

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Tuesday 10 November 2020 at 10.00 am at Online/Virtual: please contact andrew.weir@southwark.gov.uk for a link to the meeting and the instructions for joining the online meeting

PRESENT: Councillor Renata Hamvas
Councillor Maria Linforth-Hall
Councillor Kath Whittam

OFFICER SUPPORT: Debra Allday, legal officer
Toyin Calfos, legal officer
Andrew Heron, licensing officer
Richard Kalu, licensing officer
Jayne Tear, licensing responsible authority officer
P.C. Ian Clements, Metropolitan Police Service
P.C. Graham White, Metropolitan Police Service
Andrew Weir, constitutional officer

1. APOLOGIES

This was a virtual licensing sub-committee meeting.

The chair explained to the participants and observers how the virtual meeting would run. Everyone then introduced themselves.

There were no apologies for absence.

2. CONFIRMATION OF VOTING MEMBERS

The voting members were confirmed verbally, one at a time.

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: SHISHLIQUE, 326 WALWORTH ROAD, LONDON SE17 2NA

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

The applicant addressed the sub-committee. Members had questions for the applicant.

The licensing responsible authority officer addressed the sub-committee. Members had no questions for the licensing responsible authority officer.

The police officer from the Metropolitan Police Service addressed the sub-committee. Members had questions for the police officer.

All parties were given up to five minutes for summing up.

The meeting adjourned at 10.58am for the sub-committee to consider its decision.

The meeting reconvened at 11.33am and the chair advised all parties of the decision.

RESOLVED:

That the application made by Mr Hafiz Waqas for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Shishlique, 326 Walworth Road, London SE17 2NA be granted as follows:

Hours

Opening Hours

Sunday to Thursday: 11:00 to 00:00

Friday and Saturday: 11:00 to 01:00

Late Night Refreshment (Restaurant)

Sunday to Thursday: 23:00 to 00:00
Friday and Saturday: 23:00 to 01:00

Late Night Refreshment (Takeaways)

Sunday to Thursday: 23:00 to 01:00
Friday and Saturday: 23:0 to 02:00

Alcohol (On Sales)

Monday to Sunday: 11:00 to 23:00.

Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, any conditions derived from the operating schedule in Section M of the application form, conditions conciliated with the responsible authorities during conciliation and the following conditions imposed by the licensing sub-committee:

- a. That there be a maximum of capacity of 26 people, excluding staff.
- b. That a written dispersal policy shall be kept at the premises with the licence and made available for inspection by authorised council officers or the police. All relevant staff shall be trained in the implementation of the dispersal policy.
- c. That alcohol shall be sold ancillary to a substantial table meal.
- d. 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 a clear facial image of every person who enters the premises.
- e. That All CCTV footage be kept for a period of 31 days and shall on request be made immediately available to officers of the police and the council.
- f. That all members of staff should be on duty at all times the premises is open that is trained in the use of the CCTV and able to view and download images to a removable device on request of police or council officer.
- g. That all delivery drivers shall park on Walworth Road.
- h. That external waste handling, bottling, collections, deliveries and the cleaning of external areas shall not take place between the hours of 20:00 and 08:00.
- i. That one SIA officer shall be on duty on any day when the premises is open

after 01:00.

Reasons

The licensing sub-committee heard from the applicant who explained that he had other restaurants that formed part of the Shishlique chain. The main restaurant was located in Kensal Rise. The premises would be food led, selling a limited alcohol menu of wine and beer. No super strength alcohol would be served and service of alcohol would be with a meal only. The applicant also agreed that he would stop serving alcohol at the time as suggested by the responsible authorities.

The applicant advised that without social distancing in place, the premises could accommodate a maximum of 26 people, not including staff. The applicant agreed that alcohol would only be consumed on the premises.

The licensing sub-committee heard from the officer representing licensing as a responsible authority who advised that the premises was situated in the Elephant and Castle major town centre area and under Southwark's statement of licensing policy 2019 - 2021 the appropriate closing times for restaurants and cafes was 00:00 (Sunday to Thursday) and 01:00 (Friday and Saturday). They advised that the appropriate closing time for takeaway establishments was 00:00 (Sunday to Thursday) and 01:00 (Friday and Saturday). The applicant sought opening hours far in excess of the policy recommendations and provided no reasoning to divert from them, particularly when the operating schedule did not adequately address the licensing objectives.

The licensing sub-committee heard from the Metropolitan Police Service who objected to the granting of the licence on the grounds of public nuisance, crime and disorder licensing objectives. The officer also stated that there was no reason to deviate from the recommended hours set out in Southwark's statement of licensing policy. There was a number of premises providing a takeaway service and which in turn attracted groups congregating causing anti-social behaviour and street drinking.

In the discussions stage of the meetings, it was explained to the applicant that the London Borough of Southwark had declared a climate emergency and would therefore expect that businesses would comply with The Environmental Protection (Plastic Straws, Cotton Buds and Stirrers) (England) Regulations 2020 and would refrain from using single use plastics where possible, which the applicant was agreeable to. In the circumstances, The members were satisfied with the controls in place and that a premises licence should be granted.

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.

6. **THE LONDON LOCAL AUTHORITIES ACT 1991: LE NAILS, 217 CAMBERWELL ROAD, LONDON SE5 0HG**

The licensing officer presented their report. Members had questions for the licensing officer.

The applicant and their legal representative addressed the sub-committee. Members had questions for the applicant and their legal representative.

The police officer from the Metropolitan Police Service addressed the sub-committee. Members had questions for the police officer.

The police officer from the Metropolitan Police Service had questions for the applicant, which the chair allowed.

Both parties were given up to five minutes for summing up.

The meeting adjourned at 1.15pm for the sub-committee to consider its decision.

The meeting reconvened at 1.45pm and the chair advised both parties of the decision.

RESOLVED:

That the application made by Augustine Asante for a special treatment licence to be granted under Section 10 (1) of the London Local Authorities Act 1991 in respect of the premises known as Le Nails, 217 Camberwell Road, London SE5 0HG be refused.

Reasons

The licensing sub-committee heard from the licensing officer who stated that the application concerned a new special treatment licence. He said there had been an objection raised by the Metropolitan Police Service.

The licensing officer went on to say that the applicant had attended a previous licensing sub-committee meeting for a special treatment licence in respect of another business called Lucky Nails. The Lucky Nails application was withdrawn before a determination was made. The licensing officer was of the view that the applicant was aware of the enforcement action being carried out at 217 Camberwell Road ("the premises") during 2019 as he worked next door and he was written to by the licensing unit in his capacity as leaseholder of the premises and that he had attended the premises from next door when enforcement action was being carried out.

The legal representative for the applicant advised that the applicant had nothing to do with the organisation who carried on their business at the premises during 2019. The applicant had allowed his special treatment licence to lapse prior to the organisation operating out of the premises. He confirmed that the applicant was the leaseholder of the premises during 2019 and that the applicant had rented the premises to the organisation that continued to offer special treatments without a licence.

It was submitted by the applicant's legal representative that that the applicant had no knowledge of the activities being carried out by the organisation, that a year had passed since any wrongdoing at the premises and; that persons from the organisation who had operated without a licence, would not be involved in the business Le Nails. The legal representative went on to submit that it could be a condition of the licence that no-one who was involved in the organisation operating from the premises without a licence should form part of operational structure of Le Nails.

The applicant confirmed that he did not know of any wrongdoing by the organisation until the last police raid. The applicant confirmed that he worked next door to the premises, in the barber shop, as a barber. He also confirmed that he had tried to assist an operator at Lucky Nails in obtaining a special treatment licence and confirmed that the application was subsequently abandoned when he was told he could not speak on her behalf. The applicant stated that he wanted to run the business legitimately and so decided to apply for a licence in his own right.

The applicant confirmed that he has now put steps in place to obtain identification documents of all persons who would work for him; and those documents would be retained for inspection.

The applicant stated that he was aware that an operative from Lucky Nails had been arrested during one of the raids on the premises by the police (in 2019) and that no further action was taken against the operative subsequently. He went on to say that he assisted that operative from Lucky Nails in trying to obtain a licence as explained.

The licensing sub-committee then heard from the Metropolitan Police Service (“the police”) who were objecting to the grant of a licence under section 8 (c) and (e) of the London Local Authorities Act 1991 which provides:

- c) The persons concerned or intended to be concerned in the conduct or management of the premises used for special treatment could be reasonably regarded as not being fit and proper persons to hold such a licence.
- e) The premises have been or are being improperly conducted.

The police constable making representations on behalf of the police stated, the police had sent the premises a warning letter on 17 June 2019 prior to officers attending the premises. The letter told the business that they should not be trading without a licence and that they should stop trading until a licence was obtained. No application was received.

On 10 July 2019, officers from the police night time economy Team (“NTET”) and the council’s licensing team attended the premises as it was trading as a nail bar carrying out special treatments. Five people working at the venue were arrested for immigration offences. All of those who were arrested were of Vietnamese origin and none had authority to work and had entered the country illegally.

On 9 October 2019, officers from the NTET, social services and immigration officers attended as the premises as it was trading as a nail bar carrying out special treatments. Two people were arrested for immigration offences and a number of other workers had immigration conditions imposed upon them forbidding them from working.

On 5 December 2019, officers attended the premises. Three members of staff believed to be management were arrested and three other members of staff were detained regarding immigration offences.

The police constable went on to say that there had been 17 arrests for immigration offences and of those arrests, 16 were still under investigation with one being no further action. He stated that the applicant was the lease-holder at the relevant time and; that it was the applicant who had allowed his licence lapse. He further added that as the applicant worked next door, he contended that the applicant could see, and would have been aware special treatments were taking place on

the premises in the absence of a licence.

In forming its decision the licensing sub-committee had regard to all the relevant legislation and case-law.

Having heard all of the evidence, the licensing sub-committee had no confidence that placing conditions on the special treatment licence would be workable or enforceable. The licensing sub-committee formed the view that it would be impossible to say who was working at the premises (and in what capacity) during 2019, as there were no comparable lists or other records kept of persons who worked at the premises during that time.

The licensing sub-committee formed the view that the applicant was not a fit and proper person to hold a special treatment licence given his conduct during 2019. The applicant would have been aware that a licence was required for the premises as he was a previous licence holder; despite this, he allowed his licence to lapse and then he proceeded to rent out the premises as a nail salon, knowing no licence was in place or failing to make proper checks that the required licence had been obtained.

The licensing sub-committee was not convinced that the applicant was unaware of what was happening at the premises given the fact that the applicant worked next door. In addition, the licensing officer had stated that the applicant attended the premises whilst enforcement action was being carried out and that the applicant was written to by the licensing unit during the course of 2019, as he was the leaseholder of the premises.

The licensing sub-committee heard that there was no dispute amongst attendees that the premises had been improperly conducted during 2019.

The licensing sub-committee were of the view that that there was a real risk of repetition as the applicant's conduct during 2019, showed very little regard for the licensing regime under the London Local Authorities Act 1991 which had been put in place to protect members of the public.

In reaching this decision, the licensing sub-committee had regard to all the relevant considerations and are of the view that this decision was appropriate and proportionate in all of the circumstances.

Appeal rights

The following parties may appeal a decision of the sub-committee:

- a) An applicant for the grant, renewal or transfer of a licence whose application is refused.
- b) An applicant for the grant, renewal or transfer of a licence who is aggrieved by any term, condition or restriction on or subject to which the licence is

granted, renewed or transferred.

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.

The meeting ended at 1.50pm.

CHAIR:

DATED: