



Southwark Council Licensing Team

**Place and Wellbeing Department**

Planning Division

Our ref: CE/20/0126

Your ref: 872437

Contact: Gavin Blackburn

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Website: <http://planning.southwark.gov.uk>

Date: 14 April 2020

Dear Sir/Madam Southwark Council Licensing Team

**TOWN & COUNTRY PLANNING ACT 1990 (as amended)**

**REQUEST FOR FORMAL OBSERVATIONS ON A PROPOSAL**

**APPLICATION:** CE/20/0126

**PROPOSAL:** Application for a New Premises Licence for the provision of:  
 Recorded Music (Indoors): Fri & Sat: 11:00-02:00,  
 Late Night Refreshment (Indoors & Outdoors): Sun to Thurs: 23:00-23:30, Fri & Sat: 23:00-02:00,  
 Sale of alcohol (Indoors & Outdoors): Sun to Thurs: 11:00-23:30, Fri & Sat: 11:00-02:00  
 Opening Hours: Sun to Thurs: 11:00-00:00, Fri & Sat: 11:00-02:30

**AT:** Empire Lounge Unit 2 777 Old Kent Road

This premises is subject to a planning condition restricting its hours of operation to 11:00pm. The hours are restricted to protect the amenity of adjoining residents. The condition has not been adhered to and a planning enforcement notice is in place requiring the condition to be adhered to.

Breaching the requirements of the planning enforcement notice is a criminal offence under section 179 Town & Country Planning Act 1990.

The applicant had applied to alter the terms of the planning condition to extend operating hours to 1:00am an hour and a half earlier than this application. That application was refused by the Council. The refusal was appealed. On 22 May 2019 an independent planning inspector upheld the Council's decision to refuse planning permission. A similar decision had been made by an independent planning inspector on 15 December 2016. Both inspectors reached the same conclusion that extending the opening hours would harm residential amenity.

It is acknowledged that planning and licensing are two separate regulatory regimes. Issuing a licence does not bind an authority to issue planning permission and vice versa. That said, the planning status of this site is now well settled. Two inspectors have reached the same conclusion that as long as the current residences exist the hours should not be extended. There is no prospect of there being any change to that planning position that has twice been independently considered.

If the premises are operated beyond 11:00pm a criminal offence is committed. There is no prospect of the applicant securing planning permission to alter that position. Licensing is required as one of its objectives to prevent crime. Extending the hours of operation as requested by the applicant creates a false hope that it will, or could be possible to lawfully operate that licence. That is not the case any operation of the extended hours sought will result in the commission of a criminal offence, on that basis the application is objected to and should be refused.

Yours faithfully  
Gavin Blackburn  
Team Leader - Planning Enforcement

**From:** Fox, Roy  
**Sent:** Thursday, April 30, 2020 6:04 PM  
**To:** Regen, Licensing;  
**Cc:** McArthur, Wesley; 'SouthwarkLicensing@met.police.uk'  
**Subject:** Empire Lounge, Unit 2, 777 Old Kent Road, SE15 1NZ

Dear Sir/Madam

Re: Premises Licence Application 1413854 - Empire Lounge, Unit 2, 777 Old Kent Road, SE15 1NZ – George Nwachukwu

I act on behalf of the environmental health responsible authority. I am making this representation following the Licensing Objective 'the prevention of public nuisance' in order to object to the grant of the above premises licence application. The basis for my objection is as follows.

- The applicant has operated the same premises for a number of years and during this period there have been many complaints from nearby residents in relation to noise and disturbance from the use of the venue. In addition to noise from amplified music, in particular low frequencies (bass notes), the complaints have also related to noisy patrons in the street, vehicle movements & parking, urination in the street, waste deposition and grease from the kitchen extraction. The complaints were more prevalent in 2017, 2018 & early 2019, but there has been a more recent complaint in February of this year about loud music. When questioned the applicant stated that someone had left the rear door open (an infringement of an existing premises licence condition).
- The schedule of proposed conditions attached to this application largely copies the conditions contained in the current premises licence for the premises held by Mr Nwachukwu, reference 859547. This includes monitoring the sound level to prevent nuisance, use of a sound limiter, alcohol sales only for consumption by persons taking a substantial table meal, and refusal of entry to patrons using Sylvan Grove by vehicles. Numerous visits by licensing officers and/or the late night economy team have revealed instances when the premises had not been operating in accordance with its current premises licence including those listed above, but also in connection with infringing the permitted closing time and playing music by DJs at extremely loud levels (i.e. not 'background music'). There is nothing in this current application to indicate that this situation will not continue and so cause continued nuisance and disturbance to local residents. Note that the closest residential building is only 7m from the rear wall and rear door of these premises.
- If opening until 02:30 hours on Friday and Saturday evenings and also by including recorded music until 02:00 on those nights (i.e. not just at background levels) was to be allowed it is likely that this will open up a possibility for further public nuisance and other disturbance to local residents. It is clear from the nature of complaints made in the past that licence conditions, which are intended to stop or minimise nuisance and disturbance, have not been adhered to, and yet the very same conditions are suggested in this application.
- The application includes late night refreshment and alcohol sales outdoors as well as indoors. The premises has no outdoor area, as reflected in the plan of the licensable area, which is only indoors. Late night refreshment and/or alcohol

consumption outdoors in the vicinity of these premises would almost certainly cause public nuisance to nearby residents.

- Lastly, note also that the planning approval for the use of these premises, reference 14/AP/2547, requires that they close by 23:00 hours. Further planning applications to extend the hours have been rejected including an appeal. This is to safeguard the amenity of the local residents. This should be borne in mind in consideration of the premises licence.

Regards,

Roy Fox  
Principal Environmental Protection Officer

Southwark Council | Environmental Protection Team | Regulatory Services | 3rd  
Floor Hub 1 | PO Box 64529 | London | SE1P 5LX

[www.southwark.gov.uk](http://www.southwark.gov.uk)





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160 Tooley Street  
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SE1 2QH

**Metropolitan Police Service**

*Licensing Office*  
Southwark Police Station  
323 Borough High Street  
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SE1 2ER

**Tel:** 020 7232 6756

[SouthwarkLicensing@met.police.uk](mailto:SouthwarkLicensing@met.police.uk)

[Graham.S.White@met.police.uk](mailto:Graham.S.White@met.police.uk)

Our reference: MD/21/062/20

Date: 30th April 2020

Dear Sir/Madam

Re:- The Empire, Unit 2, 777 Old Kent Road SE1 1NZ

Police are in receipt of an application from the above for a new premises licence to be granted under the licensing act 2003. The applicant is already has a premises licence for the venue and this application would extend the hours of operation on a Friday and Saturday until 02.30hrs. The hours applied for are as follows

Premises open to the public

Sun -Thurs 11.00hrs – 00.00hrs

Fri – Sat 11.00hrs – 02.30hrs

Sale/Supply of alcohol on the premises

Sun -Thurs 11.00hrs – 23.30hrs

Fri – Sat 11.00hrs – 02.00hrs

Late Night Refreshment

Sun -Thurs 23.00hrs – 23.30hrs

Fri – Sat 23.00hrs – 02.00hrs

Recorded Music

Fri – Sat 23.00hrs – 02.00hrs

The Applicant was granted the current Licence in 2016 by the licensing sub-Committee on the 5<sup>th</sup> September 2016. A full consultation took place with a number of objections including Southwark council planning department were submitted. The planning consent for the venue is 23.00hrs and have subsequently issued a stop notice against the premises after complaints whilst operating under a Temporary event notice.

The Southwark council Statement of Licensing policy advise parity and proper integration between Licensing and planning hours and the applicant should have relevant planning consent prior to the application. The applicant has applied to have his planning hours extended which has been refused twice and turned down on appeal. Any extension to Licensing hours would be in conflict to those granted by planning and the applicant could be prosecuted for breach of planning.

The venue is also situated in what is designated a residential area under Southwark statement of Licensing policy and the hours recommended within the policy are a terminal hour of 23.00hrs which the current licence already exceeds.

The police object to the granting of the current application in full for the following reasons.

When the applicant has operated using a temporary Event notice complaints have been received regarding public nuisance and noise nuisance caused by customers when leaving which including shouting, playing loud music, wheels screeching when vehicles moving off and other behaviour associated with intoxicated people.

Police attended the venue in December 2016 shortly after the licence was granted and when a temporary event notice was given and found that the premises was still in full operation after 03.00hrs which was the finish time specified on the notice. Officers gave a verbal warning to the DPS at the time.

On the 27th January 2018 at about 00.20hrs, officers from the Police Night Time economy team attended the premises and found the applicant breaching a number of conditions on the premises licence, including conditions 352, 843, 288 and 293. Mr Nwachukwu was issued and signed a section 19 closure notice.

On the 16th February 2018 at about 22.30hrs, officers from the Police Night Time economy team attended the premises and found the applicant in breach to the premises licence condition 352, as he had no SIA registered door staff. Mr Nwachukwu was issued and signed a section 19 closure notice.

On the 11th August 2018 at about 01.15hrs, officers from the Police Night Time economy team attended the premises and found, it operating beyond its terminal hour. A DJ was playing loud music and staff witnessed serving alcohol. Mr George Nwachukwu was present at the time. The premises did not have recorded music on the licence and the volume was in excess of what would be considered background music.

On the 14<sup>th</sup> December 2019 at about 01.15hrs, officers from the Police Night Time economy team attended the premises and found, it operating beyond its terminal hour with about 50 customers still inside and staff still serving customers. The DPS George Nwachukwu claimed he did not know his terminal hour, which shows a total lack of management and appreciation of his responsibilities under the licensing act having been previously warned.

Police object to this application to vary the premises licence, as it is highly likely to have a negative impact on local residents and an increase in public nuisance and crime and disorder in the area. The Applicant has on a number of occasions, breached the current premises licence.

Submitted for consideration

**PC Graham White**  
Licensing Officer

# \MEMO: Licensing Unit

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**To** Licensing Unit                      **Date** 4 May 2020

**Copies**

**From** Jayne Tear                      **Telephone** 020 7525 0396                      **Fax**

**Email** jayne.tear@southwark.gov.uk

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**Subject** Re: Empire Lounge, Unit 2, 777 Old Kent Road, London, SE15 1NZ

- Application for a premises licence

I write with regards to the above application for the grant of a premises licence submitted by George Nwachukwu under the Licensing Act 2003 which seeks the following licensable activities:

- Recorded music (indoors) on Saturday and Sunday from 11:00 to 02:00 the following day
- Provision of late night refreshment (indoors & outdoors) on Sunday to Thursday from 23:00 to 23:30 and on Friday and Saturday from 23:00 to 02:00 the following day
- The supply of alcohol (on and off the premises) on Sunday to Thursday from 11:00 to 23:30 and on Friday and Saturday from 11:00 to 02:00 the following day
- Overall opening times shall be from on Sunday to Thursday from 11:00 to 00:00 and on Friday and Saturday from 11:00 to 02:30 the following day

Non Standard Timings:

Recorded music, provision of late night refreshment, supply of alcohol and opening times

On the following days the permitted hours may be extended for an additional hour:

- Thursday, Friday, Saturday and Sunday of the Easter weekend
- Friday, Saturday and Sunday of both May Bank Holidays and the August Bank Holiday, Christmas Eve and Boxing Day.
- From the end of permitted hours on New Years Eve to the start of permitted hours on the following day
- On the trading day on which the clocks go forward (i.e. the start of British Summertime) permitted hours may be extended for an additional hour

The premises is described as '*A lounge bar and restaurant*' within the application.

My representation is based on the Southwark Statement of Licensing policy 2019 – 2021 and relates to the licensing objectives for the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm.

The premises is situated in a residential area and under the Southwark Statement of Licensing Policy 2019 - 2021 the appropriate closing times for Restaurants, Public Houses, Wine bars or other drinking establishments in this area is 23:00 daily. Night Clubs (with sui generis planning classification) are not considered appropriate for this area.

The premises currently holds a premises licence number 859547 the opening hours granted for that licence are as follows:

- Sunday to Monday from 11:00 to 00:00
- Friday and Saturday from 11:00 to 01:00

This is already in excess of that which is appropriate for a residential area within the licensing policy.

I object to the granting of this premises licence, as the extended hours for all activities and opening times ask for in excess of that which is granted on the current licence, and the operation of the premises and of people leaving the premises even later at night could impact upon local residents living nearby and in the surrounding streets. The management would have no control of patrons that have left the premises and the possible impact of any rowdy and anti-social behaviour or crime and disorder, nor have they offered any further control measures to address this.

The council has received complaints regarding the premises in the past and in 2017 a local resident submitted an application to review the premises licence.

*The grounds for the review were 'There have been numerous complaints from neighbours, local tenants committees and local residents recorded on the Southwark Council website and emails sent to antisocial behaviour department, police being involved as well as the local MP Richard Livingstone. Local residents have suffered from verbal abuse from the prop rioter on numerous occasions when asked to turn the loud music down or to stop party goers hanging out in the alley way and surrounding streets. I've also been woken up by shouting and arguing, car music, horn honking and people urinating outside my bedroom window in my front garden. The original planning permit is already being abused and the venue runs as a club/bar'*

I attached a copy of the LSC Notice of Decision from the review hearing held on 2 October 2017 to this representation

Further to this the applicant has not indicated whether the existing licence will be surrendered if this application is granted. If this application is granted by the LSC I would recommend further conditions to be added to the premises licence to promote the licensing objectives as follows:

- The Licensing Authority and Police shall be informed at least 14 days prior to the provision of licensable activities under this licence.
- When this licence is used to provide licensable activities and the licence summary is displayed on the premises, the licence summary of any other premises licence will not be displayed at the same time.

I therefore submit this representation and welcome any discussion with the applicant

Southwark's Statement of Licensing Policy 2019 – 2021 can be found on the following link:  
<https://www.southwark.gov.uk/business/licences/business-premises-licensing/licensing-and-gambling-act-policy>

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



## NOTICE OF DECISION

### LICENSING SUB-COMMITTEE - 2 OCTOBER 2017

#### LICENSING ACT 2003: UNIT 2, 777 OLD KENT ROAD, LONDON SE15 1NZ

##### 1. Decision

That the council's licensing sub-committee, having considered an application made under Section 51 of the Licensing Act 2003 by an 'other person' for the review of the premises licence issued in respect of the premises known as Empire, Unit 2, 777 Old Kent Road, London, SE15 1NZ and having had regard to all other relevant representations has decided it necessary for the promotion of the licensing objectives to modify the conditions of the licence by adding the following conditions:

1. That a written dispersal policy be devised in respect of the premises. A copy of the policy shall be kept at / be accessible at the premises at all times that the premises are in use and shall be made available to council or police officers immediately on request. The policy must include (but not necessarily be limited to) the following:
  - The full name and address of the premises
  - The name(s) of the licensee and premises' designated premises supervisor
  - Details as to how customer / staff egress at the premises shall be managed to minimise causing nuisance
  - Details of public transport in the vicinity and how customers will be advised in respect of it
  - Details of the management of taxis to and from the premises
  - Details of the management of any 'winding down' period at the premises
  - Details of the use of security and stewarding in respect of managing customer dispersal from the premises
  - Details of any cloakroom facility at the premises and how it is managed
  - Details of road safety in respect of customers leaving the premises
  - Details of the management of ejections from the premises
  - Details of how refuse / waste in the local vicinity arising through the operation of the premises will be cleared up (e.g. flyer clean up, post event clean up)
  - Details of any other premises licence conditions relating to dispersal / the management of patrons arriving at / leaving the premises
  - Details as to the management (if any) of parking in regards to customer's vehicles.
2. All relevant staff (e.g. SIA staff, managers / supervisors, stewards, bar staff or any other relevant staff) should be trained in respect of the policy. A record of the training, including the trainee's name (in capital letters) & signature, date that each member of staff is trained and declaration that the dispersal policy has been read and understood shall be kept at the premises and be made immediately available for inspection by officers of the council or police on request.

## 2 **Reasons**

The reasons for this decision are as follows:

The licensing sub-committee received written representations from the applicant for the review, namely that the licence should be reviewed on the grounds of the prevention of crime and disorder, and prevention of public nuisance. It also received written representations from another interested party on the grounds of prevention of public nuisance. It was noted that neither the applicant for the review nor the other interested party were in attendance.

The licensing sub-committee heard oral representations from the public health officer, representing the director of public health, supporting the decision to review the licence on the grounds of prevention of public nuisance. The effects of persistent disturbance to sleep on an individual's health were explained. In view of these effects on an individual and the fact that a number of complaints had been received by the council, on behalf of the director, the sub-committee was invited to reduce the premises licence hours of operation to align with the council's policy.

The licensing sub-committee heard from the representative on behalf of the premises licence holder who explained that the application was made by a vexatious resident. It was further alleged that the applicant, and another, had actively sort to extort money from the licence holder. The representative went on to argue that because the applicant for the review or the other person supporting the review had attended the hearing to give live evidence, little or no weight should be attached to the representations that had been made by them, and that the representations made on behalf of the director public health should attract little weight because they were based on the same flawed representations.

The sub-committee reminded itself that it must promote the licensing objectives and have regard to the statutory guidance issued under section 182 of the Licensing Act 2003 and the council's statement of licensing policy.

The sub-committee having considered all the evidence and have decided to take no action on this occasion save to add conditions concerning the dispersal policy of the premises.

The sub-committee noted that on 6 September 2017, the licensing sub-committee considered the representations from a number of interested parties and responsible authorities, and a number of the issues were ventilated on this occasion. In reaching its decision today, the sub-committee looked for new evidence that had not been previously considered or for any new evidence that had become available since the last hearing. The sub-committee was of the view that there was no new evidence since it made its decision on 6 September 2017 and noted that many of the issues raised by the interested parties and the responsible authority, in relation to this review hearing, had been dealt with by the addition of conditions added to the licence on 6 September 2017.

The sub-committee reminded itself that the issue of dispersal was raised at the hearing on 6 September 2017 and noted that the licence holder was unable to provide a copy of the dispersal policy today, and it would seem from the notes of the previous meeting, that one was not provided on the last occasion. In the circumstances, the sub-committee has concluded that it is therefore appropriate to amend the licence by adding conditions concerning the provision of a dispersal policy.

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.

Issued by the Constitutional Team on behalf of the Director of Legal Services

Date: 2 October 2017

**From:** Tear, Jayne  
**Sent:** Monday, May 04, 2020 11:57 PM  
**To:** Regen, Licensing  
**Cc:** McArthur, Wesley;  
**Subject:** FW: REPRESENTATION RE EMPIRE LOUNGE

Apologies, but I forgot to mention within my representation,

- that I would also request a copy of the dispersal policy mentioned within the operating Schedule,

With kindest regards

Jayne

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

Southwark Council | Licensing Unit

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