

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Monday 18 December 2017 at 10.00 am at Ground Floor Meeting Room G02C - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Lorraine Lauder MBE
Councillor Sunil Chopra (reserve)

OTHERS PRESENT: Councillor Adele Morris, ward councillor
P.C. Graham White, Metropolitan Police Service
John Creevy, general manager, Mc & Sons
Luke Gittos, legal representative, Mc & Sons
Local resident, party 7
Alfred Mansaray, designated premises supervisor, Club 701
Eric Doe, director, Club 701

OFFICER SUPPORT: Debra Allday, legal officer
Andrew Heron, licensing officer
Dorcas Mills, licensing officer
Ken Andrews, environmental protection officer
Farhad Chowdhury, health and safety officer
Ray Moore, trading standards officer
David Franklin, licensing responsible authority officer
Andrew Weir, constitutional officer

1. APOLOGIES

Apologies were received from Councillor Maria Linforth-Hall. Councillor Sunil Chopra attended as the reserve member.

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: MC & SONS, 160 UNION STREET, LONDON SE1 0LH

The meeting started at 11.20am due to the fact that the reserve member had to be called upon and they required some time to make the journey to the meeting venue.

The chair advised that she would allow the ward councillor to speak first as the ward councillor had to leave for an appointment.

The licensing officer presented their report. Members had no questions for the licensing officer.

The ward councillor addressed the sub-committee. Members had questions for the ward councillor.

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

The licensing officer representing the council as a responsible authority addressed the sub-committee. Members had no questions for the licensing officer.

The sub-committee heard from a local resident, objecting to the application. Members had questions for the local resident.

All parties were given five minutes for summing up.

The meeting adjourned at 12.19pm for the members to consider their decision.

The meeting resumed at 12.30pm and the chair read out the decision of the sub-committee.

RESOLVED:

That the application made by Ryan Mc Elhinney and John Mc Elhinney for a premises licence to be varied under the Licensing Act 2003 in respect of the premises known as Mc & Sons, 160 Union Street, London SE1 0LH be granted as follows:

Licensable activity	Hours
Sale and supply of alcohol (on the premises)	Friday and Saturday from 23:00 to 00:00
Operating hours	Monday to Thursday from 10:00 to 23:00 Friday and Saturday from 10:00 to 00:00 Sunday from 12:00 to 23:00

Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operation schedule highlighted in Section M of the application form, conditions agreed with the responsible authorities during conciliation and the following additional conditions agreed by the sub-committee:

1. That a dedicated telephone number and email address, for the management of the premises be provided to local residents.
2. That with the exception of egress/ingress, all doors to remain closed after 22:00.
3. That signage be erected directing smokers to the rear of the premises.
4. That signage be erected on the emergency door advising that "No exit to Ewer Street except in emergency".

Reasons

The reasons for the decision are as follows:

The licensing sub-committee heard from the applicant who stated that they ran a few busy pubs in the area. They advised that they ran these premises responsibly and conscientiously. They informed the sub-committee that they were seeking to vary the license so that it was in line with their other licensed premises. The applicant was also of the view that the issues raised by the responsible authorities and other persons had been addressed with a range of conditions being agreed, which would mean a more stringent operation on the premises. The applicant wanted to work with the local residents and agreed that there needed to be a more open dialogue, to avoid unnecessary criticism.

The licensing sub-committee heard from the licensing responsible authority who advised that the immediate issues, relating to this application concerned the late hours sought exceeding those recommended within Southwark's statement of licensing policy. They informed the sub-committee that now that the applicant had brought the hours back in line with the policy and had provided an accommodation limit of 170 persons, their representation was now conciliated.

The licensing sub-committee noted that the Metropolitan Police Service, environmental protection team and the public health authority had conciliated with the applicant.

The licensing sub-committee heard from the local ward councillor who advised that the premises is a public house, and the hours sought exceeded those beyond the hours recommended in Southwark's statement of licensing policy. The ward councillor had also received complaints from local residents concerning noise escaping from the rear area, and that the noise team had been called. The public house has recently re-opened after a long period of closure and needs to be reminded of the duty to be considerate to the neighbours.

The licensing sub-committee heard from Party 7, being one of the eight other persons objecting to the application who stated that since officially opening a few weeks ago there have been crowds of people from the pub gathering around the premises until after 23:00 each night. Customers with drinks currently block the pavement, create noise and leave bottles and glasses (sometimes broken glass). The premises is located on the residential side of Union Street,

where the pavement directly outside the premises is extremely narrow, and patrons had been congregating outside, making it difficult for local residents to pass-by , requiring them to step onto the road to do so.

They stated that they can also hear the music from the public house in the homes. There are also issues with the disposal of empty bottles and rubbish bags which create noise and mess. Issues had been raised with staff at the premises, but this had not been passed on to the premises management.

The licensing sub-committee considered all of the oral and written representations before it and were of the opinion that because the premises had been closed for some time, it was necessary for the premises to engage with the local community and address the concerns raised. During the course of the meeting, the premises agreed to the conditions that this sub-committee now impose, stating that they were fair and proportionate. To assist the parties further, this sub-committee also recommends that the premises holds regular meetings with local residents so and on-going concerns can be aired.

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

The applicant may appeal against any decision:

- a) To impose conditions on the licence
- b) To exclude a licensable activity or refuse to specify a person as premises supervisor.

Any person who made relevant representations in relation to the application who desire to contend that:

- a) The licence ought not to be been granted; or
- b) That on granting the licence, the licensing authority ought to have imposed different or additional conditions to the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the Magistrates' Court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

6. LICENSING ACT 2003: CLUB 701, 516 OLD KENT ROAD, LONDON SE1 5BA

The licensing officer presented their report. Members had no questions for the licensing officer.

The applicant confirmed that they were happy to proceed without their legal representative. The applicant addressed the sub-committee regarding their application. Members had questions for the applicant.

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

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

The environmental protection officer addressed the sub-committee. Members had no questions for the environmental protection officer

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

The trading standards officer addressed the sub-committee. Members had no questions for the trading standards officer.

All parties were given five minutes for summing up.

The meeting adjourned at 3.06pm for the members to consider their decision.

The meeting resumed at 12.38pm and the chair read out the decision of the sub-committee.

RESOLVED:

That the application made by Erico Entertainment Limited to vary a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Club 701 – 516 Old Kent Road, London, SE1 5BA be granted as follows:

Conditions

1. That the following conditions be removed from the premises licence: 344, 361, 387, and 426.
2. That condition 341 be amended as follows:

“That a minimum of 3 SIA registered door supervisors shall be employed at the premises if the premises open before 00:00 hours, one of whom shall be female, at all times that the premises are in use. They will be employed each night that the premises are in operation and will be on duty to receive patrons at the stated opening time of 22:00; after 00:00 hours, a minimum of 6 SIA registered door supervisors shall be employed, one of whom shall be female, at all times that the premises are in use. At least two will be provided with, and will use, electronic search wands. The electronic search wands shall be used at all times that the premises are open in respect of the search of all persons who wish to enter the premises. This includes all DJ's and associated staff and their equipment”.

Reasons

The reasons for the decision are as follows:

The licensing sub-committee heard from the applicant. They advised that they had attempted to conciliate the application with the responsible authorities. The majority of the applicant's guests, go out after a late dinner and so the premises is rarely busy before

midnight, hence they were seeking a reduced SIA presence before midnight. The applicant also agreed to reduce the proposed extension of hours for licensable activities to 05:00 on Fridays and Saturdays and 02:00 on Sundays. Concerning the smoking of shisha pipes, they advised that these will be of the electronic variety only, so there would be no coal storage and no fumes being inhaled by staff and guests.

They informed the sub-committee that all issues identified by licensing and the police had now been rectified. Training of all staff been completed and paperwork (training records, refusals book etc.) remedied. The applicant stated that there had been no noise complaints of the club, nor had there been any incidents of crime and disorder.

The licensing sub-committee heard from the representative from the Metropolitan Police Service who advised that the premises operated as a night club and is located in a designated residential area under the statement of licensing policy. The premises was granted despite nightclubs not being considered as suitable under Southwark's statement of licensing policy, as the area is considered as a residential area. The hours granted were later than any recommended within the statement of licensing policy for a night club in any part of the borough.

The representative for the police therefore objected to any extension of the hours. There was no objection in principle to the staggering of the SIA (amending condition 341) as sought by the applicant. Furthermore, there was no objection to removing duplicate conditions from the licence, but did object to the removal of condition 793 and 4AI as both relate to the training of staff and refusal of service and the completion of records. The police did object to the smoking area to being used for Shisha as the storage of the coals used in the pipe give off toxic fumes when stored or extinguished and would be a risk to customers and staff depending on storage and handling. The use of electronic shisha pipes was also objected to as no detail was provided by the applicant whether the vapour liquid would be brought in by patrons. With the recent increase in acid attacks in nightclubs, there would be risk acid could be mistaken for shisha vapour liquid.

The licensing sub-committee heard from the licensing officer as a responsible authority who also referred to the premises being situated in a residential area. They advised that night clubs are not recommended for the area and that the hours granted far exceeded those recommended in the statement of licensing policy. Complaints had been received from local residents regarding amplified music noise coming from the premises and an Abatement Notice in respect of a statutory nuisance was served on the applicant in October 2017. A number of licence conditions had been breached and a number of Section 19 Closure Notices had been served as a result. The applicant was likely to be prosecuted in respect of these. Licensing as a responsible authority advised that it would be appropriate and proportionate to refuse this variation application in its entirety.

The licensing sub committee then heard from an officer from the environmental protection team who stated that the venue is situated in a residential area. They advised that an Abatement Notice in respect of a Statutory nuisance was served on the applicant in October 2017. They advised that it was essential that conditions are adhered to prevent public nuisance. The officer confirmed that two of the conditions that the applicant wished to have removed, namely conditions 385 360 and 387 are crucial in fulfilling the prevention of public nuisance licensing objective and that they should not be removed. Any variation to the licensable activities/closing hours would longer drinking hours and more anti-social behaviour and noise nuisance.

The licensing sub-committee then heard from a health and safety team officer who raised

concern of the applicant's proposed Shisha bar, in that the applicant provided no explanation, maps or diagrams where it would be located. The officer stated that smoking shisha is deemed more harmful than smoking cigarettes because the liquid in the pipes does not act as a filter for the harmful toxins within the smoke from the tobacco and charcoal. Shisha smoke can contain carbon monoxide, nicotine, arsenic, and lead. The World Health Organisation (WHO) research shows that in one hour a water pipe smoker can inhale the equivalent amount of smoke as released by 100 cigarettes. In addition, there are health implications from sharing the pipe, including a risk of catching TB, herpes and gum disease and the risk of passive smoking. In addition to this, the premises smoking area was actually within the premises and fell foul of The Health Act 2006. The applicant had been advised of this on 2 September 2017, but had done nothing to rectify the position. The applicant had therefore, committed a criminal offence.

The licensing sub-committee heard from trading standards whose primary concern related to the proposed introduction of a shisha bar. For tobacco to be legally smoked, in addition to specific legislation relating to the products themselves such as advertising and the supplying of statutory health warnings, it needs to comply with the Health Act and a compliant smoking area. Currently the premises does not have a smoking area that is compliant with the Health Act. In addition, the smoking area is presently limited to no more than 7 (condition 360). The applicant has failed to indicate how many could be in this area at any one time. The applicant also seeks condition 345 to be amended to allow drinks to be consumed in the smoking area. This would simply encourage patrons to remain in the smoking area. Furthermore, smoking shisha is not like smoking a cigarette as it can last all evening. Allowing drinks to be consumed there would encourage this to happen. The applicant also has not considered the concentration of tobacco intoxicants or the monitoring of CO levels. No consideration has been given on the impact on others in the vicinity of the toxic fumes from smoking the tobacco, the toxic burning coals others in the vicinity.

The licensing sub-committee noted the representation from the public health authority.

On 8 June 2016, the licensing sub-committee granted an extremely generous premises licence to the applicant that fell outside Southwark's statement of licensing policy, both in granting a licence for a nightclub (in a residential area) and exceeding the policy's recommended hours. The sub-committee are concerned with the extent of the applicant's non-compliance which is recorded as early as September 2016 and for this reason, is not in agreement to much of the applicant, with the exception of the removal of duplicated conditions and 426 in addition to the amendment of conditions 341 which is approved by the police.

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

The applicant may appeal against any decision:

- a) To impose conditions on the licence.
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The meeting ended at 3.24pm.

CHAIR:

DATED: