

NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 9 SEPTEMBER 2016

**LICENSING ACT 2003: SECTION 53A: LICENSING ACT 2003: RED SEA, 85 CAMBERWELL ROAD
LONDON SE5 0EZ**

1. Decision

That the premises licence be suspended as an interim step to promote the licensing objectives pending the determination of the review application at the full hearing on 3 October 2016.

2. Reasons

This was a hearing to consider if it is appropriate to take interim steps to promote the licensing objectives upon receipt of an application by the Metropolitan Police Service for an expedited summary review of the premises.

The licensing sub-committee have considered the application made by the Metropolitan Police Service and supplementary evidence from the police presented at this hearing. The police advised that on 7 September 2016 they applied to the licensing authority for a summary review in respect of these premises. A senior member of the police force, for the area, certified that in his opinion, the premises were associated with serious crime and/or serious disorder.

The summary review application resulted due to an incident that took place on 4 September 2016 at 02:45. It was alleged that a serious assault occurred at the premises which resulted in the victim receiving injuries consistent with grievous bodily harm. On arrival, the police noted that most of the patrons attending the premises were drunk. They arrested two suspects and when the police attempted to liaise with the SIA staff they were un-cooperative and refused to provide formal witness statements to the police and were reluctant to provide their details or aid in the police's enquiries. Furthermore, CCTV cameras at the premises were obstructed and of no evidential use. The police also advised that there had been previous breaches of the licence on 10 July and 7 August 2016. On 10 July 2016, a Section 19 Closure Notice was served.

The licensing sub-committee have also considered oral evidence from the licensee's nephew, acting as her representative in her absence.

Concerning the incident on 4 September 2016, he advised that he couldn't comment as he had not been present at the premises but believed that his aunt was.

He informed the sub-committee that his aunt's first language was not English but Italian. He advised that she had very limited understanding of the premises licence and its conditions. On questioning, it was unclear whether other employees at the premises had personal licences. If patrons asked if they could stay beyond the terminal hour, his aunt would rarely refuse the requests.

Concerning the events that took place in the basement function room, these were largely managed by another male who was not a personal licence holder. His aunt, however, remained on the premises. Due to his aunt's limited grasp of English and understanding of the licence, he had become more involved over the last year in assisting her running the business. He added that, looking to the future, his aunt hoped to turn the premises into an Italian pizza restaurant.

Having considered all the evidence before it, the licensing sub-committee have very serious concerns with the management of these premises, the apparent lack of control that the licensee has over the premises and the proper management of the incident on 4 September 2016. The police expressed concerns over the previous compliance of the premises licence and were in the process of applying for a review of the licence when the incident on 4 September occurred. It is the opinion of this licensing sub-committee that an immediate suspension of the licence is required to prevent crime and disorder and to protect the public. All licensable activities are suspended. The restaurant may continue operating during the hours of 05:00 and 23:00 only and no alcohol may be sold. The licensing sub-committee, strongly recommend that the licence holder seeks independent legal advice.

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

3. Appeal rights

There is no right of appeal to a magistrates' court against the licensing authority's decision at this stage.

The premises licence holder may make representation against any interim steps imposed and a hearing to consider the representation will be held within 48 hours of receipt of the representation.

Any representation should be in writing and cannot be received outside of normal office hours.

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

Date: 9 September 2016

NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 3 OCTOBER 2016

LICENSING ACT 2003: RED SEA, 85 CAMBERWELL ROAD, LONDON SE5 0EZ

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 Red Sea, 85 Camberwell Road, London SE5 0EZ and also having had regard to all other relevant representations has decided it necessary for the promotion of the licensing objectives to:

- a) Suspend the licence for a period of six weeks
- b) Modify the conditions of the licence by removing the following conditions:
 - Conditions 332, 345, 4AA, 4AB, 4AC, 4AI 288, 289, 290, 332 and 340.
- c) Modify the conditions of the licence by adding the following conditions:
 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 person who enters the premises. It should cover all areas within the premises including upstairs and the outside area to the front in all lighting conditions.
 2. That a 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.
 3. That all staff are trained in their responsibilities under the licensing act 2003 and training records to be kept and updated every 6 months and shall, upon request, be made immediately available to Officers of the Police and the Council.
 4. That 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 his meal.

