

NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 16 APRIL 2020

LICENSING ACT 2003: SECTION 53A: K-CHE VIP LATIN CLUB, FIRST FLOOR, 523-516 OLD KENT ROAD, LONDON SE1 5BA

1. Decision

That the premises licence to K-CHE VIP Latin Club, First Floor, 523-516 Old Kent Road, London SE1 5BA be suspended with immediate effect as an interim step, to promote the licensing objectives, pending the determination of the review application at the full hearing, to be held on 12 May 2020.

2. Reasons

This was an application from the Metropolitan Police Service to consider whether or not to impose interim steps in respect of the premises licence to K-CHE VIP Latin Club, First Floor, 523-516 Old Kent Road, London SE1 5BA a result of the summary review under section 53A of the Licensing Act 2003 prior to the pending full review which is due to be heard on 12 May 2020.

The licensing sub-committee heard from the licensing officer presenting the report. They advised that on 3 March 2020 the Metropolitan Police Service applied for a summary review of the premises licence issued in respect of the premises. The reasons for the summary review were the same as detailed in the current application. At the expedited licensing sub-committee hearing (on 5 March 2020) the sub-committee agreed that it was both appropriate and proportionate to suspend the premises licence with immediate effect until the full review hearing scheduled to be held on 26 March 2020. Due to the restrictions put in place by the government in respect of the Covid-19 outbreak it was not possible to proceed with the full hearing on 26 March 2020. Both the Metropolitan Police Service and the licensee agreed to postpone that hearing until 30 April 2020.

As it was not possible for the full review application to be determined within the mandated 28 days (pursuant to section 53(A)(2)(b) of the Licensing Act 2003) the review application dated 3 March 2020 became invalidated. As a result of this, the Metropolitan Police Service submitted a new application for the summary review of the premises.

The licensing sub-committee heard from the representative from the Metropolitan Police Service who advised the members that the expedited review application was submitted following a serious incident that took place on Saturday 29 February 2020 at approximately 03:35, when fighting started inside the premises. The premises were required to stop trading as the premises' security operatives (SIA) were unable to gain control of the premises. As a result, the police were called. On arrival, police officers witnessed fighting in the premises' yard area and a police officer was required to deploy their Taser after a customer attacked a police officer.

Members of the licensing sub-committee viewed the video footage from officer's body worn cameras and CCTV and it was noted a number of other customers were

attempting to attack officers, requiring the officers to call for urgent assistance and use batons and CS gas in an attempt to restore order and defend themselves.

CCTV taken within the premises showed a male armed with a brandy bottle attempting to hit people. An officer was assaulted on the dance floor area by a customer who attempted to strangle him while the officer was trying to clear the premises. After being dispersed from the premises, customers congregated outside a nearby McDonald's where further fighting and disturbance continued, requiring the McDonald's to close.

The police also provided history of violent incidents that were associated with the premises in particular, since December 2018 including: 4 grievous bodily harm (GBH), 4 actual bodily harm (ABH), 1 assault on police, 1 common assault, 1 robbery and a crime related incident for a fight inside the premises.

In late 2019 the premises had been subject to a further expedited review, which was finally determined on 2 January 2020. At that time, the premises licence was modified. In the Notice of Decision (dated 2 January 2020) provides: *"Overall, the sub-committee decided that although there remain concerns about the premises, in particular the risk of violence associated with heavy drinking the licence holder should be given a chance to demonstrate that the premises can be responsibly managed and the risks reduced whilst maintaining the current practice of serving half-bottles of spirits and bottles of wine or beer"* in line with the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018) paragraph 11:10.

The licensing sub-committee then heard from the management of the premises (the premises licence holder) who did not deny the incident and accepted that they lost control of that evening. The event that evening was a new externally promoted event. The primary reason why the incident had occurred was due to issue they were experiencing with their contracted SIA officer company; they did however have 100% confidence with the Head of the Security the company had provided. The management for the premises had lost confidence with the company, for failing to send the correct number of SIA (and failing to send replacement SIA) and sending those unfamiliar with the premises (issues and procedures).

The premises licence holder further explained that since the expedited hearing on 5 March 2020 certain measures had been put in place so there could never be a repercussion of this incident. These measures included: a change in SIA company, employing an internal security manager, turning the club into an over 21s night club and no longer using external promoters. The premises licence holder also said that it was his intention to review the dispersal policy when the premises re-opened.

Despite the additional conditions being placed on the premises licence, as a result of the last review, the premises does not appear to be restricting the crime and disorder associated with the premises. The continued violent incidents inside and outside of the premises put both members of the public and police officers at risk.

The licensing sub-committee noted the considerable shortcomings of the premises management. These included the failure to reduce the capacity of club on 29 February 2020 despite a 40% shortage of the SIA officers, which the licence holder described as "bad luck". The premises also continued to use external promoters on 29 February 2020 despite acknowledging problems arose when the external promoters had been previously used. It was noted that the last time the premises used the promoter Santa, there had been a violent incident.

It was also noted that the over 21s policy would be discretionary as the premises licence holder stated that under 21s who were known to the management would be allowed into the premises. The premises licence holder also stated that the female club goers “*didn't drink well and cause problems*”.

In the licensing sub-committee's decision of 2 January 2020, members agreed to allow the continued sale of glass half bottles of spirit and glass bottles of beer, on condition that no glass was allowed on the dance floor. By the licence holder's admission, due to the lay out of the premises, any sale that included glass bottles would be carried to tables across the dance floor, in contradiction to the condition imposed.

The sub-committee also modified the premises licence on 2 January 2020, by way of an additional condition stating that jugs of water and polycarbonate glasses were to be provided on all tables for patrons. The body worn cameras/CCTV from 29 February 2020 showed that there were no jugs of water or polycarbonate glasses with water on the tables. When the members viewed the CCTV and body worn cameras they witnessed a glass spirit bottle being removed from a table and taken onto the dance floor and used as a weapon. Another glass bottle was seen being taken out of the premises.

This licensing sub-committee therefore agrees that to modify the licence with further conditions as an interim step is not appropriate, considering the seriousness of the disorder witnessed at the premises and the premises licence holder's complete failure of accepting any responsibility to the incident that occurred.

Whilst members acknowledge that the premises is unable to open due to the COVID-19 restrictions, if those restrictions were lifted, the premises could open putting both members of the public and police officers at risk. In the circumstances, the licensing sub-committee is satisfied that interim steps are necessary and in promoting the licensing objectives it is appropriate and proportionate to suspend the premises licence as an interim step.

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.

The holder of the premises licence may only make further representations if there has been a material change in circumstances since the authority made its determination

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: 16 April 2020