

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Friday 26 August 2016 at 10.00 am at Ground Floor Meeting Room G02C - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Dora Dixon-Fyle MBE
Councillor Lorraine Lauder MBE
Councillor Sandra Rhule

OTHERS PRESENT: Douglas Otungo, premises licence holder, Lush Bar & Restaurant
Maria O'Mahoney, Metropolitan Police Service
Ian Clements, Metropolitan Police Service

OFFICER SUPPORT: Debra Allday, legal officer
David Franklin, Licensing officer
Andrew Weir, constitutional officer

1. ELECTION OF CHAIR

In the absence of the chair, Councillor Dora Dixon-Fyle MBE was nominated by Councillor Sandra Rhule to chair the meeting. This was seconded by Councillor Lorraine Lauder MBE.

2. APOLOGIES

There were none.

3. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as the voting members.

4. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

The chair accepted the following item as a late and urgent item: Licensing Act 2003: Lush Bar & Restaurant, 280 Old Kent Road, London SE1 5UE.

5. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

6. LICENSING ACT 2003: LUSH BAR & RESTAURANT, 280 OLD KENT ROAD, LONDON SE1 5UE

The licensing officer presented their report. Members had no questions for the licensing officer.

The Metropolitan Police Service representative, the applicant for the review addressed the sub-committee. Members had questions for the police representative.

The premises licence holder addressed the sub-committee. Members had questions for the premises licence holder.

Both parties were given an opportunity for summing up.

The meeting went into closed session at 10.58am.

The meeting resumed at 11.47am and the chair read out the decision of the sub-committee.

RESOLVED:

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 22 September 2016.

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 21 August 2016 they received a call at approximately 03.00. A male patron pushed a female to the floor and then threw a glass bottle, hitting the head of another male patron, causing injuries consistent with grievous bodily harm. When the police arrived they were confronted by what they described as a hostile crowd of around 60-70 people, trying to prevent the police from making the arrest. As a result more police units were required involving almost the entire night shift on duty which resulted in leaving the rest of the borough virtually unmanned.

The police advised that the ID scanner at the premises was not being used in line with condition 369 of the licence. Furthermore, in inspecting the ID scan, it revealed that 15 people were admitted after 02.00 (with last entry shown as 02.57), which is a breach of condition 364 of the licence that there shall be no new entries after 02.00. The police provided further evidence showing a history of non-compliance of the ID scan condition. They referred to breaches of this condition on 31 January 2015, 25 April 2015 and 10

January 2016.

The licensing sub-committee have also considered evidence submitted by the premises licence holder in relation to the application. The premises licence holder explained the events of 21 August 2016.

Following the assault on the male victim, he instructed the suspect not to leave the premises and then called the police and ambulance. In the meantime the female victim had called the police from outside the premises. The suspect apologised for the incident and the premises licence holder advised that the atmosphere had not been hostile and that 90% of the patrons were his friends. Concerning the use of the ID scanner, this was carried out by SIA security staff and he could not explain why ID scanner had not been used correctly. He accepted that he had major problems with his SIA staff, who were not following his instructions, despite regularly training them.

On questioning, he admitted that the premises was being run as a nightclub and that it was a struggle for him to manage it. He proposed several modifications that could be applied to the licence as interim steps including; change of security team, a specific named person operating the ID scanner system and no glassware to be used in the premises.

The licensing sub-committee were not convinced by the premises licence holder's account of events, in particular the failure in the use of the ID scanner and allowing patrons to enter the premises after 02.00. Given the number of occasions of non-compliance, with condition 369, the licensing sub-committee has no confidence in the premises licence holder being able to comply with the licence. If this condition had been complied with, this incident would not have occurred. This incident had an unacceptable impact on the emergency services in the borough. Finally, the premises licence is in respect of a bar/restaurant but yet in evidence the premises licence holder called the premises a nightclub. Under the Southwark statement of licensing policy 2016-20, nightclubs are not considered appropriate for this area and the recommended closing time for restaurants in this area is 23.00. The sub-committee were of the opinion that in order to promote the licensing objectives they had no alternative but to suspend the licence.

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.

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.

Meeting ended at 11.55 am

CHAIR:

DATED: