

NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 6 SEPTEMBER 2017

LICENSING ACT 2003: LICENSING ACT 2003: UNIT 2, 777 OLD KENT ROAD, LONDON, SE15 1NZ

1. Decision

That the application by George Nwachukwu for a variation of a premises licence issued under the Licensing Act 2003 in respect of the premises known as **UNIT 2, 777 OLD KENT ROAD, LONDON, SE15 1NZ** is granted as follows:

Licensable Activities	Days	Hours
Sale of alcohol	Sunday to Thursday	11:00 – 23:30
	Friday, Saturday & Bank Holidays	11:00 - 00:30
Late night refreshment	Sunday to Thursday	11:00 - 23:30
	Friday, Saturday & Bank Holidays	11:00 - 00:30
Opening	Sunday to Thursday	11:00 - 00:00
	Friday, Saturday & Bank Holidays	11:00 - 01:00

2. 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 for and the following conditions imposed by the licensing sub-committee:

1. That the premises licence holder shall visibly display signage stating that entry will not be permitted to patrons who use Sylvan Road to either park, drop off or collect by private or hackney carriage vehicles.
2. That suitably qualified SIA persons shall be employed at all times where the premises is operating beyond 23:00 hours and shall take all reasonable steps to ensure that patrons do not cause a nuisance in the vicinity of the premises.
3. That there shall be no entry or re entry permitted after 00:00 hours.
4. That there shall be no sales for consumption of food off the premises after 23:00 hours.
5. That there shall be no off sales of alcohol after 23:00 hours.
6. That the maximum number of persons permitted to be on the premises is 90.
7. That a sound limiting device shall be installed and be set at an appropriate level by a professionally certified acoustic engineer.

8. That a permanent sound limiting device (or other similar sound limiting equipment) shall be installed at the premises and shall be in use at all times that amplified sound is provided at the premises. The sound limiting device (or other similar sound limiting equipment) shall be calibrated by a professionally certified sound / acoustic engineer so that amplified sound at the premises does not give rise to public or statutory nuisance at any time. Any temporary or permanent amplification system(s), amplified instrument(s) and microphone(s) in use at the premises shall be routed through the sound limiting device (or other similar sound limiting equipment) at all times.”

3. Reasons

The reasons for the decision are as follows:

The licensing sub-committee heard from the applicant's representative who advised that the premises operate as a restaurant. They further stated that the extended hours were required to cater for the clientele who prefer to eat later in the evening than the current hours permit.

The applicant's representative submitted that, although Southwark Council's statement of licensing policy defines the area that the premises are located in as a residential area, in the applicant's opinion the area that the premises are located is a mixed use area.

Reference was made to a previous planning appeal decision which referred to the area as small scale residential.

The applicant's representative stated that they believed at least one of representations from other persons to be vexatious.

The applicant's representative advised the sub committee that the premises has operated 12 TENS and only one complaint appears to be have been made as a direct result of a TEN following the event in December 2016.

The applicant's representative advised that they are prepared to work with residents to minimise risk of nuisance and they would be willing to ensure that the refuse bin remains locked and is emptied on a regular basis. They also advised that customers disperse on a gradual basis reducing the risk of nuisance.

The applicant's representative also stated that they would ensure on SIA doorman monitored the use of Sylvan road by the premises patron's and will inform patrons that they will not be permitted to enter the premises if they choose to use Sylvan road for parking, dropping off or picking up patrons of the premises. Thereby minimising the risk of nuisance to local residents.

With a view to assist in reducing any potential noise nuisance the applicant is also strongly advised by the sub committee to encourage patrons to use public transport where possible.

The applicant's representative agreed to adopt additional conditions in order to reduce the risk on nuisance in the area and stated that they would be submitting a further application to the Planning department addressing the issues raised and believe that this application will be successful.

The licensing sub-committee heard from the council's planning department who submitted a representation in respect of the prevention of public nuisance. They advised that previous events which have taken place at the premises have resulted in complaints of noise nuisance from local residents.

The planning department also stated that a temporary stop notice was served to ensure that the premises adhered to a closing time of 23:00 hours as per planning permission in respect of the premises. They further stated that 2 planning applications to extend the hours of operation in respect of the premises have been refused on the grounds of potential harm to residential amenity by the proposed extended hours of operation and further pointed out that there has been no change of circumstance to lead to a different conclusion in respect of the potential impact of extending the operating hours.

They further stated that they had concerns that the premises operated as a late night drinking venue rather than a restaurant. One of the reasons for this being the fact that the filter in the extraction system had not been changed, indicating that the kitchen was not being used as much as they would expect.

The applicant stated that the kitchen was not being used as often as they would like due to the reduced demand as a result of the restricted hours. In addition the extraction system was new and was not therefore required to be changed yet.

The licensing sub-committee considered the representation from the council's Director of Public Health in respect of the prevention of crime and disorder, the prevention of public nuisance and the protection of public safety licensing objectives. The representation stated that research shows increased hours of alcohol sales are associated with increased alcohol consumption, increased alcohol related injuries and increased alcohol related harm. In addition reference was made to the Southwark's statement of licensing policy which recommends that restaurants in the premises location should close at 23:00.

The sub committee noted that whilst a representative from the public health authority did not attend the hearing, the sub committee took into account the written representation. It noted that more weight could have been attached had a representative attended the sub-committee but nonetheless the representation carried weight.

The licensing sub-committee heard from the council's licensing responsible authority who submitted representations under the prevention of crime and disorder and the prevention of public nuisance licensing objective. The officer advised that Southwark's statement of licensing policy recommends that in the premises' location restaurants should close at 23:00.

The representation also notes that current planning permission in regards to the premises stipulates that the premises close at 23:00.

The officer also referred to the complaints received by three local residents and whilst stating that there was no issued with the current operation of the premises within the current permitted hours, she expressed concern that later hours as requested could result in increased crime and disorder in the area.

The licensing sub-committee heard from the Metropolitan Police Service who also advised that the current planning permission stipulates that the premises close at 23:00. The police also highlighted that previous events at the premises have resulted in complaints from local residents of public nuisance and noise nuisance caused by customers. The police also stated that the hours applied for exceed those recommended in Southwark's statement of licensing policy.

The police stated that they had concerns the extended hours applied for may lead to an increase in public nuisance and crime and disorder in the area.

The licensing sub-committee heard from the council's environmental protection team who submitted a representation in respect of the prevention of public nuisance licensing objective. The officer advised that previous events at the premises have resulted in complaints of noise nuisance from local residents.

The officer also referred to the current planning permission which requires the premises to close at 23:00 and the fact that applications to extend the premises' hours have been refused.

The licensing sub-committee considered four representations from other persons who stated that the existing operation of the premises causes noise nuisance and anti social behaviour including littering, public urination and fights and sounding their car horns.

The representations from the residents also highlighted that the planning applications to extend the hours have been refused.

The residents stated that the premises operated as a nightclub and not a restaurant and that the residents felt intimidated by the patrons of the premises.

The residents express concern that all of the existing problems would be exacerbated and crime and disorder will increase if the hours of operation are extended.

The sub committee noted that whilst the residents did not attend the hearing, the sub committee took into account the written representations.

It noted that more weight could have been attached had a representative attended the sub-committee but nonetheless the representation carried weight.

The licensing sub-committee considered all of the oral and written representations before it and considered Southwark's Statement of Licensing Policy 2016 which sets out recommended hours of operation and requires the sub committee to give consideration to the premises' location and its likelihood to impact on the licensing objectives.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and on balance considered that this decision was appropriate and proportionate.

4. Appeal rights

The applicant may appeal against any decision to modify the conditions of the licence; and

Any person who made relevant representations in relation to the application who desire to contend that:

- a) That variation ought not to have been made; or
- b) That, when varying the licence, the licensing authority ought not to have modified the conditions of 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.

Issued by the Constitutional Team on behalf of the Director of Law and Democracy

Date: 6 September 2017