



NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 22 SEPTEMBER 2016

LICENSING ACT 2003: LUSH BAR & RESTAURANT, 280 OLD KENT ROAD, LONDON SE1 5UE

1. Decision

That the council's licensing sub-committee, having considered an application made under Section 53A of the Licensing Act 2003 by the chief of police for the metropolitan police area for a review of the premises licence issued in respect of the premises known as Lush Bar & Restaurant, 280 Old Kent Road, London SE1 5UE. and also having had regard to all other relevant representations has decided it necessary for the promotion of the licensing objectives to:

Suspend the licence for a period of three months and remove the designated premises supervisor being Douglas Otunyo.

Modify the conditions of the licence as follows:

1. That the operating hours are reduced on:

Friday and Saturday from 12:00 to 02:00am and all licensable activities to cease at 01:30

Sundays 06:00 to 00:00 with all licensable activities to cease at 23:30.

2. That 3 SIA registered Door supervisors, at least one of whom shall be a female, shall be employed at all times after 22:00 when the terminal hour is after 00:30.
3. That the last entry shall be 2 hours before the terminal hour when the terminal hour is after 00:30.
4. That polycarbonate/ plastic drink ware is to be used by all persons, all alcoholic and soft drinks are to be served and or decanted by premises staff into such drink ware for all drinks consumed after 22:00.

2. **Reasons**

The reasons for this decision are as follows:

The licensing sub-committee heard from the Metropolitan Police Service representative, the applicant for the review who informed the Sub committee that following an incident on 21 August 2016 a suspect has been charged with common assault and grievous bodily harm. This was following an incident at the premises whereby a male patron pushed a female to the floor and then threw a glass bottle hitting the head of another male patron, causing injuries consistent with grievous bodily harm.

When the police arrived they were confronted by a hostile crowd, as a result more police units were required. Furthermore, on inspecting the ID scanner, it revealed that 15 people were admitted after 02:00 (with the last entry shown as 02:57) which is a breach of condition 364 of the licence that there shall be no new entries after 02:00. The police provided further evidence showing a history of non compliance of the ID scanner condition. They referred to breaches of this condition on 31 January 2015, 25 April 2015 and 10 January 2016.

The police advised that the ID scanner at the premises was not being used in line with condition 369 of the licence.

The Police further advised of their review of the CCTV footage which confirmed their concerns over use of the ID scanner and showed patrons being permitted entry beyond the terminal hour.

The police highlighted their concerns regarding the use of the ID scanner system and expressed that failure to comply with this on and the remaining licensing conditions on repeated conditions undermined the objective of crime and disorder and the safety of patrons.

The police also noted that prior to the extended hours of operation there was very little in the way of reported crime associated with the premises.

The licensing sub-committee heard from the environmental protection officer, supporting the review who advised of concerns in respect of public safety and public nuisance.

It was stated that police records appear to show harassment against woman and there does not appear to be proper management to resolve the issues.

The environmental protection officer recommended that the licence is revoked, alternatively to remove the designated premises supervisor and impose further conditions in a bid to uphold the licensing objectives.

The licensing sub-committee heard from the licensing officer representing the council as a responsible authority, supporting the review, who informed the sub committee that she was concerned that the premises were operating as a nightclub.

The officer highlighted various breaches of the licence conditions which she had witnessed during recent inspections. Including the failure to properly operate the club ID scanner system.

The officer informed the sub committee that she had not witnessed the premises serving food during the inspections and was concerned that the premises were not operating as a restaurant.

The officer expressed concern that despite several warnings, the premises licence holder sought to blame staff and showed a lack of responsibility for the breach of conditions.

The officer did not have confidence in the current management of the premises.

The licensing sub-committee heard from the health and safety officer, supporting the review, who expressed concerns with the operation of the premises and advised that he considered the premises to operate as a nightclub rather than a restaurant and in view of the incidents which have occurred at the premises, requested that the licence holder review the security policy and procedures on a regular basis.

The officer also recommended that refresher training needs to be provided for all staff including bar staff and door staff.

The licensing sub-committee heard from the premises licence holder who provided a summary of the events on 21 August 2016. He stated that following the assault on the male victim he instructed the suspect not to leave the premises and called the police and ambulance. In the meantime the female victim had called the police from outside the premises. He stated that he instructed the SIA staff to use the ID scanner for every patron. He acknowledged that the staff were not using the ID scanner correctly.

He stated that he would not use the current SIA staff in future and that he would employ the services of a new SIA company who would use the ID scanner system in accordance with the licence conditions.

He further stated that he had invested in a new ID scanner system which allowed the patrons ID to be retained on the system and would assist in enhancing the effective use of the system in future.

When questioned as to why he had not employed new SIA staff following previous warnings about the use of the ID scanner he said that he had told them to use the ID scanner properly and would employ new staff from now on.

He accepted that it was his responsibility to ensure compliance with the licence conditions and promised the sub committee that he would comply with the conditions in future.

He stated that this was an isolated incident. He stated that he sought to assist the police and despite the police evidence to the contrary he did not consider that there had been a hostile environment at the premises on 21 August 2016.

He offered to have one trained member of staff dealing with the ID scanner solely and agreed to use polycarbonate glass ware.

The sub-committee considered all the written and oral evidence before it and concluded that they did not have confidence in the current management's ability to comply with the premises licence conditions and felt that it was appropriate to suspend the licence in addition to removing the designated premises supervisor and to impose conditions as set out above.

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

3. **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 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
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

The interim steps will remain in place 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.

Issued by the Constitutional Team on behalf of the Director of Law and Democracy

Date: 22 September 2016