

Committee(s): Licensing	Date(s): Hearing 2010	Item no.
Subject: Licensing Act 2003 Public Hearing in Respect of an Application for the Variation of a Premises Licence:		
Report of: Director of Environmental Services DES/ /2010	Public / Non-Public	
Ward (if appropriate): Billingsgate		

1 Introduction

1.1 To consider and determine, by public hearing, the application for the review of a premises licence under the Licensing Act 2003, taking into account the representations of the responsible authorities detailed in paragraph 4, the interested parties detailed in paragraph 5 and the policy considerations detailed in paragraph 6 of this report.

1.2 The decision of the Sub-Committee must be made with a view to promoting one or more of the four licensing objectives, namely:

- a) the prevention of crime and disorder
- b) public safety
- c) the prevention of public nuisance
- d) the protection of children from harm

2. Background

2.1 Application has been made by:-

for the variation of the premises licence in respect of the premises:-

2.2. The application is to:-

extend the hours during which the following activities are provided:-

- a) films
- b) live music
- c) recorded music
- d) performance of dance
- e) facilities for making music
- f) facilities for dancing
- g) provisions for late night refreshment
- h) sale by retail of alcohol

from the current terminal hour of:-

02.00 on the morning following Sunday to Thursday, and

03.00 on the morning following Friday and Saturday

to the proposed hour of 05.00 on each day.

- 2.3. Full details of the application are contained in the copy of the Application Form at Appendix A1.
- 2.4 The premises had previously been operated under the name by a different licence holder. That licence was transferred to the current licence holder on 24 September 2009.

The premises comprise a basement area with a ground floor entrance and small lobby area.

A copy of the current licence is attached at Appendix A2.

3. Licensing Objectives Addressed by Applicant

- 3.1 The Operating Schedule submitted by the applicant in part P of the application addresses the four licensing objectives. The applicant has proposed a number of steps in support of the licensing objectives. Paragraphs 8.28 – 8.32 and Section 10 of the Government Guidance issued under Section 182 of the Licensing Act 2003, as amended, refer to the operating schedule and licence conditions. Proposals can be translated directly into conditions attached to the premises licence. They should be realistic and within the control of the applicant/management responsible for running the premises.

The following would be considered as appropriate conditions:

- i.
- ii
- iii
- iv
- v.

4. Representations from Responsible Authorities

4.1 A representation has been received from the Police relating to [all four] licensing objectives and raises cumulative impact. The police believe that the grant of such a licence would have a negative cumulative impact and would result in adverse consequences for the prevention of crime and disorder, the prevention of public nuisance, the protection of public safety and the protection of children from harm. The representation and evidence submitted in support of the representation has been attached in its entirety at Appendix 3. It should be noted from the representation that further evidence might be submitted.

4.2 A representation has been received from Planning and is attached in its entirety at Appendix A3. The site does not currently have planning permission to be used as a [***]

4.3 A representation has been received from Environmental Health Pollution Team relating to the prevention of public nuisance objective. The representation is attached in its entirety at Appendix A3.

4.4 No representations were received the remaining responsible authorities.

5. Representations From Interested Parties

[Two] representations has been received from an “interested party” defined as: “persons living in the vicinity; persons involved in a business in that vicinity and a body representing persons living or involved in such a business. The ordinary meaning of vicinity is “near”. The representation refers to all four licensing objectives. The representations, [from one local business representative and one resident], are attached in its entirety at Appendix 3. Not all matters raised within the representation may be relevant matters for consideration under the Licensing Act 2003.

6. Policy Considerations

6.1 In carrying out its licensing functions, the Licensing Authority must have regard to its Statement of Licensing policy and any statutory guidance issued under s 182 of the Licensing Act 2003.

6.2 The City of London Corporation's Statement of Licensing Policy

The following sections/paragraphs are applicable to this application;

Paragraph 7 - Premises Licences and Club Premises Certificates – an expectation that the applicant will address the licensing objectives in their operating schedule. In particular, practical steps should be proposed to prevent disturbance to local residents (7.1.1 to 7.1.6) and the premises should be presented to the highest possible standards of safety with comprehensive facilities and access for people with disabilities wherever practicable. (7.1.9 to 7.1.11)

Paragraph 8 – Overriding Policy Principle, that each application will be decided on its merits, with the process complying with the regulations made under the Licensing Act 2003.

Paragraph 9 – Location of Premises, Licensing Hours and the Prevention of Nuisance – striking a fair balance between the benefits to a community of a licensed venue and the risk of disturbance to local residents and workers.

Paragraph 10 – Location and Impact of Activity – the operating schedule must indicate that the applicant is taking appropriate steps to comply with the licensing objectives and shall include proposed times and details of how compliance is intended to be achieved.

Paragraph 11 - Consideration of the Impact of Licensed Activity – an assessment of the likelihood of the licensed activity causing unacceptable adverse impact, in particular on local residents and businesses, including past demonstrable adverse impact and any agreed measures put into effect to mitigate this.

Paragraph 12 - Saturation and Cumulative Impact – the negative cumulative impact that the existence of a saturation of premises in one area may have,

which can impact on the surrounding area beyond the control of the individual licence holders.

Paragraph 17 – Other Controls – to consider very carefully the implications of granting a licence when the hours sought extend into the early hours of the morning.

6.3 Statutory Guidance

The following sections/paragraphs are applicable to this application.

Sections 2.1 to 2.50 of the guidance cover the four licensing objectives. Section 2.32 considers it important that licensing authorities focus on impacts of the licensing activities at the premises on persons living and working in the vicinity that are disproportionate and unreasonable.

Section 9 covers the determination of applications, with sections 9.3 to 9.13 giving guidance to cover situations where representations have been made.

Sections 10.15 to 10.18 cover duplication and other statutory provisions,

Sections 13.24 to 13.39 cover cumulative impact. Section 13.29 sets out the effects of adopting a cumulative impact policy. There is a rebuttable presumption that applications for new premises licences will normally be refused following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

Sections 10.19 to 10.21 cover licensing hours. Section 10.21 states that shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives for restricting those hours. For example, a limitation may be appropriate following police representations in the case of some shops known to be a focus of disorder and disturbance because youths gather there.

Section 10.11 covers imposed conditions which must be necessary to promote the licensing objectives and be expressed in unambiguous terms,

Section 10.13 states that any imposed conditions must be proportionate

7. Map and Plans

7.1 A map showing the location of the premises together with nearby licensed premises is attached at Appendix A5. A key of those premises is included which indicates the maximum permitted hours for alcohol sales in respect of each premises.

7.2 Plans of the premises will be available at the hearing (or at Appendix 5)

8. Summary

8.1 The Licensing Authority has a duty under the Licensing Act 2003 to promote the Licensing Objectives. Each objective has equal importance. In carrying out its licensing functions, the Licensing Authority must also have regard to its Statement of Licensing Policy, any Statutory Guidance under the Licensing Act 2003 and is bound by the Human Rights Act 1998. The Corporation must also fulfil its obligations under section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in the City.

9. Options

9.1 The Committee should, having regard to the representations, take such of the following steps as they consider **necessary** for the promotion of the licensing objectives:

9.1.1 grant the application as requested;

9.1.2 Grant the application while imposing new conditions or altering in any way the proposed operating schedule

9.1.3 reject in whole or part the application

Recommendation

10. It is therefore RECOMMENDED that your Sub-Committee:-

- i) hear the views expressed by the parties to the hearing and determine the application on its individual merits, and

- ii) if minded to grant the application consider whether the steps agreed between the applicant and the City of London Police and identified in Appendix A4. should be incorporated as conditions on the licence

Prepared by

Appendices

- Appendix A1: copy of the Application Form
Appendix A2: copy of the current licence
Appendix A3: The representation(s)
Appendix A4: Matters agreed between the applicant and the Responsible Authorities
Appendix A5: A map and plan of the premises including the location of the premises together with nearby licensed premises

Background Papers

<u>BACKGROUND PAPER</u>	<u>DEPT</u>	<u>FILE</u>
Corporation of London Statement of Licensing Policy Statutory Guidance issued under the Licensing Act 2003 Premises file	DES	Licensing Act 2003 Premises