

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Monday 2 October 2017 at 10.00 am at Ground Floor Meeting Room G02A - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas (Chair)
Councillor David Hubber
Councillor Maria Linforth-Hall

OTHERS PRESENT: David Dadds, legal representative, Unit 2, 777 Old Kent Road
George Nwachukwu, licensee, Unit 2, 777 Old Kent Road

OFFICER SUPPORT: Ryan Thompson, legal advisor to the sub-committee
Wesley McArthur, licensing officer
Carolyn Sharpe, public health officer
Sadie Regmi, public health officer
Jayne Tear, licensing officer as a responsible authority
Mark Prickett, environmental protection officer
Andrew Weir, constitutional officer

1. APOLOGIES

There were none.

2. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as the voting members.

3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

There were none.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003: UNIT 2, 777 OLD KENT ROAD, LONDON SE15 1NZ - REVIEW

The licensing officer presented their report.

It was noted that the applicant for the review was not present.

The public health officer addressed the sub-committee. Members had questions for the public health officer.

The licensee and the legal representative for the premises addressed the sub-committee. Members had questions for the licensee and their legal representative.

Both parties were given five minutes for summing up.

The meeting adjourned at 11.22am for the members to consider their decision.

The meeting resumed at 12.06pm and the chair advised everyone of the decision of the sub-committee.

RESOLVED:

That the council's licensing sub-committee, having considered an application made under Section 51 of the Licensing Act 2003 by an 'other person' for the review of the premises licence issued in respect of the premises known as Empire, Unit 2, 777 Old Kent Road, London, SE15 1NZ and having had regard to all other relevant representations has decided it necessary for the promotion of the licensing objectives to modify the conditions of the licence by adding the following conditions:

1. That a written dispersal policy be devised in respect of the premises. A copy of the policy shall be kept at / be accessible at the premises at all times that the premises are in use and shall be made available to council or police officers immediately on request. The policy must include (but not necessarily be limited to) the following:
 - The full name and address of the premises
 - The name(s) of the licensee and premises' designated premises supervisor
 - Details as to how customer / staff egress at the premises shall be managed to minimise causing nuisance
 - Details of public transport in the vicinity and how customers will be advised in respect of it
 - Details of the management of taxis to and from the premises
 - Details of the management of any 'winding down' period at the premises
 - Details of the use of security and stewarding in respect of managing customer dispersal from the premises
 - Details of any cloakroom facility at the premises and how it is managed
 - Details of road safety in respect of customers leaving the premises
 - Details of the management of ejections from the premises
 - Details of how refuse / waste in the local vicinity arising through the operation of the premises will be cleared up (e.g. flyer clean up, post event clean up)
 - Details of any other premises licence conditions relating to dispersal / the management of patrons arriving at / leaving the premises
 - Details as to the management (if any) of parking in regards to customer's

vehicles.

All relevant staff (e.g. SIA staff, managers / supervisors, stewards, bar staff or any other relevant staff) should be trained in respect of the policy. A record of the training, including the trainee's name (in capital letters) & signature, date that each member of staff is trained and declaration that the dispersal policy has been read and understood shall be kept at the premises and be made immediately available for inspection by officers of the council or police on request.

Reasons

The reasons for this decision are as follows:

The licensing sub-committee received written representations from the applicant for the review, namely that the licence should be reviewed on the grounds of the prevention of crime and disorder, and prevention of public nuisance. It also received written representations from another interested party on the grounds of prevention of public nuisance.

The licensing sub-committee heard oral representations from the public health officer, representing the director of public health, supporting the decision to review the licence on the grounds of prevention of public nuisance. The effects of persistent disturbance to sleep on an individual's health were explained. In view of these effects on an individual and the fact that a number of complaints had been received by the council, on behalf of the director, the sub-committee was invited to reduce the premises licence hours of operation to align with the council's policy.

The licensing sub-committee heard from the representative on behalf of the premises licence holder who explained that the application was made by a vexatious resident. It was further alleged that the applicant, and another, had actively sought to extort money from the licence holder. The representative went on to argue that because neither the applicant for the review nor the other person supporting the review had attended the hearing to give live evidence, little or no weight should be attached to the representations that had been made by them, and that the representations made on behalf of the director public health should attract little weight because they were based on the same flawed representations.

The sub-committee reminded itself that it must promote the licensing objectives and have regard to the statutory guidance issued under section 182 of the Licensing Act 2003 and the council's statement of licensing policy.

The sub-committee made no finding in respect of the allegation of extortion and did not consider there to be sufficient evidence to substantiate allegations of the application being vexatious.

The sub-committee having considered all the evidence and have decided to take no action on this occasion save to add conditions concerning the dispersal policy of the premises.

The sub-committee noted that on 6 September 2017, the licensing sub-committee considered the representations from a number of interested parties and responsible authorities, and a number of the issues were ventilated on this occasion. In reaching its decision today, the sub-committee looked for new evidence that had not been previously considered or for any new evidence that had become available since the last hearing. The

sub-committee was of the view that there was no new evidence since it made its decision on 6 September 2017 and noted that many of the issues raised by the interested parties and the responsible authority, in relation to this review hearing, had been dealt with by the addition of conditions added to the licence on 6 September 2017.

The sub-committee reminded itself that the issue of dispersal was raised at the hearing on 6 September 2017 and noted that the licence holder was unable to provide a copy of the dispersal policy today, and it would seem from the notes of the previous meeting, that one was not provided on the last occasion. In the circumstances, the sub-committee has concluded that it is therefore appropriate to amend the licence by adding conditions concerning the provision of a dispersal policy.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate.

Appeal rights

This decision is open to appeal by either:

- a) The applicant for the review
- b) The premises licence holder
- c) Any other person who made relevant representations in relation to the application.

Such appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court for the area within the period of 21 days beginning with the day on which the appellant was notified by this licensing authority of the decision.

This decision does not have effect until either

- a) The end of the period for appealing against this decision; or
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

6. LICENSING ACT 2003: LA BARRA, ARCH 147, UNIT 2, EAGLE YARD, HAPTON STREET, LONDON SE1 6SP

The licensing officer presented their report. Members had questions for the licensing officer.

It was noted that the applicant was not present.

The Metropolitan Police Service representative addressed the sub-committee. Members had questions for the police.

The environmental protection officer addressed the sub-committee. Members had questions for the environmental protection officer.

The licensing officer representing the council as a responsible authority addressed the sub-committee. Members had questions for the licensing authority officer.

All parties were given five minutes for summing up.

The meeting adjourned at 12.47pm for the members to consider their decision.

The meeting resumed at 12.55pm and the chair advised everyone of the decision of the sub-committee.

RESOLVED:

That the council's licensing sub-committee, having considered an application made under Section 34 of the Licensing Act 2003 to vary the premises licence issued in respect of the premises known as La Barra, Arch 147 Eagle Yard, Unit 2, London SE1 6SP –and having had regard to all other relevant representations has decided that it is necessary for the promotion of the licensing objectives to refuse the application.

Reasons

The reasons for this decision are as follows:

Written and oral representations were received from the Metropolitan Police Service objecting to the application to vary the licence on the grounds of prevention of crime and disorder, and prevention of public nuisance.

Written and oral representations were received from the environmental Protection Team objecting to the application to vary the licence on the grounds of prevention of public nuisance.

Written and oral representations were received from the Licensing Team objecting to the application to vary the licence on the grounds of prevention of public nuisance.

Written representations were received from a number of interested parties objecting to the application to vary on the grounds of prevention of public nuisance, prevention of crime and disorder, and protection of children from harm.

The applicant failed to attend the hearing and the sub-committee was only able consider the application and the documents accompanying the application.

The sub-committee reminded itself that it must promote the licensing objectives and have regard to the statutory guidance issued under section 182 of the Licensing Act 2003 and the council's statement of licensing policy.

Having considered all the evidence, the sub-committee has concluded that the application should be refused.

The sub-committee noted that there had been a number of breaches of the licence that had occurred in the past and in particular, the committee noted the contents of the letters sent to the applicant by the licensing team, on 8 July 2017 and 31 May 2017, summarising some of these breaches.

The sub-committee also noted that a vast number of complaints had been made. Whilst the sub-committee was alive to possibility of duplication, it was of the view that the sheer number of complaints suggested an ongoing problem at the premises.

In view of the history and the apparent ongoing problems, the sub-committee concluded that it had no confidence that the applicant is abiding by the current premises licence

conditions or would abide by any new conditions if the variation sought was granted.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate.

Appeal rights

This decision is open to appeal by either:

- a) The premises licence holder
- b) Any other person who made relevant representations in relation to the application.

Such appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court for the area within the period of 21 days beginning with the day on which the appellant was notified by this licensing authority of the decision.

This decision does not have effect until either:

- a) The end of the period for appealing against this decision; or
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

The meeting ended at 12.56pm.

CHAIR:

DATED: