

Chief executive's department

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EH & TS Licensing Unit
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X

Your Ref:

Our Ref: 16-CE-00975

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Date: 04/11/2016

Dear Sir/Madam

Premises Licensing re:

THE CLF ART CAFE, 133 COPELAND ROAD, LONDON, SE15 3SN

Summary description: Review of licence

Date Received: 11/10/2016

The planning status of the Bussey building Block A is that it received planning permission in 2009 and that its hours of operation were varied in 2012 under reference 12/AP/1160. The wording of that later permission is slightly confused because the earlier permission including the originally permitted hours are repeated in the development description.

The use of the premises is permitted as a mixed use of a bar, theatre, exhibition space, sandwich bar and TV/web production suite. These uses were permitted from the ground to the third floor of the building

The permitted hours of use are 9-11pm Mon-Wed, 9- 2:30am Thursday 9-6:00am Friday Saturday and bank holidays and 9 to 10pm Sunday.

Conditions were imposed in respect of submitting noise insulation to be fitted to the southern elevation and a scheme of internal ventilation. Those conditions have not been discharged so the planning permission has not been complied with. It is not known what the current arrangements for noise insulation and ventilation are.

The planning department has not received any compliant since 2009 which was made prior to the first application being approved. The acceptability of an entertainment use at this location has been established. However, to operate as intended and not cause harm to amenity the conditions placed on the planning permission need to be discharged. The planning department will open a case in respect of the failure to discharge planning conditions. It is requested that the operator be required to demonstrate the adequacy of or a scheme of improvement of sound insulation and ventilation.

Yours faithfully

Gavin Blackburn

Senior Enforcement Officer

From: Sharpe, Carolyn On Behalf Of Public Health Licensing

Sent: Wednesday, November 09, 2016 1:51 PM

To: Regen, Licensing

Subject: RE: The CLF Art Cafe 133 Copeland Road,, Bussey Building, Copeland Park, London Ido 7/11/2016

To whom it may concern:

Re: Bussey Building, 133 Copeland Road, London SE15 3SN

On behalf of the Acting Director of Public Health for Southwark (a responsible authority under the Licensing Act 2003) I wish to express my concern over the alleged events to have taken place at The Bussey Building. A local resident claims to have been extensively disturbed by this premises. This premises holds a licence until 06:00 on both Fridays and Saturdays as well as Bank holidays and is located adjacent to a residential area.

Therefore I support that the licence for The Bussey Building be reviewed.

If you have any further questions, please do not hesitate to contact me.

Yours faithfully,

Carolyn Sharpe

on behalf of Dr Jin Lim, Acting Director of Public Health

Carolyn Sharpe | carolyn.sharpe@southwark.gov.uk | 02075250025
Public Health Officer (People & Health Intelligence), London Borough
of Southwark, 160 Tooley Street, London SE1 2QH

From: Newman, Paul
Sent: Monday, November 14, 2016 3:41 PM
To: McArthur, Wesley
Cc: Tahir, Sarah; Blackburn, Gavin; Tear, Jayne; Ogden, Ian
Subject: RE: Application for a review - The CLF Art Cafe, Units A1, A2, A3, AG1 & Basement A, The Bussey Building, 133 Copeland Road, London, SE15 3SN (our ref: L1U 856091)

Hi Wesley and Sarah

Thank you for a copy of the application to review the premises licence at CLF Art Café, received from a local resident ('the applicant').

Please note that I have blind copied (Bcc) both the applicant and the premises licence holder into this email.

Having reviewed the history of the premises, I wish to support the application for review, on the grounds of prevention of public nuisance.

The application claims the premises are being operated as a night club, and are causing noise nuisance. It also says the current hours, until 6am are excessively long, and this also causes noise and disturbance until 7am, from patrons leaving.

The premises are situated within the Peckham Cumulative Impact Policy (CIP) area, which applies to use of premises as a nightclub. This implies that the environmental impact of nightclubs and other premises to which the CIP applies, is already at saturation level in this area.

The sub committee will also wish to note their parent committee's Statement of Licensing Policy, which says that closing time for Night Clubs (with sui generis planning classification) are Monday to Thursday 1am, 3am for Friday and Saturday, and midnight on Sunday.

The sub committee may wish to note that the premises do not appear to have sui generis planning consent for use as a nightclub. The premises is permitted since 2009 to be used as a mixed use bar, theatre, exhibition space, sandwich bar, and TV/web production suite. These uses are permitted from the ground to the third floor of the building. The permitted planning hours of these uses are 9-11pm Mon-Wed, 9- 2:30am Thursday 9-6:00am Friday Saturday and bank holidays, and 9 to 10pm Sunday.

Without sui generis planning permission for use as a nightclub, the Statement of Licensing Policy indicates these premises should be treated as a drinking establishment for alcohol licensing purposes. The closing time for Public Houses, Wine bars, or other drinking establishments is 11pm from Sunday to Thursday, and midnight on Friday and Saturday.

Uses as a theatre and TV/web production suite imply use of amplified sound during performances and productions. In my opinion it will be appropriate to require the premises owner to submit a scheme of noise insulation to be fitted to the southern elevation, and a scheme of internal ventilation before the authorised use continues, as is in fact required by an as yet still undischarged condition of the 2009 planning consent.

To be satisfactory, I would wish to see the report of a professionally qualified acoustic consultant, with measurements and calculations, that demonstrate that the scheme of insulation will be sufficiently effective such that activities from the building will have no impact on nearby residential

premises, such as that occupied by the applicant for this review. I would expect this to include, among other mitigating measures, a sound limiting device on each floor.

I note that the applicant says that she has tried everything, including visits from noise pollution team, constant calls to the noise pollution service, and constant liaison with the council environmental team. Please see below a record of complaints received by environmental health and noise teams from the applicant on this matter, which indicates the extent to which we are able to confirm these claims.

- On 17 April 2015 at 13.42 hrs a complaint was received from the applicant. During a subsequent telephone conversation on 20 April 2015, the applicant stated that she has been experiencing ongoing noise issues from this licenced premises. According to customer the club operates until 04.00 Hrs. Customer stated that noise from people congregating outside to smoke and drink affects her sleep. Complainant also alleged that noise of a P.A system from Church services on Sundays has also disturbed her. Following this complaint, an advisory letter was sent to the premises on 25 April, copy attached.
- On 23rd April 2015 at 11.46 a complaint was received from the applicant stating that there is noise from large numbers of patrons using the smoking area and a 'boom boom' noise from club, which she said she has to suffer from 9 pm on Friday nights, until as late as 5 am on Saturday morning, and from 9 pm Saturday night until 6am Sunday morning. Additionally on Bank Holiday weekends from 9 pm on Sunday until 6 am on Monday. She said the noise from the club was disturbing her sleep and causing depression, and impacting her working life. The complainant said she had had a recent argument with the premises licence holder over the use of an angle grinder. Colleagues advised that household do not contact licensee directly as the complainant and her husband were not sure they could stay calm. Colleagues sent details of the Premises licence to the complainant, and passed details of the complaint for information to noise & NTE team.
- At 1.30 am approximately on Sunday 26 April 2015, the applicant called the out of hours noise service, unfortunately the officer was not able to return the call, due to the applicant's line not accepting number withheld calls. The officer called a mobile number twice at 3.35 am and 3.45 am, but this was not answered, and a voice message was left on both occasions.
- At 4.46 am on Sunday 26 April 2015, the applicant sent an email to Environmental Protection Team and NNT officers, complaining that she had been woken at 1 am approximately by music and patron noise from the venue, and setting out her experience of attempting to contact the NNT officers. In her view, persons using the smoking area were predominantly not using the area for smoking, they were using the outdoor area for nightclub activities (she described this as 'partying and raving').
- On Thursday 30 April the applicant also complained about activities at an open air cinema on the roof of the Bussey building, in breach of the licence for that premises. It should be noted that this is a separate licence, not forming part of the CLF Arts Café.
- On Saturday 2nd May 2015 the applicant called the NNT, and two officers attended the premises at approximately 11.30 pm. At 12.25am a noise officer made an assessment at the applicant's sleeping accommodation with windows both open and closed. Noise was audible from crowds of up to 150 people smoking and drinking outside the Bussey Building consisting of occasional screaming, shouting, loud talking and general movement. Noise was

audible with windows closed. The music noise was sometimes audible, but sporadic. Officers were of the opinion that the noise amounted to a statutory nuisance, and this resulted in a formal warning letter from the noise team, sent on 20th May (copy attached).

- At 4.49 am on Saturday 9 May 2015 the applicant again sent an email to Environmental Protection Team, saying that she had not been able to sleep that night due to music and crowd noise from activities at the CLF Art Café, and that she was finding this very distressing. She said the music noise had been turned up louder than usual. It is noted from our records that officers had attended at 10.45pm and had told the sound engineer that the music was potentially too loud, and that the engineer should conduct external sound checks for noise breakout as the event continued.
- On Sunday 10th May the applicant sent an email saying she had not been able to sleep that weekend, and that the music noise had included people blowing party whistles, and beating drums. Two members of the noise team had attended at 1am, unfortunately this coincided with a break in the music, although the crowd noise was still obvious, including a rendition of 'happy birthday'. Music commenced again after the noise team left, and continued until 6am. She said that yet again her weekend was ruined as a result. She said she would collect petition signatures from other residents who were also disturbed. I am unable to find any record of this petition ever being forwarded to Southwark, and no copy of any such petition has been made available to me, and I am unable to comment on whether this petition was in fact ever collected, or how many other people signed it.
- On Sunday 17th May 2015 at the applicant sent an email to EPT and NNT officers saying there was very loud music and loud crowd noise coming from the Bussey Building.
- On 23 May 2015 between 12.22 am and 12.40 am there was an exchange of text messages between NTE officers and the applicant as NTE officers tried to arrange a visit. In her reply the applicant said she had been awake since 4am the day before, and wanted to try and get some sleep. Later on that morning the NTE officers visited at 2.30am and observed CLF Art Café patrons drinking in the courtyard in breach of the premises licence conditions, and a warning letter was sent by the Licensing Team in response.
- On 24 May 2015 between 2am and 4am there was an exchange of text messages between the applicant and NTE officers. The applicant was unable to give access to her flat as her husband was unwell and needed to rest. The applicant said the music and crowd noise was as loud as ever.
- On 28 May 2015, the applicant sent an email to EPT officers, saying that she was concerned that the likely disturbance in the coming weekend would cause her 2 more consecutive nights without sleep, and said that the lack of sleep was contributing to her anxiety and stress, and affecting her work.
- On 1 September 2015 the applicant sent an email to EPT officers saying that the noise from the CLF Art Café was continuing, and in addition complaining about the separate roof top venue. She also said that she could hear loud screaming and shouting from actors on stage during the Sunday theatre events held at CLF Art café, as well as loud drum and trumpet noise. Following this complaint, a monitoring visit was made to the premises by Licensing Officers, and an alleged offence was witnessed, leading to warning letters being sent on 1

October 2015, and a subsequent PACE interview on 15 October 2015. I do not have access to the warning letters or transcript of the interview.

- At 1.04am on Friday 16 October 2015, the applicant sent an email to EPT officers, saying she had just logged a call with the noise team, and the operator that took the call agreed he could hear crowd noise from the CLF Art Café down the phone, and agreed it was loud. The operator later reported to NNT officers that the applicant had declined a visit to her premises.
- On Sunday 18 October 2015 at 12.23 am The applicant sent an email to EPT officers saying there was noise in progress from CLF Art Café including loud bass music and crowd noise including screaming and shouting, which she expected to continue until 6am. A NNT officer telephoned the applicant, however the phone would not accept number withheld calls. The officer then called from his private phone, the applicant declined a visit saying she was fed up of officers visiting to tell her how loud or low the noise is in her flat, and she was expecting a planned visit from a Licensing officer in the next week.
- On Saturday 7 November 2015 the applicant wrote an email to EPT officers saying she had been woken at 4am that morning by loud bass music, and very loud screaming and shouting coming from the Bussey building. In this email, the applicant requested a visit to her premises by council officers. In response, the EPT officer repeated their earlier offer to visit if the applicant would kindly let him know her availability.
- On 9 May 2016 at 10am a complaint was received from the applicant about loud music from the CLF Art Café.
- On 16 August 2016, the applicant wrote to the licensing manager saying she had sent numerous e mails to the noise pollution team regarding the constant noise pollution coming from the above venue. She requested the Licensing Manager to address these, and also requested that he review all the Premises Licences in the vicinity. The Licensing Manager replied referring to advice that had been given last year, and saying this had not changed, and offering a meeting at our offices to discuss matters further. The applicant replied saying that the date offered for a meeting was not convenient, and suggesting three alternative dates later in August including 24 August.
- An appointment was arranged on 24 August 2016 to meet the Licensing Manager and myself, unfortunately the applicant had to cancel this appointment. The appointment was re-arranged for 2 September, unfortunately the applicant also had to cancel this appointment. The appointment was rearranged for 16 September, unfortunately the applicant also had to cancel this appointment. The review application was received from the applicant shortly afterwards, without any meeting having taken place.

In summary, EPT recommend;

That the alcohol licensed hours are cut back to the hours indicated for 'Public Houses, Wine bars, or other drinking establishments' by the Statement of Licensing Policy: In the absence of grant of planning consent for sui generis use as a nightclub, the hours for the supply of alcohol should be 11 p.m. on Sunday to Thursday, and midnight on Friday and Saturday.

That the regulated entertainment licensed hours, limited to theatre performances and web/t.v. production, should be limited to 10 p.m. on Sunday, 11 p.m. Monday to Wednesday, 2.30 am

Thursday, and 6 a.m. Fridays, Saturdays and Bank Holidays excluding Christmas Day, Boxing Day, and Good Friday.

That the licence not authorise regulated entertainment after 10 pm on any evening, unless and until the outstanding planning conditions for use as theatre and t.v. web production have been discharged.

The Premises Licence Holder be informed that if they should obtain sui generis planning consent for use of the premises as a nightclub, they may then wish to consider applying to vary their alcohol licensed hours and varying restrictions this sub-committee may see fit to impose, thereby permitting regulated entertainment for nightclub activities. The Premises Licence Holder should expect the hours for alcohol and regulated entertainment for nightclub use to be limited to 1am on Monday to Thursday, 3am on Friday and Saturday, and midnight on Sunday, Christmas Day, Boxing Day, and Good Friday.

Kind regards

Paul Newman
Principal Environmental Health Officer

25 April 2015

Noise & Nuisance Team
Phone - 020 7525 5777
Fax - 020 7525 2378
Our ref: **808784**

Michael Smith
The CLF Art Cafe
Block A Roof Top (Rear Of)
133 Rye Lane
SE15 4ST

Dear, Mr Smith

Re: Environmental Protection Act 1990 and/or the Anti-Social Behaviour, Crime & Policing Act 2014 (from October 2014). Allegation of nuisance –from The CLF Art Cafe Block A Roof Top Rear Of, 133 Rye Lane, London, SE15 4ST

On **17 April 2015 at 13.42 hours** the Council received a complaint alleging that loud music and general anti social noise from shouting was coming from your premises. As a consequence neighbouring residents allege that the noise was causing a nuisance.

On this occasion a nuisance was not witnessed, and no further action will be taken. However, we want to bring this matter to your attention, as you may be unaware that neighbouring premises are complaining. You may also wish to comment on the allegation made.

If further complaints are received, and in the event a nuisance is witnessed, various types of enforcement action may be taken under the above acts. These could include:

- An abatement notice requiring the nuisance to stop. If this type of notice is contravened, legal action may be initiated, and for every proven contravention, a fine up to **£20,000** may be imposed.
- A community protection notice requiring the nuisance to stop. If this type of notice is contravened, legal action may be initiated, and for every proven contravention, a fine up to **£20,000** may be imposed.

Please contact our department should you wish to discuss this matter further.

Yours Sincerely

Curth Henry
Principal Enforcement Officer

20 May 2015

Noise & Nuisance Team
Phone - 020 7525 5762
Our reference: 809774

Ms Saija Marsaawa Kamarainen
The CLF Art Cafe
133 Unit A1, A2, A3, AG1 & Bsmt A
Copeland Road,
SE15 3SN

Dear Ms Kamarainen

RE: ENVIRONMENTAL PROTECTION ACT 1990 - SECTION 80
NOISE NUISANCE FROM CLF Art Café 133 Copeland Road SE15

On **3 May 2015** at **00.02 hours** the Council received a complaint alleging that noise generated from the congregation of people within your courtyard was causing a noise nuisance.

I visited in response to the complaint on **3 May 2015** at **00.25 hours** and was satisfied that the level of noise heard was causing a statutory nuisance to your neighbour(s). I confirmed at the time of my visit that there was not any other event in operation within the immediate area of Copeland Road and Rye Lane of which would have had an impact on your neighbouring residents. My colleague, Ms Kwofie, also witnessed a Statutory Nuisance, in response to a complaint on **27 April 2015**, regarding noise nuisance from the congregation of patrons within your court yard area.

We appreciate that due to the nature of the noise nuisance an immediate resolve will not be possible at this juncture.

On 14 May a site visit was arranged to discuss our findings and to consider various options to resolve this matter. I was accompanied by Ms Kwofie and Mr Binya (**Noise Enforcement Officers**).

Various options were discussed in regards to minimizing noise nuisance from the court yard area. Please review your suggested or alternative options, with the aim of producing a plan of action of how you intend to prevent further nuisance from the site within 7 days of this letter. Please note that suggestions or recommendations made will not be directed or endorsed by Southwark Council.

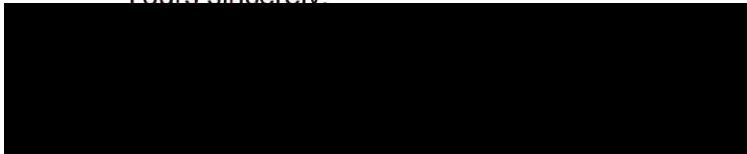
Although we are in a position to serve you with a Noise Abatement Notice, I have taken into consideration your cooperation and willingness to engage with us to find a quick solution to the problem.

As a result of this, the Noise team does not intend to take formal enforcement action at this time. However, I am sending this letter as a warning (which is purely administrative) on the understanding that once the works you proposed have been carried out, that this will be the end of the matter, provided the proposals resolve the problem.

At this point of time, we would like to continue discussing this matter further so as to avoid potential formal action from happening. Therefore I would advise you to take such reasonable steps as may be necessary to prevent any further repetition of the matter raised.

Thank you for your co-operation at the time of our visit and your willingness to achieve a positive resolve.

Yours sincerely



Curth Henry
Principal Enforcement Officer
curth.henry@southwark.gov.uk



18 May 2015

Noise & Nuisance Team
Phone - 020 7525 5762
Our reference: 809774

Mr Michael Smith
The CLF Art Cafe
133 Unit A1, A2, A3, AG1 & Bsmt A
Copeland Road,
SE15 3SN

Dear Mr Smith

RE: ENVIRONMENTAL PROTECTION ACT 1990 - SECTION 80
NOISE NUISANCE FROM 133 Copeland Road SE15

On 3 May 2015 at 00.02 hours the Council received a complaint alleging that noise generated from the congregation of people within your courtyard was causing a noise nuisance.

I visited in response to the complaint on 3 May 2015 at 00.25 hours and was satisfied that the level of noise heard was causing a statutory nuisance to your neighbour(s). I confirmed at the time of my visit that there was not any other event in operation within the immediate area of Copeland Road and Rye Lane of which would have had an impact on your neighbouring residents. My colleague, Ms Kwofie, also witnessed a Statutory Nuisance, in response to a complaint on 27 April 2015, regarding noise nuisance from the congregation of patrons within your court yard area.

We appreciate that due to the nature of the noise nuisance an immediate resolve will not be possible at this juncture.

