

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 6 April 2023 at 10.00 am at Online/Virtual: please contact andrew.weir@southwark.gov.uk for a link to the meeting and the instructions for joining the online meeting

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Andy Simmons
Councillor Ian Wingfield

**OTHER
AUTHORITIES
PRESENT:** P.C. Mark Lynch, Metropolitan Police Service

**OFFICER
SUPPORT:** David Franklin, licensing officer
Charlotte Precious, legal officer
Ray Moore, trading standards officer
Mark Prickett, environmental protection officer
Wesley McArthur, licensing officer
Tim Murtagh, constitutional officer

1. APOLOGIES

This was a virtual licensing sub-committee meeting.

The meeting opened at 10.05am.

The chair explained to the participants and observers how the virtual meeting would run. Everyone then introduced themselves.

There were no apologies for absence.

2. CONFIRMATION OF VOTING MEMBERS

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

3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

There were no late or urgent items of business.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003: STUDIO 68 LONDON, RAILWAY ARCH 68 EWER STREET, LONDON SE1 0NR

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

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

The meeting adjourned at 11.45am for a comfort break. The meeting reconvened at 11.52am.

The officer representing the Metropolitan Police Service then addressed the sub-committee. Members had questions for the police officer.

The trading standards officer addressed the sub-committee. Members had questions for the trading standards officer.

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

The meeting adjourned at 1.44pm for a short break. The meeting reconvened at 2.00pm.

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

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

The meeting adjourned at 2.22pm for the sub-committee to consider its decision.

The meeting reconvened at 4.05pm and the chair advised everyone of the decision.

RESOLVED:

That the application made by Tamara Kramer for a premises licence to be varied under Section 34 of the Licensing Act 2003 in respect of the premises known as Studio 68 London, Railway Arch 68 Ewer Street, London, SE1 0NR be granted as follows:

The operating hours and hours permitted for licensable activities are amended as follows:

1. Films – indoors:
 - Monday to Thursday: 12:00 to 23:00
 - Friday and Saturday: 12:00 to 01:00
 - Sunday: 12:00 to 23:00
2. Live music – indoors:
 - Monday to Thursday: 12:00 to 00:00
 - Friday and Saturday: 12:00 to 01:00
 - Sunday: 12:00 to 00:00
3. Recorded music – indoors:
 - Monday to Thursday: 12:00 to 00:00
 - Friday and Saturday: 12:00 to 01:00
 - Sunday: 12:00 to 00:00
4. Performance of dance – indoors:
 - Monday to Thursday: 12:00 to 00:00
 - Friday and Saturday: 12:00 to 01:00
 - Sunday: 12:00 to 00:00
5. Plays – indoors:
 - Friday and Saturday: 23:00 to 01:00
6. Late night refreshment – indoors:
 - Monday to Thursday: 23:00 to 00:00
 - Friday and Saturday: 23:00 to 01:00
 - Sunday: 23:00 to 00:00

7. The sale of alcohol to be consumed on and the premises:

- Monday to Thursday: 12:00 to 00:00
- Friday and Saturday: 12:00 to 01:00
- Sunday: 12:00 to 00:00

8. The sale of alcohol to be consumed off the premises:

- Monday to Thursday: 12:00 to 22:00
- Friday and Saturday: 12:00 to 22:00
- Sunday: 12:00 to 22:00

9. Opening hours:

- Monday to Thursday: 07:00 to 00:30
- Friday and Saturday: 07:00 to 01:30
- Sunday: 07:00 to 00:00.

Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operation schedule highlighted in Section M of the application form, conditions previously imposed by a licensing sub-committee and the following additional conditions as agreed by the licensing sub-committee:

1. That the premises is permitted to hold a maximum of 12 events per year during which licensable activities can continue to 03:00 with opening hours continuing to 03:30 on Fridays and Saturdays.
2. That condition 340 be amended to read as follows: "That licensable activities shall only take place as ancillary to activities consistent with a dance studio, exhibition, corporate event, product promotion or a wedding reception".
3. That condition 354 be amended to read as follows: "The maximum number of people permitted on the premises at any one time, (the accommodation limit), will be 300 excluding staff".
4. That condition 355 be amended to read as follows: "These premises are not open to the general public to "walk in".
5. That condition 363 to be amended to read as follows: "The outside area to the front of the premises can be used for the consumption of alcohol purchased from the premises until 22:00 a maximum of 20 people will be permitted in this space at any one time".

6. That condition 364 to be amended to read as follows: “Clearly legible signage will be prominently displayed at all guest exits, where it can easily be seen and read, requesting to the effect that guests do not take drinks outside after 22:00”.
7. That all customers leaving the premises to smoke must do so outside the front of the venue.
8. That CCTV shall also be installed to cover external areas used for licensable activities.
9. That every event will have a published guest list that will be fully accessible to the police and responsible authorities upon request. Those not on the guest list will not be permitted entry.
10. That a venue hire agreement shall be agreed with all patrons seeking to hire the venue in advance of the event, a copy will remain on the premises and will be available for inspection by the police and responsible authorities upon request. The agreement will contain the contact details of the person hiring the premises, the conditions of hire and will be signed by the customer. It will remain on the premises for a period of 28 days after the event.
11. That at least one toilet will be made available per 50 patrons.
12. That the venue shall risk assess the need for SIA security staff at each event.
13. That where the licensable activities are occurring beyond 01:00, an ID Scan system shall be in place from the start time of the event for all customers requiring entry to the premises.

Reasons

This was an application to vary a premises licence in respect of Studio 68 London, Railway Arch 68 Ewer Street, London SE1 0NR. The nature of the variation was described as follows:

“The premises is seeking to extend the hours of trading as far as licensable activity is concerned on Friday and Saturday, to allow the premises to offer licensable activity until 03:00 on these days with the premises closed at 03:30. The hours on a Sunday to Thursday are to remain the same.

This variation also seeks to add the permission of alcohol for consumption off the premises to be included, to allow the area immediately outside the front of the premises to be used until 23:00 hours.

The applicant is also seeking to remove some conditions from the current licence...and to vary the permitted activities permitted on the premises. The applicant is seeking permission for the premises to continue to run as a

dance studio, but also to include the ability to run as an event space and exhibition space, for corporate events, product launches and private parties to be held at the premises....”

The sub-committee heard from the applicant’s representative who advised the licence had initially been requested and granted to provide for dancers attending the studio or those watching people dance in training and in competitions, several conditions were imposed in order to limit the licence purely to that type of use.

In the current economic climate, the dance studio was struggling financially and wanted to expand the business model to use the premises for events, exhibitions and private parties. The applicant was keen to stress that the premises would remain a dance studio and that the applied for activities would not replace that, merely operate alongside it in order to ensure they can keep going as a dance studio. The premises were not seeking to be a licensed premises outside of the activities mentioned and it would not operate as such on a day-to-day basis.

In response to questions, the applicant stated they would be happy for the licence to be limited to 12 events per year where the premises would remain open to 03:00.

The applicant advised they also intended to offer off sales in order to utilise the outside space at the front of the studio. This would not be open to the public, patrons would not be permitted to take-away drinks and the applicant stated they would be happy for a condition to reflect this.

A prepared terms of use document would be signed by those hiring the premises, providing the name and address of all those attending in advance so there would be no opportunity for people to walk in off of the street. It would also ensure that those operating on the premises would be aware of the conditions of the licence and ensure that they operate within them. The premises currently risk assesses every event for the need for SIA security staff based on the number of guests and would continue to do so.

The applicant invited the responsible authorities to visit the venue as a form of mediation prior to the hearing. It was believed the main objection was in respect of concern that the premises would operate as a nightclub. The applicant made very clear that the premises was not a nightclub, nor was there any intention for it to be run as such. It was not set up as a nightclub as it is a dance and rehearsal studio, a condition preventing such use exists on the licence and the variation application does not seek to change that.

In respect of the event witnessed by the police on 25 March 2023, the applicant explained that they had misinterpreted a recent positive decision made in respect of a temporary event notice to suggest that such events were permitted. The venue prints and displays signs as and when they are conducting licensable activities; however, the laptop containing the signs and other important documentation pertaining to the licence had been stolen from the venue earlier that day and so

they were unable to do so on this occasion. Furthermore, the applicant was not aware the event had been externally promoted and would not have permitted this had they known. The applicant was not represented at that hearing but was now fully appraised of what was and wasn't permitted under the licence and would ensure further licence breaches would not occur.

Four responsible authorities submitted representations in respect of the application. The sub-committee heard from the representative for the police that the premises is located within the Borough and Bankside cumulative impact area (CIA) and the proposed additional activities would place this premises within a class to which the CIA would apply.

The police were concerned whether the proposed change of conditions would enable the premises to operate akin to a nightclub which they considered would be likely to significantly increase crime and disorder within the local area. The police suggested the applicant had not proposed any conditions that would directly address the cumulative impact such operation would have, particularly any control measures. They therefore considered that the presumption that such applications be refused had not been rebutted.

The representative for trading standards raised similar concerns in respect of the CIA and informed the sub-committee that the premises had remained open during the pandemic contrary to trading standards advice which raised concerns as to whether the premises would follow the conditions imposed by the licensing sub-committee.

The applicant contended that they received an email from trading standards indicating that they were able to open, there was much confusion between staff and the venue and they did follow trading standards advice when it was clarified. The sub-committee were conscious that the pandemic was a confusing and difficult time for officers and businesses and accepted that efforts were made by the premises and the matter resolved.

A representative for the environmental protection team highlighted that the current operating hours are in line with the policy and that those requested would not be. They also noted that the premises is within the Bankside and Borough CIA and that such events should be dealt with by applying for a temporary event notice rather than by varying the licence to allow a specific number per year.

The representative informed the sub-committee that the environmental protection team do not accept the noise report prepared by the applicant: the author of the report is not a member of the Institute of Acoustics and the guidance that has been followed and referenced within the report is incorrect in terms of what they would consider acceptable.

A representative for the licensing authority informed the sub-committee that they agreed to the concept of a venue hire agreement and didn't object to the inclusion of off sales of alcohol, the opening hours being varied to 07:00 and the capacity

increasing to 300 people in light of the fire risk assessment disclosed prior to the hearing.

They did, however, contend that the remainder of the application be refused as the existence of the CIA evidenced that the premises would negatively impact the area and the presumption was to refuse the application unless evidence was presented to the contrary. It was submitted that they hadn't adequately done this and the proposed variation could allow the premises to operate as a nightclub or late night bar.

Four other persons submitted a representation against the application in advance of the hearing, including a local ward councillor. The sub-committee gave consideration to these but noted that no specific concerns were raised as a direct result of this premises.

Paragraph 131 of the Statement of Licensing Policy 2021-2023 (SOLP) states: 'applications made within specified cumulative impact areas are deemed likely to add to the potential impact the policy is intended to avoid.'

It creates a rebuttable presumption that applications for new premises, licenses or club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations following relevant representations. In such circumstances, it is for the applicant to demonstrate that the application will not, if granted, further contribute to the negative local cumulative impact on any one or more of the licensing objectives (para 136).

Paragraph 131 further states: 'each application will be judged on its own merits.'

The sub-committee carefully considered the evidence before them.

The sub-committee agree with the responsible authorities that the activities applied for within the application would place the premises into a class to which the CIA applies. However, the premises would only be operating as such for a portion of the time it is open as it is primarily a dance studio, it therefore appears the premises would not be alcohol led.

No residential homes are in the immediate vicinity of the premises, the nearest are approximately 60 metres away. The sub-committee were informed that no complaints had been received by members of the public in respect of the way in which the premises had been operating to date, nor had any complaints been made by residents when the premises were operating under temporary event notices.

The sub-committee were satisfied that limiting the days per year within which the premises can operate to 03:00, as well as the imposition of conditions explored during the course of the hearing, would ensure the premises would not impact further on the relevant licencing objectives. The sub-committee therefore

considered that the presumption to refuse had been rebutted.

The sub-committee were inclined to accept the account given by the applicant in respect of the 25 March 2023 and did not consider the applicant intended to use the premises as a nightclub. Condition 350 prevented the venue operating as a nightclub and a further condition specifying what activities would be permitted to take place as ancillary to licensable activities would assist with the concerns raised by responsible authorities. The terms “private parties” and “event space” were too broad to be enforceable and the sub-committee did not consider that condition 349 should be amended as an externally promoted DJ led event was considered akin to operating as a nightclub.

A condition requiring the premises to enter into a venue hire agreement with those intending to make use of the venue for the applied for activities would assist in preventing a reoccurrence of the events of 25 March and help to ensure the licence conditions are known and followed by all involved. The applicant stated that no tickets would be sold less than 48 hours in advance of the event, it is recommended that this is included within the hire agreement.

It was noted that the premises said there is space for taxis and private minicabs to collect people from the public car park in close proximity to the venue, this will assist with dispersal from the premises. It is recommended that the premises update their dispersal policy to reflect the new activities and the increase in accommodation limit.

Whilst the sub-committee agreed the outside of the premises could be used for licensable activities, they considered controlling and monitoring two exits would be difficult to control and so consider only the front of the venue should be used in line with the policy hours. They did not consider that condition 346 should be amended to permit new patrons to enter the venue at a later hour.

A condition requiring the premises to use an ID Scan system was welcomed by the applicant to assist with security. Coupled with a condition requiring the venue to risk assess the need for SIA security staff, the sub-committee consider this would assist with furthering the licensing objectives. It is recommended at least four SIA security staff would be needed if the venue was at full capacity.

The sub-committee were concerned that there were insufficient toilets to cater for the increased capacity. Given the cumulative impact of other premises within the area and the concerns raised by the other persons, a condition requiring one toilet per 50 persons would prevent public nuisance caused by those urinating within the area. The premises confirmed this could be achieved by the use of temporary toilets when events are happening.

The sub-committee were conscious there was a pending planning application in respect of the premises and gave consideration to paragraph 9.45 of the Revised Guidance issued under Section 182 of the Licensing Act 2003. As the hours for which the premises would be open will only be extended for 12 days a year, the

sub-committee did not consider it was necessary to consult with their planning counterparts prior to making this decision.

In respect of the proposed conditions relating to the noise report, the sub-committee noted the report was initially requested by the planning committee and that it was not accepted by the environmental protection team. The sub-committee were concerned that incorrect guidance was followed and referenced within the report and therefore considered it would not be appropriate to impose such conditions. The sub-committee recommend a noise assessment is completed that the environmental protection team accepts.

It is on this basis that the variation was granted. In reaching this decision the sub-committee had regard to all of the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate.

Appeal rights

The applicant may appeal against any decision to modify the conditions of the licence; and:

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

- a) The variation ought not to be granted; or
- b) That, when varying the licence, the licensing authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the Magistrates' Court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

The meeting ended at 4.17pm

CHAIR:

DATED: