

Committee : Licensing Sub-Committee	Date 5 July 2022	Classification Unclassified	Report No.	Agenda Item No.
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Report of: David Tolley Head of Environmental Health & Trading Standards Originating Officer: Mohshin Ali Senior Licensing Officer	Title: Licensing Act 2003 Application for a Premises Licence for (Redchurch Studio) 58 Redchurch Street, London E2 7DP Ward affected: Weavers
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1.0 Summary

Applicant:	Soho House UK Limited
Name and	Redchurch Studio
Address of Premises:	58 Redchurch Street London E2 7DP
Licence sought:	Licensing Act 2003 – premises licence <ul style="list-style-type: none"> • The sale by retail of alcohol (on and off sales) • The provision of regulated entertainment • The provision of late night refreshment
Representations:	Licensing Authority (RA) Environmental Protection

2.0 Recommendations

- 2.1 That the Licensing Committee considers the application and representations then adjudicate accordingly.

LOCAL GOVERNMENT 2000 (Section 97)
LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT

Brief description of "background paper"	Tick if copy supplied for register	If not supplied, name and telephone number of holder
<ul style="list-style-type: none"> • Guidance Issued under Section 182 of the Licensing Act 2003 • Tower Hamlets Licensing Policy • File 		Mohshin Ali 020 7364 5498

3.0 **Background**

3.1 This is an application for a premises licence for (Redchurch Studio) 58 Redchurch Street, London E2 7DP

3.2 The applicant has described the premises as follows:

“Restaurant- the premises will be a restaurant. it is located next door to Redchurch Townhouse, also operated by the applicant and this premises will trade in a similar fashion, providing all day dining”

3.3 A copy of the premises licence application form is enclosed as **Appendix 1**.

3.4 The licensable activities and timings that have been applied for are as follows:

The sale by retail of alcohol – on and off sales

- *Sunday to Thursday, from 08:00 hrs to 00:00 hrs (midnight)*
- *Friday and Saturday, from 08:00 hrs to 01:00 hrs the following*

The provision of late night refreshmentl – Indoors and outdoors

- *Sunday to Thursday, from 23:00 hrs to 00:00 hrs (midnight)*
- *Friday and Saturday, from 23:00 hrs to 01:00 hrs the following*

The provision of regulated entertainment – Indoors

Live Music and Recorded Music

- *Sunday to Thursday, from 10:00 hrs to 00:00 hrs (midnight)*
- *Friday and Saturday, from 10:00 hrs to 01:00 hrs the following*

Non standard timings

- *New Year’s Eve, from the end of permitted hours to the start of permitted hours on New Year’s Day*

The opening hours of the premises

- *Sunday to Thursday, from 08:00 hrs to 00:00 hrs (midnight)*
- *Friday and Saturday, from 08:00 hrs to 01:00 hrs the following*

Non standard timings

- *New Year’s Eve, from the end of permitted hours to the start of permitted hours on New Year’s Day*

3.5 The sale of alcohol is proposed to continue until the premises closes to the public. It is difficult to see how the applicant will ensure that the licence conditions are met. The problem of course is that if sales continue until the last minute the premises cannot be emptied on time. Members are advised to consider a break between the end of the licensable activities and the time the premises closes to the public.

4.0 **Location and Nature of the premises**

4.1 The site plan of the venue is included as **Appendix 2**.

4.2 Maps and photos showing the vicinity are included as **Appendix 3**.

4.3 Details of the nearest licensed venues are included as **Appendix 4**.

5.0 **Licensing Policy and Government Advice**

5.1 The Council has adopted a licensing policy and this is available from the Licensing Section, and at the hearing. The revised policy came into effect on the 1st November 2018. It was last revised in November 2021.

5.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.

5.3 The Home Secretary has issued Guidance under Section 182 of the Licensing Act 2003. This is available on the Government's website, www.homeoffice.gov.uk. It was last revised in April 2018.

5.4 Relevant Sections of this advice are brought to Members attention within the Licensing Officers report. Members should note however, that in some areas Tower Hamlets, after a proper consideration of local circumstances, has not followed the Government's advice, or has developed it further.

6.0 **Representations**

6.1 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following:

- Licensing Authority acting as a Responsible Authority (See **Appendix 5**).
- Environmental Protection Team (See **Appendix 6**).

6.2 All of the responsible authorities have been consulted about this application. They are as follows:

- The Licensing Authority
- The Metropolitan Police
- The LFEPA (the London Fire and Emergency Planning Authority).
- Planning
- Health and Safety
- Environmental Protection (Noise)
- Trading Standards
- Child Protection
- Public Health

- Home Secretary (Home Office Immigration Enforcement)

6.3 In addition the application was required to be advertised in a local newspaper and by a blue poster. Only representations that relate to the following licensing objectives are relevant:

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

6.4 Essentially, the relevant parties oppose the application because in their opinion, the applicant has not explained how within the context of the application they will meet the licensing objective of the prevention of crime and disorder and the prevention of public nuisance.

6.5 There are strict time limits to any representations. The time limits are contained in The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.

6.6 The applicant has offered measures in the operating schedule of the application that address the promotion of the Licensing Objectives. If there were no representations, the Licensing Authority would grant the licence, with conditions consistent with the operating schedule, which are relevant, proportionate and enforceable. Members are asked to consider the schedule and incorporate any conditions as necessary to address the licensing objectives.

7.0 **Conditions consistent with Operating Schedule**

7.1 *Alcohol served after 23:00 hours must be ancillary to food. (See 8.8 below for proposed removal of condition).*

7.2 *There shall be no more than seven smokers to be allowed to smoke outside the premise at any one time.*

7.3 *There shall be no vertical drinking after 23:00 hours.*

7.4 *The CCTV system shall incorporate a recording facility and any recordings shall be retained and stored in a suitable and secure manner for a minimum of 31 days.*

- A system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained.*
- The system will comply with other essential legislation and all signs as required will be clearly displayed.*
- The system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity.*
- There shall be a designated member of staff who can download the images and present them on request by a police officer or other responsible authority with minimum delay.*

- 7.5 *Notices shall be prominently displayed at ground floor exits requesting public to respect the local residents and leave the premises and area quietly.*
- 7.6 *Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.*
- 7.7 *No music or amplified sound shall be generated on the premises to give rise to a nuisance to neighbouring residents.*
- 7.8 *Any person permitted to temporarily leave and then re-enter the premises, eg. to smoke, shall not be permitted to take drinks or glass containers with them*
- 7.9 *The area immediately outside the premises, shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.*
- 7.10 *Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.*
- 7.11 *Waiter/waitress service shall be available throughout the premises at all times it is open to members of the public*
- 7.12 *A noise limiter shall be fitted (on the ground floor) to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses.*
- a) *The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder.*
 - b) *The limiter shall not be altered without prior agreement with the Environmental Health Service.*
 - c) *No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service.*
 - d) *No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.*

(See 8.3 below for amendment)

- 7.13 *13. Staff will monitor the patrons using any smoking area and ensure that they remain within the curtilage of the premises at all times.*
- 7.14 *The venue is to provide information on local taxi firms and transport links to patrons leaving the venue.*

- 7.15 *A direct telephone for number for the manager at the premises shall be publicly available, and displayed at all times the premises are open. This telephone number is to be made available to residents and businesses in the vicinity upon request.*
- 7.16 *A dispersal policy shall be put into effect and shall be available for inspection by the licensing authority and responsible authorities upon request*
- 7.17 *An incident log shall be kept at the premises, and made available on request to an authorised officer of the Council or the Police. It must be completed within 24 hours of the incident and will record the following:*
- a) all crimes reported to the venue*
 - b) all ejections of patrons*
 - c) any complaints received concerning crime and disorder*
 - d) any incidents of disorder*
 - e) all seizures of drugs or offensive weapons*
 - f) any faults in the CCTV system, searching equipment or scanning equipment*
 - g) any refusal of the sale of alcohol*
 - h) any visit by a relevant authority or emergency service.*
- 7.18 *The reception desk on the ground floor shall be staffed at all times the premises are in operation.*
- 7.19 *All windows and external doors shall be kept closed after 23:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons (See 8.2 below for amendment).*
- 7.20 *A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification such as a driving licence, passport or proof of age card with the PASS Hologram.*

8.0 Conditions in consultation with the Responsible Authorities

The applicant has offered the following additional conditions/amendments in response to the representations (See Appendix 7).

- 8.1 *Loudspeakers shall not be located in the entrance lobby or outside the premise building.*
- 8.2 *Condition 10 (This refers to 7.19 above) in operating schedule is amended to read All windows and external doors shall be kept closed after 21:00 hours (not 23:00 hours as per the application), or at any time when regulated entertainment takes place, except for the immediate access & egress of persons.*

- 8.3 *Condition 12 (This refers to 7.12 above) in the operating schedule is amended to read - A Noise Limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an acoustic consultant who is a member of the Institute of Acoustics so as to ensure that no noise nuisance is caused to local residents or businesses The operation panel of the noise limiter shall then be secured by a key or password to the satisfaction of officers from Environmental Health and access shall only be by persons authorised by the Premises Licence Holder. The limiter shall not be altered without prior agreement with Environmental Health. No alteration or modification to any existing sound system(s) should be effected without prior agreement of an authorised Officer of Environmental Health. No additional sound generating equipment shall be used on the premise without being routed through the sound limiter device shall read*
- 8.4 *There shall be no “vertical drinking” of alcohol at the premises.*
- 8.5 *The supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.*
- 8.6 *Off sales of alcohol shall be for the external areas of the premises only.*
- 8.7 *All outside tables and chairs shall be rendered unusable by 21:00 hours each day (if not controlled by a pavement licence)*
- 8.8 *By virtue of agreeing 5 above (8.5), condition 1 (7.1) of my clients operating schedule shall be removed (which reads Alcohol served after 23:00 hours must be ancillary to food)*

9.0 Licensing Officer Comments

- 9.1 The Business & Planning Act 2020 came into force on Wednesday 22nd July 2020 and provides a temporary permission for businesses that have a premises licence that permits them to sell alcohol in regards to the ability to sell alcohol as an off sale, i.e. for consumption off the premises. The permission will end on 30th September 2022 unless the legislation is changed by the Secretary of State.

It will only apply to businesses that hold a Premises Licence up to 22nd July 2020 and that in the last 3 years preceding 22 July 2020 those licences have NOT:

- had a premises licence application where permission for off sales was refused;
- had a variation of a premises licence seeking permission for off sales refused
- had a variation seeking to exclude off sales permission granted
- had a premises licence varied or modified by a review hearing to exclude off sales.

- 9.2 The new off-sales permission will permit off-sales to be made at a time when the licensed premises are open for the purposes of selling alcohol for consumption on the premises, subject to a cut off time of 11pm or the cut off time of the current licensed hours stated on the licence, whichever is earlier. Measures also temporarily suspend existing licence conditions in so far as they are inconsistent with the new off-sales permission. Further Guidance on this can be found at <https://www.gov.uk/government/publications/guidance-for-temporary-alcohol-licensing-provisions-in-the-business-and-planning-bill>
- 9.3 The Live Music Act removed licensing requirements for the following:
- amplified live music and recorded music between 8am and 11pm before audiences of no more than 500 people on premises authorised to sell alcohol for consumption on the premises;
 - unamplified live music between 8am and 11pm in all venues.
 - Further exemptions apply see Section 16.5-16.6 of Section 182 Guidance.
- 9.4 The following is intended simply to advise Members of the relevant aspects of the Boroughs Licensing Policy, guidance from the Secretary of State, legislation and good practice. Members may depart from the Council's Licensing Policy and/or Government advice, provide they consider it appropriate to do so, and have clear reasons for their decision.
- 9.5 Guidance issued under section 182 of the Licensing Act 2003
- ❖ As stated in the guidance it is “provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act.” It is a key medium for promoting best practice, ensuring consistent application and promoting fairness equal treatment and proportionality (1.7).
 - ❖ Also “as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.” Therefore licensing authorities will need to give full reasons for their actions (1.9).
 - ❖ Also Members should note “A Licensing Authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives.” (1.12)
 - ❖ Also, “The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant

representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.” Therefore, conditions may not be imposed for the purpose other than promoting the licensing objectives and in some cases no additional conditions will be appropriate. (10.8)

- ❖ Necessary conditions should emerge from a risk assessment by the applicant, which should then be reflected in the operating schedule (10.4).
 - ❖ The Guidance states: “Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.” (10.14)
 - ❖ Mandatory conditions must be imposed (10.25) and censorship avoided (10.17).
 - ❖ The Guidance states: “It is still permitted to sell alcohol using promotions (as long as they are compatible with any other licensing condition that may be in force), and the relevant person should ensure that the price of the alcohol is not less than the permitted price. Detailed guidance on the use of promotions is given in the guidance document available on the Gov.uk website.” (10.58) Also, “Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club licences or club premises certificates in an area.” (10.21)
- 9.6 The Licensing Act 2003 permits children of any age to be on the premises which primarily sells alcohol providing they are accompanied by an adult. It is not necessary to make this a condition.
- 9.7 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”
- 9.8 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.
- 9.9 The Government has advised that conditions must be tailored to the individual type, location and characteristics of the premises and events concerned. Conditions cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff and standardised conditions should be avoided where they cannot be shown to be appropriate. (1.16/1.17)

9.10 The Council's Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.

9.11 In **Appendices 8 - 14** Members are given general advice, and also have explanations of the Council's Licensing Policy, Government advice and other legislation relating to the matters previously identified.

10.0 **Legal Comments**

10.1 The Council's legal officer will give advice at the hearing.

11.0 **Finance Comments**

11.1 There are no financial implications in this report.

12.0 Appendices

Appendix 1	A copy of the application
Appendix 2	Site Plan
Appendix 3	Maps of the surrounding area
Appendix 4	Other licensed venues in the area
Appendix 5	Representation of Licensing Authority (RA)
Appendix 6	Representation of Environmental Protection
Appendix 7	Applicant's further conditions/amendments
Appendix 8	Licensing Officer comments on noise while the premise is in use
Appendix 9	Licensing Officer comments on access/egress Problems
Appendix 10	Licensing Officer comments on crime and disorder on the premises
Appendix 11	Licensing Officer comments on crime and disorder from patrons leaving the premises
Appendix 12	Planning
Appendix 13	Licensing Policy relating to hours of trading
Appendix 14	Tower Hamlets Cumulative Impact Zone