



## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Friday 29 November 2013 at 10.00 am at Ground Floor Meeting Room G02A - 160 Tooley Street, London SE1 2QH

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**PRESENT:** Councillor Renata Hamvas (Chair)  
Councillor Sunil Chopra  
Councillor Jeff Hook

**OTHERS PRESENT:** Benson Fabusiwa, applicant  
Councillor Robin Crookshank Hilton, ward councillor  
P.C. Graham White, Metropolitan Police Service  
John Brunton, Herne Hill Society  
Laurenace Marsh, Herne Hill Society

**OFFICER SUPPORT:** Cynthia Barrientos, legal officer  
Jayne Tear, licensing officer  
Gavin Blackburn, planning officer  
Farhad Chowdhury, health and safety officer

### 1. APOLOGIES

There were none.

### 2. CONFIRMATION OF VOTING MEMBERS

The three 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: 75-79 NORWOOD ROAD, LONDON SE24 2AA**

The licensing officer presented their report and circulated a list of conciliated conditions. Members had no questions for the licensing officer.

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

The sub-committee heard from the Metropolitan Police Service. Members had questions for the police.

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

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

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

Members heard from the ward councillor. Members had questions for the ward councillor.

Members heard from representatives from the Herne Hill Society. Members had questions for the representatives from the Herne Hill Society.

All parties were given five minutes for summing up.

The licensing sub-committee went into closed session at 11.57am.

The licensing sub-committee resumed at 2.14pm and the chair read out the decision of the sub-committee.

**RESOLVED:**

That the application by Mr Benson Fabusiwa and Ms Marketa for a grant of a premises licence issued under the Licensing Act 2003 in respect of 75 - 79 Norwood Road, London SE24 2AA be granted as follows:

| <b>Licensable Activity</b>     | <b>Monday to Wednesday</b> | <b>Thursday</b> | <b>Friday and Saturday</b> | <b>Sunday</b>  |
|--------------------------------|----------------------------|-----------------|----------------------------|----------------|
| Live music (indoors)           |                            | 21.00 to 00.00  | 21.00 to 00.00             |                |
| Recorded music (indoors)       |                            | 21.00 to 00.00  | 21.00 to 00.00             |                |
| Performance of dance (indoors) | 16.00 to 23.00             | 16.00 to 23.00  | 16.00 to 00.00             | 16.00 to 23.00 |

|   |                |                |                |                |
|---|----------------|----------------|----------------|----------------|
| Late night refreshment (indoors)                    | 23.00 to 00.00 | 23.00 to 00.00 | 23.00 to 00.00 |                |
| Supply of alcohol (for consumption on the premises) | 11.00 to 23.30 | 11.00 to 23.30 | 11.00 to 23.30 | 11.00 to 22.30 |
| Hours premises are open to the public               | 11.00 to 00.00 | 11.00 to 00.00 | 11.00 to 00.00 | 11.00 to 00.00 |

### Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions from the operation schedule highlighted in Section M of the application form and the following additional conditions developed through discussion from the original operating schedule attached to the premises application as follows:

1. That licensed entertainment shall take place only in the most northerly of the premises (beyond the arch).
2. That all loud acoustic instruments (for example brass, drums, etc.) shall not be amplified at any time and are required to be muted or muffled when performing.
3. That before the premises license can take effect, the most southerly doors on the Norwood Road frontage (main entrance) shall be fitted with an acoustic lobby of sufficient resistance time to permit one door to close before the other is opened as persons are entering. The doors to the lobby shall be fitted with self closers (in accordance with BS 6459 Pt.1 1984) and with adequate reveals, rubber seals and/or brushes to ensure all air gaps around the doors are acoustically protected when the doors are closed.
4. That before the premises license can take effect all speakers used within the premises shall be isolated from the structure of the building by either rubber matting or anti vibration hangers.
5. That before the premises license can take effect a working sound limiting device, or speaker protection system that will permit maximum volume and bass levels to be set, shall be fitted to the in-house sound amplification equipment in the ballroom. The maximum bass and volume levels shall be set by the applicant's sound engineer in conjunction with environmental protection team officers.
6. That the sound limiting device/speaker protection system shall be installed in a secure and locked location to ensure that only the licensee/designated premises supervisor is able to affect access.

7. That the sound limiter installation and its maximum volumes/set levels shall be maintained thereafter.
8. That all performers shall use the in-house sound amplification system and no additional amplification equipment shall be imported on to the premises by third parties. (i.e. any of the performers own speakers must be connected to the in-house amplification system and may not use any independent, uncontrolled amplification system).
9. That all openings in the building fabric such as doors, windows and vents shall be closed during licensed entertainment.
10. That before the premises license can take effect details of an internal ventilation system for the premises shall be submitted for approval by the environmental protection team and the approved system installed.
11. That the rear smoking area will close at 23.00.
12. That there shall be no drinks in any external area at any time.
13. That there shall be no licensed entertainment in any external area at any time.
14. That there will be a maximum of five patrons in the rear smoking area until 23.00 and a maximum of five patrons on smoking on the premises frontage after 23.00.
15. That waste collections, deliveries, the cleaning of external areas and external waste handling shall take place between the hours of 08.00 and 22.00.
16. That there shall be no movement of musical or performance equipment to or from the premises between the hours of 00.00 and 08.00.
17. That all exit doors for patrons will be fitted with clearly legible, noticeable signs requesting that patrons leave the premises and area quietly and be mindful of neighbours.
18. That before the premises license can take effect the applicant shall prepare a dispersal policy to be submitted to the licensing authority for approval.
19. That the premises shall operate an agecheck 'Challenge 25' policy whereby customers purchasing alcohol who look or appear to be under 25 years of age will be asked for an approved form of proof of age to verify their age. Approved forms shall include a driving licence, passport or a PASS approved proof of age card such as the Southwark Proof of Age (SPA) card.
20. That all staff involved in the sale of alcohol shall attend a recognised training scheme which will include training in the agecheck 'Challenge 25' policy. They must obtain a certificate of competence. A record of their training, including the dates that each member of staff is trained, shall be available for inspection at the premises on request by the council's authorised officers or the Metropolitan Police Service.
21. That Agecheck or 'Challenge 25' signage shall be displayed at entrances to the

premises, areas where alcohol is displayed for sale and at points of sale to inform customers that an agecheck 'Challenge 25' policy applies and proof of age may be required.

22. That a register of refused sales of alcohol and if applicable, cigarette sales which is clearly marked with details of the premises, address and name of licence holder shall be maintained in order to demonstrate effective operation of the policy. The register shall be available for inspection at the premises on request by the council's authorised officers or the Metropolitan Police Service.
23. That no ticketed entry to the premises or admission fee shall be charged to enter the premises.
24. That no variation in the sale price of alcohol shall take place in respect of when in the day the alcohol is sold.
25. That no minimum order is to be set in respect of what a customer may order in terms of drink or food.
26. That the premises may not be let or licenced to a third party and no promotions shall take place at the premises.
27. That the (door) staff at the premises shall ensure that at no time does any queue form on the pavement in front of the premises. Anyone waiting for a table shall do so inside the premises, or be advised that the venue is full and asked to move on.
28. That the door staff shall familiarise themselves with the traffic and parking restrictions on Norwood Road and advise anyone not complying with those restrictions to comply and move their vehicle if necessary (removed if there is no requirement for door security).

In addition to the following additional conditions agreed by the licensing sub-committee:

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 persons 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 al staff are trained in their responsibilities under the Licensing Act 2003 and training records be kept and updated every six months and shall, upon request, be made immediately available to officers of the police and the council.
4. That customers shall use no outside area after 22.00 other than those who temporarily leave the premises to smoke a cigarette.
5. That a personal licence holder shall be on the premises at all times after 20.00 and the premises are in operation under its licence.

6. That intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking a substantial table meal and by consumption of such persons as an ancillary to their meal.
7. That before the premises licence can take effect the applicant shall complete the schedule of works as specified by the health and safety team. The works, detailed in page 38 of the sub-committed report, must be completed to the satisfaction of the health and safety team.
8. That before the premises licence can take effect, the maximum capacity of the premises must be agreed with the health and safety team.
9. That before the premises licence can take effect, the applicant shall submit a full and detailed business plan, including details of professional cooking facilities and staffing levels to evidence the use of this premises as a commercial restaurant to the licensing team.

### **Reasons**

The licensing sub-committee heard evidence from the applicant. He advised the sub-committee that this was a joint application with Ms Hovorkova, however she would not be attending the hearing today. He initially proposed that the meeting be adjourned as his solicitor was unable to attend and that he felt unwell. However, he then confirmed that he would be happy to proceed.

He informed the sub-committee that he had obtained a lease for the premises. He explained that he had invested a substantial amount of money in the business and intended to successfully run the premises. He advised that he had addressed a number of the concerns from the responsible authorities and had agreed to a large number of conditions which he intended to comply with. He advised that he was willing to continue to work with the authorities should the licence be granted.

In response to allegations that he had previously run licensed premises in Lambeth, which had been placed under review, he explained that he was an investor in these premises and that other people had been responsible for management. He confirmed that he was now no longer involved with these premises. He explained that he had a personal licence issued by Lambeth and there were currently no concerns in relation to this.

The licensing sub-committee heard from the police who raised concerns about the suitability of both applicants to run this premises. The police advised that Mr Fabusiwa had been the licence holder of premises in Lambeth which had been reviewed. He highlighted that Mr Fabusiwa would agree to conditions but would later be in breach and this was evident from his history of being a premises licence holder for premises in Lambeth. In respect of Ms Hovorkova, the officer explained that she was involved with the running of a premises which had recently been reviewed by Lambeth Council and she is therefore not a responsible person to hold a premises licence.

The licensing sub-committee noted that the trading standards team had conciliated with the applicant and had agreed conditions.

The licensing sub-committee noted that the environmental protection team had conciliated

with the applicant and had agreed conditions.

The licensing sub-committee heard from the planning officer who confirmed that he had agreed conditions with the applicant, including the reduction of hours. He noted that the matter of maximum capacity had yet to be agreed and it would be for the health and safety team to approve this.

The licensing sub-committee heard from the licensing officer representing the council as a responsible authority who advised the sub-committee that the operating schedule submitted by the applicant had contained no details. He advised that he would have expected a much more substantial operating schedule from an experienced premises licence holder. He advised that the conditions agreed between the applicant and the responsible authorities largely satisfied his concerns. However, he had concerns about whether the applicant would be compliant.

The licensing sub-committee noted that the health and safety team were unable to attend today's hearing.

The licensing sub-committee heard from other persons, including the ward councillor who raised concerns about monitoring the compliance of the premises with any conditions imposed. The ward councillor supported the police view that the applicants were not suitable persons to run this venue. She reiterated her view that the premises would operate as a nightclub venue rather than a restaurant/bar. The ward councillor felt that the proposed conditions would not address her concerns and the concerns of local residents. This view was supported by the representative of the Herne Hill Society.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives.

The licensing sub-committee considered that it was appropriate and proportionate to attach these conditions in order to address the licensing objectives.

The sub-committee reminded the applicants that should there be any breaches of the licence conditions that the licence is highly likely to be subject to review.

### **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
- b) On granting the licence, the licensing authority ought to have imposed different or additional conditions 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 Magistrates' Court for the petty sessions area (or any such area) in which the premises concerned 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 closed at 2.20pm.

**CHAIR:**

**DATED:**