

## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 16 November 2023 at 10.00 am at Online/Virtual: please contact [andrew.weir@southwark.gov.uk](mailto:andrew.weir@southwark.gov.uk) for a link to the meeting and the instructions for joining the online

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**PRESENT** Councillor Sunny Lambe (in the chair)  
Councillor Barrie Hargrove  
Councillor Ian Wingfield

**OFFICER SUPPORT:** Debra Allday, legal officer  
Matt Tucker, licensing officer  
Richard Earis, environmental protection team officer  
Wesley McArthur, licensing responsible authority officer  
Andrew Weir, constitutional team

### 1. ELECTION OF THE CHAIR

The clerk opened the meeting at 10.00am.

Councillor Ian Wingfield nominated Councillor Sunny Lambe to be the chair for the meeting. This was seconded by Councillor Barrie Hargrove.

### 2. APOLOGIES

The chair explained to the participants and observers how the meeting would run.

Everyone then introduced themselves.

There were no apologies for absence.

**3. CONFIRMATION OF VOTING MEMBERS**

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

**4. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT**

There were none.

**5. DISCLOSURE OF INTERESTS AND DISPENSATIONS**

There were none.

**6. LICENSING ACT 2003: MAMBO 190 BAR & LOUNGE, 190-192 OLD KENT ROAD, LONDON SE1 5TY**

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

It was noted that the Metropolitan Police Service and the environmental protection team had conciliated with the applicant prior to the meeting.

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

The other person objecting to the application addressed the sub-committee. Members had questions for the other person.

The legal representative for the applicant had questions for the other person objecting.

The sub-committee noted the two further representations from other persons, who were not present.

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

The meeting adjourned at 11.22am for the sub-committee to consider

The meeting reconvened at 12.00pm and the chair advised everyone of the decision.

**RESOLVED:**

That the application made by Diego Eduardo Zambrano Fernández for a premises licence to be varied under Section 34 of the Licensing Act 2003 in respect of the

premises known as Mambo 190 Bar & Lounge, 190- 192 Old Kent Road, London SE1 5TY be granted (in part):

### Hours

Opening hours of the premises	Friday and Saturday: 07:00 to 04:30
Recorded music – indoors	Friday and Saturday: 11:00 to 04:00
Performances of dance – indoors	Friday and Saturday: 11:00 to 04:00
Live and recorded music – indoors	Friday and Saturday: 11:00 to 04:00
Late night refreshment – indoors	Friday and Saturday: 23:00 to 03:00
Supply of alcohol (for consumption on the premises)	Friday and Saturday: 11:00 to 04:00

### Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operation schedule highlighted in section M of the application form, the conditions agreed with the Metropolitan Police Service and the environmental protection team, and the following additional conditions agreed by the sub-committee:

1. That the personal telephone number for the premises management team shall be made available to residents.
2. That two wardens wearing high visibility clothing shall be placed at Marcia Road from 00:00 until 30 minutes after closing.

### Reasons

This was an application for the variation of the premises known as Mambo 190 Bar & Lounge, 190-192 Old Kent Road, London SE1 5TY.

The licensing sub-committee heard from the representative for the applicant who advised that the premises attracted the South American community who tended to go out late in the night.

The premises had enjoyed the benefit of a premises licence since 2007. In or around January 2023 the applicant applied to vary the premises licence to extend hours. This application was withdrawn following consultation with the police who suggested it would be wise to submit temporary event notices (TENs) to demonstrate that the premises could be operated responsibly, demonstrating that the applicant could promote the licensing objectives.

Since this time, the applicant had operated 12 TENs from 03:00 until 06:00 or 07:00 on Fridays and Saturdays, all without incident. The most recent TEN was on 11 November from 03:00 until 06:00, again passing without incident or complaint. It was stressed that until the variation application had been submitted no complaints or concerns had been raised by any local residents, which included the hotel situated directly adjacent to the premises.

As a result of statutory consultation, the application had attracted representations from two of the responsible authorities: Metropolitan Police Service and the environmental protection team (EPT). There had also been three objections submitted by local residents. Additional conditions had been agreed with the police and EPT and as a result, their representations had been withdrawn. The three resident objections remained outstanding.

