



**The Licensing Unit**  
 Floor 3  
 160 Tooley Street  
 London  
 SE1 2QH

**Metropolitan Police Service**  
**Licensing Office**  
 Southwark Police Station,  
 323 Borough High Street,  
 LONDON,  
 SE1 1JL

Tel: 020 7232 6756

Email: SouthwarkLicensing@met.police.uk

**Our reference:** MD/21/ 2917/17

**Date:** 22nd February 2017

Dear Sir/Madam

Re:- Lush Bar & Restaurant, 280 Old Kent Road, London SE1 5UE

Police are in possession of an application from the above for a variation to the premises licence, the application is to change the use to a restaurant style premises between the following hours

**Opening Hours**

Sun–Wed 0600hrs – 0000hours / Thu 0600hrs – 0030hrs /Fri–Sat 0600hrs - 0200hrs

**Late Night Refreshment**

Sun–Wed 2300hrs – 2330hours / Thu 2300hrs – 0000hrs /Fri–Sat 0600hrs - 0130hrs

**Supply of alcohol**

Sun–Wed 1200hrs – 2330hours / Thu 1200hrs – 0000hrs /Fri–Sat 1200hrs - 0130hrs

He has also requested the removal of regulated entertainment and a number of conditions from the licence.

We object to the granting of the variation as the applicant has not offered sufficient control measures as part of the operating schedule. Considering the licence was subject to a recent expedited review due to serious violence and disorder they do not to satisfy us as sufficient to promote the licensing objectives.

The licence was initially granted as a restaurant licence and has subsequently had the hours extended and conditions added to move more towards a night club operation by previous variations. We would expect the applicant to offer a reduction in hours if the conditions on the licence are to be removed and for them to be in line with the Southwark council statement of licensing policy for the area the venue is situated.

As some of the conditions were placed on the licence at a review hearing, we do not consider it appropriate to agree to the removal of the conditions placed on the licence at the Sub-committee hearing.

If the Sub-Committee feel it appropriate to vary the licence to operate as a restaurant and allow the removal the ID scanning system we would like to see the following as a minimum.

1. Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such person as an ancillary to their meal.
2. Alcohol only to be served to customers that are seated and eating a substantial table meal and ancillary to that meal unless waiting to be seated for a meal in a designated area with a maximum of 6 people.
3. That no spirits (alcohol containing more than 20% ABV) shall be sold by the bottle or half bottle.
4. That all spirits (alcohol containing more than 20% ABV) shall be sold by the measure of 25ml or 35ml at a maximum of two measures per container/glass

Replace condition 341 & 842

5. That two SIA registered door supervisors will be engaged when the premises are in operation Friday, Saturday or when the terminal hour is after 00.30hrs and will be employed at all times after 21:00 until the end of business and all patrons have vacated the premises. They will be engaged to monitor admission and re-admissions to the premises, security, protection, screening, dealing with conflict and ensure that conditions related to the use of the outside area are adhered to and that the dispersal policy for the premises is implemented.

To replace condition 357

6. That all staff are trained in their responsibilities under the Licensing Act 2003, the terms and conditions of this licence and in recognising the signs of drunkenness in customers. Records pertaining to such training shall be kept at the premises and shall be updated every 6 months. The training records shall be made immediately available to officers of the Police and the Council upon request.

To replace condition 288 & 289

7. 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 person who enters the premises. It should cover all areas within the premises including the outside area to the front in all lighting conditions

8. 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.
9. At least one member of staff should be on duty at all times the premises is open that is trained in the use of the CCTV and able to view and download images to a removable device on request of Police or council officer.
10. That an Incident record is maintained and signed by the Designated premises supervisor (DPS) on a weekly basis and is made available to police and council officers immediately on request.

The Following is submitted for your consideration,

Yours Sincerely

PC Graham White 288MD

Southwark Police Licensing Unit

Tel: 0207 232 6756

# MEMO: Licensing Unit

---

**To** Licensing Unit                      **Date** 23 February 2017

**Copies**

**From** Jayne Tear                      **Telephone** 020 7525 0396                      **Fax**

**Email** jayne.tear@southwark.gov.uk

---

**Subject** Re: Lush Bar & Restaurant, 280 Old Kent Road, London, SE1 5UE  
Application to vary the premises licence

I write with regards to the above application submitted by Douglas Otunyo to vary the premises licence under the Licensing Act 2003 which seeks the following changes to the licensable activities and conditions:

The applicant describes the nature of the proposed variation within the application as follows:

*'Changing the business to a restaurant, Removal of Condition 369 (id scanner), Removal of regulated entertainment, Reduction of security from 3 to 1 (341 and 841), Add condition to serve food with drinks, Last entry Fri and sat to 1am from 2am, Polycarbonate / plastic condition adjust to Friday and sat from 22pm 844'*

My representation is submitted under the prevention of crime and disorder and the prevention of public nuisance licensing objectives and has regard to the Southwark Statement of Licensing Policy 2016 – 2020

This premises is situated within **a residential area** and under the Southwark Statement of Licensing Policy the closing times appropriate for public houses, wine bars or other drinking establishments and restaurants and cafes is 23:00 hours daily. Night clubs (with sui generis planning classification) are not considered appropriate for this area.

This premises already has generous hours for a restaurant/bar and has been subject to a recent licence review on 22 September 2016 whereby the licensing sub-committee (LSC) suspended the licence for 3 months; removed the DPS (who was Mr Douglas Otunyo at that time), reduced the operating hours and added further conditions. I attach to this representation a copy of the notice of decision for the review hearing. The decision of the licensing sub-committee was not appealed by Mr Otunyo.

Although Mr Otunyo has asked to remove regulated entertainment from the premises licence it should be noted that this would not prevent live music and recorded music being played before 23:00.

I am concerned that Mr Otunyo is seeking to remove conditions that were put on the licence at the review hearing to promote the licensing objectives. Especially those conditions regarding SIA door supervisors.

The application is not very clear so for clarification the conditions that are being asked to be removed or change are as follows:

**Conditions requested to be removed from the premises licence:**

**369** - *That an ID scanning system to the reasonable satisfaction of police be installed and maintained and operational after 22.00 until the terminal hour when licensable activities continue after mid-night. The system should be capable of sharing information about banned customers with other venues, identify the hologram of an ID and read both passports and ID cards, able to identify fake or forged ID documents to a reasonable standard. All persons that enter the premises including all SIA registered door supervisors, patrons, DJs and associated staff will be scanned and have their details recorded on the system. The details shall be stored and made available on request for a period of no less than 31 days.*

**Conditons requested to be changed on the premsies licence:**

**341** - *That 2 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.*

The application states the change will be 'reduction of security from 3 to 1'

The amendments asked for in the above condition would conflict with condition 842 which was put on the premises licence by LSC at the review hearing. Condition 842 states '*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*'.

**841** – *That there shall be no new entry or re-entry to the premises after 01.30 when the terminal hour is 03.30 or later other than those who temporarily leave to smoke a cigarette in accordance with condition 346 of the licence.*

The application states the change will be 'reduction of security from 3 to 1' which is not relevant to this condition.

**844** – *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.*

The operating schedule of this application is lacking and the applicant has not offered any further replacement suggestions of those conditons to address crime and disorder or public nuisance other than '*to serve food with drinks*'.

I have no faith in Mr Otunyo to manage the premises in a responsible manner or to promote the licensing objectives. Officers of the council have visited the premises since the suspension of the licence and so far have not met the new DPS Mr Folarin Olaopa.

Further to this the licensing unit have also witnessed several breaches of the licensed conditions and enforcement action was pursued a with regards to the breaches and I may submit further information supporting this representation at a later stage.

As there is limited information provided within this application I ask the applicant to provide suitable alternatives to the conditions that he has asked to be removed/or changed that would promote the licensing objectives and to also to provide an accommodation limit for the premises and explain how that would be controlled.

I therefore submit this representation and welcome any discussion with the applicant to address my concerns

Jayne Tear  
Principal Licensing officer  
In the capacity of the Licensing Responsible Authority



## 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

# MEMO: Licensing Unit

---

**To** Licensing **Date** 17<sup>th</sup> February 2017

**Copies**

**From** Farhad Chowdhury **Telephone** 020 7525 0398

**Email** [Farhad.chowdhury@southwark.gov.uk](mailto:Farhad.chowdhury@southwark.gov.uk)

---

**Subject** Lush Bar and Restaurant , 280 Old Kent Road, London SE1 5UE

I write in reference to an application for a full variation of the premises licence made by Mr Douglas Otunyo in respect of **The Lush bar and restaurant 280 Old Kent Road, London SE1 5UE**. Made under the Licensing Act 2003.

I would make the following comments:

- There have been a number of violent incidents associated with this premises, the licensee clearly cannot manage the premises on his own. The licensee needs to keep his door staff which are SIA trained and registered in order to maintain a level of security within the premises. He also needs to keep his ID scanner to ensure that all persons entering the premises are scanned this is to reduce crime and for public safety.
- Officers have visited the premises at night on Night Time Economy and have discovered that the premises is open and yet the front shutters have been closed on many occasions. Customers are inside and they cannot escape safely in case of fire, I am concerned for the safety of the customers within the premises. The licensee needs to ensure the front shutters are not closed whilst the premises is open.
- The premises has been run as a nightclub, with live music and DJ etc. The licensee also hires out the venue for parties birthdays, weddings. I am concerned that there will be a serious incident soon if these conditions are removed from the licence.

I therefore object to this variation application made by Mr Douglas Otunyo.

**Farhad Chowdhury**  
**Principal Enforcement Officer**

**From:** Sharpe, Carolyn **On Behalf Of** Public Health Licensing  
**Sent:** Monday, February 20, 2017 10:32 AM  
**To:** Regen, Licensing  
**Cc:** Public Health Licensing  
**Subject:** RE: Major Variation for Lush Bar 280 Old Kent Road

To whom it may concern:

**Re: Lush Bar, 280 Old Kent Road, London SE1 5UE**

On behalf of the Acting Director of Public Health for Southwark (a responsible authority under the Licensing Act 2003) I wish to make representation in respect of the above.

The representation is made in respect of the following licensing objective(s):

- The prevention of crime and disorder
- Prevention of public nuisance
- Public safety

**General Comments**

Public Health are in receipt of an application from the above to vary their current licence to enable the operation of a restaurant. The following amendments have been requested:

- Removal of Condition 369 ( id scanner ),
- Removal of regulated entertainment,
- Reduction of security from 3 to 1 ( 341 and 841).
- To also add a condition to serve food with drinks.
- Last entry Friday and Saturday to change to 1am instead of 2am.
- Polycarbonate / plastic condition adjust to Friday and sat from 22pm 844.

These conditions were recently imposed upon this licence by Southwark's Licensing Sub Committee. Additionally, this premises has had a number of issues regarding its operational management for some time. Given these issues I recommend the following:

- The end time for alcohol sales be amended to 23:00 daily. This is end time for alcohol sales that is recommended in Southwark's Statement of Licensing Policy
- Alcohol can only be served ancillary to a substantial table meal
- No vertical drinking

If you have any further questions, please do not hesitate to contact me.

Carolyn Sharpe  
*on behalf of Dr Jin Lim, Acting Director of Public Health*