



LICENSING SUB-COMMITTEE

MINUTES of the Licensing Sub-Committee held on Monday 7 June 2010 at 10.00 am at Room G02c - 160 Tooley Street, Ground Floor

PRESENT: Councillor David Hubber (Chair)
Councillor Eliza Mann
Councillor Wilma Nelson

OTHERS PRESENT: Ms Sarah Connolly, applicant
Mr Steve Renn, local resident
Ms Cath King, local resident

Pc Paul Compton, Southwark Police, Licensing Officer
Alan Blissett, environmental protection team
Councillor Lorraine Lauder, ward councillor (Faraday)
Councillor Abdul Mohamed, ward councillor (Faraday)
Ms Saba Naqshbandi, lawyer representing D'Eclipse
Torben Andersen, Acoustic engineer
Dr Afolabi, licensee, D'Eclipse

Councillor Norma Gibbes, observing
Councillor Catherine Bowman, observing
Councillor Emmanuel Oyewole, observing

OFFICER SUPPORT: Dave Franklin, licensing officer
Dorcas Mills, licensing officer
Felix Rechtman, legal officer
David Perry, legal officer
Sean Usher, constitutional team

1. APOLOGIES

There were none.

2. CONFIRMATION OF VOTING MEMBERS

The three members were confirmed as voting members.

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

There was none.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There was none.

5. LICENSING ACT 2003 - D'ECLIPSE BAR & RESTAURANT, 57-59 CAMBERWELL ROAD, LONDON, SE5 0EZ (REVIEW)

The licensing officer presented her report and it was agreed to circulate some additional papers for information only, this included an acoustic report on the premises.

The applicant for the review, Ms Connolly, addressed the sub-committee. She was accompanied by two other local residents, Mr Renn and Ms King, both of whom addressed the sub-committee. Members had questions for the local residents. Officers from the environmental protection team had a question for the applicant.

The two local ward councillors addressed the sub-committee in support of the review. There were no questions for the councillors.

The police officer addressed the sub-committee in support of the review. Members had questions for the police officer. The local residents had questions for the officer.

The environmental protection officer addressed the sub-committee in support of the review. Members had questions for the officer. Local residents had questions for the officer.

The legal representative for the premises addressed the sub-committee and called upon two witnesses, including Dr Afolabi the licensee. Members had questions for the representative and her witnesses. Local residents had questions for the representative and her witnesses.

All parties were given 5 minutes to sum up.

The meeting went into closed session at 12:04pm. The meeting resumed at 1.28pm.

RESOLVED:

The licensing sub-committee, having had regard to the application by Sarah Connelly for a review of the premises granted under the Licensing Act 2003 to Dr Taiwo Afolabi in respect of the premises known as D'Eclipse Bar & restaurant, situated at 57-59 Camberwell Road, London, SE5 and having had regard also to all other relevant representations has decided it necessary for the promotion of the licensing objectives to:

Suspend the premises licence applicable to the basement area for 14 days or a shorter period if the mitigating works detailed below are completed to the satisfaction of the Environmental Protection Team.

Conditions

The following additional conditions were applied by the sub-committee:

1. Music on the ground floor is to be limited to background music only.
2. That at least 6 SIA registered door staff are to be employed from 11pm on Fridays and Saturdays until the premises closes.
3. No Temporary Event Notices are to be applied for until the mitigating works are carried out and approved by the Environmental Protection Team.

The mitigating works (as detailed in the Acoustic Engineer's report section 6.4 and 6.5) are as follows:

4. Acoustic upgrading works to the basement area to be undertaken to prevent the transmission of flanking sound through the building structure. These works to include the introduction of independent wall linings to the main structural elements including masonry external walls, column and stairwells.
5. Following completion of the works in 4 above, appropriate sound limiting equipment shall be installed to limit the power of the amplification of recorded and live music. Such system shall have the capability of controlling a full range of individual octave bands and this system shall be configured so that it is only alterable by the installing engineer, thus preventing any tampering by either visiting DJs, patrons of the venue or venue management and staff.

Reasons

The reasons for this decision are as follows:

Having considered the evidence submitted by the applicant, environmental protection team, the police and the licensee. The sub-committee is not satisfied that the premises are directly connected to the crime & disorder and therefore find insufficient justification for revocation of the licence.

The sub-committee is satisfied on the evidence that the premises do cause public nuisance by (1) music emanating from the premises and (2) noise from patrons leaving the premises.

As far as the nuisance created by the music, the licensee proposed that the music on the ground floor be limited to background music throughout the hours of operation (and this is now a condition). The licensee also relied on an expert report from an Acoustic Engineer, Mr Anderson, in which further measures are proposed in order to address the issue of music escape from the premises. Such measures are stated above (and on page 6 of the Acoustic Engineer report).

The sub-committee is satisfied that the measures proposed by Mr Anderson should address the issue of the music noise emanating from the premises if implemented in accordance with the report and approved by the Environmental Protection Team.

In their submissions the licensee stated that such works can be completed within 7-14 days and therefore the sub-committee has decided to suspend the licence applicable to the basement area for up to 14 days depending on the completion of the mitigating works to the satisfaction of the Environmental Protection Team. For the avoidance of any doubt, these measures are now conditions of the licence.

To address the noise of patrons leaving the premises, the sub-committee decided that it was necessary for 6 SIA registered door staff to be employed from 11pm on Fridays and Saturdays until the premises close.

The sub-committee felt this decision and the additional conditions to be necessary and proportionate to address the licensing objectives, particularly prevention of nuisance.

Appeal rights

This decision is open to appeal by either

- a) The applicant for the review;
- b) The premises licence holder; or
- 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 chief executive 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 closed at 1.40pm.

CHAIR:

DATED: