

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A

MONDAY, 3 JULY 2023 AT 7:00 PM

THIS MEETING WAS LIVE STREAMED AND CAN BE VIEWED HERE:

<https://youtube.com/live/ZYurkKFx6F8>

Councillors Present:	Cllr Gilbert Smyth (Chair) Cllr Chirs Kennedy Cllr Penny Wrout
Officers in Attendance:	Rockwell Charles - Environmental Protection Officer Amanda Nauth – Licensing and Corporate Lawyer Suba Sriramana – Principal Licensing Officer Natalie Williams - Senior Governance Officer
Also in Attendance:	<u>Agenda item 6: Premises Licence - Lock Studios</u> Jack Spiegler - applicant’s solicitor Tom Warren - applicant <u>Agenda item 7: Review of Licence - Yours London</u> Duncan Craig - Barrister Samuel Adewale - DPS and Director, Fola Kuteyi - Other Person

1 Election of Chair

1.1 Cllr Smyth was duly elected as Chair.

2 Apologies for Absence

2.1 Apologies were received from Cllrs Moema and Walker. Cllrs Kennedy and Smyth substituted

3 Declarations of Interest - Members to declare as appropriate

3.1 In the interest of transparency, Cllr Wrout informed all present that she had previously sat on the Trustee Board of Shoreditch Town Hall with Jack Spiegler (agenda item6) . However they were not personal friends and she had had no contact with him since he left the position.

4 Minutes of the Previous Meeting

4.1 There were no minutes for consideration.

5 Licensing Sub-Committee Hearing Procedure

5.1 The hearing procedure was noted by all present.

6 Premises Licence: Lock Studios, Springfield House, 5 Tyssen Street, London, E8 2LZ

6.1 The sub-committee heard from the Principal Licensing Officer and the applicant's solicitor and the applicant. In the absence of the Other Person, their representation submitted at Appendix B and additional information which was circulated to all parties ahead of the hearing was also noted. The application sought to authorise the on and off sale of alcohol until 2300, late night refreshment until midnight with 24 hour opening. During the course of submissions and a discussion of the application, the following points were highlighted:

- The hours applied for were within core hours (LP3) and mirrored the hours in the studio space in De Beauvoir ward.
- The premises was not in the Special Policy Area (SPA) and the application had not received any objections from Responsible Authorities.
- The business was described as a photograph studio, post production facility and exhibition space.
- The applicant was a responsible operator with 10 similar spaces across Hackney and Tower Hamlets and employed 52 local people across the various sites.
- The space was previously unused for four years prior to renovations.
- The purpose of the application was to supply alcohol during exhibitions and staff social events. The supply of alcohol would be ancillary to the core function of the business.
- The applicant had taken a number of measures to continually engage local residents including the offer to support a Neighbourhood Watch scheme.
- The 24 hour opening was for the benefit of staff and the premises would not be open to the public 24 hours per day. It was a rare occurrence for shoot to go beyond midnight
- Additionally, conditions 8-9 had been offered by the applicant to ensure that the premises would not be alcohol led and/or transform into a bar.
- In response to concerns raised by the Other Person, the applicant had installed CCTV and acoustic blinds which reduced sound by 10dB
- The applicant stated that the bicycle theft referred to by the Other Person took place when the landlord was changing the gates which led to a brief lapse in security.
- Background music only would be played.

- A Temporary Event Notice (TEN) had been successfully operated from the premises with no complaints
- Up to 20 people work at the premises and an exhibition would see approximately 100 people pass through the premises over a 3 hour period.
- To alleviate any concerns of the sub-committee, the applicant was willing to:
 1. withdraw the off sale element of the application.
 2. have the following additional condition on the licence 'Persons engaged in licensable activity should be off the premises 30 minutes before licensable activities ceases'.
 3. have an additional condition stipulating the requirement for a dispersal policy

RESOLVED:

The Licensing Sub-Committee in considering this decision from the information presented to it within the report and at the hearing today has determined that having regard to the promotion of all the licensing objectives:

- The prevention of crime and disorder;
- Public safety;
- Prevention of public nuisance; and
- The protection of children from harm,

the application for a premises licence has been **approved** in accordance with the Council's Statement of Licensing Policy and the proposed conditions set out in paragraph 8.1 of the report, with the following amendments:

- The hours for licensable activities, shall be, as agreed:

Supply of Alcohol (on-sales)

Monday - Thursday	10:00 - 23:00
Friday - Saturday	10:00 - 00:00
Sunday	10:00 - 22:30

Late Night Refreshment:

Friday - Saturday	23:00 - 00:00
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Opening hours of the premises

Monday - Thursday	10:00 - 23:30
Friday - Saturday	10:00 - 00:30
Sunday	10:00 - 23:00

- Remove off sales from the application.

And the following condition:

- There shall be a written dispersal policy submitted to and approved by the Licensing Authority and the Police. The approved dispersal policy shall be implemented at the premises. All staff shall be briefed on this dispersal policy. A copy of the policy shall be kept on the premises and shall be produced to a police officer or other authorised officer upon request.

Reasons for the decision

The application for a premises licence has been approved because the Licensing Sub-committee was satisfied that the licensing objectives would not be undermined.

The Sub-committee took into account that the Applicant agreed amended timings for the supply of alcohol with the Health Authority, therefore, they made no representations. The Sub-committee noted no other Responsible Authorities raised objections to the application.

The Sub-committee took into consideration the written representations made by the Other Person (a local resident) objecting to the application on the grounds of prevention of public nuisance and the prevention of crime. The local resident did not attend the hearing.

The Sub-committee took into consideration the local resident's concerns about the impact the premises will have on the area and the local residents which included the frequent use of the entry gate to the courtyard/parking area of the Springfield House building to be open or left open. This was highlighted during the period of refurbishment of the premises which resulted in the theft of bicycles near the premises.

The Sub-committee took into account the concerns of the local resident about noise late at night following alcohol consumption. The Sub-committee took into consideration that the entranceways, windows and doors for the premises open onto the parking and the residential area of over 50 local residents in Springfield House.

The Sub-committee heard representations from the Applicant's legal representative that since 2013, the Applicant operated 10 photographic studios in the borough and it was used as a post production facility and as a photographic studio. The alcohol licence is for staff only so that they can have a drink after the production ancillary to the use of the premises. The Sub-committee noted the premises would not be open to members of the public.

The Sub-committee heard representations from the Applicant's legal representative that this application should not be considered contentious because the Applicant is an experienced operator, and has operated without incident over a number of years. The Sub-committee noted that conditions 9 on the premises licence limits the use of the premises to a photographic studio, and there was no intention for the premises to be alcohol lead.

The Sub-committee took into account the Applicant's communications with the objector following the consultation with local residents and the ward councillor. The Sub-committee noted that there was only one objection received from a local resident there were no other objections.

The Sub-committee heard submissions from the Applicant's legal representative that the Applicant is seeking a similar alcohol licence to their other premises in the borough, and there were no objections from the Responsible Authorities or complaints from the other premises. They also had no issues relating to noise. The Applicant's legal representative contended that the noise issue that affected local residents was the result of the Applicant's landlord previously fixing the gates.

The Sub-committee took into consideration that the Applicant has installed a comprehensive CCTV system and tighter security at the premises. The Sub-committee also heard that acoustic blinds have been installed to reduce any noise, loud music or any impact on local residents. The Sub-committee took into consideration that a temporary event was applied for the launch event at the premises in June 2023 and 10 local residents attended. The Sub-committee noted that this temporary event occurred without incident.

After considering the Applicant's representations and the local resident's written representations the Sub-committee decided to grant the premises licence. The Sub-committee took into consideration that the premises would be operating under Core hours (Policy LP3) and the premises were not in the Special Policy Area.

The Sub-committee took into consideration that 20 staff would be employed at the premises and the other 32 staff that the Applicant has employed are spread across other sites in the area and in London and Surrey. The Sub-committee felt having more security will help with dispersal, and to ensure that there will be no noise affecting local residents. The Sub-committee felt the temporary event demonstrated the busiest hours the premises will have.

The Sub-committee felt that the Applicant had good operating processes and procedures in place, and that the Applicant demonstrated that they are an experienced and responsible operator.

The Sub-committee took into consideration that the functions will all be on the second floor of the premises, and there will be no access to the open plan office space. The Sub-committee also took into account that the Applicant agreed to the above dispersal policy condition and they agreed to remove off-sales from the premises licence.

Having taken all of the above factors into consideration the Licensing Sub-committee was satisfied that this application could be approved without the licensing objectives being undermined.

Your right to appeal

If you are aggrieved by any term, condition or restriction attached to this decision, you have the right to appeal to the Thames Magistrates Court, 58 Bow Road, London E3 4DJ within 21 days of the date you receive this written decision.

7 Review of Premises Licence: Yours London, Basement and GroundFloor, 54-56 Scrutton Street , EC2A 4PH

7.1 The sub-committee noted the additional information received from the applicant - the Environmental Protection Authority and the premises licence holder's barrister which had been circulated ahead of the hearing to all parties. The sub-committee heard from the Principal Licensing Officer, the applicant, the premises licence holder, the premise licence holder's barrister and business partners, and Other Persons. An application for the review of the premises licence had been called under Section 51 of the Licensing Act 2003 on the grounds of public nuisance in respect of the Basement and Ground Floor of the premises. The Environmental Protection Authority sought for the licence to be revoked.

7.3 During the course of submissions and a discussion of the application, the following points were highlighted:

- During the consultation period representation against the review was received from one Other Person.
- The noise emanating from the premises was from music and patrons.
- Noise complaints span from 19 September 2021- 18 March 2023. During this period, Environmental Protection received 36 official complaints from three separate residents.
- Environmental Protection had made several attempts to liaise with the premises licence holder from 30 November 2021 to 10 March 2023 to rectify the matter informally.
- Statutory noise nuisance was witnessed on 25 March 2023 at 23.11(loud amplified music) and on 11 May 2023 at 20.55 (noisy extractor fan). Two noise abatement notices were served. The acoustic report commissioned by the premises licence holder commenced prior to the witnessing of statutory noise nuisance.
- The Other Person reported to not have experienced any disturbance from the lounge or garden area. The locality was reported as generally noisy.
- The licence holder's barrister believed the anonymous complaints to be unfounded, unverified and insufficiently investigated to warrant revocation of the licence.
- The condition of the licence allowed for background music only.
- The licence holder's barrister reported that there was a visit to the premises on 21 July 2022 following complaints raised at 2308. On visiting the premises at 2336 Environmental Health officers found the premises to be closed. He believed this to be one of many instances that the complaints were unable to be verified by officers.

- The premises licence holder accepted that the issue that led to a visit in March 2023 was due to an external sound system being used. Steps had been put in place to ensure this does not happen again.
- Environmental Protection visited one of the complainants in their home on 11 May 2023 and substantiated statutory nuisance caused by the extractor system.
- Complaints of noise nuisance were still being received
- The licence holder reported that the extractor fan had very recently been serviced and was no longer making noise classified as nuisance.
- There were no complaints relating to the extractor fan until witnessed by Environmental Protection on 11 May 2023. Prior to that, there were no complaints relating to this issue between 2018 when the licence was granted
- The 'Other Person' confirmed that the extractor fan did not cause a noise nuisance or disturbance to her.
- Environmental Protection expressed disappointment at the premises licence holder's lack of communication which had resulted in enforcement action.
- The premises licence holder rebutted claims of non communication and advised that on learning of a Council visit relating to noise from the extractor fan, it had since been serviced. He confirmed that he was happy to carry out any further work required.
- On 11 February 2022 there was a variation to the licence which extended the hours of operation to 0200 on Thursday, Friday and Saturday with a terminal hour of 0100 for the serving of alcohol and 0130 for late night refreshment. There was not a smoking condition on the licence.
- Most of the complaints were concerning use of the garden. A letter was sent to the premises licence holder instructing the use of the outside area to cease operation at 2200 in line with LP7 (page 71 of the agenda).
- The premises licence holder stated that there was a noise limiter on the premises which had been set in consultation with neighbours who allowed access to their property to confirm noise levels.
- Environmental Protection confirmed that the noise was not measured on visits to the premises. It was also confirmed that the limiter was found to be on 'override' on visiting.
- Environmental Protection further reported that on visiting the premises on 11 May 2023, patrons were found to be smoking shisha in the back area. Smoking in a rear area required fifty percent of the premises to be open. This was compliant as the retractable roof was open but in turn meant that the music was not contained.
- There were speakers recessed into the ceiling which Environmental Protection would usually advise be removed, as the sound resonates and transmits to dwellings immediately above. Noise nuisance in the form of regulated entertainment had however not been witnessed.
- Environmental Protection confirmed that the complaints were mostly unsubstantiated.
- It was confirmed that the garden area was open until 0200 on Thursday, Friday and Saturday night.

- The complaints were received from four separate individuals from more than one address.
- The premises licence holder's barrister confirmed that that his client was amenable to a condition disallowing external sound systems being used and to make some adjustments to the ceiling speakers. He confirmed that the licence holder and himself would be happy to have a site meeting with Environmental Protection to resolve any issues.
- The applicant was not amenable to removing the speakers from the outside area as he maintained that the complaints were unsubstantiated and did not constitute a noise nuisance
- Environmental Protection confirmed that a noise abatement notice served for the extractor fan had expired. If statutory nuisance was witnessed, prosecution would commence.
- The applicant was advised of the importance of training staff to ensure they fully understood the role of Responsible Authorities.

RESOLVED:

The Licensing Sub-Committee, in considering this decision from the information presented to them within the report and at the hearing today and having regard to the promotion of the licensing objectives:

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

The Licensing Sub-Committee made the following determination: **to modify the premises licence** as follows:

- Sunday to Wednesday the rear garden shall close at 22:00.
- Thursday to Saturday the rear garden shall close at 00:00.
- Condition 18 to be amended as follows:

"There shall be no glass, drinks or open containers taken outside of the premises at any time".
- The capacity of the premises shall be determined on the grounds of fire safety and following a physical assessment by a competent person.
- The Premises Licence holder to submit a Noise Management Plan to be submitted to the Licensing Authority and the Environmental Protection Team to resolve noise issues with the extractor fan, speakers and rear garden.

The Reasons for the Decision:

The Licensing Sub-Committee after carefully considering the evidence presented to them at the review hearing by the Applicant, (the Environmental Protection Team), the Licensing Authority, the Legal Representative who represented the Premises Licence holder, the Premises Licence holder, and Other Person (a local resident) who made representations in support of the premises decided that the appropriate course of action was to modify the conditions on the premises licence in particular relating to the rear garden, concerns about the extractor fan and the need to test the noise level.

The Sub-committee took into consideration that the Environmental Protection Team has applied for a review seeking to revoke the premises licence for the Basement And Ground Floor 54-56 Scrutton Street.

The Sub-committee heard representations from the Environmental Protection Officer that the review on the grounds of prevention of public nuisance was for the period 19 September 2021 - 22 March 2023.

The Sub-committee took into consideration that there were 36 official complaints received from local residents over an 18 month period on an ongoing basis without resolution, and for that reason the Environmental Protection Team were seeking to revoke the premises licence.

The Sub-committee took into consideration that the Premises Licence holder has had a premises licence since 12th June 2018. Subsequently the Premises Licence holder applied to vary the premises licence in October 2021 to extend the terminal hours for all licensable activities on Thursday to Saturday. The Licensing Sub-Committee heard this variation application on 11th January 2022.

The Sub-committee took into account local residents' representations in support of the review application.

The Sub-committee took into consideration the following complaints received by the Environmental Protection Team:

- 25.03.23 at 23:11 hours - Loud amplified music
- 26.3.23 from 00:08 to 00:15 hours - Loud amplified music,
- 21.07.22 The Environmental Protection Team visited following complaints about music from the garden at 23:08 then at 23:36 hours when the premises were closed.

The Sub-committee took into consideration the following visits carried out by the Environmental Protection Team:

i) Visit in March 2023, a customer brought their own sound system in and played it, and since then it has never happened again.

ii) On 11 May 2023, was a proactive visit found in a residential premises and heard what was a statutory nuisance.

iii) Noise nuisance witnessed on 11th May 2023 at 20:55 Noise Abatement notices have been issued against the premises.

iv) A local resident for over eight months stated there have been no disturbances in the area and it is quite noisy and a busy area.

v) A local resident's bedroom is above the garden and has no issues from the premises and no complaints about noise.

The Premises Licence holder's legal representative contended that they were to visits from Environmental Protection regarding anonymous complaints, which they have not seen and have not been fully investigated

The Sub-committee noted that the last complaint was in April 2023, and premises have a condition that restricts them to only playing background music.

The Sub-committee took into account that Environmental Protection Officer did go to the front of the restaurant and heard the extractor fan noise.

The Sub-committee took into consideration that there was extractor fan noise from 18 May 2023. It was noted that since then a further nine complaints were received at the end of June 2023, relating to extractor fan noise. The Premises licence holder was notified about these complaints.

The Sub-committee noted that on 11 May 2023 noise nuisance was witnessed prior to that there were no complaints about the extractor fan since 2018.

The Sub-committee took into consideration that the local resident confirmed the extractor fan could be heard, however, the local resident did not feel it affected them.

The legal advisor for the Premises licence holder contended that there were no issues prior to May 2023. There was a possible issue with the hardware which can cause disturbance to residents above the premises.

The Sub-committee noted that the Environmental Protection Officer made representations that complaints were made during the Covid 19 pandemic restrictions from residential premises.

The Sub-committee took into account that the Environmental Protection Officer heard the extractor system making a humming noise which was intrusive, and the Premises licence holder did not contact the Environmental Protection Team. The Environmental Protection Officer made submissions that they did not know how all residents were affected; they only knew how the complainant was affected, and the Environmental Protection Officer witnessed a statutory nuisance.

The Environmental Protection Officer made representations that they try to work with licence holders, however, the Premises licence holder did not communicate in this case. Therefore, Environmental Protection had no choice but to take enforcement action. The Premises licence holder contended that they were not aware of the Environmental Protection Team communications.

The Sub-committee took into consideration that most of the complaints are to do with the use of the outdoor area Sunday to Wednesday up to 23:00 hours other days after midnight.

The Sub-committee noted that the noise report was produced for planning purposes, and that there were 2 visits to the premises in March and May 2023.

The Environment Protection Team found the music played is background music condition 23 was being complied with as they use a noise limiter that was working.

The Sub-committee took into account that on 11 May 2023 customers were found smoking in the garden area which can be a maximum of 50% enclosed under smoke free legislation. It was noted that if the roof is open it cannot contain the noise.

The Premises licence holder made representations that there are a lot of similar premises to theirs and they have not generated noise nuisance from the gardens. The Environmental Protection Officer made representations that if speakers are on the ceiling, it will vibrate. The Licence holder made representations that the speakers run under the residential flats above the premises and they have not had complaints from those residents.

The Sub-committee noted the Environmental Protection Team representation that they receive complaints, some of which are unsubstantiated, and that the review application was made due to the lack of communication with the Premises licence holder. The Sub-committee noted that the decision to bring a review was not taken lightly.

The Environment Protection Officer made representations that they were willing to meet with the licence holders and they wanted the premises licence holder to maintain the licensing objectives.

The Sub-committee noted that the local resident who lives above the premises made representations that it is generally a noisy area, but it is not the premises that have caused this, it is the customers. It was noted that customers are asked to leave quietly and without causing a nuisance.

The Premises licence holder's legal representative made representations that the complaints were not investigated sufficiently, and the Premises licence holder does not accept that they did not respond to the Environmental Protection Team correspondence. The Premises licence holder made representations that they were happy to meet with the Environmental Protection Team.

The Sub-committee noted the Environmental Protection Office's representation



that the Noise Abatement Notice has expired and if the extractor fan is not replaced they will consider enforcement action such as prosecution. The Environmental Protection Officer felt that the Premises licence holder needed to take the complaints more seriously and communicate with the Environmental Protection Team.

The Sub-committee were disappointed that the Premises Licence holder did not engage with the Environmental Protection Team earlier to try and resolve the issues.

The Sub-committee decided not to revoke the premises licence, and took into consideration that there were a number of complaints. The Sub-committee noted there were two residents who supported the application for the review. These local residents did not attend and make their representations, therefore the Sub-committee could not and ask questions.

The Sub-committee felt it was not appropriate to revoke the premises licence.

The Sub-committee took into consideration that the Premises licence holder accepted the conditions proposed by the Licensing Authority as the way forward to resolve the public nuisance issues.

The Sub-committee felt that with modified conditions on the licence, the premises would improve and be run in a manner that complied with the conditions of the premises licence, and would promote the licensing objectives in the future.

Public Informative

The Premises licence holder is encouraged to engage in meaningful dialogue with the local residents to resolve any issues relating to the premises, and for the Premises licence holder to play their part in reducing any impacts of noise emanating from the premises, particularly during the evening and late at night.

Your right to appeal

If you are aggrieved by any term, condition or restriction attached to this decision, you have the right to appeal to the Thames Magistrates Court, 58 Bow Road, London E3 4DJ within 21 days of the date you receive this written decision.