

Meeting name:	Licensing Sub-Committee
Date:	8 August 2024
Report Title	Licensing Act 2003: Wazobia Restaurant, 670 Old Kent Road, London SE15 1JF
Ward(s) or groups affected:	Old Kent Road
Classification:	Open
Reasons for lateness (if applicable):	N/a

RECOMMENDATION

1. That the licensing sub-committee considers an application submitted by Space Investments Limited under Section 51 of the Licensing Act 2003 (the Act) for the review of the premises licence that was held by Unique Crispens Food Limited in respect of the premises known as Wazobia Restaurant, 670 Old Kent Road, London SE15 1JF. The current licence holder is now Faith Catering Limited.
2. Notes:
 - a) The grounds for the review are stated in paragraphs 13 to 16 of this report. A copy of the premises licence review application is attached as Appendix A.
 - b) The review application is supported by representations submitted by the council's environmental protection team (EPT) and Licensing as a responsible authority, as well as members of the public, copies of which can be found at Appendixes D, E, F and G (and later, O and P), respectively. Details of the representations are provided in paragraphs 17 to 25 and 39 to 44.
 - c) A copy of the current premises licence issued in respect of the premises is attached to this report as Appendix C. A map showing the location of the premises is attached as Appendix R.
 - d) 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 regulations, 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 applications 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. 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.
8. The premises licence once issued remains valid for the life of the business unless surrendered or revoked. However, under section 51 of the Act it remains open to any Responsible Authority or other person to apply to the local Licensing Authority for a review of the premises licence where there are ongoing concerns regarding one or more of the four stated licensing objectives.

KEY ISSUES FOR CONSIDERATION

The premises licence

9. The premises licence allows the provision of licensable activities as follows:
 - Live music – indoors:
 - Sunday to Thursday: 12:00 to 00:00
 - Friday and Saturday: 12:00 to 03:00
 - Recorded music – indoors:
 - Sunday to Thursday: 12:00 to 00:00
 - Friday and Saturday: 12:00 to 03:00
 - Late night refreshment – indoors:
 - Sunday to Thursday: 23:00 to 00:00
 - Friday and Saturday: 23:00 to 03:00
 - The sale by retail of alcohol to be consumed on the premises:
 - Sunday to Thursday: 12:00 to 00:00
 - Friday and Saturday: 12:00 to 03:00
 - Opening hours:
 - Sunday to Thursday: 12:00 to 00:00
 - Friday and Saturday: 12:00 to 03:30.
10. The licence is subject to the mandatory conditions set down under the Act and further conditions consistent with the operating schedule submitted with the application for the licence.
11. A copy of the full premises licence at the time the review was initiated, is attached as Appendix C. Please note that the licence holder has been transferred to Faith Catering Limited.

Designated premises supervisor (DPS)

12. The current designated premises supervisor (DPS) named on the licence is Emmanuel Alex Eke, whom holds a personal licence with the London Borough of Lewisham.

The review application

13. On 7 August 2023, an application was submitted by Space Investments Limited under Section 51 of the Licensing Act 2003 (the Act) for the review of the premises licence known as Wazobia Restaurant, 670 Old Kent Road, London SE15 1JF.

14. The applicant has submitted the review application was submitted in respect of all four licensing objectives (although mainly on the grounds of public nuisance), citing the following:

“We wish to bring to your attention an on-going matter with regard to the above-mentioned restaurant - situated below five residential apartments that we, Space Investments Limited, own on a long leasehold basis. We manage the properties ourselves.

The restaurant becomes a night club from Thursday night onwards, causing severe noise nuisance to our properties, the residents above and surrounding neighbour properties. Noise and vibrations are felt from the ground up with constant thuds of music and is a huge disturbance to residents in the apartments. There are often frequent gatherings outside the restaurant too, that are intimidating to our residents, who are complaining to us that they feel too unsafe to leave/enter their home. In some instances, there have been threats of violence towards our Tenants where the Police have also been contacted.

We have been in continuous contact with Southwark Noise and Nuisance/Environmental Health for over 6 years (all documented), as have the residents of the above-mentioned flats. We are aware of number of officers visits to witness the noise during the early hours, and outside of any licenced timings. A noise abatement notice has also been issued to the owner of Wazobia Restaurant, yet this had no affect and if anything matters are now worse.

We also engaged with the Superior Landlord (Freeholder) in regard to their Tenant (Wazobia); but they have shown little interest in reviewing as are more concerned with having the unit occupied and collecting rent.

The constant noise has a huge impact on our Tenants health, safety and general wellbeing. Our residents have lost hope over the poor response from Southwark Noise and Nuisance team and instead of seeking assistance from the borough, who should support them; simply opt to break their tenancy agreements early and move out.

As you can appreciate this is a tiresome and stressful process for all concerned and becoming a financial burden to us each time a Tenant seeks to want to vacate. We are concerned that the continuation of this matter is making our properties un-lettable and are likely to incur significant losses as a consequence. We are taking legal advice on the matter concerning the restaurant on the ground floor, as yet more cost, and also seeking expert witness noise and nuisance consultancy in further proving our claim.

We are writing to you for your comments and proposals in dealing with the clear and continued noise nuisance affecting our Tenants and their quiet enjoyment of their property. We hope to be able to engage with you swiftly as the problem persists and needs your support”.

15. Copies of, and additional written evidence supplied in support of, the review application can be found at Appendixes A and B, respectively.

16. In Appendix B, the Applicant has, in their own internal 'Appendix 3' referred to one of their tenants sending them video evidence of noise from the premises causing late night disturbances. Sub-Committee Members, as well all of the other parties have been sent a link to these videos in advance of the Hearing.

Representations from responsible authorities in the first consultation

17. During the public consultation period, two specific representations were received, these being from the environmental protection team (EPT) and licensing, as responsible authorities.
18. The EPT representation (which supports the review application) refers to instances of noise-related incidents reported to them. Since these incidents occurred after midnight, EPT have suggested that the weekend opening hours (Friday and Saturday) are reduced back 23:00 hours in line with the council's statement of licencing policy. The representation from EPT can be found at Appendix D.
19. The licensing representation (which also supports the review application), cited that the incidents reported to us as a local authority are a result of how the premises are operated. A number of additional conditions have been suggested to help promote the licencing objectives and mitigate further issues going forward. However, licensing have stated that, if the sub-committee do not consider some or all of these conditions are appropriate, their further recommendation would be that the premises' hours of weekend operation are reduced back to 00:00. The representation from licensing can be found at Appendix E.
20. The Metropolitan Police Service also submitted written comments during the consultation period. Whilst these do not constitute a specific representation in support of the review application, they do offer additional comments about two recent incidents that have arisen in connection with the premises. The correspondence from the police can be found at Appendix F.

Representations from other persons in the first consultation

21. During the consultation period, a total of eleven comments were received from members of the public.
22. One of these responses stated that they were in support of the premises licence being reviewed, on the grounds they encountered significant noise-related issues in connection with the premises.
23. Copies of the responses sent by those members of the public supporting the review can be found at Appendix G.
24. The other ten responses follow a similar format, citing that they have had no issues with the premises and that, in their view, it is a well-run establishment that should not be subject to review.
25. Copies of the responses sent by those members of the public supporting the premises can be found at Appendix H.

Operating history

26. The premises has operated as a restaurant since 23 April 2009 and the initial premises licence granted on this date contained the following hours of operation:
- **Late night refreshment – indoors:**
 - Sunday to Thursday: 23:00 to 00:00.
 - Friday and Saturday: 23:00 to 02:00.
 - **Sale by retail of alcohol (to be consumed on premises):**
 - Sunday to Thursday: 12:00 to 00:00.
 - Friday and Saturday: 12:00 to 02:00.
 - **Opening hours:**
 - Sunday to Thursday: 12:00 to 00:00.
 - Friday and Saturday: 12:00 to 02:00.
27. On 28 June 2010, a variation application was granted with the following changes:
- Addition of Live Music (Indoors), Recorded Music (Indoors), Facilities for Making Music (Indoors), Provisions Similar to Making Music and Dancing (Indoors) for Sunday to Thursday 12:00 to 00:00 and Friday and Saturday 12:00 to 03:00.
 - Extension of Late Night Refreshment (Indoors) and Sale by retail of alcohol (to be consumed on premises) from 02:00 to 03:00 on Friday and Saturday.
 - Extension of the Opening hours of the premises from 02:00 to 03:30 on Friday and Saturday.
28. On 9 January 2012, a minor variation was submitted to add the requirement for two door supervisors whenever the premises opened beyond 00:00 and measures to count ingress and egress of people to ensure capacity compliance.
29. On 25 November 2016, an application was made by the Met Police for an expedited review following a serious assault that took place outside the premises. This resulted in the addition of extra conditions on the premises licence on 16 December 2016 to help promote the licensing objectives.
30. On 10 January 2019, an application was received to transfer the premises licence to the current premises licence holder (Unique Crispens Food Limited) and DPS (Emmanuel Alex Eke).
31. The premises has not submitted any temporary event notices since the transfer of 10 January 2019 took place.

32. The following is a table of complaints submitted directly, or referred by another party, to the licensing unit in connection with the premises since 10 January 2019:

Date	Time	Issue	Outcome
5 May 2022	09:25	Noise emanating from the premises during the early hours of the morning.	Warning letter sent to the premises licence holder and DPS on 6 May 2022 by Licensing Enforcement Team.
12 July 2023	15:53	The owner of the residential flats above (fellow leaseholder) raised issues with the premises operating as a nightclub <i>"from Thursday night onwards, causing severe noise nuisance to our properties, the residents above and surrounding neighbour properties. Noise and vibrations are felt from the ground up with constant thuds of music and is a huge disturbance to residents in the apartments. There are often frequent gatherings outside the restaurant too, that are intimidating to our residents, who are complaining to us that they feel too unsafe to leave/enter their home. In some instances, there have been threats of violence towards our Tenants where the Police have also been contacted"</i> .	Visit to the premises on 21 July 2023 made by Licensing Enforcement, who spoke with the DPS about this complaint. No apparent issues at the time of the visit. Complainant then contacted on 26 July 2023 and advised of the option to apply for a premises licence review.

33. The warning letters sent to the premises licence holder and DPS on 6 May 2023 can be found at Appendix I.

Southwark licensing sub-committee hearing 31 October 2023

34. On 31 October, 2023, the review application was heard by the Licensing Sub Committee. The Cub Committee resolved to modify the premises licence with additional conditions. A copy of the notice of decision, with said conditions, is available in Appendix J.
35. As a result of the review, the premises provided a dispersal policy. A copy is available in Appendix K.

Appeal - Croydon Magistrates Court

36. Space Investments Limited appealed that decision at the Magistrates Court.
37. On 10 June 2024, the District Judge decided to remit the application back to the Licensing Sub Committee. The review is to be determined 'afresh', which has been taken to mean that the public and statutory consultation is carried out again.

38. The Decision by the DJ is available in Appendix L.

The second consultation

39. Following advice from the council's legal department, the consultation was recommenced, with the blue notice placed at the premises. The consultation came to an end on 07 July 2024.
40. During the consultation, the council received correspondence from the premises licence holders' legal representative stating that they did not agree that the consultation should have been restarted. Copies of that correspondence is available in Appendix M.
41. During the consultation, representations were received from nine other people, local residents living in the immediate vicinity, supporting the premises; stating that they have not witnessed the antisocial behaviour as reported in the initial review. Copies of those representations are available in Appendix N.
42. A representation has also been received from Space Investments Limited. The representation sets out the history of noise nuisance, but also essentially, adds additional dates since the Magistrates Court Hearing. This is available in Appendix O.
43. Contained within the representation is a link to 15 videos taken by a resident residing directly above the premises. The videos are to demonstrate that music noise is audible in the residential accommodation.
44. The environmental protection team have also made a further representation to state that since the original review was made, a complaint regarding noise was made via the internet to the Council. They were therefore unable to assess the noise at the time. While it was recorded as multiple complaints, it was a repeat of a single complaint. This is available in Appendix P.

Premises licence transfer

45. On 11 June 2024, an application was received to transfer the premises licence to Faith Catering Limited, with immediate effect. This has since been issued. For completeness, a copy of the premises licence issued on 11 June 2024 is available at Appendix Q.

The local area

46. A map showing the location of the premises is attached as Appendix R and the following licensed premises are within the immediate vicinity:

Eastern European Food, 650 Old Kent Road, London SE15 1JF:

- **Sale by retail of alcohol (to be consumed off premises):**
 - Monday to Sunday: 06:00 to 23:00.

- **Opening hours:**
 - Monday to Sunday: 06:00 to 23:00.

Mama Leahs, 660 Old Kent Road, London SE15 1JF:

- **Live music – indoors:**
 - Thursday: 11:00 to 22:00.
 - Friday and Saturday: 11:00 to 01:00
- **Recorded music – indoors:**
 - Sunday to Thursday: 10:30 to 22:30
 - Friday and Saturday: 10:30 to 01:00
- **Entertainment similar to live/recorded music – Indoors:**
 - Thursday: 19:00 to 22:00
- **Late night refreshment – indoors:**
 - Friday and Saturday: 23:00 to 01:00
- **Sale by retail of alcohol (to be consumed on premises):**
 - Sunday to Thursday: 12:00 to 22:30
 - Friday and Saturday: 12:00 to 22:30
- **Opening hours:**
 - Sunday to Thursday: 10:30 to 23:00
 - Friday and Saturday: 10:30 to 01:30.

KFC, 671-679 Old Kent Road, London SE15 1JS:

- **Late night refreshment – indoors:**
 - Sunday to Thursday: 23:00 to 02:00
 - Friday and Saturday: 23:00 to 05:00
- **Opening hours:**
 - Sunday to Thursday: 23:00 to 02:00
 - Friday and Saturday: 23:00 to 05:00.

Unique Beers Wines and Spirits, 681 Old Kent Road, London SE15 1JS:

- **Sale by retail of alcohol (to be consumed on and off premises):**
 - Monday to Thursday: 06:00 to 00:00
 - Friday to Sunday: 06:00 to 00:00

- **Opening hours:**
 - Monday to Thursday: 06:00 to 00:00
 - Friday to Sunday: 06:00 to 02:00.

Southwark Council statement of licensing policy

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

48. 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 licenses 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.

49. 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.
50. 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-premises-licensing/licensing-and-gambling-act-policy>

Section 182 Guidance:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1178789/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_removal_of_minor_variation_relating_to_off_sales.pdf

Cumulative impact area (CIA)

51. The premises are not situated in a cumulative impact area. However, under the council's statement of licensing policy 2021 – 2026, the following closing times are recommended as appropriate within the local area:
 - Public houses, wine bars, or other drinking establishments and bars in other types of premises:
 - Monday to Sunday: 23:00
 - Restaurants, cafes and cinemas:
 - Monday to Sunday: 23:00.
 - Off licenses:
 - Monday to Sunday: 23:00.
52. It should be noted that, under this policy, takeaways and nightclubs are not considered appropriate for the area.

Climate change implications

53. Following council assembly on 14 July 2021, the council is committed to considering the climate change implications of any decisions.
54. 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.

55. Examples of such an agreement may be:

- Not to 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.

56. 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

57. 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

58. 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.

59. 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.

60. 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>

61. The equalities impact assessment is available at:

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

Health impact statement

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

Resource implications

63. There is no fee associated with this type of application.

Consultation

64. Consultation has been carried out on this application in accordance with the provisions of the Licensing Act 2003.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Assistant Chief Executive - Governance and Assurance

65. The sub-committee is asked to determine, under Section 51 of the Licensing Act 2003, following an application, made under Section 51 of the same act, for a review of premises licence. At any stage, following the grant of a premises licence, a responsible authority or any other person may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

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

Principles for making the determination

67. Under Section 52 the licensing authority must hold a hearing to determine the review and any relevant representations.

68. The four licensing objectives are:

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

69. Each objective must be considered to be of equal importance. The authority must, having regard to the application and any relevant representations, take such of the following steps as it considers appropriate for the promotion of the licensing objectives. The steps are to:

- Modify the conditions of the licence by altering, omitting or adding any condition
- Exclude a licensable activity from the scope of the licence
- Remove the designated premises supervisor
- Suspend the licence for a period not exceeding three months
- Revoke the licence.

70. For the purpose of determining a relevant representation under section 52 of the Act a “relevant representation” means representations which:
- Are relevant to one or more of the licensing objectives
 - Are made by the holder of the premises licence, a responsible authority or another person within the prescribed period
 - Have not been withdrawn
 - If made by another person (who is not also a responsible authority), that they are not, in the opinion of the relevant licensing authority frivolous or vexatious.
71. Modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months.
72. The authority may decide that no action is necessary if it finds that the review does not require it to take any steps appropriate to promote the licensing objectives.
73. In deciding what remedial action if any it should take, the authority must direct its mind to the causes or concerns that the representations identify. The remedial action should generally be directed at these causes and should always be no more than an appropriate and proportionate response.
74. It is of particular importance that any detrimental financial impact that may result from a licensing authority’s decision is appropriate and proportionate to the promotion of the licensing objectives in the circumstances that gave rise to the application for review.

Reasons

75. Where the authority determines an application for review it must notify the determination and reasons why for making it to:
- The holder of the licence
 - The applicant
 - Any person who made relevant representations
 - The chief officer of police for the area (or each police area) in which the premises are situated.

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 review of the premises licence under section 51 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.
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 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

87. The head of community safety and enforcement has confirmed that the costs of this process are borne by the service.

BACKGROUND DOCUMENTS

Background papers	Held At	Contact
Licensing Act 2003 Home Office Revised Guidance to the Act Secondary Regulations Southwark Statement of Licensing Policy Case file	Southwark Licensing, C/o Community Safety & Enforcement, 160 Tooley Street, London, SE1 2QH	Kirby Read Phone number: 020 7525 5748

APPENDICES

Name	Title
Appendix A	Premises licence review application
Appendix B	Additional evidence from the applicant in support of the review
Appendix C	Current premises licence
Appendix D	Environmental protection team representation
Appendix E	Licensing representation
Appendix F	Metropolitan Police Service comments
Appendix G	Public comments in support of the review
Appendix H	Public comments against the review
Appendix I	Warning letters Issued to the premises licence Holder and designated premises supervisor on 6 May 2022
Appendix J	Notice of decision 31 October 2023
Appendix K	Dispersal policy
Appendix L	District Judge Decision
Appendix M	Dadd's Solicitors correspondence
Appendix N	Further representations supporting the premises
Appendix O	Representation from the applicant
Appendix P	Updated representation from the environmental protection team
Appendix Q	Licence as of 11 June 2024
Appendix R, S	Map of the locality

AUDIT TRAIL

Lead Officer	Toni Ainge, Strategic Director of Environment, Neighborhoods and Growth	
Report Author	Andrew Heron, Principal Licensing Officer	
Version	Final	
Dated	25 July 2024	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Assistant Chief Executive Governance and Assurance	Yes	Yes
Strategic Director of Finance	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional Team	26 July 2024	