

Licensing Sub-Committee

Thursday 24 November 2016
10.00 am
Ground Floor Meeting Room G02B - 160 Tooley Street,
London SE1 2QH

Supplemental Agenda No.1

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Contact

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Date: 23 November 2016

Item No. 7.	Classification: Open	Date: 24 November 2016	Meeting Name: Licensing Sub-Committee
Report title:		Licensing Act 2003: Wazobia Restaurant, 670 Old Kent Road, London SE15 1JF	
Ward(s) or groups affected:		Livesey Ward	
From:		Strategic Director of Environment and Leisure	

RECOMMENDATIONS

That the licensing sub-committee considers representations made by the premises licence holder regarding the interim steps imposed at the hearing of 17 November 2016 and pending the determination of an application made under Section 53A of the Licensing Act 2003 by the chief of police for the metropolitan police area for a summary review of the premises licence in respect of the premises known as Wazobia Restaurant, 670 Old Kent Road, London SE15 1JF.

1. Notes:

- a) Under section 53B(6) of the Licensing Act 2003, If the holder of the premises licence makes, and does not withdraw, representations against any interim steps taken by the relevant licensing authority, the authority must, within 48 hours of the time of its receipt of the representations, hold a hearing to consider those representations.
- b) A copy of the representation is attached as Appendix A.

BACKGROUND INFORMATION

The Licensing Act 2003

2. The Licensing Act 2003 provides a licensing regime for:
 - The sale of and supply of alcohol
 - The provision of regulated entertainment
 - The provision of late night refreshment.
3. Within Southwark, the licensing responsibility is wholly administered by this council.
4. The Act requires the licensing authority to carry out its functions under the Act with a view to promoting the four stated licensing objectives. These are:
 - The prevention of crime and disorder
 - The promotion of public safety
 - The prevention of nuisance
 - The protection of children from harm.
5. In carrying out its licensing functions, a licensing authority must also have regard to

- The Act itself
 - The guidance to the act issued under Section 182 of the Act
 - Secondary regulations issued under the Act
 - The licensing authority's own statement of licensing policy
 - The application, including the operating schedule submitted as part of the application
 - Relevant representations.
6. The summary review powers under sections 53A to 53C of the Act allow the police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with serious crime or serious disorder (or both); and the licensing authority to respond by taking interim steps quickly, where appropriate, pending a full review.

KEY ISSUES FOR CONSIDERATION

The premises licence

7. The premises in respect of the premises licence consists of a bar and restaurant on the ground floor of 670 Old Kent Road.
8. The premises licence was granted on 23 September 2009 following a new application by Mr Richard Bennetts.
9. An application to vary the premises licence was made on 26 April 2014 to extend the hours, modify conditions and add entertainment. The application was opposed by the Police, the Environmental Protection Team and two residents, the application was part granted at a hearing of the Licensing Sub-Committee on 28 June 2010.
10. A minor variation application was made on 09 January 2012 to vary the condition relating to SIA door staff, this variation was granted.
11. The details of the premises licence prior to the review application dated 15 November 2016 were:
 - **Opening hours**
 Sunday to Thursday from 12:00 to 00:00
 Friday and Saturday from 12:00 to 03:30
 - **Live music**
 Sunday to Thursday from 12:00 to 00:00
 Friday and Saturday from 12:00 to 03:00
 - **Recorded music**
 Sunday to Thursday from 12:00 to 00:00
 Friday and Saturday from 12:00 to 03:00

- **Late night refreshment**

Sunday to Thursday from 23:00 - 00:00
 Fri & Sat 23:00 - 03:00

- **Sale of alcohol for consumption on the premises**

Sun to Thurs 12:00 - 00:00
 Fri & Sat 12:00 - 03:00

12. A copy of the current premises licence is attached as Appendix B.

Designated premises supervisor

13. The designated premises supervisor (DPS) is Mr Richard Bennetts in who has been the DPS since the grant of the premises licence, Me Bennetts holds a personal licence issued by Hertsmere Borough Council.

The review application and certificate

14. On 15 November 2016 the Metropolitan Police applied to the licensing authority for a summary review of the premises licence issued in respect of the premises known as Wazobia Restaurant, 670 Old Kent Road, London SE15 1JF.
15. A senior member of the police force for the area has certified that in his opinion the premises are associated with serious crime or serious disorder or both.
16. The application concerned a serious incident that took place on 12 November 2016 at approximately 01:50 hours when it was alleged that a patron smashed a brandy bottle and stabbed the head of a male patron causing injuries consistent with grievous bodily harm. A copy of the application and certificate are attached to this report as Appendix C.
17. The licensing sub-committee sat on 17 November 2016 to consider interim steps under section 53A(2) of the Act. Evidence from the Police and representations from the premises licence holder and DPS were heard.
18. The licensing sub-committee decided to impose the following steps to promote the licensing objectives pending the determination of the review application at the full hearing on 13 December 2016 as follows:
- 1) That the premises opening hours are Monday to Sunday 12:00 - 00:00.
 - 2) That all licensable activities cease at 23:30.
 - 3) That no spirits (alcohol containing more than 20% ABV) shall be sold by the bottle or by half bottle.
 - 4) That all spirits (alcohol containing more than 20% ABV) shall be sold by the measure if 25ml or 35ml at a maximum of two measures per container/glass.
 - 5) That condition 289 be amended to read: "That a CCTV system be installed at the premises and 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”.

- 6) That two members of staff should be on duty at all times the premises is open that are trained in the use of CCTV and able to view and download images to a removable device immediately on request of police or council officers and all images held for a minimum of 31 days.
 - 7) That all empty glassware to be cleared at a frequency of 30 minutes.
 - 8) That condition 345 be amended to read: “Alcohol only to be served to customers that are seated and eating a substantial table meal and ancillary to that meal”.
 - 9) 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 upon request.
 - 10) That condition 424 be amended to read: “That a minimum of two SIA registered door supervisors shall be employed at all times after 22:00 hours and the terminal hour that the premises are in use under this licence and provided with hand held metal detection units in order to ensure that searches are carried out in respect of all admissions to the premises, whether members of the public or performers and their assistants and mechanical counting devices to ensure that the maximum accommodation limit of the premises is not exceeded”.
 - 11) That condition 315 be amended to read: “Customers shall use no outside area after 22:00 hours other than those who temporarily leave the premises to smoke a cigarette. There will be a maximum of 5 people smoking outside the premises at any one time. The outdoor smoking area will be a cordoned off area. Those who do temporarily leave for this reason shall be subjected to the requirement of a further search”.
 - 12) That a record book of banned individuals shall be held by the SIA registered door supervisors at the front door and will be made available
19. The conditions were sent via email on 17 November 2016 to Mr Bennetts and the Police.
 20. A copy of the notice of decision is attached to this report as Appendix D.

The representation regarding interim steps

21. On 22 November 2016 at 13:56 hours a representation was received from the premises licence holder Mr Richard Bennetts.
22. The representation concerns four of the interim steps namely, conditions 6, 9, 10 & 12, as follows:

“6. It's practically impossible to have two members of staff working at the same time 7 days a week who can operate the CCTV. This is because during the week from Monday to Friday, there are only three permanent members of staff at work from 12 when we open till 11 when we close. These people

are on shift basis and I don't work 7 days either. However am happy to make any recordings available within 48hrs of request from any relevant authorities. It's also not safe to hand out keys to the safe and office to temporary workers or every member of staff as they might make the effort counterproductive if they tamper with things for whatever reasons.

9. *As I do not intend to utilise any form of entertainment, I don't see the need for this incident book recording for just an hour. I will simply operate without entertainment for the time being till the 13th when the full hearing comes up. In other words I'll just operate as a quiet restaurant until the hearing.*
10. *For this duration of my restrictions, I do not intend to employ the services of any entertainer or doormen or DJ whatsoever. We normally start entertainment from 11pm. It's therefore not worth employing those services for only half hour . The security companies have also indicated they would not be able to deploy their staff for just one hour of work on Fridays and Saturdays . Therefore I've opted to do without any entertainment whatsoever for this duration.*
12. *It's practically impossible to keep records of banned people as they'll neither cooperate to give their full names or allow any pictures to be taken. We simply denote them facially. This is also not necessary any longer at this point as we will not be deploying any form of entertainment for the duration till the 13th of December."*

23. A copy of the representation is included as Appendix A.

The hearing procedure

24. The current hearing is for the purpose of considering the representation made by the premises licence holder to the interim steps imposed at the meeting on 17 November 2016.
25. Members can decide whether it is necessary to modify the interim steps are needed as a result of the representation and information submitted or not pending the full review hearing that is scheduled to be held on 13 December 2016.
26. In considering the representation made by the premises licence holder members must have regard to:
 - any representations made by the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated); and
 - any representations made by the holder of the premises licence.
27. The review is currently being consulted on and is advertised at the premises for 10 days. Responsible authorities and any other persons may make representations that will then be considered at the full hearing of the licensing sub-committee.
28. Any interim steps made by the licensing sub-committee at this hearing will cease to have effect once the review has been determined.

Operating history

29. A full premises inspection was made under the Licensing Act 2003 on 19 July 2014 at 01:20 hours, the premises was found to be in breach of 2 conditions of the premises licence:
 - The counting device used by the door supervisors on duty was not working and the door supervisors were not searching all people that entered the premises. This is in breach of condition 242 on the current premises licence.
 - When one of the door supervisors was asked what time the last entry into the premises was he replied '02:15' hours. This is in breach of condition 808 on the current premises licence.
30. A warning letter was sent on 31 July 2014
31. A revisit on 31 July 2014 at 00:09 hours found the premises to be compliant.
32. Further visits by council licensing officers working on the night-time economy have been made in response to complaints regarding noise from patrons outside the premises, however these complaints were not substantiated.
33. On Friday 18 November 2016 at 23:30 hours a council licensing officer made a visit to the premises to check on compliance with the interim steps imposed by the licensing sub-committee.
34. The officer witnessed two patrons leave the premises and urinate in an alleyway
35. The officer also found that the premises were allowed to be open without the provision of SIA door supervisors. The premises licence holder stated to the officer that he was unable to employ SIA door supervisors for a period of 2 hours as it was not worth their while.
36. The Council's licensing service did not receive any prior consultation on the premises licence holder's decision to open the premises in breach of this condition.
37. This is a breach of interim step 10 and may be considered an offence under section 136 of the Licensing Act 2003.

The local area

38. A map of the local area is attached at Appendix E.
39. This premises is not in a cumulative impact area.
40. This premises is in a residential area under the Southwark Statement of Licensing policy 2016 – 2020 section 7 Hours of Operation, the following closing times are recommended by the policy as appropriate within this area for these categories of premises:
 - Closing time for restaurants and cafes is 23:00 hours daily
 - Closing time for public houses, wine bars or other drinking establishments is 23:00 hours daily

- Closing time for night clubs (with sui generis planning classification) are not considered appropriate for this area

Southwark statement of licensing policy 2016-20

41. Council Assembly approved Southwark's Statement of Licensing Policy 2016-20 on 25 November 2015. The policy came into effect on 1 January 2016. Sections of the statement that are considered to be of particular relevance to the sub-committee's consideration are:

- Section 3 - Purpose and Scope of the Policy. This reinforces the four licensing objectives and the fundamental principles upon which this Authority relies in determining licence applications
- Section 5 – Determining Applications for Premises Licences and Club Premises certificates. This explains how the policy works and considers issues such as location; high standards of management; and the principles behind condition setting.
- Section 6 – Local Cumulative Impact Policies. This sets out this authority's approach to cumulative impact and defines the boundaries of the current special policy areas and the classifications of premises to which they apply. To be read in conjunction with Appendix B to the policy
- Section 7 – Hours of Operation. This provides a guide to the hours of licensed operation that this Authority might consider appropriate by type of premises and (planning) area classification..
- Section 8 – The Prevention of Crime and Disorder. This provides general guidance on the promotion of the first licensing objective
- Section 9 – Public Safety. This provides general guidance on the promotion of the second licensing objective
- Section 10 – The Prevention of Nuisance. This provides general guidance on the promotion of the third licensing objective
- Section 11 – The Protection of Children from Harm. This provides general guidance on the promotion of the fourth licensing objective.

42. The purpose of Southwark's Statement of Licensing Policy is to make clear to applicants what considerations will be taken into account when determining applications and should act as a guide to the sub-committee when considering the applications. However, the sub-committee must always consider each application on its own merits and allow exceptions to the normal policy where these are justified by the circumstances of the application.

Resource implications

43. There is no fee associated with this type of application.

Consultation

44. The premises licence holder has been informed of the meeting date and of the details of the hearing. They have indicated that they will attend the hearing.

Community impact statement

45. Each application is required by law to be considered upon its own individual merits with all relevant matters taken into account.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

46. The sub-committee is asked to consider interim steps following an application to review the premises licence under Section 53A of the licensing act 2003.
47. The principles, which sub-committee members must apply, are set out below.

Principles for making the determination

48. Pursuant to section 53B(6) of the Licensing Act 2003, if the holder of the premises licence makes, and does not withdraw, representations against any interim steps taken by the relevant licensing authority, the authority must, within 48 hours of the time of its receipt of the representations, hold a hearing to consider those representations.
49. The four licensing objectives are:
- The prevention of crime and disorder.
 - The protection of public safety.
 - The prevention of nuisance.
 - The protection of children from harm.
50. Each objective must be considered to be of equal importance. The authority must, having regard to the application and any relevant representations, take such of the following steps as it considers necessary for the promotion of the licensing objectives. The steps are to:
- Modify the conditions of the licence by altering, omitting or adding any condition.
 - Exclude a licensable activity from the scope of the licence.
 - Remove the designated premises supervisor.
 - Suspend the premises licence
51. The steps will remain in place until the review application is determined at a full hearing of the licensing sub-committee.
52. The authority may decide to take no action is if it finds no interim steps are necessary to promote the licensing objectives.
53. In deciding what remedial action if any it should take, the authority must direct its mind to the causes or concerns that the representations identify. The remedial action

should generally be directed at these causes and should always be no more than a necessary and proportionate response.

54. It is of particular importance that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives in the circumstances that gave rise to the application for review.

Reasons

55. Where the authority takes interim steps on an application for review it must notify the determination and reasons why for making it to:
- the holder of the licence
 - the chief officer of police for the area (or each police area) in which the premises are situated.

Hearing procedures

56. Subject to the licensing hearing regulations, the licensing committee may determine its own procedures. Key elements of the regulations are that
- The hearing shall take the form of a discussion led by the authority. Cross examination shall not be permitted unless the authority considered that it is required for it to consider the representations
 - Members of the authority are free to ask any question of any party or other person appearing at the hearing
 - The committee must allow the parties an equal maximum period of time in which to exercise their rights to:
 - Address the authority
 - If given permission by the committee, question any other party.
 - In response to a point which the authority has given notice it will require clarification, give further information in support of their application.
 - The committee shall disregard any information given by a party which is not relevant:
 - to the particular application before the committee, and
 - the licensing objectives.
 - The hearing shall be in public, although the committee may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in private.
 - In considering any representations or notice made by a party the authority may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.

57. This matter relates to the review of the premises licence under section 53A of the Licensing Act 2003.

Council's multiple roles and the role of the licensing sub-committee

58. Sub-committee members will note that, in relation to this application, the council has multiple roles. Council officers from various departments have been asked to consider the application from the perspective of the council as authority responsible respectively for environmental health, trading standards, health and safety and as the planning authority.
59. Members should note that the licensing sub-committee is meeting on this occasion solely to perform the role of licensing authority. The sub-committee sits in quasi-judicial capacity, and must act impartially. It must offer a fair and unbiased hearing of the application. In this case, members should disregard the council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the licensing law, guidance and the council's statement of licensing policy.
60. As a quasi-judicial body the licensing sub-committee is required to consider the application on its merits. The sub-committee must take into account only relevant factors, and ignore irrelevant factors. The decision must be based on evidence, that is to say material, which tends logically to show the existence or non-existence of relevant facts, or the likelihood or unlikelihood of the occurrence of some future event, the occurrence of which would be relevant. The licensing sub-committee must give fair consideration to the contentions of all persons entitled to make representations to them.
61. The licensing sub-committee is entitled to consider events outside of the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for the same to be relevant. However, if such events are not properly attributable to the premises being open, then the evidence is not relevant and should be excluded. Guidance is that the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activity in the area concerned.
62. Members will be aware of the council's code of conduct which requires them to declare personal and prejudicial interests. The code applies to members when considering licensing applications. In addition, as a quasi-judicial body, members are required to avoid both actual bias, and the appearance of bias.
63. The sub-committee can only consider matters within the application that have been raised through representations from interested parties and responsible authorities. Interested parties must live in the vicinity of the premises. This will be decided on a case to case basis.
64. Under the Human Rights Act 1998, the sub committee needs to consider the balance between the rights of the applicant and those making representations to the application when making their decision. The sub-committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the borough.

65. There is no right of appeal to a magistrates' court against the licensing authority's decision regarding the setting of interim steps at this Stage.

Guidance

66. Members are required to have regard to the Home Office Guidance in carrying out the functions of licensing authority. However, guidance does not cover every possible situation, so long as the guidance has been properly and carefully understood, members may depart from it if they have reason to do so. Full reasons must be given if this is the case.

REASONS FOR LATENESS

67. The reasons for lateness are that, pursuant to section 53B(6) of the Licensing Act 2003, if the holder of the premises licence makes, and does not withdraw, representations against any interim steps taken by the relevant licensing authority, the authority must, within 48 hours of the time of its receipt of the representations, hold a hearing to consider those representations.

REASONS FOR URGENCY

68. The council has a statutory duty under section 53(b) to hold an interim hearing within 48 hours of receipt of the representation.

Strategic Director of Finance and Governance

69. The head of regulatory services has confirmed that the costs of this process over and above the application fee are borne by the service.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Licensing Act 2003 Home Office Guidance to the Act Secondary Regulations Southwark Statement of Licensing Policy Case file	C/O Southwark Licensing, Community Safety & Enforcement, 3rd Floor Hub C, 160 Tooley Street PO Box 64529 SE1 5LX	Mrs Kirty Read Tel: 02075255748

APPENDICES

Name	Title
Appendix A	Copy of representation
Appendix B	Copy of the existing premises licences
Appendix C	Copy of review application and certificate
Appendix D	Notice of decision interim steps 17 Nov 2016
Appendix E	Map of local area

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Environment and Leisure	
Report Author	David Franklin, Team Leader Licensing	
Version	Final	
Dated	22 November 2016	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional Team		23 November 2016

From: Bennetts [REDACTED]
Sent: Tuesday, November 22, 2016 1:56 PM
To: McArthur, Wesley
Subject: Re: Expedited review - Wazobia, 670 Old Kent Road, London, SE1 1JF, our ref: L1U 856659

Dear Wesley,

MY FORMAL REPRESENTATION AGAINST THE INTERIM DECISION AND
CONDITIONS IMPOSED ON WAZOBIA RESTAURANT;

I received your latest correspondence thank you. In view of the points you raised, I wish to formally raise my objections on some of the conditions as stated in the decision. These are highlighted below:

6. It's practically impossible to have two members of staff working at the same time 7 days a week who can operate the CCTV. This is because during the week [from Monday to Friday](#), there are only three permanent members of staff at work from 12 when we open till 11 when we close. These people are on shift basis and I don't work 7 days either. However am happy to make any recordings available within 48hrs of request from any relevant authorities. It's also not safe to hand out keys to the safe and office to temporary workers or every member of staff as they might make the effort counterproductive if they tamper with things for whatever reasons.

9. As I do not intend to utilise any form of entertainment, I don't see the need for this incident book recording for just an hour. I will simply operate without entertainment for the time being till the 13th when the full hearing comes up. In other words I'll just operate as a quiet restaurant until the hearing.

10. For this duration of my restrictions, I do not intend to employ the services of any entertainer or doormen or DJ whatsoever. We normally start entertainment [from 11pm](#). It's therefore not worth employing those services for only half hour . The security companies have also indicated they would not be able to deploy their staff for just one hour of work on Fridays and Saturdays . Therefore I've opted to do without any entertainment whatsoever for this duration.

12. It's practically impossible to keep records of banned people as they'll neither cooperate to give their full names or allow any pictures to be taken. We simply denote them facially. This is also not necessary any longer at this point as we will not be deploying any form of entertainment for the duration [till the 13th of December](#).

Please advice me on the date for consideration of the above points , since you pointed out that a hearing would have to take place within 48hrs for my objections to be raised.

Regards,

Richard Bennetts.

Sent from my iPhone

Licensing Act 2003 Premises Licence



Environmental Health & Trading Standards
Licensing Unit
Hub 2, Floor 3
160 Tooley Street
London SE1 2QH

Premises licence number

831886

Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description	
Wazobia Restaurant 670 Old Kent Road London SE15 1JF	
Ordnance survey map reference (if applicable), 177695534606	
Post town London	Post code SE15 1JF
Telephone number	

Where the licence is time limited the dates

Licensable activities authorised by the licence

Live Music - Indoors
Recorded Music - Indoors
Facilities for Making Music - Indoors
Provisions Similar to making music and dancing - Indoors
Late Night Refreshment - Indoors
Sale by retail of alcohol to be consumed on premises

The opening hours of the premises

For any non standard timings see **Annex 2**

Monday	12:00 - 00:00
Tuesday	12:00 - 00:00
Wednesday	12:00 - 00:00
Thursday	12:00 - 00:00
Friday	12:00 - 03:30
Saturday	12:00 - 03:30
Sunday	12:00 - 00:00

Where the licence authorises supplies of alcohol whether these are on and/ or off supplies

Sale by retail of alcohol to be consumed on premises

The times the licence authorises the carrying out of licensable activities

For any non standard timings see Annex 2 of the full premises licence

Live Music - Indoors

Monday	12:00 - 00:00
Tuesday	12:00 - 00:00
Wednesday	12:00 - 00:00
Thursday	12:00 - 00:00
Friday	12:00 - 03:00
Saturday	12:00 - 03:00
Sunday	12:00 - 00:00

Recorded Music - Indoors

Monday	12:00 - 00:00
Tuesday	12:00 - 00:00
Wednesday	12:00 - 00:00
Thursday	12:00 - 00:00
Friday	12:00 - 03:00
Saturday	12:00 - 03:00
Sunday	12:00 - 00:00

Facilities for Making Music - Indoors

Monday	12:00 - 00:00
Tuesday	12:00 - 00:00
Wednesday	12:00 - 00:00
Thursday	12:00 - 00:00
Friday	12:00 - 03:00
Saturday	12:00 - 03:00
Sunday	12:00 - 00:00

Provisions Similar to making music and dancing - Indoors

Monday	12:00 - 00:00
Tuesday	12:00 - 00:00
Wednesday	12:00 - 00:00
Thursday	12:00 - 00:00
Friday	12:00 - 03:00
Saturday	12:00 - 03:00
Sunday	12:00 - 00:00

Late Night Refreshment - Indoors

Monday	23:00 - 00:00
Tuesday	23:00 - 00:00
Wednesday	23:00 - 00:00
Thursday	23:00 - 00:00
Friday	23:00 - 03:00
Saturday	23:00 - 03:00
Sunday	23:00 - 00:00

Sale by retail of alcohol to be consumed on premises

Monday	12:00 - 00:00
Tuesday	12:00 - 00:00
Wednesday	12:00 - 00:00
Thursday	12:00 - 00:00
Friday	12:00 - 03:00
Saturday	12:00 - 03:00
Sunday	12:00 - 00:00

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Richard Bennetts

██████████
████████████████████
██████████
██████████

Registered number of holder, for example company number, charity number (where applicable)

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Richard Bennetts

██████████
██████████
██████████

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Licence No. ██████████

Authority Hertsmere Borough Council

Licence Issue date 28/06/2010

.....
Community Safety Enforcement
Business Unit Manger
Hub 2, Floor 3
160 Tooley Street
London SE1 2QH
020 7525 5748
licensing@southwark.gov.uk

Annex 1 - Mandatory conditions

100 No supply of alcohol may be made under the Premises Licence -

a. At a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or

b. At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended

101 Every supply of alcohol under the Premises Licence must be made, or authorised by, a person who holds a Personal Licence

107 Any individual carrying out security activities at the premises must be.

(a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or

(b) be entitled to carry out that activity by virtue of section 4 of that Act.

485 (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children

(a) games or other activities which require or encourage, or are designed to require, encourage, individuals to

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol

sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on-

(i) the outcome of a race, competition or other event or process; or

(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters

or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

486 The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that person is unable to drink without assistance by reason of a disability).

487 The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

488 (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2). The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

489 The responsible person shall ensure that -

(a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -

(i) Beer or cider: 1/2 pint;

(ii) Gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) Still wine in a glass: 125 ml; and

(b) Customers are made aware of the availability of these measures

Annex 2 - Conditions consistent with the operating Schedule

288 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 an image of every person who enters the premises.

289 That all CCTV footage shall be kept for a period of thirty one (31) days and shall, upon request, be made immediately available to Officers of the Police and the Council

298 That signs shall be displayed in the entrance foyer to the premises that state 'Drugs Free Zone' and 'No Search No Entry, Management reserve the right to refuse entry'

302 That all matters relating to drugs shall be in accordance with the Metropolitan Police Best Practice Guide on the handling of drugs in pubs and clubs;

303 That you shall require any regular and external promoters hiring the premises to complete the 'Venue Hire Agreement' provided by Southwark Council and, once completed, you shall ensure that a copy of the agreement is provided to the Police and Licensing Unit a minimum of fourteen days prior to the date of hire.

311 That suitable notices shall be displayed and announcements made requesting people to leave the premises in a quiet and orderly manner so as not to disturb local residents

315 Customers shall use no outside area after 22.00hrs other than those who temporarily leave the premises to smoke a cigarette. Those who do temporarily leave for this reason shall be the subjected to the requirement of a further search.

332 Children will not be admitted after 8pm unless accompanied by an adult

334 That an age identification scheme shall be established and maintained. The scheme shall Require the production of evidence of age (comprising any PASS accredited card or passport or driving licence) from any person appearing to staff engaged in selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol

336 A personal licence holder shall be on the premises at all times that intoxicating liquor is supplied

340 Bright lights shall be installed and used both inside and outside the premises

341 The whole premises shall be sound insulated

342 That the Premises Licence holder and/or Designated Premises Supervisor join and support a local Pub Watch Scheme should there be one in existence for the area in which the premises is located.

343 The registered door staff shall urge people to leave noiselessly and attempt to move on persons loitering outside the premises.

344 There will be a designated smoking area at the rear of the premises and smokers are to be limited to 2 persons outside the rear of the premises.

345 Only customers who have ordered substantial meals will only be served alcohol.

346 There will be a suggestions box inside the entrance to the premises that will display a mobile number for complaints. The number shall be available throughout the opening hours of the premises.

424 That SIA registered Door Supervisor, shall be employed at all times after 22.00hrs and the terminal hour that the premises are in use under this licence and provided with Hand held metal detection units in order to ensure that searches are carried out in respect of all admissions to the premises, whether members of the public or performers and their assistants and Mechanical counting devices to ensure that the maximum accommodation limit of the premises is not exceeded.

Annex 3 - Conditions attached after a hearing by the licensing authority

808 That there shall be no new admission of the public to the premises after 12 midnight.

840 No open containers of alcohol to be taken outside the premises, as indicated in the floor plans.

Annex 4 - Plans - Attached

Licence No. 831886

Plan No.	Licence No.	831886
	Plan No.	RB/08 200
	Plan Date	August 2008

Plan Date



**METROPOLITAN
POLICE**

TOTAL POLICING

Certificate under Section 53A(1)(b) of the Licensing Act 2003

Metropolitan Police Service | New Scotland | Yard 8-10 Broadway | London | SW1H 0BG

I hereby certify that in my opinion the premises described below are associated with:
Serious Crime

Premises (Include business name and address and any other relevant identifying details):

Postal address of premises or club premises, or if none, ordnance survey map reference or description:

Wazobia Restaurant, 670 Old Kent Road,

Post town:

London

Post code:
(if known)

SE15 1JF

Premises licence number (if known):

836584

Name of premises supervisor (if known):

Mr Richard BENNETTS

I am a Superintendent* in the Metropolitan Police Service.

*Insert rank of officer giving the certificate, which must be superintendent or above.

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case because:

(Give a brief description of why other procedures such as a standard review process are thought to be inappropriate, e.g. the degree of seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned)

In the early hours of Sunday the 13th November 2016 at about 01.50hrs a serious assault took place outside of the Wazobia Restuarant .

The suspect for this crime stabbed the victim in the side of the face with a broken brandy bottle that he smashed on a wall while following the victim from the location.

He received two deep cuts to the left side of his face and was taken to St Thomas major injury unit. A crime report has been created for this incident and has been classified as a GBH with intent (*Section 18 of the Offences Against the Person Act 1861*).

During the investigation it has been established that the premises failed to call police, the customers were described as hostile and unhelpful to police and no witnesses even though 50+ people present including SIA. The premises had another Serious assault on the 30th October 2016 inside the premises involving a person being hit with a bottle and the victim was told by management not to call police and ejected.

