

## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 4 October 2018 at 10.00 am at Ground Floor Meeting Room G02C - 160 Tooley Street, London SE1 2QH

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**PRESENT:** Councillor Lorraine Lauder MBE (in the chair)  
Councillor Sunil Chopra  
Councillor Sirajul Islam

**OTHER MEMBERS PRESENT:** Councillor Margy Newens, ward councillor

**OFFICER SUPPORT:** Debra Allday, legal officer  
Andrew Heron, licensing officer  
Jayne Tear, licensing responsible authority 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: DEE DEES - 77 HERNE HILL, LONDON, SE24 9NE

The chair advised that all parties would be given five minutes to make any additional representations about the public meeting held. Historical information and/or the premises licence review proceedings in 2015/2016 would not be considered further.

The licensing officer update the sub-committee, following the public meeting held on 11 September 2018. Members had questions for the licensing officer.

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

The licensing sub-committee heard from the ward councillor representing local residents objecting to the application. Members had questions for the ward councillor.

The licensing sub-committee heard from local residents objecting to the application. Members had questions for the local residents.

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

The meeting adjourned at 11.02am for the members to consider their decision.

The meeting resumed at 11.21am and the legal officer advised all parties of the sub-committee's decision.

### 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 Dee Dees, 77 Herne Hill, London SE24 9NE is granted as follows:

#### i. Hours:

The extension of the sale of alcohol to be consumed on and off the premises	Friday and Saturday 23:00 to 00:00 hours
The extension of the provision of regulated entertainment in the form of recorded music (indoors)	Friday and Saturday 23:00 to 00:00 hours
The provision of late night refreshment	Friday and Saturday 23:00 to 00:00 hours
Overall opening hours	Monday to Thursday 07:00 to 23:30 hours Friday and Saturday 07:00 to 00:30 hours Sunday 07:00 to 23:00 hours

#### ii. That conditions 4AK (relating to joining a pub watch scheme) and condition 846 (relating to no TENs being applied for be removed.

## Reasons

The licensing sub-committee originally met to consider this matter on 7 August 2018 when it heard from the applicant who advised the premises had operated for seven years and the variation application was sought for the viability of the business. The premises had a niche customer base that had approached the application requesting an extra hour on Fridays and Saturdays. The non-standard hours were withdrawn. Since the review of the premises licence in 2015, the applicant had complied with the licence rigidly and the applicant has not received any complaints in the last two to three years. The applicant stated that he supported the local community, he employed three local residents in the premises and supported a local children's theatre. No representations had been received from the responsible authorities, other than the licensing authority and those received from local residents were based on being invalid, as the content of the representations lacked any detail.

The licensing sub-committee then heard from the officer from licensing as a responsible authority who confirmed the proposal to remove conditions 4AK and 846. The officer also advised that a temporary event notice (TEN) was submitted by the applicant for late night refreshment and sale of alcohol for the 11-12 May 2018. Neither the police nor the environmental protection team had issued a counter notice and the event proceeded with no complaints being made.

The licensing sub-committee heard from the ward councillor who advised the licensing sub-committee that 18 local residents had submitted representations objecting to the variation application. The location where the premises are situated was densely residential and there was a long history of conflict with the local community, which resulted in the review of the premises licence in 2015 and the subsequent removal of TENs. There was a regular contravention of both the licensing and planning regimes. The premises also attracted both anti-social behaviour and crime. Southwark's statement of licensing policy specifies a closing time of 23:00 hours. Anything beyond this would be classed as a nightclub, which in the licensing policy is inappropriate.

During the course of the meeting on 7 August 2018, the sub-committee felt that there was a degree of animosity between the parties and that it would be beneficial to adjourn for:

- i. That the applicant will arrange at least one public meeting at the premises to allow local residents to air any grievances they may have and in an attempt to conciliate this variation application. The meeting will be advertised on social media and the licensing authority will be invited to attend this meeting.
- ii. Only parties who had submitted representations would be permitted to submit additional evidence.
- iii. For the licensing sub-committee to consider further representations in respect of additional evidence submitted and details of the public meeting(s).

The matter reconvened on 4 October 2018. The parties were all given five minutes to make any additional representations about the public meeting(s) held. Historical information and/or the premises licence review proceedings in 2015/2016 would not be considered further.

Licensing as a responsible authority advised that there had been no change since the original meeting on 7 August 2018 and reminded the sub-committee a temporary event notice had for late night refreshment, sale of alcohol and regulated entertainment had taken place on 11-12 May 2018 from 23:00 to 00:00 on both days. Neither the Metropolitan Police Service nor the environmental protection team has issued counter-notices as they did not have any concerns about the event. In addition, no complaints had been received in respect of the event.

The ward councillor referred to the public meeting that had taken place on 11 September 2018, but was not constructive; there had been inadequate advertising and the applicant was defensive, disputing that there were any issues and demanding to see evidence supporting the allegations. The licensing sub-committee was also reminded that the applicant already had hours that exceeded Southwark's statement of licensing policy and an extension was unacceptable for the residents.

Objector 5 reiterated what the ward councillor had said and added that the noise from the premises did not happen all the time, but if the hours of operation extended, the disturbances would grow.

Objector 17 referred to the proceedings regarding the review of the premises licence in 2015 and 2016 and since this time there had been no problems. The chair of the sub-committee reminded the objector that it would disregard the additional evidence from this period.

The applicant advised that the application was for an additional hour on Fridays and Saturdays and to remove the defunct conditions 4AK and 846. The public meeting had been advertised on social media and on the outside of the premises, but felt the matters raised by the objectors lacked any evidential value. A lot of the complaints being concerned the review proceedings and this should be disregarded. The sub-committee was also advised that there was a resident who lived in the basement below the premises who attended the public meeting and stated that he had not been disturbed by any noise or otherwise by the premises.

Section 4(1) of the Licensing Act 2003 provides that it is a duty of licensing authority to carry out its functions under the Act with a view to promoting the licensing objectives. This is mirrored in paragraph 37 of Southwark's statement of licensing policy in that: "*In carrying out its licensing functions the council will promote the four licensing objectives set out in the Licensing Act 2003*". Since the review of the premises licence in 2015, no complaints have been received regarding the operation or management of the premises. The objectors are of the belief that this is because of the provisions put in place as a result of the review and any departure from those provisions, including the increase in operating hours, would result in an increase of complaints which would ultimately result in the licensing objective being undermined.

This licensing sub-committee is not swayed by this argument. The applicant seeks the increase of hours by one hour on Fridays and Saturdays. Annex 3 of the premises licence details 22-conditions that were imposed in review process. Of the 22 conditions, only one condition (846) is to be removed, which this sub-committee is required to remove as it unenforceable and illegal. Condition 4AK is surplus to requirement as there is no pub watch scheme in the area.

No complaints have been received since 2015, this includes when the TENs operated on

11/12 May 2018, beyond the usual hours. None of the responsible authorities, other than the licensing authority, objected to the licence and this sub-committee are of the view that the matters raised by the local residents are prospective complaints. This licensing sub-committee would be failing in its duty to promote the licensing objectives by refusing this variation application based on prospective complaints.

Whilst this licensing sub-committee grants this licensing application, the applicant is reminded that this doesn't override the planning permissions. Licensing and planning are two separate regimes and this committee has no power to amend the planning requirements. The applicant should therefore ensure that he doesn't fall foul of the licensing provisions, or it is likely to be subject to a planning enforcement investigation/prosecution.

The local resident's may be unhappy with this decision and for that reason, this licensing sub-committee makes two recommendations:

- i. That there will be public meetings with the residents every six months to be held at the premises to encourage greater community engagement.
- ii. The licensing authority will monitor the premises regarding the residents concerns and where possible, attend the residents meetings.

### **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.

The meeting ended at 11.25am.

**CHAIR:**

**DATED:**

