

**From:** [Philip Day](#)  
**To:** [Licensing Com](#); [Tania Jardim](#); [Sarah Rogers - Licensing](#); [Andrew Hill](#)  
**Cc:** [Nala Lounge](#); [REDACTED]  
**Subject:** Nala Lounge - review hearing 17 January 2024 (GU297/1)  
**Date:** 09 January 2024 17:36:38  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)

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Dear All

I have noted the agenda papers for the hearing of the review application next week and have a number of concerns, not least that relevant emails/documents etc have not been included in the agenda papers.

In summary, I will be making an application to adjourn the hearing until 24<sup>th</sup> January when the application for a new licence for the premises will be considered.

As is always the case with any matter that I am involved with, I have attempted meditation.

In this case, that basically consisted of making an application for the grant of a new licence with hours restricted to a greater extent than under the existing licence the subject to the review application and the inclusion of other licensable activities (i.e. regulated entertainment) but subject to a raft of additional conditions. Whilst the police in particular made a representation regarding the review application, they have not done so regarding the new licence application.

If the new licence application was granted on terms acceptable to my clients, the existing licence (i.e. the one subject to the review) would be surrendered which in turn would make the review application redundant. I also note that some of the "other" representations refer to both the review application and the application for a new licence.

It therefore made sense (to me at least) to have both hearings listed for the same day but to have the new licence application considered first.

However, I have been advised that the listing of other cases on 17<sup>th</sup> January was such that it was not possible to accommodate both.

There are legal issues regarding the representations that have been made by Environmental Health in particular which I have raised in email correspondence and I am concerned that these matters have not been addressed in your Officer's report – these relate to the Live Music Act and the relationship between "licensing" and "planning" (having regard to the s.182 Guidance that licence conditions should not duplicate other regulations etc).

If the review application proceeds on 17<sup>th</sup> January, any decision the sub-committee might make will not have effect for 21 days (or for far longer if we were to lodge an appeal) by which time the new licence application will have been determined (on 24<sup>th</sup> January).

**Please therefore can the review application be adjourned until 24<sup>th</sup> January?**

If not, then I will need to submit voluminous documents, including the application for the new licence and the many emails relating to the same and a legal argument concerning the provisions of the Live Music Act.

My client has also requested that the hearing(s) should be in person and not conducted by way of a video (Teams) link.

I look forward to hearing from you but can this please be included in papers sent to members and all those who have made representations?

Regards

Philp  
Philip Day Partner

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**From:** [Andrew Hill](#)  
**To:** [Philip Day](#)  
**Cc:** [Tania Jardim](#); [Sarah Rogers - Licensing](#); [Linda Cole](#)  
**Subject:** RE: Nala Lounge New Premises License Application (GU297/1)  
**Date:** 21 December 2023 07:58:29  
**Attachments:** [image001.jpg](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)  
[image007.png](#)

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Hi Philip

Thanks for your email. I cannot agree to a number of points you have raised. Ultimately this license seeks to legitimise the use of the premises as a night club / music venue and is a significant departure from the restaurant we were first advised this would be. Failure to agree to the conditions I have suggested will offer little or no protection to the residents from noise especially through the use of the external seating area and I will be obliged to uphold my objection.

My comments below:

1. *No regulated entertainment shall be permitted in that part of the premises identified as the “enclosed seating area” on the approved plans, after 23:00 hours.* The current planning permission stipulates that the outside area is only allowed to have background music, can only be used for dining and needs to be vacated by 10 pm Sunday to Thursday and by 11 pm Friday and Saturday. This is to minimize the impact of the use of this area on local residents.

Therefore I would not be in agreement with this condition offered and would require that **music in that part of the premises identified as the “enclosed seating area” shall be at background levels at all times. This area shall be used for dining only.**

You State in RED that

I cannot agree this. The provisions of the Live Music Act cannot be disapplied on an application for the grant of a new licence. The seating area is within the area licensed for the sale of alcohol for consumption on the premises and this condition if impose would be of no effect.

My response in GREEN;

What you and your client fail to appreciate here is that the planning permission restricts the use of the external area for anything other than background music and states that the area must be vacated by 23:00 Friday and Saturdays and 22:00 Sunday to Thursday. Furthermore the planning consent states that the area can only be used for dining.

The condition needs to be in place to ensure that the use of this area is in accordance with the planning consent. ( I have objected to the planning application for the removal of this restrictive condition )

**I will not be supportive of any application which allows the external area to be used for music other than background as local residents will be affected.**

2. *Whenever regulated entertainment is provided inside the premises. The retractable roof over part of the enclosed seating area shall be kept closed and all windows kept shut;*

*I would request that this be amended to;*  
**Whenever music other than background levels is provided inside the premises. The retractable roof over part of the enclosed seating area shall be kept closed and all windows kept shut;**

You State in RED that

I cannot agree this. The provisions of the Live Music Act cannot be disapplied on an application for the grant of a new licence. The seating area is within the area licensed for the sale of alcohol for consumption on the premises and this condition if impose would be of no effect.

My response in GREEN;

An agreement was reached with Mr Gunduz and his management team that a lobby doorway would be constructed. He advised me that due to financial constraints he was unable to construct the lobby doorway and I agreed that when live and recorded music was played in the premises the front doors and the front door to the enclosed external area as well as the roof would be kept closed to prevent noise affecting residents.

What it appears you are suggesting is that the premises will not have any restrictions on the control of noise until 23:00 because of the provisions of the LMA. I will not agree to this and am really concerned that we are in fact now moving backwards with what we are trying to achieve here.

Again, I will be obliged to object. I am concerned that these residents will be affected by noise from the external area which as I understand your client now:

- Seeks to utilize this area for live and recorded music until 23:00 which is contrary to the planning consent
- There is no requirement for this area to be closed to control noise from patrons or music until 23:00

**I will not be supportive of any application which allows the external area to be used for music other than background as local residents will be affected.**

3. The holder of the licence shall ensure that the entrance door into the enclosed seating area and from the enclosed seating area into the main part of the building are not open at the same time ( Agreed)

**Please note that this is not a "stand alone" condition but relates only to when regulated entertainment is provided inside the premises.**

What it appears you are suggesting is that the premises will not have any restrictions on the control of noise until 23:00 because of the provisions of the LMA. – Because of your comment about 'relating only to when regulated entertainment is provided' I will not agree to this and am really concerned that we are in fact now moving backwards with what we are trying to achieve here again. Mr Gunduz agreed that whenever live and recorded music is being played the doors/ roof and windows of the external area would be kept closed.

**I will not be supportive of any application which allows the external area to be used for music other than background as local residents will be affected.**

4. Persons wishing to smoke shall not be permitted to do so within any part of the enclosed seating area. ( Agreed)  
**As with 3 above, please note that this is not a "stand alone" condition but relates only to when regulated entertainment is provided inside the premises.**

Please see comments above -

5. All amplified music shall be routed through a noise limiting device. The level(s) at which the device is set shall be determined in consultation with the Environmental Health Officer. Access to the device shall be restricted to the manager of the premises and a noise consultant retained by the premises. ( Agreed)
6. Staff (including any SIA registered door supervisors) shall be instructed:  
To monitor compliance with the conditions of the licence; and to ensure that patrons smoking outside the premises on the street are not causing a nuisance to local residents. ( Agreed)
7. A sign shall be prominently displayed at the exit from the premises requesting customers to leave quietly and have regard to local residents. ( Agreed)
8. The premises shall ensure that its website includes a telephone number to which local residents can refer any concern about noise and other issues. ( Agreed)

Furthermore, I would request that the following changes are made to Section M, ( General – all four licensing objectives is made:

*Substantial food in the form of table meals appropriate to the time of day shall be available from when the premises open until 22:30 hours or 30 minutes before the intended closing time of the premises on any particular day, whichever is earlier.*

This shall be amended to:

*Substantial food in the form of table meals appropriate to the time of day shall be available from when the premises open until 23:00 hours or 30 minutes before the intended closing time of the premises on any particular day, whichever is earlier. This shall include the enclosed seating area. Which must be vacated by 10 pm Sunday to Thursday and by 11 pm Friday and Saturday. [ this condition will bring the requirements of the premises license in line with the requirements of the planning consent ]*  
**I will take instructions but you will be aware that planning applications have been submitted to address this and other aspects.**

**I have objected to the planning application**

A waiter/waitress service shall operate at all times the premises are open to the public. *This shall include the enclosed seating area.*

*I would have thought this was implicit but subject to instructions, agree.*

Non-alcoholic beverages (including tea and coffee) shall be available at all times the premises are open to the public. (Agreed)

A minimum of 40 covers (i.e. tables and chairs that can be used for dining) will be provided internally from when the premises open until 23:00 hours or 30 minutes before the intended closing time of the premises on any particular day, whichever is earlier. (Agreed)

**A minimum of 20 covers (i.e. tables and chairs that can be used for dining) will be provided in the enclosed seating area from when the premises opens until 23:00 on Friday and Saturday and by 10 pm Sunday to Thursday**

*I need to think about this one, not least because the reality is that for much of the time, the demand for food would not justify opening the enclosed seating area for diners, particularly during the winter months. Could we discuss further please?*

I believe the above conditions will offer the nearby residents sufficient protection from noise.

If the applicant is not in agreement with the above conditions, I would request that a hearing is held so that I can bring my concerns to the attention of the licensing sub-committee

*I think a hearing is probably inevitable given that we currently have one local resident who has made a representation whom I think is unlikely to agree a mediated outcome.....*

Philip I need to be honest here and say that I am really concerned that we are moving away from a position of mediation. I have agreed to work with this business to ensure that they can operate without negatively impacting on the residents. The business acknowledged that they needed to make some allowances and I agreed to manage the expectations of the residents.

This external seating area is a major concern for me, they cannot control the noise and the premises license you are trying to obtain for this premises which hides behind the provisions of the LMA is simply going to place this business under constant scrutiny from the residents and us.

This premises license if granted without the conditions I have suggested will ultimately result in the 'Prevention of Nuisance objective being undermined' whilst you may suggest we can then seek a review to disapply the LMA, this will mean having to once again gather evidence, once again take up the time of licensing officers, and your client once again having to meet the costs of litigation for the hearing. We are both experienced enough to see that it is inevitable that the use of the external area with little or no controls until 23:00 will result in complaints and further monitoring visits and noise surveys from us.

The provision of music in this outside area will attract more persons to this area and whilst perhaps the volume of music can be controlled, the noise associated with patrons in this external area cannot be controlled, especially when patrons wish to smoke on indeed if Mr Gunduz wishes to continue offering this area as a space for consuming shisha and therefore the windows, doors and ceiling would need to be open.

I am disappointed that we have regressed now. If you feel that the provisions of the LMA are a hindrance to the application of suitable controls then I may need to consider whether indeed this premise license being granted is appropriate for the area ?

I am happy to work with you and the business Philip but you need to give me something to work with. This external area has been and will always be a major problem for the business. I think that the business can control the noise from within the property provided suitable structural acoustic controls are in place such as lobbied doorways and in this case the external area acting as lobby for the prevention of noise escape but the external area will always present a challenge to this business.

The conditions I have suggested will in my view offer sufficient controls to the residents whilst allowing the business to continue utilising this space in accordance with the planning consent.

Kind Regards



**Andrew Hill**  
**Senior Environmental Health Officer**

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**From:** Philip Day  
**Sent:** Monday, December 18, 2023 1:04 PM  
**To:** Andrew Hill  
**Cc:** Tania Jardim ; Sarah Rogers - Licensing  
**Subject:** FW: Nala Lounge New Premises License Application (GU297/1)

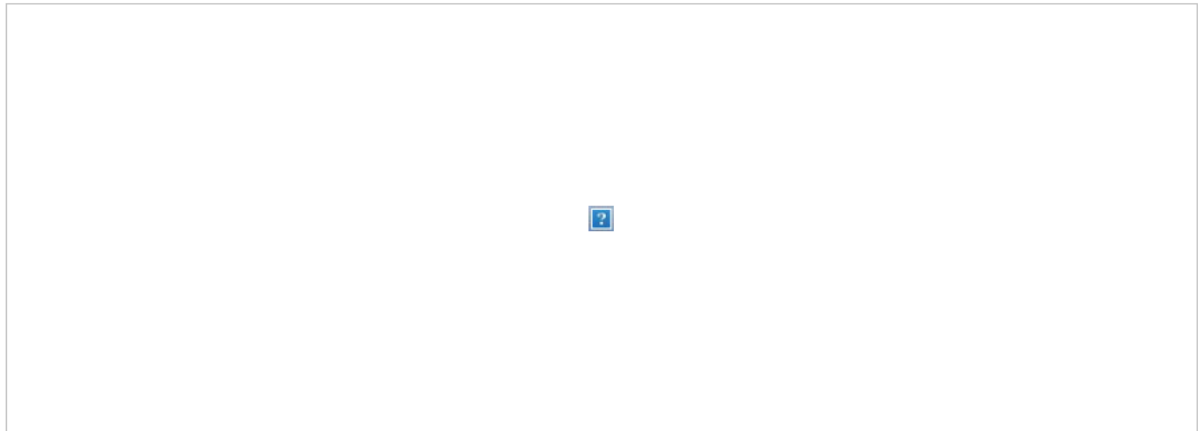
Dear Andrew

I refer to your representation regarding the new licence application (copied below) and attach (in red) my comments. You will see that some of them are really technical and revolve around the application of the Live Music Act. If you accept the points made about the Live Music Act, it does seem that there would be only a few issues potentially between us (your final points regarding when food should be available and the number of covers in the enclosed seating area).

I am on holiday from the 21<sup>st</sup> through to the afternoon of the 2<sup>nd</sup> but can we try and arrange to discuss on my return (unless you can do so in the next day or two?)

Regards

Philip  
**Philip Day Partner**



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**From:** Andrew Hill  
**Sent:** Wednesday, December 13, 2023 9:19 AM  
**To:** Sarah Rogers - Licensing  
**Cc:** Licensing Com ; [Yvette Landy](#)  
**Subject:** Nala Lounge New Premises License Application

Hi Sarah



I have considered the new premises license application for NALA Lounge which has been submitted so as to ensure that the premises license is more in keeping with the intended use of the premises which is restaurant and cocktail bar offering live music and events.

I believe that the historic operation of this venue until 2am was not in keeping with the area, this venue had an adverse impact on the use and enjoyment of properties in the local vicinity. Which resulted in a Noise Abatement Notice being served to limit live and Recorded Music until midnight. It is therefore encouraging to see that this application now has a terminal hour of 24:30 with Live and Recorded music until midnight.

The applicant has offered a number of conditions to minimise the impact of venue on local properties. I am broadly in agreement with the majority of these, however am not in agreement with the following:

1. *No regulated entertainment shall be permitted in that part of the premises identified as the "enclosed seating area" on the approved plans, after 23:00 hours.* The current planning permission stipulates that the outside area is only allowed to have background music, can only be used for dining and needs to be vacated by 10 pm Sunday to Thursday and by 11 pm Friday and Saturday. This is to minimize the impact of the use of this area on local residents.

Therefore I would not be in agreement with this condition offered and would require that **music in that part of the premises identified as the "enclosed seating area" shall be at background levels at all times. This area shall be used for dining only.**

I cannot agree this. The provisions of the Live Music Act cannot be disapplied on an application for the grant of a new licence. The seating area is within the area licensed for the sale of alcohol for consumption on the premises and this condition if impose would be of no effect.

2. *Whenever regulated entertainment is provided inside the premises. The retractable roof over part of the enclosed seating area shall be kept closed and all windows kept shut;*

*I would request that this be amended to;*

***Whenever music other than background levels is provided inside the premises. The retractable roof over part of the enclosed seating area shall be kept closed and all windows kept shut;***

Again, I cannot agree this. The provisions of the Live Music Act cannot be disapplied on an application for the grant of a new licence. The seating area is within the area licensed for the sale of alcohol for consumption on the premises and this condition if impose would be of no effect.

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Kind Regards



**Andrew Hill**

**Senior Environmental Health Officer**

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