

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Friday 20 June 2014 at 10.00 am at Ground Floor Meeting Room G02C - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Lorraine Lauder MBE (In the chair)
Councillor Eliza Mann
Councillor Adele Morris

**OTHERS
PRESENT:** Councillor Sunny Lambe (observing)
Douglas Otunyo, applicant
Catherine Waite, local resident
P.C. Ian Clements, Metropolitan Police Service

**OFFICER
SUPPORT:** Joanne Devlin, legal officer
Dorcas Mills, licensing officer
Farhad Choudhary, health and safety officer
Mark Prickett, environmental protection officer
David Swaby, licensing officer representing the council as a responsible authority
Andrew Weir, constitutional officer

1. APOLOGIES

There were none.

2. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as the voting members. In the absence of the chair, Councillor Lorraine Lauder MBE was nominated by Councillor Eliza Mann to chair the meeting. This was seconded by Councillor Adele Morris.

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: LUSH BAR & RESTAURANT, 280 OLD KENT ROAD, LONDON SE1 5UE

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 Metropolitan Police Service representative addressed the sub-committee. Members had questions for the police representative.

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

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

The health and safety officer addressed the sub-committee. Members had questions for the health and safety officer.

The sub-committee heard from a local resident objecting to the application. Members had questions for the local resident.

All parties were given five minutes for summing up.

The licensing sub-committee went into closed session at 11.40am.

The licensing sub-committee resumed at 1.25pm and the chair read out the decision of the sub-committee.

RESOLVED:

That the application submitted by Douglas Otunyo for the grant of a premises licence issued under the Licensing Act 2003 in respect of Lush Bar & Restaurant, 280 Old Kent Road, London SE1 5UE is granted as follows:

Licensable Activity	Sunday to Thursday	Friday and Saturday
Live Music – indoors	12.00 to 23.00	12.00 to 00.30
Recorded Music – indoors	12.00 to 23.00	12.00 to 00.30

Latenight refreshment	12.00 to 23.00	12.00 to 00.30
Sale and supply of alcohol (on the premises)	12.00 to 23.00	12.00 to 00.30
Hours premises are open to the public	12.00 to 23.30	12.00 to 01.00

Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions and conditions derived from the operation schedule in Section M of the application form and shall be subject to the following additional conditions:

1. That intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals, the premises will operate as a restaurant where the sale of alcohol is ancillary to the consumption of food. Service to tables will be by waiting staff only.
2. That all licensable activities to cease 30 minutes prior to the terminal hour.
3. That two SIA registered door supervisors, at least one of whom shall be a female, shall be employed at all times between 20.00 and the terminal hour.
4. That the premises shall install and maintain a comprehensive CCTV system as per the minimum requirement to the Metropolitan Police Licensing Officer. All entry and exit points will be covered enabling a clear facial image of every person entering in any light conditions.
5. That the CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be made available immediately upon request of police or authorised officer throughout the proceeding 31 day period. The premises shall have the facility on the system to transfer the images to another data device.
6. That a personal licence holder is on the premises and on duty at all times that intoxicating liquor is supplied.
7. That all staff are trained in their responsibilities under the Licensing Act 2003 and training records to be kept and updated every six months and shall, upon request, be made immediately available to officers of the Metropolitan Police Service and Southwark Council.
8. That all house speakers shall be isolated from the structure of the building, either by rubber acoustic matting, anti vibration hangers or chained.
9. That clearly legible signage will be prominently displayed at the exit where it can easily be seen and read requesting to the effect that customers do not take drinks outside.
10. That clearly legible signage will be prominently displayed at the exit where it can

easily be seen and read requesting to the effect that customers leave the premises in a quiet and orderly manner.

11. That customers shall use no outside area after 23.00 other than those who temporarily leave the premises to smoke a cigarette on to the Old Kent road frontage and the number of customers who are permitted to leave the premises to smoke after 23.00 on to the Old Kent road frontage shall not exceed five persons.
12. That no food or drinks obtained from the premises will be permitted to be consumed outside of the premises at anytime.
13. That a compressor sound limiting device (SLD) shall be installed at the premises and shall be calibrated to the satisfaction of the council's environmental protection team (EPT). All amplification equipment in regards to both live and recorded sound must be routed through the SLD. At no time shall any amplification equipment be operated independently of the SLD. The SLD shall be calibrated to the satisfaction of the EPT prior to any recorded or amplified live music being provided at the premises. Once calibrated, the control settings of the SLD shall not to be altered at any time except with the prior consent of the EPT. The SLD shall be accessible to the licensee and/or manager of the premises only, and its installation be such that its control panel cannot be accessed by any other staff.
14. That suitable acoustic double glazing shall be installed on the Old Kent road window frontage to ensure that internal noise from patrons and from licensable entertainment is not audible externally at the closest noise sensitive property.
15. That the depositing of waste glass/earthenware into external waste receptacles shall not take place between 23.00 and 07.00 the following day.
16. That all deliveries and collections of waste shall be made between the hours of 07.00 and 23.00.
17. That the premises will be adequately mechanically ventilated.
18. That a lobby entrance will be installed at the premises. The doors in the lobby entrance will be fitted with door bottom and perimeter acoustic seals.
19. That the details of a local cab company shall be kept at the premises and shall be provided to customers on request. If staff at the premises order a cab for a customer then those staff shall request that the cab controller instructs the cab-driver not to sound their vehicle horn to attract attention, but to approach a staff member and let the staff member know that they are the driver of a cab that has been ordered by the premises.
20. That all doors and windows at the premises shall be kept closed when licensable activities are taking place at the premises (except for access or egress).
21. That no additional amplification equipment may be used at the premises by performers of any description. Only the installed in house amplification equipment may be used in regards to any performance.

22. That any member of staff receiving a complaint from a patron or neighbour shall complete a premises complaint form.
23. That the licensee shall ensure all entertainers performing at the premises read a copy of the premises licence before they commence their act/performance.
24. That all staff shall receive training on the contents of the premises licence and their roles and responsibilities to uphold the premises licence conditions.
25. That all findings of both premises risk assessments and event risk assessments shall be put in writing and made available at the request of the council or other authority.
26. That a comprehensive dispersal policy shall be produced, maintained and updated and all staff needs to be trained and made aware of any changes, a copy of the dispersal policy shall be made available to the council or police on request.
27. That all premises staff shall be trained in evacuation procedures including wheelchair users and this shall be documented. Documents detailing the training undertaken by staff shall be made available on request to officers of the council.
28. That all equipment, devices and systems used in the premises shall be maintained in good state of repair and effective working order. Documents detailing the maintenance regime shall be made available on request to officers of the council.
29. That any devices brought in the premises by third parties, needs to be inspected by a competent person before use to ensure they are in safe working order.
30. 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.
31. 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 police.
32. 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
33. 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 police.

34. That between 12.00 noon and 21.00 no children shall be on the premises where alcohol can be consumed unless accompanied by a responsible adult.
35. That no children shall be on the premises where alcohol can be consumed after 21.00.

Reasons

The licensing sub-committee heard from the applicant who advised that he had taken on the lease of the premises from March 2014 for a period of seven years. He assured the sub-committee that he had no connection with the previous management of the premises. He stated that this was a completely new business. He stated that he was a DJ by profession but that he wanted to embark on running a new business by way of a restaurant with a very different clientele and operation to the previous premises. He also confirmed that there would be no entrance fee for patrons entering the premises.

He confirmed that he had employed a professional chef and that the primary purpose of the premises was to operate as a restaurant. He further stated that he had liaised with all the responsible authorities and local residents and had sought to conciliate and accepted the proposed conditions in order to work with the authorities and the residents. He stated that he wanted the business to operate for a long period of time and therefore was willing to work in conjunction with the authorities and local residents to ensure this.

In addressing the residents concerns he agreed to install lighting at the front and the back of the premises and to provide a telephone number in order to address any issues

The licensing sub-committee heard from the representative from the Metropolitan Police Service who advised that they had visited the premises the previous week and produced photographs showing tables and chairs situated in the premises. The police further confirmed that the kitchen equipment was witnessed on site during their visit, suggesting that the premises was properly equipped to be run as a restaurant.

Following discussions with the applicant, the police confirmed that as far as they were concerned this was a new operator who had no connections with the previous management and that they would be happy for the premises licence to be granted taking into account the proposed conditions and a reduction in the proposed hours.

The licensing sub-committee heard from the environmental protection officer who also stated that in view of the proposed primary operation being a restaurant that they would propose further reduced hours in order to address the public nuisance licensing objective. The environmental protection officer also proposed conditions which were accepted as appropriate and were adopted by the licensing sub-committee.

The licensing sub-committee heard from the licensing officer representing the council as a responsible authority who suggested further enquiries should be made of the applicant in relation to the operation of the premises. Following this the sub-committee made further enquiries of the applicant.

The licensing sub-committee heard from the health and safety officer who referred to their written representations and stated that they were satisfied with the crowd dispersal policy provided by the applicant. He further stated that he could deal with the remaining points

raised in his written representation in accordance with health and safety legislation.

The licensing sub-committee noted that the trading standards representation had been withdrawn following conciliation.

The licensing sub-committee heard from a local resident who advised following the signing of a petition by 12 other residents that she was representing ten of the residents. The local resident raised concerns in relation to the previous premises known as Pardis specifically relating to noise nuisance caused by music and people loitering outside which had an effect on the residents and families living in the area.

The local resident stated that a significant reduction in hours, along with sufficient CCTV and lighting would assist in alleviating the residents concerns in relation to public nuisance and disorder.

The sub-committee accepted the evidence put forward by the applicant that they would operate a completely separate business from Pardis and accepted that the conciliated conditions would address the concerns in relation to the previous premises raised by the representations.

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.

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) That 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 on 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.

The meeting closed at 1.35pm.

CHAIR:

DATED: