

LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

MONDAY, 9 MARCH 2020

PRESENT: Councillors Mandy Brar, David Cannon (Chairman) and Phil Haseler

Also in attendance: Lorraine Barnes, Feliciano Cirimele, Acting Sergeant 5717 Phil Collings, Sarah Conquest, Mr & Mrs Hamilton, Ben Higgs, Debie Pearmain, Mr Candido Rodrigues, Mr Jorge Pereira Rodrigues and Mrs Rodrigues, David Scott

Officers: David Cook, Anthony Lenaghan, Greg Nelson, David Cook and Fatima Rehman

APPOINTMENT OF CHAIRMAN

Cllr Haseler proposed Cllr Cannon to be Chairman for the Sub-Committee. This was seconded by Cllr Brar.

Resolved unanimously: That Cllr Cannon be appointed as Chairman.

APOLOGIES FOR ABSENCE

There were no apologies for absence received.

DECLARATIONS OF INTEREST

There were no declarations of interest received.

PROCEDURES FOR SUB COMMITTEE

The procedures were noted by all present.

THE TRADING STANDARDS AND LICENSING MANAGER

The Trading Standards and Licensing Manager, Greg Nelson, introduced the application for Members to consider. Mr Nelson explained that the application related to a review of the existing premises licence for the Pazzia Restaurant. Mr Nelson informed the Sub-Committee that Mr Jorge Pereira Rodrigues was the premises licence holder. Pazzia was situated at London Road, Sunninghill, Ascot SL5 0PN.

Greg Nelson explained that the Royal Borough of Windsor and Maidenhead was acting as both the licensing authority for the premises in question and as a responsible authority under the Licensing Act 2003, a responsible authority being a statutory agency or service as prescribed by the Licensing Act. He expressed the importance in ensuring a separation of responsibilities within the local authority to safeguard procedural fairness and to eliminate conflicts of interest. He explained that this had been achieved by him acting as the licensing authority, with another officer, Sarah Conquest, acting as the responsible authority.

Mr Nelson informed the Sub-Committee that that following the receipt of the application to review this premises licence there was a 28-day consultation period. During that time written representations were received from the following responsible authorities;

- Royal Borough of Windsor and Maidenhead Environmental Protection
- Royal Borough of Windsor and Maidenhead Licensing team
- Thames Valley Police

Mr Nelson said that the Sub-Committee would hear from each of these parties in due course.

Mr Nelson said that representatives of the restaurant were present, and the Sub-Committee would hear from them in due course.

Mr Nelson said that a written representation had also been submitted by Pazzia Restaurant during the consultation period. He said that this should have been included in the agenda papers and apologised that it had not been, but he said that it had been distributed to all parties before this meeting and so all parties had time to read it. The Chairman confirmed that the documents were read by the panel members.

Mr Nelson also stated that Thames Valley Police requested for an additional piece of evidence to be submitted, which was a report of an incident at the premises on the 23rd February 2020. This was agreed with the restaurant and had been circulated to all parties.

Mr Nelson also informed the Sub-Committee that Mr and Mrs Hamilton had made representations as an “interested party”, with a direct interest in the application made and they were present at the hearing.

Mr Nelson reminded the Sub-Committee that, when considering this application, they should have consideration for the four licensing objectives set out in the Licensing Act 2003, which were;

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

All four objectives should be considered when making their decision, and in this case, the application related to the prevention of public nuisance. He also reminded the Sub-Committee that the Royal Borough of Windsor and Maidenhead Licensing Policy Statement 2016-21 states that the legislation also supports a number of other key aims and purposes. These included:

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises; and,
- Giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems

Mr Nelson addressed that the Framework hours that the licensing authority had adopted in the Royal Borough of Windsor and Maidenhead Licensing Policy were a framework and not an entitlement. This includes the Terminal Hour for Licensable Activities in restaurants, which was “No later than 01.00”. He said that the Policy says that the Licensing Authority will have particular regard to those applications relating to premises in close proximity to residential premises, and the likely effect on the promotion of the four licensing objectives in such circumstances.

The other document to be taken into consideration by the Sub-Committee was the Revised Guidance issued under section 182 of the Licensing Act 2003, issued by the Home Office. These were addressed and were available in the Agenda pack.

Mr Nelson informed the Sub-Committee that the Guidance stated that the licensing authority must give appropriate weight to:

- The steps that are appropriate to promote the licensing objectives;
- The representations (including supporting information) presented by all the parties;
- The Home Office Guidance; and,
- Royal Borough of Windsor and Maidenhead's statement of licensing policy.

Mr Nelson notified the Sub-Committee that a hearing into an application for a variation of the premises licence for the Pazzia restaurant was heard in January 2019. This was to amend the plans for the restaurant to reflect an extension that had been added, and to extend the hours for licensable activity.

The Sub-Committee on that occasion permitted the amendment of the plans for the restaurant to reflect an extension that had been added but refused the application to extend the hours for licensable activity.

There had been objections to the application to extend the hours for licensable activity from Thames Valley Police, Royal Borough of Windsor And Maidenhead Environmental Health, Royal Borough of Windsor And Maidenhead Licensing and from other persons. Each of these drew on the history of issues at the restaurant which this Sub-Committee should be aware of.

Mr Nelson made the Sub-Committee aware of statements made on behalf of these premises by their representative at the January 2019 hearing. At that hearing the representative of Pazzia;

“...stated that there was significant room for improvement and that the premises licence holder was willing to review and improve on the highlighted areas of concern. He highlighted that Pazzia restaurant had been a reputable and successful local business and that they were willing to work with residents for a better solution to the noise and anti-social behaviour concerns”
(Minutes – Licensing Sub-Committee Sub-Committee Thursday 10 January 2019 – page 4 “Applicant’s summary”)

Mr Nelson said that the Guidance set out the steps that the Sub-Committee could take under its statutory powers, as it thought appropriate, and these were:

modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;

- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence

Mr Nelson informed that the Sub-Committee could impose modifications of conditions and exclusions of licensable activities either permanently or for a temporary period of up to three months. He further informed that any temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means to promote the licensing objectives or to prevent illegal working.

He stated it was always important that any detrimental financial impact that may have resulted from a licensing authority's decision was appropriate and proportionate to the promotion of the licensing objectives, but where premises were found to be trading irresponsibly, the licensing

authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises.

Mr Nelson made the Sub-Committee aware that an appeal could be made against their decision to a magistrates' court. He also explained that it was important that the Sub-Committee gave comprehensive reasons for its decisions in anticipation of any appeal. Failure to give adequate reasons could itself give rise to grounds for an appeal.

Mr Nelson said that the applicant in this case had made recommendations to modify the conditions of the licence, and that no recommendations had been made in relation to excluding a licensable activity from the scope of the licence; to removing the designated premises supervisor; to suspending the licence for a period not exceeding three or to revoking the licence.

Greg Nelson reminded the Sub-Committee that their options were to;

- Grant the application as submitted
- Modify the conditions of the licence, by altering, omitting or adding to them
- Reject the whole or part of the application

Mr Nelson thanked the Sub-Committee and was open to questions.

QUESTIONS TO THE TRADING STANDARDS AND LICENSING MANAGER

Ms Barnes, legal representative for Pazzia, said that information submitted by them during the consultation period was not present in the agenda pack. Mr Nelson apologised and as stated earlier, informed that the information had been distributed to the Sub-Committee and all parties prior to the start of the meeting. All parties had been given time to read the additional information.

APPLICANT'S CASE

The Sub-Committee were addressed by the applicant, Feliciano Cirimele, Environmental Protection Officer, Environmental Protection, Royal Borough of Windsor & Maidenhead, and were informed that the application related to the objective 'the prevention of public nuisance'. The Sub-Committee were reminded that noise complaints and antisocial behaviour were discussed at the hearing last year and acknowledged by Pazzia with a commitment that the licence holder would work to improve the situation.

Mr Cirimele said that following this hearing, within weeks, Environmental Protection and Licensing continued receiving complaints from a neighbouring property relating to noise from customers at the front of the premises. The issues discussed at the previous hearing seemed to remain unresolved. In the last 12 months, officers had continued to engage with Pazzia to help resolve the problems, but the complaints continued and following investigations the complaints were substantiated.

Further attempts to engage with Pazzia to resolve the issues were undertaken by officers, but these had not been successful and thus as a last resort enforcement action was undertaken with the serving of a noise abatement notice and this review of the licence.

The Sub-Committee were informed that it was important to understand the location and layout of the area to better understand the complaints. This included the close proximity of the neighbouring property. Pictures were available within the report.

The area outside at the front of the premises, which included the main entrance, was beneath a bedroom window of the neighbouring property. This area was also the outdoor seating and the main smoking area of Pazzia. Under the current licence, this area could remain open to customers until after the premises closing times.

- 12:30 am on Monday and Tuesday
- Midnight on Wednesday
- 01:00 am from Thursday to Saturday
- 11:00 pm on Sunday

Pazzia was located on London Road, with a small area at the front of the building where customer arrived, left or waited for taxis. This meant that even after closing time, customers could still loiter within the area. Noise and disturbance that have occurred at the front of the premises includes:

- Raised voices
- Disorderly behaviour, and
- Loud engine noises

The evidence showed that the unrestricted and inadequately managed use of the area at the front of the building was having a detrimental impact on the neighbouring property.

The Sub-Committee were informed that there was evidence that the noise from customers leaving the premises and from using the outdoor seating areas were not being managed and addressed within terms of the license. It was felt by officers that the licensing objective, the Prevention of Public Nuisance, was not adequately promoted by Pazzia's management and their staff.

This had been evidenced over the last 12 months by Environmental Protection investigating noise complaints by a neighbour. This work had been supported by community wardens, the Out of Hours service and the neighbour recording noise through monitoring equipment supplied to them.

Noise recordings had been made by the neighbour from a bedroom located directly above the outdoor seating and covering a period from 27th April to 3th June 2019. The recordings showed that while indoor music noise was not significant, the external noise from customers was a serious disturbance.

Five of the recordings made were played at the hearing, including:

Recording 1 – made on Friday 10 May at 23:42 recorded voices, arguing and shouting.

Recording 2 – made on Saturday 11 May at 23:41 recorded loud engine exhaust and voices.

Recording 3 – made on Sunday 12 May at 00:31 recorded shouting and laughing.

Recording 4 – made on Sunday 2 June at 23:07 recorded screaming.

Recording 5 – made on Sunday 2 June at 23:14 recorded screaming.

As well as the audio recordings, the residents of Crossways Cottage had also kept diaries of the nuisance and these were included within the report.

On 16 July 2019, officers discussed the audio recordings with Mr Candido Rodrigues, brother of the licence holder. Officers warned Mr Rodrigues that based on the evidence, a review of the licence would be applied for. This would include new conditions, unless Pazzia applied for a variation of the licence so that these conditions could be added.

Mr Rodrigues was given 28 days to consider this option. During the meeting, he proposed that the area and tables at the front were used until 11pm when the front door would be locked, and lights switched off. After 11pm, an area at the side of the building would be used as smoking solution. Mr Rodrigues advised that he was willing to implement these changes

immediately and was told that any changes would also need to be agreed with Licensing and be reflected in the licence.

On 20 August 2019, Mr Rodrigues confirmed that Pazzia would not apply for a variation. He was made aware that as a result of this decision Environmental Protection had no option but to apply for a review of the licence.

The Sub-Committee were also provided with other areas of concern that had been included within the report including on 14 September 2019 during an Night Time Economy (NTE) visit. The community wardens met Mr Rodrigues, who became extremely angry and agitated and stated that he would no longer move the smoking solution at the side of the building after 11pm. Mr Rodrigues made several comments about the complainant including threat to life which were reported to the police. One of the community wardens, Mr Ben Higgs, was in attendance to answer any questions. On 23 September 2019 a Nuisance Abatement Notice was served to Pazzia.

On 25 September 2019, Feliciano Cirimele received a call from Mr Rodrigues regarding the abatement notice. He discussed the requirements of the notice and the right to appeal it. Mr Rodrigues said that stopping the use of the outdoor seating at 10pm would have a negative impact on the business, but he was happy to stop the use at 11pm. Mr Rodrigues was informed of the previous advice that Pazzia would need to apply for a variation to add new conditions in the licence.

On Sunday 27 October 2019 at 12:05am the Out of Hours officer, after receiving a call from a resident, made a visit and witnessed 6 customers gathered outside and the noise from their voices could be clearly heard from a distance. The officer left the site at 12:40am with no evidence of the premise's supervisor managing the behaviour of customers or staff.

On Saturday 16 November 2019 at 11:35pm the Out of Hours officer received another call from the resident and made a visit. The officer reported that at 11:48 pm they could hear loud voices emanating from Pazzia whilst in the complainant's bedroom and with the double-glazed windows closed. The officer left the site at 12:10 am and said there was no evidence of a designated premises supervisor (DPS) managing the behaviour of customers.

On Saturday 18 January 2020 at 10:45pm the Out of Hours officer visited Pazzia and upon arrival the officer witnessed a group of five females sitting in the outside area. They had bottles of wine on their table and were laughing and smoking and he felt that it could have cause a noise nuisance.

The Sub-Committee were informed that from 5 January 2019 to 2 February 2020, Community Wardens had made about 135 visits to the premises and quite often there were people at the front of the building well after 11pm and sometimes up to 1am.

Details of all the incidents mentioned above were included within the agenda pack.

It was also highlighted to the Sub-Committee that within the current licence, there were no conditions to help control the use of the outside area to prevent noise and disturbance. Due to the evidence, it was recommended to create changes to the licence as set out in the application.

The Applicant thanked the Sub-Committee and was open to questions.

QUESTIONS TO THE APPLICANT BY MEMBERS

Cllr Haseler asked if the Applicant was present at the previous meeting in January 2019 and it was confirmed that he was not there personally, but another Environmental Protection Officer made a presentation.

Cllr Haseler reaffirmed that the Objectors on that occasion agreed there were significant improvements required and were willing to review highlighted areas. He asked the Applicant which of these actions had been taken on by the premises. It was confirmed that one tangible action was the deployment of signs that invited customers to leave the restaurant quietly to reduce noise for the neighbours. The Applicant elaborated that other actions included were prohibiting smoking underneath the neighbours' bedroom window after a prescribed time, circa 2200/2300 hours and these were not firmly implemented.

Cllr Haseler addressed the recording of a female voice screaming and queried that when Environmental Protection spoke to the objectors, what reason was given why the Designated Premises Supervisor (DPS) did not challenge this. The Applicant informed that the incident of the female screaming was not discussed with the licensee.

Cllr Haseler inquired if the Applicant agreed that of the 115 times that Night Time Economy team checks were undertaken at the premises, there were only two incidences of excessive disturbance. The Applicant explained there was presence of customers and furthered that the NTE checks were only short five-minute snapshots of the premises, before they moved onto premises. He expressed that between 2300 and 0100 hours, it was likely for raised noises and disturbance to ensue.

The Chairman queried if the noise recordings were from the neighbours or Environmental Protection. It was clarified that all the recordings were provided by the neighbours, as per Environmental Protection protocol, whereby recording equipment was installed in the neighbours' bedroom near the outdoor seating. The neighbours activated the equipment when necessary. The Chairman asked if all the recordings were from same place and were the complaints from the same or multiple neighbours. It was confirmed that the recordings were from the same place and same neighbours.

Cllr Brar asked if the CCTV was installed when requested and if there was any footage from the CCTV. The Applicant stated he was aware of a CCTV system installed for the benefit of the premises and he did not have availability of the footage.

The Chairman thanked the Applicant.

QUESTIONS TO THE APPLICANT BY OBJECTORS

Mr Candido Rodrigues, who was involved in the running of the premises, explained that when the sound recordings were taken, the neighbours' windows were open. He said the premises had CCTV cameras installed for the last five years and asked the Applicant if he was aware of the CCTV cameras. The Applicant said that as per the standard condition from license and police requirements, CCTV cameras were required to be installed but was unaware if something to that effect was installed at Pazzia. The Applicant clarified he made no allegations that would need to be substantiated by CCTV cameras as his evidence was from sound recordings and officer visits.

Mr Candido Rodrigues asked if the Applicant agreed he came to the premises to have a conversation on 20th August 2019 or if this conversation took place over the phone. It was confirmed that a Licensing Officer had a conversation over the phone regarding the lack of application for a variation in the licence.

Mr Candido Rodrigues wanted verification that Environmental Protection wanted Pazzia to implement signs on the doors for taxis and patrons to control noise outside the premises. The Applicant verified the additional request for signs to be placed near the tables and outdoor seating beneath the neighbours' window were implemented.

Mr Candido Rodrigues asked for verification that he showed the Applicant the CCTV footage when complaints were received from the neighbours. The Applicant confirmed he was shown CCTV recordings on the phone by the licensee, and he had requested the footage to be

submitted to Environmental Protection, but this did not materialise. He stated no fighting was witnessed in the recording, in line with the OOH Officer's observations of people talking and mingling outside the premises but said disorderly behaviour may have occurred.

Mr Candido Rodrigues expressed live music was played inside the premises and was not audible from outside the premises. The Applicant said he did not directly hear audible music outside the premises or via the nearest residential property. He clarified that from the recordings, it can be concluded that music was not a significant issue. Instead, the application was concerning the raised voices, loud exhaust noise and disorderly public behaviour.

Mr Candido Rodrigues asked if the audio recordings taken by the neighbours were with the bedroom windows open. The Applicant stated that he was not personally there and therefore did not witness this and he could only refer to the witness statement and noise audible from the recordings, presumably from closed double-glazed glassed windows.

Lorraine Barnes, the Objector's representative, repeated the question, to which the Applicant replied that the recordings could be made with the windows open or closed, and that individuals were entitled to leaving their windows open or closed. The Chairman stated that this can be clarified by Mr and Mrs Hamilton, the neighbours, who took the audio recordings.

Ms Barnes addressed the evidence from the agenda pack regarding the NTE warden visits to the premises. She queried if the Applicant accepted that in most occasions, the wardens had nothing to report, and a lot of the incidences underlined and highlighted in the agenda pack showed people outside the premises with no disturbances. The Applicant accepted this.

The Chairman thanked the Applicant for answering the questions.

THAMES VALLEY POLICE CASE

Debie Pearmain, Police Licensing Officer, expressed Thames Valley Police's support of the Applicant to prevent public nuisance. She expressed that the community warden logs were a snapshot of the premises, which were taken when the wardens drove past the premises and not necessarily taken whilst in the car park or within the premises.

The Police Licensing Officer supported the recommendations made in the application, confirmed there was CCTV placed inside the premises, and clarified that the CCTV recommendation was for further CCTV to be installed at the side and rear of Pazzia. The Police Licensing Officer supported the reduced hours and said since the last hearing where the Sub-Committee refused to extend the licensing hours, there has been ongoing noise and disturbance to the residence.

Debie Pearmain brought the attention of the Sub-Committee to two incidences outlined in the agenda pack. The first incidence was on 20th April 2019 at 2315 hours, when Debie Pearmain and Licensing Officers Steve Smith and Sarah Conquest attended the premises. They walked to the front of neighbouring property on the boundary of the Pazzia and positioned themselves out of view. It was busy and they monitored the area until 2322 hours to establish what time the music would stop. After a risk assessment, they agreed not to enter the premises; had the risk not been high, they intended to speak to the DPS regarding the loud music. At 2324 hours, they observed the Community Wardens arrive in a marked van, when the music levels were turned down. After the Wardens left the premises, the Manager walked to the front of the premises, which was when he saw Debie Pearmain and the Licensing Officers. As they had been seen, they were satisfied that full compliance would be given in relation to licensable activities.

The next incident Debie Pearmain addressed was on 16th September 2019 at 2321 hours. The Wardens attended the premises to ensure that the voluntary Licensing restrictions were being met. They noted that the restrictions were not being complied with as the premises front lights were on and customers were smoking at the front of the premises after 2300 hours. The

Wardens requested to speak to the Manager and met Mr Candido Rodrigues, who aimed abuse towards the Royal Borough of Windsor and Maidenhead and stated he would not comply with the restrictions and the Borough was costing him money. The Warden stated that Mr Candido Rodrigues aimed abuse at the neighbours who were not present, making repeated comments such as "I'm going to kill him" and once said "I'm going to kill him and go to jail for him". The Warden said Mr Candido Rodrigues said he once chased the neighbour with a meat cleaver in the past. Initially the Wardens were not concerned about the threats, however after debriefing their Manager and gaining a better understanding of the ongoing tension between the parties, they believed that the threats made may follow through.

A voluntary interview was held with Mr Candido Rodrigues on the 16th October 2019, who was spoken to by PC Terry and was warned about his future contact with the Community Wardens and Council officers. He was reminded to be mindful of his language and the way he communicated with people, as it was unacceptable to be swearing and acting aggressively towards people for doing their job. The Police Officer warned Mr Candido Rodrigues not to interact with the neighbours.

Debie Pearmain went on to explain that on 23rd February 2020, a male had been in Pazzia prior to an alleged assault in the car park area. The male had been deemed as a missing person, which was disclosed to the officers when he was found, but he did not want to take any further action. The Chairman asked if the male was the victim or perpetrator of crime in the restaurant, and it was confirmed he was the victim.

With regards to the recommended conditions and the reduction in hours of the license, Debie Pearmain believed this would assist in the public nuisance licensing objective. She stated that the management of premises needed to recognise that they must work with all agencies and residents to ensure the balance of the business needs and local needs are met.

Ben Higgs, community warden for Royal Borough of Windsor and Maidenhead introduced himself and added in support of Debie Pearmain that for the last two years that he has been with the Council in which he had visited Pazzia, he had noticed people at the front of the premises on most occasions. Mr Higgs said he met Mr Candido Rodrigues on two occasions, and Mr Rodrigues had been aggressive on both of those occasions. He clarified that in one shift, he had between 6 and 18 visits to premises to visit, therefore these were a quick snapshot of what occurs on the premises.

QUESTIONS TO THAMES VALLEY POLICE LICENSING OFFICER AND COMMUNITY WARDEN BY THE MEMBERS

Cllr Haseler asked Mr Higgs if threats were made to harm the neighbours when the incident was recorded and it was confirmed that threats were made, with his colleague as witness. Cllr Haseler requested Ben Higgs to go through the incident, to which Mr Higgs explained that he arrived at the premises on Saturday 14th September 2019 at 2320 hours, drove onto London Road and parked at the rear of the premises' car park. He heard music from the fire exit and undertook a risk assessment to see if there was any harm of the wardens being present on the premises.

