Item No. 6.	Classification: Open	Date: 27 June 2023	Meeting Name: Licensing Sub-Committee	
Report Title		Licensing Act 2003: SET Social, 55 Nigel Road, London SE15 4NP		
Ward(s) of group(s) affected		Rye Lane		
From		Strategic Director of Environment, Neighbourhoods and Growth		

RECOMMENDATION

1. That the licensing sub-committee considers an application made by SET Social to vary the club premises certificate granted under the Licensing Act 2003 in respect of the premises known as SET Social, 55 Nigel Road, London SE15 4NP.

Notes:

- a) The application seeks to vary the club premises certificate held in respect of the premises known as SET Social under section 84 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 1 responsible authority and 16 'other persons' and is therefore referred to the licensing sub-committee for determination.
- b) Paragraphs 6 and 7 of this report provides a summary of the current club premises certificate issued in respect of the premises. A copy of the current club premises certificate is attached as Appendix A.
- c) Paragraphs 8 to 10 of this report provide a summary of the application. A copy of the application is attached to this report as Appendix B.
- d) Paragraphs 11 to 18 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 F.
- 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

- 2. 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.

- 3. Within Southwark, the licensing responsibility is wholly administered by this council.
- 4. 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.
- 5. 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.
- 6. The club premises certificate 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 club premises certificate

- 7. The current club premises certificate issued in respect of the premises known as SET Social, 55 Nigel Road, London SE15 4NP was issued on 15 December 2022 and allows the following licensable activities:
 - Plays Indoors:
 - Monday to Sunday : 12:00 23:00
 - Films Indoors:
 - Monday to Sunday: 12:00 23:00
 - Recorded Music Indoors:
 - Sunday to Thursday: 12:00 23:00
 - Friday and Saturday: 12:00 01:00

- Performance of Dance Indoors:
 - Monday to Sunday: 12:00 23:00
- Supply of alcohol to a member of a club on premises:
 - Sunday to Thursday: 12:00 23:00
 - Friday and Saturday: 12:00 01:00

• Opening hours:

- Sunday to Thursday: 12:00 23:00
- Friday and Saturday: 12:00 01:00
- 8. A copy of the existing club premises certificate is attached as Appendix A.

The variation application

9. On 28 April 2023 SET Social applied to this council to vary the club premises certificate under the Licensing Act 2003 in respect of the premises known as SET Social, 55 Nigel Road, London SE15 4NP. The premises purpose and nature of the variation is described within the application as follows:

'The premises is comprised of a small bar area, which provides refreshment and hosts an area where recorded music can be played at background volume. Adjacent to this space is the hall area which has two pool tables and a number of chairs and tables. There is a small exterior smoking area and a yard/garden area. We have recently been given some funding to turn the outside space to the side of the former church into a community garden. As such we wish to licence this area so that drinks can be consumed in the garden area. The timings during which we wish alcohol to be able to be consumed in the garden will be between 14:00 and 22:00. We also wish to apply for an hour later for both our opening hours and hours in which licensable activity will take place. As such we wish to change our closing hours and provision of alcohol from; 23:00 on Sunday to Thursday 01:00 on Friday and Saturday (evenings)'

- 10. The application is summarised as follows:
 - Change of plan to include outside garden area
 - To extend plays Indoors:
 - Sunday to Thursday: 23:00 00:00
 - Friday and Saturday: 23:00 01:00
 - To extend films Indoors:
 - Sunday to Thursday: 23:00 00:00
 - Friday and Saturday: 23:00 01:00

• To add live music – indoors:

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

• To add recorded music – outdoors:

- Sunday to Thursday: 12:00 00:00
- Friday and Saturday: 12:00 02:00

• To extend recorded music – indoors:

- Sunday to Thursday: 23:00 00:00
- Friday and Saturday: 01:00 02:00

• To extend performance of dance – indoors:

- Sunday to Thursday: 23:00 00:0
- Friday and Saturday: 23:00 01:00

• To extend supply of alcohol to a member of a club - on premises:

- Sunday to Thursday: 23:00 00:00
- Friday and Saturday: 01:00 02:00

Opening hours:

- Sunday to Thursday: 12:00 00:00, Friday and Saturday: 12:00 02:00
- 11. A copy of the application is attached to this report as Appendix B.

Representations from responsible authorities

- 12. A representation has been submitted by the councils environmental protection team (EPT) as a responsible authority.
- 13. The EPT representation is concerned with the prevention of public nuisance licensing objective and is concerned with the recently reported issues around patron noise when leaving the premises that is affecting nearby residents. In order to promote those objectives EPT asked for more information regarding the usage of the outside garden area.
- 14. A copy of the representation submitted by EPT is attached to this report as Appendix C

Representations from other persons

- 15. Representations have been submitted by 16 other persons one of those representations is in support of the application.
- 16. The other person representations are concerned with the prevention of public nuisance; the prevention of crime and disorder and the protection of children from harm licensing objectives.

- 17. The other person's contend that the premises is in close proximity to their residential flats and that the later operation of the premises, littering, anti-social behaviour and the noise from music and patrons, both inside and outside would interfere with the enjoyment of their homes, causing noise pollution and interfere with the sleep of the family.
- 18. Copies of the representations submitted by the other persons are attached to this report as Appendix D.

Conciliation

- 19. 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.
- 20. At the time of the writing of this report the 17 representations other persons and a responsible authority remain outstanding and so must be considered by the licensing sub-committee in their determination of the application.
- 21. The licensing sub-committee will be apprised as to any conciliation, whether partial or full, of the other persons.

Temporary event notices

22. There has been seven temporary event notices (TENs) submitted in respect of the premises within the last year. A Table of the TENs in more detail is attached to this report as Appendix E.

Complaints

23. The licensing unit have received no complaints regarding the premises.

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24. A map showing the location of the premises is attached to this report as Appendix F. The following are a list of licensed premises shown on the map:

Two Hundred Rye Lane, 200 Rye Lane, London SE15 4NF, licensed for:

- Late night refreshment indoors:
 - Friday and Saturday: 23:00 01:00
- Sale by retail of alcohol to be consumed on the premises:
 - \circ Sunday to Thursday: 10:00 00:00, Friday and Saturday: 10:00 00:30
- Sale by retail of alcohol to be consumed off the premises:
 - Monday to Sunday: 10:00 22:00

Tupi Restaurants Limited, 206 Rye Lane, London SE15 4NL, licensed for:

- Recorded music indoors:
 - Monday to Sunday: 08:00 23:00
- Sale by retail of alcohol to be consumed on and off the premises:
 - Monday to Sunday: 12:00 23:00

210, 210 Rye Lane, London SE15 4NL, licensed for:

- Recorded music indoors:
 - Sunday to Thursday: 23:00 00:00
 - Friday and Saturday: 23:00 01:00
- Late night refreshment indoors:
 - Sunday to Thursday: 23:00 23:30
 - Friday and Saturday: 23:00 00:30
- Sale by retail of alcohol to be consumed on and off the premises:
 - Sunday to Thursday: 10:00 23:30
 - Friday and Saturday: 10:00 00:30

Nola, 224 Rye Lane, London SE15 4NL, licensed for:

- Late night refreshment indoors:
 - Friday and Saturday: 23:00 00:00
- Sale by retail of alcohol to be consumed on the premises:
 - o Thursday: 17:00 22:30
 - Friday: 17:00 23:30
 - Saturday: 13:00 23:30
 - Sunday: 13:00 22:30

Peckham Troy Hall, Troy Town Community Centre, Nigel Road, London SE15 4NS, licensed for:

- Sale by retail of alcohol to be consumed on the premises:
 - Monday to Sunday: 12:00 23:00

The White Horse, 20 Peckham Rye, London SE15 4JR, licensed for:

- Live music indoors:
 - Monday to Thursday: 10:00 00:00
 - Friday and Saturday: 10:00 01:00
 - Sunday: 12:00 23:30
- Recorded music indoors
 - Monday to Thursday: 08:00 00:00
 - Friday and Saturday: 08:00 01:00
 - Sunday: 12:00 23:30
- Provisions similar to making music and dancing, indoors:
 - Monday to Thursday: 10:00 00:00
 - Friday and Saturday: 10:00 01:00
 - Sunday: 12:00 23:30
- Late night refreshment indoors:
 - Monday to Thursday: 23:00 00:00
 - Friday and Saturday: 23:00 01:00
 - Sunday: 23:00 23:30
- Sale by retail of alcohol to be consumed on and off the premises:
 - \circ Monday to Thursday: 08:00 00:00
 - Friday and Saturday: 08:00 01:00
 - Sunday: 12:00 23:30

Slow Richie's, 18 Peckham Rye, London SE15 4JR, licensed for:

- Sale by retail of alcohol to be consumed on and off the premises:
 - Monday to Friday: 12:00 23:00
 - Saturday and Sunday: 11:00 23:00

Alpha Off Licence, 24 Peckham Rye, London SE15 4JR, licensed for:

- Sale by retail of alcohol to be consumed off the premises:
 - Monday to Sunday: 06:00 23:00

En Root, 28 Peckham Rye, London SE15 4JR, licensed for

- Films indoors:
 - o Thursday: 19:00 22:00

- Sale by retail of alcohol to be consumed on the premises:
 - Monday: 12:00 17:00
 - Tuesday to Friday: 12:00 22:00
 - Saturday: 10:00 22:00
 - Sunday: 10:00 17:00

Rye News, 34 Peckham Rye, London SE15 4JR, licensed for:

- Sale by retail of alcohol to be consumed off the premises:
 - Monday to Saturday: 08:00 23:00
 - Sunday: 10:00 22:30.

Southwark Council statement of licensing policy

- 25. Council assembly approved Southwark's statement of licensing policy 2021-2026 on 25 November 2020 and came into effect on 1 January 2021.
- 26. 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.

- 27. 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.
- 28. Members should take into consideration both the Southwark Statement of Licensing Policy and the Section 182 Guidance when making decisions. The links for these are below:

Southwark Policy:

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

Section 182 Guidance:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attac hment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Lic ensing_Act_2003__April_2018_.pdf

Cumulative Impact Area (CIA)

- 29. The premises does not fall within a cumulative impact area (CIA)
- 30. The premises are situated in the Peckham Major Town Centre Area.
- 31. Under the Southwark's statement of licensing policy 2021 2026 the following closing times are recommended as appropriate within Peckham Major Town Centre Area:
 - 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
 - Nightclubs (with 'sui generis' planning classification):
 - Monday to Thursday: 01:00
 - Friday and Saturday: 03:00
 - Sunday: 00:00
 - Off-licenses and alcohol sales in grocers and supermarkets:
 - Monday to Sunday: 00:00

- Take-away establishments:
 - Sunday to Thursday: 00:00
 - Friday and Saturday: 01:00
- Cinemas and theatres:
 - Monday to Sunday: 02:00
- Qualifying members' club:
 - Monday to Sunday: 02:00.

Climate change implications

- 32. Following council assembly on 14 July 2021, the council is committed to considering the climate change implications of any decisions.
- 33. Climate change is not a legal factor in the consideration of a grant or variation of a premises license or club premises certificate 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.
- 34. 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.
- 35. 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

36. 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

37. 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.

- 38. 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.
- 39. The equalities impact statement for licensing decisions is contained within the Southwark statement of licensing policy 2021 2026at:

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

40. The equalities impact assessment is available at:

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

Health impact statement

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

Resource implications

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

Consultation

43. 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 a similar notice was exhibited outside of the premises for a period of 28 consecutive days.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Assistant Chief Executive – Governance and Assurance

- 44. The sub-committee is asked to determine the application for a variation of a club premises certificate licence under Section 85of the Licensing Act 2003.
- 45. The principles which sub-committee members must apply are set out below.

Principles for making the determination

- 46. The sub-committee is asked to determine the application for a variation of a club premises certificate under section 85 of the Licensing Act 2003.
- 47. The principles which sub-committee members must apply are set out below.

- 48. The general principle is that applications for club premises certificates 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.
- 49. 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.
- 50. 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 85(4)(a) modified to such extent as the licensing authority considers necessary for the promotion of the licensing objectives
- Any condition which must under section 85 be included in the licence.
- To exclude from the scope of the licence any of the licensable activities to which the application relates.
- To reject the application.

Conditions

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- 51. 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.
- 52. The four licensing objectives are:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of nuisance
 - The protection of children from harm.
- 53. 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.
- 54. 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.

55. Members are also referred to the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 section 6, on club premises certificates and on conditions, section 10.

Reasons

56. If the sub-committee determines that it is necessary to modify the conditions, or to refuse the application for the variation of a club premises certificate application, it must give reasons for its decision.

Hearing procedures

- 57. 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.
- 58. This matter relates to the determination of an application for a club premises certificate under Section 84 of the Licensing Act 2003. Regulation 26(1)(f) 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

- 59. 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.
- 60. 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.
- 61. 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.
- 62. 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.
- 63. 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.
- 64. 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.
- 65. 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.

66. 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

67. Members are required to have regard to the Home Office 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, Finance

68. 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,	Mrs Kirty Read
	C/O	Tel: 020 7525 5748
Home Office Revised	Community Safety and	
Guidance to the Act	Enforcement, 160	
	Tooley Street,	
Secondary Regulations	London SE1 2QH	
Southwark statement of licensing policy		
Case file		

APPENDICES

Name	Title	
Appendix A	Copy of the current club premises certificate issued in respect of	
	the premises	
Appendix B	Copy of the application	
Appendix C	Copy of the representation submitted by the environmental	
	protection team as a responsible authority	
Appendix D	Copies of the representations submitted by 'other persons'	
Appendix E	Table of temporary event notices	
Appendix F	Map showing the location of the premises	

AUDIT TRAIL

Lead Officer	Caroline Bruce and Growth	e, Strategic Director E	nvironment, Neighbourhoods		
Report Author	Jayne Tear, Principal Licensing Officer				
Version	Final				
Dated	13 June 2023				
Key Decision?	No				
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET					
MEMBER					
Officer Title		Comments sought	Comments included		
Assistant Chief Executive –		Yes	Yes		
Governance and Assurance					
Strategic Director, Finance		No	No		
Cabinet Member		No	No		
Date final report sent to Constitutional Team			16 June 2023		