

MEMO: Licensing Unit

To	Licensing Unit	Date	13 July 2018
Copies			
From	Jayne Tear	Telephone	020 7525 0396
Email	jayne.tear@southwark.gov.uk		

Subject Re: Underdog Gallery, Railway Arch 6, Crucifix Lane, London, SE1 3JW
 - Application to review the premises licence.

I write with regards to the above application to review the premises licence submitted by Amala Desai under the Licensing Act 2003.

The application is submitted under the prevention of public nuisance licensing objective and the grounds for the review are:

'The applicant has been experiencing persistent noise nuisance caused by the operation of the premises. The noise nuisance caused by live music; recorded music and by noisy patrons attending the premises and congregating in the locale. It is alleged that staff at the premises react aggressively towards local residents who approach the premises to raise residents concerns. It is further alleged that the premises operate as a nightclub in breach of condition 844 of the premises licence issued in respect of the premises. Condition 844 of the licence prohibits the premises from operating as a nightclub'

My representation is concerned with the prevention of public nuisance and the prevention of crime and disorder.

This premise is situated within the Bankside, Borough, London Bridge Strategic Cultural & London Bridge District Town Centre Area and also falls within the Borough and Bankside CIP Area.

When the premises licence was originally applied for it was described within the application as an 'Art Gallery'. There were several representations from other persons and responsible authorities. The licence was granted with conditions by the licensing sub committee on 17 October 2014. I attach the notice of decision of the licensing sub committee to this representation.

It would seem that the nature of the operation of the premises has changed and the premises is now operating as a night club / music venue.

There have been several complaints to the licensing unit regarding noise and licensing officers have witnessed breaches of the premises licence conditions. Several warnings have been issued regarding the offences which I attach as supporting information to this representation.

I may provide further supporting information to this representation at a later stage.

Jayne Tear
 Principal Licensing officer
 In the capacity of the Licensing Responsible Authority

NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 17 OCTOBER 2014

LICENSING ACT 2003: ARCH 6, CRUCIFIX LANE, LONDON, SE1 3JW

1. Decision

That the application submitted by Underdog Art Company Ltd for the grant of a premises licence issued under the Licensing Act 2003 in respect of Arch 6, Crucifix Lane, London SE1 3JW be granted as follows:

Licensable Activity	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Sale and supply of alcohol (on the premises)	11.00 to 23.00	11.00 to 23.00	11.00 to 23.00	11.00 to 23.00	11.00 to 00.30	11.00 to 00.30	11.00 to 22.30
Films, live music and recorded music	09.00 to 23.00	09.00 to 23.00	09.00 to 23.00	09.00 to 23.00	09.00 to 00.30	09.00 to 00.30	09.00 to 22.30
Late night refreshment					23.00 to 00.30	23.00 to 00.30	
Hours premises are open to the public	09.00 to 23.30	09.00 to 23.30	09.00 to 23.30	09.00 to 23.30	09.00 to 01.00	09.00 to 01.00	09.00 to 23.00

2. 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 and conditions agreed to between the applicant and the responsible authorities:

Subject to the following additional condition agreed by the sub-committee:

1. That the applicant shall provide a written dispersal policy to be available to officers on request and to be kept at the premises at all times.
2. That all staff shall be trained in accordance with the dispersal policy.
3. That a contact telephone number will be displayed at the premises in such a manner that it can be identified as a contact number and can easily be seen and read from outside the premises to allow residents and members of the public to contact an on duty responsible member of staff in respect of any issues regarding the premises.
4. That live music shall only take place at the rear of the premises.

5. That any litter, waste or refuse or similar arising from the operation of the premises shall be cleared away by the premises staff, from the vicinity of the premises immediately after the premises closes on each day.

6. That the premises shall not operate as a nightclub.

3. **Reasons**

This was an application submitted by Underdog Art Company Ltd for the grant of a premises licence issued under the Licensing Act 2003 in respect of Arch 6, Crucifix Lane, London SE1 3JW

The licensing sub-committee heard evidence from the applicant and their representative who informed the sub-committee that they had sought to reduce the operation hours in respect of the original application and considered the new proposed hours to be reasonable. They advised that the premises operated as an art gallery and the licensable activities are required to compliment the current operation.

The applicant stated that he had been trading as an art gallery since 2006 and had been in operation at the premises since 2011.

The applicant sought to reassure the sub-committee that the premises would not operate as a nightclub and highlighted that they had conciliated and accepted all of the conditions proposed by the environmental protection team and the police. As further reassurance, the applicant stated that they would be happy for a condition stating that the premises would not operate as a nightclub to be imposed on the licence.

The applicant also highlighted that the conditions proposed and accepted would serve as further control in respect of the operation of the premises and stated their willingness to ensure that all conditions are adhered to.

The licensing sub-committee heard from two other persons, one of whom was speaking on behalf of four other residents. The residents stated that they considered the premises to operate as a nightclub and had concerns with regards to the noise nuisance emanating from the premises. They also raised issues with the proposed licensable hours. The residents referred to previous temporary event notices that had occurred at the premises and expressed their dissatisfaction with the operation of these events.

The residents also stated that they had concerns regarding patrons smoking outside the premises and questioned the need for the sale of alcohol to commence at 9.00am. The residents further stated that they would be satisfied if a condition was imposed on the licence which prohibited the use of the premises as a nightclub. The residents also stated that a reduction in hours would assist in alleviating their concerns.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives.

The licensing sub-committee considered that it was appropriate and proportionate to attach these conditions in order to address the licensing objectives.

4. **Appeal rights**

The applicant may appeal against any decision

- a) To impose conditions on the licence
- b) To exclude a licensable activity or refuse to specify a person as premises supervisor.

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

- a) That the licence ought not to be been granted or
- b) That on granting the licence, the licensing authority ought to have imposed different or additional conditions to 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 Legal Services

Date: 17 October 2014



Underdog Art Company Ltd
Underdog Gallery
Railway Arch 6
Crucifix Lane
London
SE1 3JW

Licensing Unit
Direct Line: 020 7525 5767
Direct Fax: 020 7525 5705
Our Ref: CMU: 874419

4th April 2018

Dear Sammy Forway,

Licensing Act 2003 - Underdog Gallery, Railway Arch 6, Crucifix Lane, SE1 3JW

This Authority continues to receive complaints in relation to noise from your premises. The latest complaints came from the nights over which you were granted Temporary Events Notices at the beginning of the year.

You will recall that you were visited on 16th December 2017 by Licensing Enforcement Officers. You agreed to the following

- SIA door staff ensure the front door is being kept closed as patrons are coming and going;
- DPS monitors noise levels whilst operating and uses a sound meter.

Please make sure that during any events, you monitor the area outside the premises so as to ensure that you minimise disruption to your neighbours. This includes dispersal at the end of events. Local residents are entitled to initiate a review of your licence, should they believe that you are failing to promote one or more of the four licensing objectives.

Yours sincerely

Andrew Heron
Principal Licensing Officer
andrew.heron@southwark.gov.uk



Underdog Art Company Ltd
Underdog Gallery
Railway Arch 6
Crucifix Lane
London
SE1 3JW

Licensing Unit
Direct Line: 020 7525 5767
Direct Fax: 020 7525 5705
Our Ref: CMU: 878162

1st June 2018

Dear Sirs,

Licensing Act 2003 – Warning Letter
Underdog Gallery – Railway Arch 6, Crucifix Lane, London, SE1 3JW

Further to correspondence sent to you on 4 April and 1 June, you were formally invited to attend an interview under caution, which took place on Monday 25 June at the Council offices.

This process followed an increasing number of complaints from local residents in relation excess music noise from the premises; from noisy patrons gathering to smoke outside and upon egress; and also that the premises has been operating beyond its hours without a suitable premises licence or a Temporary Events Notice in place - in particular, it was reported that an event took place from 21:00hrs on Friday 11th May 2018 until 05:00hrs on Saturday 12th May 2018.

During the interview under caution, you conceded that the event had indeed taken place, but that the gentleman that had arranged the night, Mr Nadeem Salem, has since been dismissed from your employment as a result of this unlicensed event. You stated that you did not know that the event was going to take place. You claim not to have arranged the advertising found on the Resident Advisor website.

You further admitted to two additional offences; that the CCTV had indeed not been recording and that you had been unable to provide it to the local authority, as required under the terms of the licence. You state that this had taken place unknowingly and that you have now resolved all issues with the CCTV, so that it is now operational.

You stated in the interview that you did have a sound limiter installed, but that bands had found a way to bypass the 'shut-off' feature, by simply increasing the volumes on their individual amplifiers, therefore circumventing the requirement in the licence that all audio and musical equipment be played through a sound

limiting device. I struggle to accept your explanation that all music was going through the mixer, if it is so easy to override the system specifically set up to control noise levels. Having experienced the noise levels myself, I remain concerned that you indeed did knowingly permit music to be played without the full use of a sound limiting device.

You state that you have since had a new sound limiting device installed. I am still awaiting the photographs of the devices and their serial plates from both the old and new systems – please provide these at your earliest opportunity. You also state that you have since employed an acoustician and invested in additional dampening equipment for any drum kits.

You advised in the interview that you no longer intend to have double doors into the premises, but that a sound curtain is now in place. You have made promises to ensure that no further licensable activities take place and that you intend to be a responsible manager of the premises and wish to have a better working relationship with your neighbours. You stated that you also intend to feature different live music which should, in your opinion, have a reduced impact on surrounding residential properties.

In light of the assurances given by you moving forward and that you have rectified each breach; whilst offences have been admitted, this Authority is minded to issue you with a formal warning, as this is your first offence. However, I remind you that the above are prosecutable offences that you have admitted to; please note that should any further breaches take place, we will have no other option other than to take enforcement action, which could include a prosecution and/or a review. Any evidence from this investigation will be used in any future prosecution.

As you are aware, local residents have already initiated a review of the premises licence. The hearing will take place 13 August at the Council offices. Copies of all correspondence leading to this warning will be provided to all parties involved in the Hearing, so that Members of the Sub Committee can make a fully informed decision.

Yours sincerely,

Andrew Heron
Principal Licensing Enforcement
andrew.heron@southwark.gov.uk

From: Tear, Jayne
Sent: Thursday, August 09, 2018 1:21 PM
To: McArthur, Wesley
Subject: SUPPORTING EVIDENCE TO LICENSING REPRESENTATION
Importance: High

Dear Wesley,

Please find attached some supporting evidence to the representation that I submitted on 13/7/2018 regarding the Underdog Gallery premises licence review,

With kind regards

Jayne

Jayne Tear - Principal Licensing Officer – As Responsible Authority for Licensing

Southwark Council | Licensing Unit

160 Tooley Street | London | SE1 2QH

Direct line 020 7525 0396 | Fax 020 7525 5735 | Call Centre 020 7525 2000



Womens Safety Charter

<https://www.southwark.gov.uk/community-safety/let-s-talk-about-women-s-safety>

NTET VISITS - UNDERDOG

adate	desc	aofficer	name	address	adtext
23/08/2014	23:12 NTE Visit	Farhad Chowdhury	The Underdog	Railway Arch 6, Crucifix Lane, London, SE1 3JW	23/ 8/2014 23:12 FRC Music was loud we observed from across the road, windows were open and doors were opening and closing and letting music escape. Justin spoke to the manager Sammy Forway advised to close windows and keep noise down. The manager said they nearly finished winding down now, they will not be open till 2am as requested on the TENS.
24/08/2014	02:32 NTE Visit	Farhad Chowdhury	The Underdog	Railway Arch 6, Crucifix Lane, London, SE1 3JW	24/ 8/2014 2:32 FRC premises is closed, many places are closed due to the Notting hill carnival.
03/11/2017	18:30 NTE Visit	Andrew Heron	The Underdog	Railway Arch 6, Crucifix Lane, London, SE1 3JW	Premises Closed at 18:30
16/12/2017	20:30 NTE Visit MAD & KMA	Mark Orton	The Underdog	Railway Arch 6, Crucifix Lane, London, SE1 3JW	Visited premises following complaint. LAM being played, audible from o/s premises. Asked SIA to contact manager to discuss issue. Sammy Forways DPS came out to speak with us. SF was not happy with our presence at first as he suggested our visit was in response to the Southwark council staff party being cancelled. I had to repeat myself several times to reassure him that it was to do with a complaint from a local resident. Whilst we were there the SIA ensured the front door was being kept closed as patrons were coming and going. Ken Andrews advised SF that more could be done to reduce the noise escape from the premises as it was excessive whilst the door was open. SF stated he monitors noise levels whilst operating and uses a sound meter. SF indicated he may install a set of double glazed doors inside the foyer to help reduce noise breakout. We gave advice to turn the volume down and reduce the bass levels and left.
29/03/2018	23:30 NTE Visit	Andrew Heron	The Underdog	Railway Arch 6, Crucifix Lane, London, SE1 3JW	Premises closed.

26/05/2018	22:10 NTE Visit	Andrew Heron	The Underdog	Railway Arch 6, Crucifix Lane, London, SE1 3JW	Very loud music driving past, parked in Snowsfields some 100m away, could still hear live music clearly. Sammy Formay was standing outside. I advised that the music was too loud. He hadn't got his sound curtain as promised. He says that he will turn the music down.x10 smokers outside - I advised that he can have only 5 - says not all of them are his customers. I said that I wanted to come in and check his CCTV - says not possible because of the gig - can't get to the CCTV.I advised that I had now seen a video of events from 12/05 at 05:00when the premises was clearly open. He had originally said that hews there and the event cannot have taken place. Now changes story, says had left the premises, and left others in charge. Asked him to retain that CCTV for that date. Warning letter.
08/06/2018	19:23 NTE Visit	Farhad Chowdhury	The Underdog	Railway Arch 6, Crucifix Lane, London, SE1 3JW	8/ 6/2018 19:23 FRC one person smoking outside, all in order no noise nuisance very quiet outside.
09/06/2018	18:12 NTE Visit	Farhad Chowdhury	The Underdog	Railway Arch 6, Crucifix Lane, London, SE1 3JW	9/ 6/2018 18:12 FRC closed nobody outside.
15/06/2018	23:20 NTE Visit	Andrew Heron	The Underdog	Railway Arch 6, Crucifix Lane, London, SE1 3JW	Premises closed - shutters down. No noise.
16/06/2018	21:50 NTE Visit	Andrew Heron	The Underdog	Railway Arch 6, Crucifix Lane, London, SE1 3JW	Premises closed - shutters down. No noise.

COMPLAINTS - UNDERDOG

refno	rdate	rtime	catg	unit	pname	paddress	
865631	29/10/2017	3.21	NR1 Loud Music - RR	NRR Noise Rapid Response	The Underdog	Railway Arch 6, Crucifix Lane, London, SE1 3JW	
865664	29/10/2017	3.21	L72 Public nuisance	LIC Southwark Licensing	The Underdog	Railway Arch 6, Crucifix Lane, London, SE1 3JW	
872601	24/02/2018	2.41	NR1 Loud Music - RR	NRR Noise Rapid Response	The Underdog	Railway Arch 6, Crucifix Lane, London, SE1 3JW	
872678	26/02/2018	9.42	L72 Public nuisance	LIC Southwark Licensing	The Underdog	Railway Arch 6, Crucifix Lane, London, SE1 3JW	
874419	28/03/2018	9.16	L72 Public nuisance	LIC Southwark Licensing	The Underdog	Railway Arch 6, Crucifix Lane, London, SE1 3JW	
875429	11/04/2018	11.4	N01 Loud Music	EPT Environmental Protection Team	The Underdog	Railway Arch 6, Crucifix Lane, London, SE1 3JW	
877663	12/05/2018	6.13	E01 Fly Tipping Incident	EEF Environmental Enforcement	The Underdog	Railway Arch 6, Crucifix Lane, London, SE1 3JW	
879546	05/06/2018	16.03	L72 Public nuisance	LIC Southwark Licensing	The Underdog	Railway Arch 6, Crucifix Lane, London, SE1 3JW	
879859	09/06/2018	6.13	E01 Fly Tipping Incident	EEF Environmental Enforcement	The Underdog	Railway Arch 6, Crucifix Lane, London, SE1 3JW	
883398	24/07/2018	9.08	L72 Public nuisance	LIC Southwark Licensing	The Underdog	Railway Arch 6, Crucifix Lane, London, SE1 3JW	

Underdog TENS

received date	refno	name	uwstr1	start_date	end_date	times	max no people	sale of alcohol	club supply alcohol	for consumption	reg. ent	lnr	late ten	police obj	ept obj	desc1
13/02/2017	857800	The Underdog	Whole of Premises	25/02/2017	26/02/2017	20:00 - 04:00	200	Yes	No	On Premises	Yes	Yes	Yes	No	No	
11/04/2017	858412	The Underdog	Whole of Premises	22/04/2017	23/04/2017	20:00 - 05:00	200	Yes	No	On Premises	Yes	Yes	Yes	No	No	
15/05/2017	858779	The Underdog	Whole of premises	20/05/2017	21/05/2017	10:00 pm-05:00 am	200	Yes	No	On Premises	Yes	Yes	Yes	No	No	Rejected Less than 5 days.
21/06/2017	859277	The Underdog	Whole Premises	30/06/2017	02/07/2017	20:00 - 03:00 30/6/2017- 1/7/2017 19:00 - 03:00 1- 2/7/2017	200	Yes	No	On Premises	Yes	Yes	Yes	No	No	
21/08/2017	860131	The Underdog	Whole of Premises	01/09/2017	02/09/2017	21:00 - 04:00	200	Yes	No	On Premises	Yes	Yes	Yes	No	No	
18/10/2017	860724	The Underdog	Whole of Premises	27/10/2017	29/10/2017	18:00 - 03:00 27th 21:00 - 05:00 28th/29th	200	Yes	No	On Premises	Yes	Yes	Yes	No	No	
20/11/2017	861100	The Underdog	Whole of Premises	25/11/2017	25/11/2017	20:00 - 03:00	200	Yes	No	On Premises	Yes	Yes	Yes	No	No	REJECT LATE TEN
12/01/2018	861949	The Underdog	Whole of Premises	20/01/2018	21/01/2018	8pm-4am	200	Yes	No	On Premises	Yes	Yes	Yes	No	No	
15/02/2018	862321	The Underdog	Art Gallery and event space	23/02/2018	25/02/2018	23rd 21:00 - 05:00 24th 20:00 - 04:00	200	Yes	No	On Premises	Yes	Yes	Yes	No	No	