

NOTICE OF DECISION**LICENSING SUB-COMMITTEE - 18 APRIL 2019****LICENSING ACT 2003: SECTION 53A: LUXFORD BAR, 610 OLD KENT ROAD, LONDON SE151JB****1. Decision**

That the council's licensing sub-committee, having considered an application made under Section 53C of the Licensing Act 2003 by the Metropolitan Police Service for the review of the premises licence issued in respect of the premises known as Luxford Bar, 610 Old Kent Road, London SE15 1JB and having had regard to all relevant representations decided that it is appropriate, necessary and proportionate in order to promote the licensing objectives to:

- Revoke the premises licence.

2. Reasons

The licensing sub-committee heard from Metropolitan Police Service, the applicant for the review made under Section 53C of the Licensing Act 2003 that on 21 March 2019 they applied to the licensing authority for a summary review of the premises licence in respect of the premises known as Luxford Bar, 610 Old Kent Road, London SE15 1JB after a Superintendent for the Metropolitan Police Service certified that in his opinion the premises are associated with serious crime or serious disorder or both.

This was also a review instigated under Section 167 of the Licensing Act 2003 following notification from the courts of the issue of a Closure Order under Section 80 of the Anti-social Behaviour, Crime and Policing Act 2014.

The representative for the police informed the licensing sub-committee that there was both open material and closed material which is wished to rely on. The material that the police had in its possession would demonstrate that it was both relevant and proportionate that the closed material should be heard in the absence of any of the persons present from the premises. The members of the sub-committee agreed that the public interest in so doing outweighed the public interest in the hearing to exclude the public from hearing the closed material pursuant to regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005; furthermore, the material was likely to disclose exempt information (as defined in paragraphs 1-7 Access to Information Procedure Rules of the constitution). The persons present from the premises were informed that whilst they could not be present to hear the closed material, they could be assured that the members of the sub-committee carefully scrutinise the material and challenge it as if they were the premises themselves.

The premises and members of the public returned and heard the open material that supported the review applications. Both applications referred to an incident at 20:00 on 1 January 2019 when a male was stabbed in the stomach on the dance floor inside the premises. The male received a lacerated bowel and artery and spent several days in hospital having had an operation to repair the damage. This investigation is still ongoing. The licensing sub-committee viewed CCTV of the incident of this incident which clearly showed a male being stabbed.

Reference was also made to an incident that occurred on 2 December 2018 at 22:00 when the police were called to the premises by a female claiming that she had been assaulted by

her ex-partner. She alleged that she was thrown to the ground by her hair outside of club after being punched by her ex-partner inside the venue. CCTV for this incident was requested by the police, but they were informed by the management of the premises that there was no coverage of the area where the alleged incident took place. On receipt of the CCTV footage the officer noted that at precisely 22:00, the CCTV footage stops, so that the incident was not filmed. The victim was informed of this, who stated that she was aware that staff at the venue had been persuaded to delete the footage.

The licensing sub-committee also heard that on 2 February 2019 officers from the Night Time Economy Team visited the premises and found two breaches of the premises licence namely, conditions 289 (CCTV to be kept for 31 days - CCTV only went back to 14 January 2019) and 336 (A personal licence holder to be on the premises at all times after 20:00 hours when intoxicating liquor is being supplied). As a result, served a Section 19 closure notice. Officers also attended on 16 March 2019 and again found the same two breaches of the premises licence.

The licensing sub-committee then heard from an officer representing licensing as a responsible authority, who supported the police review application(s) and whose representation was based on Southwark's statement of licensing policy 2019-2021 and related to the licensing objectives for the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm. The officer stated that the premises was situated in a residential area and under the statement of licensing policy the appropriate closing times for restaurants, public houses, wine bars or other drinking establishments in this area is 23:00 daily. Night clubs (with sui generis planning classification) are not considered appropriate for this area. The premises are a 'restaurant and bar' and currently have generous hours granted on the current licence which exceeded the hours recommended for a residential area within the policy. In addition, the premises operation appeared to be changing as a night club, which under the policy was not considered appropriate for the area. To support the officer's contention, the details set out in the police's review application were echoed.

The licensing sub-committee heard from the representative of Unwin and Friary Tenants and Resident's Association ("TRA") who represented the 980 properties on the Unwin and Friary Estate. They informed the sub-committee that the premises had consistently undermined the licensing objectives and over the previous 12 months the premises consistently violated public order and safety with patrons of the premises using neighbourhood as a public toilet, patrons parking on pavements, blocking residents from entering their buildings. Attempts to engage with the management of the premises resulted in aggression. The representative of the TRA advised that the council needs to carry out a thorough survey of all the surrounding area. They informed the sub-committee that they were alarmed by the stabbing incident, as the TRA had been engaging with the youth from the estate in relation to knife crime. The incidents of crime and disorder at the premises in addition to the premises failure to comply with premises licence undermined the work that the TRA was undertaking with the local youth and undermined all of the licensing objectives.

The licensing sub-committee noted the representation from the other person from Northfield House who stated that they supported the police application in having the licence revoked.

The licensing sub-committee then heard from the management of the premises. They advised that Luxford Bar was equally a bar and a restaurant. There had been a suggestion that the premises was operating as a nightclub because officers had not seen the kitchen open. The reason why officers had not seen the kitchen open was because it closes at 23:00. Also, nightclubs operate beyond 23:00. All of the senior management of Luxford live in the Peckham area and had family in the area, so were part of the local community. They also

worked with the schools. The premise was not a hub for anti-social behaviour. Luxford Bar had been operating for four years and in that time, there had been two serious incidents, and one of these incidents was a domestic matter. At the time of these incidents, the premises had been compliant and the police did not instigate a review of the licence following the very serious incident on 1 January, when a patron was stabbed.

The sub-committee considered very carefully whether to revoke the premises licence as requested by the police, particularly in light of the admitted breaches of the licence. A Closure Order was granted by the Magistrates' Court and the representative for the police advised that classified material was provided to the Court, more classified than that provided in the closed session of the licensing sub-committee meeting. The sub-committee accepted that the Magistrates' Court was satisfied to make a Closure Order insofar as:

- “(a) that a person has engaged, or (if the order is not made) is likely to engage, in disorderly, offensive or criminal behaviour on the premises, or
- (b) that the use of the premises has resulted, or (if the order is not made) is likely to result, in serious nuisance to members of the public, or
- (c) that there has been, or (if the order is not made) is likely to be, disorder near those premises associated with the use of those premises,

and that the order is necessary to prevent the behaviour, nuisance or disorder from continuing, recurring or occurring” (Section 80(4) Anti-social Behaviour, Crime and Policing Act 2014).

The material provided to this licensing sub-committee said little more than what was said in the open session, that there was gang related activity associated with the premises. On that basis, the sub-committee took the view that it was important for local community to break the pattern of behaviour of known persons congregating at these premises, with a view to engage in criminal activity and/or violence.

The sub-committee did consider whether there were any other steps that could be taken to promote the licensing objectives, such as a significant reduction in operating hours as well as a condition that being provided ancillary to food and other control measures, but on balance it was felt that at this time, the business model of Luxford was the cause of concern. This licensing sub-committee are of the view once the cycle of behaviour has been addressed under the Closure Order(s), with the engagement of the police, the management of the premises could operate under a completely different business operation. It is also recommended that any such venture should be with the support and engagement of the local community.

In these circumstances, this licensing sub-committee agree that it is appropriate and proportionate step to revoke the premises licence.

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

4. Review of interim steps pending appeal

At the conclusion of the review hearing the licensing sub-committee reviewed the interim steps to determine which interim steps were appropriate for the promotion of the licensing objectives, pursuant to section 53D of the Licensing Act 2003. The sub-committee concluded that these interim steps were appropriate:

- To suspend the premises licence.

The licensing sub-committee were satisfied that these modified interim steps are more appropriate and proportionate to promote the licensing objectives to modify the interim steps, as detailed above

The interim steps are open to appeal by:

- a) The chief officer of police for the police area in which the premises is situated; or
- b) The holder of the premises licence

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.

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

Date: 18 April 2019

NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 16 SEPTEMBER 2019

SECTION 17 LICENSING ACT 2003: TALKING DRUM, 610 OLD KENT ROAD, LONDON SE15 1JB

1. Decision

That the application made by Talking Drum Limited for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Talking Drum, 610 Old Kent Road, London Se15 1JB be granted as follows:

Supply of Alcohol for Consumption on the Premises	Sunday to Saturday 12:00 to 22:30 hours
Opening Hours of the Premises	Sunday to Saturday 12:00 to 23:00 hours

2. Conditions

1. That capacity shall be limited to the number of fixed seats plus a maximum of 12-moveable seats.
2. That all seats at the bar shall be fixed.
3. That there shall be a maximum of 10 patrons at the bar waiting to be seated at dining tables.
4. That there shall be waiting service at the dining tables only.
5. That a final plan of the premises, properly identifying the fixed seating, shall be submitted to the licensing authority along with the fire risk assessment.
6. That 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 ancillary to their meal.
7. That a written dispersal policy shall be kept with the premises licence and made available to council officers and the police immediately upon request.
8. That there shall be a personal licence holder on the premises at all times when the premises are authorised to sell alcohol.
9. That no licensable activities shall take place in the basement of the premises.
10. That there shall be no externally promoted DJs or events.

