

Licensing Sub-Committee

Thursday 28 July 2022

10.00 am

Online/Virtual: please contact andrew.weir@southwark.gov.uk for a link to the meeting and the instructions for joining the online

Supplemental Agenda No.3

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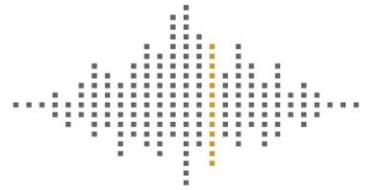
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Date: 27 July 2022

SHARPS REDMORE
ACOUSTIC CONSULTANTS ▪ Established 1990



Report

Ormside Project, Southwark

Environmental noise survey
of existing baseline levels.

Prepared by

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Date 3rd June 2022

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This report has been prepared with all reasonable skill, care and diligence commensurate with an acoustic consultancy practice under the terms and brief agreed with our client at that time. Sharps Redmore provides no duty or responsibility whatsoever to any third party who relies upon its content, recommendations or conclusions.

Executive Summary

1.0 Introduction

- 1.1 Sharps Redmore Limited (SR) has been instructed to undertake an environmental noise survey during an event at Ormside Project and compare to levels when there is no event.
- 1.2 The purpose of this assessment is to assess noise from site activities such as music breakout and people congregating in the external area to establish baseline levels for a worst-case event and consider the impact at nearby residential dwellings recently granted planning consent.
- 1.3 Ormside Projects is a 200 capacity Grass Roots Music and Arts Venue. Located on the first floor of the Penarth Centre on Ormside Street the space hosts a variety of events that range from photoshoots to late night music showcases.
- 1.4 Section 2 discusses the Government's Planning Policy and relevant guidance and standards relevant to the case.
- 1.5 A manned noise survey during early evening has been undertaken together with long term unmanned monitoring over 4 days and nights to determine the existing noise levels at the boundary with the nearest residential properties on Hatcham Road. The results are discussed in Section 4.

2.0 Assessment Methodology and Criteria

- 2.1 The National Planning Policy Framework (NPPF), amended in July 2021, sets out the Government's economic, environmental and social planning policies for England and "these policies articulate the Government's vision of sustainable development." In relation to noise, paragraph 185 states:

"Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;*
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason."*

- 2.2 The NPPF reinforces the March 2010 DEFRA publication, “Noise Policy Statement for England” (NPSE), which states three policy aims, as follows:

“Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development:

- avoid significant adverse impacts on health and quality of life;
- mitigate and minimise adverse impacts on health and quality of life; and
- where possible, contribute to the improvement of health and quality of life.”

- 2.3 Together, the first two aims require that no significant adverse impact should occur and that, where a noise level which falls between a level which represents the lowest observable adverse effect and a level which represents a significant observed adverse effect, then according to the explanatory notes in the statement:

“... all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life whilst also taking into consideration the guiding principles of sustainable development. This does not mean that such effects cannot occur.”

- 2.4 The WHO guideline values are appropriate to what are termed “critical health effects”. This means that the limits are at the lowest noise level that would result in any psychological, physiological or sociological effect. They are, as defined by NPSE, set at the Lowest Observed Adverse Effect Level (LOAEL), but do not define the level above which effects are significant (the SOAEL). Compliance with the LOAEL should, therefore, be seen as a robust aim.

- 2.5 The WHO guideline noise values are summarised in the following table:

Table 2.1: WHO guideline noise values

Document	Level	Guidance
World Health Organisation “Community Noise 2000”	$L_{AeqT} = 55$ dB	Serious annoyance, daytime and evening. (Continuous noise, outdoor living areas)
	$L_{AeqT} = 50$ dB	Moderate annoyance, daytime and evening. (Continuous noise, outdoor living areas).
	$L_{AeqT} = 35$ dB	Moderate annoyance, daytime and evening. (Continuous noise, dwellings, indoors)
	$L_{AeqT} = 30$ dB	Sleep disturbance, night-time (indoors)
	$L_{AMAX} = 60$ dB	Sleep disturbance, windows open at night. (Noise peaks outside bedrooms, external level).
	$L_{AMAX} = 45$ dB	Sleep disturbance at night (Noise peaks inside bedrooms, internal level)

- 2.6 For L_{AeqT} criteria the time base (T) given in the documents is 16 hours for daytime limits and 8 hours for night time limits.

- 2.7 British Standard 4142 2019 +A1: Methods for Rating and Assessing Industrial and Commercial Sound (BS 4142:2014) was revised in November 2014, and is the standard to determine impact from sound from industrial and manufacturing processes, sound from fixed installations which comprise mechanical and electrical plant and equipment and sound from the unloading and loading of goods and materials at industrial and/or commercial premises. The scope of this standard does not include music or entertainment noise and will not be considered further in this report.
- 2.8 The national interpretation of the WHO guidelines is contained in BS 8233:2014 'Sound Insulation & Noise Reduction for Buildings'. BS 8233 recommends the following desirable guideline values for internal ambient noise:

Table 4 Indoor ambient noise levels for dwellings

Activity	Location	07:00 to 23:00	23:00 to 07:00
Resting	Living room	35 dB $L_{Aeq,16hour}$	—
Dining	Dining room/area	40 dB $L_{Aeq,16hour}$	—
Sleeping (daytime resting)	Bedroom	35 dB $L_{Aeq,16hour}$	30 dB $L_{Aeq,8hour}$

- 2.9 There is no longer a L_{Amax} standard for bedrooms in BS 8233. However, footnote 4 to Table 4 states that “Regular individual noise events (for example, scheduled aircraft or passing trains) can cause sleep disturbance. A guideline value may be set in terms of SEL or $L_{Amax,F}$ depending on the character and number of events per night. Sporadic noise events could require separate values.” In this case, it is proposed that the previous BS 8233 internal standard (also referenced in World Health Organisation Guidelines for Community Noise) is applied. This is 45 dB L_{Amax} inside bedrooms.

Changes in Level

- 2.10 Changes in noise levels of less than 3 dBA are not perceptible under normal conditions and changes of 10 dBA are equivalent to a doubling of loudness. This guidance has been accepted by inspectors, at inquiry, to encompass changes in noise levels in the index L_{AeqT} .
- 2.11 The following table shows the response to changes in noise (known as a Semantic Scale):

Table 2.2: Response to changes in noise

Change in noise level L_{AeqT} dB	Response	Impact
<3	Imperceptible	None
3 – 5	Perceptible	Slight
6 – 10	Up to a doubling	Significant
11 – 15	More than a doubling	Substantial
>15	-	Severe

Ref: Manning “Criteria for the Environmental Assessment, Planning and Mitigation of Railway Noise” Proc. IOA Vol. 20 Part 1 (1998) pp 195 – 202.

3.0 Survey Methodology, Details and Results

- 3.1 A survey has been undertaken over the 23rd-27th April 2022. The location was at the on the roof of the venue at two points. MP1 was selected to be close to the boundary of the venue closest to the new residential development and MP2 close to the roof access to the venue. The dates were chosen to provide a worst-case scenario with an event running from 2300-0600 at the venue on the 23rd -24th April. At other times there was no activity at the venue. This has provided data to inform the existing ambient, maximum and background levels.
- 3.2 The survey was undertaken at points shown below. In order to locate the most appropriate locations for the monitoring positions, a walkover of the site was carried out along Ormside Street and the interior perimeters of the Penarth Centre, Penarth Street and Hatcham Road. It was noted that the noise climate consists of road traffic noise and local activity on the industrial estate.

Figure 3.1 Monitoring positions for survey:



- 3.3 The instrumentation used to carry out the long term noise survey was as follows.
- RION type 1 precision sound level meters NL52 and NL32 (SLM)
- 3.4 The SLMs were set to measure the following “A” weighted parameters: L_{Aeq} , L_{A90} and L_{Amax} . The measurement sample period was 55 minutes. Immediately before and after the measurements were carried out, the SLM was calibrated using the acoustic calibrator with no noticeable drift.
- 3.5 The weather during the survey was dry with temperatures of around 15°C at the start of the survey with a gentle breeze of around 6 mph with occasional gusts but generally acceptable for noise measurements.

- 3.6 The noise survey established the measured noise levels at the measurement locations and are summarised below in Table 3.1. The long-term trends are shown in Figures 3.1 and 3.2. Full survey data is available if required.

Table 3.1: Survey Summary Noise Levels:- MP1

Roof Boundary	Night Time 2300-0700	
MP1	L _{Aeq8hr} *	L _{Amax} **
Event – 23/4/22	47dB	63dB
No Event – 24/4/22	46dB	65dB
No Event – 25/4/22	44dB	60dB
No Event – 26/4/22	46dB	61dB
No Event – 27/4/22	44dB	60dB

*= Log Average

**= 90th Percentile

NB: Data from 0300-0400 on 25th April has been excluded due to a nearby major emergency response incident.

Figure 3.1: Long term summary: MP1

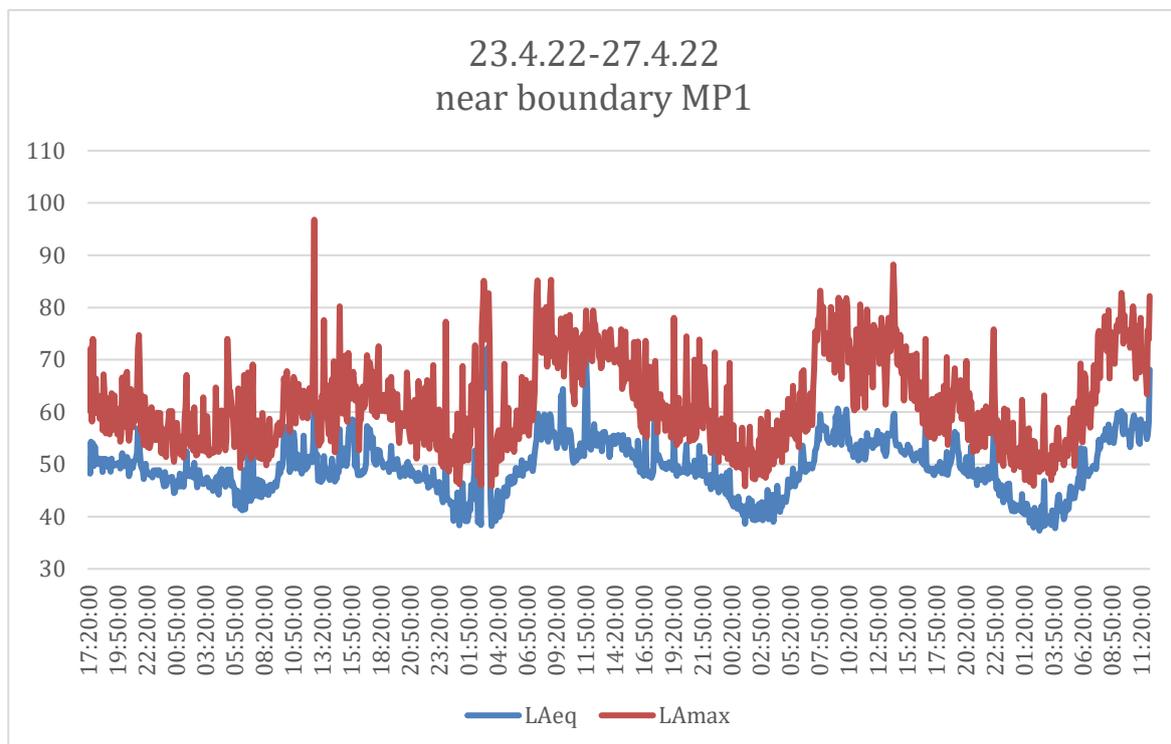
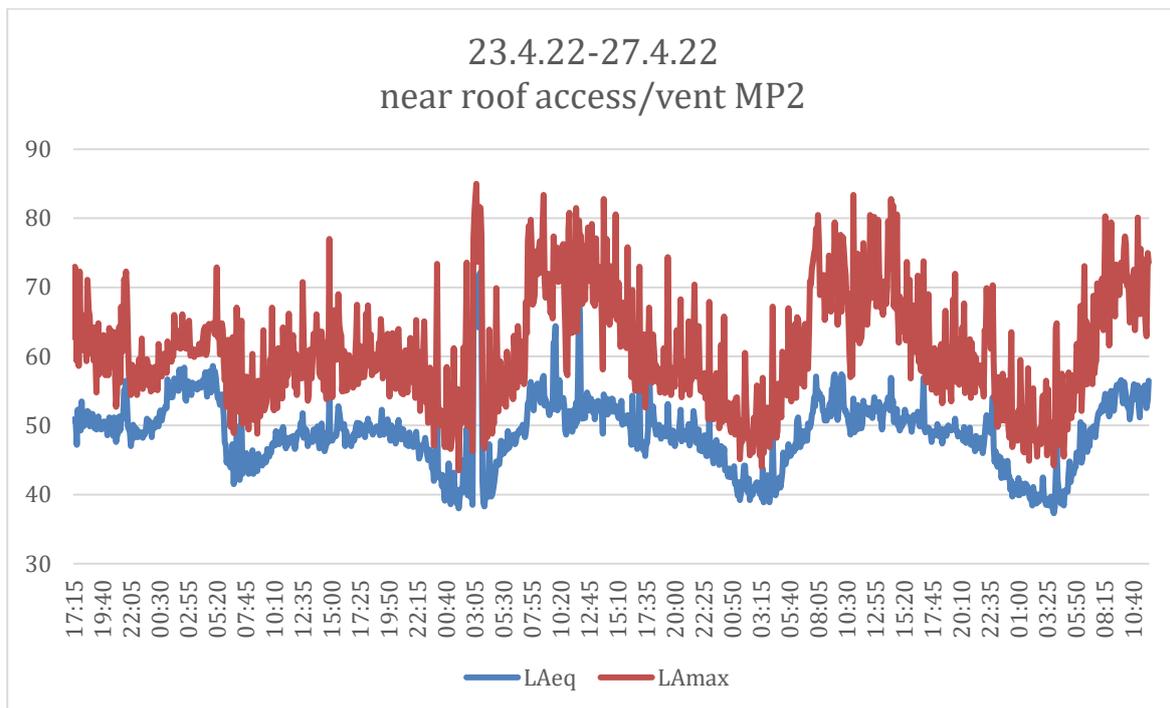


Figure 3.2: Long term summary: MP1



4.0 Assessment

- 4.1 The assessment focusses on any potential impact from venue activities at the nearest residential premises. As can be seen from the data summary, there is no significant difference at the site boundary either with or without an event at the venue. This is comparing data from a worst-case event from 2300-0600 including outdoor activity in the smoking area outside the venue and people arriving or departing. The entrance to the venue is screened by the building itself and is sited on Ormside Street.
- 4.2 A planning history search regarding the new residential developments on Hatcham Road and on the corner of Penarth have revealed conditions that require internal levels within the residential units to comply with BS8233:2014 as outlined in paragraph 2.8 above.
- 4.3 Other conditions involve the control of noise resulting from the mixed commercial/residential use of the new developments to meet NR20 within the residential units. NR curves ensure that noise is within a known level for each frequency band.
- 4.4 Given the levels summarised above and the conditions applied to the residential developments indicate that there should be no adverse impact from the activities of the venue.

- 4.5 Notwithstanding the above, the agent of change principle exists in the planning framework; The 'agent of change principle' encapsulates the position that a person or business (i.e. the agent) introducing a new land use is responsible for managing the impact of that change. The practical issue that has arisen on occasion is that in circumstances where residents move into an area where noise is emanating from e.g. a long-standing music venue, this may have resulted in the Local Planning Authority (LPA) imposing additional licensing restrictions on the established licensed venue. Campaigners on behalf of licensed premises have long advocated support for implementation of an 'agent of change' principle to place the responsibility for noise management measures on the incoming 'agent of change'.
- 4.6 The inclusion of an explicit reference to the agent of change principle in NPPF is therefore a change of emphasis and clarifies the application of the principle. The new paragraph 182 of NPPF now states that both planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (e.g. places of worship, pubs, music venues and sports clubs). "Unreasonable restrictions" should not be placed on existing businesses as a result of development permitted after they were established. "Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed."
- 4.7 For developers this means that where they are proposing residential development they should consider if there could be a significant adverse effect on future occupiers of that development from any nearby source(s) of noise such as pre-existing entertainment venue(s). Where a potential significant adverse effect is identified, developers are likely to be required to factor into their planning application suitable mitigation measures to avoid any significant adverse impacts on health and the quality of life for future occupiers. The survey data does not suggest a significant impact on future occupiers.

5.0 Conclusions

- 5.1 An assessment of the existing ambient, maximum and background noise levels have been undertaken at the boundary to the nearest residential properties to the east of the proposal to inform the existing baseline noise levels both with and without a worst-case event at the venue.
- 5.2 Consideration has been given to the likely noise levels associated with this venue and the levels considered at the nearest noise sensitive property. The impact from operation of the venue has been assessed against national guidance and existing noise levels.
- 5.3 It is concluded that the proposal will operate at acceptable levels at the boundaries with the nearest residential properties as proposed and will not cause a significant impact on the health and life of local residents in accordance with the national policy aims contained within the NPPF, NPSE and in accordance with noise guideline values contained in BS 8233:2014, BS 4142:2014 and World Health Organisation Guidelines for Community Noise 1999 together with local aims.

APPENDIX A

ACOUSTIC TERMINOLOGY

Acoustic Terminology

1. Noise, defined as unwanted sound, is measured in units of decibels, dB. The range of audible sound is from 0 dB to 140 dB. Two equal sources of sound, if added together will result in an increase in level of 3 dB, i.e. $50 \text{ dB} + 50 \text{ dB} = 53 \text{ dB}$. A 10 dB increase in sound is perceived as a doubling of loudness.
2. Frequency (or pitch) of sound is measured in units of Hertz. 1 Hertz = 1 cycle/second. The range of frequencies audible to the human ear is around 20 Hz to 18000 Hz (or 18 kHz). The capability of a person to hear higher frequencies will reduce with age. The ear is more sensitive to medium frequency than high or low frequencies.
3. To take account of the varying sensitivity of people to different frequencies a weighting scale has been universally adopted called "A-weighting". The measuring equipment has the ability to automatically weight (or filter) a sound to this A scale so that the sound level it measures best correlates to the subjective response of a person. The unit of measurement thus becomes dBA (decibel, A-weighted).
4. The second important characteristic of sound is amplitude or level. Two units are used to express level a) sound power level - L_w , and b) sound pressure level - L_p . Sound power level is an inherent property of a source whilst sound pressure level is dependent on surroundings/distance/directivity etc. The sound level that is measured on a meter is the sound pressure level, L_p .
5. External sound levels are rarely steady but rise or fall in response to the activity in the area - cars, voices, planes, birdsong, etc. A person's subjective response to difference noises has been found to vary dependent on its temporal distribution (i.e. its variation with time). For this reason, a set of statistical indices have been developed.
6. There are four main statistical indices in use in the UK:
 - L_{A90} The sound level (in dBA) exceeded for 90% of the time. This unit gives an indication of the sound level during the quieter periods of time in any given sample. It is used to describe the "background noise level" of an area.
 - L_{AeqT} The equivalent continuous sound level over a period of time, T. this unit may be described as "the notional steady noise level that would provide, over a period, the same energy as the varying noise in question" (In other words, the energy average level). This unit is now used to measure a wide variety of different types of noise of an industrial or commercial nature, as well as road traffic, aircraft and trains.
 - L_{A10} The sound level (in dBA) exceeded for 10% of the time. This level gives an indication of the sound level during the noisier periods of time in any given sample. It has been used over many years to measure and assess road traffic noise.
 - L_{AMAX} The maximum level of sound, i.e. the peak level of sound measured in any given period. This unit is used to measure and assess transient noises, i.e. gun shots, individual vehicles, etc.

APPLICATION ON BEHALF OF PC32 LIMITED**ORMSIDE PROJECTS****UNIT 32A & B & C PENARTH CENTRE****ORMSIDE STREET**

COUNSEL'S SUBMISSIONS ON BEHALF OF THE APPLICANT

1. This is an application on behalf of PC32 Ltd, ("the Applicant"), of 32c Penarth Centre, Penarth Street, London, SE15 1TR. The application relates to Ormside Projects, a multi-disciplinary arts centre and events venue, offering valuable facilities and resources for the development and presentation of a diverse range of projects. It was founded in 2015 by Michael Levitt.

2. Ormside Projects is situated within the thriving mixed-use Penarth Centre, in the Strategic Protected Industrial Zone of South Bermondsey. It is a multidisciplinary arts centre, supporting an exceptional range of artistic offerings, including, but not limited to music showcases, live performances, art installations and film screenings whilst also facilitating design and construction workshops and operating as a film and photography studio. Ormside offers space for emerging artists of diverse backgrounds to develop and present their work.

3. Ormside Projects is a grass-roots independent arts venue, recognised by and benefitting from recent Arts Council funding from the Cultural Recovery Fund. Ormside Projects has been supported by the Mayor of London's Culture and Community Spaces at Risk programme for several years, receiving business continuity and sustainability support, most recently in February 2022.

4. The space does not operate as a conventional drinking establishment with regular opening hours and passing trade. It is not a nightclub, nor anything like a nightclub. The patrons attend the venue specifically to enjoy the music, arts & culture.

5. Critically, the premises are primarily funded through ticket and bar sales income, which pays for the programme of events and enables continued viability. This is typical of many arts and culture venues and grass roots music venues. Over seven years, Ormside Projects has demonstrated

impressive resilience and popularity, enabling it to survive even major disasters, such as the COVID pandemic, and to continue to attain international recognition and renown. In this space of time, Ormside Projects has forged a strong relationship with patrons, artists, local residents and other businesses in the locality. This is testament to the quality of the offering, but also the skilled management and operation which does not cause negative impacts on the local community. This is confirmed by the Police Representation. Ormside Projects is a much loved community venue and resource, supporting local and not for profit ventures, as well as commercial activities, as is made abundantly clear from the wealth of supportive representations which accompany this application.

6. The Penarth Centre is a non-residential light industrial building. Neighbours include artist studios, mechanics, industrial businesses and places of worship. This is confirmed by the Police Representation. Good relationships have been established between the businesses in the area and Ormside have been at the heart of this partnership. Working together as a community, notable progress has been made to tackle antisocial behaviour and make the area safer. The continued thriving viability of the premises will continue that good work, and provide security, and scrutiny in this location, to deter anti-social behaviour. Access to the venue is primarily from Ormside street, maintaining the integrity of the Strategic Protected Industrial Zone (SPIL).

7. The premises have extended their hours through the use of Temporary Event Notices for the past 6 years. To date, no complaints or objections have been received in respect of these Notices. With this proven track record, the purpose of this Application is to regularise the operation, and provide long term stability, commitment and certainty, which will enable further financial investment and effective future planning. Ormside's operation and economic planning have evolved in line with Southwark's Borough Plan 2020-22 and Southwark Council Night Time Plan through:

(i) Creating over 35 jobs for a diverse range of local people between the ages of 18 – 60. Ormside's management team is women led; 66% of management live (as well as work) in Southwark; the workforce is representative of Southwark's diverse population inclusive of BAME and LGBTQ+ people. Acknowledging the findings of the London at Night report presented to the Mayor of London, which raises concerns that more than a third of night workers earn less than the London Living Wage, all staff are paid above the London Living Wage. Staff are paid by Ormside to attend training opportunities.

(ii) Implementing a community outreach programme that provides training and jobs to local young people, enabling them to develop skills and experience in the creative industries. Members of the

management team are working towards becoming Southwark Mentors and, uniquely, they employ a community project manager, who brings with her a wealth of experience and training from working in Housing Associations to work with Southwark residents.

(iii) Piloting initiatives that offer opportunities for Southwark residents to make income from their creative projects to help ensure Southwark's rich nightlife flourishes post-COVID.

(iv) In line with Southwark's Plan, Ormside actively works with the LGBTQ+ community, acting as an LGBTQ+ cultural space that meets this community's needs.

(v) Putting the safety of all women at the forefront of their thinking and initiatives by working with the Safe Night Out Campaign and the Metropolitan Police to develop community safety at night. Staff have received WAVE police training.

8. Ormside Projects has managed their premises to a very high standard during the last 7 years, evidenced in good working relationships with the statutory authorities, waste management, neighbour relations and collaborations with local businesses.

9. The Applicant has attempted since March 2022 to engage individually with the Responsible Authorities in relation to this application. The Applicant has submitted written representations to the Responsible Authorities, together with copies of their Policies and Protocols, to explain and detail the proposal, and to attempt to allay any concerns that the Responsible Authorities may have. Pre-application submissions have been provided to the relevant Officers in good time, prior to the submission of an application in accordance with advice in the Secretary of State's S. 182 Guidance, especially 9.32 and 9.34. The Applicant has only received feedback from the Police. The other Responsible Authorities have not engaged, which is significantly disappointing.

10. In 2016, The House of Lords Select Committee conducting the ten year review of the Licensing Act 2003 chose to pay a visit to Southwark Council to watch a licensing Committee in action. Their reaction to what they saw is recorded in the Report published on Tuesday 4 April 2017, at Appendix 4. They interviewed the Chair of the Committee at that time, Renata Hamvas, and the principal Licensing Officer, Jayne Tear. Ms Hamvas and Ms Tear told the Lords as follows (as recorded in the Lords' Report):

“The principal licensing officer emphasised that Southwark sought to conciliate as many cases as possible before they reached the need for a hearing”

“When asked about the practicalities of conciliation, Ms Tear explained that the process normally began with a case officer compiling the relevant evidence. An informal meeting was then arranged, in which no resolutions were required. If this resulted in objections being withdrawn, the application could then proceed without the need for a hearing. Efforts were made to ensure that a meeting of all responsible authorities was held every three weeks, to ensure that there were not contradictions between their respective positions”.

“The Chair stressed that the Council did try to coordinate licensing and planning efforts, but noted that the licensing and planning regimes were not formally joined up, and unless very specific criteria were met, planning officers were prevented from making representations against licensing applications”.

It is very disappointing that it appears that these representations are not accurate at this point in time.

11. There has been no engagement with the Applicant at all from any Department from the Council, despite the Applicant’s strenuous efforts to trigger such pre-application engagement. Indeed, Environmental Protection told the Applicants that they *could not* engage in pre-application discussion. Any of the concerns that the Responsible Authorities have raised in their Representations could have been addressed effectively, some time ago.

12. Ms Tear, for the Licensing Authority as a Responsible Authority submitted her Representation at 23.15pm on 4.07.22; (45 minutes before the consultation deadline). A number of the submissions made by all of the Responsible Authorities who have objected are factually and legally inaccurate. These inaccuracies should have been resolved during the pre-application period, thereby saving time and cost. There are no objections at all from local people. There are well over one hundred letters of support.

13. The Licensing Officer coordinating this application, Wesley McArthur emailed the Applicant to this effect on 5 July 2022:

“Whilst reading through the premises licence issued in respect of Units B & C (premises licence number 868596) I noted that there is an error in the licence in that the hours stated in the licence document are longer than those decided by the council’s licensing sub-committee at the hearing to determine the application regarding the licence. I have attached an amended copy of premises licence 868596.”

14. Ms Tear, Principal Licensing Officer has also recorded in her Representation that the previous licence was “granted by the licensing sub-committee”. It is unaccountable that the Council Licensing Department apparently has not had recourse to their record of the resolution of the Appeal to the Magistrates’ Court against the Committee’s decision on the Premises Licence application in 2019, (less than three years ago), which resulted in the hours correctly reflected on the licence, before communicating with the Applicant, or writing formal Representations. It is astonishing that Mr McArthur was purporting to change the licence back to the pre-appeal hours on his own initiative. He does not have the jurisdiction to do this. This lack of access to accurate record keeping before hearings in Southwark was a factor specifically raised by the Lords in 2017.

15. Questions will be raised at the hearing by Counsel on behalf of the Applicant as to whether any of the representatives on behalf of the Responsible Authorities who have submitted objections have, at any time before the submission of their Representation:

- (i) Obtained a working understanding of what happened at the time of the last application, and the successful Appeal process, resulting in consent order for the extended hours going beyond Policy;
- (ii) Recognised the implication of the Court endorsing licensable hours in 2019 which exceed the Council’s Statement of Licensing Policy;
- (iii) Read the House of Lords Report and the account regarding Southwark Council within it, and taken note of the guidance given there before preparing their Representation;
- (iv) Read the s.182 Guidance, and particularly paragraphs 1.17; 8.46; 8.48; 9.11; 9.12; 9.32; 9.34; 9.43; 9.44; 10.10
- (v) Read the pre-application submissions of the Applicant, directed specifically to the Responsible Authorities;
- (vi) Read the relevant portions of Southwark’s Night Time Plan, and understood the support that that Policy affords to the current application;
- (vii) Investigated the number of TENs that have been confirmed and operated over the last six years, without objection;
- (viii) Read the many letters of support for the application;
- (ix) Taken advice from the legal department.

16. The Representations from the RA’s all seek to make the point that the application falls outside the Council’s Statement of Licensing Policy Hours Policy. What all the Representations fail

to acknowledge is that the licence already enjoys hours outside of that Policy, as ratified on appeal by the Magistrates' Court. This is highly significant, because this licence is already an exception to Policy. It does not need to be made an exception to Policy again. The Council cannot, in this application, "un-make" it an exception – particular since it has been confirmed to be an exception through the appeal process. Given that the Policy has already been exceeded, compliance with the Policy is no longer a valid issue for the current application, and this is not in any way a valid reason for refusal. This is a legal issue. The RAs appear not to have understood this.

17. The application is also in conformity with Southwark's Night Time Plan, and should benefit from a number of the pronouncements in that Plan, eg:

"We will support businesses to adapt to the changing economy throughout the 24 hour city cycle by sympathetically considering changes to opening times and uses."

There is nothing "sympathetic" about the reactions of the RAs. None of the Responsible Authorities has referenced the Plan at all, or noted the impact of COVID, nor the relevance. Protection of the night time economy, post COVID pandemic is absolutely vital. Southwark has participated in a range of groups and workshops throughout the pandemic crisis, to understand how businesses can be helped through and after the pandemic. None of the Responsible Authorities have reflected any of this in their responses to this Application, which are, without exception, ill-informed, disproportionate, and excessively restrictive, given the established and extensive operation of these premises, without problem, over the last seven years.

Planning

18. There is no justification for a representation from the Planning Department as Responsible Authority (RA) which identifies purely planning issues. This is confirmed in the S182 Guidance:

"The Statement of Licensing Policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa. However, as set out in chapter 9, licensing committees and officers should consider discussions with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs'."

This has not occurred.

19. It is not relevant that the hours in a premises licence application do not match those in an extant planning permission. It is even less relevant where the planning use arises from long user, rather than specific permission. On any view, the applicant is restrained by their most restrictive authorisation, and it is their prerogative, legally, to amend one authorisation before applying for an amendment of the other. If there are planning objections to be taken into account, those will be addressed during the planning process. The Applicant has a longstanding relationship with the Planning and Regeneration team. For the last seven years, the Planning Officers have not raised any issues with the Applicant's operations. Planning did not raise any objection to the last licence application, where, presumably their speculative concerns, at that time untested by any actual operation of the premises weighed more heavily.

20. The Planning Department as a RA has no authority to ask the Committee to consider planning issues, which will be decided in accordance with planning law and policy, which is not the same as licensing law and policy. It is significantly inappropriate for the Officer to indicate any pre-judgment as to what is likely to happen to any planning application that has not yet been made. The Officer will have to bear in mind that any breaches of planning control that have not been the subject of enforcement are not unlawful. After a certain period of time, uses that have been conducted in breach of planning control are immune from enforcement and it is not the remit of the Licensing Committee to consider anything concerning that. It is also the case that the Planning Officer's representation is factually inaccurate in a number of respects, including the planning history of the site, and the precedent of late night events at the site prior to the current occupants' tenure. It is simply unlawful for the Committee to embark on any consideration or speculation in relation to the planning position, and it is inappropriate for the Planning Officer to invite the Committee to undertake an unlawful exercise. This is why it is a rare event for a Planning Officer to make a representation to Committee. This is what Renata Hamvas told the Lords in 2016, but this does not appear to have influenced the Planning Department.

21. It is not accepted that the vicinity of the licensed premises is properly categorised as "residential", as a number of the Representations do. The area around the venue comprises light industrial units, multi-use event spaces and workspaces. The premises are located in an area protected in planning policy as "Strategic Industrial", which is a contradiction of the description as "residential". The Police Representation acknowledges the reality of this situation.

22. The Planning Representation, the Representation from Environmental Protection and also that of Ms Tear for Licensing significantly misrepresent the current and proposed operation of the premises as an intended nightclub – a matter that could have been resolved with proper pre-application consultation. The premises are not, have never been and are never intended to be a night club, and this is a disappointing and crass generalisation. All the Representations state a variation on a theme of “The hours sought are only commensurate with a nightclub”. Nightclubs do not have a monopoly on late hours. Nightclubs are not, in any event, negative concepts that always give rise to negative impacts, the imitation of which is to be at all costs avoided. A wide variety of premises have a wide variety of hours for many reasons. The necessity for the hours sought for this application has been tested extensively with the use of TENS, and had any of the Responsible Authorities engaged properly, they could have seen the range of activities offered at those later hours, and the lack of negative impact arising.

23. The venue will continue to operate as an arts and culture venue and small grassroots music venue defined by the focus on cultural activity as its main purpose and outcomes; its small capacity and its lack of profitability. As a small grassroots venue, and typical of those enterprises, Ormside relies on income generated from late night events which predominantly take place on the weekends, as these events ensure the financial viability of its community orientated operation. This critical distinction is made not only by the applicant themselves but also by objective organisations including Music Venue Trust (see attached appendix, item 1) as well as by the 115 supporting testimonies in favour of granting the license. Accordingly, the venue’s operation is consistent with Southwark’s general land use policy, as outlined in the NSP70 (p46), which states that existing leisure, arts, and cultural uses should be retained or re-provided with redevelopment and that new provision of leisure and arts and cultural uses and proposals delivering public art projects and independents will be permitted. More specifically, the plan outlines that Arts and cultural venues of strategic importance will be supported in the Old Kent Road Opportunity Area Core (P46). Further still, the site-specific designation for Ormside Street and the Penarth Centre and the surrounding area in the NSP confirms redevelopment may ‘provide arts and cultural uses in the Penarth Centre’ (NSP 70).

Environmental Protection Team

24. The Applicant refutes the Environmental Protection Team’s (EPT) claim that the premises have been the source of noise complaints from residents on two occasions in the past three years. Notwithstanding the fact that this is a negligible number in any event, it happens to be inaccurate.

The first complaint apparently ever made in relation to the premises (made on 7/12/2019) came to the attention of the unit's previous owner. The complaint was made by an occupant of a short-let (holiday occupancy) tenant living in that previous owner's unit. Both units are now united under one address, which gained a certificate of lawful use and was purchased by Mr Than Hussein Clarke of London Performance Studios (LPS), in January 2020 who has since reclaimed its use for the creative sector and who supports the ongoing collaboration between LPS and Ormside Projects. At the time of the complaint, the EP Officer reported that the investigation concluded that the sound was not at a level to constitute a statutory noise nuisance, and no further action was taken. Thus, the first "logged noise complaint" raised in the EPT Representation was unsubstantiated; judged as "not a nuisance"; is now irrelevant to the current application and of no further concern to any future operation. It is hard to conceive of anything that is of less evidential value to the Committee, nor why it is in the Representation.

25. The second and final complaint (made on 1/9/2020), is also disputed. The complainant apparently stated: 'Loud noise emanates from the property on a regular basis', and alleged that a planned event was about to go ahead. This would not have been possible, as this was in the middle of the COVID restrictions, and the Applicant was 100% compliant with the requirements. This complaint was, therefore, entirely false. It was not investigated, nor substantiated, and no intervention was undertaken with the Applicants.

26. Nothing about noise complaints has been raised with the Applicants at all prior to this application. It is therefore highly disappointing that this second allegation presents itself for the first time in a Representation to Committee, without clarifying matters with the Applicant.

27. The reference in both the Planning and EPT Representations regarding the "two existing adjacent residential dwellings" within the Penarth Centre itself (Units 18/33 and one at Unit 31) are disputed. As the EPT outlines, the Council initially refused residential status for these units through an enforcement notice, based on the likely noise impact on residents from Ormside Projects and the risk to the 'Agent of Change' Principle. In appeal documents opposing planning authorisation for the dwelling, EPT argued that internal sound insulation is unlikely to prevent the transmission of sound within the same building to potential residential dwellings. The matter was settled with an attached condition that the residential status is to be automatically surrendered when the occupier moves out and, during their residency, the occupier forgoes their right to lodge noise complaints. This has

obviously not been accurately set out for the Committee. The EPT representation to the Committee would appear to be contradictory to the correct planning position, and the necessary protection of the operation within the Penarth Centre.

28. The Applicant has commissioned an acoustic report to support this application which evidences that ‘the proposal will operate at acceptable levels at the boundaries with the nearest residential properties as proposed and will not cause a significant impact on the health and life of local residents in accordance with the national policy aims contained within the NPPF, NPSE and in accordance with noise guideline values contained in BS 8233:2014, BS 4142:2014 and World Health Organisation Guidelines for Community Noise 1999 together with local aims.¹ The Responsible Authorities have not contradicted this acoustic report.

29. EPT’s observation that the location is “mixed residential/commercial in character and currently has a low residential density which is likely to have contributed to minimising complaints from existing premises operations” is disingenuous. The description of the locality is correct. The speculation as to why there have been few complaints and an invitation to conclude that it is not as a result of the proper and effective running of the premises but due to an absence of receptors is highly inappropriate, and instantly falsified by the number of Representations received from interested parties, in an ideal position to comment on the impact of the premises if there were any. If this Representation from EPT is an invitation to the Committee to speculate that there may be more residential units in the future, and that residents may move in, and may be disturbed at some unidentified future date, and that this may cause a public nuisance in licensing terms, then this is further invitation to undertake an unlawful exercise. The Committee is required to make a judgment as at the date of their decision, based upon the available evidence. They are not permitted to engage in hypothesis or speculation as to what may occur in the future:

R (On the Application of Daniel Thwaites Plc) v. Wirral Borough Magistrates' Court [2008] EWHC 838 (Admin):

Para 47: “To judge by the Reasons (given by the magistrates) therefore, what led the magistrates to impose restricted hours of operation was their forecast as to what would occur in the future in association with the premises, notwithstanding the absence of reliable evidence of past problems.”

¹ Please see full sound report appendix 2

30. The case went on to confirm that the facility within the Act of a licensing review was an appropriate and adequate safeguard against any future changes. The ability to review a licence is what allows for the “light touch bureaucracy”, and the permissive regime that licensing is supposed to be.

31. Any future impact on residents in newly built accommodation would have to be taken into account in the planning process, and in accordance with the Agent of Change principle. It is categorically wrong to refuse this application at this time as a prospective, speculative protection for residents who are not even there yet. When their developers come to built their new accommodation, it will be for those developers to implement the necessary protection from any existing business uses, like the Penarth Centre. If the likely impact of the existing business upon the new residential units were judged to be too great, then Planning and EPT would object to the proposed residential use - as they did with the Unit next door. The business – which means this Applicant - is entitled to protection as a matter of law and policy.

Southwark Council, of all decision makers, as stage for the poster child of the Agent of Change principle, through their constituent, Ministry of Sound, should understand this.

32. The Applicant resists a suggestion for conditions from EPT, for good reason:

“External waste handling, collections, deliveries and the cleaning of external areas shall only occur between the hours of 08.00hrs and 20.00hrs.”

This would not work as it would not allow the management to clean up during and after events. This would cause significant issues. The waste collection pick up happens often and sits outside of these proposed limits. The proposed limitation would put Ormside Projects out of line with pick up for others that happen in the area. There have never been any issues with waste collection or street cleanliness. This condition is unnecessary and therefore inappropriate.

Local Residents.

33 An excellent test of the likelihood of impact of the proposed application is the reaction of local people to it. There has been a significant number of letters of support, (117 at the time of writing), from high level supporters including Amy Lamé, the Night Tsar, and Music Venue Trust, as well as from local neighbours, including the existing residents. This is a far more reliable measure of the actual impacts of the operation than any speculation by Responsible Authorities who

clearly have not undertaken any local investigation. The commissioned acoustic report empirically confirms this first hand evidence from neighbours.

This reaction from neighbours comes after seven years of the current operation, extended on a regular basis by temporary event notices; utilised to the maximum extent of twenty days of TENs per year.

TENs

34. At no time has a TEN been objected to by anybody; and specifically not by the Police or EPT, who have the power to formally resist a TEN if they judge that it will have unacceptable impacts. It is untenable, therefore, for the RA's at this stage to invite speculation as to what effect the later hours of operation might have, when they have had ample opportunity over the years to assess precisely what effect those later hours actually do have, in real time, under the TENs. It is notable that none of the RAs have anything to say about the operation of the TENs. This is critical information, as the Lords observed in 2017.

35. The TENS have been operated under stringent policies and protocols by the venue, and these are replicated in this application. This includes a Security and Operations manual, and a Dispersal policy to control the managed exit of customers from the premises and organisation of access to public transport, including taxi pick up. The Applicant has also commissioned a data survey from its patrons, which evidences an understanding of the ways in which they travel from the venue, which is consistent with their dispersal policy. Most patrons disperse in private hire vehicles. The Police Representation confirms that there has been virtually no crime or disorder associated with the premises. The Applicant is content to have its policies conditioned to the licence, with a power of scrutiny given to relevant responsible authorities. It is appropriate to build into the condition the flexibility to amend policies in the future, to the satisfaction of relevant RA's. Extensive training has also been undertaken by staff, and constant attention to training is given. Only when those policies had been thoroughly tested by trial TENs was this application submitted, in the confidence that the measures worked to control all the licensing objectives.

Licensing Authority

36. The Representation by Ms Tear on behalf of the Licensing Authority is disappointing. Firstly, Ms Tear, as highlighted above, has not complied with the engagement protocol that she informed the Lords about.

37. Secondly, Ms Tear states:

“The premises is (*sic*) situated in a residential area”.

The area is not “residential” by any measurement or criteria that the Council applies on the ground.

38. Thirdly, Ms Tear states:

“ This premises (*sic*) currently holds a premises licence No. 876779 for units 32B and C. The application for this premises licence was decided by the Licensing Sub-Committee and was granted generous hours within this residential area.”

The licence was not decided by the Licensing Sub-Committee. It went to appeal. There is no concept of “generous” in the licensing field. A licence is not a gift. It is not a residential area.

39. Fourthly, the information on the application form was not “limited”. If Ms Tear or her colleagues had availed themselves of the opportunity to engage in the pre-application process, as they were invited to do, and had they read the pre-application submissions, and policies, and protocols, which were voluminous, she might have concluded that the information provided to her was replete.

40. Fifthly, it is not clear what Ms Tear is talking about when she states:

“The applicant 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 within the operating schedule.”

This contention appears to be empty verbiage, without any evidential foundation. This suggests that Ms Tear has not seen or read the Dispersal Policy, the Security and Operations Manual, or over 100 representations from local people in support of this application. Nor has she considered the history of TENs. Ms Tear has indicated that she intends to provide further information in relation to the TENs. It is not clear what is meant by this. Ms Tear would be required to provide any information that she intends to rely upon in good time, and not ambush the Applicant.

41. The specific measures advanced by Licensing are unnecessary and therefore inappropriate. There is no need for the stipulation that:

“Patrons shall not be permitted to use the external area of the premises (as defined on the premises plan) after 22:00 until the start of business the following day, apart for access and egress and those who temporarily leave to smoke”.

The Applicant advances the condition in the alternative that the smoking area shall be marshalled by a member of staff at all times (Operating Condition 18, of applicant's current application). This condition is well preceded by the negligible level of incidents with 7 years of operating history. Structurally, it has clear benefits as it is a far more manageable circumstance from an operational perspective because the staff can adapt and influence based on specific customer behaviour, as outlined in the venue's Security and Operations manual. This approach has worked for many years for similar events under TENs. For more detail, whilst operating under the previous license the applicant have kept to 20 no. people in the smoking area. On Temporary Events Notices they have increased this number due to intermissions between performances, in which case there are short periods of time where they wouldn't be able to practically and safely operate on a one-in one-out policy.

42. The Applicant questions why Licensing is requesting that both the Licensing Authority and Police shall be informed at least 14 days prior to the provision of licensable activities given that the Police have not asked for this information. The Applicant perceives this stipulation as an unnecessary bureaucratic limitation on the licence that would result in unworkable administration requirements from the point of view of the applicant and the police.

43. The Applicant seeks to address the contention of Licensing that: ‘the application is adding an extra unit, therefore footfall of patrons is likely to increase to the area and the hours within this application are more akin to that of a nightclub which under the Licensing Policy 2021 – 2026 is not considered appropriate for this area’. The Applicant notes that in the S.182 Guidance, capacities should not be interfered with by Licensing Committees where they have been set by Fire Safety legislation. Fire safety requirements at this venue allow for a maximum of 200 people at the premises. The Licensing Authority should understand that the additional area in this application (unit 3A) does not change the capacity in any way, or affect the likely footfall of patrons due to the necessary compliance with Fire Safety legislation. The applicant has no intention of raising this capacity.

44. It is inappropriate for the RAs to suggest in their Representations that, in the absence of any evidence, it might be appropriate for the Committee “to consider if” there “might” be an impact, to take their own course and find their own reasons for resisting the application. If an RA has good grounds to resist an aspect of an application, then the proper course is as set out in the S182 Guidance. It is for the RA, as the expert adviser in their particular field of expertise to identify the specific nature of the risk to one or more of the licensing objectives; identify the cause of the risk, and then identify the specific steps that would be required to mitigate the risk. Anything else is an abdication of the RA’s duty, and does not comply with the s182 Guidance.

45. In contradiction of this speculative approach of the RAs, the Applicant’s proven track record with regard to upholding the licensing objectives is relied upon. The Applicants did have a pre-application meeting with the MET Police, to explain the operations and share the intention regarding revised hours. During this meeting, no comments were raised that had bearing on the upholding of the licensing objectives.

46. Addressing any misgivings from Ms Tear with regard to a multiplicity of licences, it is confirmed that there is only one operator, and a need for only one licence. Once the new licence is granted the old licence will be surrendered. In any event, if Licensing had any valid concern in this respect, the appropriate measure is to review and revoke the extraneous licence, not to refuse to grant the new one.

47. The Committee will be required to exercise their Public Sector Equality Duty, under the provisions of the Equality Act 2010. Mr McArthur, the case officer sought to exclude the letter from Amy Lamé on the basis that she had not addressed the four licensing objectives. Ms Lamé referenced safety in her letter, and was clearly indicating that the premises did not pose a risk to the licensing objectives because of its character. Even more importantly, Ms Lamé’s letter is vital with regard to the consideration of the PSED by the Committee, and depriving the Committee of this information would be very serious. The Committee will, no doubt, receive guidance in their Committee papers on how to conduct their PSED in this case in accordance with the Brown Principles, [R (Brown) v Secretary of State for Work and Pensions [2008] EWHC 3158]. Failure to do so is judicially reviewable.

48. The PSED does not just apply to higher level policy decisions, but also applies to decision-making in an individual case. The relevant duty is upon the decision maker personally. What matters is what he or she took into account and what he or she knew. The public decision maker must be aware of the duty to have "due regard" to the relevant matters. A decision-maker must assess the risk and extent of any adverse impact and the ways in which such risk may be eliminated before the adoption of a decision. The duty must be fulfilled before and at the time when a decision is being considered. The duty must be exercised in substance, with rigour, and with an open mind. It is not a question of "ticking boxes". This entails a rigorous consideration of the duty and a proper appreciation of the potential impact of the decision on equality objectives and the desirability of promoting them. General regard to issues of equality is not the same thing as having specific regard to the statutory criteria. Public decision makers must be properly informed before taking a decision, and if relevant material is not available, there is a duty to acquire it.

49. Ormside Projects holds exceptional status in Southwark as a small grassroots, culturally valuable organisation, which merits fostering by the Authorities. This valued status is amply demonstrated in the extraordinary number of supporters for the premises, many of whom have taken the time to write to the Committee. The resistance manifest in the Representations is highly disappointing, and does not withstand critical scrutiny in any respect.

50. Grass roots venues and cultural venues like this typically enjoy widespread support, from the Mayor of London, Music Venue Trust, Night Time Industries Association, UKHospitality, and the House of Lords, and even, apparently, from the Council itself, in its own Night Time policy. It is highly regrettable, therefore, that none of this support, nor the jeopardy to these venues that the support seeks to address is mentioned by the RA's in their submissions. On the contrary each of the Representations seems to be bent on placing more restrictions on the licence than were imposed in 2019, including a withdrawal of hours. There is no justification for this at all. The premises have done nothing wrong in all the time that they have been there. This hostility from the Responsible Authorities might be comprehensible if there were a slew of objections from local people, but there are none whatsoever. The depth of support for Ormside Projects is staggering, and it speaks for itself. It is anticipated that representatives from the Mayor of London's team, Music Venue Trust and Night Time Industries Association, as well as the press will attend the hearing.

This application will be vigorously advanced.

Sarah Clover
Kings Chambers
14 July 2022

Appendix 1: MVT Definition of GMV and GMAS

<https://www.musicvenue trust.com/resources/grassroots-music-arts-space-gmas-definition/>

Music Venue Trust has established an accepted and acknowledged definition of a Grassroots Music Venue, [available here](#).

The purpose of the definition of a Grassroots Music & Arts Space is to identify other spaces which are also contributing to the cultural offer of live music in our towns and cities, but which may lack the music-focused cultural programming of a GMV.

Identifying Multi Use Arts Spaces that host grassroots live music is important to the work of **Music Venue Trust** as these spaces make a significant contribution to the Talent Pipeline, honing musicians' skills, providing employment, and, in many locations, delivering access to live music in the absence of, or in addition to, a specifically designated GMV.

DEFINING GMAS – CULTURAL AND SOCIAL ROLE

We define the cultural and social importance of a Grassroots Music & Arts Space (GMAS) by testing its reputation, role and activity against six criteria:

1. **Elephant Test**

Musicians and audiences in the town/borough/city believe that the space plays an important role in the local grassroots music scene.

2. **Music is a Consistently Featured Element within a Vibrant Cultural Programme**

A GMAS has a broad programme of cultural activity including elements such as theatre, dance, exhibitions, comedy, which includes a substantial and consistent element of live music.

3. **Identified Live Music Champion**

A GMAS has one or more identified members of staff with responsibility for its diary of events who, within that role, are designated as the person who books, promotes and supports live music.

4. **Strong Live Music Programme that Supports New Talent**

A GMAS offers multiple opportunities to experience a range of live music, including at least 36 events per year at which artists performing music they have written themselves are showcased. A GMAS programmes artists that deserve audiences with no expectation of direct financial reward; as a result of this loss-making activity, significant economic returns become available to the UK music industry.

5. **A Beacon of Music and key generator of night-time economic activity**

The presence of a Grassroots Music & Arts Space provides a beacon of music activity that contributes to the musicality of towns/ boroughs/cities. By programming and reputation, GMAS attract audiences who add significant value to other aspects of the night-time economy (restaurants, pubs, bars, clubs, transport).

6. **Plays nicely with others**

Occupies an important role within its local community and is open to further networking.

A Grassroots Music & Arts Space displays some or all of these characteristics, dependent upon factors such as location, economic climate, or seasonal variations.

DEFINING GMAS – AMENITIES & INFRASTRUCTURE

1. **Has a fixed or temporary stage, or as a minimum an area defined as a stage, and exhibits at least one other structural hallmark conducive to live music, such as:**

Defined audience space, sound booth, ticket hatch, sound proofing, room adapted to enhance acoustics, stage facing or elevated seating, dressing room, photo pit, external poster frames for advertising gigs, overnight band accommodation

2. **Possesses or has access to a mixing desk, PA system, and at least one other piece of equipment to facilitate live music, such as:**

Stage monitors, lighting rig, drum kit, back line, stage microphones, stage box & snake, spare instruments, instrument consumables, signal processors, recording rig, smoke machine

3. **Employs or otherwise utilises at least two of the following (they may be the same person):**

Sound engineer, booker, promoter, cashier, stage manager, security personnel

4. **Applies a cover charge to some live music performances and incorporates promotion within its activities, such as:**

Publishes printed or electronic gig listings, issues printed tickets, utilises on-line ticketing, produces displays and distributes posters, advertises gigs involving original music via local media

Correspondence with licensing responsible authority APPENDIX B1

From: Tear, Jayne <Jayne.Tear@SOUTHWARK.GOV.UK>

Sent: Friday, July 22, 2022 5:17 PM

To:

Cc:

Subject: FW: With respect to your representation made against Premises License Application 877689

Importance: High

Dear Michael,

Thank you for your email and response to my representation.

I hope you have had a chance to properly read the extra supporting information that I provided earlier today and discuss with your Counsel.

Further to our discussion today re conciliation, thank you for confirming that your accommodation limit is 200 persons.

To confirm my position regarding the my representation. If you were to agree to the following conditions to be added to the operating schedule:

- The accommodation limit for the premises shall not exceed 200 persons (excluding staff)
- Patrons shall not be permitted to use the external area of the premises (as defined on the premises plan) after 22:00 until the start of business the following day, apart for access and egress and those who temporarily leave to smoke (this number was limited to 20 patrons on the existing Licence).

And

- To amend the operating schedule opening hours and licensable activities so that the hours are the same as on the existing licence no 868596

I would be in a position to withdraw my representation.

As I have explained I will be on annual leave all of next week and my colleague David Franklin will be attending the hearing in my place. Please could you also copy him in on any further responses to my representation,

With kindest 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

Sent: Tuesday, July 26, 2022 4:38 PM

To: Tear, Jayne <Jayne.Tear@SOUTHWARK.GOV.UK>

Cc:

Subject: Re: FW: With respect to your representation made against Premises License Application 877689

Dear David,

As I now understand you will be representing Licensing in Jayne's absence, I would like to take this opportunity to bring to your attention, for the record the attached emails, that we have tried to engage with Jayne repeatedly since March prior to the hearing, and it is a little dispiriting that just after we began making progress with her over the phone she is now unable to attend. The upshot of this is we have, to date, had no communication with the licensing officer who is there on the day of the hearing. With this in mind, is there a convenient time, today or tomorrow, to touch base prior to Thursday's hearing, as we welcome any questions you might have in regards to our application and operations.

Kind Regards

Michael Levitt



ORMSIDE PROJECTS <ormsideprojects@gmail.com>

Invitation to meeting at Ormside Projects SE15 1TR

13 messages

ORMSIDE PROJECTS

Thu, Mar 24, 2022 at 2:36 PM

To: jayne.tear@southwark.gov.uk

Cc: Ian.Clements@met.police.uk, Edward Holloway

Dear Jane

My name is Michael Levitt and I am writing to invite a pre-application discussion and visit to my Grass Roots Music and Arts Venue, Ormside Projects, SE15 1TR. Licence No. 868596

I have already contacted and met with PC Ian Clements & PC John from the Police Licensing Team. Ian suggested that it would be a good idea for us to meet and for you to see the space and show you how we operate.

We are looking to submit a new licence application in April and would value the chance to put our proposals in context whilst discussing the implications face to face with you or your representative.

In the meantime I attach 'Ormside Projects Brochure' which explains our Venue, Programming, Cultural Offer and some information of the creative development of the space over the last 7 years.

Please do let me know if you might be able to attend a meeting in the next week if possible?

Kind regards

Michael

--

ORMSIDE PROJECTS
32 Penarth Centre
Ormside St
SE15 1TR

**Ormside Projects Brochure 220303 5MB.pdf**

4917K

ORMSIDE PROJECTS

Mon, Apr 4, 2022 at 4:28 PM

To: jayne.tear@southwark.gov.uk

Cc: Ian.Clements@met.police.uk, Edward Holloway

Dear Jane,

I hope you have had a good break, I just wanted to pick this back up and see if you were able to visit this week?
Or failing that maybe we can have an online meeting?

Thank you

Michael

[Quoted text hidden]

ORMSIDE PROJECTS

Fri, Apr 8, 2022 at 1:22 PM

To: jayne.tear@southwark.gov.uk

Cc: lan.Clements@met.police.uk,

Dear Jane,
Please let me know if you have received this,
Thank you
Michael
[Quoted text hidden]

Tear, Jayne <Jayne.Tear@southwark.gov.uk>

Mon, Apr 11, 2022 at 12:33 PM

To: ORMSIDE PROJECTS

Dear Michael,

Apologies for not getting back to you sooner. I was on A/L and on my return had rather a large amount of emails to get through.

I don't think it will be necessary for me to visit the premises before your application is submitted.

Any comments from me a responsible authority for licensing will be submitted once I have actually looked at any application submitted.

If you would like to discuss before you submit your application can you please send me your contact number and I will call you,

With kindest 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](#)

[Quoted text hidden]

The email you received and any files transmitted with it are confidential, may be covered by legal and/or professional privilege and are intended solely for the use of the individual or entity to whom they are addressed.

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Where opinions are expressed in the email they are not necessarily those of Southwark Council and Southwark Council is not responsible for any changes made to the message after it has been sent.

ORMSIDE PROJECTS To: Edward Holloway

Mon, Apr 11, 2022 at 1:23 PM

[Quoted text hidden]

ORMSIDE PROJECTS

Mon, Apr 11, 2022 at 5:34 PM

To: "Tear, Jayne" <Jayne.Tear@southwark.gov.uk>, Edward Holloway
Ian.Clements@met.police.uk

Dear Jayne,

Would we be able to call tomorrow? Any time from 11.30am can work for me, What time is best for you 07931731989

Thank you

Michael

[Quoted text hidden]

ORMSIDE PROJECTS

Tue, Apr 12, 2022 at 3:24 PM

To: "Tear, Jayne" <Jayne.Tear@southwark.gov.uk>, Edward Holloway ,
Ian.Clements@met.police.uk

Hi Jayne,

It would be great to talk today if possible. Are you available to call now?

Thank you

Michael

[Quoted text hidden]

Tear, Jayne <Jayne.Tear@southwark.gov.uk>

Tue, Apr 12, 2022 at 4:00 PM

To: ORMSIDE PROJECTS

Hi Michael,

I just tried to call you and your line was busy. I will try again in 10 minutes,

Kind regards

Jayne

[Quoted text hidden]

[Quoted text hidden]

ORMSIDE PROJECTS

Tue, Apr 12, 2022 at 5:06 PM

To: "Tear, Jayne" <Jayne.Tear@southwark.gov.uk> ,

Sorry I was on a long call can I call you tomorrow at 11am ?

Mike

[Quoted text hidden]

ORMSIDE PROJECTS

Wed, Apr 20, 2022 at 12:37 PM

To: "Tear, Jayne" <Jayne.Tear@southwark.gov.uk>, Edward Holloway

Hi Jayne,
Please let me know if we can book a call in thank you.
Michael
[Quoted text hidden]

ORMSIDE PROJECTS

Tue, Apr 26, 2022 at 12:35 PM

To: "Tear, Jayne" <Jayne.Tear@southwark.gov.uk> ,

Hi Jayne,
Please let me know if we can book a in call, would 3pm work for you today?
Thank you
Michael
[Quoted text hidden]

ORMSIDE PROJECTS

Fri, Apr 29, 2022 at 11:22 AM

To: "Tear, Jayne" <Jayne.Tear@southwark.gov.uk> ,

Hi Jayne,
Just trying again to see if there is any time we can book a call in?
Thank you
Michael

[Quoted text hidden]

ORMSIDE PROJECTS

Thu, Jun 16, 2022 at 1:40 PM

To: "Tear, Jayne" <Jayne.Tear@southwark.gov.uk>, Edward Holloway
Licensing@southwark.gov.uk

Dear Licensing Team

Ref Application Number :: 877689
Ormside Projects: New Premises License Application

Further to our communications (20.05.22) regarding a pre-application enquiry for the above premises we would like to reach out and propose opportunity for a representative from Southwarks Licensing Team to make a visit or engage in further dialogue with reference to our formally submitted new Premises License Application (06.06.22).

Please do get in touch and suggest a suitable time and date or reply to this email. We are keen to engage with the Statutory Consultees in a timely manner during the 28 day consultation period.

We look forward to hearing from you presently.

Best regards

Michael Levitt
[Quoted text hidden]

Correspondence with environmental protection team APPENDIX B2

From: Earis, Richard <Richard.Earis@southwark.gov.uk>

Sent: Tuesday, July 26, 2022 11:28 AM

To:

Cc:

Subject: RE: With respect to your representation made against Premises License Application 877689

Dear Mr Levitt,

Please find attached a response from EPT to your Counsel's submission on 19th July.

Much of the content was drafted before we discussed the issues during your call yesterday afternoon, but is still included as a formal reply to the points made. I have not amended any content where your comments yesterday do not accord with our records or the submitted documents, but you obviously will be able to give your perspective in any Hearing.

If you would like to discuss any of the content or any aspects of the application further, please do not hesitate to contact me.

Kind Regards,

Richard

Richard Earis

Principal Environmental Protection Officer

Environmental Protection Team

EPT response to Applicant Counsel's Submissions – 32 A B C Penarth Centre.

Complaint History

1. EPT are interested to hear the premises caused complaint from a temporary 'holiday' occupier on 7/12/2019, however we do not have a record of this and this is not the source of the complaint referenced in the EPT representation. The complaint was made to us directly by a permanent occupier.
2. The fact that the complaints were not substantiated as a statutory nuisance was clearly explained in the representation alongside the fact that bass from music and noise from the external area were audible by the Enforcement Officer. This is considered relevant information to bring to the Committee's attention. The full complaint detail (anonymised) is provided in the table in Appendix A.
3. EPT's records show the complaint on 7/12/2019 was raised with the applicant Mr Levitt by an Enforcement Officer in person, at the time, as previously detailed in the representation and in the notes below. According to our records Mr Levitt was advised to turn down the music bass causing the resident disturbance before the Officer left after 2am.
4. The second complaint was not raised with the operator by EPT as it was a generalised complaint about compliance, past impact from the premises, and concern over a future event and was not concurrent with any specific incident.

Existing Occupiers

5. EPT's representation makes clear that Unit 31 has a lawful Planning consent for a residential use and is under residential occupation. It is stated that *'the residential status is to be automatically surrendered when the occupier moves out and, during their residency the occupier forgoes their right to lodge noise complaint'*. Surrender of the residential status after a potential future sale is a Planning Condition. Forgoing the right to lodge complaint is merely an informal undertaking. EPT do not accept this is legally enforceable or can remove the occupier's basic legal right to make complaint, for example concerning statutory noise nuisance under the Environmental Protection Act 1990, or under the Licensing Act 2003, or can override the Local Authority's legal duties under those Acts.
6. Furthermore in any case the Licensing Objective is to Prevent Public Nuisance and as such we have a duty to make a representation on a scheme we believe is likely to cause such a nuisance, regardless of whether a single adjacent occupier foregoes their right to complain.
7. EPT have confirmed with the Planning Authority their understanding of lawful residential uses. There are currently two lawful dwellings within the Penarth Centre. One at Unit 31 and one at Unit 18/33 (a duplex unit). Internal sound transfer is a very significant risk to both.

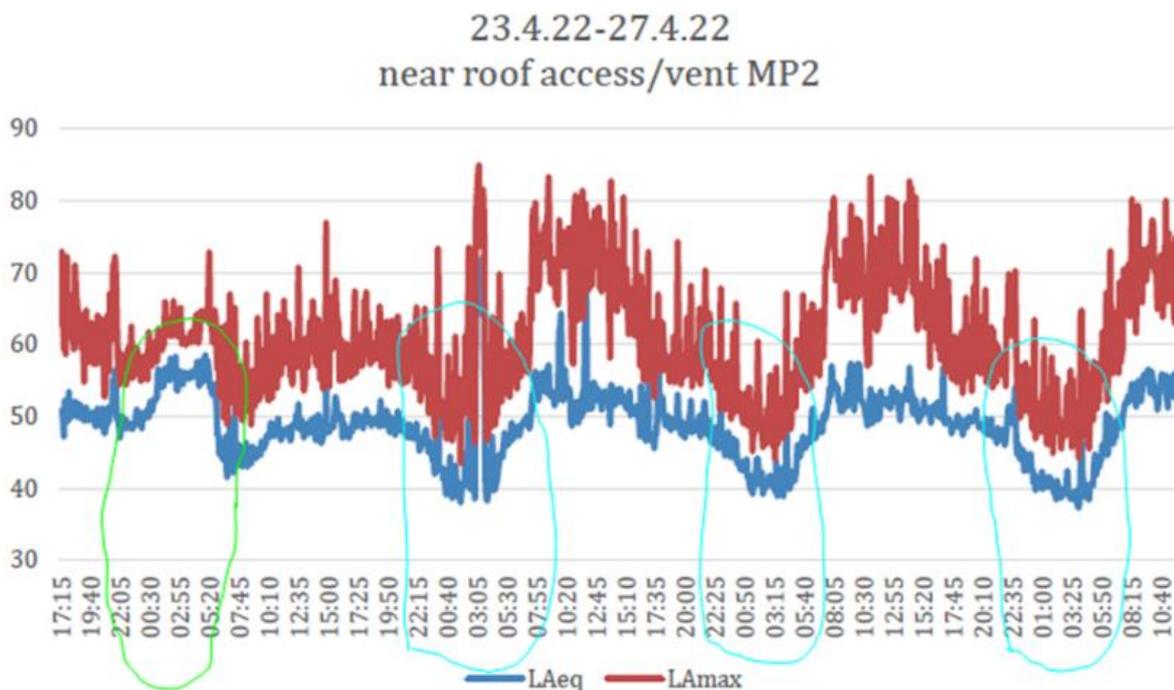
Acoustic Assessment

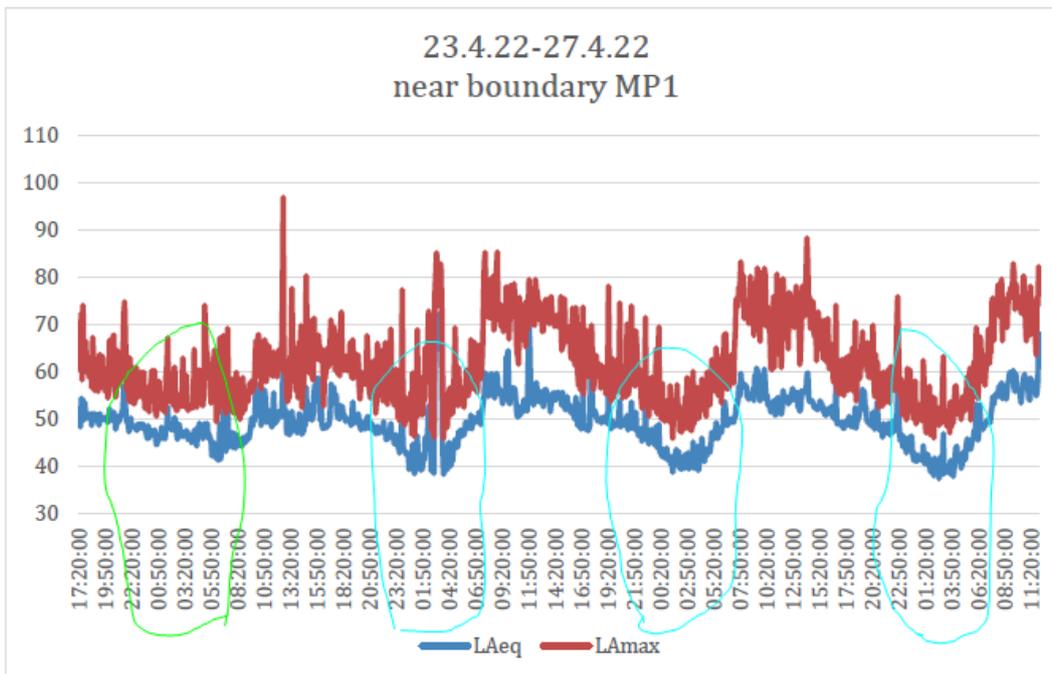
8. No acoustic report was previously provided to EPT as part of the submission documents, or included within the zip file sent to us, and so EPT have had no previous opportunity for comment on this document. EPT are disappointed that a complicated technical report has been submitted at such a late stage giving limited time to respond, alongside a highly misleading statement that EPT 'have not contradicted this acoustic report'.
9. It is EPT's view that the report does not sufficiently assess night time music noise. Specifically:
 - The assessment measures only LAeq. The 'A' weighting subtracts from lower frequencies to try to simulate human auditory response however it is well known this has the effect of underrepresenting the impact of bass frequencies from music. These are precisely the frequencies most likely to cause nuisance from music noise, and those which pass most readily through acoustic insulation. The assessment includes no spectral analysis whatsoever (i.e. breakdown of 1/3 octave bands or individual frequencies to see if specific frequencies are problematic). This means it is impossible to understand whether bass frequencies may be noticeable above background or at such a level as to cause nuisance. This is not sufficient for an assessment of music noise from a permanent club / music venue.
 - No detail is provided as to the nature of the event or the internal music sound level at the time of the assessment therefore we have no objective way of knowing whether the music volume inside was representative of worst-case operations and no way of judging if the assessment is reasonable. From the submitted methodology it does not appear that internal music sound level was measured. A more robust methodology would include simultaneous internal and external measurement with spectral analysis to observe whether noise breakout is occurring and if so calculate its level at residential facades.
 - No detail is provided of the use of the external areas during the assessment including the number of people present at the time and whether it was reflective of worst-case use, or the numbers of people arriving and departing from the venue on that particular date.
 - The assessment provides no way of understanding the breakdown of contribution from external 'people' and internal music noise sources to the total measured level. All sound is treated as one homogenous influence.
 - The assessment compares the 8 hour average music noise from a single event night to the 8 hour ambient levels from four different nights. It is not possible to say with any certainty whether the difference (or lack of difference) in measured level is from unrelated variability in background sound or as a result of the specific noise from the premises. As comparison is specific LAeq to ambient LAeq rather than to L90 (underlying background – the lower level exceeded for 90% of the measurement period) it further

limits the ability to appreciate the likely distinctiveness of music noise in the variable sound environment. For music noise we would usually expect results reported with shorter intervals such as 1 minute or 5 minute averaging times so it is possible to observe in detail the extent to which the specific music noise may be above the ambient level at certain times. All of this detail is lost in an 8 hour average.

- LMAX is reported as the 90th percentile LMAX. There is no explanation given for this or commentary or interpretation of the result for this metric.
- Notwithstanding the above, the assessment shows the 8 hour LAeq from the event night at MP1 was 47dB, the highest measured of the 5 nights assessed, and impactfully (+3dB) higher than the level on two of the other days measured. This may be indicative that the venue is in fact affecting the sound level in this location. This is supported by the graphs below. Without a clearer and more rigorous assessment it is impossible to determine with any certainty or really draw any firm conclusion.
- The assessment tabulates results for MP1 but not for the other monitoring point (MP2). It is unclear why this information has been omitted. Looking at the chart the sound level on MP2 outside the venue roof appears to be very significantly elevated on the event night (see green bubble below) by comparison to the other nights (blue bubbles). The X axis is unlabelled with dates and appears to only show 4 nights whereas 5 are reported so it is difficult to interpret.

Extracts from acoustic report – green bubble added showing presumed event night, blue bubbles added showing non-event nights (axis unlabelled):





- References have been made to acoustic standards which are irrelevant such as BS4142:2014 (which specifically excludes music and entertainment noise from its scope) and standards which are not intended for this type of noise source.

- Overall EPT would not consider the assessment to use an appropriate or rigorous methodology for these types of entertainment noise sources, to omit key detail and rationale, to lack critical analysis and to raise more questions than it answers. It is quite possible that a more robust assessment may resolve our concerns over external transmission of music noise from inside the venue however for the reasons above the assessment currently submitted is of almost no evidential value in demonstrating the suitability of the proposed premises operation.
- It is also important to emphasise that a key concern is noise from dispersal and activity in the streets outside the premises affecting surrounding residents at night. Taxi/car movements, slamming of car doors, radios, use of car horns, shouting/laughing/singing and other such disturbances are common outside late night venues. The sporadic, distributed and irregular nature of this type of noise and lack of a standard accepted assessment methodology mean it is not possible to adequately characterise the wider impact of this in a technical assessment alone.

Relevance of surrounding development

- There is no need for the Committee to speculate that there may be more residential units in future because their construction is an existing reality. 170 residential apartments in two blocks directly overlooking the site or access road are currently in the advanced stages of construction and very close to completion, as shown in photographs submitted in our

representation. The closest block is an affordable Housing Association scheme more likely to be occupied by vulnerable people and families. Occupation is planned for this year, within months if not weeks. Another 253 apartments have been granted Planning Consent on Ilderton Road.

13. The other additional units detailed in the representation are under existing application, with designs already completed and submitted for approval. Of these, 287 Studios and 47 apartments are very close or overlooking the Penarth Centre on Ormside Street and Penarth Street and likely to be significantly affected. As outlined in the EPT representation, the site falls within a published planning masterplan area identified for 4700 homes. Again, this is not speculation, it is current established fact.
14. There is no doubt that the character and residential density of this area is already undergoing fundamental change. EPT view this as highly relevant when considering the promotion of the Licensing Objective to proactively Prevent Public Nuisance, particularly in light of the existing Licensing Policy hours in this location.
15. The Agent of Change principle appears to have been misrepresented as inherently protective of surrounding residents and requiring those developments to mitigate future noise or nuisance from this venue. Whilst Agent of Change would apply to those developments within the Masterplan area but not yet brought forward for consent, the dwellings referenced above were already long granted consent without the currently proposed Premises License in operation and apparently without any lawful entertainment use in this location.
16. The Agent of Change now, in respect of those particular developments, would in fact be Ormside Projects. If/when they make a planning submission to lawfully allow this use to these hours, the onus would be on Ormside Projects to demonstrate their newly proposed mode of operation can exist without adverse impact on those long-consented developments.
17. We note the Planning Authority state they '*consider it unlikely that planning permission would be granted for such a use in this area*'. We also consider it unlikely that the use to the hours proposed would be appropriate in Planning terms and as a consultee we would be highly likely to object to any such Planning application for much the same reasons as outlined in this representation.

Engagement

18. It is unfortunate the applicant has taken such an adversarial approach to this application. EPT promptly responded to pre-application engagement outlining the process, making clear the proposal was likely to elicit a representation, and that an application would require extensive noise controls. In response, EPT received an email misrepresenting our comments

and applying pressure to the effect that *any* representation in this case would contravene S.182 Guidance.

19. There has been no contact or engagement whatsoever from the applicant on the substance of EPT's representation since it was made on 1st July until 19th July. The response of 19th July contains the inaccuracies detailed above and much of the response concentrates on an attempt to delegitimise the EPT representation rather than making an effort to address the substance of our concerns.
20. EPT have since received a telephone call from Mr Levitt on 25th July during which some of our concerns were discussed directly for the first time however no changes were offered to the application and no enhanced controls accepted.
21. In particular, little comment has been made on the obvious risks from dispersal, vehicles and noise from outside areas and in surrounding streets to the proposed hours. This is just referenced to a dispersal policy which we know can only have limited efficacy in stopping noise in the street away from the venue. This is a key reason why this type of venue is generally considered inappropriate in residential areas.
22. The serious risks of sound transfer internally to dwellings within the building have been dismissed on the basis that the current resident is unlikely to complain. No comment has been made on EPT's suggested conditions to promote the Licensing Objective, other than rejection of one usually uncontentious condition which is commonly accepted by premises Borough-wide. No proposal has been advanced to reduce hours of operations to address our concerns.
23. EPT would be prepared to withdraw our representation if the applicant can amend the premises opening hours and hours for licensable activities to match those on the existing License (868596), those being appropriate hours already determined on appeal, and additionally incorporate the conditions previously requested in our representation. We remain ready to further discuss the substance of our concerns in an effort to avoid a Hearing.

Richard Earis

Principal Environmental Protection Officer

Environmental Protection Team

Appendix A: Detail of Residents Complaints

Date	Reference	Complaint detail
1/9/2020	934272	<p>From: Sent: Tuesday, September 01, 2020 3:26 PM To: Noise and Nuisance; Planning.Enquiries; Planning.Enquiries; Regen, Licensing Subject: Planning Breach and Temporary Events Licence Breach @ Ormisd Project, Unit 32a, 32b, 32c and 32d Penarth Centre, SE15 1TR</p> <p>Dear Sir/ Madam,</p> <p>RE: Ormisd Project, Unit 32a, 32b, 32c and 32d Penarth Centre, SE15 1TR</p> <p>The above property is planning on holding a ticketed all night amplified music event this Saturday the 5th September between 23:59-06:00 (event details attached). Ormisd Project only have a licence until 00:00 and I ask if you would kindly investigate this matter as it is a clear breach of their licence.</p> <p>Under the conditions of the licence, which is attached for reference, the following items are also not being adhered to, and I would like to ask if these can be investigated please:</p> <p><i>158 - A sign requesting customers to respect local residents and leave the premises quietly will be displayed at each public exit from the premises.</i></p> <p><i>This has not been provided.</i></p> <p><i>323 - No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.</i></p> <p><i>Loud noise emanates from the property on a regular basis. Insufficient sound insulation has been installed. No sound insulation has been installed on the ceiling and floor at all.</i></p> <p><i>349 - No externally promoted events will be permitted at the premises; externally promoted events are those which are promoted, managed and delivered by external promoters not affiliated to the Premises Licence holder.</i></p> <p><i>All events at the property are externally promoted events.</i></p> <p><i>350 - A fire risk assessment will be conducted and regularly reviewed. In-line with the Fire Risk Assessment: a. Heat / Smoke detectors are installed and maintained by a competent person. b. Fire extinguishers are installed in accordance with the recommendations of the fire risk assessment. c. Emergency lighting is installed in accordance with the recommendations of the fire risk assessment. d. All emergency exits are marked on the premises plan.</i></p>

		<p>No fire risk assessment exists. The external escape route through an unprotected stairwell contravenes building regulations.</p> <p>355 - A sign requesting customers to respect local residents and keep noise to a minimum will be displayed in the designated Smoking Area.</p> <p>This has not been provided.</p> <p>8AJ - The designated smoking areas for the premises shall be the area to the rear of the premises identified as Smoking Area on the plan attached to this licence and the communal area at the front of the building identified as Ground Floor Smoking Area on the plan attached to this licence. The maximum total number of customers permitted in either smoking area, or both combined; at any one time shall be 20 persons.</p> <p>The lease for the property does not allow for a smoking area in the communal area of the building.</p> <p>I would also like to add four additional breaches which I ask if you would kindly investigate:</p> <ol style="list-style-type: none"> 1. There is no planning permission for this property 2. The VOA business rates defines it as a 'studio' space 3. The property has been split into four units in order to avoid paying business rates due to small business rates relief. The property is in fact combined and all used for Ormside Projects events. 4. Any temporary events licences associated with this property should be seen in light of the above comment that it is in fact a single space and not 4 separate spaces. 5. The lease for the property prohibits the use of the space as an events or music space. 'Quiet enjoyment' is also a condition of the use of the space in order not to cause nuisance for neighbouring properties. <p>Please would you kindly confirm receipt of this email and provide any updates on the above.</p> <p>Yours faithfully,</p>
7/12/2019	916000	<p>Music - RR: Resident reporting loud music from party in commercial building next door.</p> <p>I went to the complainant's premises which is a commercial premises now used for residential. No visible sound insulation measure had been undertaken. The</p>

		<p>sound heard was not an issue although there was some structural sound transfer. I explained that the building was not designed for residential occupation but I would check if there was permission granted by licensing to have this event. Single glazed windows in the premises. I also advised the complainant to make a representation to the licensing team so that they are informed that the building block is now used for mixed residential - commercial. The source was 32 penarth street (next to Winner cash and carry) A queue of people waiting on a queue to go in. People's noise but security at the front to manage the entry and exit of the place. A TEN was applied for Michael Mithlevtt Notice number 871053 I advised that he turns down the bass as it was causing structural noise transfer. He appeared surprised that people were living within the area as he seemed here to be a commercial area. I left at 02.04hrs. NFA</p>
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From:

Sent: Tuesday, July 26, 2022 3:36 PM

To: Earis, Richard <Richard.Earis@southwark.gov.uk>

Cc:

Subject: Re: With respect to your representation made against Premises License Application 877689

Hi Richard,

Thank you for your detailed response, we will take some time to go through all of your points, but at this juncture I would just like to address one of them for the record. This is that I would like to make everyone aware of our attempt to engage with Environmental Protection back in May when I invited you to review our pre application documents, to which you replied that you did not have the capacity to do this, and then, in our second attempt to engage, we tried to summarise some of the documents for you, detail the management and sound proofing of the space to and invited you to visit the space, regrettably we received no reply to this email.

Please see attached correspondence,

Kind Regards

Michael Levitt



ORMSIDE PROJECTS <ormsideprojects@gmail.com>

Pre-application - Premises Licence Application - ORMSIDE projects SE15 1TR

ORMSIDE PROJECTS

Wed, May 25, 2022 at 4:13 PM

To: "Earis, Richard" <Richard.Earis@southwark.gov.uk>

Cc:

Dear Richard,

Many thanks for your prompt response to our Pre-App enquiry. Appreciate your valuable time to share your initial thoughts.

In response to your comment, I would like to share a little more information on our activities, the measures we have undertaken at the premises and in our operation of the venue to mitigate the limits identified within the Licensing Policy, specifically, as you reference, Noise Controls.

I've summarised below information that is encapsulated in our Pre-App submittal documents for convenience.

Whilst we understand that our current hours of operation and proposed hours sit outside of the Southwark Licensing Policy we would like to explain the reasoning for this in more detail. Ormside Project is a grass roots art and music venue delivering and developing artistic and musical showcases for a broad audience. Our programmed events rely on Ticket & Bar Takings in order to pay for our overheads including operational staff, security, equipment and running costs.

As an Arts Council Engalnd recognised cultural provider and funded by the Cultural Recovery Fund, the continuation of our cultural offer to support the propagation of relatively unknown developing and local artists, would be severely compromised if we were only able to operate within our current premises licence and with limited TENs allocation. In fact since the reopening of venues across the country post the COVID19 pandemic restrictions being lifted we exhausted all our years TENs in 4 months period and in this new calendar year with more TENs allowed we are still very operationally restricted. Without the opportunity to extend our operational hours to enable a higher bar take and ticket sales we would have to be letting staff go and reducing our program of artistic development, both of which would be a negative impact on the local, night-time and cultural economy of the area. The operational hours proposed would be a way of regularising our current operations rather than an overt extension of our business activities. This application is not simply an opportunity for commercial gain, rather it is a calibrated means of surviving as a grassroots venue through a legitimisation of the operations we have been carrying out since 2015.

We would like to invite a representative of Southwark's Environmental Protection Team to visit the premises and witness the physical measures that I describe below and have a conversation about how we operate the venue to minimise the potential for public nuisance with a view to incorporate any further suggestions or respond to any specific concerns that EPT may make/have in the context of our operations.

Please do let me know when a suitable opportunity to meet at the venue might arise in the coming

weeks.

Track Record:

To date and for nearly 7 years there have been next to zero complaints relating to any Noise from operations/events at Ormside projects.

Specific Noise Control Measures:

Since initiating Ormside Projects at 32 Penarth Centre, we have continuously monitored our sound outputs and developed mitigation for the potential impacts of noise relating to our physical position in the locality. Specific Design measures include:

1 - An in-room dB meter that graphically displays the sound level within Room 1 of the venue. This enables the venue manager and performers to actively participate in sound levels and act accordingly to control sound to avoid it becoming a nuisance. This physical measures relates to Step 16 in our operating schedule, under Section d) to uphold the prevention of public nuisance.

2 - Internal Partitions and Linings: In creating the 2 rooms and bar area within the venue a carefully constructed decoupled acoustic partition system has been installed. This is formed from a double/triple layer of fire and acoustic quality board layered on stud work with infill earthwool insulation and an air gap to minimise sound transfer from interior sound sources to the surrounding fabric of the base building structure, and sound transfer between the rooms of the venue.

3 - Window Perimeter to Ormside Street: We have added a layer of 12mm secondary glazing to the window perimeters of the west elevations of the property. Because we operate Room 1 for various functions other than musical showcases/events such as exhibitions, art installations, and workshops we often require natural light from the glazed elevations. To achieve this the secondary glazed area is faced with an internal screen of acoustic rated sheet material that can be de-mounted when loud music is not being performed.

4 - Sound Absorbent Panels, are hung to the internal perimeters of the venue rooms to dampen reflections further reducing the transfer of sound to the exterior. These are formed from professional grade fire resistant acoustic insulation wrapped in compliant fire-retardant fabric.

5 - Secondary Roof Linings have been installed throughout, formed from earthwool insulation and a 48mm three layered board arrangement on timber stud isolated with rubber pads to further dampen sound transfer.

6 - Bar openings are carefully designed to limit the transfer of sound by creating a minimal aperture for service to customers. This measure drastically reduces sound behind the bar counter to the dual benefit of protecting our staff from sound levels at events and reducing the transfer of sound through the bar/kitchen area to the rear of the venue.

7 - A World Class Sound System has been designed and installed to enable exacting calibration of sound at our events to limit the potential for sound to cause public nuisance whilst providing the quality expected of an internationally reputed arts venue.

8 - Sound limiting equipment a few layers of electronic limiters are installed that are always set to

ensure safety of equipment, patrons along with noise breakout from the space. Our event Sound engineer has full control of the volume and parametric equalisation at all times.

Operational Measures:

In addition to the physical design measures incorporated at Ormside Projects we have developed a number of operational measures to limit the potential for Noise created by our customers during and leaving the premises as highlighted in our application, Operational Schedule, Staff Handbook and Security, Dispersal & Operations documents. These include:

9 - Supervised Smoking areas, managed by SIA trained security staff meaning that customers can be asked to come inside or leave the premises if excessive noise is generated. In cases where SIA is not required the area is monitored by a member of staff.

10 - Signage for Smokers and Patrons to keep noise to a minimum when exiting the premises.

11 - A Soft Close with house lights up 30 minutes before end of operational hours to initiate a gradual departure of customers from the premises, preventing a mass of people leaving the venue all at once.

12 - Headline Acts not placed at the end of the night, to further stagger the departure and dispersal of customers from the venue. A proportion of customers will not remain until the end of event if the headline act has already performed. This has been proved through 7 years of operating history.

13 - Designated and monitored private hire vehicle pick up zone is in operation to ensure customers leave the area in a mannered and controlled way.

kind regards

Michael

On Mon, May 23, 2022 at 11:46 AM Earis, Richard <Richard.Earis@southwark.gov.uk> wrote:

Dear Michael,

Thank you for your email. We don't have the capacity to offer a detailed Licensing pre-application advice service. I would recommend you read carefully the Council's Statement of Licensing Policy. <https://www.southwark.gov.uk/business/licences/business-premises-licensing/licensing-and-gambling-act-policy>

As a very general comment, in light of the licensable activities and proposed hours of operation and the limits in the Licensing Policy, we would be highly likely to object to an application on this basis. It would then be a decision of a Licensing Committee whether such a late operation could be licensed. Any such application should include extensive noise controls.

This of course does not preclude continued operation under Temporary Event Notices as long as events take place without causing public nuisance.

Kind Regards,

Richard

Richard Earis

Principal Environmental Protection Officer
Environmental Protection Team

020 7525 0328

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

Office address (By appointment only): Southwark Council | Environmental Protection Team |
Regulatory Services | 3rd Floor Hub 1 | 160 Tooley Street | London | SE1 2QH

www.southwark.gov.uk

visit: <http://www.southwark.gov.uk/air-quality>



Please consider the environment - do you really need to print this email?

From: Lotsu, Godwin <Godwin.Lotsu@southwark.gov.uk>
Sent: Friday, May 20, 2022 4:47 PM
To: Earis, Richard <Richard.Earis@southwark.gov.uk>
Subject: FW: Pre-application - Premises Licence Application - ORMSIDE projects SE15 1TR

977059 cmu

From: Regen, Licensing <Licensing.Regen@southwark.gov.uk>
Sent: Friday, May 20, 2022 4:10 PM
To: Lotsu, Godwin <Godwin.Lotsu@southwark.gov.uk>
Subject: FW: Pre-application - Premises Licence Application - ORMSIDE projects SE15 1TR

Log it as pre application for ept officer

From: ORMSIDE PROJECTS <ormsideprojects@gmail.com>
Sent: Friday, May 20, 2022 3:27 PM
To: Regen, Licensing <Licensing.Regen@southwark.gov.uk>; environmental protection <environmental.protection@southwark.gov.uk>; SouthwarkLicensing@met.police.uk
Cc: Edward Holloway Tear, Jayne <Jayne.Tear@SOUTHWARK.GOV.UK>; Ian.Clements@met.police.uk;
Subject: Pre-application - Premises Licence Application - ORMSIDE projects SE15 1TR

To whom it concern

Further to our direct communications over the previous months please see attached documents as the basis for a pre-application dialogue and feedback on an new Premises Licence Application for Ormside Projects, 32 Penarth Centre, Ormside Street, SE15 1TR

We are seeking your inputs as the responsible authority on our pre-application submittals. As your feedback will inform our final application we request any comment or dialogue within the next 14 days at which point we shall submit the final application on Friday 3rd June 2022.

Please forward to the relevant parties to enable timely feedback and comment on this pre-application consultation.

Kind regards

Michael Levitt

MD of PC32 ltd - ORMSIDE projects

--

ORMSIDE PROJECTS

32 Penarth Centre

**Ormside St
SE15 1TR**

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ORMSIDE PROJECTS
32 Penarth Centre
Ormside St
SE15 1TR

Updated temporary events notices

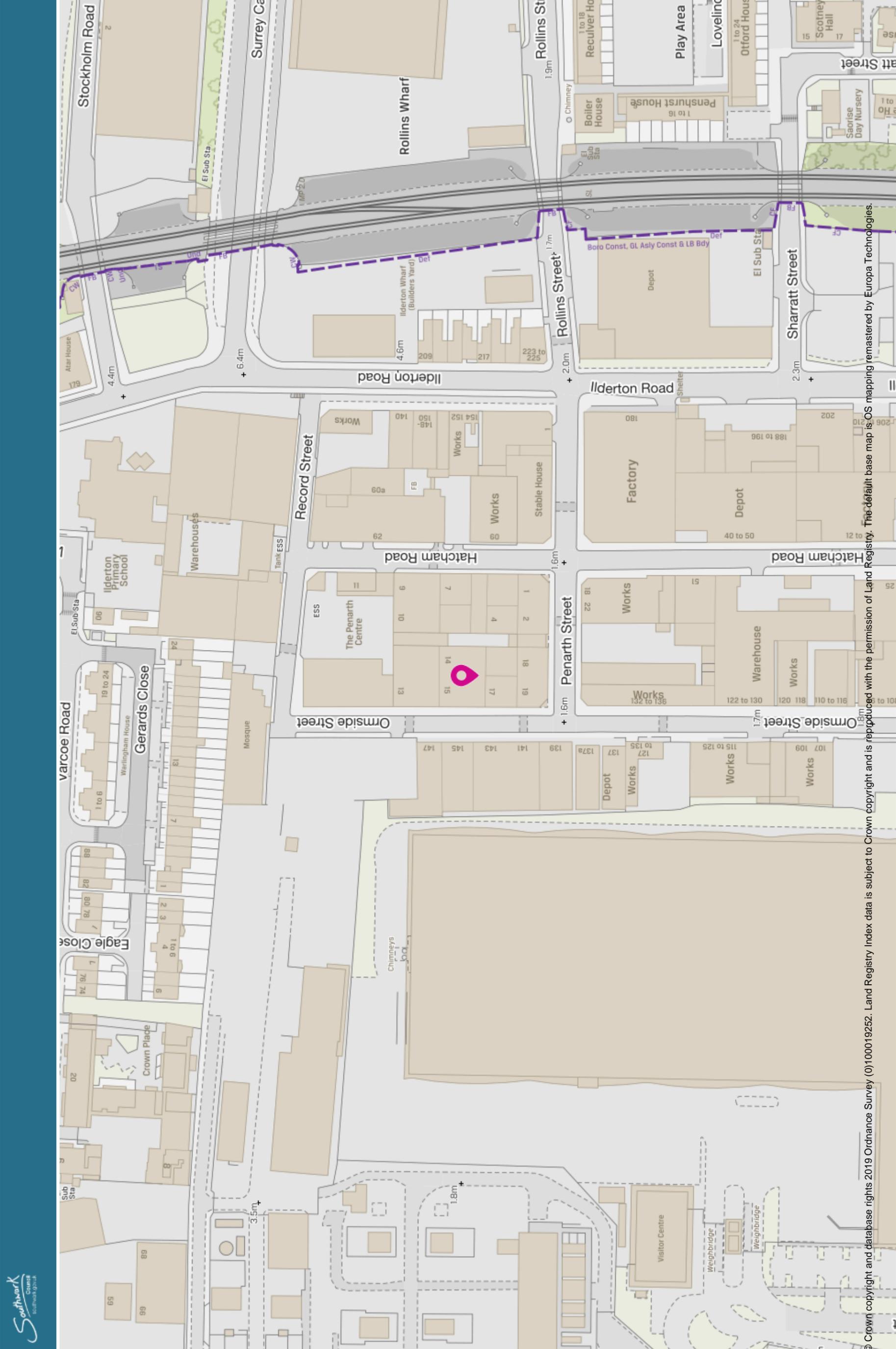
APPENDIX E1

Start date	End Date	Times	Maximum attendees	Sale of alcohol?	Regulated entertainment?	Late night refreshment?	Police objection?	EPT objection?	Counter notice?
01/10/2016	02/10/2016	21:00 - 04:00	150	Yes	Yes	Yes	Yes	No	Police objection withdrawn
21/10/2016	21/10/2016	22:00 - 04:00	150	Yes	Yes	No	No	No	
28/10/2016	29/10/2016	22:00 - 04:00	150	Yes	Yes	Yes	No	No	
10/11/2016	11/11/2016	22:00 - 02:30	150	Yes	Yes	Yes	No	No	
19/11/2016	20/11/2016	21:00 - 04:00	150	Yes	Yes	Yes	No	No	
16/12/2016	17/12/2016	22:00 - 04:30	150	Yes	Yes	Yes	No	No	
21/04/2017	22/04/2017	23:00 - 05:00	150	Yes	Yes	Yes	No	No	
27/05/2017	28/05/2017	22:00 - 05:00	150	Yes	Yes	Yes	No	No	
09/06/2017	10/06/2017	22:00 - 05:30	150	Yes	Yes	Yes	No	No	
14/07/2017	16/07/2017	19:00 - 05:30	150	Yes	Yes	Yes	No	No	
11/08/2017	11/08/2017	21:00 - 05:30	150	Yes	Yes	Yes	No	No	
27/08/2017	28/08/2017	22:00 - 05:30	150	Yes	Yes	Yes	No	No	
08/09/2017	08/09/2017	21:00 - 05:30	150	Yes	Yes	Yes	No	No	
28/10/2017	29/10/2017	22:00 - 05:30	150	Yes	Yes	Yes	No	No	
10/11/2017	11/11/2017	22:00 - 05:30	150	Yes	Yes	Yes	No	No	
10/11/2017	11/11/2017	22:00 - 05:30	150	Yes	Yes	Yes	No	No	
17/11/2017	17/11/2017	22:00 - 05:30	150	Yes	Yes	Yes	No	No	
07/12/2017	07/12/2017	19:30 - 23:59	150	Yes	Yes	Yes	No	No	
16/12/2017	17/12/2017	22:00 - 05:30	150	Yes	Yes	Yes	No	No	
21/12/2017	22/12/2017	21:00 - 04:30	150	Yes	Yes	Yes	No	No	
01/01/2018	01/01/2018	00:01 - 08:00	150	Yes	Yes	Yes	No	No	

04/03/2018	04/03/2018	00:01 - 06:30	150	Yes	Yes	Yes	No	No	
17/03/2018	18/03/2018	00:01 - 06:30	150	Yes	Yes	Yes	No	No	
06/04/2018	06/04/2018	00:01 - 03:00	150	Yes	Yes	Yes	No	No	
20/05/2018	20/05/2018	19:00 - 06:30	150	Yes	Yes	Yes	No	No	
01/07/2018	01/07/2018	19:00 - 07:15	150	Yes	Yes	Yes	No	No	
08/07/2018	08/07/2018	18:00 - 07:00	150	Yes	Yes	Yes	No	No	
14/07/2018	14/07/2018	17:00 - 07:00	150	No	Yes	Yes	No	No	
26/08/2018	27/08/2018	22:30 - 07:00	150	Yes	Yes	Yes	No	No	
06/10/2018	07/10/2018	00:01 - 23:00	150	Yes	Yes	Yes	No	No	
27/10/2018	28/10/2018	13:00 - 07:00	150	Yes	Yes	Yes	No	No	
01/12/2018	01/12/2018	17:00 - 07:00	150	Yes	Yes	Yes	No	No	
09/12/2018	09/12/2018	18:00 - 07:00	150	Yes	Yes	Yes	No	No	
22/12/2018	22/12/2018	00:01 - 07:00	150	Yes	Yes	Yes	No	No	
30/12/2018	01/01/2019	17:00 - 09:30	150	Yes	Yes	Yes	No	No	
18/01/2019	19/01/2019	17:00 - 07:00	150	Yes	Yes	Yes	No	No	
02/02/2019	03/02/2019	18:00 - 07:00	150	Yes	Yes	Yes	No	No	
14/02/2019	16/02/2019	16:00 - 02:30	150	Yes	Yes	Yes	No	No	
24/02/2019	24/02/2019	17:00 - 07:30	150	Yes	Yes	Yes	No	No	
09/03/2019	09/03/2019	17:00 - 07:30	150	Yes	Yes	Yes	No	No	
16/03/2019	16/03/2019	16:30 - 07:30	150	Yes	Yes	Yes	No	No	
07/04/2019	07/04/2019	13:30 - 07:30	150	Yes	Yes	Yes	No	No	
11/04/2019	12/04/2019	19:00 - 23:59	150	Yes	Yes	Yes	No	No	
20/04/2019	20/04/2019	15:00 - 07:30	150	Yes	Yes	Yes	No	No	
05/05/2019	05/05/2019	15:30 - 08:30	150	Yes	Yes	Yes	No	No	
18/05/2019	19/05/2019	20:00 - 08:30	150	Yes	Yes	Yes	No	No	
06/10/2019	06/10/2019	00:01 - 08:30	150	Yes	Yes	Yes	No	No	
20/10/2019	20/10/2019	00:01 - 08:30	150	Yes	Yes	Yes	No	No	
30/10/2019	30/10/2019	19:00 - 23:59	150	Yes	Yes	Yes	No	No	

16/11/2019	17/11/2019	22:00 - 09:30	150	Yes	Yes	Yes	No	No	
24/11/2019	24/11/2019	19:00 - 08:30	150	Yes	Yes	Yes	No	No	
29/11/2019	01/12/2019	22:00 - 07:30	150	Yes	Yes	Yes	No	No	
06/12/2019	08/12/2019	22:00 - 07:00	150	Yes	Yes	Yes	No	No	
13/12/2019	15/12/2019	00:01 - 07:00	200	Yes	Yes	Yes	No	No	
20/12/2019	22/12/2019	21:30 - 07:00	150	Yes	Yes	Yes	No	No	
29/12/2019	01/01/2020	22:00 - 07:30	200	Yes	Yes	Yes	No	No	
28/03/2020	29/03/2020	00:01 - 08:30	200	Yes	Yes	Yes	No	No	
01/08/2021	01/08/2021	00:01 - 06:30	150	Yes	Yes	Yes	No	No	
21/08/2021	22/08/2021	00:01 - 06:30	200	Yes	Yes	Yes	No	No	
29/08/2021	29/08/2021	00:01 - 07:00	200	Yes	Yes	Yes	No	No	
05/09/2021	05/09/2021	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
11/09/2021	11/09/2021	00:01 - 07:00	200	Yes	Yes	Yes	No	No	
18/09/2021	18/09/2021	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
17/10/2021	17/10/2021	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
24/10/2021	24/10/2021	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
30/10/2021	31/10/2021	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
06/11/2021	06/11/2021	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
14/11/2021	14/11/2021	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
20/11/2021	20/11/2021	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
25/11/2021	27/11/2021	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
04/12/2021	05/12/2021	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
11/12/2021	12/12/2021	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
23/01/2022	23/01/2022	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
12/02/2022	13/02/2022	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
20/03/2022	20/03/2022	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
16/04/2022	17/04/2022	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
24/04/2022	24/04/2022	00:01 - 07:30	200	Yes	Yes	Yes	No	No	

30/04/2022	30/04/2022	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
07/05/2022	07/05/2022	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
29/05/2022	29/05/2022	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
12/06/2022	12/06/2022	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
18/06/2022	18/06/2022	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
25/06/2022	25/06/2022	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
03/07/2022	03/07/2022	00:01 - 07:30	200	Yes	Yes	Yes	No	No	
07/08/2022	07/08/2022	00:01 - 07:30	200	Yes	Yes	Yes	No	No	



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