

Committee(s): Licensing Sub-Committee	Hearing Date(s): 24 January 2018	Item no.
Subject: Licensing Act 2003 - Application for a new premises license		
Name of premises: Beech Street Tunnel Address of premises: From Silk Street to Bridgewater Street EC2Y 8AD		
Report of: Director of Markets and Consumer Protection		Public
Ward (if appropriate): Aldersgate/Cripplegate		

1 Introduction

- 1.1 To consider and determine, by public hearing, the application for a new premises license under the Licensing Act 2003, taking into account the representations of ‘other persons’ 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:
 - the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm

2 Summary of Application

- 2.1 An application made by:
Barbican Centre (City of London Corporation)
Silk Street
EC2Y 8DS

was received by the City of London Licensing Authority on 1 December 2017 for a new premises licence in respect of the premises at:

Beech Street Tunnel
From Silk Street to Bridgewater Street
EC2Y 8AD

- 2.2 Full details of the application are contained in the copy of the Application Form at Appendix 1.
- 2.3 The application is to provide the following activities:

<u>Activity</u>	<u>Current Licence</u>	<u>Proposed</u>
Recorded Music	None	Fri 16 March 2017 08:00 – 18:00 Sat 17 March 2017 08:00 – 15:00 15:00 – 22:30 Sun 18 March 2017 12:00 – 22:30

- 2.4 Sound checks will take place on Friday 16th and the morning of Saturday 17th. Live event times are Saturday 17 March (15:00 to 22:30) and Sunday 18 March (12:00 to 22:30).
- 2.5 The Operating Schedule submitted by the applicant suggests a number of steps intended to be taken. However, none of these would create conditions which are consistent with the operating schedule that could be included on the licence.
- 2.6 The mandatory licence conditions can be found in the Licensing Act 2003, sections 19-21. Also, in the Schedules to The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 (as amended) and The Licensing Act 2003 (Mandatory Conditions) Order 2014.

3 Licensing History of Premises

- 3.1 This a new application and the premises has not had a premises licence before, albeit the Barbican Centre has held a licence for many years.
- 3.2 The 'premises' is in fact a stretch of highway between Silk Street and Bridgewater Street and is for a 'one off' event being produced by the Barbican Centre, the City of London Culture Mile and '59 productions'.
- 3.3 The event is to create an immersive audio-visual space putting audience members inside a piece of classical contemporary music allowing them to explore the work aurally, visually and spatially.
- 3.4 The recorded music will consist of a new composition by Esa Pekka Salonen which the visuals will respond to.

Complaints

- 3.5 Not applicable as premises not yet trading.

4 Representations from Responsible Authorities

- 4.1 There are no representations from responsible authorities.

5 Representations From Other Persons

- 5.1 There are thirteen representations from 'other persons'. The representations are against the granting of the licence primarily on the basis that if granted it will undermine the licensing objective of 'the prevention of public nuisance'.
- 5.2 Many of the representations refer to aspects of the event that are not directly related to the application for a premises licence to play recorded music. For the purpose of this hearing these aspects should be ignored e.g. road closures before and after the event.
- 5.3 The representations can be seen in full as Appendices 2(1) to 2(13).

6 Policy Considerations

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

City of London Corporation's Statement of Licensing Policy

- 6.2 The following sections/paragraphs of the City of London Corporation's Statement of Licensing Policy are particularly applicable to this application.

Paragraphs 79 – 81 address the need of care when controlling noise particularly from those persons leaving a premises.

The boxed comment on page 19 states the need to strike a fair balance between the benefits to a community of a licensed venue, and the risk of disturbance to local residents and workers.

The boxed comment on page 19 also states an overriding policy principle namely, that each application will be decided on its individual merits.

The boxed comment on page 22 considers various factors that should be taken into account when considering whether any licensable activity should be permitted.

Paragraphs 115-121 state the Corporation's policy on setting conditions which may be applicable dependant on the step(s) taken by members as stated in paragraph nine of this report.

Statutory Guidance

- 6.3 The following sections/paragraphs of the statutory guidance issued under s182 of the Licensing Act 2003 are particularly applicable to this application (revised April 2017):

Chapter 2 of the guidance covers the four licensing objectives. In particular, paragraph 2.15 states that it is, '...important that in considering the promotion of *[the public nuisance licensing objective, licensing authorities]* focus on the effect of the licensable activities at the specific premises on persons living and working (including those

carrying on business) in the area around the premises which may be disproportionate and unreasonable.’ Also, paragraph 2.16 indicates that the prevention of public nuisance could, in appropriate circumstances include, ‘the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises.’

Chapter 10 refers to conditions attached to premises licences with paragraph 10.10 stating that, ‘Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided.’ Also, ‘Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.’

7 Map and Plans

- 7.1 A map showing the location of the premises together with nearby licensed premises is attached at Appendix 3. A key of those premises is included which indicates the maximum permitted hours for alcohol sales in respect of each premises along with the latest terminal hour for any other licensed activity if greater.
- 7.2 Plans of the premises are attached as Appendix 4.

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 Sub-committee must, having regard to the representations, take such of the following steps as it considers appropriate for the promotion of the licensing objectives:
- i) grant the licence subject to any conditions consistent with the operating schedule modified to such extent as the Sub-committee considers appropriate for the promotion of the licensing objectives and include the mandatory conditions contained in Ss. 19-21 of the Licensing Act 2003;
 - ii) exclude from the scope of the licence any of the licensable activities to which the application relates;
 - iii) To refuse to specify a person in the licence as the premises supervisor;
 - iv) Reject the application.

For the purposes of paragraph 9.1(i) conditions consistent with the operating schedule are modified if any of them are altered or omitted or any new condition is added.

- 9.2 Where a licensing authority takes one or more of the steps stated in paragraph 9.1 above the applicant, or the holder of the licence and/or a person who made relevant representations in relation to the application, may appeal the decision to the Magistrates' Court. Any appeal must be commenced within 21 days following notification of the decision to the appellant by the licensing authority.

10 Recommendation

- 10.1 It is therefore RECOMMENDED that your Sub-Committee determine this application for a premises licence in accordance with paragraph 9 of this report.

Prepared by P Davenport
Licensing Manager
peter.davenport@cityoflondon.gov.uk

Background Papers

<u>BACKGROUND PAPER</u>	<u>DEPT</u>	<u>FILE</u>
Corporation of London Statement of Licensing Policy (revised Jan 2017) Statutory Guidance – ‘Revised Guidance Issued Under Section 182 Of The Licensing Act 2003’. April 2017	MCP	5th Floor Walbrook Wharf Statutory Guidance