The applicant's representative informed the sub-committee that the concerns raised in the representations to the application concerned the applicant greatly. They advised that a number of steps had been taken to mitigate the impact the premises had on its neighbours.

They advised that the applicant had increased its security to four SIA door supervisors and an additional two wardens had been deployed in high visibility clothing at the entrance to Marcia Road (directly opposite to 190-192 Old Kent Road). A comprehensive dispersal policy dealing with ingress and egress had been implemented. Substantial sound proofing had been undertaken at the premises that cost approximately £40,000 pounds. Included in this, an acoustic lobby had been constructed that would ensure there was no sound leakage with patrons entering/leaving the premises.

The licensing sub-committee heard from Other Person C, who objected to the licence. Other Person C had experienced anti-social behaviour, fighting and criminal damage, all from the premises clientele. The applicant did not have any control over the noise from the premises' patrons when they congregated outside the club throughout the night. Fights of up to 30-40 of the premises' customers had also been witnessed by Other Person C. This often spilled into Marcia Road, where patrons would drunkenly urinate in residents' gardens.

The licensing sub-committee noted the representations from two other persons who were not in attendance at the hearing.

The licensing sub-committee noted the representations from the environmental protection team (EPT) and the Metropolitan Police Service, both of whom had conciliated their representations and were not in attendance at the hearing.

This was a variation application in respect of Mambo 190 Bar & Lounge, 190- 192 Old Kent Road, London SE1 5TY. The premises licence has largely been in its current form since at 2007, pre-dating "recommended terminal hour rule" in Southwark's statement of licensing policy 2018. For benefit of the Other Persons,

the permitted licensable activities on the premises licence were not considered at this hearing.

Other person C stated that a petition had been submitted, but due to the fact that it did not comply with the terms of the Licensing Act 2003, it could not be considered.

The sub-committee is of the view that the premises licence is now robust with the 28 conditions agreed with the Metropolitan Police Service and the EPT, and the additional conditions imposed by this sub-committee. These conditions will ensure that local residents are not disturbed by the operation of the premises.

Because of the concern raised of patrons congregating on the streets, it was felt that the activities should at least be curbed on regular work/school nights for the benefit of the local residents.

In the unlikely event that residents should be disturbed, it is important that reports are made to the police for public order matters and to EPT in respect of noise issues. Residents are also reminded that they have a right to call the premises licence in for a review when ultimately, the licensing sub-committee could revoke the premises licence. The residents are also reminded, that they have the right to appeal the decision at the Magistrates' Court, the details of which are provided in this notice of decision.

In reaching this decision the sub-committee had regard to all the relevant considerations, the four licensing objectives and the public sector equality duty and determined that this decision was appropriate and proportionate.

### **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) The variation ought not to be granted; 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.

**7. LICENSING ACT 2003: THE AXIS, 141 ORMSIDE STREET, LONDON SE15 1TF**

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

The environmental protection team officer addressed the sub-committee. Members had questions for the environmental protection team officer.

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

The meeting adjourned at 11.50am for the sub-committee to consider

The meeting reconvened at 1.03pm and the chair advised everyone of the decision.

**RESOLVED:**

That the application made by The Axis Bermondsey Limited for the variation of a premises licence to be varied under Section 34 of the Licensing Act 2003 in respect of the premises known as The Axis, 141 Ormside Street, London SE15 1TF be granted.

**Hours**

Opening hours of the Premises	<ul style="list-style-type: none"><li>• Sunday to Wednesday: 11:00 to 01:00</li><li>• Thursday to Saturday: 11:00 to 04:00</li></ul>
Regulated Entertainment - Indoors	<ul style="list-style-type: none"><li>• Sunday to Wednesday: 11:00 to 01:00</li><li>• Thursday to Sunday: 11:00 to 03:30</li></ul>
Supply of alcohol (for consumption on the premises)	<ul style="list-style-type: none"><li>• Sunday to Wednesday: 11:00 to 01:00</li><li>• Thursday to Sunday: 11:00 to 03:30.</li></ul>

**Conditions**

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operation schedule highlighted in section M of the application form, the conditions agreed with the environmental protection team, licensing as responsible authority and the following additional conditions agreed by the sub-committee:

1. That the first condition proposed by licensing as a responsible authority on page 92 of the agenda be amended to read 'That there should be at least 1 SIA security with 2 SIA subject to a risk assessment'.
2. That 'Ask for Angela' posters (or posters relating to whatever similar scheme may be recommended by the council and / or the police at any time) shall be displayed in the female toilet facilities and kept free from obstructions at all times. All staff shall be trained in the 'Ask for Angela' scheme (or similar scheme) and shall perform the appropriate course of action in the event of a customer requesting assistance. Details of such training, including the printed name of the trainee and the date of the training, shall be recorded in the staff training logs at the premises."

## **Reasons**

This was an application for the variation of a premises licence made by The Axis Bermondsey in respect of The Axis, 141 Ormside Street, London SE15 1TF.

The licensing sub-committee heard from the applicant who advised members that The Axis Bermondsey's primarily business was a music studio complex, with office space above. The premises at 141 Ormside Street had 10 premium professional build studios that could be hired out on long lets to the likes of Universal Records and Island Records. The studios were well soundproofed, as this was the main aim of the business.

It was made clear that it was not the applicant's intention on setting up a nightclub nor having nightclub nights. The premises also had a software business which made music, software, plug-ins in addition to a music instrument manufacturer and software manufacturer.

The applicant stated that they were attracted to the premises due to cultural activities within the borough and being opposite Ormside Projects which operated until 06:00. It was important for the applicant to have a licensed event space to develop a community culture that would also be used as leverage to attract artists/people to the studios and also, use in the marketing of products and services that are offered. The primary focus was for an event space, not to attract large bodies of drinking people, but to actually facilitate the culture and the community it serves.

The area where the premises is based was designated, by Southwark in its statement of licensing policy 2021-2016 (SoLP), as a major town centre and strategic cultural area.

Because of this, to refuse the application in a largely industrial area would be unjust. It was also stressed that there were other studios in the area (approximately 10 music related or music businesses with recording studios and other similarly related things).

The blocks of flats being constructed were further away to the premises than that of Ormside Projects, which were larger premises that focused on night time activity only, with a 06:00 hours premises licence.

The applicant advised that the current hours were 11:00 to 23:00, which were within the SoLP's recommended hours. This allowed the applicant to establish a viable business whilst also not disrupting the area or any residents.

It was found most people/artists wanted to showcase their works and carry out various different activities until 01:00 or 02:00. It was difficult to acquire reputable small acts at a premises with a 23:00 licence. The applicant was therefore gaining better acts by 'testing the waters' with temporary event notices (TENs).

The applicant advised that they had exhausted the annual allowance for TENs. The applicant explained that TENs had given them the flexibility to operate after 23:00, if people wanted the events to continue until later. All events had been guest listed/private. This would continue if the sub-committee granted the variation application.

It was noted by the applicant that most events petered out at approximately 03:00-04:00 hours and stressed that the TENs were essentially private hire events.

The licensing sub-committee then heard from licensing as a responsible authority who stated contrary to the description in the Statement of Licensing Policy 2021-2026 (SoLP) that the premises was in a residential area, it was in fact, more industrial area.

Regardless, new residential properties were being built in the locale meaning new residents would be in that area who would be affected by the noise and the crowds from the premises, dispersing through the local streets when it's operating late at night. An amended dispersal policy had been agreed with the officer concerning this.

The officer also reminded members that although the premises had operated temporary event notices (TENs) successfully and without complaint, TENs were a separate regime within licensing. The officer added that TENs were not a testing ground or a precursor to issuing a premises licence or a variation specified in the Licensing Act 2003 or the Home Office Revised Guidance issued under Section 182 of the Licensing Act 2003 (August 2023), or the SoLP. It was submitted by the officer that minimum weight should be given when members considered the matter.

The applicant sought to vary the premises from 23:00 (Monday to Sunday) to 01:00 (Sunday to Wednesday) and 04:00 (Thursday to Saturday) which amounted to an increase from 26 days (under the TENs regime) to 365 days, if members granted the application.. This amounted to an increase of 1303%. In addition, the applicant would also be able to utilise the TENs regime.



Concerning the Ormside Projects premises licence, it had a terminal hour of 06:00. It could be said that in light of this, the applicant could be granted the terminal hours sought. Alternatively, it could be said that another premises with a late night licence could add to the problems of noise and late night dispersal (particularly the latter) in the area, in which case, there should be SIA security officers conditions on the premises licence, which the applicant agreed.

The licensing sub-committee heard from the environmental protection team (EPT) whose representation was submitted on the grounds of prevention of public nuisance, primarily around the policy hours, which significantly exceeded the hours in Southwark's statement of licensing policy.

The officer stated that the area was currently almost entirely commercial, although noted that there were two residential units (described as live-work units) in the Penarth Centre, opposite the premises and some new blocks on Hatcham Road.

The premises had operated to late hours under temporary event notices (TENs), similar to those applied for in the application being considered, although regulated entertainment was not always included. It was possible that complaints had not been received because there were not currently residents in the immediate vicinity.

The officer stressed that although the area was largely industrial/commercial, it was an area that was changing rapidly and that the whole area was earmarked for significant residential development in the Southwark Plan:

<https://www.southwark.gov.uk/planning-and-building-control/planning-policy-and-guidance/development-plan/new-southwark-plan>.

This development would include the whole of the east side of Ormside St and all of Hatcham Road and Ilderton Road at which time, the area would be a residential or mixed residential/commercial development. Diagonally opposite the premises, planning consent had been granted for 18-22 Penarth St, that would include for 283 co-living studios and 47 residential flats, which would have a direct view over the premises.

Reference was made of the Ormside Projects that had a late night licence (Monday to Wednesday 12:00 - 00:30; Thursday 12:00 - 02:30; Friday/Saturday 10:00 - 06:30 and Sunday 12:00 - 02:30). This licence had been granted on an exceptional basis based on the arts contribution of the premises.

Although the premises was not in a cumulative impact area (CIA), the environmental protection team had concerns of the proliferation of very late night uses in an area which the licensing policy says is an emerging residential area. On that basis, it was the view of EPT that it was inappropriate to grant a the variation application in view of the SoLP.

This was an application for the variation of a premises licence in respect of The Axis, 141 Ormside Street, London SE15 1TF.

The applicant stated during its presentation that he had emailed officers accepting their proposed conditions, but accepted that the emails were sent late, so meant the hearing was required. It was also noted that there were no objections from residents and only two representations had been received from two responsible authorities.

Although there is no reference in the legislation, guidance or Southwark's SoLP stating that the use of TENs history was not a precursor to grant of an application, there was also no case law stating that could not be considered when determining an application.

Licensing sub-committees do consider all applications on their own merits. Given that large number of TENs having taken place, with neither any complaints from residents nor any objection notices issued by the Metropolitan Police Service or the EPT, greater weight could be added to the TENs in the sub-committee's determination of the application. The premises compliance when operating under a TEN demonstrates the applicant's commitment to promote the licensing objectives.

Although Southwark's SoLP describes the location as residential, the sub-committee acknowledges that there are 'pockets' of the borough where the description in the SoLP is incorrect. The sub-committee agreed that the area is commercial/industrial. It also recognised the area was earmarked for future residential development, although it was unknown when the development would commence.

Although issues relating to planning are not relevant to licensing, suffice to say, prior to the construction of any residential development, the developers would be mindful of the surrounding area and include the sound insulation to mitigate any public nuisance issues.

The sub-committee also recognised that the recommended terminal hour for the area as 23:00. However, the sub-committee take the view that there are sufficient grounds to depart from the recommended hours, given the comments in the open agenda by licensing as a responsible authority "We do not object to the addition of regulated entertainment to the existing premises licence" (page 91 of the agenda) and EPT's comment during the course of the hearing that the applicant agreeing to its proposed conditions, mitigated the risk as far as EPT were concerned.

In reaching this decision the sub-committee had regard to all the relevant considerations, the four licensing objectives and the public sector equality duty and determined that this decision was appropriate and proportionate.

## **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) The variation ought not to be been granted; 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.

The meeting ended at 1.47pm.

**CHAIR:**

**DATED:**