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At this point of time, we would like to continue discussing this matter further so as to avoid potential formal action from happening. Therefore I would advise you to take such reasonable steps as may be necessary to prevent any further repetition of the matter raised.

Thank you for your co-operation at the time of our visit and your willingness to achieve a positive resolve.

Yours sincerely



Curth Henry
Principal Enforcement Officer
curth.henry@southwark.gov.uk

MEMO: Licensing Unit

To Licensing Unit **Date** 15 November 2016

Copies

From Jayne Tear **Telephone** 020 7525 0396 **Fax**

Email jayne.tear@southwark.gov.uk

Subject Re: The CLF Art Café, Unit A1, A2, A3, AG1, & Basement, The Bussey Building, Copeland Park, Copeland Road, London, SE15 3SN - Application to review the premises licence.

I write with regards to the above application to review the premises licence submitted by [REDACTED] under the Licensing Act 2003.

The application is submitted under the prevention of public nuisance licensing objective and the grounds for the review are:

'The CLF Art Cafe night club situated in the Bussey Building causes a public nuisance. The nuisance is due to the constant noise pollution which is caused by drunken very noisy punters . This nuisance to us is elevated by the fact that this night club has a licence till 6am in the morning , both Saturday and Sunday mornings including bank holiday Monday mornings at times when applicable . This I feel is not only a nuisance as listed above but I feel it impinges on mine and my family Human Rights . Article 8 Respect for my home, article 8 states " right not to have one's home life interfered with. And the right to respect for one's established family life . I strongly feel that the ongoing noise pollution from this building going on till 6am in the morning is excessive and cruel. I want the opening times reviewed please. We need some respite and need to have our windows and patio doors open as and when required. We have just suffered a summer of hell, not being able to have my bedroom window open or patio even she it was very hot. The noise from music and punters screaming and shouting in a narrow pathway right next door to my bedroom goes on till 6-7am'.

My representation is concerned with the prevention of public nuisance.

There have been several complaints to the licensing unit regarding noise and antisocial behaviour from the patrons of the premises.

In spite of the management of the premises being given advice and warnings from council officers, they have not rectified these issues and do not appear to have any control of their patrons in the outside courtyard of the premises.

Furthermore the premises was described in the past on a previous licensing application as

'The premises are set on levels 1 + 2 within the first Block of CIP House (also known as The Bussey Building). A large mixed use 5000 sqm multi level victorian red brick warehouse, with X3 flat open plan roofs. Situated in Block A, the premises are set on 2 different (predominantly open plan) 280sqm spaces. linked at both ends by double width stone staircases. Main Stairwell 1 leads up to the Block A- 5th floor open plan roof and down to the premises main entrance, private

courtyard (designated smokers area] and (via a 22m long corridor- beneath a victorian building] to Rye lane. The main staircase is used exclusively by the premises for access & egress to and from the Premises, with stairwell 2 used as a fire exit, leading in the opposite direction to Copeland Road. Level 1 of the premises is open plan with a medium sized stage and bar at opposite ends of the space. Level 2 is divided in to times 4 spaces. The first a small conference room with small stage, the second a TV & Web Production Suite, the third [Main Space] an open plan Fringe Theatre [without fixed seating] and the fourth a small lounge bar which services the Fringe Theatre. The building is set alongside a train track and is surrounded by low rise warehouses and at the rear a large private car park which is part of Copeland Industrial Park. The private car park utilised by contractors who service and maintain the premises and CIP House'

It would seem that the premises is now operating as a night club and not as the description above when the licence was granted. The premises is situated within the cumulative impact Zone for the Peckham and the licensing sub committee may want to consider bringing the hours of operation in line with that of the hours recommended within the Southwark Statement of licensing policy, which are:

- Closing time for Public Houses Wine bars or other drinking establishments Sunday to Thursday is 23:00 hours and for Friday and Saturday 00:00 hours
- Closing time for Cinemas and Theatres is 02:00 hours daily

I therefore submit this representation in full support of the applicant [REDACTED]

I may provide further supporting information to this representation at a later stage.

Jayne Tear
Principal Licensing officer
In the capacity of the Licensing Responsible Authority