5. That two SIA registered door supervisors will be engaged when the premises are in operation on Saturday and will be employed at all times after 22:00 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
6. That all SIA shall sign in to a register which shall include their Name, badge number and telephone number and should include a declaration of expectation from the management in dealing with crime, drunkenness, assisting police and refusing entry to intoxicated people.
7. That the company engaged to provide door supervisors (the 'service provider') shall be subject to independent third party auditing to confirm that it complies with BS 7960:2005 Code of Practice in Door Supervision, including incident record keeping, and cooperation with police and other authorised officers. An instruction to SIA staff to cooperate with investigation of any incident by an authorised officer must be explicit in the assignment instructions for these premises from the service provider to the SIA door supervisors.
8. That no spirits (alcohol containing more than 20% ABV) shall be sold by the bottle or half bottle.
9. 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
10. That after 11 p.m. only polycarbonate or toughened glass drinking vessels shall be available to patrons, and all bottled drinks sold must be decanted into a drinking container before service to the customer, with the exception of bottles of wine served to persons seated in the restaurant, and who are taking or have ordered a table meal.
11. That a challenge 25 scheme shall be maintained at the premises requiring that staff selling alcohol request that any customer who looks under 25 years old, and who is attempting to purchase alcohol, provides valid photographic identification proving that the customer is at least 18 years old. Valid photographic identification is composed of a driving licence, passport, UK armed services ID card and any Proof of Age Standards Scheme (PASS) accredited card such as the Proof of Age London (PAL) card.
12. That all staff involved in the sale of alcohol shall be trained in the prevention of sales of alcohol to underage persons, and the challenge 25 scheme in operation at the premises. A record of such training shall be kept / be accessible at the premises at all times and be made immediately available for inspection at the premises to council or police officers on request. The training record shall include the trainee's name (in block capitals), the trainer's name (in block capitals), the signature of the trainee, the signature of the trainer, the date(s) of training and a declaration that the training has been received.

13. That clearly legible signs shall be prominently displayed where they can easily be seen and read by customers stating to the effect that a challenge 25 policy is in operation at the premises, that customers may be asked to provide proof of age and stating what the acceptable forms of proof of age are. Such signage shall be displayed at all entrances, points of sale and in all areas where alcohol is displayed for sale. The signage shall be kept free from obstructions at all times.
 14. That a register of refused sales of alcohol shall be maintained in order to demonstrate effective operation of the challenge 25 policy. The register shall be clearly and legibly marked on the front cover as a register of refused sales, with the address of the premises and with the name and address of the licence holder. The register shall be kept / be accessible at the premises at all times. On a monthly basis, the Designated Premises Supervisor (DPS) shall check the register to ensure it is being properly completed. The DPS shall sign and date the register to that effect and where appropriate take corrective action in a timely manner if the register is not being completed correctly. The register shall be made immediately available for inspection at the premises to council or police officers on request.
 15. That no minors, under the age of 18 are allowed on the premise after 23:00 hours.
 16. That all minors under the age of 16 years of age are to be accompanied by a responsible adult at all times.
 17. That at least the designated premises supervisor plus one other personal licence holder shall be on the premises at all times that licensable activities are taking place.
 18. That the designated premises supervisor and all staff are trained by a recognised accredited organisation in their responsibilities under the Licensing Act 2003. All training records shall be kept and updated every six months and shall be on request made immediately available to the officers of the police and the council.
- d) That the times for licensable activities shall be modified as follows: Sunday to Thursday from 12.00 to 23.00, Friday from 12.00 to 00.00 and Saturday from 12.00 to 02.00 (to close 30 minutes later with all customers to have left the premises).
- e) That all regulated entertainment shall be removed from the licence

2 Reasons for the decision

The reasons for this decision are as follows:

The licensing sub-committee have considered the application made by the Metropolitan Police Service and supplementary evidence from the police presented at this hearing. The police advised that on 7 September 2016 they applied to the licensing authority for a summary review in respect of these premises. A senior member of the police force, for the area, certified that in his opinion, the premises were associated with serious crime and/or serious disorder.

The summary review application resulted due to an incident that took place on 4 September 2016 at 02.45. It was alleged that a serious assault occurred at the premises which resulted in the victim receiving injuries consistent with grievous bodily harm. On arrival, the police noted that most of the patrons attending the premises were drunk. They arrested two suspects and when the police attempted to liaise with the SIA staff they were un-cooperative and refused to provide formal witness statements to the police and were reluctant to provide their details or aid in the police's enquiries. Furthermore, CCTV cameras at the premises were obstructed and of no evidential use. The police also advised that there had been previous breaches of the licence on 10 July and 7 August 2016. On 10 July 2016, a Section 19 Closure Notice was served.

The licensing sub-committee heard from licensing as a responsible authority who advised that they supported the police application but were happy to accept the conditions and modifications of the licence agreed between the responsible authorities and the licensee.

The licensing sub-committee heard from the environmental protection officer who supported the review and advised the incident that led to the assault causing wounding, escalated from an incident of harassment of a woman by a male. The officer added that incidents of harassment carry with them the risk that such incidents may be flashpoints for escalation into violent conduct. The officer also referred to the unproven counter-allegation of an assault with a glass bottle. This suggests that the premises was providing alcohol in bottles which could be used as casual weapons. The premises also allowed bottles of spirits being available for sale by patrons, thus allowing the free pouring of spirits by the purchaser, which would inevitably lead to individuals becoming heavily intoxicated. The environmental protection officer recommended that conditions be added to the licence.

The licensing sub-committee heard from the representative from trading standards supporting the review who advised that they had recently objected to the application to vary the licence (to extend hours) under the protection of children from harm licensing objective. The current licence permits children to be on the premise at any opening times but they have to be accompanied by an adult after 23.00 (condition 332). In addition, condition 345 allows 16 and 17 year olds to drink beer, wine or cider with a table meal provided the adult purchases the drink and accompanies them at the table.

The trading standards officer also expressed concern that the premise had received a section 19 notice on 10 July 2016 due to serious breaches of the licence, which were also witnessed on 7 August. Despite advice and guidance being given, the incident of 4 September 2016 still occurred. Trading standards are of the opinion that if the conditions on the licence had been complied with, the serious assault may not have occurred. Trading standards were of the view that the licence should be revoked.

The licensing sub-committee heard from the premises licence holder and her representative who informed the sub-committee that the premises was a restaurant and on Saturday nights there was a "night club" in the basement of the premises where events take place for weddings, christenings etc. They advised that they cooperated with all of the authorities and agreed with the proposed licence conditions set out in a document submitted by the police (further evidence of the police, points 1 to 7). The premises licence holder advised that they planned to change the operation of the premises to a pizzeria. She also proposed having two friends apply for personal licences to assist her in the running of the premises.

Concerning the events of 4 September 2016, the premises licence holder advised that she had been at the premises and called the police when the incident occurred. The premises licence holder recognised that the incident happened as a result of the harassment of a female patron and assured the sub-committee that the premises are signed up to the Southwark Women's Safety Charter.

The sub-committee considered all the written and oral evidence before it and concluded that the six weeks suspension of the premises licence would allow the premises adequate time to change the operation of the premises and make the necessary arrangements for the two proposed personal licence holders to complete their training and to apply for the licenses. The licence has been modified with the agreement of the premises licence holder and will ensure that the four licensing objectives are robustly promoted.

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' 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.

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: 3 October 2016