11. That there shall be no regulated entertainment. For the avoidance of doubt, the premises licence holder has agreed that for the purpose of this licence “regulated entertainment” is as defined in the Licensing Act 2003 prior to any subsequent statutory amendment (including but not limited to the Live Music Act 2010 and the Deregulation Act 2015)”
12. That CCTV shall be recording and in operation at all times that the premises are open to the public and licensable activities are being provided. The system will be capable of storing the footage for at least 31 days and will be made available immediately to the Police or authorised officers upon request. The footage will be in a format that can be downloaded immediately onto a readable disc or storage device.
13. That a CCTV system be installed at the premises, the coverage to include all public areas of the premises in addition to at least one camera to cover the external areas of the premises at the entrance. The external camera shall be capable of capturing the searching of all patrons who enter the premises.
14. That there shall be at least one person on the premises at all times that the premises are in operation under its licence able to operate the CCTV system and capable of downloading the stored data immediately upon request.
15. That customers who leave the premises temporarily to smoke shall only be permitted to smoke outside the front of the premises. Smoking may only be permitted outside the front of premises and a maximum of 5 smokers shall be permitted outside the front to smoke at any one time. Those patrons are not permitted to drink outside the premises.
16. That a challenge 25 scheme shall be maintained at the stalls selling alcohol 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.
17. 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 stall. A record of such training shall be kept / be accessible at the stall at all times and be made immediately available for inspection at the stall 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.
18. 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.

19. 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. The register shall be made immediately available for inspection at the premises to council or police officers on request.
20. That under 16 year olds must be accompanied by an adult over the age of 18 years after 21:00.
21. That a direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.

3. Reasons

The reasons for the decision are as follows:

This was an application submitted by Talking Drum London Limited for a premises licence be granted under the s.17 of the Licensing Act 2003 in respect of the premises known as Talking Drum, 610 Old Kent Road, London SE15 1JB.

The licensing sub-committee heard from the representative for the applicant who wanted to emphasise to the members that the application was for a restaurant, similar in style to Nandos. The representative stated that it was incorrect to conflate Luxford Bar and Talking Drum. Talking Drum would be fundamentally different. There would no loud music and no DJ. The premises was being marketed for a completely different audience. The hours sought in the application were based on the other restaurants in the locality and were actually less than some of the other restaurants near by. By making Talking Drum less competitive, the applicant was promoting the licensing objectives. The representative for the applicant made it clear that alcohol would be served ancillary to food and the additional fixed seating was further proof that the premises would not grow into a nightclub. Attempts had been made to engage with the local community and police, but there had been no response.

The Metropolitan Police Service objected to the application and referred to the council's statement of licensing policy which recommended closing time for restaurants in residential areas as 23:00. The representative for the Metropolitan Police Service also referred to the previous premises licence being held by Luxford Bar Limited which was revoked following an expedited review of the licence. The applicant and director of Talking Drum London Limited is the same director of Luxford Bar Limited. If the application were granted it would be the same people who operated the premises previously, when the premises licence was revoked, who would operate this premises. The representative for the police stated that the grant of the licence would undermine both the prevention of crime and disorder licensing objective and the licensing sub-committee's decision of 18 April 2019 to revoke the premises licence previously held in respect of the premises.

The licensing sub-committee heard from licensing as a responsible authority whose representation was also based on the council's statement of licensing policy and the recommended hours for a restaurant in a residential area being 23:00. They advised that the director and the applicant for Talking Drum Limited was also the director of Luxford Bar Limited whose premises licence was revoked following an expedited review. Given the operating history of the premises, it was felt that none of the licensing objectives would be

promoted should this application be granted and recommended that the application be refused.

The licensing sub-committee heard from the another person who opposed the application, stating that the operating hours were similar to the previous Luxford Bar licence whose operation lead to noise nuisance, anti social behaviour, crime and disorder. The intended operation of the premises was not suitable for a residential area.

The licensing sub-committee noted the objection from another person (party 2) who was not in attendance.

The licensing sub-committee considered this application very carefully and acknowledged that the grant of the licence could be seen to undermine the previous licensing sub-committee's decision of 18 April. During the discussion stage of the meeting, the police advised that the revocation of the licence and closure order had broken a pattern of behaviour. The clientele of the old Luxford Bar had essentially "moved on" and the style of the premises would attract a very different audience. That said, there remained a concern of the premises reverting to the old style of the Luxford Bar. Members raised this concern with the applicant and the applicant made it clear that no regulated entertainment would be provided and voluntarily agreed to a condition that provided the same. This of course, does not prohibit the applicant making an application to vary the premises, to provide it in the future. The licensing sub-committee advise that any such application is scrutinised by the responsible authorities and/or the licensing sub-committee.

The sub-committee was satisfied that the hours granted were in line with Southwark's statement of licensing policy. In addition, the very prescriptive controls and conditions imposed will ensure the premises will not transform into anything other than a restaurant.

During discussion the representative for the applicant agreed with the sub-committee's recommendation that they would not use single use plastic, where possible. It was also agreed that on the website, marketing and advertising of the premises, there would be a recommendation that patrons should use public transport to the premises.

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.

4. 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) 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 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.

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

Date: 16 September 2019