

<b>Item No.</b> 5.	<b>Classification:</b> Open	<b>Date:</b> 6 April 2023	<b>Meeting Name:</b> Licensing Sub-Committee
<b>Report Title</b>		Licensing Act 2003: Studio 68 London, Railway Arch 68 Ewer Street, London SE1 0NR	
<b>Ward(s) of group(s) affected</b>		Borough and Bankside	
<b>From</b>		Strategic Director of Environment, Neighbourhoods and Growth	

## RECOMMENDATION

1. That the licensing sub-committee considers an application made by Tamara Kramer to vary the premises licence granted under the Licensing Act 2003 in respect of the premises known as the Studio 68 London, Railway Arch 68 Ewer Street, London SE1 0NR.
2. Notes:
  - a) The application seeks to vary the premises licence held in respect of the premises known as the Studio 68 London, Railway Arch 68 Ewer Street, London SE1 0NR under section 34 of the Licensing Act 2003. Existing permitted licensable activities are not under consideration at this meeting. The variation application is subject to representations submitted by 4 responsible authorities and 4 'other persons' and is therefore referred to the licensing sub-committee for determination.
  - b) Paragraph 8 of this report provides a summary of the current premises licence issued in respect of the premises. A copy of the current premises licence is attached as Appendix A.
  - c) Paragraphs 10 to 16 of this report provide a summary of the application. A copy of the application is attached to this report as Appendix B.
  - d) Paragraphs 16 to 35 of this report deal with the representations submitted in respect of the application. Copies of the representations are attached to this report as Appendices C and D. A map showing the location of the premises is attached to this report as Appendix E.
  - e) A copy of the council's approved procedure for hearings of the sub-committee in relation to an application made under the Licensing Act 2003, along with a copy of the hearing procedure, has been circulated to all parties to the meeting.

## **BACKGROUND INFORMATION**

### **The Licensing Act 2003**

3. The Licensing Act 2003 provides a licensing regime for:
  - The sale of and supply of alcohol
  - The provision of regulated entertainment
  - The provision of late night refreshment.
4. Within Southwark, the licensing responsibility is wholly administered by this council.
5. The Act requires the licensing authority to carry out its functions under the Act with a view to promoting the four stated licensing objectives. These are:
  - The prevention of crime and disorder
  - The promotion of public safety
  - The prevention of nuisance
  - The protection of children from harm.
6. In carrying out its licensing functions, a licensing authority must also have regard to:
  - The Act itself
  - The guidance to the act issued under Section 182 of the Act
  - Secondary regulations issued under the Act
  - The licensing authority's own statement of licensing policy
  - The application, including the operating schedule submitted as part of the application
  - Relevant representations.
7. The premises licence application process involves the provision of all relevant information required under the Act to the licensing authority with copies provided by the applicant to the relevant responsible bodies under the Act. The application must also be advertised at the premises and in the local press. The responsible authorities and other persons within the local community may make representations on any part of the application where relevant to the four licensing objectives.

## **KEY ISSUES FOR CONSIDERATION**

### **The current premises licence**

8. The current version of the premises licence issued in respect of the premises known as the Studio 68 London, Railway Arch 68 Ewer Street, London SE1 0NR and allows the following licensable activities:

- **Films – indoors:**
  - Monday to Thursday: 12:00 to 23:00
  - Friday and Saturday: 12:00 to 01:00
  - Sunday: 12:00 to 23:00
  
- **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
  
- **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
  
- **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
  
- **Plays – indoors:**
  - Friday and Saturday: 12:00 to 01:00
  
- **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
  
- **The sale of alcohol to be consumed on and off the premises:**
  - Monday to Thursday: 12:00 to 00:00,
  - Friday and Saturday: 12:00 to 01:00
  - Sunday: 12:00 to 00:00
  
- **Opening hours:**
  - Monday to Thursday: 12:00 to 00:30
  - Friday and Saturday: 12:00 to 01:30
  - Sunday: 12:00 to 00:00.

9. The premises are a dance studio and health and fitness centre. A copy of the existing premises licence is attached as Appendix A.

## The variation application

10. On 12 February 2023 Tamara Kramer applied to this council to vary the premises licence granted under the Licensing Act 2003 in respect of the premises known as Studio 68 London, Railway Arch 68 Ewer Street, London SE1 0NR.

11. The application is summarised 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, (detailed later in the application), 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.

To assist the authorities with this decision, a comprehensive and detailed noise assessment report has been carried out at the premises and is included as an attachment to this application.”

12. The proposed changes to licensable activities and times are:

- **Films – indoors:**
  - Friday and Saturday: 01:00 to 03:00
- **Live music – indoors**
  - Friday and Saturday: 01:00 to 03:00
- **Recorded music – indoors**
  - Friday and Saturday: 01:00 to 03:00
- **Performance of dance – indoors**
  - Friday and Saturday: 01:00 to 03:00

- **Plays – indoors**
  - Friday and Saturday: 01:00 to 03:00
- **Late night refreshment – indoors**
  - Friday and Saturday: 01:00 to 03:00
- **The sale of alcohol to be consumed on the premises:**
  - Friday and Saturday: 01:00 to 03:00, Sunday: 01:00 to 03:00
- **The sale of alcohol to be consumed off the premises:**
  - Monday to Thursday: 12:00 to 00:00
  - Friday and Saturday: 12:00 to 03:00
  - Sunday: 12:00 to 00:00
- **Opening hours:**
  - Friday and Saturday: 01:30 to 03:30
  - Sunday: 00:00 to 00:30.

13. The applications also proposes to make amendments to the existing licence conditions as follows:

- Condition 340: "That licensable activities shall only take place as ancillary to activities consistent with a dance studio;" To be amended to include the new activities proposed.
- Condition 346 "There shall be no new entry to the premises for customers after 00:00hrs (save for re-entry for existing customers who have temporarily left the premises, e.g. to smoke);" To be amended to read no new re-entry to the premises for customers after 01:00 hours on Friday and Saturday
- Condition 349 "No externally promoted DJ led events shall take place at the venue;" An amendment to add unless these are part of a pre booked event, exhibition or private party.
- Condition 354: "The maximum number of people permitted on the premises at any one time, (the accommodation limit), will be 200 excluding staff." Due to the additional activity proposed fro the venue, (events etc), this capacity figure to be increased to 300 excluding staff. (The added activities will allow for additional people to attend).
- Condition 355 "The only patrons to use these premises shall be dancers who are either training, and may wish a drink after their sessions, or other dancers who are watching others train. These premises are not open to the general public to "walk in";" Due to the request to add additional activity to the premises this condition will no longer apply. The dance side of the business

will remain, but in addition the applicant is seeking to add an event and exhibition space along with a facility for private parties.

- Condition 357 "A sound limiting device shall be installed, set and maintained, to control maximum levels of amplified sound inside the premises so as to ensure entertainment noise from the premises does not cause a public nuisance in the vicinity of the premises, and in particular is not audible inside any nearby noise sensitive premises;" It would be wise to add "as per the recommendations from the Noise Impact Report.
- Condition 363 "No alcoholic drinks are permitted to be taken outside at any time;" This condition will need to be removed in order to permit the use of the outside space at the front of the premises until 23:00 hours.
- Condition 364 "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;" Reason as per 363.

14. Additionally the application proposes some additional conditions:

- The outside area to the front of the premises to be used for the consumption of alcohol purchased from the premises until 23:00 hours Monday to Sunday. This area of consumption will be covered by the off sale of alcohol which is requested to be permitted as part of this variation.
- CCTV coverage to include the outside area to be used for licensable activity.
- The recommendations in the Noise Impact Assessment to be followed in respect of public nuisance.
- The use of the outside area to cease at 23:00 hours Monday to Sunday.

15. The application also makes changes to the premises plans to include an external area.

16. A copy of the application is attached to this report as Appendix B. The premises plans and acoustic report will be distributed in advance of the licensing sub-committee meeting.

### **Representations from responsible authorities**

17. Representations have been received from the following responsible authorities: the Metropolitan Police Service, environmental protection team, trading standards and licensing as a responsible authority.

18. The police representation states that the venue was granted the current licence in October 2022 and has been operating since this time. The licence was issued following an agreement to a number of conditions that allow the venue to operate as the dance studio and provide alcohol to its dancers and associates. The new full variation seeks to contradict the reasoning behind the granting of the current

licence by extending the hours, increasing the capacity and either removing or amending the core conditions which would allow the venue to operate as a nightclub and hold externally promoted events. The applicant has made no attempt to address the licensing objectives in particular that of prevention of crime and Disorder but instead has produced an application that undermines the objectives.

19. The police object to the granting of the application as the hours requested are beyond the recommended policy hours and the applicant has not addressed the licensing objectives for such an operation and if granted will add to the cumulative impact.
20. The environmental protection team (EPT) representation states they made representation against the new premises licence application in 2022 which was subsequently conciliated by way of reduced hours and inclusion of conditions to address the prevention of public nuisance licensing objective. Additionally they objected to a temporary event notice (TEN) for the premises to extend the licensable activities to 4am. This licensing sub-committee decided not to serve a counter notice for the TEN.
21. EPT also note that the premises location is within the Borough and Bankside cumulative impact area (CIA). Section 130 of Southwark's statement of licensing policy details the reasoning for the CIA areas, which notes that potential nuisance can likely occur at distances away from the premises during dispersal, at transport hubs/locations or at local eateries and provide a map showing the residential properties.
22. EPT also provide information on recent planning applications for the premises. The first restricting the use to the hours 07:00 to 23:00 Mondays to Saturdays, and Sundays and public holidays 10:00 to 20:00. The second refusing a further application to extend the hours to 03:00.
23. EPT state that the current licence is within the hours recommended by the Southwark statement of licensing policy but have concerns for public nuisance if this licence is extended.
24. EPT also make comment on the acoustic report submitted by the applicant and object to the grant of the variation application over concerns that public nuisance could be caused into the early hours of the morning every weekend.
25. The trading standards representation states that they are making representations under all the licensing objectives. The premises license was originally applied for in August 2022 where they had concerns that it was intended to move the business into becoming a night club in the Borough and Bankside CIA which resulted in a series of conditions and limitations on hours to prevent this from happening. They provide their original state that this application seeks to overturn that conciliated agreement and runs contrary to the current Southwark statement of licensing policy and recommend that the application is refused.
26. The licensing representation objects to the grant of the licence in order to promote the prevention of public nuisance, the prevention of crime and disorder and the public safety licensing objectives. It points out that the original premises licence

application was for a dance studio with sales of alcohol as ancillary to this provision. Conditions agreed ensured that this was the case and therefore the cumulative impact area did not apply for this usage. The applicant gave assurances that the premises would not operate as a nightclub or hold DJ promoted events at the premises.

27. The licensing representation states that a change to a bar or night club operation has increased risk factors regarding the promotion of the licensing objectives and therefore are subject to the Borough and Bankside CIA. Licensing state that even when bars and nightclubs are operated to high standards, and in compliance with the premises licences issued in respect of them internally, they attract crime, disorder, anti-social behaviour and nuisance to the areas where they are located in and the applicant has not demonstrated that the application will not, if granted, further contribute to the negative local cumulative impact on any one or more of the licensing objectives.
28. The representation also states that they do not object to the inclusion of the provision of off-sales at the premises hours in line with the current licence and subject to additional conditions related to this additional activity.
29. A copy of the representations submitted by the responsible authorities is attached as Appendix C.

### **Representations from other persons**

30. Representations have been submitted by four other persons.
31. The representation from the ward councillor states that Borough and Bankside ward is in a cumulative impact policy area because of the alcohol related crime and disorder statistics for the area, and the alcohol related hospital admissions data. Therefore, this application should be refused as it would impact negatively on efforts to prevent crime and disorder, public nuisance and protect public safety.
32. The other persons' representations contend that the application will add to cumulative impact from the growing crime and disorder, public nuisance and public safety.
33. They state that crime has been increasing in the area and residents are fearful about going out at night and there has been with the increase of drunk and sometimes aggressive people roaming the local streets.
34. Resident concerns also include:
  - Rubbish strewn on the street.
  - Existing late-night revellers urinating in the residential gardens and streets.
  - Increased noise from people gathering around and leaving the venues while residents are trying to sleep.
  - Increasing the usage to include corporate events, product launches and private parties extending the existing anti-social behaviour and reduce the quality of life of residents.



35. Copies of the representations submitted by the other persons are attached to this report as Appendix D.

### Conciliation

36. The representations were provided to the applicant, who was advised that the applicant could provide a reply to the representations if the applicant so wished.
37. At the time of the writing of this report all of the representations remain outstanding and so must be considered by the licensing sub-committee in their determination of the application.

### Premises licensing history

38. The original premises licence in respect of the premises was issued to Tamara Kramer on 29 August 2005. The application was contested by three responsible authorities: the police, the environmental protection team and trading standards.
39. The representations were conciliated following engagement with the applicant to reduce the hours to meet the recommendations within the Southwark statement of licensing policy. Additional conditions were agreed to ensure that the premises operated primarily as a dance studio with licensing activities ancillary to this purpose. The authorities were satisfied that the cumulative impact area would not apply to a premises operating primarily as a dance studio.
40. Three temporary event notices have been submitted as follows:

start date	end date	times	max no people	sale of alcohol	for consumption	reg ent	LNR	Obj	desc1
02/12/2022	03/12/2022	8.30pm to 2am	300	Yes	On Premises	Yes	No	No	
04/03/2023	05/03/2023	1.00 to 4.00am	300	Yes	Off & On	Yes	Yes	EPT	withdrawn
04/03/2023	05/03/2023	1:00 to 4:00am	200	Yes	Off & On	Yes	Yes	EPT	no counter-notice issued

### Complaints

41. No complaints have been received relating to licensable activities.

### Map

42. A map showing the location of the premises is attached to this report as Appendix E. The following premises is similar to the application and permitted to provide licensable activities as stated:

### **Spots and Stripes, Railway Arch 64 Ewer Street, London SE1 0NR:**

- Films – indoors:
  - Monday to Sunday: 09:00 to 01:00
- Indoor sporting events:
  - Monday to Sunday: 09:00 to 01:00
- Live music – indoors:
  - Monday to Sunday: 09:00 to 01:00
- Recorded music – indoors:
  - Monday to Sunday: 09:00 to 01:00
- Performance of dance – indoors:
  - Monday to Sunday: 09:00 to 01:00
- Plays – indoors:
  - Monday to Sunday: 09:00 to 01:00
- Late night refreshment – indoors:
  - Monday to Sunday: 23:00 to 01:00
- Sale by retail of alcohol to be consumed on premises:
  - Monday to Sunday: 09:00 to 01:00
- Opening hours
  - Monday to Sunday: 09:00 to 01:30.

43. There are a number of other licensed premises mainly operating as restaurants, bars and hotels in the vicinity of the premises.

### **Southwark Council statement of licensing policy**

44. Council assembly approved Southwark's statement of licensing policy 2021-2026 on 25 November 2020 and came into effect on 1 January 2021.

45. Sections of the statement that are considered to be of particular relevance to the sub-committee's consideration are:

- Section 3 - Purpose and scope of the policy. This reinforces the four licensing objectives and the fundamental principles upon which this Authority relies in determining licence applications.
- Section 5 – Determining applications for premises licences and club premises certificates. This explains how the policy works and considers issues such as location; high standards of management; and the principles behind condition setting.
- Section 6 – Local cumulative impact policies. This sets out this authority's approach to cumulative impact and defines the boundaries of the current special policy areas and the classifications of premises to which they apply. To be read in conjunction with Appendix B to the policy.
- Section 7 – Hours of operation. This provides a guide to the hours of licensed operation that this Authority might consider appropriate by type of premises and (planning) area classification.
- Section 8 – The prevention of crime and disorder. This provides general guidance on the promotion of the first licensing objective.
- Section 9 – Public safety. This provides general guidance on the promotion of the second licensing objective.
- Section 10 – The prevention of nuisance. This provides general guidance on the promotion of the third licensing objective.
- Section 11 – The protection of children from harm. This provides general guidance on the promotion of the fourth licensing objective.

46. The purpose of Southwark's Statement of Licensing Policy is to make clear to applicants what considerations will be taken into account when determining applications and should act as a guide to the sub-committee when considering the applications. However, the sub-committee must always consider each application on its own merits and allow exceptions to the normal policy where these are justified by the circumstances of the application.

47. Members should take into consideration both the Southwark statement of licensing policy and the Section 182 Guidance when making decisions. The links to these are listed below:

Southwark Policy:

<https://www.southwark.gov.uk/business/licences/business-premises-licensing/licensing-and-gambling-act-policy>

Section 182 Guidance:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/705588/Revised\\_guidance\\_issued\\_under\\_section\\_182\\_of\\_the\\_Licensing\\_Act\\_2003\\_April\\_2018\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf)

### **Cumulative impact area (CIA)**

48. The premises are situated in Borough and Bankside cumulative impact area, this applies to the following classes of premises:
  - Night clubs, public houses and bars, restaurants and cafes, off-licences, supermarkets, convenience stores and similar premises
49. The premises also falls within Borough and Bankside strategic cultural area and Bankside and Borough district town centre area.
50. Under the Southwark's statement of licensing policy 2021 - 2026 the following closing times are recommended as appropriate within this area for the categories of premises stated:
  - Restaurants and cafes:
    - Sunday to Thursday: 00:00
    - Friday and Saturday: 01:00
  - Public houses, wine bars or other drinking establishments:
    - Sunday to Thursday: 23:00
    - Friday and Saturday: 00:00
  - Night Clubs (with 'sui generis' planning classification):
    - Monday to Thursday: 01:00,
    - Friday and Saturday: 03:00
    - Sunday: 00:00
  - Cinemas and theatres:
    - Monday to Sunday: 02:00
  - Event premises/ spaces where sale of alcohol is included in, and ancillary to, range of activities including meals
    - Sunday to Thursday: 00:00
    - Friday and Saturday: 01:00.

## **Climate change implications**

51. Following council assembly on 14 July 2021, the council is committed to considering the climate change implications of any decisions.
52. Climate change is not a legal factor in the consideration of a grant of a premises license under the current licensing objectives, however members can make enquiries and request an agreement from applicants to promote the reduction of the impact of climate change that may be caused by the operation of the premises.
53. Examples of such agreements may be:
  - Not use single use plastics, such as disposable plastic glasses, when selling alcohol at the premises.
  - Encourage patrons not to drive to venues by providing details of public transport on their webpages/tickets.
54. The council's climate change strategy is available at:

<https://www.southwark.gov.uk/assets/attach/48607/Climate-Change-Strategy-July-2021-.pdf>

## **Community, equalities (including socio-economic) and health impacts**

### **Community impact statement**

55. Each application is required by law to be considered upon its own individual merits with all relevant matters taken into account.

### **Equalities (including socio-economic) impact statement**

56. This report does not result in a policy decision and each application is required to be considered upon its own individual merits with all relevant matters taken into account. In considering the recommendations of this report, due regard must be given to the public sector equality duty set out in section 149 of the Equality Act 2010. This requires the Council to consider all individuals when carrying out its functions.
57. Importantly, the council must have due regard to the need to eliminate discrimination, harassment, victimisation, or other prohibited conduct; advance equality of opportunity and foster good relations between people who have protected characteristics and those who do not. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. The public sector equality duty also applies to marriage and civil partnership, but only in relation to the need to eliminate discrimination, harassment, victimisation, or other prohibited conduct.

58. The equalities impact statement for licensing decisions is contained within the Southwark statement of licensing policy 2021 – 2026 at:

<https://www.southwark.gov.uk/business/licences/business-premises-licensing/licensing-and-gambling-act-policy>.

59. The equalities impact assessment is available at:

<https://moderngov.southwark.gov.uk/documents/s92016/Appendix%20F%20-%20Equalities%20Impact%20Assessment.pdf>

### **Health impact statement**

60. Health impacts cannot be considered by law when making decisions under the Licensing Act 2003.

### **Resource implications**

61. A fee of £190.00 has been paid by the applicant company in respect of this application being the statutory fee payable for premises within non-domestic rateable value B.

### **Consultation**

62. Consultation has been carried out on this application in accordance with the provisions of the Licensing Act 2003. A public notice was published in a local newspaper and similar notices were exhibited outside of the premises for a period of 28 consecutive days.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Assistant Chief Executive – Governance and Assurance**

63. The sub-committee is asked to determine the application for a premises licence under Section 17 of the Licensing Act 2003.

64. The principles which sub-committee members must apply are set out below.

### **Principles for making the determination**

65. The sub-committee is asked to determine the application for a premises licence under Section 17 of the Licensing Act 2003.

66. The principles which sub-committee members must apply are set out below.

67. The general principle is that applications for premises licence applications must be granted unless relevant representations are received. This is subject to the proviso that the applicant has complied with regulations in advertising and submitting the application.

68. Relevant representations are those which:

- Are about the likely effect of the granting of the application on the promotion of the licensing objectives
- Are made by an interested party or responsible authority
- Have not been withdrawn
- Are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

69. If relevant representations are received then the sub-committee must have regard to them, in determining whether it is necessary for the promotion of the licensing objectives to:

- To grant the licence subject to:
  - The conditions mentioned in section 18 (2)(a) modified to such extent as the licensing authority considers necessary for the promotion of the licensing objectives
  - Any condition which must under section 19, 20 or 21 be included in the licence.
- To exclude from the scope of the licence any of the licensable activities to which the application relates.
- To refuse to specify a person in the licence as the premises supervisor.
- To reject the application.

## **Conditions**

70. The sub-committee's discretion is thus limited. It can only modify the conditions put forward by the applicant, or refuse the application, if it is necessary to do so. Conditions must be necessary and proportionate for the promotion of one of the four licensing objectives, and not for any other reason. Conditions must also be within the control of the licensee, and should be worded in a way which is clear, certain, consistent and enforceable.

71. The four licensing objectives are:

- The prevention of crime and disorder
- Public safety
- The prevention of nuisance
- The protection of children from harm.

72. Members should note that each objective is of equal importance. There are no other licensing objectives, and the four objectives are paramount considerations at all times.

73. Conditions will not be necessary if they duplicate a statutory position. Conditions relating to night café and take away aspect of the license must relate to the night

time operation of the premises and must not be used to impose conditions which could not be imposed on day time operators.

74. Members are also referred to the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 on conditions, specifically section 10.

### **Reasons**

75. If the sub-committee determines that it is necessary to modify the conditions, or to refuse the application for a premises licence application, it must give reasons for its decision.

### **Hearing procedures**

76. Subject to the licensing hearing regulations, the licensing committee may determine its own procedures. Key elements of the regulations are that:

- The hearing shall take the form of a discussion led by the authority. Cross examination shall not be permitted unless the authority considered that it is required for it to consider the representations.
- Members of the authority are free to ask any question of any party or other person appearing at the hearing.
- The committee must allow the parties an equal maximum period of time in which to exercise their rights to:
  - Address the authority
  - If given permission by the committee, question any other party.
  - In response to a point which the authority has given notice it will require clarification, give further information in support of their application.
- The committee shall disregard any information given by a party which is not relevant to the particular application before the committee and the licensing objectives.
- The hearing shall be in public, although the committee may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in private.
- In considering any representations or notice made by a party the authority may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.

77. This matter relates to the determination of an application for a premises licence under Section 17 of the Licensing Act 2003. Regulation 26(1) (a) requires the sub-committee to make its determination at the conclusion of the hearing.



## **Council's multiple roles and the role of the licensing sub-committee**

78. Sub-committee members will note that, in relation to this application, the council has multiple roles. Council officers from various departments have been asked to consider the application from the perspective of the council as authority responsible respectively for environmental health, trading standards, health and safety and as the planning authority.
79. Members should note that the licensing sub-committee is meeting on this occasion solely to perform the role of licensing authority. The sub-committee sits in quasi-judicial capacity, and must act impartially. It must offer a fair and unbiased hearing of the application. In this case, members should disregard the council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the licensing law, guidance and the council's statement of licensing policy.
80. As a quasi-judicial body the licensing sub-committee is required to consider the application on its merits. The sub-committee must take into account only relevant factors, and ignore irrelevant factors. The decision must be based on evidence, that is to say material, which tends logically to show the existence or non-existence of relevant facts, or the likelihood or unlikelihood of the occurrence of some future event, the occurrence of which would be relevant. The licensing sub-committee must give fair consideration to the contentions of all persons entitled to make representations to them.
81. The licensing sub-committee is entitled to consider events outside of the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for the same to be relevant. However, if such events are not properly attributable to the premises being open, then the evidence is not relevant and should be excluded. Guidance is that the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activity in the area concerned.
82. Members will be aware of the council's code of conduct which requires them to declare personal and prejudicial interests. The code applies to members when considering licensing applications. In addition, as a quasi-judicial body, members are required to avoid both actual bias, and the appearance of bias.
83. The sub-committee can only consider matters within the application that have been raised through representations from other persons and responsible authorities. Interested parties must live in the vicinity of the premises. This will be decided on a case to case basis.
84. Under the Human Rights Act 1998, the sub-committee needs to consider the balance between the rights of the applicant and those making representations to the application when making their decision. The sub-committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the borough.

85. Other persons, responsible authorities and the applicant have the right to appeal the decision of the sub-committee to the magistrates' court within a period of 21 days beginning with the day on which the applicant was notified by the licensing authority of the decision to be appealed against.

### Guidance

86. Members are required to have regard to the Home Office revised guidance in carrying out the functions of licensing authority. However, guidance does not cover every possible situation, so long as the guidance has been properly and carefully understood, members may depart from it if they have reason to do so. Full reasons must be given if this is the case.

### Strategic Director of Finance and Governance

87. The head of regulatory services has confirmed that the costs of this process over and above the application fee are borne by the service.

### BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Licensing Act 2003	Southwark Licensing, c/o	Mrs Kirty Read Tel: 020 7525 5748
Home Office Revised Guidance to the Act	Community Safety and Enforcement, 160	
Secondary Regulations	Tooley Street, London SE1 2QH	
Southwark statement of licensing policy		
Case file		

### APPENDICES

Name	Title
Appendix A	Copy of the current premises licence issued in respect of the premises
Appendix B	Copy of the application
Appendix C	Copy of the responsible authority representations
Appendix D	Copy of the representations submitted by 'other persons'
Appendix E	Map showing the location of the premises

## AUDIT TRAIL

<b>Lead Officer</b>	Caroline Bruce, Strategic Director of Environment, Neighbourhoods and Growth	
<b>Report Author</b>	David Franklin, Principal Licensing Officer	
<b>Version</b>	Final	
<b>Dated</b>	22 March 2023	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments sought</b>	<b>Comments included</b>
Assistant Chief Executive – Governance and Assurance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
<b>Cabinet Member</b>	No	No
<b>Date final report sent to Constitutional Team</b>	24 March 2023	