

Appendix 3 – Licensing Authority Representation

From: Cone Philip <Philip.Cone@haringey.gov.uk>
Sent: 09 June 2021 10:40
To: Barrett Daliah <Daliah.Barrett@haringey.gov.uk>
Subject: FW: Kiss The Sky review

Hi Dale,

On Thursday the 27th May 2021, I was with colleagues from the police licensing team and we attended Kiss The Sky, 18-20 Park Road.

The reason for this is that we had received complaints that on the opening weekend after Lockdown restrictions were eased, from 21st May, residents had complained of loud music coming from the venue. COVID Marshalls and operatives from the ASB Noise Patrol Team had also attended that weekend and found there to be loud music playing which is in contravention of COVID regs where music is supposed to be played at a level where customers do not have to shout or speak loudly, in order to mitigate any virus transmissibility. Operatives also witnessed customers dancing in the bar area and not wearing masks. This is also in contravention of COVID regs and is a clear breach of the licensing objective of Public Safety.

I attach statement from Festus Akinboyewa and Maria Barbeito, Enforcement Officers for Haringey Council, who attended Kiss The Sky over this weekend period. Both state that the manager of the premises was spoken to across the weekend regarding the music noise levels emanating from the premises. The officers followed the Councils Enforcement policy of giving verbal advice and warning the first visit, they attend a second time and gave a further verbal warning. On the third occasion they issued a warning letter about statutory noise nuisance they had witnessed.

The Council received a number of complaints from residents following the opening weekend of the premises under the new management. Residents were very upset at the noise levels they had endured across the weekend.

It had been established that the license applicant, Mr K Ray, had not transferred the premises licence or varied the DPS. Therefore any licensable activity that was undertaken by Mr Ray across the weekend was unauthorised. Mr Ray had submitted an application to transfer the licence days before but the application was immediately rejected as he failed to comply with the requirements. he was

provided with advice as to what he needed to do to make a valid application and not offer any licensable activity until such time he had been granted permission. The former DPS had confirmed to the Licensing Authority that he was no longer responsible for authorising alcohol sales under the Premises license at Kiss The Sky.

At the visit on the 27th May I said to Mr Ray that he needs to speak to someone who is a license holder, to put them onto the license as the DPS if he was not able to nominate himself as he did not hold a personal licence. He said that he would do this. I also issued him with a COVID Fixed Penalty Notice for allowing customers to dance in the venue without wearing masks. He said that he would not be paying the Covid related fine.

I have subsequently found out that council officers who have visited Kiss The Sky were unable to view CCTV when they requested to do so. They also spoke to the door staff who refused to give officers their details or present their SIA identity. The witness statement from ASB Officer Samuel Oluwatoki sets out what happened at the premises during the visit on 28th May.

The concern from the Licensing Authority is that Mr K Ray and staff, appear to have a lack of knowledge and management onsite in regards to Licensing obligations and COVID requirements. Mr K Ray has shown complete disregard of complying with the licensing legislation despite having been advised by Council Officers of correct procedures applications need to be completed before operating.

A warning letter was sent to Mr K Ray on 3rd June, advising Mr K Ray of the issues that I was aware of, and also a list of the licensing obligations for Kiss The Sky. (see attached)

It is clear and apparent that licensing objectives have not been met since the bar has reopened.

From a Crime and Disorder perspective, not having CCTV footage available for officers to view and having door staff who do not appear to be SIA qualified is of serious concern and a breach of mandatory and premises license conditions.

From a Public Nuisance point of view, the fact that there have been several complaints from residents in regards to noise from premises and the fact that the operator permitted patrons to dance, mingle and mix onsite during this period when Covid regulations are in place to limit the transmission of the virus. The operator should have taken steps to reduce the overall capacity of the venue and any dancefloor should have been repurposed for tables and chairs. As this is licensed premises the patrons should be seated and only table service should be on offer. Customers should be remaining in their groups of 6 per table and wear a mask if going to and from the bathroom. The premises is able to offer a DJ but music should not be loud to offer a nightclub atmosphere or require patrons to have to shout thereby increasing the risk of transmission.

The disregard to comply and the lack of trust shown by Mr Ray is concerning.

Clearly the premises is able to offer recorded music until the early hours of the morning and this needs to be carried out responsibly by the licence holder.

Recommendations :

We would ask the Committee to consider a reduction in hours for the ability to provide regulated entertainment in the form of recorded music. The timing to be reduced to 2300pm across the week, with alcohol sales finishing 30mins prior. The premises is able to live music under the live music exemption between 8am-23:00pm. This is able to be conditioned or removed following concerns raised under the review process.

The operation of the premises should be that of a bar and not as nightclub.

Prevention of Crime and Disorder

- And door staff or security used by the Licensee/DPS at the premises must be SIA accredited, must have their SIA identify badge on display on their person and present their ID to either police or council officers when requested to do so.
- The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Police and Local Authority Licensing Teams. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
- The licensee will ensure that the system is checked every two weeks to ensure that the system is working properly and that the date and time are correct;
- A record of these checks, showing the date and name of the person checking, will be kept and made available to the police or other authorised officer on request;
- The Police will be informed if the system will not be operating for longer than one day of business for any reason;
- Footage will be provided free of charge to the police or other authorised officers upon request (subject to the Data Protection Act 1998) within 24 hours of any request.
- A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number

shall be made available to residents and businesses in the vicinity.

- An incident log shall be kept at the premises and made available on request to a Police or authorised council officer. It must be completed within 24 hours of the incident and will record the following:
 - a) All crimes reported at 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 and offensive weapons.
 - f) Any faults in the CCTV system, searching or scanning equipment.
 - g) Any visit by a relevant authority or emergency service.
- The premises licence holder shall ensure that all sales staff receive appropriate training in relation to managing conflict and health and safety of the public and staff. Training documents shall be signed and dated and will be held in a suitable hard-copy log, to be made available to a Police Officer or Council Officer upon request. Said records shall be retained for at least 12 months.

Prevention of Public nuisance:

- No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises, nor vibration be transmitted through the structure of the premises which gives rise to nuisance.
- All windows and external doors shall be kept closed after 23:00 hours except for the immediate access and egress of persons.
- Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly
- No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
- The direction of lighting in the rear area must be directed away from any domestic premises so as not cause any light intrusion.
- Noise and/or Odour from any flue used for the dispersal of cooking smells serving the building shall not cause a nuisance to the occupants of any properties in the vicinity. Any filters, ducting and extract fan shall be cleaned and serviced regularly.
- In the event of a noise/nuisance complaint substantiated by an authorised officer, the licensee shall take appropriate measures in order to prevent any recurrence.

- Prominent, clear and legible notices must be displayed at all exits (including the rear seating area) requesting the public to respect the needs of local residents and to leave the premises and the area quietly.

Public safety

The licence holder will ensure that all staff receive appropriate training about emergency and general safety precautions and procedures.

Protection of children from harm:

- The premises will operate the 'Challenge 25' proof of age scheme where:
 - a. All staff will be fully trained in its operation;
 - b. Only suitable forms of photographic identification, such as passport or UK driving licence, or holograph equipped 'PASS' scheme cards, will be accepted; and
 - c. No one under the age of 18 years will be admitted into the lounge/shish garden part of the premises.

Phil Cone
Licensing Enforcement Officer



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Ref: LN/000009582

Date: 2nd June 2021

MR KASHKA RAY
KISS THE SKY
18-20 PARK ROAD
LONDON
N8 8TD

WARNING LETTER

Dear Sir/Madam,

RE: PREMISES LICENCE BREACH OF CONDITIONS – KISS THE SKY, 18-20 PARK ROAD, LONDON N8 8TD

It has been brought to our attention that there have been a series of issues relating to Kiss The Sky which are of a major concern to the Licensing Authority.

The first issue is allowing alcohol sales at a time when there is no Designated Premises Supervisor (DPS). This is an offence under the Licensing Act 2003.

There have been concerns raised by Council Officers about the conduct of your business so as not to cause noise nuisance. There were several complaints from the Council's Noise Team and COVID Marshalls in regards to noise on your opening week of trading. This noise has clearly had an impact on residents who have also complained about noise from your premises.

It has been reported that an SIA representative, when requested to do so, refused to give their details and no SIA Identity badge was seen.

Further concerns about CCTV not being made available when requested by council or police officers.

There appears to be a lack of knowledge and management onsite when dealing with officers about license obligations and COVID requirements.

Please see below the Mandatory Conditions of your license.

1. No supply of alcohol may be made under the Premises Licence –
 - (a) At a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or
 - (b) At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.
2. Every supply of alcohol under the Premises Licence must be made or authorised by a person who holds a Personal Licence.
3. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

Door Supervision

All individual(s) at the premises for the purpose of carrying out a security activity must

(a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or

(b) be entitled to carry out that activity by virtue of section 4 of that Act.

- *Regular staff training*
 - Increase the number of staff with National Licensing Certificate.
 - Strong management control.
 - No underage drinking.
 - No drugs.
 - No drunkenness in or around the premises.

THE PREVENTION OF CRIME AND DISORDER

- Registered door supervisors.
- Digital CCTV
- Strong management control.
- All staff present at closing are to see customers off.

PUBLIC SAFETY

- We will maintain a responsible serving policy.
- We will become members of the local Pub Watch scheme.
- S.I.A. door supervisors.
- Toughened glass for public use.
- Weekly risk assessments are carried out.

THE PREVENTION OF PUBLIC NUISANCE

- Regular registered door supervisors.
- Digital CCTV outside of building.
- "Please be quiet as you leave" signs.
- No drunkenness permitted outside.

It is clear and apparent from the reports of residents and council staff that you are not carrying out your licensing obligations which you must urgently remedy. This could lead to a review of your license

Please ensure that the above conditions are complied with immediately.

If you have any queries, please do not hesitate to contact me on the above details.

Yours sincerely,

Phil Cone

Licensing Team Enforcement Officer

Licensing Team

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STATEMENT OF WITNESS

*(Criminal Procedure Rules 2005 r27.1(1);
Criminal Justice Act 1967 s.9; M.C. Act 1980 s5B)*

Statement of: Festus Bankole Akinboyewa

Age of Witness (If under 18): Over 18

This statement consisting of two pages signed by me is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution, if I have wilfully stated in it anything, which I know to be false or do not believe to be true.

Signature: -

Date: -

1. I am Festus Bankole Akinboyewa; I am employed by the London Borough of Haringey as an Anti Social Behaviour Enforcement Officer. Part of my duties are to investigate offences under the Environmental Protection Act 1990 and Licensing Act 2003.
2. On Friday the 21st May 2021 at about 22.44 hours, the council received a complaint from a local resident regarding noise from Kiss the Sky 18-20 Park Road N8 8TD. The type of noise was loud bass music. At about 23.55 hours, my colleague Maria Barbeito and I visited the premises due to the complaint by the local resident. We conducted an initial walk pass and heard loud music emanating from the premises at street level.
3. We entered the premises and witnessed the following: live DJ and afro music being played loudly. We also witnessed people singing along and dancing. The premises was overcrowded, no social distancing and customers and staff did not wear masks. We asked to speak with the manager, a black male came out to speak with us outside the premises, on the pavement as the noise inside the premises was excessive. He introduced himself as the manager.
3. We spoke to the manager regarding our observations and asked him to turn down the volume of music. The manager explained that he had spent £5000 to sound proof the premises, but we informed him that this has not been effective as noise from the premises was still causing disturbances to local residents. We also spoke to him about customers not social distancing and wearing masks which were a breach of Covid 19 rules and guidelines. This time, a verbal warning was given to the manager.
4. On Saturday the 22nd May 2021 at about 00.13 hours, the council received another complaint from another local resident regarding loud music from Kiss the Sky 18-20 Park Road N8 8TD. The concerns raised by the complainant were that the premises had been creating noise nuisance which has been going on for a long time. He stated that the noise is having negative effect on their health and that of their children. I explained to complainant that we have just left the premises and that the manager has been warned.

Signed: - _____

Date: - _____

5. On Sunday 23rd May 2021 at about 21.11 hours, the council received another complaint from a local resident regarding loud music from the premises. We visited the premises at

about 22.05 hours and established a statutory noise nuisance. Again we witnessed live DJ and a black male singing along into the mic whilst customers were singing along and dancing despite the verbal warning given the previous day. We spoke to the manager again about our observations, and it was clear to us that the verbal warning given to the previous night did not have the desired effect. We then handed a warning letter to him.

Signed: - _____


Date: - _____

STATEMENT OF WITNESS
(Criminal Procedure Rules 2005 r27.1(1);
Criminal Justice Act 1967 s.9; M.C. Act 1980 s5B)

Statement of: Maria Barbeito

Age of Witness (If under 18): Over 18

This statement consisting of two pages signed by me is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution, if I have wilfully stated in it anything, which I know to be false or do not believe to be true.

Signature: - 

Date: - 9th June 2021


- 1) My name is Maria Barbeito and I am employed by the London Borough of Haringey as an Enforcement Response Officer. My Duties include inspections and enforcement of the provisions of the Licensing Act 2003. My duties also include the assessment of nuisance and the enforcement of the provisions of the Environmental Protection Act 1990 as they relate to noise nuisance.
- 2) On 21st May 2021 at 22:44 hrs the Noise Team received from a local resident affected by loud music from Kiss the Sky, 18-20 Park Road, London N8 8TD. I called the complainant back at 23:04 hrs to establish the noise was still on and causing a problem and agreed to visit the area.
- 3) My colleague Festus Akinboyewa and I arrived in the area at 23:55 hrs and music could be heard from two shops away while we were walking towards Kiss the Sky, 18-20 Park Road, London N8 8TD. I observed that music became louder every time customers open the door while in and out of the premises.
- 4) When my colleague and I approached the entrance to the premises, a small group of people (4 to 6 individuals) were observed standing on the pavement outside the entrance to Kiss the Sky, 18-20 Park Road, London N8 8TD.
- 5) I opened the door to try to enter and speak to the manager/owner with my colleague and I observed a large group of customers on the premises floor, dancing to a live DJ playing Afro bit and a black male singing into a microphone. The place was overcrowded, with customers and staff not social distancing or wearing masks. A female member of staff greeted us at the door and said that the booking was full. I introduced myself to the female and asked her to speak to the manager/owner. My colleague and I did not enter the premises and stood outside on the pavement.
- 6) While waiting to speak to the manager/owner, a black male came out of the premises without wearing a mask and approached my colleague and I. The live DJ and singer were still playing loud music which could be heard from street level with the entrance door closed.
- 7) I introduced myself to the male and asked him if he was the manager and he said yes. I explained to him that we had received several complaints about loud music coming from the premises. He was informed that the level of the music was excessive and I asked him to reduce the volume. The manager explained that he has only been managing the business for the past 2 weeks. He explained that they had expend £5.000 on sound proof during lock down.

Signature: - 

Date: - 9th June 2021

8) He was warned about the noise level and told that it was a statutory noise nuisance. He was also warned about breaking current Covid19 rules and regulations and that there was no social distancing taking place at the time of our arrival. Also staff and customers were not wearing masks. Loud music could still be heard from outside the premises while speaking to the manager.

9) On Sunday 23rd May 2021 at about 21.11 hrs, the council received another complaint from a local resident regarding loud music from the premises. My colleague Festus Akinboyewa and I visited the business at about 22.05 hrs and again, we witnessed a live DJ and a black male singing along into a microphone. Customers were singing along and dancing despite the verbal warning given the previous day. We handed a warning letter to the manager.

Signature: 

Date: - 24 June 2021

STATEMENT OF WITNESS
(*Criminal Procedure Rules 2005 r271(1);*
Criminal Justice Act 1967 s.9; M.C. Act 1980 s5B)

Statement of: Samuel Oluwatoki

Age of Witness: Over 18

This Statement, consisting of 2 pages signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signature:

Date: 10 June 2021

1. I am Samuel Oluwatoki, and I am employed by the London Borough of Haringey as an Anti-Social Behaviour Enforcement Officer. I am also a trained COVID-19 secure marshal. Part of my duties is to promote social distancing and encourage public compliance with COVID-19 health measures. Also, my duty is to identify and support businesses and premises not following guidelines, escalating as appropriate.
2. On 28 May 2021, I was taking part in COVID-19 secure marshal patrol. I was tasked by the Licensing Team Leader, Daliah Barrett, with visiting Kiss the Sky, 18-20 Park Rd, London N8 8TD. She stated they have been stopped from doing alcohol sales as there is no DPS assigned to the licence. She stated that alcohol cannot be sold. Lastly, she stated that no loud music and no dancing by customers. I exhibit a copy of the email as Exhibit SO1.
3. At approximately 2200 hours, I entered Kiss the Sky, 18-20 Park Rd, London N8 8TD, and I approached the DJ on the turntable. The DJ was not wearing a face covering. The male standing next to the DJ at the turntable was also not wearing face covering. I introduced myself to the DJ by showing my authorisation. I informed him that I would like to speak to the owner of the business. The DJ stated that the owner is not around, but he is able to contact him on his mobile. The DJ stated that he is happy to turn down the music if it is too loud. I informed the DJ that the music is loud, and they are not allowed to play loud music in the premises due to the Covid restriction. The DJ then called the owner and they spoke for about a minute or two on the phone. Inside the premises, I observed alcohol being sold to consumers and being consumed in the premises. The staffs did not wear face covering. The tables and chairs in the premises were not appropriately distanced from another. Customers were walking around in the premises without wearing face covering, and the staffs did not challenge them.

The DJ informed me that the owner is on the line and would like to speak to me. I enquired if I could go outside to speak to the owner as it was too loud inside the premises and he said it is ok. I went outside the premises and spoke to the owner on the phone. I introduced myself to the owner by telling him my name and informed him that I am an ASB Enforcement Officer/ Covid-19 secure Marshal. The owner identified himself as Toby and enquired what I wanted. I informed him that alcohol cannot be sold in the premises because there is no DPS assigned to the license. He stated that the DPS matter is now resolved, and they can sell alcohol. I enquired when the DPS matter was resolved, and he was hesitant. Later, he stated that it was resolved 8 a.m. that morning. I stated that I could be wrong, but I believe that there is no DPS assigned to the license. He began to raise his voice and call me a liar. He became verbally aggressive and said I was disturbing his business. I enquired the name of the new DPS, but he did not provide the name. He told me he is on his way, and I should wait for him at the premises. I then gave the phone back to the DJ and remained outside. The tables and chairs belonging to the premises were outside. Around two minutes later, a black male, who wore a black trouser and black shirt, medium built, around 5'10 tall, approached me and identified himself as the door supervisor of the venue. The male did not wear a face covering. The male did not have a SIA license on display. He had cigarette in his hand. The male did not give his name. The male enquired if I wanted anything, and I said no. I felt intimidated and left the premises.

4. I am available to attend court.