

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I Sarah Connelly
 (Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description D'Eclipse 57-59 Camberwell Road Camberwell	
Post town London	Post code (if known) SE5 OEZ

RECEIVED
 21 APR 2010

Name of premises licence holder or club holding club premises certificate (if known) Dr Taiwo Olayinka Afolabi
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Number of premises licence or club premises certificate (if known)

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
 - a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr Mrs Miss Ms Other title (for example, Rev)

Surname

Connelly

First names

Sarah

I am 18 years old or over

Please tick yes



Current postal address if different from premises address

57C Camberwell Road

Post town

London

Post Code

SE5 0EZ

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address
N/A

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please state the ground(s) for review (please read guidance note 1)

I am applying for a review in respect of D'Eclipse Bar and Nightclub as all attempts to resolve serious, long-term concerns of local residents about the actions of the licensee have been unsuccessful. These have included:

- Talking to the licence holder, requesting that he take steps to rectify the concerns of local residents relating to public nuisance, safety and the prevention of crime.
- Frequent communications with Southwark licensing department about the nature and escalation of breaches to the terms of the original license.
- Written communication with my local MP concerning the nature and breaches to the terms of license.
- Sound limiters being fitted by Southwark Council on club PA system-
- Successful prosecution of licence holder by Southwark Council on three counts of noise and public disturbance.

This application is supported by several of my fellow local residents who will register support via the Southwark website and my local licensing officer, Mr Paul Compton. The licensing register in respect of this business is attached at Annex A. Annex B sets out a log of recorded breaches to the existing licensing terms.

Please provide as much information as possible to support the application

(please read guidance note 2)

I am asking that the Council review the licensing terms of the D'Eclipse restaurant and nightclub with a view to reducing its opening hours, permit to play live and recorded music and permit to sell alcohol to 11am – 11pm Monday to Saturday and 11am – 10.30pm on Sundays.

Grounds for review are set out below and cover the period July 2008 (when D'Eclipse opened for business) to the date of submitting this application.

1. The prevention of crime and disorder and impact on public safety

1.1 The D'Eclipse restaurant and nightclub is situated directly underneath a residential block of flats at the beginning of Camberwell Road, where Walworth Road ends and just before the crossroads for Burgess Park. The area is well served by pedestrian crossings and there is one directly outside the front door of the premises. During daylight hours traffic is slow, however, in the evening the traffic is light but vehicles – including buses – tend to be travelling faster.

1.2 Since opening, D'Eclipse customers have gathered on the narrow pavement on the left side of Camberwell Road, either queuing to enter the nightclub, taking cigarette breaks or being dropped off or picked up at the venue. A consequence of this is that customers frequently run across the road without using the crossing and cars and buses often are forced to make sudden breaks to avoid hitting a pedestrian. The situation is made worse when at closing times (3am on Fridays and Saturdays) cars and taxis for customers pull up and wait on the pedestrian crossing, sometimes two or three backed up along the road and inside the bus lane. Buses and cars often brake and swerve suddenly to avoid vehicles and people collected there. The situation is potentially dangerous to drivers and pedestrians in that immediate area and inevitably adds to the public nuisance caused in terms of noise and disturbance.

1.3 The presence of D'Eclipse restaurant and nightclub has led to an increase of sporadic crime in the area, the most concerning example of which being the shooting which occurred one night in August 2008. A customer of D'Eclipse had been robbed inside the venue and had chased the robbers onto the main road upon when one of the men produced a gun and – in the middle of Camberwell Road - shot another man in the leg. The man was left lying in the middle of road until the emergency services arrived. Whilst there is no evidence that customers of D'Eclipse were in possession of weapons themselves, the fact that the venue attracts people who will steal and carry weapons has, in my view, clear implications for public safety.

1.4 The shooting was an extreme but not isolated example of public disorder related to the presence of the D'Eclipse restaurant and nightclub. Residents and I have witnessed many other examples of fights breaking out directly outside the club. Occasionally the police are called or pull up to intervene but more often the club bouncers move arguing customers along, so that they are not immediately outside the door of the club. I have witnessed fights then continuing across the road and on two occasions on to John Ruskin street. On one occasion, my boyfriend and I watched a customer threaten and chase another customer who went to sit in his vehicle outside Dallas Chicken, which is directly opposite D'Eclipse. The first man then ran off returning 5 minutes later with what appeared to be a crow bar and metal chain and then attempted to attack the second man by breaking his windows whilst he sat in his van. Both men were clearly under the influence of alcohol or drugs. Again, quite apart from the noise these fights and arguments create, they are clear examples where public safety is compromised.

1.4 Finally, I feel I must draw the Council's attention to the threatening behaviour of D'Eclipse staff towards two of my fellow neighbours when they attempted to record that D'Eclipse was operating in breach of its licensing terms (i.e. after 3am on Saturday nights). Both incidents were reported to the police and the Southwark licensing team and full details can be obtained from the Licensing Officer. My understanding from one of the Noise Team officers is that a member of the Noise Team was also threatened by a staff member, although I was not party to the details of the incident.

2. The prevention of public nuisance

2.1 Since opening in July 2008, the D'Eclipse restaurant and nightclub has had a significant impact on the lives of residents of the flats running from 57 to 61 Camberwell Road and the nearby Boundary Lane. For the most part, residents of the flats have been affected by the related noise, litter (including weekly broken glass, beer bottles, urine outside flat entrances) and vermin, which has been a consequence of its vicinity. For residents of Boundary Lane, the presence of D'Eclipse has limited their ability to park outside their homes and has meant they have had to endure noise emanating from the club to the Lane and noise from customers spilling out of the club, which – on the occasions when D'Eclipse operates beyond its licensing hours – can mean up to 4am on a Saturday or Sunday morning. One Boundary Lane neighbour has also had customers come to sit and smoke on her front wall late at night and is regularly awoken by D'Eclipse staff filling their bins at 3am.

2.2 All of the residents I have spoken to and whom support this review say they now feel intimidated to be outside their property when the nightclub is open (late every Thursday, Friday and Saturday night) and customers are in and around the club, smoking, chatting and frequently arguing.

2.3 Three residents of the block whom owned their own properties and objected to the original D'Eclipse licence application have been so adversely affected by the club, in terms of their health and quality of life, and dismayed by the lax terms in which it proceeds to operate that they have felt forced to sell-up. In preparing this document, I contacted past residents to ask for their permission to state that D'Eclipse was a factor in their leaving, Craig Keeley replied:

"It was DIRECTLY related. If D'Eclipse hadn't opened then I would still be living in Camberwell and wouldn't have sold my flat for significantly less than it was previously worth."

Breaches in licence

2.4 The owners and managers of D'Eclipse restaurant and nightclub have repeatedly operated outside the terms of its licence. On several occasions, these breaches have been noted by Southwark's Licensing Team, on others, residents have kept a log and have later informed the Licensing Team. Annex B sets out a log of recorded breaches to the existing licensing terms.

2.5 On the whole, breaches have related to the nightclub staying open, playing very loud music and serving alcohol (although not admitting new customers) beyond the approved times. The 'big pull' nights of Friday and Saturday have seen the most breaches but I have also alerted the Licensing Team to the club being open with live acts playing loud music until 2am on a Wednesday and Sunday nights. In June last year when I began discussing my wish to apply for a review of the license with the Licensing Team, I noted that customers were consistently on the premises between

the hours of 1-2am on Wednesdays and Thursdays, up to 4.30am on Fridays and Saturdays and between 1-2am on Sundays. I should add that loud music was played to these times at levels that were clearly audible in my flat.

2.6 The owners and managers of D'Eclipse have consistently denied to the Licensing Team that they operate outside of the approved licensing times. They have even denied it to residents whilst actually in the process of doing so. However, in their advertising of 'club nights' on Youtube and Facebook, they explicitly advertise closing times beyond 3am or "till late" (see <http://www.youtube.com/watch?v=nzBpKSDeN5A>, where times are quoted 10pm till 5am). Please also see the attached flyer for an event on Saturday 17th April (<http://declipse.co.uk/main/2010/04/09/moulin-rouge/>) advertised as finishing at 4am.

2.7 Other breaches relate to the approved terms of their volume control levels (see below), the approved times when they will empty bins and keeping the fire exit door clear at all times.

Noise.

2.8 A key prerequisite to D'Eclipse being granted a license in summer 2008 was that noise and music levels must be acceptable to local residents. The bar, restaurant and nightclub are directly below a three-storey block of flats and very near to the adjoining Boundary Lane. The Council recognised the close proximity to residents and emphasised the need for appropriate noise control from the premises music system. To that effect, sound limiting equipment was fitted by Council engineers soon after the club opened.

2.9 I live on the third floor of the block, so theoretically, I should be least affected by the noise from the PA system. Every week since D'Eclipse opened, on Thursdays and weekend nights (and other weekday nights noted at Annex C), I have clearly been able to hear music emanating from D'Eclipse. On a low level, the music sounds like a distant and continual thump – this generally begins at 8.30-9pm. When loud, the music and/or MC is clearly audible to a level where sleep is impossible. Often watching TV, reading or listening to my own music is also impossible because concentration is impossible, the only option is to hope that on that night they will at least close by 3am. On evenings when the noise is very loud, my bed, bedroom, hallway and living room walls vibrate. Often (at least once over the course of a weekend) my photoframes will rattle to the beat of the music. By my records, the Southwark noise team have visited my flat 9 times since July 2008 with many more contacts, phone calls, etc, and there was a successful prosecution brought against the club in December 2009, partly due to the nuisance levels witnessed in my flat in August 2009. D'Eclipse's sound system was also confiscated by the Council but the management merely replaced it within one week. Consulting neighbours over the course of putting this application together, several told me that they have also reported high noise and music levels coming from the club. I would be grateful to the Noise and Licensing Team if they could carry-out a full audit of residents complaints relating to D'Eclipse.

2.10 Living with consistently loud music till the early hours of the morning every week has profoundly affected my life and how I feel about living in this area. I work regular hours, like many of my neighbours, which means I would ideally get 7 hours sleep a night. When D'Eclipse is open after midnight, I never get 7 hours sleep, not on weekdays or weekends. I had to visit my doctor late last year because I was regularly only getting 4 hours sleep and was beginning to show signs of stress. I am submitting this form on Monday 29th March, at 1am this morning D'eclipse was playing loud, thumping music and was filled with customers. The fact that the premises is not licensed at this time does not deter D'Eclipse managers or stop the

practice. Further, if I have friends or family visit on a Friday or Saturday night, we have to fight to talk over the noise and vibration coming from the club. It is incredibly stressful to know that the noise will not reduce or stop until the club closes or unless I call the Noise Team and have them visit the flat after midnight. Finally, it makes one desperate to escape ones own home and get away whenever possible: that is the thing I most resent, having lived here very happily for almost 8 years.

2.11 In December last year, the sound limit engineers came to my flat to test the levels from the club. With the noise limiters set there was virtually no music heard or vibration felt, which led the Council official to conclude that the owners of D'Eclipse had deliberately been by-passing the equipment since it was fitted in July 2008. Regrettably, the noise levels do not reduce or desist unless the Noise Team has formally contacted the owners or visited the premises and, shortly afterwards, the levels are always restored to high. This was the case even when PA equipment was confiscated and a successful prosecution brought against the owners.

Designated Premises Supervisor

2.12 The following information, in my view, constitutes a serious breach of licensing terms and an attempt on the part of D'Eclipse management to mislead the Council's Licensing Committee. I leave it to the Committee to form its own view.

2.13 On 2nd July 2008, when Dr Taiwo Olayinka Afolabi presented his case for a grant of a Premises Licence, his representatives told the Committee that the Designated Premises Supervisor for D'Eclipse was a Mrs Tammi Stewart. Mrs Stewart gave oral evidence to the Committee to the effect that she was employed by D'Eclipse to supervise the premises and ensure that the licensing terms were consistently met. Paragraph 12 of the meeting note refers:

"12. The proposed designated premises supervisor Licence is Ms Tammi Stewart. who holds a Personal Licence issued by the London Borough of Bromley. Ms Stewart is also the current DPS."

2.14 Mrs Stewart presented a reassuring case to the Committee, promising to address any emerging concerns from residents, and the license was granted. On the day of the hearing, Mr Craig Keeley, at that time a resident of the block who had opposed the application, asked Mrs Stewart for her contact details, so that he could reach her should the noise and disturbance he had experienced continue. Mr Keeley writes:

"I picked up her phone number in case I had further complaints. When I phoned her a few weeks later it transpired she actually worked for the lawyer representing them at the hearing and they had terminated her relationship with the bar (i.e. D'Eclipse) in the week following the licence being granted."

2.15 In order to check Mrs Stewart's status, I investigated her contact details and as of 5th March 2010, she is recorded as acting as agent to a licensing application to Elmbridge Borough Council in respect of a premises in Esher (this is available on the Elmbridge BC website and I can provide documentation if required).

2.16 The Licensing Committee must come to its own conclusions about D'Eclipse's assertion in July 2008 that Mrs Stewart was in their employ and was the intended Designated Premises Supervisor going forward.

Summary

With the support of several of my neighbours, I am asking the Council to review and restrict the terms of the D'Eclipse restaurant and nightclub license to 11am – 11pm Monday to Saturday and 11am – 10.30pm on Sundays. In my view, this would allow the owners of the premises to continue to run a successful restaurant, bar and music venue without compromising the safety, security and wellbeing of local residents.

Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day Month Year

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If you have made representations before relating to this premises please state what they were and when you made them

I was one of the signatories to objections made by Ms Rosa Valverde in May and July 2008 in respect of Mr Taiwo Olayinka Afolabi's applications for a grant of a premises license under the Licensing Act 2003 in respect of D' ECLIPSE LIMITED, 57 - 59 CAMBERWELL ROAD, LONDON, SE5 0EZ (Company No. 06446445).

Ms Valverde has subsequently left the area. Full details of residents' objections can be provided by Licensing Officers.

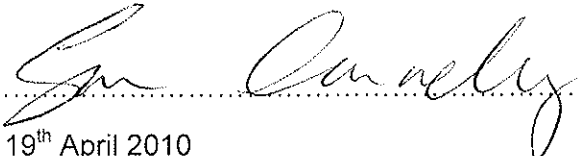
Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature 

Date 19th April 2010

Capacity Applicant

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

Timeline of communications concerning D'Eclipse restaurant and bar

- 21st May 2008** Local residents object to the premises licence application 827165 applied for by Dr Taiwo Olayinka Afolabi for the premises 57-59 Camberwell Road, SE5 0EZ on grounds of the prevention of crime and disorder, public safety, the prevention of nuisance and the protection of children from harm. Southwark Council grants license.
- 8th August 2008** Phone call to Paul Compton to complain about the noise emanating from the nightclub and report the breaches in opening hours which were already after 3am. Discuss shooting of young man in Camberwell Road and ruckus involving D'Eclipse customers on **6th August 2008**.
- 13th February 2009** Meeting with residents, D'Eclipse management, Paul Compton and Dorcas Mills. Residents set out concerns and breaches in license since July 2008, D'Eclipse management promise to stick to approved licensing restrictions and improve things like access and parking arrangements, emptying bins and litter control, control of noise outside the building. Paul Compton warns management that if they do not comply with license restrictions, they could lose their license entirely. He advises residents to keep diaries of all breaches and disturbances and to inform Dorcas Williams and himself, so they too have a log.
- 1st March 2009** Cat King witnesses D'Eclipse operating at 3.50am and reports this to Paul Compton and Dorcas Mills, staff are threatening to her when she mentions contacting the council, also witnessed by Cat's boyfriend.
- 2nd July 2009** Noise team visit my flat at 0.41am but by that time the loud music had been lowered and a statutory nuisance was not witnessed.
- 4th July 2009** Email from Steve Renn to Paul Compton and Dorcas Mills re events on early morning of Saturday 4th July 2009. Reported threatening behaviour by staff who attempted to confiscate/steal his camera. Also reported breach of license as still open and serving customers well after 4am.
- 6th July 2009** Noise team visit my flat at 1am and witness statutory nuisance and license breach (open after 12am). A reduction in noise level was negotiated and a Noise Abatement Notice served.
- 6th July 2009** Email to Paul Compton and Dorcas Mills verifying the breaches Steve Renn described re morning of **4th July 2009** and reporting the breach re noise in my flat at 1am. The Noise Team were also to inform the Licensing Team.
- 27th July 2009** Email to Paul Compton and Dorcas Mills informing them that the Noise Team had twice witnessed noise levels, which constituted a public nuisance in my flat on **25th July 2009** thereby breaching the abatement notice already served. Noise Team to move to confiscate the sound equipment that week, once a Justice of the Peace had signed-off. A fixed-penalty notice was also issued.
- 7th September 2009** Email Paul Compton and Dorcas Mills querying the decision to grant D'Eclipse with a TEN allowing extension to 5am given its sound equipment had been confiscated in August but immediately replaced by

management. I also attach Facebook entries from D'Eclipse management advertising the bank holiday events.

8th September 2009 Email Dorcas Mills following her response to my email the previous day thanking her and explaining that before the equipment was confiscated I was having to call the team out most weekends between 12am and 4.30am.

20th September 2009 Noise Team visit flat at 0.25am but did not consider level to be a statutory nuisance.

26 November 2009 Email Paul Compton and Dorcas Mills, copying to Bruce Young and Debra Lawless of the Noise Team reporting that D'Eclipse has been open the night before (Sunday) serving customers until past 1am, which was a clear breach of the approved license. Customers heard arguing as they spilled out into Boundary Lane around 1.20am. The Noise Team had been called to my flat by but music had been lowered by the time Bruce Young and his colleague arrived and they did not witness a level that constituted a public nuisance. The music continued at an level easily audible in my bedroom until approx 1.15am - live act with MC clearly heard talking between songs.

Debbie Lawless has arranged for the sound engineers to visit my flat

4th December 2009 Southwark Council bring successful prosecution on three counts against Taiwo Olayinka and Femi Adeko in relation to noise and public nuisance. Councillor Linda Manchester issues press release heralding the prosecution as illustrative of Southwark's commitment to local residents.

17th February 2010 Email to Paul Compton and Dorcas Mills to report that after a relatively quiet period in early January, D'Eclipse opening times had crept up over the weekends with guests not evacuated from the premises until after 3am and midnight on Sundays. The worst case of this was on the evening of **Sunday 14th February** when a live event was held (the MC could be clearly heard in my bedroom, hollering over the music) which ended at 3am. I again reported that the music and vibration levels were such that it was more clear proof that D'Eclipse managers were by-passing the sound limiters imposed by the Council. Requested that a weekend visit to D'Eclipse be prioritised to remind managers of licensing requirements. Asked advice re writing to Councillor Linda Manchester directly as her portfolio covers licensing, noise, anti-social behaviour to request a meeting and a quick site-visit as part of the appeal process. Noted issue of customers running straight out on to Walworth Road/Camberwell Road with cars and buses having to brake suddenly to avoid an accident.

21st March 2010 Call to Noise Team at 1am on Sunday morning to report loud music and request a visit from team. Noise is reduced by 2am when Team call back, so I ask that they don't visit. Music still clearly audible and loud.

11th April 2010 Call to Noise Team at 1.45am to register loud music audible in flat. Team visit at 2.30am and do not consider the level to be at a statutory nuisance, however, they agree the bass is too loud and visit D'Eclipse, requesting it is lowered.