonymous.

I believe Mr MITROFAN has no regard for the law and will continue to behave as if the rules do not apply to him. I am willing to attend court and give evidence if necessary.

Signature:



Signature Witnessed by:

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

[] [] [] []

Statement of: Thomas ANDERSON

Age if under 18: Over 18 (if over 18 insert 'over 18') Occupation: POLICE CONSTABLE

This statement (consisting of 1 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false. or do not believe to be true.

Witness Signature: [Redacted] Date: 08/03/2023

This is a statement in relation to a visit of a commercial premises I know to be "CAFÉ LA LAVELLA" on behalf of the South West Licencing Team.

On Saturday 25th FEBRUARY, 2023. I was, on duty in plain clothes assigned to an unmarked police vehicle with the callsign SW110 Nights. I was paired with PC OKAFOR 1618SW who was also in plain clothes.

At around 0040 we attended CAFÉ LA LAVELLA which is located at 63 LONDON ROAD, MORDEN after the South West licencing team had concerns that they may have been breaching their licencing conditions which are to not play live or recorded music and to close at midnight. Upon approaching the venue, I noticed outside the venue were numerous people of adult age drinking and smoking. As I got closer, I could see that within the glasses was, what I believe to be alcohol. Also, when approaching the venue, I could see inside the venue through the window and noticed there was a party ongoing, this had music playing, party lighting, people eating, drinking and dancing.

As I approached the front door which had a sign saying "PRIVATE PARTY", I activated my body worn video and saw a male standing by the door, he was not interacting with the people outside, I believed he was a security guard. I approached him and identified myself as a police officer with my warrant card and asked if I could speak with the owner. He showed me to a male standing behind me who confirmed he was the owner. I showed the male my warrant card and informed him I was a police officer and asked if I could speak to him away from the music. I asked the male who I now know to be Constantin MITROFAN if he was aware if he was in breach of his licence conditions, MITROFAN said that the music had stopped and people were leaving even though it was clear they wasn't.

I then made him aware of his conditions by saying something along the lines of "Just so you're aware, your licence is to close at 0000 not to serve alcohol to people standing but there are people drinking and standing. Not to play live or recorded music" MITROFAN then interrupted and said that he had applied for a licence to play music and showed me an invoice from PPL PRS. I was not educated in licencing so was unsure what it was. I took the details of him and the invoice to pass onto the licencing team. Shortly after I left the venue and relayed the information to the licencing team via email. The whole visit took around 5 minutes. He was asked to ensure it was all closed as soon as possible.

During the visit, I had my body worn video activated. I exhibit this footage as TRA/01.

Witness Signature: [Redacted]

Signature Witnessed by Signature:

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates’ Courts Act 1980, s.5B

URN

Statement of: PC Natali LELAS 3424SW

Age if under 18: Over (if over 18 insert 'over 18') Occupation: Police Officer

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

Witness Signature: ...PC Natali Lelas 3424SW..... Date: 16/03/2023

This statement refers to when I attended Café La Lavella, 63 London Road, Morden, SM4 5HT with A/PS SAHEBALLY 1461SW, to conduct a Licensing visit following intelligence that had been received that the premises had been opening past operating hours and playing loud music until the early hours in the mornings every Friday and Saturday nights. On Arrival I noticed on the windows there was a paper sign advertising ‘Live Music every Friday & Saturday for reservations call: 02086870070 07563869802’ these signs were on each window and inside the premises on the counter. I spoke to a female member of staff, introduced myself from the Met Police Licensing Team and needed to speak with the manager. She advised me that he was not there, I asked to then speak to him on the phone however she was reluctant and stated he doesn’t speak a lot of English and would call him for me.

I spoke with the owner named Constatine and explained about the intelligence that we had received and as to why he was advertising Live Music. He stated that he has recently bought the premise and the previous owner advised him that he does have a licence to do this. I explained that this was not the case, and explained the process that he would need to do to apply for a variation on the premises licence, if he wishes to extend this hours. I also advised him that this would need to be agreed with all responsible authorities. He stated that he has already paid to have this on this licence with an external company. I told him that, that is not the correct way.

I asked him about the opening past his operating hours, he stated that he was allowed to do this, I stated that my colleague had already spoken to him already about these concerns. He advised me that he would not open past midnight on the weekend. I advised him that he did after being warned and advised several times, his premises licence may be taken to review.

Over the weekend the premises were monitored by Merton CCTV, who advised that the premises was open past midnight on both days, with fireworks being let off outside, and customers inside drinking and music being played loudly.

On Friday 10th March 2023 PC Avril O’Brien 3406SW and I, attended the premises at 0015 hours. The premises was still open, with approximately 30 customers inside drinking and eating. There was live music being played which as very loud, including a disco ball and lighting. On entering the premises we saw the owner who stepped outside with us to talk, we advised him that his premises licence does not allow him to operate past midnight. He stated

Witness Signature:PC Natali Lelas 3424SW.....

Signature Witnessed by Signature:.....

Continuation of Statement of:

he was allowed and it was his birthday and his family was in there celebrating. There were several members of staff in there. We advised Constatine that he cannot do this and should close. Again we explained the processes of a Variation to the premised licence and Temporary Event Notices. He then went inside and advised that he needs to close. The band playing the music packed up and left quickly.

Whilst we was standing outside, I noticed there were children inside the premises. Approximately 10 minutes later two uniforms police officers who were on foot patrol walked past and stayed with us for support. We all entered the premises and began encouraging customers to leave. Many customers were confused as to why they have to close and to leave them to continue. Many customers were still leaving and re-entering the premises after being told they need to leave.

Approximately 40 minutes later most of the customer had left. Constantine stated that the remaining people inside were his family and they will be staying inside even if he slept in there. He stated that he pays the rent and if he wants he will put his mattress inside and sleep in there.

We explained that because of this, and after being advised and warned about these concerns, we would be submitting paperwork to the Licensing team at Merton Council to review his premises licence.

Witness Signature:...PC Natali Lelas 3424SW.....

Signature Witnessed by Signature:.....

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

Statement of: Belinda Loizou

Age if under 18: Over 18 (if over 18 insert 'over 18') Occupation: Police Officer

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

Witness Signature:  Date: 04/04/2023

I make this statement in relation to the day I attended the premises of Cafe La Lavella of 63 London Road Morden SM4 5HT on Thursday 8th September 2022 at 1100 hours in the company of Police Staff Vivien Everett. I am a Police Licensing Officer that covers the borough of Wandsworth and Merton. On Thursday 8th September 2022 I was on duty in plain clothes, my tour of duty started at 0900 hours and due to finish at 1700 hours.

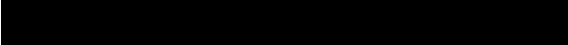
I attended the premises and met with a male who I now know to be Mr Constantine MITOFAN, I had previously contacted Mr MITOFAN by phone to arrange meeting with him at the premises to discuss a GBH incident that occurred at the premises on Sunday 4th September 2022 at 0115 hours when Mr MITOFAN was on duty as the manager of the premises. My understanding of the incident is customers were drinking alcohol inside the premises when the premises should have been closed by 23:00. A verbal argument occurred between two male customers which led to a fight outside. This resulted in male victim receiving a serious injury.

During my meeting with Mr MITOFAN he confirmed he is now the new owner of the business and in the process of transferring the premises licence into his name. He was present and fully aware of the GBH incident that had occurred. We discussed the premises has one CCTV camera inside and Mr MITOFAN confirmed he was in the process of implementing a new CCTV system which will provide full coverage of the inside and outside the premises covering all of the seating areas. I also discussed and advised as the new owner and soon to be premises licence holder he is responsible to uphold the four licensing objectives being prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of child from harm and confirmed the following to Mr MITOFAN to ensure he is fully aware of the hours and supply of alcohol attached to the premises licence as follows:

The premises is a restaurant and alcohol is served with a meal only on the premises. Supply of Alcohol on the premises only Monday to Sunday 11:00 to 23:00.

Premises opening hours Monday to Sunday 11:00 to 23:00.
As discussed the outside seating area will be cleared of customers by 22:00 hours with no glass.

I advised Mr MITOFAN it is paramount he and all staff to adhere to the conditions set out in the premises licence to help to prevent further crime and disorder occurring at the premises which will contribute to the safe running of the business by keeping customers and staff safe. The SW Licensing team will continue working with him and have taken a stepped approach in this matter. If there is an increase in crime and that continues to rise the next stage would be a full review of the premises licence.

Witness Signature: 

Signature Witnessed by Signature:

Continuation of Statement of: Belinda Loizou

This was followed this up with an email sent to Mr MITOFAN on the 15th September 2022. I have made an error with the opening times of the premises in reference to my communication with Mr MITOFAN, the correct opening hours of the premises are Monday to Saturday 11:00 to 00:00 hours and Sundays 11:00 to 23:00 hours.



Witness Signature: ..



.....

Signature Witnessed by Signature:

04/09/2022 05:11

PC 258606 [REDACTED]

Offence - ABH

Location- Cafe LaLavella SM5

Officers in attendance- SW21N 2010SW 2731SW

CAD - 621/04sep22

Circumstances

Officers attended CAD which initially came out as a large group of people were fighting, on arrival police were met with a male VIW1 [REDACTED] who had a laceration above his right eye which had caused a split in his eyebrow, [REDACTED] was in company with a group of his friends and also his girlfriend VIW2 [REDACTED], [REDACTED] is the informant for this incident and VIW3 [REDACTED] who a friend of [REDACTED] had stated he also was a witness to this incident.

This whole group stated that [REDACTED] had been punched in the face and the male who done this had since left.

Officers spoke with [REDACTED] who stated that this unknown male SUS1 however officers only have an Instagram handle at this point to ID [REDACTED] due to this male attempting to make friends with [REDACTED] and his group prior to the incident.

This male put his arm around [REDACTED] neck, [REDACTED] pushed him away as he didn't know him. SUS1 then said something along the lines of "let's go outside", [REDACTED] said he then went outside of the cafe and at this point stated that SUS1 punched him in the face with no other details in between.

Officers then went inside to conduct CCTV enquiries and to speak with further independent witnesses. Officers spoke with the bar owner VIW4 Constantin Mitrofan and a member of bar staff [REDACTED], Both said [REDACTED] has had some sort of dispute with the suspect over him potentially trying to chat up his girlfriend.

This has led to a verbal altercation following which SUS1 has left and gone outside. VIW1 has tried to follow him but been held back by VIW2 and the owner following which he has broken free and gone out a different door and gone to confront SUS1, his friends have followed him, and both owner and staff stated SUS1 has backed off then punched viw in an attempt to defend himself.

Between [REDACTED], his girlfriend and friend their story didn't appear to match up. VIW2 stated that she was trying to hold her boyfriend back and was struggling to hold him back. [REDACTED] stated to officers that he went outside to talk with the suspect.

CCTV enquiries were conducted, a camera only covered the till area and the bar, the owner stated that he had recently taken over the cafe and is currently in the process of reinstalling new cameras. There are no other cameras which cover the altercation. Merton CCTV confirmed no other cameras were able to see and they couldn't identify the altercation on their cameras.

Neither the bar manager or bar staff have contact details for SUS1.

No blood was located outside of the venue and therefore no scene was put in place under the authority of SW1.

VIW1 was transported to St Heliers A&E to be checked over due to fears of concussion.

Officers will make contact with the cafe during the day to establish if there were any further witnesses that have since come forward with information.

Statements weren't taken at the scene due to the group being under the influence.

SINGLE INCIDENT PRINTOUT
PAGE 1

INCIDENT No. 621:04SEP22

INCIDENT No. 621 entered at 01:26 on 04SEP22 by CHS/CHS in CCC/IR

INCIDENT WAS ENTERED "EXTERNALLY"

Rec By :E (Emergency)

Call Tel : [REDACTED]

Call Name: [REDACTED]

Call Type:W (Witness)

Call Mail:

Cntct Tel:

Att Locn :(2010SW) CAFE LA LAVELLA, 63 LONDON ROAD, MORDEN

Map :Page 200, Grid Reference 525691,168559

GPA :VR Division: [SWE:SNW]

Inc Locn :OPP MORDEN LT STN

Map :Page 200, Grid Reference 525625,168625

GPA :VR Division: [SWE:SNW]

Call Locn:OPP MORDEN LT STN

Map :Page 200, Grid Reference 525625,168625

GPA :VR Division: [SWE:SNW]

Opening 1:001 (Violence Against The Person)

Open Text:

Urgency :I (Immediate)

Major :

VRMs :

Proposal :(CCC at 01:28/04SEP22):TJ3S TJ3W TJ100E TJ3N TJ400A U452

SL780A SL780

Assigned :

DeAssign :

TOA :01:32:19/04SEP22

DO Name :

DO Tel :

CRIME REF:1411006/22

Class 1 :001 (Violence Against The Person)

Qual 1 :701 (Assistance Requested / Rendered)

Res 1 :710 (Crime Entry/Updated)

Clo Text :

O Dealing:2010SW

Metops :

CHS Demid:20220904025650

Linked :explicitly to 660:04SEP22

Linked :implicitly to (none)

Location Field : (For previous Incidents at this location use

CONTINUED ...

SUBJECT TO FREEDOM OF INFORMATION ACT AND DATA PROTECTION ACT
NO UNAUTHORISED DISCLOSURE-DISPOSE OF AS CONFIDENTIAL WASTE.

SINGLE INCIDENT PRINTOUT
PAGE 2

INCIDENT No. 621:04SEP22

action:LCD or LCL - use DARIS to extend search)
Gazetteer Comments : (May have existed or altered since Incident creation
-
Use MSS SMF:SPECARCHIVE)

Location Based Comments

** Attendance Location **

LONDON RD,MORDEN (1 - 50)

* PRIORITY RED ROUTE NO. 9

LONDON RD -

**OPERATION IGLA* - SITE *3016* -

OPS *MUST* SEE SS/CCC/T38, LIN/ID/T39, SS/ID/T75

4 LONDON RD: "CHANGES MORDEN LTD" -

SITE HAZARD THESE PREMISES HAVE A FRAGILE ROOF & OTHER SITE HAZARD(S)

LONDON RD,MORDEN (51 - 100)

LONDON RD -

OPERATION IGLA - SITE *3016* -

OPS *MUST* SEE SS/CCC/T38, LIN/ID/T39, SS/ID/T75

[REDACTED]

LONDON RD,MORDEN (101 - 200)

SEE [REDACTED] " FOR ALL RELEVANT COMMENTS

LONDON RD -

OPERATION IGLA - SITE *3016* -

OPS *MUST* SEE SS/CCC/T38, LIN/ID/T39, SS/ID/T75

[REDACTED]

LONDON RD,MORDEN (201 - 275)

* PRIORITY RED ROUTE NO. 9

LONDON RD -

OPERATION IGLA - SITE *3016* -

OPS *MUST* SEE SS/CCC/T38, LIN/ID/T39, SS/ID/T75

LONDON RD,MORDEN (276 - 300)

* PRIORITY RED ROUTE NO. 9

LONDON RD - SEE "[REDACTED]

LONDON RD -

OPERATION IGLA - SITE *3016* -

OPS *MUST* SEE SS/CCC/T38, LIN/ID/T39, SS/ID/T75

CONTINUED ...

SUBJECT TO FREEDOM OF INFORMATION ACT AND DATA PROTECTION ACT
NO UNAUTHORISED DISCLOSURE-DISPOSE OF AS CONFIDENTIAL WASTE.

SINGLE INCIDENT PRINTOUT
PAGE 3

INCIDENT No. 621:04SEP22

** Incident and Caller Location **

MORDEN LT STN,MORDEN
LONDON RD, OPPOSITE ABERCONWAY RD, (NORTHERN LINE)
NOTE: MORDEN SOUTH BR STN IN LONDON RD, NEAR ROSEDENE AVE
MORDEN RD TRAM STOP IS SITUATED AT DORSET RD/MORDEN RD (SEPERATE
LOC.)

Remarks:

Time Date Opid Termid

04SEP22 CHS CHS (pre 1st routing)
CREATED IN: CHS AT: 2022-09-04 01:26:32 CAD AT: 2022-09-04
01:28:01

=====

ENTERED BY: CHS (c742193) AT: 2022-09-04 01:28:01
^INFT MASIVE FIGHT O/S LAVELLA TURKISH CAF
6 MALES AND OTHERS TRYING TO PULL THEM OFF NO WEAPONS SEEN
01:28:17 04SEP22 741109 H2710 #2
^SWE - CIRC #1
01:29:55 04SEP22 741112 H2712 #3
^CCTV - SCANNING
01:30:29 04SEP22 741112 H2712 #4
^CCTV - 6-8 PEOPLE O/S NO FIGHTING SEEN SEEM TO BE ROWDY
01:33:33 04SEP22 741112 H2712 #5
^2731SW - GOT A M WITH BLEEDING EYE, LOOKING FOR SUSPECTS
01:34:06 04SEP22 741112 H2712 #6
^2731SW - 2 M'S --> ROUNDABOUT... CCTV TO MAKE ENQS, BELIEVE 1X
IC3 M
01:34:58 04SEP22 741112 H2712 #7
^2010SW - M WITH HEAD INJURIE, A/A 23 C&B
01:35:50 04SEP22 741112 H2712 #8
LAS^MPS
Organisation:LONDON AMBULANCE SERVICE

Assistance:AMBULANCE

Location:
Mapref:200/525691,168559
CAFE LA LAVELLA, 63 LONDON ROAD, MORDEN
MPS Contact :SWE
Number :SEE FILE
Caller:
Number:
Unit: Assigned:Y (Y/N) On Scene:Y (Y/N) Attending:Y (Y/N/U) ETA:

Mins

Casualty 1 Chief Complaint:HEAD INJURY
Approx Age: 23 :Y (Y)ears (M)onths (W)eeks (D)ays Sex:M
(M/F/U)
Severe Bleeding:N (Y/N/U) Conscious:Y (Y/N/U) Breathing:Y
(Y/N/U)

SINGLE INCIDENT PRINTOUT
PAGE 4

INCIDENT No. 621:04SEP22

Time Date Opid Termid

PATIENT CONTACT NUMBER:/ PR RADIO
NUMBER:412665
23YR OLD M ASSAULT BLEEDING ABOVE EYE YOUR ATTENDANCE PLS
01:35:51 04SEP22 LAS #9
MPS^LAS MESSAGE PROCESSED SUCCESSFULLY - REF:LAS/394/04092022
01:50:21 04SEP22 741112 H2712 #10
LAS^MPS
Organisation:LONDON AMBULANCE SERVICE
Action :INFORMATION
UNIT: ASSIGNED:Y (Y/N) ON SCENE:Y (Y/N) ATTENDING:Y (Y/N/U) ETA:

MINS

REMARKS :
ANY ETA OR UPDATES PLS?
02:04:14 04SEP22 741112 H2712 #11
LAS^MPS
Organisation:LONDON AMBULANCE SERVICE
Action :INFORMATION
UNIT: ASSIGNED:Y (Y/N) ON SCENE:Y (Y/N) ATTENDING:Y (Y/N/U) ETA:

MINS

REMARKS :
PLS CANCEL. WILL TRANSPORT OURSELVES
02:04:30 04SEP22 741112 H2712 #12
^2731SW - CANX LAS WILL TRANSPORT TO ST HELLIERS OURSELVES
04:04:35 04SEP22 741112 H2712 #13
^2010SW - CRIS FOR ABH
05:15:52 04SEP22 258606 #14
ENTERED BY: CADL (p258606) AT: 2022-09-04 05:15:52
ABH cris 1411006/22

Previous Actions:

Time Date Opid Termid ACTION

01:28:01 04SEP22 CHS CCC:CCB O() 001:VIOLENCE AGAINST THE PERSON
" " " " PI
01:28:05 " 741109 DIV:SWE AK
01:28:19 " " " AV/SW21N
01:28:21 " CHS CCC:CCB CR()
" " " " CT()
" " " " LOCC() ()
" " " " LOCI() ()
" " " " PI
01:28:22 " 741109 DIV:SWE AV/SW20N
01:28:23 " " " AK
01:29:37 " CHS CCC:CCB LOCA(OPP MORDEN LT STN) (VR)

CONTINUED ...

SUBJECT TO FREEDOM OF INFORMATION ACT AND DATA PROTECTION ACT

SINGLE INCIDENT PRINTOUT
PAGE 5

INCIDENT No. 621:04SEP22

Time	Date	Opid	Termid	ACTION
01:29:37	04SEP22	"	CCC:CCB	PI
01:29:39	"	741112	DIV:SWE	AK
01:32:19	"	"	"	TOA/SW21N
01:33:49	"	256770	CCC:CADL	VI/p256770
01:35:19	"	"	"	VI/p256770
01:35:50	"	741112	DIV:SWE	EXP/LAS
01:35:51	"	"	"	AK
"	"	"	"	AK
"	"	LAS	CCC:LAS	AK
"	"	741112	DIV:SWE	AK
01:35:52	"	"	"	AK
"	"	"	"	AK
"	"	"	"	AK
"	"	"	"	AK
01:36:11	"	"	"	TOA/SW20N
01:48:37	"	256770	CCC:CADL	VI/p256770
01:50:21	"	741112	DIV:SWE	EXP/LAS/INFO
"	"	LAS	CCC:LAS	AK
01:50:22	"	741112	DIV:SWE	AK
"	"	"	"	AK
02:04:14	"	"	"	EXP/LAS/INFO
"	"	LAS	CCC:LAS	AK
02:04:15	"	741112	DIV:SWE	AK
"	"	"	"	AK
"	"	"	"	AK
02:25:53	"	741109	"	LOCA (CAFE LA LAVELLA, 63 LONDON ROAD, MORDE N) (VR)
02:54:43	"	258606	CCC:CADL	VI/p258606
02:58:40	"	256770	"	VI/p256770
04:04:39	"	741112	DIV:SWE	OD ()
04:04:43	"	"	"	AC ()
"	"	"	"	AQ ()
"	"	"	"	AR ()
04:04:47	"	"	"	LOCA ((RES) CAFE LA LAVELLA, 63 LONDON ROAD, MORDEN) (VR)
04:04:48	"	"	"	DA/SW21N SW20N (CU)
04:04:49	"	"	"	PS/CM
04:13:09	"	720800	"	AWT/CREF
05:15:35	"	258606	CCC:CADL	VI/p258606
05:15:52	"	"	"	PI
05:15:54	"	"	"	VI/p258606

CONTINUED ...

SUBJECT TO FREEDOM OF INFORMATION ACT AND DATA PROTECTION ACT
NO UNAUTHORISED DISCLOSURE-DISPOSE OF AS CONFIDENTIAL WASTE.

Merton Council
Licensing Sub-Committee
5 May 2023
Supplementary agenda

5 Notice of Determination

1 - 10

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London Borough of Merton



Licensing Act 2003 Notice of Determination

Date of issue of this notice: 12 May 2023

Subject: Café La Lavella, 63 London Road, Morden, SM4 5HT

Having considered relevant applications, notices and representations together with any other relevant information submitted to any Hearing held on this matter the Licensing Authority has made the determination set out in Annex A. Reasons for the determination are also set out in Annex A.

Parties to hearings have the right to appeal against decisions of the Licensing Authority. These rights are set out in Schedule 5 of the Licensing Act 2003 and Chapter 12 of the Amended Guidance issued by the Home Secretary (April 2018). Chapter 12 of the guidance is attached as Annex B to this notice.

For enquiries about this matter please contact

Democratic Services
Civic Centre
London Road
Morden
Surrey
SM4 5DX

Telephone: 020 8545 3616

Email: democratic.services@merton.gov.uk

Useful documents:

Licensing Act 2003

<http://www.hmso.gov.uk/acts/acts2003/20030017.htm>

Guidance issued by the Home Secretary

<http://www.homeoffice.gov.uk/>

Regulations issued by the Secretary of State for Culture, Media and Sport

http://www.culture.gov.uk/alcohol_and_entertainment/lic_act_reg.htm

Merton's Statement of Licensing policy

<http://www.merton.gov.uk/licensing>

Annex A

Determination

The Licensing Sub-Committee considered an application by the Metropolitan Police for a Review of the Premises Licence of “Café La Lavella” at 63 London Road, Morden, SM4 5HT held by Constantin Mitrofan.

In discharging its functions in respect of this Summary Review, the Licensing Sub-Committee had to take such steps to promote the Licensing Objectives, have regard to the Home Office Guidance and/or the Council’s Statement of Licensing Policy, and apply relevant case law, whilst making a decision that is appropriate and proportionate, pursuant to section 52 of the Licensing Act 2003.

In determining the Review under section 52(4) of the Licensing Act 2003, the steps available to the Licensing Sub-Committee at the Review hearing were as follows:

- To modify the conditions of the Premises Licence
- To exclude a licensable activity from the scope of the Premises Licence
- To remove the designated premises supervisor
- To suspend the Premises Licence for a period not exceeding three months
- To revoke the Premises Licence.

The Licensing Sub-Committee decided to revoke the Premises Licence held Constantin Mitrofan for the premises “Café La Lavella” at 63 London Road, Morden, SM4 5HT. The reasons for this decision can be found at the end of this notice.

Licensing Sub-Committee Hearing

The Licensing Sub-Committee looked carefully at the application, its supporting papers, the Representations contained in the agenda papers and the oral evidence submitted at the hearing by all parties present.

Claire Nevin, barrister representing the Applicant (the Metropolitan Police), advised that the Metropolitan Police were seeking revocation of the Premises Licence due to clear and consistent breaches of licencing conditions by the Premises Licence holder, despite being given the opportunity to rectify his behaviour, breaches and errors, the Metropolitan Police have lost faith in the Premises Licence holder’s ability or willingness to promote the licencing objectives and comply with the authorisation in his Premises Licence.

The Metropolitan Police believe that revocation would be appropriate due to breaches of all four licencing objectives. The Licensing Sub-Committee noted that:

At 01.26am on 4 September a member of the public called police about a fight outside the premises. An intoxicated male was sent to hospital, the premises was still serving alcohol, had not attempted to call police, an ambulance or give first aid

Police pointed out that the licensee was not allowed to operate the premises outside of licenced hours, and persistence could lead to a revocation of the licence. Officers

explained every condition and objectives, to the licensee and made him fully aware of what was required of him.

The venue advertised live music events. Between 24 and 26 February the Metropolitan Police received further information of late night opening and events. Licensing officers attended again and spoke to the licensee on the phone, and again issued a warning of consequences if the conditions of the licence were not adhered to.

At 00.40 on 25 February 2023 police attended again, the premises was open and live music was causing a nuisance to the public. The police had received reports from members of the public and from Environmental Health about incidents on the previous weekend, with music played as late as 5am and drunk customers outside the venue.

4 March, 0200, further complaints of live music being played.

10 March, 0015, police attend, live music in course with customers drinking inside with Mr Mitrofan, the licensee. Mr Mitrofan claimed it was a private party for his birthday. Officers informed him that an application for review of the licence would be submitted.

It is noticeable in the video shared with the meeting that children are attending the venue after midnight, and further videos exist along with evidence on Mr Mitrofan's facebook page where he streams events.

Merton Council CCTV found the venue operating past 2am, after this latest warning.

It is clear that there is complete disregard for the conditions of the licence and the licencing objectives.

Mr Mitrofan has produced an invoice which he believes allows him to host music events. However, the invoice relates to intellectual property rights permitting a premises to play copyright music in a venue, it does not allow them to play music outside of hours. The invoice is not a silver bullet that allows him to disturb the public or operate outside of his hours, and to do so his licence would need to be varied. On 16 March, Police explained that this invoice was not permission, and explained how to apply to vary his licence to come within the law.

The latest video shared with the Licensing Sub-Committee is from 22 April, after the review application had been served and shows that the licensee continues to ignore the conditions of his licence and the licencing objectives.

Police have no faith in Constantin Mitrofan's ability to run the premises in line with objectives, given the frequent breaches. There has been no indication that he will stop and therefore the only solution is to revoke the licence.

In response to questions, Ms Nevin confirmed that:

- The Metropolitan Police had attempted to work with the licensee and take the Home Office stepped approach to engage and educate rather than move for an immediate revocation or suspension of the licence, this had however failed.
- The fireworks seen in the video appear to be lit by someone coming from the venue, but they had not identified them or their role in the business.

Mr Andrew Pickup from Environmental Health informed the Licensing Sub-Committee that Environmental Health supported the application, the premises had been staying

open later than allowed, providing regulated entertainment and been subject to noise complaints by local residents. Mr Pickup gave the following examples:

8 October 22, while working in Night Time Noise Service, on the 6th floor of Merton Civic Centre, he became aware of music from a premises and could see lights on at Café La Lavella, at approximately 2am. Bass music was clearly audible within the 6th floor office, with the windows closed. On checking the council records, he found that the premises should have been closed at midnight, with no TEN in place. He visited venue, where the manager on site admitted that they were aware closure was due at midnight.

25 February 23, Environmental Health observed fireworks on the public highway outside Café La Lavella, with 3 rounds of 20 seconds each. 30-35 people were inside and outside, with a live band still playing.

26 February 23, a noise complaint was logged from a resident, complaining that the restaurant was playing very loud music on Fridays and Saturdays and ongoing at 5am on Sunday morning.

26 February, a noise complaint from another resident, complaining that the Café had been playing music late on random nights and especially Friday until Sunday, sometimes until 5am, causing constant nuisance. The residents explained it's hard to sleep, their drunk customers are shouting, and it's unsafe to come home late from work at night.

Environmental Health Noise officers spoke with the licensee on 1 March, discussed the complaints and advised that the noise service would be monitoring the noise levels and opening hours.

5 March – 2 more complaints were received, one recorded at 00.09 and the second at 01.08 regarding loud music from the premises, this was only a few days after speaking with the licensee, the music could again be heard in the Civic Centre, a visit made at 01.50. The officer asked if Mr Mitrofan was present, explained that noise complaints had been received, and that music could be heard outside the premises. He said he was new to the business. The officer advised that he should immediately reduce the music volume and that further incidents would result in action against him.

Environmental Health are concerned that this will continue if not addressed by the Review of the Licence.

In response to questions, Mr Pickup confirmed that Environmental Health would consider other actions pending the outcome of the Licensing Sub-Committee Review and Decision, Environmental Health are prepared to issue a noise abatement notice if problems persist.

The Licensee, Constantin Mitrofan, acknowledged that the incidents had occurred and it was his responsibility. He apologised for the breaches of the conditions. He had been following the example and practice of the previous licensee/owner, he is new to the business and now learning the rules. In response to questions, Mr Mitrofan informed the Licensing Sub-Committee that:

- He had stopped live music since receiving the Notice of Review. He had a DJ at the venue on 23 April, but did not believe this constituted live music, as he thought he had his own licence.
- He had a new manager with more experience in the business who was teaching him what he needed to do.

Licensing Officer confirmed that recorded and live music are licensable activities in their own right, music played by a DJ is a licensable activity as recorded music, and there was not a licence in place for permitting it. PC O'Brien referenced the stepped approach, applied by responsible authorities, and no Police officer would apply for closure in the first instance, and that approach had been followed.

In his closing statement, Mr Mitrofan, the licensee, suggested that the complaints may come from jealous family members or friends, envious of his premises, whereas the previous owner never had any complaints and he was not doing anything new.

In his closing statement Mr Pickup, the Environmental Health officer, reiterated their view that the conditions and requirements were not being complied with and the operation was causing residents to make complaints and causing them upset. The aim of Environmental Health is to ensure the objectives for prevention of public nuisance are met, additional conditions could be applied, but the existing conditions have been disregarded, so it was not clear what additional conditions could be added that would be complied with.

In her closing statement, Claire Nevin for the Metropolitan Police, reiterated the concerns with breaches of all the licensing objectives:

- Prevention of crime and disorder – fireworks, fights, no effort to stop these incidents and fuelling them by continuing to serve alcohol is clearly a breach, and has been happening for some time.
- Public safety – fireworks on the public highway, near cars with children observing and present is an obvious breach of public safety as well as allowing people to drink till all hours of the morning. She observed that the Licensing Sub-Committee had also heard from Mr Pickup about complaints from the public, music blaring with breaches and public nuisance but it continues unabated.
- Protection of children from harm - children on the premises after midnight, near fireworks, is clearly putting children at harm.

Mr Mitrofan has suggested that he is unaware, but evidence to EH shows that he and his staff know that the closing time should be midnight. In addition, time has been spent to explain everything, surely having police turn up regularly since September 2022, should put someone on notice that something is wrong. Since March, he was told his licence would be reviewed and yet incidents have continued. He has been given every opportunity to improve. Licensing objectives are paramount. He says he didn't bring the fireworks, but in the video we can see Mr Mitrofan in a blue suit, he's filming it and live streaming it, effectively approving of the activity, you don't see him attempting to stop it happening. The copyright licence he holds is not approval to play music at all hours of the night or in a way that causes a nuisance at any time.

Metropolitan Police are of the view that additional conditions would be fruitless, the current conditions are routinely being ignored. New conditions would inevitably be breached, and we would find ourselves back here in the future.

Decision of the Licensing Sub-Committee

The Licensing Sub-Committee decided to **revoke** the Premises Licence.

Reasons

The Licensing Sub-Committee gave the following reasons for their decision:

1. There is concerning evidence of persistent incidents occurring at this venue, which have not been adequately addressed or dealt with. The case of *Daniel Thwaites v Wirral Borough Magistrates' Court (2008)* applied.
2. All licencing objectives have been breached, notably in terms of licensed hours and activities.
3. The Premises Licence holder and DPS has not heeded repeated warnings or taken advice from the Responsible Authorities, and has not shown that he properly understands the seriousness of the breaches, or fully acknowledged his complicity in them.
4. The Licensing Sub-Committee considers that revocation of the Premises License is a proportionate response to persistent breaches of conditions and objectives and the lack of competent management by the Premises License Holder. The case of *R (Bassetlaw District Council) v Worksop Magistrates' Court* considered.

Annex B

Extract from the Amended Guidance issued by the Home Secretary under Section 182 of the Licensing Act 2003 (April 2018).

13. Appeals

13.1 This chapter provides advice about entitlements to appeal in connection with various decisions made by a licensing authority under the provisions of the 2003 Act. Entitlements to appeal for parties aggrieved by decisions of the licensing authority are set out in Schedule 5 to the 2003 Act.

General

13.2 With the exception of appeals in relation to closure orders, an appeal may be made to any magistrates' court in England or Wales but it is expected that applicants would bring an appeal in a magistrates' court in the area in which they or the premises are situated.

13.3 An appeal has to be commenced by the appellant giving a notice of appeal to the designated officer for the magistrates' court within a period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision which is being appealed.

13.4 The licensing authority will always be a respondent to the appeal, but in cases where a favourable decision has been made for an applicant, licence holder, club or premises user against the representations of a responsible authority or any other person, or the objections of the chief officer of police, the Home Office (Immigration Enforcement), or local authority exercising environmental health functions, the holder of the premises or personal licence or club premises certificate or the person who gave an interim authority notice or the premises user will also be a respondent to the appeal, and the person who made the relevant representation or gave the objection will be the appellants.

13.5 Where an appeal has been made against a decision of the licensing authority, the licensing authority will in all cases be the respondent to the appeal and may call as a witness a responsible authority or any other person who made representations against the application, if it chooses to do so. For this reason, the licensing authority should consider keeping responsible authorities and others informed of developments in relation to appeals to allow them to consider their position. Provided the court considers it appropriate, the licensing authority may also call as witnesses any individual or body that they feel might assist their response to an appeal.

13.6 The court, on hearing any appeal, may review the merits of the decision on the facts and consider points of law or address both.

13.7 On determining an appeal, the court may:

- dismiss the appeal;
- substitute for the decision appealed against any other decision which could have been made by the licensing authority; or
- remit the case to the licensing authority to dispose of it in accordance with the direction of the court and make such order as to costs as it thinks fit.

All parties should be aware that the court may make an order for one party to pay another party's costs.

On any appeal, the court is not entitled to consider whether the licence holder should have been convicted of an immigration offence or been required to pay an immigration penalty, or whether they should have been granted by the Home Office permission to be in the UK.

This is because separate rights exist to appeal these matters or to have an immigration decision administratively reviewed.

Licensing policy statements and Section 182 guidance

13.8 In hearing an appeal against any decision made by a licensing authority, the magistrates' court will have regard to that licensing authority's statement of licensing policy and this Guidance. However, the court would be entitled to depart from either the statement of licensing policy or this Guidance if it considered it was justified to do so because of the individual circumstances of any case. In other words, while the court will normally consider the matter as if it were "standing in the shoes" of the licensing authority, it would be entitled to find that the licensing authority should have departed from its own policy or the Guidance because the particular circumstances would have justified such a decision.

13.9 In addition, the court is entitled to disregard any part of a licensing policy statement or this Guidance that it holds to be ultra vires the 2003 Act and therefore unlawful. The normal course for challenging a statement of licensing policy or this Guidance should be by way of judicial review, but where it is submitted to an appellate court that a statement of policy is itself ultra vires the 2003 Act and this has a direct bearing on the case before it, it would be inappropriate for the court, on accepting such a submission, to compound the original error by relying on that part of the statement of licensing policy affected.

Giving reasons for decisions

13.10 It is important that a licensing authority gives comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal. It is particularly important that reasons should also address the extent to which the decision has been made with regard to the licensing authority's statement of policy and this Guidance. Reasons should be promulgated to all the parties of any process which might give rise to an appeal under the terms of the 2003 Act.

13.11 It is important that licensing authorities also provide all parties who were party to the original hearing, but not involved directly in the appeal, with clear reasons for any subsequent decisions where appeals are settled out of court. Local residents in particular, who have attended a hearing where the decision was subject to an appeal, are likely to expect the final determination to be made by a court.

Implementing the determination of the magistrates' courts

13.12 As soon as the decision of the magistrates' court has been promulgated, licensing authorities should implement it without delay. Any attempt to delay implementation will only bring the appeal system into disrepute. Standing orders should therefore be in place that on receipt of the decision, appropriate action should be taken immediately unless ordered by the magistrates' court or a higher court to suspend such action (for example, as a result of an on-going judicial review). Except in the case of closure orders, the 2003 Act does not provide for a further appeal against the decision of the magistrates' courts and normal rules of challenging decisions of magistrates' courts will apply.

Provisional statements

13.13 To avoid confusion, it should be noted that a right of appeal only exists in respect of the terms of a provisional statement that is issued rather than one that is refused. This is because the 2003 Act does not empower a licensing authority to refuse to issue a provisional statement. After receiving and considering relevant representations, the licensing authority may only indicate, as part of the statement, that it would consider certain steps to be appropriate for the promotion of the licensing objectives when, and if, an application were made for a premises licence following the issuing of the provisional statement. Accordingly, the applicant or any person who has made relevant representations may appeal against the terms of the statement issued.

13.1 This chapter provides advice about entitlements to appeal in connection with various decisions made by a licensing authority under the provisions of the 2003 Act. Entitlements to appeal for parties aggrieved by decisions of the licensing authority are set out in Schedule 5 to the 2003 Act.

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