Police have no faith in the current management of the premises and believe that a review under sec 53a of the licensing act 2003 is the appropriate procedure in this case and would seek immediate suspension of the premises licence to avoid further serious injury.

PROTECTIVE MARKING

Signature	
Signature: 	Date: 15/11/16.

Retention Period: 7 years
MP 147/12


**METROPOLITAN
POLICE**
TOTAL POLICING

Form 693

Form for Applying for a Summary Licence Review
Application for the review of a premises licence under section 53A of the Licensing Act 2003

(premises associated with serious crime, serious disorder or both)

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink.

Use additional sheets if necessary.

Insert name and address of relevant licensing authority and its reference number:
Name: London Borough of Southwark

Address:

Floor 3, 160 Tooley Street, London, SE1

Post town: London

Post code:

SE1 2QH

Ref. No.:
I PC Graham White 288MD

on behalf of the chief officer of police for the Metropolitan Police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

1. Premises details
Postal address of premises or club premises, or if none, ordnance survey map reference or description:
Wazobia, 670 Old Kent Road,
Post town: London

Post code:
(if known)

SE15 1JF
2. Premises licence details
Name of premises licence holder or club holding club premises certificate (if known):
Richard BENNETTS
Number of premises licence or club premises certificate (if known):
836584
3. Certificate under section 53A(1)(b) of the Licensing Act 2003 (Please read guidance note 1)

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or serious disorder or both, and the certificate accompanies this application.

Please tick the box to confirm:


PROTECTIVE MARKING

4. Details of association of the above premises with serious crime, serious disorder or both

(Please read guidance note 2)

In the early hours of Sunday the 13th November 2016 at about 01.50hrs a serious assault took place outside of the Wazobia Restaurant. The victim entered the bar on his own at 01.10hrs and ordered a Guinness and a bottle of water. (Breach of Conditions 808 no entry after midnight and Condition 345 alcohol only served with Substantial meal.)

The victim noticed suspect had opened his water to which challenged and the suspect became very aggressive towards victim. He left the bar and the suspect followed holding a brandy bottle by the neck he then smashed this on a wall and hit victim in the face with the broken bottle causing 2 deep cuts to face. He received two deep cuts to the left side of his face and was taken to St Thomas major injury unit. A crime report has been created for this incident and has been classified as a GBH with intent (Section 18 of the Offences Against the Person Act 1861).

During the investigation it has been established that the premises failed to call police, the customers were described as hostile and unhelpful to police and no witnesses even though 50+ people present including a minimum of two SIA who should be searching customers on entry and re-entry outside the front where the assault took place (condition 424 on the licence).

The premises had another Serious assault on Sunday the 30th October 2016 inside the premises at 01.20hrs. The victim alleges that a female hit him over the head with a bottle and management ejected him from the premises as the management did not want him to call police.

On Saturday the 1st October 2016 at about 02.30hrs, the victim reported that she was sexually assaulted within the premises. She stated that she was in the club dancing when the suspect touched her bottom and she was so offended she slapped him around the face to which the suspect stated he was going to deal with her today. The venue is a restaurant with a condition alcohol is only served with substantial meal, yet the victim describes the venue as a club indicating nightclub activities in breach of the licence. The venue was contacted and indicated the CCTV may not have been working, Mr Bennetts was contacted by the investigating officer who confirmed he did have CCTV but after a number of attempts to obtain the CCTV after 18 days were informed that they no longer had it. Condition 288 and 289 on the Licence stipulate that images should be kept for 31 days and made Immediately available to police. Mr Bennetts stated that it was the police responsibility to make themselves available when suitable to him and refused to download the CCTV to a memory stick as this was the police responsibility. Due to this breach of the licence the crime report was closed as no other lines of enquiry leaving a suspect for sexual assault unidentified.

The venue is described as a Restaurant with conditions on the licence seeking that alcohol is only served with substantial meals, from all three incidents above it is clear that the venue is operating as a nightclub and bar. Police have no faith in the current management of the premises as at no point have the venue called police in any of the incidents and have hindered investigations. We believe that a review under sec 53a of the licensing act 2003 is the only appropriate action in this case and would seek immediate suspension of the premises licence to avoid further serious injury.

Police can have no faith in the current management of the premises and believe that a review under sec 53a of the licensing act 2003 is the appropriate procedure in this case and would seek suspension of the premises licence or at least reduction in hours in line with the licensing policy for restaurants for the area no later than midnight, no bottles or glass and all drinks served in polycarbonate receptacles, Alcohol only to be served to customers seated and eating a substantial table meal and ancillary to that meal and suspension of regulated entertainment from the licence.

PROTECTIVE MARKING

Signature of applicant			
Signature:	[REDACTED]		Date: 15/11/2016
Capacity:	Metropolitan Police Licensing Officer		
Contact details for matters concerning this application			
Surname:	White	First Names:	Graham
Address:			
Southwark Police station, 323 Borough High Street,			
Post town:	London	Post code:	SE1 1JL
Tel. No.:	0207 232 6756	Email:	SouthwarkLicensing@met.police.uk

Notes for guidance

- A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

 - conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
 - conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.
- Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

**NOTICE OF DECISION****LICENSING SUB-COMMITTEE – 17 NOVEMBER 2016**

LICENSING ACT 2003: SECTION 53A: Wazobia Restaurant, 670 Old Kent Road, London SE1 1JF

1. Decision

That the premises licence to Wazobia Restaurant, 670 Old Kent Road, London SE1 1JF be modified under section 52(2) of the licensing Act 2003 as an interim step to promote the licensing objectives pending the determination of the review application at the full hearing on 13 December 2016 as follows:

1. That the premises opening hours are Monday to Sunday 12:00 - 00:00.
2. That all licensable activities cease at 23:30.
3. That no spirits (alcohol containing more than 20% ABV) shall be sold by the bottle or by half bottle.
4. That all spirits (alcohol containing more than 20% ABV) shall be sold by the measure if 25ml or 35ml at a maximum of two measures per container/glass.
5. That condition 289 be amended to read: "That a CCTV system be installed at the premises and 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".
6. That two members of staff should be on duty at all times the premises is open that are trained in the use of CCTV and able to view and download images to a removable device immediately on request of police or council officers and all images held for a minimum of 31 days.
7. That all empty glassware to be cleared at a frequency of 30 minutes.
8. That condition 345 be amended to read: "Alcohol only to be served to customers that are seated and eating a substantial table meal and ancillary to that meal".
9. 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 upon request.
10. That condition 424 be amended to read: "That a minimum of two SIA registered door supervisors shall be employed at all times after 22:00 hours and the terminal hour that the premises are in use under this licence and provided with hand held metal detection units in order to ensure that searches are carried out in respect of all admissions to the premises, whether members of the public or performers and their assistants and mechanical counting devices to ensure that the maximum accommodation limit of the premises is not exceeded".

11. That condition 315 be amended to read: "Customers shall use no outside area after 22:00 hours other than those who temporarily leave the premises to smoke a cigarette. There will be a maximum of 5 people smoking outside the premises at any one time. The outdoor smoking area will be a cordoned off area. Those who do temporarily leave for this reason shall be subjected to the requirement of a further search".
12. That a record book of banned individuals shall be held by the SIA registered door supervisors at the front door and will be made available

2. Reasons

The licensing sub-committee heard from an officer from the Metropolitan Police Service who advised an application for a summary review was submitted on 15 November 2016 after a senior member of the police for the area certified that in his opinion the premises were associated with serious crime or serious disorder both. The application concerned an incident that occurred on 13 November 2016 at approximately 01:50 hours when it was alleged that a patron smashed a brandy bottle on the head of another male patron causing injuries consistent with grievous bodily harm. According to the crime report for the incident, management for the premises failed to report the incident to the police. The police also alleged that during the course of the investigation into this incident, it transpired that the premises was also in breach of condition 808 (no entry after midnight), condition 345 (alcohol served with a meal) and condition 424 (SIA searching procedures).

The police also referred to two further incidents, the first having taken place on 1 October when a female was inappropriately touched. The details supplied by the victim suggested that the premises were being run as a nightclub, rather than a restaurant and when CCTV was sought, no CCTV footage was available for 1 October and in any event, only 18 days' footage was available (breach of condition 289 – CCTV footage to be kept for 31 days). The police made reference to an incident that took place on 30 October 2016 when a female hit the victim over the head with a bottle and management ejected the victim from the premises as management did not want the police called.

The licensing sub-committee also heard from the designated premises supervisor and owner of the premises, who relied on the evidence of two SIA door supervisors and a customer. The DPS advised that both the suspect and the victim were known to the management of the premises. He advised that they were friends, both of whom were banned from the premises. It was believed that they, together with two others had "sneaked in" to the premises without the SIA's knowledge. As soon as the DPS saw the two, they were escorted from the premises. Whilst no one saw the incident, it was believed that the alleged assault occurred some 60 metres away. The DPS advised that it would not be possible to leave the premises with an unopened bottle of brandy and denied that the bottle found at the scene came from Wazobia. The DPS denied that there had been any breach of his licence conditions.

Concerning the incidents that allegedly occurred on 1 and 30 October 2016, the DPS advised they simply did not occur. The DPS accepted that he was not comfortable in operating the CCTV system, but believed that three months' footage was held on it.

The licensing sub-committee are of the view that the incident that occurred on 13 November was serious and the evidence suggests that the premises have been operating as a nightclub after a certain hour. The three incidents referred to by the police demonstrated that at the licence conditions need amending for the promotion of the licensing objectives. The licensing sub-committee also request that the CCTV footage for the dates 1 October, 30 October and 13 November are made available at the full review of this matter on 13 December 2016.

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: 17 November 2016

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LICENSING SUB-COMMITTEE DISTRIBUTION LIST (OPEN) MUNICIPAL YEAR 2016-17

NOTE: Original held by Constitutional Team; all amendments/queries to Andrew Weir - Tel: 020 7525 7222

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