



## **Licensing Sub-Committee**

MINUTES of the OPEN section of the Licensing Sub-Committee held on Monday 27 April 2015 at 10.00 am at Ground Floor Meeting Room G01C - 160 Tooley Street, London SE1 2QH

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- PRESENT:** Councillor Renata Hamvas (Chair)  
Councillor David Hubber  
Councillor Lorraine Lauder MBE
- OTHERS PRESENT:** Shumi Begum, The Roxy, premises licence holder  
Craig Baylis, legal representative for The Roxy, premises licence holder  
P.C. Graham White, Metropolitan Police Service  
Councillor Adele Morris, ward councillor  
Simon Leaver, applicant, East 12<sup>th</sup> Restaurant  
Theo Lewis, applicant, East 12<sup>th</sup> Restaurant  
Heath Thomas, legal representative, East 12<sup>th</sup> Restaurant  
Henry Elwell, local resident
- OFFICER SUPPORT:** Debra Allday, legal officer  
Dorcas Mills, licensing officer  
David Franklin, licensing team leader  
Jayne Tear, licensing officer representing the council as a responsible authority  
Mark Prickett, environmental protection officer  
Farhad Chowdhury, health and safety officer  
Andrew Weir, 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**

There were none.

#### **4. DISCLOSURE OF INTERESTS AND DISPENSATIONS**

There were none.

#### **5. LICENSING ACT 2003: THE ROXY, 128 BOROUGH HIGH STREET, LONDON SE1 1LB**

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

The Metropolitan Police Service representative, the applicant for the review 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 health and safety officer addressed the sub-committee. Members had no questions for the health and safety officer.

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

The ward councillor representing local residents supporting the review addressed the sub-committee. Members had no questions for the ward councillor.

The legal representative for the premises addressed the sub-committee. Members had questions for the legal representative for the premises.

All parties were given five minutes for summing up.

The meeting went into closed session at 11.06am.

The meeting resumed at 12.16pm and the chair read out the decision of the sub-committee.

#### **RESOLVED:**

That the council's licensing sub-committee, having had regard to the application made under Section 53C by the Metropolitan Police for a review of the premises granted under the Licensing Act 2003 in respect of the premises known as The Roxy, 128 - 132 Borough High St, London SE1 1LB and having had regard also to all other relevant representations has decided it necessary for the promotion of the licensing objectives to revoke the licence.

#### **Reasons**

The reasons for the decision are as follows:

The licensing sub-committee have considered the application made by the Metropolitan Police Service who informed the sub-committee that on 29 March 2015 at approximately

03.30, a fight broke out inside the premises, which quickly escalated into large scale disorder outside the premises involving approximately 50 people. The police advised that the closing time of the premises, under its licence is 03.00 and licensing activities must cease at 02.30. Condition 308 provides that there should be no admission or readmission of the public to the premises after midnight every day of the week. As a result of the disorder nine people were stabbed and a number of them were arrested. The incident was so serious that officers from other boroughs around London were drafted in to restore order. 45 police officers attended in total and Borough High Street was closed for approximately 12 hours.

The police also advised the sub-committee of seven serious violent incidents at the premises over the past six months.

Following the interim steps hearing on 1 April 2015, the police attended the premises on 4 April 2015 at 21.00 and found that the venue was playing a pre-recorded film, in breach of the interim steps imposed.

Following a hearing on 9 April 2015 to hear representations against the interims steps (imposed on 1 April), the next day police entered the premises and purchased alcohol and a bowl of chips at 18.35. No film was being shown and a bowl of chips between two persons did not amount to a "table meal". This was in breach of the revised interim steps imposed on 9 April 2015. As a result, a Section 19 Closure Notice was issued.

On 11 April 2015 police officers attended the premises at 16.40. No SIA staff were present and alcohol was being consumed outside the premises, in breach of the revised interim steps imposed on 9 April 2015. A further Section 19 Closure Notice was issued.

The licensing sub-committee heard from the environmental protection officer supporting the review who provided statistics relating to the increase of temporary event notices applied for since Ms Begum had taken over the licence, which supported the police's contention that licence holder had moved away from the original business model of the premises as a bar/cinema and was running it as a nightclub. In addition to this he provided evidence that a statutory noise nuisance had been witnessed on 1 March 2015, which was a breach of condition 239 of the premises licence.

The licensing sub-committee heard from the health and safety officer supporting the review who advised that following the visit to the premises on 6 March 2015 approximately 10 breaches of health and safety legislation were witnessed and deemed Ms Begum as not a fit and proper person to hold a premises licence.

The licensing sub-committee heard from the licensing officer representing the council as a responsible authority supporting the review who advised that the premises was inspected on 6 March and six breaches of the premises licence were witnessed. They advised that there are still two outstanding breaches of the licence namely CCTV conditions and a staff training condition. The licensing officer advised that all the breaches of the licence had taken place while Ms Begum was the licensee and until recently the designated premises supervisor (DPS). Whilst a new DPS has been appointed, the DPS is related to Ms Begum. Ms Begum remains as the licensee and could change the DPS at any time.

The licensing sub-committee heard from a ward councillor representing local residents also who supported the review who advised that the number of complaints from residents had increased since Ms Begum had taken over the premises licence. The ward councillor

advised that the premises was in a saturation zone and mismanagement of the premises had a huge effect on the local area. The sub-committee also took into account the written representations from seven local residents who were unable to attend the meeting.

The licensing sub-committee noted the written representation from the Southwark Chamber of Commerce and Industry in support of the licence holder.

The licensing sub-committee heard from the legal representative of the premises who did not dispute anything that had been submitted in respect of the review. The representative advised that Ms Begum had previously delegated all responsibility to a Mr Hickson who had now been excluded from the premises under the revised interim steps imposed on 9 April 2015. He also informed the sub-committee that Ms Begum recognised that she was unable to manage the premises and as a result she had placed it on the market to sell. With this in mind, he requested that the sub-committee did not revoke the licence but alternatively asked that the sub-committee suspend the licence until such time that a transfer is granted to a new suitable licensee.

The sub-committee felt that the incident of 29 March 2015 was extremely serious and would not have occurred had the premises closed in time and had not been in breach of its licence. The impact on the emergency services in addition to the surrounding area as a result of this incident was significant. The premises have had a number of violent incidents over the recent months when the premises should have been closed. The premises licence holder has demonstrated incompetence in managing the premises as well as a disregard for the licensing objectives by flagrantly breaching the interim steps on three occasions.

The suggestion that the licence be suspended was not felt to be realistic as there could be no guarantees that the premises would be sold in the three month suspension period. Therefore, on this occasion there is no suitable alternative but to revoke the licence.

In reaching this decision the sub committee had regard to all the relevant considerations and the four licensing objectives and considered that its decision was appropriate and proportionate in order to address the licensing objectives.

### **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
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

In accordance with the Licensing Act and guidance issued in 2007, the interim steps

agreed on 9 April 2015 must remain in effect until the time for appealing the review has expired and any appeal determined.

**6. LICENSING ACT 2003: EAST 12TH RESTAURANT LTD, 2 - 4 GROVE LANE, CAMBERWELL, LONDON SE5 8SY**

The licensing officer presented their report and advised that there had been conciliation between the applicant and the responsible authorities which had resulted in both the environmental protection team and the trading standards team conciliating with the applicant. Members had questions for the

The applicants' representative addressed the sub-committee. Members had questions for the applicants and their representative.

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

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

All parties were given five minutes for summing up.

The meeting went into closed session at 2.22pm.

The meeting resumed at 3.34pm and the chair read out the decision of the sub-committee.

**RESOLVED:**

That the application submitted by East 12<sup>th</sup> Restaurant Ltd for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as East 12<sup>th</sup> Restaurant, 2-4 Grove Lane, Camberwell, London SE5 8SY be granted as follows:

<b>Licensable Activity</b>	<b>Monday to Thursday</b>	<b>Friday and Saturday</b>	<b>Sunday</b>
Sale and supply of alcohol (on the premises)	11.00 to 23.00	11.00 to 23.30	11.00 to 23.00
Hours premises are open to the public	08.00 to 23.30	08.00 to 00.00	08.00 to 23.30

**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, conditions agreed by the sub-committee:

1. That the premises' staff will be trained to understand the responsibility attached to the supply of alcoholic drinks and that alcoholic drinks shall be limited to beer, cider or wine may be served to and consumed by persons aged 16 or 17 only if they are accompanied by persons over the age of 18 and consuming substantial food while sitting at a table.
2. That no alcoholic drinks will be served to persons under 16 years of age, even when with adults, and no provision of any alcoholic drinks will be to unaccompanied persons under 18 years of age.
3. 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.
4. That all staff involved in the sale of alcohol shall before doing so, receive training which will include legal requirements as to the supply of alcohol to people. This shall include training in the agecheck 'Challenge 25' policy. A record of their training, for each member of such staff shall be maintained and be available for inspection at the premises on request by the council's authorised officers or the police.
5. 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.
6. 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.
7. That the premises shall not hold licensed entertainment unless approved under a temporary events notice.
8. That the rear garden and all doors and windows to the rear of the premises shall close at 20.00 on Sunday and 21.00 on Monday to Saturday.
9. That those who temporarily leave the premises to smoke a cigarette shall use the street frontage at all times, no more than 6 people at one any time. No alcohol or beverages shall be taken out of the premises at any time.
10. That deliveries, collections and external cleaning shall not occur between 20.00 and 08.00.
11. That the kitchen extract system shall meet the standard required by DEFRA Guidance on the control of odour and noise from commercial kitchen exhaust

systems (2011).

12. That any external plant such as the kitchen extraction system, condensers, etc. shall have a noise output that does not exceed 10 dB (A) below the lowest L90 15 min relevant in the period the plant will be operational.
13. That the back garden area shall be closed to patrons at 20.00 on Sunday and 21.00 on Monday to Saturday.
14. That there shall be no more than 20 patrons in the rear garden at any one time.
15. That signage shall be displayed at the entrance to the back garden stating that the area is closed to patrons from 20.00 on Sunday and 21.00 on Monday to Saturday.
16. That save for no more than ten persons at any one time, who may consume alcohol in the premises without a meal, limited to one intoxicating drink, 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.
17. That the premises licence holder shall display a telephone number for local residents to contact management of the premises as and when necessary.
18. That the furniture in the garden shall all have rubber feet for the purpose of limiting noise nuisance.

### **Reasons**

This was an application submitted by East 12<sup>th</sup> Restaurant Ltd in respect of the premises known as East 12<sup>th</sup> Restaurant, 2-4 Grove Lane, Camberwell, London SE5 8SY.

The licensing sub-committee heard evidence from the applicant who informed the sub-committee that the premises would be operated as a pizzeria which would employ ten staff who would provide waiter service throughout the premises and the rear garden. They advised that the premises had a capacity of 65 inside and 25 outside. They anticipated that takeaways would make up around 10% of business and confirmed that there would be no off-sales. The applicant's representative accepted that there was no application for late night refreshment. Complaints made to the environmental protection team in the past were due to the previous licence having regulated entertainment. The proposed operation would only have background music.

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

The licensing sub-committee noted that the trading standards officer had conciliated with the applicant.

The licensing sub-committee heard from the licensing officer representing the council as a responsible authority who advised that she had concerns relating to two matters namely the timings for the closure of the rear garden area and the timings for the signage relating to the closure of the rear garden. She also highlighted that there had been complaints to

licensing in the past relating to noise nuisance when the premises was under previous management. She suggested that if the maximum number of patrons in the rear garden was limited to 14 then the closing time could be 9pm or alternatively if the maximum was 25, as sought by the applicant, then the closing time should be 8pm as she viewed the patrons would be verbally competing amongst themselves, causing a nuisance.

The licensing sub-committee noted the representation from the planning officer which noted that the times considered by the applicant would have no impact on public nuisance.

The licensing sub-committee noted the six representations from other persons including a ward councillor.

The sub-committee heard from one other person (party 4) who advised that he had lived in the premises for 20 years and whose apartment was on the first floor directly above the premises. His main concern related to noise nuisance from the garden and he had concerns that his asthma might be exacerbated by the smoke emanating from outside the premises. He was also concerned about the change of usage of the business.

The licensing sub-committee noted that much of the application had been conciliated with the responsible authorities. The main outstanding issue related to the timings of the usage of the rear garden. The sub-committee were concerned about the effect of the usage of the rear garden would have on local residents in terms of noise nuisance, and for the prevention of nuisance the sub-committee have imposed the additional conditions to this licence. Concerning the change of hours on Friday and Saturday, the sub-committee noted that the supply of alcohol was sought until 00.00 both days but no application for late night refreshment covered the additional hours sought. As this is a restaurant operation to regularise the licence the sub-committee has amended the hours accordingly.

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 its decision was appropriate and proportionate 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 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.

Meeting ended at 3.45 pm

**CHAIR:**

**DATED:**