

## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Tuesday 26 March 2019 at 10.00 am at Ground Floor Meeting Room G02C - 160 Tooley Street, London SE1 2QH

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**PRESENT:** Councillor Renata Hamvas (Chair)  
Councillor Dora Dixon-Fyle MBE  
Councillor Adele Morris

**OFFICER SUPPORT:** Debra Allday, legal officer  
David Franklin, licensing officer  
Andrew Heron, licensing officer  
P.C Ian Clements, Metropolitan Police Service  
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

The chair accepted the following item as late and urgent:

Licensing Act 2003: Luxford Bar, 610 Old Kent Road London SE15 1JB (representations against interim steps).

### 4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

**5. REPORT: LICENSING ACT 2003: DULWICH PICTURE GALLERY – GALLERY ROAD, LONDON, SE21 7AD, 22/03/2019 LICENSING SUB-COMMITTEE**

This was a reconvened hearing from 22 March 2019.

The chair advised that the meeting would start where it had left off on Friday 22 March. The chair advised that representations must specifically address areas 1 and 2 on the plan, due to ambiguity surrounding their usage; and the installation of temporary structures, namely the pavilion and marquee.

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

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

The legal representative representing a number of local residents objecting to the application addressed the sub-committee. Members had questions for the legal representative.

A local resident supporting the application addressed the sub-committee. Members had questions for the local resident.

All parties were given five minutes for summing up.

The meeting adjourned at 10.40am for the sub-committee to consider its decision.

The meeting reconvened at 10.50am and the chair advised all parties of the decision.

**RESOLVED:**

That the application made by Dulwich Picture Gallery Limited for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Dulwich Picture Gallery, Gallery Road, London SE21 7AD be granted as follows:

<b>The sale by retail of alcohol (on sales only)</b>	<ul style="list-style-type: none"> <li>• Sunday to Thursday: 11:00 to 23:00</li> <li>• Friday and Saturday: 11:00 to 00:00</li> </ul>
<b>The outdoor supply of alcohol for events (i.e. separate to normal café opening hours)</b>	<u>Indoors</u> <ul style="list-style-type: none"> <li>• Monday, Tuesday, Sunday: 12:00 to 22:00</li> <li>• Wednesday to Saturday: 12:00 to 23:00.</li> </ul>
	<u>Outdoors</u> <ul style="list-style-type: none"> <li>• Monday, Tuesday, Sunday: 12:00 to 22:00</li> <li>• Wednesday to Saturday: 12:00 to 22:00.</li> </ul>

	<ul style="list-style-type: none"> <li>• The applicant may hold up to 12 events per calendar year on which dates licensable activities in the outdoor areas may go past 22:00, on these occasions the supply of alcohol will finish no later than 00:00.</li> <li>• These will not be held on consecutive days.</li> </ul>
<p><b>The provision of regulated entertainment in the form of plays</b></p>	<p><u>Indoors</u></p> <ul style="list-style-type: none"> <li>• Sunday to Thursday: 09:00 to 23:00</li> <li>• Friday and Saturday 09:00 to 00:00</li> </ul> <p><u>Outdoors</u></p> <ul style="list-style-type: none"> <li>• Sunday to Thursday: 09:00 to 22:00</li> <li>• Friday and Saturday: 09:00 to 00:00</li> <li>• The outdoor performance of plays will finish no later than 22:00 and will only go past 18:00 a maximum of 50 times per calendar year</li> <li>• Of these, the outdoor performance of plays will finish no later than will only go past 20:00 a maximum of ten times per calendar year.</li> </ul>
<p><b>The provision of regulated entertainment in the form of films</b></p>	<p><u>Indoors</u></p> <ul style="list-style-type: none"> <li>• Sunday to Thursday: 09:00 to 23:00</li> <li>• Friday and Saturday: 09:00 to 00:00</li> </ul> <p><u>Outdoors</u></p> <ul style="list-style-type: none"> <li>• Sunday to Thursday: 09:00 to 22:00</li> <li>• Friday and Saturday: 09:00 to 00:00</li> <li>• The outdoor performance of films will finish no later than 22:00.</li> <li>• The outdoor performance of films that go past 18:00 will be for a maximum of 50 occasions per calendar year.</li> <li>• Of these, the outdoor performance of films that go past 20:00 will be a maximum of 25 occasions per calendar year.</li> </ul>

<p><b>The provision of regulated entertainment in the form of live music</b></p>	<p><u>Indoors</u></p> <ul style="list-style-type: none"> <li>• Sunday to Thursday: 09:00 to 23:00</li> <li>• Friday and Saturday: 09:00 to 00:00</li> </ul>
	<p><u>Outdoors</u></p> <ul style="list-style-type: none"> <li>• Sunday to Thursday: 09:00 to 22:00</li> <li>• Friday and Saturday: 09:00 to 00:00</li> <li>• The outdoor performance of live music will take place only between the hours of 12:00 to 22:00 Monday to Sunday and will only go past 18:00 a maximum of 50 occasions per calendar year.</li> <li>• Of these, a maximum of 25 occasions past 20:00 over each calendar year, subject to the following:</li> <li>• The licensee may hold up to 12 events per calendar year on which dates licensable activities in the outdoor areas may go past 22:00, on these occasions any live music will finish no later than 23:00 and will not be held on consecutive days.</li> </ul>
<p><b>The provision of regulated entertainment in the form of recorded music</b></p>	<p><u>Indoors</u></p> <ul style="list-style-type: none"> <li>• Sunday to Thursday: 09:00 to 23:00</li> <li>• Friday and Saturday: 09:00 to 00:00</li> </ul>
	<p><u>Outdoors</u></p> <ul style="list-style-type: none"> <li>• Sunday to Thursday: 09:00 to 22:00</li> <li>• Friday and Saturday: 09:00 to 00:00</li> <li>• The outdoor playing of recorded music will only take place between the hours of 12:00 - 22:00 Monday to Sunday up to a maximum of 50 occasions past 18:00.</li> </ul>

	<ul style="list-style-type: none"> <li>• Of these only 25 occasions past 20:00 over each calendar year, subject to the following:</li> <li>• The licensee may hold up to 12 events per calendar year on which dates licensable activities in the outdoor areas can go on past 22:00 and may finish no later than 00:00, these will not be held on consecutive days.</li> </ul>
<b>The provision of regulated entertainment in the form of performances of dance</b>	<u>Indoors</u> <ul style="list-style-type: none"> <li>• Sunday to Thursday: 09:00 to 22:00</li> <li>• Friday and Saturday: 09:00 to 00:00</li> </ul>
	<u>Outdoors</u> <ul style="list-style-type: none"> <li>• The outdoor performance of dance will finish no later than 22:00 hours and will only go past 18:00 a maximum of .50 times per calendar year.</li> <li>• Of those a maximum of 10 times per calendar year could go over 20:00.</li> </ul>
<b>Opening hours</b>	<u>Indoors</u> <ul style="list-style-type: none"> <li>• Sunday to Thursday: 08:00 to 23:45</li> <li>• Friday and Saturday: 08:00 to 00:45</li> </ul>
	<u>Outdoors</u> <ul style="list-style-type: none"> <li>• Sunday to Saturday: 08:00 to 22:00</li> </ul>

In addition to the events as detailed in the above hours the following conditions shall apply.

### Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, any conditions derived from the operating schedule in Section M of the application form, conditions conciliated with trading standards during conciliation and the following conditions imposed by the licensing sub-committee

1. That there shall be no other amplified sound in the outside area
2. That there shall be no other amplified sound in the outside area after 22:00 with the

exception of film that will be played through earphones only.

3. That there shall be a minimum of two SIA door supervisors for all events with a terminal hour of 20:00 hours or later where 50 patrons are expected.
4. That a challenge 25 scheme shall be maintained at the premises requiring that staff selling alcohol request that any customer who looks under 25 years old, and who is attempting to purchase alcohol, provides valid photographic identification proving that the customer is at least 18 years old. Valid photographic identification is composed of a driving licence, passport, UK armed services ID card and any Proof of Age Standards Scheme (PASS) accredited card such as the Proof of Age London (PAL) card.
5. That all staff involved in the sale of alcohol shall be trained in the prevention of sales of alcohol to underage persons, and the challenge 25 scheme in operation at the premises. A record of such training shall be kept / be accessible at the premises at all times and be made immediately available for inspection at the premises to council or police officers on request. The training record shall include the trainee's name (in block capitals), the trainer's name (in block capitals), the signature of the trainee, the signature of the trainer, the date(s) of training and a declaration that the training has been received.
6. That clearly legible signs shall be prominently displayed where they can easily be seen and read by customers stating to the effect that a challenge 25 policy is in operation at the premises, that customers may be asked to provide proof of age and stating what the acceptable forms of proof of age are. Such signage shall be displayed at all entrances, points of sale and in all areas where alcohol is displayed for sale. The signage shall be kept free from obstructions at all times.
7. That a register of refused sales of alcohol shall be maintained in order to demonstrate effective operation of the challenge 25 policy. The register shall be clearly and legibly marked on the front cover as a register of refused sales, with the address of the premises and with the name and address of the licence holder. The register shall be kept / be accessible at the premises at all times. On a monthly basis, the designated premises supervisor (DPS) shall check the register to ensure it is being properly completed. The DPS shall sign and date the register to that effect and where appropriate take corrective action in a timely manner if the register is not being completed correctly. The register shall be made immediately available for inspection at the premises to council or police officers on request.
8. That there shall be no gambling machines on the premises.
9. That all guests will be directed to leave by Gallery Road entrance at night at night away from neighbours.
10. That a neighbours group shall be set up for residents living within 250 metres of the gallery building. The gallery shall keep the group informed by regular emails of events taking place outside normal opening hours and ensure members of the group have the means to register any issues with the gallery.
11. That a direct and dedicated telephone number for the manager at the gallery will be made available to residents who are members of the neighbours group.

12. That there shall be a noise management plan.
13. That taxis shall be directed to park on Gallery Road not College Road.
14. That there shall be a written dispersal shall be kept at the premises with the licence and made available for inspection by authorised officers. All staff shall be trained in the use of the dispersal policy.
15. That there shall be an accommodation limit of 500 patrons that shall include 150 patrons for the pavillion.
16. That there shall be a code of conduct between the Dulwich Picture Gallery and the neighbours setting out key guidelines to support a good relationship between the premises and the nearest neighbours.
17. That an events register shall be maintained and made immediately available for inspection at the premises to council or police officers on request.
18. That there shall be no licenceable activities in the Meadow past 22:00 hours

## **Reasons**

This was an application of a premises licence in respect of the Dulwich Picture Gallery Limited which was described as a public art gallery with shop, café and gardens. The hearing was held on 22 March and adjourned to 26 March.

The premises advised that they did not receive any regular funding from any statutory sources and that their admissions income covered approximately a quarter of income each year. The rest is made through fundraising, investments and commercial activities; without it, the financial sustainability of the gallery would be in question. To generate more income the premises intended to utilise the indoor and outdoor areas for public programmes, learning events and private hire for events such as weddings. These had previously been provided under either a time limited premises licence or temporary events notices ("TENs").

In advance of submitting the application the premises had consulted with its local 'neighbourhood group' who had opted into receiving communications advising them of upcoming events or activities which may have an impact on them; consultation meetings had taken place with the residents on 19 September 2018, 5 December 2018 and 9 January 2019 and where the neighbourhood group had been invited to feedback on the application. The premises amendments to the application and incorporated limitations within the conditions based on the feedback they received.

The licensing sub-committee heard from the council's environmental protection team, who objected to the application on the grounds of prevention of public nuisance, stating that the potential of noise impact on local residents in the immediate vicinity. The application as it was originally submitted permitted the use of the outside area each day of the week by virtue of the Live Music Act and this would be detrimental to residents and give rise to noise complaints. The proposed use of the meadow (Area 3) was also very close to residential properties in College Gardens. The proposals made by the representative for the premises to exempt the premises from the Live Music Act 2012 were unlawful. Further control measures would be required to protect the local neighbours from noise nuisance.

The licensing sub-committee then heard from licensing authority in their role as responsible authority who sought adjustments in the hours for the sale of alcohol and additional conditions, though accepted that the premises likely falls outside of the jurisdiction of the Southwark licensing policy.

The licensing sub-committee noted that the representations from trading standards had conciliated and conditions were agreed.

The licensing sub-committee then heard from counsel of 11 of the other persons objecting the application who advised that the consultation meetings arranged by the premises had not been convenient for all of the objectors and as such, key aspect of the application had not been discussed. The residents objecting did not want the gallery to close, but needed clarity from the premises so that the residents and the premises could live harmoniously. Reference was made to the events at the premises in 2017, when the problems with the premises were acute. The premises accepted that there had been problems and as a result, new management was brought in and the types of events were very carefully considered.

The licensing sub-Committee noted the contents of an additional 14 representations objecting to the application, who expressed concern of noise, a curtailment of hours, the frequency of evening events over the summer and proximity of the premises to residential addresses.

The licensing sub-committee heard from a supporter who referred to the inappropriate programming in 2017 run under TENs and inadequate on-site management and third party contractors within the gallery grounds. Since this time, events had been managed far better and the supporter had not reason to object to the application.

Immediately following the licensing sub-committee announcing the initial decision of the application, it became apparent that the premises had failed to address the committee on Areas 1 and 2 on the premises plan, due to ambiguity surrounding their usage; and the installation of temporary structures, namely the pavilion and marquee.

The licensing sub-committee reconvened on 26 March 2019 and considered additional representations relating solely to this outstanding issue. 16 written representations were considered and an additional 3-verbal submissions were heard. The licensing sub-committee was extremely pleased that there the parties had been engaging in the intermediary period and an agreement had been reached (with the represented objectors). However, the licensing sub-committee felt in the absence of engagement with all of the objectors, the more restrictive conditions (detailed in this notice of decision) were justified.

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 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: LUXFORD BAR LIMITED, 610 OLD KENT ROAD, LONDON, SE15 1JB (REPRESENTATIONS AGAINST INTERIM STEPS)**

The licensing officer presented their report.

The representatives from the premises addressed the sub-committee. Members had questions for the representatives from the premises.

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

The meeting adjourned at 12.05pm for the premises to show the police CCTV from the premises.

The meeting reconvened at 12.52pm.

Members had further questions for the representatives from the premises and the police.

Both parties were given five minutes for summing up.

The meeting adjourned at 12.31pm for the sub-committee to consider its decision.

The meeting reconvened at 12.43pm and the chair advised all parties of the decision.

**RESOLVED:**

That the interim steps imposed on 22 March 2019 in respect of the premises licence to Luxford Bar, 610 Old Kent Road, London SE15 1JB are not appropriate for the promotion of the licensing objectives and those steps are modified pending the determination of the review application at the full hearing, to be held on 18 April 2019 as follows:

1. That the suspension of the premises licence is withdrawn.
2. That an ID scanning system of a specification to the reasonable satisfaction of the Police shall be installed and maintained at the premises. The system should be capable of sharing information about banned customers with other venues, identify the hologram on ID, read both passports and ID cards and be able to identify fake or forged ID documents to a reasonable standard. The system will be in operation at all

times after 20:00 when the premises are in operation and will be used to record the details of all persons entering (and re-entering) the premises including staff, members of the public, performers and their assistants. Entry to the premises will not be permitted without the production of the relevant ID document.

3. That at all times the premises are in operation under the premises licence all members of staff will be trained to a satisfactory standard able to operate the ID scan system and CCTV and able to retrieve data from the system on request of police, council or other authorised officers.
4. That at least two SIA registered door supervisors 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 and re-enter the premises. This includes all DJ's and associated staff and their equipment
5. That a refusals register is maintained in respect of the ID scan. This register will be immediately available for inspection on the request of police, council or authorised officers.
6. That all staff will be trained in the use and maintenance of both the CCTV and ID scanner. Records shall be kept pertaining to such training will be updated every six months and shall be made immediately available to officers of the police and the council upon request.
7. That condition 343 of the premises licence ("A Police Event Risk Assessment Form must be submitted to Southwark Police Licensing Unit 14 days in advance of any event at the premises when the premises will be in operation under the Licensing Act 2003 if a DJ or MC is performing at the premises and the event is promoted in some form by either the venue or an outside promoter, and whether entry to the event is free, by invitation only, through pay on the door, by ticket or any combination thereof.is That there will be no external promoted events") be suspended.
8. That there will be no externally promoted events.

### **Reasons**

This was a hearing to consider whether or not the interim steps imposed on 22 March 2019 in respect of the premises licence to Luxford Bar, 610 Old Kent Road, London SE15 1JB remain appropriate for the promotion of the licensing objectives.

The licensing sub-committee heard from the premises who advised that the information relied on by the licensing sub-committee on 22 March 2019 was inaccurate and that proof was available to provide an accurate account of the incidents relied on by the police. After the incident in January 2019 when someone was stabbed, the premises installed an ID scanner. No variation of the premises licence was made as the premises were waiting for further recommendations from the police. Additional personal licensees were available and in employment, so that there would be no further breaches of condition 100 of the premises licence. Regarding the CCTV, there had been an flooding in the premises, which wiped the CCTV hard drive. This had been rectified virtually immediately. The premises were willing to work with the police to uphold all of the licensing objectives.

It was accepted that the premises had been trading on Friday 22 March and Saturday 23 March, but assured the sub-committee that no alcohol was sold nor did any licensable activities take place. The premises operated strictly on the advice a Southwark licensing officer provided.

The licensing sub-committee was advised that expedited review process had been instigated after a Superintendent for the Metropolitan Police Service certified that the premises are associated with serious crime or serious disorder or both. Two incidents of serious crime and/or serious disorder had occurred in December 2018 and January 2019. Despite these very serious incidents, further breaches of the licence had been witnessed in February and March 2019; these breaches opened the risk of further serious incidents of crime and disorder occurring. The police also referred to the police attendance at the premises on Saturday 23 March 2019. It was suggested that the premises was open to the public and alcohol was consumed regardless of the expedited hearing the previous day and was very cavalier attitude. The police argued that the premises were not taking the review process seriously and they had no confidence in the management of the premises.

The police then made an application for confidential material to be considered by the licensing sub-committee in a closed session, claiming that the premises were associated with gang members. This the premises categorically denied. The members of the sub-committee considered this application carefully. At its highest, the police's application was based on incidents that had occurred 2-3 months previously and no evidence had been presented to suggest a potential reoccurrence. It was therefore decided that it was not in the public interest to hear evidence in a closed session as there was no proposed controls that could ensure that the premises would have a fair hearing (of the confidential material).

Having heard evidence from the premises, the licensing sub-committee questioned what a suspension of the premises licence would achieve. Ultimately, the premises could operate and provided licensable activities until 23:00 hours by virtue of the Live Music Act 2012. Alcohol could be consumed if patrons "brought a bottle" and purchased it elsewhere. By their own admission, the premises were operating on Friday and Saturday. The police evidence was that the premises was open to the public (when they attended on the Saturday), yet despite police knowledge of the suspension of the licence and knowledge of allegations of gang activity, allowed the premises to continue to operate.

The licensing sub-committee having read and heard all the evidence before were satisfied that the interim steps to suspend the licence should be withdrawn and that it is more appropriate and proportionate to promote the licensing objectives to modify the interim steps, as detailed above.

### **Appeal rights**

There is no right of appeal to a Magistrates' Court against the licensing authority's decision at this stage.

The premises licence holder may make representation against any interim steps imposed and a hearing to consider the representation will be held within 48 hours of receipt of the representation.

The holder of the premises licence may only make further representations if there has been a material change in circumstances since the authority made its determination

Any representation should be in writing and cannot be received outside of normal office

hours.

The meeting ended at 2.06pm.

**CHAIR:**

**DATED:**