

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Wednesday 22 August 2012 at 10.00 am at Ground Floor Meeting Room G02A - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Sunil Chopra (Chair)
Councillor Michael Mitchell
Councillor Ian Wingfield

OTHERS PRESENT: Laszlo Czutoras, interested party
Bascan Bally, applicant
Chukwunembka Ihemetra, interested party
Louisa Cath, applicant
Sandi Harris, interested party
Rosemary M'Bondo, interested party

OFFICER SUPPORT: David Paabo, legal services
Dorcas Mills, licensing officer
Sarah Newman, environmental protection team
Virginia Wynn-Jones, 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 agreed to accept late and urgent items:

Item 7: Temporary event notice: The Red Cow, 190 Peckham High Street, London SE15.

Item 9: Temporary event notice: Electric Elephant Cafe, 186a Crampton Street, London SE17.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003 - LEGACY RESTAURANT, GROUND AND BASEMENT FLOORS, 53 CAMBERWELL ROAD, LONDON SE5 0EZ

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

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

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

All parties were given five minutes to sum up.

The sub-committee went into closed session at 11.05. The meeting resumed at 12.05.

RESOLVED:

That the application by Mr Bascan Bally for a variation of a Premises Licence issued under the Licensing Act 2003 in respect of Legacy Restaurant, 53 Camberwell Road, London SE5 0EZ is granted as follows:

	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
New Activities to be included							
Live music	18.00-00.30	18.00-00.30	18.00-00.30	18.00-00.30	18.00-02.30	18.00-02.30	18.00-02.30
Recorded music	18.00-00.30	18.00-00.30	18.00-00.30	18.00-00.30	18.00-02.30	18.00-02.30	18.00-02.30
Performance of dance	18.00-00.30	18.00-00.30	18.00-00.30	18.00-00.30	18.00-02.30	18.00-02.30	18.00-02.30
Facilities for making music and dancing	18.00-00.30	18.00-00.30	18.00-00.30	18.00-00.30	18.00-02.30	18.00-02.30	18.00-02.30
Anything similar to these activities	18.00-00.30	18.00-00.30	18.00-00.30	18.00-00.30	18.00-02.30	18.00-02.30	18.00-02.30
Extended Activities							
Late night refreshment	00.00-00.30	00.00-00.30	00.00-00.30	00.00-00.30			
(m) Supply of alcohol	00.00-00.30	00.00-00.30	00.00-00.30	00.00-00.30			
(o) Opening Hours of premises	00.00-01.00	00.00-01.00	00.00-01.00	00.00-01.00			

Conditions

In addition to the decision as above, the following conditions will apply:

1. That SIA registered door supervisors, at least one of whom shall be a female, shall be employed at all times between Monday and Saturday after 22.00 hours until the terminal hour under this licence. They must be provided with hand held metal

detection units in order to ensure that searches are carried out in respect of all admissions to the premises, whether members of the public or performers and their assistants and mechanical counting devices to ensure that the maximum accommodation limit of the premises is not exceeded.

2. That signs shall be displayed in the entrance foyer to the premises that state 'Drugs Free Zone' and 'No Search No Entry, Management reserve the right to refuse entry'.
3. That suitable notices shall be displayed and announcements made requesting people to leave the premises in a quiet and orderly manner so as not to disturb local residents.
4. 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 an image of every person who enters the premises.
5. That all CCTV footage shall be kept for a period of thirty one (31) days and shall, upon request, be made immediately available to officers of the police and the council.
6. That the licensee shall require any regular and external promoters hiring the premises to complete the 'Venue Hire Agreement' once completed the licensee shall ensure that a copy of the agreement is provided to the police and licensing unit a minimum of fourteen days prior to the date of hire.
7. That a personal licence holder is on the premises and on duty at all times that intoxicating liquor is supplied.
8. That the premises licence holder and/or designated premises supervisor join and support a local pub watch scheme should there be one in existence for the area in which the premises is located.
9. There shall be no new entry or re-entry to the premises after 02.00 hours.
10. Customers shall use no outside area after 22.00 hours other than those who temporarily leave the premises to smoke a cigarette, to a maximum of five people at any one time. Those who do temporarily leave for this reason shall be subjected to the requirement of a further search.
11. That the in house amplification system be equipped with a sound limiter installation, set by the applicant's engineer in conjunction with the environmental protection team and the residents above / beside; and maintained thereafter at the set level.
12. That any additional amplification equipment imported on to the premises by third parties be connected through the sound limiter circuit.
13. That speakers be mounted on resilient matting and be located away from party walls and chimney breast.
14. That a substantial self closing door be installed at the base of the basement stairs.

15. That the owner's private area to the rear of the basement be gated and locked when the basement is in use by public.

16. That no persons including smokers shall take drinks outside the premises at any time.

Reasons

The reasons for the decision are, as follows:

This is an application to vary a premises licence for Legacy Restaurant to introduce regulated entertainment and extend the opening hours and the hours for the sale of alcohol. The application, in effect, seeks to extend the opening hours from 00.30 hours to 01.30 hours Monday to Thursday and from 03.00 hours to 04.00 hours Friday to Sunday. Following the application, a number of detailed and well thought conditions were proposed by the police and the environmental protection department of the council. These measures, in summary, addressed the licensing objectives of the prevention of public nuisance, the prevention of crime and disorder, public safety and protection of children from harm. The applicant has agreed to each of these conditions and the sub-committee considers that entirely appropriate, and therefore each of the conditions proposed by the police and environmental protection will be added as conditions to the licence (except to the extent that those conditions already appear on the licence).

The sub-committee heard from the applicant, who stated that he intends to use the extended hours only on occasions, and in this respect the sub-committee notes the reference to weddings, birthdays, meetings and sending off events referred to in the application. However, the sub-committee heard from the interested party, being a neighbour adjoining the premises, that since February 2012 music events have been held at the premises until the early hours of the morning on most weekends, and the applicant indicated that if there were demand, he would utilise the licenced hours as often as necessary. The sub-committee is therefore concerned that this licence, with the introduction of regulated entertainment, will be used more regularly than the applicant suggests in his application. In addition, the sub-committee is concerned that the existing licence contains no authorisation for music, yet music has been played from the premises.

The sub-committee was concerned that the applicant did not demonstrate an understanding of the planning requirements in relation to the use of the property. In particular, the sub-committee noted the letter from the planning officer advising that the planning enforcement team will continue to monitor the premises to ascertain whether the premises are improperly operating as a nightclub.

The sub-committee notes the Nivla restaurant in the adjoining premises has shorter hours for its entertainment and alcohol provisions, therefore the sub-committee is concerned that Legacy already has generous opening hours, and the sub-committee is therefore concerned by even longer hours being sought which would adversely affect the licensing objectives.

In the circumstances, the sub-committee has decided to partially grant the application. In respect of Monday-Thursday, the opening hours shall be extended by 30 minutes to 01.00 hours. On these nights, all licensable activities shall cease by 00.30 hours. In respect of Friday to Sunday, there shall be no change to the opening hours or the sale of alcohol and late-night refreshment, whilst all regulated entertainment must cease by 02.30 hours.

In addition, in order to address noise nuisance arising from persons smoking at the front of the premises, further to the police condition addressing the outside area, the sub-committee has made a condition that a maximum of five people may use the outside area after 22.00 hours.

The sub-committee has made the above determination to meet each of the licensing objectives, and in this respect the sub-committee considers this determination to be the most proportionate, reasonable and appropriate decision with respect to the variation application.

Finally, the sub-committee would remind the applicant of the need for proper planning permission in respect of the use of the premises. The sub-committee would also remind the resident of the powers to review a licence within the Licensing Act should future problems arise.

Appeal rights

The applicant may appeal against any decision to modify the conditions of the licence; and

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

- a) That variation ought not to have been made; or
- b) That, when varying the licence, the licensing authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the magistrate court for the petty sessions area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' chief executive 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 - TEMPORARY EVENT NOTICE: CLUB COUTURE, 58A CAMBERWELL CHURCH STREET, LONDON SE5 8QZ

This item was conciliated.

7. LICENSING ACT 2003 - TEMPORARY EVENT NOTICE: THE RED COW, 190 PECKHAM HIGH STREET, LONDON SE15 5EG

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

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

The environmental protection officer addressed the sub-committee. Members had

questions for the officer.

All parties were given five minutes to sum up.

The sub-committee went into closed session at 12.55pm. The meeting resumed at 1.05pm.

RESOLVED:

That a counter notice not be issued under Section 105 of the Licensing Act 2003 in respect of the Temporary Event Notice given by Ihemefor Chukwuemeka in respect of the premises known as Red Cow PH, 190 Peckham High Street, London SE15.

Reasons

This application for a Temporary Event Notice (TEN) is granted in its amended form, that is the reference to 01.30 hours should be a reference to 01.00 hours. In addition, each of the conditions on the premises license shall apply for the full period of the TEN.

The sub-committee had some reservations about granting this TEN because of the history of noise problems arising from the premises. The applicant ought to be aware that if future noise complaints are made, further applications for TENs may not be successful.

Appeal rights

Where the relevant counter notice under Section 105(3) is given the premises user may appeal against the decision.

Where counter notice is not given, the chief officer of the environmental protection team may appeal against that decision. The appeal must be made to the Magistrates' Court within a period of 21 days beginning with the day on which the applicant was notified by the licensing authority of the decision to be appealed against. No appeal may be brought later than five working days before the day on which the event begins.

8. LICENSING ACT 2003: TEMPORARY EVENT NOTICE ELECTRIC ELEPHANT CAFE, 186A CRAMPTON STREET, LONDON SE17

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

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

The environmental protection officer addressed the sub-committee. Members had questions for the officer.

All parties were given five minutes to sum up.

The sub-committee went into closed session at 2.20pm. The meeting resumed at 2.30pm.

RESOLVED:

That a counter notice not be issued under Section 105 of the Licensing Act 2003 in respect of the Temporary Event Notice given by Louisa Mary Cath in respect of the premises known as Electric Elephant Cafe, 186a Crampton Street, London SE17.

Reasons

These two applications for temporary event notices are granted. The first application is amended slightly to incorporate late night refreshment, which was the intention of that application.

The sub-committee heard well-presented evidence and representations from the applicant. The sub-committee is satisfied that the applicant is endeavouring to use the premises in a way which satisfies other persons and associations in the area. The sub-committee notes that problems best described as business problems are occurring. However, this sub-committee must determine these applications pursuant to the licensing objectives, in particular the prevention of public nuisance and the prevention of crime and disorder. The evidence before the sub-committee today was insufficient to warrant refusal of these applications.

Appeal rights

Where the relevant counter notice under Section 105(3) is given the premises user may appeal against the decision.

Where counter notice is not given, the chief officer of the environmental protection team may appeal against that decision. The appeal must be made to the Magistrates' Court within a period of 21 days beginning with the day on which the applicant was notified by the licensing authority of the decision to be appealed against. No appeal may be brought later than five working days before the day on which the event begins.

The meeting closed at 2.35pm.

CHAIR:

DATED: