

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 22 September 2016 at 10.00 am at Ground Floor Meeting Room G02A - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Sunil Chopra
Councillor Eliza Mann

OTHERS PRESENT: Douglas Otungo, Lush Bar and Restaurant, premises licence holder
Ian Clements, Metropolitan Police Service
Paul Graham, Unit C, Montreal House, owner
Annmarie Barwick, Unit C, Montreal House, proposed designated premises supervisor

OFFICER SUPPORT: Joanne Devlin, legal officer
Dorcas Mills, licensing officer
Alex Lisowski, licensing officer
Natasha O'Donoghue, licensing officer (observing)
Jayne Tear, licensing responsible authority officer
Farhad Chowdhury, health and safety officer
Andrew Weir, constitutional officer

1. APOLOGIES

There were none.

2. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as the voting members.

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

There were none.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. 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 environmental protection officer addressed the sub-committee. Members had questions for the environmental protection officer.

The licensing officer representing the council as a responsible authority addressed the sub-committee. Members had questions for the licensing officer.

The health and safety officer addressed the sub-committee. Members had questions for the health and safety officer.

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

All parties were given five minutes for summing up.

The meeting went into closed session at 12.47pm.

The meeting resumed at 1.51am and the chair read out the decision of the sub-committee.

RESOLVED:

That the council's licensing sub-committee, having considered an application made under Section 53A of the Licensing Act 2003 by the chief of police for the metropolitan police area for a review of the premises licence issued in respect of the premises known as Lush Bar & Restaurant, 280 Old Kent Road, London SE1 5UE. and also having had regard to all other relevant representations has decided it necessary for the promotion of the licensing objectives to:

Suspend the licence for a period of three months and remove the designated premises supervisor being Douglas Otunyo.

Modify the conditions of the licence as follows:

1. That the operating hours are reduced on:

Friday and Saturday from 12:00 to 02:00am and all licensable activities to cease at 01:30

Sundays 06:00 to 00:00 with all licensable activities to cease at 23:30.

2. That three SIA registered Door supervisors, at least one of whom shall be a female, shall be employed at all times after 22:00 when the terminal hour is after 00:30.
3. That the last entry shall be two hours before the terminal hour when the terminal hour is after 00:30.
4. That polycarbonate/ plastic drink ware is to be used by all persons, all alcoholic and soft drinks are to be served and or decanted by premises staff into such drink ware for all drinks consumed after 22:00.

Reasons

The reasons for this decision are as follows:

The licensing sub-committee heard from the Metropolitan Police Service representative, the applicant for the review who informed the Sub committee that following an incident on 21 August 2016 a suspect has been charged with common assault and grievous bodily harm. This was following an incident at the premises whereby 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 a hostile crowd, as a result more police units were required. Furthermore, on inspecting the ID scanner, it revealed that 15 people were admitted after 02:00 (with the 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 scanner condition. They referred to breaches of this condition on 31 January 2015, 25 April 2015 and 10 January 2016.

The police advised that the ID scanner at the premises was not being used in line with condition 369 of the licence.

The Police further advised of their review of the CCTV footage which confirmed their concerns over use of the ID scanner and showed patrons being permitted entry beyond the terminal hour.

The police highlighted their concerns regarding the use of the ID scanner system and expressed that failure to comply with this on and the remaining licensing conditions on repeated conditions undermined the objective of crime and disorder and the safety of patrons.

The police also noted that prior to the extended hours of operation there was very little in the way of reported crime associated with the premises.

The licensing sub-committee heard from the environmental protection officer, supporting the review who advised of concerns in respect of public safety and public nuisance.

It was stated that police records appear to show harassment against woman and there does not appear to be proper management to resolve the issues.

The environmental protection officer recommended that the licence is revoked, alternatively to remove the designated premises supervisor and impose further conditions

in a bid to uphold the licensing objectives.

The licensing sub-committee heard from the licensing officer representing the council as a responsible authority, supporting the review, who informed the sub committee that she was concerned that the premises were operating as a nightclub.

The officer highlighted various breaches of the licence conditions which she had witnessed during recent inspections. Including the failure to properly operate the club ID scanner system.

The officer informed the sub committee that she had not witnessed the premises serving food during the inspections and was concerned that the premises were not operating as a restaurant.

The officer expressed concern that despite several warnings, the premises licence holder sought to blame staff and showed a lack of responsibility for the breach of conditions.

The officer did not have confidence in the current management of the premises.

The licensing sub-committee heard from the health and safety officer, supporting the review, who expressed concerns with the operation of the premises and advised that he considered the premises to operate as a nightclub rather than a restaurant and in view of the incidents which have occurred at the premises, requested that the licence holder review the security policy and procedures on a regular basis.

The officer also recommended that refresher training needs to be provided for all staff including bar staff and door staff.

The licensing sub-committee heard from the premises licence holder who provided a summary of the events on 21 August 2016. He stated that following the assault on the male victim he instructed the suspect not to leave the premises and called the police and ambulance. In the meantime the female victim had called the police from outside the premises. He stated that he instructed the SIA staff to use the ID scanner for every patron. He acknowledged that the staff were not using the ID scanner correctly.

He stated that he would not use the current SIA staff in future and that he would employ the services of a new SIA company who would use the ID scanner system in accordance with the licence conditions.

He further stated that he had invested in a new ID scanner system which allowed the patrons ID to be retained on the system and would assist in enhancing the effective use of the system in future.

When questioned as to why he had not employed new SIA staff following previous warnings about the use of the ID scanner he said that he had told them to use the ID scanner properly and would employ new staff from now on.

He accepted that it was his responsibility to ensure compliance with the licence conditions and promised the sub committee that he would comply with the conditions in future.

He stated that this was an isolated incident. He stated that he sought to assist the police and despite the police evidence to the contrary he did not consider that there had been a

hostile environment at the premises on 21 August 2016.

He offered to have one trained member of staff dealing with the ID scanner solely and agreed to use polycarbonate glass ware.

The sub-committee considered all the written and oral evidence before it and concluded that they did not have confidence in the current management's ability to comply with the premises licence conditions and felt that it was appropriate to suspend the licence in addition to removing the designated premises supervisor and to impose conditions as set out above.

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

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 chief executive for the magistrates court for the area within the period of 21 days beginning with the day on which the appellant was notified by this licensing authority of the decision.

This decision does not have effect until either:

- a) The end of the period for appealing against this decision
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

The interim steps will remain in place until either;

- a) The end of the period for appealing against this decision; or
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

6. LICENSING ACT 2003: TASTI, UNIT C, MONTREAL HOUSE, SURREY QUAYS ROAD, LONDON SE16 7AQ

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

The applicant and their proposed designated premises supervisor addressed the sub-committee. Members had questions for the applicant.

The licensing officer representing the council as a responsible authority addressed the sub-committee. Members had questions for the licensing officer.

Both parties were given five minutes for summing up.

The meeting went into closed session at 2.57pm. Prior to going into closed session the chair informed the parties that they would be informed of the full decision in writing.

The meeting resumed at 3.25pm. The chair did not read out the decision as none of the parties were present.

RESOLVED:

That the application made by Paul Graham for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Unit C, Montreal House, Surrey Quays Road, London SE16 7AQ is granted as follows:

Licensable activity	Hours
Sale & supply of alcohol (on and off premises)	Sunday to Thursday from 09:00 to 22:30 Friday and Saturday from 09:00 to 23:30
Regulated entertainment (recorded music)	Sunday to Thursday from 09:00 to 22:30 Friday and Saturday from 09:00 to 23:30
Operating hours	Sunday to Thursday from 09:00 to 23:00 Friday and Saturday from 09:00 to 00:00

Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operation schedule highlighted in Section M of the application form and the following additional conditions agreed by the sub-committee:

1. That the capacity of the premises shall be limited to 160 patrons at any one time.
2. That all sales of alcohol for consumption off the premises shall be in sealed containers only.
3. That no more than five smokers shall be permitted to smoke outside at any one time.

Reasons

The reasons for the decision are as follows:

The licensing sub-committee heard from the applicant who informed the sub-committee that there had been a previous licence at the premises but this had been surrendered. They provided a copy of the previous licence for the sub-committee to consider.

The applicant sought to rely on their extensive experience of operating another premises in the area, namely the Mayflower. The designated premises supervisor assured the sub-committee that her six years managing the Mayflower equipped her with the necessary knowledge and experience of the licensing objectives and the local area which would ensure that this was a well run premises.

The applicant acknowledged the representations from the responsible authorities, the

ward councillors and the local residents and sought to address these by reducing the hours for which they were applying. They also dealt with concerns raised regarding noise nuisance by explaining to the sub-committee that both deliveries and refuse would be dealt with in the basement car park resulting in minimal noise disturbance. They confirmed that the rear courtyard would not be used at any time and that the exits leading to the courtyard would only be used in emergencies.

The licensing sub-committee heard from the licensing officer representing the council as a responsible authority. They set out concerns regarding the lack of information provided by the applicant as to how the premises will operate and why the extended hours are necessary for the restaurant and bar. The licensing officer was especially concerned to address this in light of the fact that the hours fall outside of the recommended hours set out in the borough's licensing policy. The officer asked for the sub-committee to consider limiting the hours of supply of alcohol to finish before the terminal hour to allow time for patrons to finish their drinks before they are asked to leave.

The licensing sub-committee noted the written representation from the public health authority officer who sought further information from the applicant as to why the application required off sales of alcohol. They also made representations regarding the extended hours, citing reasons relating to public safety and public nuisance to refuse such early starting times and late finishing hours. They recommended a start time as 11:00 each day and suggested end times in line with Southwark's licensing policy.

The licensing sub-committee noted the written representations from the two ward councillors objecting to the application, who also made representations regarding the long hours. They each stated that the area was a residential area and that whilst they welcomed the application for a restaurant, that concerns relating to noise nuisance coupled with the late hours were of concern. They suggested earlier end times and later opening hours would be a way of limiting the impact on local residents.

The licensing sub-committee noted the written representations from two other persons objecting to the application who stated that they lived in close proximity to the proposed premises. They also stated that they were concerned regarding the lack of information as to how the premises would operate, though the concerns were focused on the long operation hours. They discussed the likely effect of increased anti-social behaviour, noise nuisance and that fact that this is the only operation of its kind in a predominantly residential area.

The licensing sub-committee considered all of the oral and written representations before it and were of the opinion that the applicant sufficiently addressed the licensing objectives and the concerns raised. They were reassured by the applicant's professional record and the information provided about the future business. The licensable hours agreed are in line with the borough's licensing policy.

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

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.

Meeting ended at 3.25 pm.

CHAIR:

DATED: