

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 8 October 2020 at 10.00 am at Online/Virtual: please contact andrew.weir@southwark.gov.uk for a link to the meeting and the instructions for joining the online meeting

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Maria Linforth-Hall
Councillor Sunny Lambe (reserve)

OTHER MEMBERS PRESENT: Councillor Adele Morris, ward councillor

OFFICER SUPPORT: Debra Allday, legal officer
Toyin Calfos, legal officer
Dorcas Mills, licensing officer
Andrew Heron, licensing officer
Mark Prickett, environmental protection officer
Roy Fox, environmental protection officer
Ian Farrington, environmental health officer
Jayne tear, licensing responsible authority officer
P.C. Jonathan Ducker, Metropolitan Police Service
Robin Veerasamy, noise enforcement officer
Andrew Weir, constitutional officer

1. APOLOGIES

This was a virtual licensing sub-committee meeting.

The chair explained to the participants and observers how the virtual meeting would run. Everyone then introduced themselves.

Apologies for absence were received from Councillor Sunil Chopra. Councillor Sunny Lambe attended as the reserve member.

2. CONFIRMATION OF VOTING MEMBERS

The voting members were confirmed verbally, one at a time.

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: ONE NIGHT RECORDS, ARCH, 45 WARDEN GROVE, LONDON SE1 0HT

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

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

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

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

The ward councillor addressed the sub-committee. Members had no questions for the ward councillor.

The representative for the Rosler Residents' Association, objecting to the application, addressed the sub-committee. Members had questions for the representative.

All parties were given up to five minutes for summing up.

The meeting adjourned at 11.53am for the sub-committee to consider its decision.

The meeting reconvened at 12.18pm and the chair advised both parties of the decision.

RESOLVED:

That the application made by Mr Bertie Watkins for a premises licence to be

granted under Section 17 of the Licensing Act 2003 in respect of the premises known as One Night Records, is granted as follows:

Activity	Hours
The sale by retail of alcohol (on sales only):	Monday to Sunday: 10:00 to 23:00
Plays (indoors)	Monday to Sunday: 10:00 to 23:00
Live music (indoors)	Monday to Sunday: 10:00 to 23:00
Recorded music (indoors)	Monday to Sunday: 10:00 to 23:00
Performance of dance	Monday to Sunday: 10:00 to 23:00
Operating hours	Monday to Sunday: 10:00 to 00:00.

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, the conditions agreed with the Metropolitan Police Service and this council's environmental protection team, licensing authority and health and safety team during the conciliation process.

Reasons

The reasons for the decision are as follows:

The licensing sub-committee heard from the applicant (the designated premises supervisor), who had stated that the application was made in respect of the business premises One Night Records. The premises are described as a series of tunnels under the railway linking Waterloo to London Bridge. The applicant advised the sub-committee that the premises would be used for immersive theatre performances, stylised performances with no script, however future performances may have actors performing characters with scripts and that the sale of alcohol was ancillary to the performances. The applicant confirmed that the capacity of the premises would be up to 500 people including staff.

The environmental health team addressed the sub-committee. They raised concerns in relation to trip hazards within the premises and COVID-19. The sub-committee took the view that these were matters which are ordinarily dealt with under separate legislative regimes and therefore should not form part of the

licence conditions.

Concerns were raised by the environmental protection team who took issue with amongst other things, the ingress/egress of persons and likely noise it would cause. The environmental protection team suggested that further conciliation in relation to noise was likely to be achieved through the planning application which is in the process of being heard. During the course of the meeting, The applicant agreed to abide by a noise management plan and other conditions put forward by the environmental protection team which in turn, led to the environmental protection team withdrawing their concerns.

The applicant went on to say he had conciliated with the Metropolitan Police Service and the licensing authority and as a result of the conciliation the Metropolitan Police Service and the licensing authority withdrew their concerns.

Councillor Adele Morris who is a ward councillor, made representations on behalf of the residents she represents. Councillor Morris withdrew her concerns regarding the cumulative impact area on the basis that the premises was a theatre as opposed to a bar, that the hours of opening were not particularly late for the area and that the capacity of the premises was relatively light.

Councillor Morris was concerned that the noise issue had not been properly mitigated and therefore did not withdraw her concern pertaining to that matter. Councillor Morris stated that the residence of the Rosler building were on the side of the arch where patron would not exit. Councillor Morris had formed the view that the noise management plan would likely mitigate noise issues raised, but left her representations on this point open on the basis that the residents still had an unresolved concern.

A representative from the Rosler Residents Association raised concerns regarding noise. The association had not seen the noise management plan and therefore did not feel they were in a position to withdraw there representations. They raised concerns as to how noise would be quantified and measured. They wanted a limit on the decibels which would be allowed noise to leave One Night Records and were concerned that not all of the internal structures had adequate sound proofing which would lead to noise nuisance. The sub committee were satisfied noise levels had been adequately addressed as the environmental protection team withdrew their representations.

As One Night Records is a theatre, the sub committee stated that the cumulative impact area provisions do not apply to that type of establishment.

The sub committee noted that as alcohol sales were ancillary to the other functions of One Night Records. The sub committee went on to recommend that One Night Records adhere to [the Environmental Protection \(Plastic Straws, Cotton Buds and Stirrers\) \(England\) Regulations 2020](#) as the London Borough of Southwark has declared a Climate Emergency and would therefore expect that businesses refrain from using single use plastics. Mr Watkins agreed that he would follow the

recommendation.

On the basis of all the above, all the hours requested in the application were granted.

In reaching its 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: ALEXIS SUYA GRILL (FORMALLY SAMKAL), 165 SOUTHAMPTON WAY, LONDON SE5 7EJ

The meeting adjourned for a comfort break at 12.22pm and reconvened at 12.30pm.

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

The applicants for the review and their witness addressed the sub-committee. Members had questions for the applicants for the review and their witness.

The licensing responsible authority officer addressed the sub-committee. They also called two witnesses, a Metropolitan Police Service officer and a noise

enforcement officer. Members had questions for the licensing responsible authority officer and their witnesses.

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

The premises licence holder then addressed the sub-committee. Members had questions for the premises licence holder.

All parties were given up to five minutes for summing up.

The meeting adjourned at 2.09pm for the sub-committee to consider its decision.

The meeting reconvened at 2.30pm and the chair advised all parties of the decision.

RESOLVED:

That the council's licensing sub-committee, having considered an application made under Section 51 of the Licensing Act 2003 by Madeline Moham and George Foster for the review of the premises licence issued in respect of the premises known as Alexis Suya Grill, 165 Southampton Way, London SE5 7EJ having had regard to all other relevant representations has decided it necessary for the promotion of the licensing objectives to:

- i. Suspend the licence for a period of two weeks.
- ii. To impose the following conditions:
 - 1) That a CCTV system be installed at the premises and be maintained in good working order and be continually recording at all times the premises are in use under the licence. The CCTV System must be capable of capturing a clear facial image of every person who enters the premises.
 - 2) That All CCTV footage be kept for a period of 31 days and shall on request be made immediately available to officers of the police and the council.
 - 3) That all members of staff should be on duty at all times the premises is open that is trained in the use of the CCTV and able to view and download images to a removable device on request of Police or council officer.
 - 4) That all staff are trained in their responsibilities under the Licensing Act 2003 and training records to be kept and updated every 6 months and shall, upon request, be made immediately available to Officers of the Police and the Council.

- 5) That a dispersal shall be devised. The written dispersal policy shall be kept at the premises with the licence and made available for inspection by authorised council officers or the police. All relevant staff shall be trained in the implementation of the dispersal policy.
- 6) That all doors are kept closed with the exception of ingress and egress.
- 7) That a direct telephone number is provided to residents.

Reasons

The licensing sub-committee heard from the applicants to the review. From the outset, the applicants made clear that they were not looking to have the licence to the Alexis Suya Grill revoked. They advised that they wanted to peacefully co-exist with the premises. Being based in a residential area the premises has always been loud, sometimes intolerably so. Since the government lifted the restrictions relating to licensed premises, the applicants stated that the premises would have between 10-30 people outside drinking, shouting, singing until anywhere from 23:00 to 02:00. Condition 307 of the premises licence, that a maximum of 15 people being allowed inside is never adhered to. At weekends the noise could be so loud with music making it impossible to hear the television. Sleeping through the noise had also been impossible. The premises also did not have any official space outside at the front. However, the premises blocked the pavement and brought furniture from inside onto the street. The applicant called a neighbour as a witness, who confirmed the same.

The licensing sub-committee then heard from licensing as a responsible authority officer whose representation was based on Southwark's statement of licensing policy 2019–2021 and the prevention of public nuisance licensing objective. It was confirmed that four complaints had been received by the licensing team regarding noise and anti-social behaviour relating to the patrons of the premises in the past 12 months and two complaints had been received in 2018.

The officer called two witnesses, the first was an officer from Southwark's noise nuisance team, who witnessed a statutory nuisance on 15/16 August 2020. A police officer was also called to give evidence concerning a visit on 2 October 2020 where they witnessed two breaches of the premises licence, condition 288 (CCTV shall be maintained in good working condition and operable at all times) and condition 289 (CCTV to be kept and made available for a thirty one days). As a result of the breaches, a Section 19 notice was served.

The licensing sub-committee then heard from an officer from the environmental protection team who also submitted a representation under the prevention of public nuisance licensing objective. The officer referred to several complaints of loud noise from amplified music from within the premises and from numbers of loud customers of the premises on the pavement outside the premises.

The licensing sub-committee then heard from the premises licence holder who apologised to the applicants and indeed, the sub-committee for the inconvenience he had caused. It was accepted that the premises licence did not provide for amplified music (after 23:00) and there was no longer any equipment in the premises that would do this. Any music provided, would now be by way of background music only. The sofa that had been used outside the front of the premises had also been removed.

The premises licence holder advised that they did not intend to apply for a pavement licence, as they were making room at the rear of the premises to allow for more customers. They advised that they became the designated premises supervisor in 2014, although, they did also state that he wasn't sure what he was signing at the time. They advised that they had taken over the premises licence in June 2020 very shortly before the review application was submitted. Now that they were the owner of the business, the licensee stated that they would be taking their obligations under the Licensing Act 2003 "more seriously". They advised that they had five employees, one of whom had a personal licence.

Having considered all the evidence, licensing sub-committee agreed that changes were required at the premises. By the licensee's own admission, there had been breaches of licence conditions: amplified music being played after 23:00 hours, off-sales, lack of pavement licence, CCTV breaches and breaches in social distancing. In view of the seriousness of the breaches at the premises the licensing sub-committee decided to impose a suspension of two weeks. Whilst this will give the local residents much needed respite, it will also give the licensee time to arrange training and for all members of staff (including the licensee) to be trained, or re-trained in their obligations under the Licensing Act and the conditions attached to the premises licence. It will also give them time to ensure their CCTV system is upgraded to meet the conditions of the licence.

The period of suspension could also be utilised by the licensee by submitting a variation application for the change of the footprint of the premises. Finally, the licensee is reminded that the future operation of the premises must be in full compliance with the necessary legislation/regulations relating to COVID19.

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.

The meeting ended at 2.35pm.

CHAIR:

DATED: