

**LICENSING (HEARING) SUB COMMITTEE**  
**FRIDAY, 14 APRIL 2023**

**Sub Committee:**

Deputy John Fletcher (in the Chair)  
Mary Durcan  
Anthony Fitzpatrick

**Officers:**

Julie Mayer – Town Clerks  
Paul Holmes – City of London Police  
Rachel Pye – Assistant Director, Public Protection  
Robert Breeze – Licensing Officer, Department of the Environment  
Siobhan Crosby – Environmental Health Officer, Department of the Environment  
Sadhari Perera - City Solicitor

**Applicant:**

Niall McCann, Keystone Law – Solicitor for Aura (representative)  
Teerun Ramlochun – Advisor and Property Lawyer for Aura  
Neeraj Sukhadia – Proposed Designated Premises Supervisor (DPS)

**Making representation:**

Brian Tapson – General Manager for Apex Hotels  
Deputy Marianne Fredericks - Tower Ward. *Ms Fredericks serves on the Licensing Committee and has served as a past Chair of that Committee*  
Aaron D'Souza – Tower Ward – representing resident Paul Pavlou  
Dr Jayne Evans – resident of Tower Road  
Phoebe Chou - Resident of Tower Ward

**Licensing Act 2003 (Hearings) Regulations 2005**

**A Public Hearing was held at 10 am to consider representations submitted in respect of an Application for a Premises Licence by AURA, Ground Floor, Lower Ground and Basement Floor of the Corn Exchange, 55 Mark Lane, EC3R 7NE.**

**The Sub-Committee had before it the following documents:**

- Hearing Procedure
- Report of the Executive Director Environment
- Appendix 1: Copy of Application
- Appendix 2: Conditions Consistent with the Operating Schedule

- Appendix 3: Plan of Premises
- Appendix 4: Representations from Responsible Authorities: (i) City of London Police and (ii) Environmental Health
- Appendix 5: Representations from other persons
- Appendix 6: Map of Subject Premises, together with other licensed premises in the area and their latest terminal time for alcohol sales.

The Hearing commenced at 10.00 am. The Chairman introduced himself before asking the Sub Committee, the City of London Corporation officers and other parties present to introduce themselves.

The Chair confirmed the nature of the application and asked those present to note recent amendments in respect of the hours of operation: ie – 10.00 to 02.00 hrs for supply of alcohol for consumption on the premises, provision of live and recorded music, provision of film, performance of dance (and anything of a similar description), and late night refreshments (from 23:00 to 02:00 hrs). The Chair asked the Sub Committee to note the latest versions of the conditions, which had been circulated the previous day.

The Chair explained the order of proceedings, as set out in the agenda pack circulated to all parties. At the end of the Hearing, the Sub Committee would retire to make a decision and all parties would be advised within 5 clear working days.

**During the presentation from the Applicant's representative, the following points were noted:**

1. The majority of space would comprise of a gaming area, with a main bar and a smaller area for a DJ console and dance floor. Should the Licence be granted, a more detailed plan would be submitted.
2. The Applicant had met with the Environmental Health Service and the City of London Police, who had also visited the site. The Police had sought a reduction in the terminal hour to 02.00 hrs and Environmental Health asked to see the various policies in respect of door management, noise control and dispersal. The responsible authorities are now satisfied with the conditions and do not recommending a refusal in entirety.
3. The Applicant had given careful consideration to all aspects of running a late night venue; ie - security, queue management, the smoking area, signage, contact details, rubbish collection, dispersal and potential noise from patrons, deliveries, waste and music.
4. The representations had been made ahead of the discussions referred to above. The main concerns were in respect of anti-social behaviour near residential properties, road obstruction, noise and smells from the premises and drug taking.

5. One third of the representations were from Pepys Street and Savage Gardens residents, some 3-5 mins walk from the premises. These streets are close to Fenchurch Street station but not all of the premises close to the Station are shown on the plan: i.e. - Natural Kitchen, which has a large outside space and late cocktail bar and Savage Garden, which also has a cocktail bar to 13.00 hrs.
6. In terms of anti-social behaviour on dispersal, there is an expectation that the majority of patrons will head south on Great Tower Street, to pick up a night bus or a black cab, or to board the Central Line at Bank Station, which opens later at the weekend.
7. The Dispersal Policy includes a 'litter patrol' and the operatives will assist with dispersal of patrons. In response to a request from residents, the premises will promote a local taxi company and encourage those waiting to remain on the premises, with the offer of soft drinks until their transport arrives. There will be no reduction in the price of alcohol after 10 pm at night.
8. There will be no outside drinking area and a small outside space for smokers (15 people) which will be supervised by an SIA guard. The premises is sub terranean but the Applicant is happy to engage a noise consultant and instal limiters if necessary. There will no cooking on the premises.
9. The Premises' Drugs Policy has been submitted and the Applicant prides themselves on being a responsible Licensee, with no incidents of drug taking at their Tumbridge Wells site. However, as the Applicant does not currently operate in the City of London, they commissioned an independent report by a former Metropolitan Police Superintendent, which was very complimentary of the management team.

**During questions, the following points were noted:**

10. Food would be served in a lounge type environment, using external caterers. The premises will not be a restaurant.
11. The Tumbridge Wells premises has been licensed since 2021 with no issues and is also used as a Sunday School, for the benefit of the local community.
12. Having just one entrance and exit is easier to manage, and the door supervisors will be employed until after closing hours, assisted by the litter patrol.
13. Traffic Management is a Planning consideration and any illegal parking will be subject to enforcement action.
14. There will be no servicing of the premises between 23.00 and 08.00 hrs and

delivery vehicles will use the goods yard.

**During the Responsible Authorities' presentation the following points were noted :**

15. The Police Licensing Officer had spent considerable time with the applicant in respect of the prevention of crime. The Conditions covered cctv, prohibition of externally promoted events, challenge 21, a refusals register, an incident book, and the various policies on door entry, dispersal and noise, noting that these will be live documents. The Sub Committee noted that externally promoted events had been problematic in the past and the City of London Police had seen considerable improvement following the introduction of this Condition. If the applicant were to promote a particular DJ, then they would face the consequences in the event of a breach.
16. Environmental Health had discussed the terminal hour with the City of London Police, noting the concerns about another premises closeby, which closes at 03.00 hrs. The applicant had been obliging in terms of the dispersal and noise management policies, and understand that they might be subject to further review once the premises opens. In accordance with WHO guidelines on expectations for a peaceful night's rest between 23.00 hrs and 07.00 hrs, a further Condition had been added in respect of servicing of the premises; ie - bottle and rubbish collections would take place after 08.000 hrs from the goods yard, not from the Street.
17. Given the pricing structure, the target clientele would be the corporate market, with an mixture of office workers and visitors, ranging from mid-20's to mid-40's. There was an expectation that weeknights would attract City workers, with visitors at weekends.

**During the presentation from those making representations, the following points were noted:**

18. The Manager of the Apex Hotel set out his biggest concerns in terms of dispersal, noting that some premises in the area had been problematic in the past. The Manager was particularly frustrated in that once patrons leave a premises, anti-social behaviour then becomes the Hotel's problem. There are a number of rooms facing Mark Lane and the smoking area is close to 29 bedrooms. Although double glazed, this does not guarantee zero noise disturbance. If patrons do not get a restful night, then they are likely to leave negative reviews, which will have an impact on future business, and expect refunds.

19. Dr Evans, a local resident of some 12 years, shared her experience of living in an area subject to antisocial behaviour at weekends. Members noted that this generally occurs between 02.00 and 04.00 hrs, often running into the early morning. As public transport is unavailable at this time, patrons tend to become intoxicated and can get lost. It can be particularly distressing for residents when they hear groups making a noise and/or fighting, which has been known to spill onto the frontage of residential properties, and noise from cars revving and playing loud music. The resident frequently calls the Police and/or the Environmental Health Service and feels that the perceived lack of accountability is very unfair on residents. Whilst accepting that the conditions offered might be useful, Dr Evans does not expect them to be particularly effective and the Review process can take several months.
20. The Ward Member, Aaron D'Souza endorsed Dr Evans' comments and had heard similar accounts from other residents. His constituents choose to live in the City because of its vibrance but it should be possible to create a thriving business community which is respectful of local residents.
21. The Ward Deputy, Marianne Fredericks, noted how representations had been made by people with considerable experience of living in the area; i.e. – Dr Evans for 12 Years, Deputy Fredericks had been a Ward Member for 15 years and Mr Taplow had been Manager of the Apex Hotel for 8 years. Deputy Fredericks endorsed the point made about the amount of time it takes to seek a Review of a Licensed premises in terms of collating evidence, taking videos and recordings etc.
22. Deputy Fredericks also referred to concerns about ingress and exit from just one entrance, on Mark Lane. In terms of transport provision, the last train leaves Fenchurch Street at 12.40 am and the tube stops running from Tower Hill at 12.30 am. Therefore, patrons are more likely to travel by car and parking wardens have been subjected to abuse and are concerned for their safety. The notice had not been displayed properly in the first instance and the inadequacy of the current plans led to a lot of the concerns raised. Given that Destination City is encouraging more visitors and hotel use in the area, which is already at saturation point with Licensed premises, then the terminal hour should either be 23.00 hrs, or the applicant should find alternative premises.
23. The City of London Police Licensing Officer asked for the condition in respect of the numbers of door supervisors to be disregarded, as it might not be necessary to have 6 door staff on a quiet evening. The Chair agreed to take this into consideration in the Sub Committee's deliberations, noting that the ratio would be included in the Door Policy, which will be a live document.
24. The Environmental Health Officer agreed that, initially, there had not been due consideration of the closeby premises; hence the agreement to take the terminal hour back to 02.00 hrs. In terms of historic complaints about anti-social behaviour

on disposal, the officer advised that the most recent complaint has been made in January 2023, resulting from a road closure on Crutched Friars.

**During questions, the following points were noted.**

25. There had been some improvement since the pandemic, compounded by the refusal of some recent applications in the area and the pro-activity of the residents. Dr Evans suggested that it might be timely to set boundaries, for the benefit of residents, patrons and applicants. As it stands, anyone applying for a Licence to 02.00hrs in the area would receive objections.
26. The recent demographic changes in terms of hotels, residents and student accommodation.
27. The applicant will need to apply for planning permission, for a change of use, before the licence can come into effect.

**Summations**

The Ward Deputy felt that the presentations set out above covered all the points raised in the representations, both written and in person, and asked the Sub Committee to note the history of the area, in terms of problems on dispersal and anti-social behaviour, and urged the applicant to look for alternative premises.

The statutory authorities did not wish to sum up.

The Applicant believes this is a suitable site for a well-run, mixed use, late night, subterranean venue, with use of a goods yard for deliveries, refuse and bottle collection. The previous licenced premises on the site held promoted events, which caused the historic problems referred to but these are no longer permitted. The Applicants are experienced licensees but this is only their second Hearing, hence the lack of understanding about displaying the notice. As it stands, this application is not contrary to the City of London Corporation's Licencing Policy, which was reviewed last year; i.e. - *'If there are serious problems in an area ..... the Licensing Authority might implement a Cumulative Impact Policy, having first imposed conditions on individual premises when valid representations have been made'*. Therefore, in the absence of such a Policy, each application must be treated on its own merit.

The applicant will still have to submit a planning application, fire risk assessment and updated plans, so there will be further scrutiny before the premises can open. If the Licence is granted, then the Applicant will continue to work with local residents and would like the opportunity to prove themselves. The City of London works closely with its licenced premises, which are subject to Review if they are found to be in breach.

Chair thanked those present and closed the Hearing at 12 noon.

The Sub-Committee retired to consider the application, carefully deliberating on the representations submitted in writing and orally at the hearing by those making representations and the applicant. It was evident that the most relevant licensing objectives requiring the Sub-Committee's consideration was the prevention of public nuisance and prevention of crime and disorder.

The Sub Committee noted the representations from the residents, and fully understood their concerns about dispersal, specifically noise nuisance and anti-social behaviour from patrons leaving late night drinking establishments (including this establishment).

The Sub Committee also noted that there had been some anti-social behaviour issues in this area, ahead of the lockdowns, caused by patrons leaving late night drinking establishments, and some of the more problematic venues had since closed. Those making representations agreed that the situation had improved over the past few years but were concerned that some might re-open. Although the Sub-Committee noted these points, it also agreed that this application needs to be considered on its' own merits. Furthermore, the City of London Corporation does not currently have a policy dealing with the impact of foot traffic late night or cumulative impact. The Sub-Committee is happy to look into the saturation/cumulative impact and consider whether further policies in this regard should be considered by the City of London Corporation's Licensing Committee.

The Sub Committee noted how the applicant had worked closely with the Responsible Authorities in terms of the revised conditions and their subsequent amendments and, in so doing, had shown themselves to be responsible and experienced Licence holders. Their Business Model had been designed to attract a mature, professional clientele; ie - City workers and not students.

Other premises in the vicinity close considerably later, and the Applicant had shown goodwill in reducing the terminal hour to 2 am. The Sub-Committee felt that this earlier dispersal would not add to the cumulative effect of the surrounding 10 premises, some of which close at 3 and 4 am. The Sub-Committee was satisfied with the Dispersal and Management Plans; noting that deliveries would be in the goods yard and bottle collection had been from 7 to 8 am, which is more considerate of residents.

Whilst understanding the Manager's concerns, the Apex Hotel appears to be triple glazed and all Licensable activities would be sub-terranean. The Sub-Committee suggested that clients of Inner City hotels in the City of London, and any similar City in the world, can only have a limited expectation in terms of noise disturbance. Furthermore, as stated above, it is difficult to attribute antisocial behaviour on dispersal to one particular premises. It was also noted that the smoking area is close to the Hotel but it will be supervised and patrons will not be permitted to take drinks into the area.

The Sub Committee noted Environmental Health's comments in that they had

received very few complaints recently but the residents stated that they complain frequently. The Sub Committee noted that Environmental Health would look into all complaints received and the residents should continue to work the Environmental Health Service. The Sub Committee also noted that those making representations had not made any objections to other activities on the premises.

In reaching its decision, the Sub-Committee was mindful of the provisions of the Licensing Act 2003 ('the Act'), in particular the statutory licensing objectives, together with the guidance issued by the Secretary of State in pursuance of the Act and the City of London's own Statement of Licensing Policy dated 2022.

In determining what constituted a public nuisance, the Sub-Committee relied upon the common law definition of 'public nuisance' as: *'one which inflicts damage, injury or inconvenience on all the King's subjects or on all members of a class who come within the sphere or neighbourhood of its operation. The character of the neighbourhood is relevant to determination of the question of whether a particular activity constitutes a "public nuisance"'*.

## **DECISION**

The Sub-Committee determined that the license should be granted as set out below:

<u>Activity</u>	<u>Proposed licence after amendment</u>
Supply of alcohol for consumption on the premises	Mon–Sun 10:00-02:00
Provision of Live Music	Mon–Sun 10:00-02:00
Provision of Recorded Music	Mon–Sun 10:00-02:00
Provision of Films	Mon–Sun 10:00-02:00
Performances of Dance	Mon–Sun 10:00-02:00
Anything of a similar description to Live Music, Recorded Music or Performances of Dance	Mon–Sun 10:00-02:00
Late Night Refreshment	Mon–Sun 23:00-02:00
Opening Hours	Mon–Sun 10:00-02:00

The Sub-Committee had regard to the conditions that parties had agreed upon in



advance of the hearing. It was of the view that it was necessary to impose these conditions for the promotion of the licensing objectives and for the prevention of public nuisance. The Sub Committee noted that these are live documents and can be amended if necessary, giving residents reassurance that any future concerns in terms of anti-social behaviour on dispersal will be addressed.

The Sub-Committee therefore agreed that the following conditions should be attached to the premises licence:

**CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AND APROPRIATE TO THE PROMOTION OF THE LICENSING OBJECTIVES:**

1. After 2200 hours, no glass bottles are to be passed over the bar and all bottled drinks will be decanted (excluding prosecco, champagne and wine).
2. After 2200 hours, all glasses in use at the premises shall be either toughened glass or polycarbonate material.
3. The premises shall have a written drug policy, this will detail the strategies to minimise the use and supply of illegal drugs within the premises. This will entail an agreed procedure for the handling and retention of any article seized. Where premises consider a drug's safe to deposit drugs found, there will be a clear policy for the handling and packaging seized items. For premises with a suitable drug safe the items within the safe would not be considered as being in possession. For premises that do not have a drug safe they must have a written agreement with police as to a procedure in the collection or delivery of drugs to police.
4. Prominent, clear and legible notices are displayed at all exits requesting patrons to respect the needs of local residents and to leave the premises and the area quietly.
5. Doors and windows will be kept closed when regulated entertainment is taking place.
6. The premises shall install and maintain a comprehensive digital colour CCTV system. All public areas of the licensed premises, including all public entry and exit points will be covered enabling facial identification of every person entering in any light condition. The CCTV cameras shall continually record whilst the premises are open to the public and recordings shall be kept available for a minimum of 31 days with date and time stamping. A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public. This staff member shall be able to show the police or the Licensing Authority recordings of the preceding two days immediately when requested.
7. Promoted events will not be held at the premises. A promoted event is an event involving music and dancing where the musical entertainment is

provided at any time by a disc jockey or disc jockeys one or some of whom are not employees of the licensee (premises licence holder) and the event is (independent of the licensee) promoted to the general public.

8. Promoted events will not be held at the premises. A promoted event is an event involving music and dancing where the musical entertainment is provided at any time by a disc jockey or disc jockeys one or some of whom are not employees of the licensee (premises licence holder) and the event is (independent of the licensee) promoted to the general public.
9. A Challenge 25 age verification policy will be operated. The only acceptable forms of identification are a passport, photocard driving licence, military identification or any other UK/EU government approved form of identification. Challenge 25 signs will be on display within the premises.
10. A refusals register will be maintained detailing all refusals of alcohol sales. That register will be made available to officers of the responsible authorities on request.
11. An incident book, or record, will be kept and maintained at the premises. Each entry made shall carry the day, date and time that each report was made. The DPS shall retain the incident book for a minimum of 12 months. The incident book will be made available to any of the responsible authorities on request. It will record the following:
  - a. All crimes reported to the venue
  - b. All ejections of patrons, with details of the individual(s) if known.
  - c. All complaints received (whether of a criminal or licensing nature).
  - d. All incidents of disorder.
  - e. The seizure of drugs and offensive weapons.
  - f. All visits by a responsible authority or emergency service.
  - g. Any faults in the CCTV system, searching equipment or scanning equipment.
12. On Thursday, Friday, Saturday & Sunday night a door entry policy will be operated. A copy of that policy will be retained on site and made available to officers of the responsible authorities on request.
13. A dispersal policy will be in place at all times having been agreed with Police and Environmental Health Noise Department. A copy of that policy will be retained on site and made available to officers of the responsible authorities on request.
14. No open vessels, bottles or other type of container will be allowed outside of the licensed premises. All of sales will be in sealed containers.
15. The noise management plan and dispersal policy shall be kept on site at all times and made available for inspection on request by an authorised officer of the local authority or Police.
16. No servicing of the premises shall be carried out between the hours of

23:00 on one day and 08:00 on the following day from Monday to Saturday and between 23:00 on Saturday and 08:00 on the following Monday and on Bank Holidays. Servicing includes the loading and unloading of goods from vehicles and putting rubbish outside the building.

17. On Mondays, Tuesdays and Wednesdays, not less than 2 SIA registered door supervisors shall be engaged at the premises.
18. Additional SIA door supervisors will be added on a 1:75 customer ratio.
19. Prominent signage shall be displayed at all exits from the premises requesting that customers leave quietly.
20. Patrons will only be permitted to temporarily leave the Premises to smoke in the supervised area marked with an 'X' in the Dispersal Policy/Door Control Policy. Numbers will be limited to 15 at any one time. No drinks will be permitted to leave the premises.