

NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 2 JANUARY 2020

LICENSING ACT 2003, SECTION 53A: K-CHE VIP LATIN CLUB, FIRST FLOOR, 512-516 OLD KENT ROAD, LONDON SE1 5BA

1. Decision

The council's licensing sub-committee, having considered an application made under section 53A of the Licensing Act 2003 by the Metropolitan Police Service for the review of the premises licence in respect of K-Che VIP Latin Club, First Floor, 512-516 Old Kent Road, London SE1 5BA, and having had regard to all relevant representations, decided to modify the conditions of the licence by adding the following conditions to the licence:

- 1) No bottles or glassware are to be taken onto the dancefloor area of the premises;
- 2) Polycarbonate jugs of water with sufficient polycarbonate cups are to be provided at all tables and regularly refilled;
- 3) That the CCTV system provides full coverage of all public areas, to include all parts of the upstairs including seating areas, a CCTV camera is placed so that it gives a clear facial image of all customers leaving the premises;
- 4) One member of staff be designated to ensure all persons are entered on the ID Scanning system when entering through the front gate, and that there is no re-entry except for staff.
- 5) Staff shall ensure that all patrons leaving the premises disperse in an orderly fashion and shall inform management of any issues they observe within the vicinity of the premises.

The sub-committee noted with approval the premises licence holder's undertaking to avoid the use of single-use plastics where possible.

2. Reasons

The sub-committee noted paragraph 2.1 of the Guidance, to the effect that licensing authorities should look to the police as the main source of advice on crime and disorder. They shared the concerns of the police and the licensing team that a serious incident had occurred on the premises involving a bottle being thrown while an altercation occurred. They took account of the fact that the incident had occurred in the dancefloor area of the premises, where flashpoints are perhaps more likely.

However, the sub-committee also took account of the licence holder's submissions (see paragraph 11.10 of the Guidance) that where problems are identified, the licence holder should be given early warning and an opportunity to work with the responsible authorities to put matters right before any review takes place. The sub-committee accepted on balance that the respondent was unaware of the bottle-

throwing and noted that security staff had acted quickly to deal with the altercation itself.

The sub-committee noted that it was not disputed by the police that, although some incidents of violence associated with the premises had occurred since the current licence holder took them over, there had nevertheless been an overall reduction in the number of such incidents.

The sub-committee considered with care (as required by paragraph 11.23 of the Guidance) what action would be proportionate in the circumstances and took account of evidence from the licence holder as to the financial impact of prohibiting the sale of half-bottles of spirits.

They also noted (pursuant to the Equalities Act 2010) the evidence from the licence holder as to the drinking and dancing culture within the Latin American community which is catered for by these premises.

Overall, the sub-committee decided that although there remain concerns about the premises, in particular the risk of violence associated with heavy drinking, the licence holder should be given a chance to demonstrate that the premises can be responsibly managed and the risks reduced whilst maintaining the current practice of serving half-bottles of spirits and bottles of wine or beer.

In order specifically to promote the licensing objective of the prevention of crime and disorder, the sub-committee decided that it was both necessary and proportionate to impose additional conditions on the licence as set out in section 1 above, in order to assist the licence holder to maintain proper control at the premises.

3. 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' clerk 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; or
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

4. Review of interim steps pending appeal

At the conclusion of the review hearing the licensing sub-committee reviewed the interim steps to determine which interim steps were appropriate for the promotion of the licensing objectives, pursuant to section 53D of the Licensing Act 2003. The sub-committee concluded that these interim steps were appropriate:

- CCTV to be upgraded so all parts of the upstairs are covered including seating areas, and a CCTV camera is placed so that it gives a clear facial image of all customers leaving the premises;
- One member of staff be designated to ensure all persons are entered on the ID Scanning system when entering through the front gate, and that there is no re-entry except for staff.

The interim steps are open to appeal by:

- a) The chief officer of police for the police area in which the premises is situated;
or
- b) The holder of the premises licence

Such appeal must be commenced by notice of appeal given by the appellant to the justices' clerk 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.

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

Date: 2 January 2020.

NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 12 MAY 2020

LICENSING ACT 2003: SECTION 53C: K-CHE VIP LATIN CLUB, FIRST FLOOR, 523-516 OLD KENT ROAD, SE1 5BA

1. Decision

That the council's licensing sub-committee, having considered an application made under Section 53C of the Licensing Act 2003 by the Metropolitan Police Service for the review of the premises licence issued in respect of the premises known as K-CHE VIP Latin Club, First Floor, 523-516 Old Kent Road, SE1 5BA and having had regard to all relevant representations decided that it is appropriate, necessary and proportionate in order to promote the licensing objectives to:

- Revoke the premises licence.

2. Reasons

The licensing sub-committee heard from the Metropolitan Police Service, the applicant for the review, who advised that the summary review application was originally submitted on 3 March 2020 respect of the premises known as K-CHE VIP Latin Club, First Floor, 512 - 516 Old Kent Road, London SE1 5BA. The licensing sub-committee agreed on 5 March 2020 that it was appropriate and proportionate to suspend the premises licence issued in respect of the premises with immediate effect until the full review hearing that was due to take place on 26 March 2020.

However, due to the restrictions put in place by the government in respect of the Coronavirus outbreak it was not possible to proceed with the scheduled hearing. This meant that it was not possible for the review application to be determined within the mandated 28-days (pursuant to section 53(A)(2)(b) of the Licensing Act 2003) therefore, application had become invalidated. The officer from the police therefore, formally withdrew the application.

As a result, the police submitted a further summary review application on 15 April 2020. At the expedited licensing sub-committee hearing on 16 April 2020 it was agreed that it was again, appropriate and proportionate to suspend the premises licence issued in respect of the premises with immediate effect until the full review hearing is held on 12 May 2020.

The application(s) concerned a serious incident that took place on Saturday 29 February 2020 at approximately 03:35 when fighting started inside the premises. The premises' security operatives were unable to gain control of the premises, and the police were called. On the arrival of the first responding police officers a group of customers were observed fighting in the premises' yard area. One male was armed with a brandy bottle and was attempting to hit people. He then attacked officers who had to use a Taser to subdue him. A number of other customers were attempting to attack officers. Officers had to call for urgent assistance and use batons and incapacitating spray in an attempt to restore order and defend themselves. One officer was assaulted on the dance floor area by a customer who attempted to strangle him while the officer was trying to clear the premises.

The Police explained that the incident on 29 February 2020 was not an isolated one. Since December 2018 twelve crime reports of violent incidents had occurred associated with the premises including: four for grievous bodily harm, four for actual bodily harm, one assault on Police, one common assault, one robbery and a crime related incident for a fight inside the premises.

Furthermore, on 25 January 2020, a fight occurred at the premises at approximately 01:40 and a male was assaulted. The premises' management could not provide CCTV footage to police officers on request at the time of the incident which is a breach of the conditions 289 of the premises licence issued in respect of the premises.

The Metropolitan Police Service also advised that on 3 December 2019 they had applied a summary review of the premises licence as a result of an incident involving a glass bottle being thrown. That application was determined on 2 January 2020 when the sub-committee took the view that the licence holder should be given early warning and an opportunity to work with the responsible authorities to put matters right before any review takes place; on that occasion, the premises licence was modified.

The licensing sub-committee then heard from two residents who were called as witnesses by the police. Both stated that they had been plagued over recent years by the disturbances caused by K-Che every Friday and Saturday night around midnight and then again as patrons began to leave the premises at around 04:00. The disruptions included large gatherings of people on Marlborough Grove drinking alcohol, taking drugs and inhaling gas canisters in the street using their building and the surrounding buildings as dustbins. Patrons also blared music from their vehicles as patrons have pre and post venue parties. Other nuisances and disturbances included urinating in the street, fighting/assaults of others and patrons smashing bottles on the ground.

The licensing sub-committee then heard from the representative for the licence holder who explained that the premises was part of a family business that had over 20 years of experience and five licensed premises. The licence holder had invested approximately £250,000 into K-Che. The venue itself had a poor history in respect of crime and disorder, but they had, on the whole, run the premises successfully for over two years,

Problems at K-Che had started approximately six months ago and it was accepted, that mistakes had been made in that time. The 29 February incident has occurred due to four of the SIA staff failing to arrive at the premises. Because the SIA company insisted that the four staff would arrive, the licence holder thought that the situation could be managed until their arrival, so did not limit the number of patrons entering. Unfortunately, with the exception of one officer, none of the SIA staff had worked at the premises before. In hindsight, a planned closure should have taken place. The licence holder also informed the sub-committee that an external promoter was used on 29 February. The external promoter previously had a good reputation, their audience were not regulars at the premises. When it was apparent that the situation could not be controlled, the SIA contacted the police. At this point, the music was turned down, the lights came up and the tables were all cleared of anything that could be used as a weapon.

The licence holder then described to the sub-committee an action plan that would make the venue safer for customers, staff and local residents alike. This included:

- To employ a new SIA company to ensure adequate security was always available.
- To employ a dedicated Security Manager who would be intricately involved in the security plan and undertake street patrols.
- To engage the Safer Sound Partnership to undertake a comprehensive review of all risk assessments and policies. The Safer Sound Partnership would also provide training.

- To change the designated premises supervisor (DPS) to the approval of the Police. The DPS would work directly with the Safer Sound Partnership.
- That only internally promoted events would take place.
- That K-Che would become an over 21s only venue. There would however be a “client loyalty scheme” for those over the age of 18 and were friends of management.
- That no bottles of spirits would be permitted on the tables.

The licensing sub-committee noted the representation from licensing as a responsible authority, who was not in attendance. The licensing responsible authority stated that they had no confidence in the licensees of the premises to uphold any of the licensing objectives or to ensure that the conditions of the premises licence issued, in respect of the premises, will be met. The licensing responsible authority recommended that the premises licence issued, in respect of the premises, be revoked.

During the course of discussion, it was clarified to the members of the sub-committee that the premises licence holder had changed the company address on 12 January 2017 but had failed to inform the licensing authority of the change. A failure to inform the licensing authority of the change of address constitutes an offence under Licensing Act 2003. Due to this change of address, the premises licence holder was not aware that the premises licence had been suspended (on 5 March 2018), due to the non-payment of annual licence fees.

On 5 March 2018 a notice of suspension was sent to the premises licence holder regarding the non-payment of the annual licence maintenance fee for 2018, following an invoice sent with a due date of 28 February 2018. A second notice of suspension was issued on 1 March 2019. The annual licence maintenance fee was not rectified (and up to date) until 2 December 2019. The premises had operated in breach of a suspension for some 19 months and on dates when violent incidents had occurred.

On considering both the oral and written representations, this licensing sub-committee was of the opinion that the premises licence holder has attempted to exonerate himself of any blame and frequently contradicted himself. Initially he claimed that the external promoter had a good reputation and then attempted to distance himself from them by stating it that the promoter’s audience were not regulars at K-Che. However, in the course of discussion, he claimed incidents had occurred when there were externally promoted events in December 2019, January 2020 and February 2020. It was also stated that the mother of the premises licence holder had made contact with the SIA company on the night of the incident on 29 February, then he stated that he was the one who contacted them.

The premises licence holder also stated that the venue would become an over 21s club, but would allow entry to under 21 years if they were friends of management, making the proposal of an over 21s club unenforceable and a nonsense. He blamed the suspension of the licence, in relation to the non-payment of licence fees, on his accountants for failing to notify of a change of the address.

At the final determination of the expedited review on 2 January, 2020 the licensing sub-committee decided that *“there remain concerns about the premises, in particular the risk of violence associated with heavy drinking, the licence holder should be given a chance to demonstrate that the premises can be responsibly managed”*. The premises licence holder has shown that he is unable to manage these premises. If he was, the proposed action plan would have been put into effect following the review in January 2020. The January review decision included a condition that glass bottles shouldn't be on the dance floor. This decision was made to assist the premises keeping the public safe while taking into consideration the cultural background of the club. In the pictures, provided by the police as evidence, the sub-committee

could clearly see a bottle on the dance floor. The premises admitted themselves that they had been in breach of this condition, which had been placed on the licence for public safety.

The evidence presented illustrated a total lack of control and poor management and the sub-committee had no faith that the management team were able to comply with the licensing objectives. For these reasons, this licensing sub-committee decided to revoke the premises 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.

3. 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' clerk 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; or
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

4. Review of interim steps pending appeal

At the conclusion of the review hearing the licensing sub-committee reviewed the interim steps to determine which interim steps were appropriate for the promotion of the licensing objectives, pursuant to section 53D of the Licensing Act 2003. The sub-committee concluded that these interim steps were appropriate:

To suspend the premises licence.

The licensing sub-committee were satisfied that these modified interim steps are more appropriate and proportionate to promote the licensing objectives to modify the interim steps, as detailed above.

The interim steps are open to appeal by:

- a) The chief officer of police for the police area in which the premises is situated; or
- b) The holder of the premises licence

Such appeal must be commenced by notice of appeal given by the appellant to the justices' clerk 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.

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

Date: 12 May 2020