ROYAL BOROUGH OF GREENWICH

LICENSING REVIEW SUB-COMMITTEE

MONDAY, 22 JANUARY 2018 AT 6.30 PM

MINUTES

PRESENT:

Members:
Councillor Jackie Smith (Chair), Councillors Mick Hayes and Geoffrey Brighty,

Officers
Licensing Officer, Lawyer (Housing & Litigation), Licensing Officer and Committee Officer

Item No.

1 Apologies for Absence

Apologies for absence was received for Councillors Maureen O'Mara (Councillor Mick Hayes attended as her substitute) and Mandy Brinkhurst (Councillor Geoffrey Brighty)

2 Urgent Business

There was no urgent business.

3 Declarations of Interest

Resolved –

That the list of Councillors’ memberships as Council appointed representatives on outside bodies, joint committees and school governing bodies be noted.
4 Minutes

Resolved -

That the minutes of the meeting of the Licensing Review Sub-Committee held on 27 September 2018 be agreed and signed as a true and accurate record.

5 City Buzz B, 135-137 Trafalgar Road, SE10 9TX

In attendance:

Applicant for Review PC Giles Balestrini (Greenwich Police Licensing Team)

In Support of Review Ella Smallscome (Environmental Health); John McGrir (Public Health Licensing)

Licence Holder Magdi Nasr (IDM Enterprises)

The Chair welcomed all parties and ensured that introductions were made, all papers had been received and that all parties were aware of their right to be represented.

The Sub Committee considered an application by PC Giles Balestrini from the Greenwich Licensing Police Team, for a review of the existing premises license for City Buzz'B, 135-137 Trafalgar Road, SE10 9TX

The Licensing Officer gave an illustrated introduction into the report and confirmed that the review was submitted while Trevor Bailey was the license holder and the licence had subsequently been transferred to Mr Magdi Nasr of IDM Enterprises. He added that this was the second review of the license and the previous one resulted in additional conditions and a reduction of the licensable hours.

The Sub-Committee was addressed by PC Giles Balestrini, the representative of the Greenwich Police Licensing Team. He stated that this was the second review of the licence in 6 months as there had been further complaints of noise which resulted in the Police and Environmental Health team issuing a warrant to remove the speakers. He highlighted the visit on the 3 November 2018 on which there was a suggestion the smoke alarms had been turned off.
The Sub-Committee was addressed by Ella Smallcombe who presented photographic evidence and speakers that had been removed from the premises. She stated that the speakers were not for background music and the Environmental Health team had continued to receive noise complaints until Trevor Bailey was evicted. She advised the panel of the ongoing case against Mr Bailey.

The Sub-Committee was addressed by John McGrir (Public Health), who stated he had nothing to add to the written representation and supported the Greenwich Police Licensing teams recommendations.

The Sub-Committee was addressed by Mr Magdi Nasr, the Licence Holder. He stated that IDM Enterprises were familiar with the ongoing case against Mr Bailey and had provided him with a number of warnings, this had resulted in the forfeiture of his lease and the transfer of his licence to IDM Enterprises. He confirmed that they had received complaints from some of their other tenants who live near the premises and as a result had updated their screening process for new tenants.

Mr Nasr, the licence holder, stated that the licence would make the property more attractive to prospective tenants and asked the Sub Committee to consider keeping the licence the same as agreed in the last review hearing.

In response to a question, Mr Nasr stated he had written to Mr Bailey, the previous licence holder regarding the concerns that were raised by the other tenants of IDM Enterprises. Mr Nasr added he was previously unaware of the issues as the IDM Enterprises office closed at 8pm and most of the incidents described by the police occurred after this time.

The Chair noted that at the licensing review hearing on 16 August 2018 Ibrahim Nasr of IDM Enterprises spoke in support of the previous licence holder, Mr Trevor Bailey, and had suggested the noise attributed to the premises was from the adjoining properties. She added that it was clear that the applicant was therefore aware of the issues surrounding the property for at least 6 months.

In response to questions from the Sub-Committee, Mr Nasr stated that there was some confusion as to where the noise was emanating from and IDM Enterprises had sent a number of tenants warnings as a result. He added that IDM Enterprises were not fully aware of the issues and the extent of the problem until they were approached by the Council at which point they took action and chose to end the lease on the property. He stated that the reason for not taking action sooner was to give Mr Bailey an opportunity to follow the decision made at the previous review hearing.
The Chair noted that the Designated Premises Supervisor on the licence was the wife of Mr Trevor Bailey, the previous licence holder.

All parties, with the exception of the Legal Advisor and Committee Officer, withdrew to allow the Sub-Committee to deliberate at 7.00pm. All parties returned at 7.10pm.

The Chair informed those present of the decision of the Sub-Committee, and stated that full details would be given in the formal decision notice.

In reaching its decision the Sub Committee considered the Council’s Statement of Licensing Policy, the Licensing Act 2003, the Regulations made thereunder and the Guidance issued by the Secretary of State under S.182 of that Act. In discharging its functions the Sub Committee did so with a view to promoting the licensing objectives of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

The Sub Committee reviewed the premises licence of

**City Buzz B, 135-137 Trafalgar Road, SE10 9TX**

and having considered all the evidence put before it the Sub Committee decided to:-

- Revoke the Premises Licence;

The Sub Committee’s decision was based on issues raised concerning the Prevention of Crime and Disorder, the Prevention of Public Nuisance and the Public Safety Licensing Objectives.

The Sub-Committee heard that the application for a Review was brought by the Police who were seeking a revocation of the Premises Licence on the basis that the premises were failing to promote the licensing objectives of crime and disorder and the prevention of public nuisance. The Police referred to their written representation and reminded the Sub-Committee that this was a second review of this Premises Licence, and had been submitted within six months of the first Review. The Police stated in their written representation that they had lost all confidence in the ability of the DPS to run the premises effectively and in compliance with the licensing conditions. In their oral representation, the Police informed the Sub-Committee that, despite the first Review on 16 August 2017, there had been further noise complaints to the extent that a warrant had been issued and music equipment had been seized from the licensed premises. They also stated that on 03 November 2017 Officers had attended the licensed premises to find 20
people in the basement area who were drinking, dancing and smoking inside the premises beyond the permitted licensing hours. The Sub-Committee placed considerable weight on the representation of the Police.

The Sub-Committee heard from the Licensing Officer who presented the report who informed the Sub-Committee that since the date of receipt of the Review application the Premises Licence had been transferred, at their request, to the managing agents of the property - IDM Enterprises - who, by virtue of that transfer, inherited the review from the previous licence holder, Mr Trevor Bailey.

The Sub-Committee was informed by the Royal Borough of Greenwich Environmental Health (Noise Team) Manager that the application for a Review was supported by that Team. She confirmed that on 20 October 2017, a warrant of entry had been obtained for the premises and showed the Sub-Committee the size of the speakers and amplifiers that had been seized and which were not in keeping with the size of a licensed premises which had been marketed, and meant to be run, as a restaurant. The Sub-Committee accepted the representations of the Noise Team Manager.

The Royal Borough of Greenwich Public Health Officer referred to his written representation and informed the Sub-Committee that he supported the application for review. The Sub-Committee accepted his representations.

The Sub-Committee considered the representations from the managing agent’s representative who informed them that they had forfeited Mr Bailey’s lease in order to take over the premises and hoping that the premises would function better with new management. He confirmed that the neighbouring premises had previously complained to them of the noise emanating from the licensed premises and that Mr Bailey had been warned on several occasions to deal with those noise complaints. He said that the lease had been transferred to the managing agent on 23 November 2017 and Mr Bailey had had no access to the premises as from that date. He confirmed that there had not been any noise complaints since Mr Bailey was removed from the lease. The representative admitted that the licensed premises had had successive operators that had caused noise issues to residential properties caused by patrons attending events and engaged in anti-social behaviour. The representative stated that the licensed premises had been taken over by the managing agents in a bid not to lose the premises licence and to resolve the concerns of noise raised by local residents.

The Sub-Committee asked the managing agents why it had not taken any steps to resolve the noise issues earlier bearing in mind the long history of complaints from local residents of loud audible music from the licensed premises and disturbances from customers using the rear garden area. The
managing agent’s representative stated that they had written on numerous occasions to Mr Bailey but, as the offices of the managing agents shut at 6pm, they were not aware of what went on after the offices were closed.

The Sub-Committee asked the managing agents what their visions were for the licensed premises. The managing agents stated that they wanted the licensed premises to be better managed as a restaurant in the interest of the community. Their proposals were to vet prospective lessees more strictly. They had no idea who would take on the lease but they did not want to lose the licence which they wished to market along with the lease.

The Sub-Committee found it interesting that whilst the managing agents had supported Mr Bailey in the earlier review they was now in agreement with the current review, that Mr Bailey had not managed the premises effectively. The managing agents admitted that some tenants at the back of the licensed premises were responsible for some noise nuisance. However, it had been difficult to assess where the noise had been coming from and so some confusion as to the source of the noise had arisen. In its defence the managing agents stated that they had wished to give Mr Bailey a chance to see whether he would comply with the modified licensing conditions after the first review. The Sub-Committee did not accept the explanation.

The Sub-Committee asked the managing agents what steps they had taken to ascertain if and how Mr Bailey was complying with the modified conditions. The managing agents stated that as their offices were closed at 6pm, little attempt was made to visit the licensed premises to see whether all was in order.

The managing agents told the Sub-Committee that they proposed to ensure that the premises were properly run by ensuring that any future lessee had experience of running licenced premises. The managing agents confirmed that it would be retaining the current DPS, Mrs Patricia Bailey, on the premises licence. The Sub-Committee noted that the Police had found Mrs Bailey to be ‘complicit’ in allowing the licensed premises operate outside its licensed hours.

In reaching their decision, the Sub-Committee considered all written and verbal representations.

The Sub-Committee noted paragraph 3.17 of its Licensing Policy that “Premises licenses will undergo review, where the premises in question is suspected to or proven to be the source of crime and disorder”. The Sub-Committee found that there had been 15 visits carried out by Licensing Officers since November 2016. Four of the visits undertaken since the previous review had been unsatisfactory due to excessive noise or other
breaches of the licence conditions. The Sub-Committee were concerned that despite the managing agents being fully aware of the noise issues that undermined the licensing objectives (particularly after the Review) they had failed to address the issues or take steps to ensure that the licensing conditions did not continue to be flouted.

The Sub-Committee noted that in accordance with paragraph 11.10 of its licensing policy the managing agents had been given early warning of the concerns by the Police, Licensing and Environmental Health (Noise) Teams who had carried out visits, had meetings, given both verbal and written warnings, served action plans and a noise abatement notice and even seized noise generating equipment from the licensed premises. Despite all the attempts to resolve issues, the licensed premises continued to be operated in the same manner and to the same hours as were permitted prior to the first review. The managing agents failed to demonstrate how they would promote the licensing objectives. The Sub-Committee were not convinced that the proposal to screen prospective tenants would be sufficient to ensure that the licensing conditions would not be breached.

In reaching its decision the Sub-Committee also took account of paragraph 11.18 of its licensing policy which states, “where responsible authorities such as the Police or Environmental Health Officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what action is appropriate”. The Sub-Committee was of the view that it could not place any weight on the assurances given by the managing agents that they could, by vetting, be certain to find a lessee that would comply with the licence conditions and uphold the licensing objectives.

Given the on-going nature of the breaches of the licensing conditions which had occurred by every successive licence holder, the Sub-Committee decided that the revocation of the licence was both appropriate and proportionate to promote the licensing objectives of the prevention of crime and disorder, the prevention of public nuisance and public safety.

No decision made by the Council will have effect during the time period within which an appeal may be brought and until such time that any appeal has been determined or abandoned.

The applicant for review, holder of the Premises Licence, or any other person who made relevant representations to the application may appeal against the Council’s decision to the Magistrates Court. Such an appeal must be submitted to the Magistrates Court within 21 days of the date from when the
appeal period is deemed to have started, which will be stated in the cover email/letter to the Notice of Decision.

### 6 Shade's Special Food Palace, 137 Plumstead Road, London SE18 7DY

**In attendance:**

- **Applicant for Review**
  - PC Simon Henderson (Greenwich Police Licensing Team)

- **In Support of Review**
  - Mrs Kathryn Wood (Environmental Health)
  - Gemma Devine (representing Cindy Marais of the Greenwich Child Safeguarding Board)
  - John McGrir (Public Health Licensing)
  - Sanam Mia (Greenwich Islamic Centre representative)

- **Licence Holder**
  - Mr Olusola Orelaja
  - Mr Victor Long (Representative)

The Chair welcomed all parties and ensured that introductions were made, all papers had been received and that all parties were aware of their right to be represented.

The Sub Committee considered an application by PC Simon Henderson from the Greenwich Licensing Police Team, for a review of the existing premises license for Shades Special Food Palace, 137, Plumstead Road, SE18 7DY.

The Licensing Officer gave an illustrated introduction into the report.

The Sub-Committee was addressed PC Simon Henderson of the Greenwich Police Licensing Team. He stated that the Police did not take reviews lightly and understood the impact it could have on a business however, due to the consistent nature of the breaches that had been highlighted they felt this was the best cause of action. He added that the supporting information submitted by the licence holder claimed there was collusion between the Police and the Mosque, which was strongly refuted.

The Sub-Committee was addressed by Kathryn Wood from the Environmental Health Team who had nothing to add to the written representation.
The Sub-Committee was addressed by Gemma Devine who was representing Cindy Marais of the Greenwich Child Safeguarding Board. She stated she had nothing to add to the contextualised evidence submitted as part of the representation. However in response to Mr Orelaja’s suggestion of a personal attack, she advised the Sub-Committee that the licensed premises had a high risk of child exploitation and it was felt that Mr Orelaja had a disregard for the conditions placed on the licence. She added that a lack of proper care made the premises desirable for targeted grooming and Shades were opening themselves to be a target.

The Sub-Committee was addressed by John McGrir (Public Health), who stated he had nothing to add to the written representation and supported the Greenwich Police Licensing Team based on the 4 licensing objectives.

The Sub-Committee was addressed by Sanam Mia (Greenwich Islamic Centre representative) who stated there were safety issues in Foreland Street as the area was dark and had poor lighting. He added that empty bottles were also a problem and the Mosque supported an outcome that would create a safer neighbourhood for everybody.

The Sub-Committee was addressed by Victor Long who was representing Mr Orelaja, the licence holder. He stated that the licence holder admitted to some cases of late closure and sometimes found it difficult to get people out of the premises. He added that the target market for Shades were respectable members of the community and the restaurant did not attract “hoodlums”.

Mr Long, the licence holders representative, stated that previously there was confusion between the Councils planning and licensing departments regarding the closure of the premises and asked for leniency from the Sub-Committee for the infractions during this period. He highlighted the site visits that were satisfactory and stated that the licence holder took the breaches seriously and does not allow customers to take alcohol outside the premises.

Mr Victor Long, the licence holder’s representative, stated that some of the concerns raised related to a “Mr A’s” restaurant located on Foreland Street, an area which had poor street lighting and littered bottles that were not sold at Shades. He added that the petition submitted by the Mosque was a result of an altercation between the Chief Imam and customers of “Mr A’s” restaurant, which the signatories were not made aware of. As a result he believed that the petition should not be considered at the hearing.

Mr Long, the licence holder’s representative, continued there was no evidence of Shade’s customers creating nuisance and it was other local businesses who attract such customers.
With regards to the protection of children from harm, Mr Long stated that the licence holder was a popular individual who served the community by running football training and coaching activities and the information contained in the report could be damaging to his character. He added that the visit on 01 November 2017 was the same day the licence holder’s daughter had visited the restaurant and the Licensing Officers could not differentiate between the owners family and customers.

Members of the Sub-Committee stated that 20 unsatisfactory visits out of 47 and the photographs showing people inside the restaurant while the shutters were half down was a concern and asked if any steps had been taken to rectify the issues raised.

Mr Long, the licence holders representative, stated that mistakes had been made by all parties including the Planning and Licensing Departments.

The Sub-Committee reminded Mr Long that it was the responsibility of the licence holder to adhere to the times and conditions of their licence, not the responsibility of the Authority.

In response to a question, Mr Orelaja, the licence holder stated there was no disorder on the premises and police never had to be called. He added that staff sometimes closed the shutters half way and then left via the backdoor before closing, suggesting that the customers believed to have been in the restaurant during the visits were actually staff members.

In response to a question, Mr Orelaja, the licence holder accepted that the steps he had taken previously were not good enough and he aimed to improve and work closely with the Authority. He added that he had advised staff to no longer leave the shutters half closed.

In response to questions, the applicant, PC Henderson confirmed that the Police were requesting that the licence be revoked and were aware of the issues surrounding “Mr A’s” restaurant. He added that during the visits to Shades if the issues were found to be “Mr A’s” restaurant this would have been clearly stated in the visit report.

All parties, with the exception of the Legal Advisor and Committee Officer, withdrew to allow the Sub-Committee to deliberate at 8.01pm. All parties returned at 8.13pm.

The Chair informed those present of the decision of the Sub-Committee, and stated that the full details would be given in the formal decision notice.
In reaching its decision, the Sub-Committee considered the Council’s Statement of Licensing Policy, the Licensing Act 2003, the Regulations made thereunder, and the Guidance issued by the Secretary of State under S.182 of that Act. In discharging its functions, the Sub-Committee did so with a view to promoting the licensing objectives of the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm.

The Sub-Committee reviewed the premises licence of:

**Shade’s Special Food Palace, 137 Plumstead Road, London SE18 7DY,**

and having considered all the evidence put before it, the Sub-Committee decided to:

- **Revoke the Premises Licence.**

The Sub-Committee’s decision was based on issues raised concerning prevention of crime and disorder, prevention of public nuisance, public safety, and protection of children from harm.

The Sub-Committee heard from the Police, who had brought the application for a review on grounds of a failure of the premises to promote all four licensing objectives. He referred to his written representations, informing the Sub-Committee that the action to review the premises licence had not been taken lightly. He said that there had been issues going back for some considerable period both before and after the premises licence had been granted, and there were instances more lately where the premises was being operated outside its licensable hours with the external shutters closed. The Police informed the Sub-Committee that there had been allegations from the licence holder of connivance with the mosque next door in lodging the review, which was strongly refuted.

The Sub-Committee heard from the Environmental Health Officer who supported the review on basis of a failure to promote the public safety and protection of children from harm licensing objectives. In her written representations, the Environmental Health Officer stated that she had reviewed the Police evidence regarding the closing of shutters at the premises whilst customers were still occupying it and considered this to be a risk to public safety. She also referred to an incident on 01 November 2017, where the Police observed that a 10 or 11 year-old boy who had been shuttered in along with other adults was seen leaving the premises at 00:25 whilst others remained inside. She stated that the practice of shuttering was a safety risk and the presence of a child after midnight was a breach of the
licensing conditions which stated that persons below 16 years must not be on
the premises after 21:00 hours. The Sub-Committee placed weight on her
representations.

The Licensing Officer, who had been asked to address the Sub-Committee on
behalf of the Greenwich Safeguarding Children Board in their absence,
referred to the written representations at Appendix G (Rep 2). She stated
orally that the licensed premises had demonstrated by several past breaches a
disregard for compliance with licensing conditions. In the matter of a child
being on the premises at 00:25 hours, the Safeguarding Children Board wrote
in their written representation that, “It is clear that a premises which has no
regard for even the most basic conditions such as licensing hours, and the fact
that the child protection condition of children not being admitted after 21:00
was not followed, suggests that the holder may continue to have little regard
for the welfare of children… This is exemplified by the fact that on almost
every occasion that the premises have been caught operating outside of
conditions, the shutters of the premises have been down – preventing escape
and risking lives of all patrons, including any children that may be on site.”
The Sub-Committee placed considerable weight on the representations.

The Public Health Officer supported the review on the basis of all the four
licensing objectives. He referred to his written representations, which were
summarised as follows:

- The licence should be revoked as it would prevent further negative
  impacts on all the licensing objectives;
- Revocation of the licence would also prevent further breaches of
  licensable conditions, thus preventing drink related anti-social
  behaviour;
- Removal of the licence would prevent further public disorder and
  nuisance;
- Revoking the licence would mean that children would no longer be
  placed at risk.

The Sub-Committee placed great weight on the representation.

A representative from the Greenwich Islamic Centre made oral and written
representations (including a petition), stating that he wanted to keep the
streets safe and that there had been several incidents of anti-social behaviour
such as public urination and drug dealing in Foreland Street, located between
Shade’s and the mosque, that he attributed to Shade’s customers. The Sub-
Committee accepted his representations.
The Sub-Committee heard from the representative of the licence holder. He pleaded for leniency and admitted that on a “few” occasions, the premises had closed between 20 to 30 minutes after licensing hours. This was because it was difficult to get customers out of the premises. He stated that the premises attracted well-behaved clientele and management had put in place a structure that would enable closure at midnight. He stated that there were breaches of the licensing conditions years back because of confusion between the hours allowed by planning control and the licensable hours authorised under the Licensing Act 2003. The Sub-Committee did not accept that there was confusion of the different hours given under the planning control and licensing regimes. It was commonplace for there to be a discrepancy between the hours allowed under planning and licensing, and it was up to the licence holder to ensure he was compliant under the separate regimes.

The representative for the licence holder also informed the Sub-Committee that they catered for a target niche and operated a system whereby patrons ate on the premises, except food purchased as takeaways. He stated that another restaurant operating close by, “Mr A’s” in Foreland Street, attracted people engaging in anti-social behaviour, having bought alcohol from other premises. He said that the people attending the mosque who had signed the petition presented by the Greenwich Islamic Centre had been induced to sign it, believing that the petition was against “Mr A’s” restaurant and not Shade’s. He said the anti-social behaviour did not come from his patrons, but from nearby shops, from the rear of Plumstead train station, and particularly from the neighbouring barber shop.

The Sub-Committee were told that the licence holder took particular issue with the claim that the premises did not promote the licensing objectives of the protection of children from harm. The licence holder was a popular and committed member of the community who coached children in sport. The representative for the licence holder said that breaches of licensing conditions were exaggerated and pointed to the wrong restaurant.

The Sub-Committee was of the view that the licence holder’s representative trivialized the Police’s concerns. It noted that out of 47 visits that had been conducted since 07 June 2013, twenty (20) of them were unsatisfactory in one form or another.

The Sub-Committee asked why it had taken the licence holder so long to promote the licensing objectives and asked what confidence they could have that the licensing conditions would not continue to be flouted. The licence holder’s representative said that efforts had now been made to ensure that no-one remained in the restaurant after midnight and that the shutters would remain open until the last customer had left the premises.
The Sub-Committee found:

1. That the licensed premises were staying open beyond its permitted hours and shutters were pulled down to disguise the fact. There was damning recent evidence, in particular, on 01 November 2017 that a young boy was seen emerging out of the restaurant long after a licensing condition permitted children to be there, and after the licensing hours themselves. Also, on 02 November 2017, customers were seen by police in the premises “chock-a-block” consuming alcohol after licensing hours (at 00:20).

2. That the licence holder, who was also the DPS, had taken insufficient steps to ensure that the premises operated within their licensing hours and upheld the licensing objectives, despite warning letters, numerous visits by – and conversations with – the police and local authority officers, and assurances from the licence holder himself, until November 2017 when the Police made an application for a review.

3. That the pulling down of the shutters was a fire risk and a very serious safety issue, which the licence holder had continued to engage in.

In reaching their decision, the Sub-Committee considered all written and oral representations.

The Sub-Committee was of the view that the licence holder was very casual in his attitude and did not appear to understand the seriousness of the issues that had been raised. The Sub-Committee noted the long list of unsatisfactory visits that had occurred and the lack of impact it had on the licence holder’s behaviour. The matter was made worse because the licence holder was also the DPS and there was a higher expectation that he would understand the importance of promoting the licencing objectives at all times.

The Sub-Committee were minded to revoke the premises licence as they had no confidence that the licence holder would continue to abide by the licensing conditions, considering the long history of a deliberate failure to promote the prevention of crime and disorder, the prevention of public nuisance, public safety, and protection from children from harm licensing objectives.

No decision made by the Council will have effect during the time period within which an appeal may be brought and until such time that any appeal has been determined or abandoned.

The applicant for review, holder of the Premises Licence, or any other person who made relevant representations to the application may appeal against the
Council’s decision to the Magistrates’ Court. Such an appeal must be submitted to the Magistrates’ Court within 21 days of the date from when the appeal period is deemed to have started, which will be stated in the cover email/letter to the Notice of Decision.

The meeting closed at 8.14 pm

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Chair