

## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Friday 24 August 2018 at 10.00 am at Ground Floor Meeting Room G02A - 160 Tooley Street, London SE1 2QH

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**PRESENT:** Councillor Renata Hamvas (Chair)  
Councillor Dora Dixon-Fyle MBE  
Councillor Sandra Rhule

**OFFICER SUPPORT:** Debra Allday, legal officer  
Wesley McArthur, licensing officer  
Jayne Tear, licensing officer as a responsible authority  
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: UNDERDOG GALLERY, RAILWAY ARCH 6, CRUCIFIX LANE, LONDON SE1 3JW

Prior to the meeting, the members of the sub-committee viewed electronic photographs and video evidence that had been submitted as part of the review application.

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

The legal representative for the premises made representations to the sub-committee for letters of support to be submitted to the sub-committee. The legal officer for the sub-committee advised that these should have been submitted during the consultation period.

The meeting adjourned at 10.53am to allow all parties time to look at a letter of support from an officer of the Greater London Authority and whether they agreed to let this be considered as evidence by the sub-committee.

The meeting reconvened at 11.08am and all parties advised that they agreed that the letter should be considered by the sub-committee.

The applicant for the review addressed the sub-committee. Members had questions for the applicant for the review. The sub-committee also requested that the applicant for the review talk them through some of the video and photographic evidence that they had submitted.

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

The sub-committee heard from an other person and their witness who supported the review. Members had questions for the other person and their witness.

The legal representative for the premises had questions for the other person supporting the review.

The director of the premises and their legal representative addressed the sub-committee. Members had questions for the director of the premises and their legal representative.

All parties were given five minutes for summing up.

The meeting adjourned at 2.22pm for the members to consider their decision.

The meeting resumed at 3.30pm and the chair advised all parties of the sub-committee's decision.

#### **RESOLVED:**

That the council's licensing sub-committee, having considered an application made under Section 51 of the Licensing Act 2003 by another person for the review of the premises licence issued in respect of the premises known as Underdog Gallery, Railway Arch 6, Crucifix Lane, London SE1 3JW and having had regard to all other relevant representations has decided that the following points are necessary for the promotion of the licensing objectives:

- i. That the premises licence be suspended for 14-days.
- ii. That the DPS be removed.

- iii. That live music be removed as a licensable activity from the premises licence.
- iv. That in accordance with Section 177A(a) of the Licensing Act 2003, music played between 08:00 hours and 23:00 hours shall be regulated.
- v. That condition 840 be amended to read:  
  
 "That a comprehensive admission and dispersal policy shall be devised in respect of the premises. A copy of the admission and dispersal policy shall be kept at the premises and be made immediately available to officers of the council and/or the police on request. All staff at the premises shall be trained with regards to the admission and dispersal policy. Records for such training (which shall include the name of the printed names, signature, date and declaration that the training was has been received) shall be kept at the premises. The admission and dispersal policy shall address, but not limited to.
  - a. Customer access, egress and dispersal to and from the premises including the operation of a barrier and queuing system in a north-west direction towards Bermondsey Street.
  - b. Ejections of customers from the premises.
  - c. The implementation of a minimum 30-minute "winding down" period prior to the premises closing on each day.
  - d. Violence in respect of customers/staff at the premises.
  - e. The failure of CCTV/sound limiting equipment at the premises.
  - f. The implementation and management of a cloakroom facility at the premises.
  - g. Details of public transport in the vicinity and how customers will be advised in respect of it.
  - h. Details of taxis firms to and from the premises.
  - i. Details as to the management and proper use of entrance/exit doors at the premises.
- vi. That condition 356 be amended to read:  
  
 "That an acoustic entrance lobby shall be installed at the premises. Doors in the lobby shall be fitted with acoustic seals and brushes and shall be self-closing. Doors shall be closed except for immediate and / or emergency access / egress".
- vii. That an acoustic curtain shall be installed to the inner door of the acoustic lobby.
- viii. That there be a maximum accommodation limit of 200 persons including staff permitted at the premises at any one time.
- ix. That the rules relating to external promoters and venue hirers on page 31 of the agenda be adopted as conditions to the premises licence.
- x. That all amplified music be played through the sound limiting device.
- xi. That the SIA door supervisors currently used at the premises be removed and new SIA door supervisors be recruited via a company that is a member of the SIA Approved Contractor Scheme.
- xii. That a minimum of two SIA registered door supervisors or a ratio of one door

supervisor for each 50 guests (or part thereof), whichever is the greater, shall be employed at the premises.

xiii. That all SIA officers shall wear high visibility vests.

xiv. That condition 355 and 357 be removed.

### **Reasons**

The applicant to the review advised that the application had been submitted in respect of the prevention of public nuisance licensing objective. They had objected to the premises licence in 2014 when the premises licence holder stated that the sale of alcohol and licensable activities was to compliment the business model, being primarily an art gallery. After obtaining the licence, the gallery appeared to operate as a subsidiary to a nightclub, in breach of condition 844 of the premises licence: *“That the premises shall not operate as a night club”*. It was accepted that whilst there was no statutory definition for a nightclub, the premises had all the characteristics of one, namely a place of entertainment open at night usually serving food and liquor and providing music and space for dancing and often having a floor show.

Since the premises licence had been granted, there had been excessive noise nuisance from extremely loud music emanating from the premises and the premises’ customers congregating at and in the vicinity of the premise; the customers engage in noisy activities such as shouting and jeering. The premises had on occasions operated outside of permitted hours sometimes hosting “club nights” finishing between 04:00 and 05:00 hours. Furthermore, staff at the premises have acted aggressively to and/or not been receptive to residents when residents have sought to address directly with premises’ staff noise nuisance emanating from the premises.

The applicant submitted video evidence from 2 July 2017 when there had been a temporary event notice (TEN) when there had been an incident of disorderly crowds (of approximately 50-60 people) outside the premises, in the street, which prevented traffic to pass. The licensing sub-committee considered this to be a serious incident. More recently, video evidence that demonstrated the level of noise and disorderly crowds was shown from 1 June and 3 July 2018. During all of the footage shown, the SIA officers were not obviously visible.

The licensing sub-committee then heard from Party 5 and their witness, who reiterated the complaints raised by the applicant.

The licensing sub-committee heard from licensing as a responsible authority who supported the review application in relation to the prevention of public nuisance and the prevention of crime and disorder licensing objectives. The officer agreed that the premises licence holder was operating as a nightclub and that several complaints made to the licensing unit in regards to noise, that licensing officers have witnessed the premises being operated in breach of the conditions of the premises licence issued in respect of the premises and that a warning has been issued regarding breaches of the premises licence. Further evidence, relating to TENs submitted in respect of the premises and also visits to the premises by police and council officers has been submitted by the licensing responsible authority.

The licensing sub-committee then heard from the representative for the premises licence holder who disputed that the premises was operating as a nightclub, but accepted that the problems appeared to arise when the premises was being let out for events, when the premises licence holder had no control over. This the sub-committee found unacceptable

and noted flyers advertising events such as “*All nighter at Arch Gallery*” (Kabuki 11/05/2018), “*The Retribution club night keeps the neighbours awake until 1am*” (Retributive Alive 19 May 2018). When informed that the premises had been operating after hours, the previous designated premises supervisor (DPS) was dismissed. On questioning, it was accepted that there had been no change of DPS; the premises licence holder was the DPS and it was he who dismissed the previous manager. The licensing sub-committee were advised of “extensive steps” that had been taken to address residents concerns: the installation of an acoustic lobby and acoustic curtain all amplified music was being played via a sound limiting device. However, it was noted that these were already conditions on the licence, so effectively it had taken four years, numerous complaints and the review application for the premises licence holder to implement these conditions.

The licensing sub-committee noted the representations from four other persons who supported the review.

The licensing sub-committee also noted the representation from the Greater London Authority in support of the premises.

The licensing sub-committee were extremely concerned that conditions imposed when the premises licence was granted in 2014, which were designed to prevent public nuisance and crime and disorder, had not been implemented. Due to the failure to implement the conditions, there had been serious failings by the premises and complaints made by local residents. The sub-committee felt that the failings fell squarely with the DPS and as a result, concluded that he must be removed. The sub-committee also concluded that it was essential that the conditions to the premises licence be modified and without them, further complaints of noise nuisance would be received. The sub-committee felt that the two week suspension would give the premises licence holder an opportunity to implement the conditions and appoint a new DPS, in addition to providing the local residents much needed respite.

Following the suspension of the licence, the licensing sub-committee expect the licensing unit to carry out a full inspection to ensure that each and every condition is complied with prior to the premises licence being operational.

The premises licence holder advised the licensing sub-committee that he would not submit any TENs in the future. In view of live music being removed from the licence as a result of this review, the licensing sub-committee also recommends that should any TENs be submitted in respect of the premises, counter-notices should be served by the environmental protection team and/or the police, so the sub-committee can add these modified conditions to the TENs.

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**

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.

**6. LICENSING ACT 2003: PULSE, 1 INVICTA PLAZA, LONDON SE1 9UF - TEMPORARY EVENT NOTICES**

It was noted that the premises user had withdrawn their applications for temporary event notices.

Meeting ended at 3.35 pm

**CHAIR:**

**DATED:**