Mr Higgs explained that Mr Candido Rodrigues came out of the restaurant, stormed to their car and seemed agitated. For safety purposes, Mr Higgs got out of the vehicle and stood in the crook of car door as protection between the wardens and Mr Candido Rodrigues. Mr Higgs was unsure if Mr Candido Rodrigues was agitated because of the presence of the wardens or something else. Mr Candido Rodrigues was annoyed with the Royal Borough of Windsor and Maidenhead and made death threats towards the neighbours and quoted "I'll f-ing kill him". Mr Higgs stated he had twelve years of experience working for Hampshire Police, so he had a good understanding of people's behaviour and thought Candido Rodrigues was making meaningful comments. He then calmed Mr Candido Rodrigues, who then explained that the noise was from the Berkshire hotel nearby and not Pazzia.

Mr Candido Rodrigues offered the neighbours an evaluation of the property and £100,000 more to sell the house and Mr Higgs thought Mr Candido Rodrigues was annoyed that Mr and Mrs Hamilton's did not agree to the proposal. Mr Candido Rodrigues said Mr Hamilton visited the premises to request the volume of the music to be turned down and went back to his property. He was not happy about this and went to the Hamilton's residence with a meat cleaver and banged on their door and seemed excited when he saw the Hamilton's run to their garden for safety. In retrospect, Mr Higgs said he would have dialled 999 after his encounter with Mr Candido Rodrigues due to the previous incidences as he felt that there was significant risk to Mr and Mrs Hamilton.

Cllr Haseler shared his concerns of the serious nature of the alleged use of a weapon by Mr Candido Rodrigues. He wanted clarity that after the voluntary interview with Mr Candido Rodrigues, was it viewed that it was not in the public interest to pursue the incident as far as the use of offensive weapons was concerned. Debie Pearmain introduced her Sargent, Acting Sergeant 5717 Phil Collings who covered the Ascot area. He explained that after looking at the crime report, there were evidential difficulties and therefore Mr Candido Rodrigues was not prosecuted. There were no independent witnesses, but had there been witnesses, the crime case would have been pursued and the case would have gone to the Crown Prosecution Service.

The Chairman thanked the Thames Valley Police and community wardens and opened questions for the objectors.

QUESTIONS TO THE THAMES VALLEY POLICE LICENSING OFFICER AND COMMUNITY WARDEN BY THE OBJECTORS

Mr Candido Rodrigues asked Mr Higgs if he agreed that they had only met twice at the premises and if the first time was with Mr Higgs and a colleague, which Ben Higgs agreed to. Mr Candido Rodrigues then asked if the second time was at the premises two weeks ago (at the time of the meeting) to check the number of chairs in the premises and to remove one chair. Mr Higgs explained this was not entirely correct; Licensing requested to check how many seats were at the premises as there were only meant to be 66 seats, whilst the premises had 67 seats. Mr Higgs said he did not remove any chairs and simply informed Mr Candido Rodrigues that he would report his findings to Licensing. Mr Candido Rodrigues asked if he agreed that Mr Higgs said he will not leave the premises until the chair was removed, with a customer witness to this. Mr Higgs refused and stressed his role was only to report his findings and not to enforce the order.

Mr Candido Rodrigues asked if Mr Higgs met and had a conversation about him threatening to kill the neighbours and carrying the meat cleaver, which Mr Higgs confirmed. Mr Candido Rodrigues asked why the neighbours did not report the incident to the police if he ran after the neighbours with a meat cleaver. The Chairman stated this was a question Mr Higgs could not answer.

Mr Candido Rodrigues stated to Debie Pearmain that he disagrees any incident took place on February 23rd 2020, unless the date and time was wrong. He expressed he checked the premises CCTV footage and found no evidence of any persons in the car park. He asked Debie Pearmain if the date was correct, which she confirmed with the time of approximately 0000 hours. She stated that the report stated the male said prior to him going missing, he was at Pazzia with his partner and friend. Mr Candido Rodrigues asked Debie Pearmain if she was aware that there were two restaurants with the name Pazzia, which she agreed.

Mr Candido Rodrigues addressed the Thames Valley Police incident report in the agenda pack of a male being in a 'lock in' the restaurant, who was accused of cheating on Mr Rodrigues' wife and was punched by Mr Rodrigues. He asked Debie Pearmain if the address of the restaurant the incident occurred in was incorrect (stated as Pazzia Ristorante, London Road, Ascot). This led to minor facial injuries and an ambulance was required. Debie Pearmain advised that she does not think the address was incorrect as the details were

shared in the previous hearing. Mr Candido Rodrigues stated that the ambulance may have attended Pazzia in Sunningdale and not Pazzia Sunninghill and could be confirmed by the ambulance service. The Chairman said Debie Pearmain cannot speak regarding this matter but asked if the objector had challenged this point in the previous hearing, which he confirmed he did.

Ms Barnes queried if the allegations that Mr Candido Rodrigues chased the neighbours with a meat cleaver was substantiated with evidence. Debie Pearmain said was unable to answer this as it was information from the last hearing. The Chairman asked if there were any further allegations of this incident, which Debie Pearmain did not have. The Sargent also did not have any evidence of this incident apart from what was collected from Ben Higgs.

Ms Barnes queried if there was any mediation between the neighbours and the restaurant owners; Debie Pearmain said it was not something that would be executed by the Thames Valley Police. Ms Barnes asked if the calls made regarding the incident on 14th September 2019 at 2320 hours were from one set of neighbours or various neighbours, and Debie Pearmain confirmed it was the former. Ms Barnes furthered if there was any written evidence or complaint from other neighbours, which Debie Pearmain was not aware of.

Mr Candido Rodrigues asked Debie Pearmain how many incidents have taken place at the premises involving police in the last 19 years of business. The Chairman addressed that the police cannot provide a complete history of incidences and can only provide information within the period related to the hearing.

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD LICENSING OFFICER'S CASE

Sarah Conquest, Licensing Enforcement Officer from the Royal Borough of Windsor & Maidenhead, expressed Licensing supported the application submitted by Environmental Protection to review the issued premises licence for Pazzia Restaurant. Licensing agreed to the recommendations and supported the reduction of licensed hours as detailed in the review application.

The Licensing Enforcement Officer explained that licensing was made aware of ongoing noise and disturbances reported by the neighbours and the community wardens since the hearing in January 2019.

Sarah Conquest explained that on 15th January 2019, following the previous hearing, licensing met with DPS Mr Jorge Rodrigues and owner Mr Candido Rodrigues at the Town Hall. Steve Smith, a Licensing Enforcement Officer colleague, told Mr and Mr Rodrigues that the meeting had been called separate to any other process with regards to noise complaints and the previous hearing. Mr Smith said to both Mr and Mr Rodrigues that Licensing received reports from Community Wardens' routine inspections of the premises of possible licensable activities beyond the premises granted hours. Mr Smith had clarified that should the premises not comply with the hours, terms and conditions set to the issued licence; licensing would have no further option than to review the licence.

Sarah Conquest explained that Mr Candido Rodrigues was passionate throughout the meeting and said on at least one occasion, the audible music was from a local hotel. Steve Smith had explained the reports were regarding the noise issues as well as the hours the premises must operate to.

Sarah Conquest said that Mr Candido Rodrigues informed that both Rapha and Michael, previous premises managers, had left the business and assured Licensing that the permitted hours were kept to. Sarah Conquest explained that this was disputed with the reports, however, both Mr and Mr Rodrigues said the Wardens did not get out of the car when they attended, and that if they were going to make reports, they should have entered the premises to ascertain the type of music being heard (Live music until 2300 hours and recorded

thereafter). This was agreed by Steve Smith and Sarah Conquest and they assured that this would be fed back to the Community Wardens. Mr Candido Rodrigues expressed he felt victimised by the neighbours and explained they have not had any complaints or issues from other residents nearby.

Sarah Conquest said that Mr Candido Rodrigues offered the possibility of installing a noise limiter at the premises as a method of mitigating the noise issues and was supported on this by Steve Smith and Sarah Conquest. Mr Smith had offered to contact the Environmental Protection Office (EPO) regarding this. References to the dispute between the premises and neighbours were raised in the meeting, however it was explained that the meeting was not inspired by anything other than the reports by the Wardens on non-compliance.

Sarah Conquest explained that Steve Smith had concluded the meeting by urging the premises keep to their hours, terms and conditions set in the current premises licence, with the assurance that failure to comply would result in Licensing (as a responsible authority) reviewing the premises licence.

On 19th April 2019 at 2306 hours, the Licensing Officer spoke to the out of hours Officer by telephone, who informed he was at the premises (due to working in Staines and not because of a complaint). The OOH Officer informed there were several customers within the premises and approximately 10 customers outside the restaurant talking and laughing loudly. Sarah Conquest believed the Officer had knocked on the neighbour's door to establish if the noise was audible inside their property. Sarah Conquest said no live music was being performed at the premises and the recorded music played indoors was not audible at the premises' boundary. The Licensing Officer waited until 0115 hours but did not receive any further calls from either the control room, the Community Wardens or the OOH officer.

Sarah Conquest reiterated the events that took place on 20th April 2020, as explained earlier by Debie Pearmain. Sarah Conquest added that live music was clearly audible and stated the song playing was "It's Not Unusual". At 2355 hours, Licensing received a call from the OOH officer who informed that he was at the premises and all was in order, and expressed he was noticed by the manager whilst driving his vehicle out of Pazzia's car park.

Following this incident, Sarah Conquest addressed that the Licensing Officers recommended that Environmental Protection should install noise monitoring equipment at the neighbours' property to ascertain if there was a statutory noise nuisance.

Sarah Conquest described that a meeting with Mr Candido Rodrigues took place on 16th July 2019 that discussed the noise recordings made from 27th April to 3rd June 2019. Advice was given based on the evidence and it was explained that Environmental Protection would review the licence to include new conditions. It was also explained that this may not be required if the Premises Licence Holder applied to include the set of conditions by way of minor variation. The Licensing Officer offered advice and support in applying for the application in order to attach the following conditions:

1. The minor variation to be submitted within 28 days.
2. Use of tables and chairs outside the front of the building to cease at 2200 hours, 7 nights per week, with the tables and chairs removed or covered up at this time.
3. The smoking solution to be moved to the rear of the building at 2200 hours.
4. No table or chairs to be provided at the rear of the building.
5. CCTV to be provided at the front and rear of the building.

Sarah Conquest explained that on 20th August 2019, the Licensing Officer contacted Mr Candido Rodrigues, who confirmed the premises would not apply for a minor variation to include the conditions. Mr Candido Rodrigues was informed that this decision would mean that Environmental Protection would have no other option other than to review.

Sarah Conquest concluded that it was Licensing's opinion that should the hours and conditions be amended as recommended, there would be a reduction in public nuisance. Licensing also supported the four key objectives which should thus reduce the impact on neighbouring residents, whilst balancing the needs of the business.

QUESTIONS TO THE LICENSING OFFICER BY MEMBERS

None.

QUESTIONS TO THE LICENSING OFFICER BY OBJECTORS

Ms Barnes asked if on 20th April 2019, Licensing arrived at the premises, heard music outside the premises and recommended noise control actions, which was agreed by Sarah Conquest. She also queried if no further loud music recordings were made, which was agreed to because it was not detailed in the report.

OTHER PARTIES' CASE

Mrs Tracy Hamilton, neighbour of the premises, presented a brief history of their case. The Hamilton's bought the property in 2004, when the premises closed at 2300 hours and did not have a late license for alcohol and music. Mrs Hamilton said that between 2004 and 2006, there were minor breaches of licensing conditions. A temporary bar structure was erected in the premises car park and a sound system on the bar, with the music audible inside their home.

In 2006, an extension of the licensing hours was approved, and they did not have visibility of the application and had no opportunity to object to it as they were overseas. She noted the licensing blue notice was on the premise's door, thirty feet from the public footpath and illegible from that distance. Mrs Hamilton also informed that the newspaper notice was placed in the Maidenhead Advertiser newspaper, which was not readily sold in the local area. This was against the Royal Borough of Windsor and Maidenhead licensing policing whereby the Applicant must advertise in a local newspaper.

Mrs Hamilton addressed extracts from Environmental Protection's statement, such as the history of public nuisance complaints of Pazzia and the Noise Abatement Notice being serviced in September 2019. She informed that the al fresco dining area at the front of Pazzia, where the noise abatement notice was situated, had previously been retrospectively refused by Planning and subsequently by the planning inspectorate on two occasions, primarily due to noise impact on the neighbours.

Mr Graham Hamilton provided historical information of the premises, including extension planning application refusals in 2006, 2007 and a gazebo at the front area in 2010, as well as retrospectively approved extension in 2013.

Mrs Hamilton expressed most of the noise and anti-social behaviour was after 2300 hours on Friday and Saturday nights. She stated that since 2006, the Hamilton's have reported over 250 noise and anti-social behaviour issues to Licensing, Environmental Protection and Thames Valley Police. She made note of the noise diary that logged the noise and anti-social behaviour and stated they may have missed more issues whilst away on the weekends and on holiday.

Mrs Hamilton addressed that sound equipment was installed in her home and Pazzia were made aware of this. The sound recordings played at the hearing were addressed as a small snippet of the noise experienced by them.

Mrs Hamilton stated Pazzia had publicly blamed them for the licensing reviews through the press and social media. She addressed the incident of 15th September 2019 mentioned earlier

between Mr Hamilton and Mr Candido Rodrigues, who tried to kick their front door down and had a large knife at hand. She explained Thames Valley Police offered to monitor their property when the Hamilton's were on holiday a few weeks after the incident.

Mrs Hamilton said the report from Thames Valley Police and the Community Wardens in the agenda pack shocked and surprised her because the case seemed more serious than they were believed.

Mr Candido Rodrigues interjected Mrs Hamilton's statement when she addressed that Mr Candido Rodrigues lost his HMO license following court proceedings when he threatened Southwark Council staff in 2015. The Chair said that if Mr Rodrigues could not control himself, he would be asked to wait outside.

She discussed the threats made to Mr and Mrs Hamilton as addressed by Mr Higgs, as well as the incident when Mr Candido Rodrigues trespassed the neighbour's property when Mr Hamilton requested the music to be turned down at the restaurant. She explained that when the then Cllr Derek Wilson queried the incident in the previous hearing, the premises owner denied knowledge of the incident. Mrs Hamilton highlighted the premises owner had physically assaulted an individual in the restaurant who needed hospital treatment.

Mrs Hamilton explained despite the meetings with the premises and Environmental Protection Lead Officer in January 2018, Pazzia breached the license and had therefore brought the review onto themselves.

Mrs Hamilton said Pazzia's staff and patrons continued to use the front seating area of the premises after 2200 hours since September 2019, despite the noise abatement notice and warnings. She addressed this was also the case on weekend of the hearing and the Sub-Committee heard the audio recordings from Mrs Hamilton's mobile phone of Saturday 7th March 2020 at 2330 hours.

Mrs Hamilton expressed this was a continual drain on public money. Mrs Hamilton raised concern of the threats made to Royal Borough of Windsor and Maidenhead and other authorities. She addressed the management of Pazzia London and public comments from the Metropolitan Police. The Chairman stated that the running of other premises and how a license is operated in another area falls outside the scope of this hearing.

Mrs Hamilton quoted statements from community wardens and Thames Valley Police which was available in the agenda pack. This included a report dated 13th September 2020 where the police were informed by a patron that her sister choked on a screw in the food. This was raised with Pazzia's Management who were shouting at the customer and the patron felt unsafe as staff yelled at them whilst they left the premises.

Mrs Hamilton addressed a fight that broke out in the car park and spilled onto the public footpath. An audio recording was played of this incidence by Mrs Hamilton's mobile phone, with men and women shouting.

She explained the antisocial behaviour and death threats effected the neighbours' general health and wellbeing. Mrs Hamilton proposed the following recommendations for the Sub-Committee to consider:

- A three-month suspension of licencing activities on the weekends
- Closure of the premises at 2300 hours at the latest, as it was a residential area and other restaurant close around this time
- Music to be ceased at 2230 hours
- Removal of tables, chairs and umbrellas outside the premises where there is no planning permission
- A seating area for a maximum of 10 people at the front left-hand side of the premises

- A new smoking area allocated at the rear of the premises

Mrs Hamilton agreed to all but one of the recommendations made by Environmental Protection. She did not support the closure of the premises at 0000 hours on Saturday due to ongoing issues on the weekends. She believed a minor modification of the licensing hours would not have any noticeable effect and stated most of the anti-social behaviour, noise and binge drinking occurred after 2300 hours. Mrs Hamilton stated that the DPS was not managing patrons and suggested stricter penalties to be more appropriate.

QUESTIONS TO THE INTERESTED PARTY BY MEMBERS

Cllr Haseler stated that in the previous hearing, the premises accepted work was needed to be done. He queried if the level and intensity of the incidents since January 2019 had gotten better, worse or were the same. Mrs Hamilton said the level and intensity of the incidents remained the same, but there had also been fights.

Cllr Haseler asked if smoking under the bedroom window had improved and was informed that it had not improved. Mrs Hamilton stated that every weekend there were ashtrays on the outdoor tables on the premises immediately below their bedroom window and smoking had taken place there on the weekend of the hearing. She furthered that the ashtrays were placed before customers arrived at the premises, therefore staff placed them there and sat under the bedroom window and smoked outside.

Cllr Haseler asked if Mr and Mrs Hamilton were the only two occupants of the house. Mrs Hamilton explained that their property was the only immediate neighbouring house to the premises and both the Hamilton's explained the retreat was 100 feet away from the premises, not on the boundary of the premises. Mrs Hamilton said the other neighbouring properties on the left-hand side of the premises was vacant for at least a year and the current residents were only there for the last 6 months.

Cllr Haseler asked if the intensity of the incidences had varied since the 14 years Mr and Mrs Hamilton had lived at the property. Mr Hamilton explained the threat to life had increased. He stated that the premises had the opportunity to comply to the licencing conditions in the last year and felt Pazzia took advantage of the NTE staff only staying at the premises for up to 10 minutes. Mrs Hamilton addressed comments made from Thames Valley Police and Licensing that Pazzia would clear customers from the front of the premises when they witnessed the labelled community warden van.

Cllr Brar asked if Mr and Mrs Hamilton called the premises to request to reduce the volume of the music. Mrs Hamilton said that they have not done this since they received threats from Pazzia. Mr Hamilton explained he did visit the premises to ask to turn down the music and felt threatened by the premise's owners. He recalled the incident described earlier of someone from Pazzia who tried to kick the neighbour's front door in. He called the police who attended the site, but the situation had diffused by then. Mrs Hamilton explained that they now made any requests through the Royal Borough of Windsor and Maidenhead.

QUESTIONS TO THE INTERESTED PARTY BY OBJECTORS

Mr Candido Rodrigues asked if Mr and Mrs Hamilton agreed that they had entered the premises three or four times around 2100 and 2200 hours, insulted the customers and said if they were not eating to go home. Mrs Hamilton said she had never been in the premises and Mr Hamilton did not recall having spoken to the customers.

Mr Candido Rodrigues wanted to explain the bar outside the premises from 2007. The Chairman emphasised that this was outside of the timeframe of the hearing.

Mr Candido Rodrigues asked for confirmation of the image presented in the agenda pack of a guitarist in the premises' car park. Mr Hamilton confirmed that the picture was from 2007 of Pazzia's car park, the guitarist had been at the premises on several occasions and played music outside premises without a license. The Chairman emphasised this was outside of the timeframe of the hearing.

Lorraine Barnes, the objectors' representative, asked for clarity on when the pictures shown in the agenda pack were taken, which were historical. She stated that the image that showed beer cans in the neighbouring garden was not caused by the patrons of the restaurant because Pazzia does not sell beer cans. Mrs Hamilton said the litter was from staff members who threw used beer cans.

Ms Barnes asked the relevance of the image showing a ripped letter from The Duke, Sunninghill, which Mr Hamilton explained was a letter from Pazzia's ex-employee. Ms Barnes said the person mentioned in the letter was unknown to Pazzia and was a letter from another pub in Sunninghill. Mrs Hamilton said someone within the vicinity of the premises may have disposed of these in their garden.

Ms Barnes asked the time and date of the second recording that was played, which was on 7th December 2018 at 2103 hours.

Mr Candido Rodrigues stated the image of Pazzia's chimney in the neighbours' garden was from three years ago and was because of strong winds and storms during the Christmas period. As it was the festive period, the owners were away, so the manager of Pazzia organised someone to fix the chimney within a week.

Lorraine Barnes asked if there were any concerns or incidences that led to an advisory for zero tolerance policy to be adopted and random drug monitoring to be carried at the premises. Mr Hamilton said patrons discussed drugs in Pazzia's car park, and Mrs Hamilton exclaimed there was sound recording to prove patrons that discussed taking drugs. The Chairman asked when the recording was taken and it was clarified it was from 2nd December 2018, which was outside of the hearing's timeframe.

Mr Candido Rodrigues asked for evidence regarding ashtrays being placed on the outdoor tables on the premises and people smoking at 2300 hours. Mrs Hamilton said she had pictures of ashtrays on the tables.

(The meeting was adjourned at 1200 hours, and reconvened at 1425 hours.)

Mrs Hamilton said the support from local residents in written statement by Pazzia was not within the vicinity of the premises. She stated the fish and chip shop and solicitors were 200 metres away and the retreat is 80 metres away from the premises and not on the boundary.

She also clarified there was a difference in the noise logged by her noise diary and what was recorded by the NTE logs because the timings on each date were different. Whilst Mrs Hamilton logged noise for a longer period, NTE visited of a short period of time and therefore not all the statements will correlate. She also clarified the neighbours' window was double-glazed and queried why the license holder would need to provide neighbours with sound proofing if the music was inaudible from the boundary.

Lorraine Barnes asked for confirmation if the females voice in the sound recording was an intoxicated patron. Mrs Hamilton said she assumed the female was intoxicated because of the screaming. Lorraine Barnes asked if the recordings expressed suicidal threats from the female, which Mrs Hamilton said she felt they did.

Ms Barnes also asked Mr Hamilton if he recalled an incident where Mr Candido Rodrigues chased him with a cleaver. Mrs Hamilton added that Mr Candido Rodrigues came to their property and kicked their front door in attempt to kill them and may have carried a weapon as

per his proclamation to the community warden, though they did not see the weapon themselves. Mr Hamilton stated he did not recall an incident where Mr Candido Rodrigues chased him with a cleaver.

Lorraine Barnes asked if Mr Hamilton knew at what distance Morton Cottage was, which he responded as approximately 15 metres away from Pazzia, on the right-hand side and a semi-detached property.

OBJECTORS' CASE

Mr Candido Rodrigues explained Pazzia has been open since October 2000 and Mr and Mrs Hamilton were regular customers. He said they had a friendly relationship with the neighbours, looked after Mr and Mrs Hamilton's parents when they came from Scotland and offered complimentary meals. He said the neighbours used to come to Pazzia for a drink. Mr Candido Rodrigues addressed an incident where Mrs Hamilton attended a party at Pazzia uninvited and drank parties' alcoholic beverages and was later taken to her home by Mr Hamilton.

Mr Candido Rodrigues said the turning point to the relationship with the neighbours was when the Royal Borough of Windsor and Maidenhead gave Pazzia permission to have tables outside the premises to serve up to 40 people. Mrs Hamilton queried the outdoor seating, which he explained was for the business. Mrs Hamilton stated it was not a good idea and did not speak to Mr Candido Rodrigues since this incident.

Mr Candido Rodrigues explained that Mrs Hamilton attempted to create a petition with neighbours' support against Pazzia but was unsuccessful. He said there were twenty neighbours, five of which commented that they are not disturbed by Pazzia with supporting letters provided in the supplementary item.

Lorraine Barnes said the neighbours closest to Pazzia were at the rear of the premises, who confirmed they had no issues of disturbance or had any complaints. She explained that Morton Cottage was on the other side of Pazzia with residents who have resided there for 6 and 18 months respectively and have never had any complaints. She stated if there was disturbance created by the premises, these neighbours would also be affected, but they have promoted the restaurant. She quoted the letter from a local resident available in the pack which stated that Pazzia was a wonderful service to the local people and an asset to the area.

Lorraine Barnes queried the alleged incident on 23rd February 2019 addressed by Debie Pearmain, as the CCTV footage at the premises inside and outside the premises at that date and time did not show any activity. The Sub-Committee was shown the CCTV footage. Mr Candido Rodrigues stated he reviewed the CCTV footage from the evening of 22nd February until 23rd February and did not see any activity and stated the police did not check his CCTV footage regarding this incident despite him calling the police on three occasions.

Mr Candido Rodrigues explained that the noise recordings dated Sunday 2nd June 2019 were not from patrons but from his 4-year-old son's private birthday, with other younger children playing outside at the party. He explained that the recordings of the screaming were children and not an attack, and the noise was a "one-off" for a private children's birthday party. Mr Jorge Rodrigues emphasised that the loud screams in the recording sounded like it was a fight but was children playing and laughing.

Lorraine Barnes addressed the fight incident dated 18th May 2019 at 0030 hours, which stated glass was smashed and "furniture thrown around" in Pazzia's car park/seating area. She expressed that should this have occurred, significant noise would have been audible, and requested to hear this recording.

The Applicant said they do have the recording of this incident, but due to personal information disclosure in the audio, Mr and Mrs Hamilton did not give permission to release the recording. He confirmed he listened to the recording and made a summary of the recording listed

available in the agenda pack. The Chairman asked the Applicant if the recording was available at the hearing and queried what personal details were present in the recording that made it unviable to be shared at the hearing. The Applicant explained the recording had details of Mr and Mrs Hamilton calling the police regarding the incident. The Chairman said as the audio was not present at the hearing, it would be weighted accordingly.

Lorraine Barnes addressed the NTE team visit notes of the premises and stated that these were snapshots taken on the weekends and in the late hours, and showed no significant incidences taken place. She expressed these were not general and random checks, but timed visits for when breach of the license was expected, of which there were few.

She continued that since the loud music incident on 20th April 2019, where it was recommend installing noise monitoring equipment at the neighbours' property, there had not been recordings of loud music from the premises. She said Pazzia did not see music as an issue, yet one of the recommendations from the Applicant suggested removing music from the premises. She addressed many of the images provided by Mr and Mrs Hamilton were outside of the time periods discussed in the hearing and requested the Sub-Committee to take note of this.

Lorraine Barnes explained Pazzia proposed to move the smoking solution and outdoor seating away from the neighbours' property as a proportionate measure to stop the disturbance for Mr and Mrs Hamilton. She expressed the difficulty of moving the smoking solution at the side of the building as it was also a driveway leading to the car park, which would risk patrons' safety because of passing cars. She stated that at 2300 hours, the smoking solution nearest the neighbours' property was already blocked off to reduce disturbance.

She furthered that Pazzia advised to move the taxi pick-up and drop-off at the back of the car park, accompanied with signs on the premises for this instruction to resolve loitering at the premises. She mentioned that recommendations 3, 5 and 6 stated in the agenda pack were agreed in any event and expressed Pazzia already has digital CCTV installed inside and outside the premises.

Lorraine Barnes addressed recommendation 7 and said there is no outdoor singing and entertainment at the premises. She furthered that live music played at the premises was a main attraction for the business, therefore the restriction to playing live music because of one occasion of noise was disproportionate and would lead to the loss in clientele.

Lorraine Barnes addressed that recommendation 4, which recommended a Security Industry Authority (SIA) member of staff, was a restriction similar to a night club instead of a family restaurant. She said this would adversely impact the business because of the negative impression of a 'bouncer' present at the front door of the premises and said there were no drug concerns at the premises.

She concluded that by deterring patrons from loitering at the front of the premises and smoking away from the neighbour's property, the nuisance would be reduced. Therefore, there was no need to reduce the opening hours which would have an adverse effect on the business and the enjoyment of those who attended Pazzia.

Mr Candido Rodrigues stated the success of his business for the last nineteen years with several famous clients.

QUESTIONS TO THE OBJECTORS' BY MEMBERS

Cllr Haseler stated the objectors' agreed there was significant room for improvement in the January 2019 review of noise and anti-social behaviour and asked what these were. Mr Candido Rodrigues stated that the License Officer at the time had suggested to move the smoking area on the driveway, which Mr Candido Rodrigues found dangerous for patrons due to the presence of moving vehicles. He said Pazzia and the Licensing officer did not come to an agreement. He said they blocked off the smoking area at 2300 hours and could not do this

any earlier as patrons dined until then and was difficult to move patrons. He also said that contrary to Mrs Hamilton's statement, there were no ashtrays on the tables and there were signs on the walls to advise patrons not to make noise. He said he left his position as a chef in Pazzia and worked front of house to control any possible noise from the patrons.

Cllr Haseler asked why the solution to move the outdoor chairs and tables away from the neighbour's property was not considered earlier. Mr Candido Rodrigues stated this solution was already in place and was agreed with the applicant and Licensing Officer eight or so months prior the hearing.

The Chairman asked if there were any parasols and seating areas at the front of the premises and it was clarified there were two seating areas on the right of the restaurant, and one on the left. The Chairman asked how the area was blocked off on the right-hand side, which was explained to be done by rotating the picnic tables.

Cllr Haseler addressed the recommendation for the CCTV to Thames Valley Police's specification and is managed accordingly and asked if the current CCTV met this specification and management. Mr Candido Rodrigues said it did not and explained the CCTV was installed four years ago for Piazza's own interest and was not a condition on the license. He stated that this was installed to monitor patrons and staff. Cllr Haseler advised that the CCTV installation is to protect the premises and others and would be worthwhile to have high quality footage in accordance with the Thames Valley Police standards. Mr Candido Rodrigues explained he also had Ring (smart doorbell) installed and reinstated the police did not cooperate with him regarding the incident on 23rd February and he made many attempts to contact the police so that they can collect CCTV evidence from the premises. Cllr Haseler asked until when can the footage be accessed, which was stated to be up to a month.

Cllr Haseler asked who the DPS was and was informed that it was Mr Jorge Rodrigues. Cllr Haseler asked how frequently Mr Jorge Rodrigues was at the premises as a DPS, if he was aware of the neighbours' complaints and if he was aware of his role and responsibility as a DPS. Mr Jorge Rodrigues said he was at the premises on most weekends, three or four times a week. He asserted that the premises made improvements and live music was not an issue at the premises.

Cllr Haseler asked what action the DPS took in relation to the audio recordings of children screaming, as he would be aware of the neighbours who may have complained about the noises. Mr Candido Rodrigues explained that the children were told to lower their voices and admitted they should not have been out that late.

Cllr Brar asked the location of the sign that requested patrons to smoke away from the neighbours' property. Mr Candido Rodrigues explained the signs were visibly placed inside and outside of the premises and on the side of the driveway. Cllr Brar also asked if the premises complied to the opening hours on special occasions, such as New Years' Eve. Mr Candido Rodrigues explained this year, he closed the restaurant for 7 days from 23rd December 2019 and opened on 2nd January 2020. Mr Candido Rodrigues described an event a few years ago on New Year's Eve when he erected a marquee attached to the restaurant which he did not have a license for. He explained Mr and Mrs Hamilton's complained to the Council regarding this. He said Mr and Mrs Hamilton complained by email to Royal Borough Windsor & Maidenhead regarding the marquee prior to going on holiday to Scotland.

The Chairman highlighted the OOH Officer's witness statement on 26th October 2019 at 2300 hours, which stated the Officer did not see the DPS managing the behaviour of customers and staff and asked Mr Jorge Rodrigues to elaborate. Mr Jorge Rodrigues explained he was not always outside the premises controlling patron behaviour, but he briefly checked if the behaviour is acceptable. This was because he sometimes undertook waiter duties and was inside the premises. The Chairman asked if Mr Jorge Rodrigues, as a DPS, had the capacity to disperse customers in the evenings, which he stated he did. He affirmed that he would not

repeatedly check on customers if a few were smoking outside and it was rare for customers to be behaving in a disruptive manner.

The Chairman asked if the DPS understood his responsibility was to disperse customers, which Mr Jorge Rodrigues agreed and stated he did to the best of his ability. The Chairman addressed that the recommendation for a Security Industry Authority member may have been made to ensure the dispersal of customers is guaranteed, rather than it being done on a part-time basis. The Chairman asked the DPS if he understood the benefit of the quiet dispersal of customers, which Mr Jorge Rodrigues agreed to and said he was at the premises almost full-time on the weekend, which is when the complaints occur the most.

The Chairman asked how else the taxi pick-up locations were enforced, other than the use of signs. Mr Candido Rodrigues explained he spoke to the usual taxi service companies and informed the drivers to go to the back of the car park. The Chairman asked if there were neighbours near the end of the car park and if so, was the disruption from the taxis being moved from one neighbour to the next. Mr Candido Rodrigues explained there were neighbours at the back of the car park and the neighbours did not have any issues from the taxis.

The Chairman confirmed the location of the current smoking area location and asked how the premises owners would stop patrons smoking near the neighbour's property. Mr Candido Rodrigues said patrons could dine, drink and smoke near the neighbour's property up until 2300 hours, as the neighbours have raised concerns after this time period. The other side of the premises was closed after 2300 hours and was unavailable to dine, drink or smoke.

QUESTIONS TO THE OBJECTORS' BY APPLICANT

The Applicant asked how the issue of raised voices would be resolved if the smoking area was relocated from the left of the main entrance to the right-hand side. Mr Candido Rodrigues explained that the right-hand side was the only safe location to move the smoking area because of the driveway, and it was not applicable to guide patrons to the back of the car park.

Mr Cirimele clarified that it appeared feasible to have a limited number of smokers at the side of the building when this was discussed with Mr Candido Rodrigues. Mr Cirimele acknowledged that the side of the building was the entrance of the car park and expected cars to have a speed of no more than a few miles.

Debie Pearmain asked how many times and what days Mr Jorge Rodrigues was at the premises as DPS, to which he replied he was at the premises three to four nights a week from Thursday to Saturday, and sometimes Sunday. They were closed during the day.

Debie Pearmain asked if Mr Jorge Rodrigues accepted that his current method of control and dispersal of customers was not working. Mr Jorge Rodrigues stated this was not entirely true and addressed that the recording played were amplified sounds and not as loud in person. She asked what time the last order of food was taken, which Mr Candido Rodrigues explained was 2300 hours. Debie Pearmain queried that she did not see how the premises was a family restaurant and played live music until 2330 hours. Mr Candido Rodrigues said his clientele were families and the business owners were a family. Debie Pearmain stated that Pazzia seemed more like a pub than a family restaurant during her visits.

TRADING STANDARDS & LICENSING MANAGER SUMMARY

Mr Nelson, the Trading Standards & Licensing Manager summed up by outlining the amendments to the premises licence recommended by Mr Cirimele, the history of problems/complaints at the restaurant dealt with by the various authorities and the neighbours, and the response and evidence provided by the restaurant.

With regard to the recommendations in the application to modify the conditions of the licence, Mr Nelson said that the Sub-Committee may:

- grant them as submitted
- modify them by altering, omitting or adding to them, or
- reject them, in part or entirely

Mr Nelson said that the Sub-Committee must make their decision within five working days.

The Chairman thanked everyone for their attendance and contributions.

The Sub-Committee retired to make their decision.

DECISION

The Sub-Committee carefully considered all the submissions. The Sub-Committee expressed the licensing objectives were not being met and there was public nuisance, based on the comments and observations of Mr and Mrs Hamilton's and the resultant evidence given by the Thames Valley Police, the Environmental Protection Officers and Licensing. They were particularly reliant on the statements given by the Community Safety Wardens Ben Higgs and Jake Hynard, as the behaviour of Mr Candido Rodrigues raised concerns to the safety of the public. The evidence given by Elizabeth Johnson, Environmental Protection Officer evidence also showed breaches of the Noise Abatement Notice on 27th October and 16th November 2019.

After careful consideration of all the evidence, the Sub-Committee decided that the following conditions be added to the premises licence for Pazzia Restaurant:

1. No person shall be permitted in the outdoor seating at the front of the premises between 22:00 hours and 7:00 hours.
2. The smoking solution will be moved to the left hand side (facing towards the premises) at 22.00 hours, 7 nights per week.
3. No table or chairs to be provided at the side and rear of the building.
4. Digital CCTV monitoring system must be installed at the front, side and rear of the building and maintained to Thames Valley Police standard. Recordings to be kept securely for 31 days and made available to Thames Valley Police employees and Authorised Persons as defined by Section 13 & 69 Licensing Act 2003 upon request.
 - a. DPS or nominated person to be trained on how to work the CCTV system to the standard where the nominated person can download any potential evidence required by Thames Valley Police employees and Authorised Persons as defined by Section 13 & 69 Licensing Act 2003.
 - b. Nominated person is responsible in supplying the necessary media (discs, data sticks) containing any downloaded content. Refusals Register to be on the premises and kept up to date and made available upon the request of the Police, Trading Standards and Authorised Persons as defined by Section 13 & 69 Licensing Act 2003.
5. Outdoor entertainment and singing is not permitted at any time.
6. There shall be no live or recorded music after 23:00 hours, seven nights a week.

The premises opening hours to remain as:

- Monday 11.00 to 00.30
- Tuesday 11.00 to 00.30
- Wednesday 11.00 to 00.00
- Thursday 11.00 to 01.00
- Friday 11.00 to 01.00
- Saturday 11.00 to 01.00
- Sunday 11.00 to 23.00

It is considered that these conditions are appropriate to further the licensing objective of prevention of public nuisance and public safety.

The meeting, which began at 9.05 am, finished at 3.40 pm

CHAIRMAN.....

DATE.....