

<b>Committee(s):</b>	<b>Hearing Date(s):</b>	<b>Item no.</b>
<b>Licensing Sub-Committee</b>	<b>19 August 2020</b>	<b>1</b>
<b>Subject:</b>  <b>Licensing Act 2003 - Public Hearing in Respect of an Application for the Variation of a Premises Licence</b>  <b>Name of premises:      Edyn Limited</b>  <b>Address of premises:    Broken Wharf House</b> <b>                                     2 Broken Wharf</b> <b>                                     EC4V 3DT</b>		
<b>Report of:</b>  <b>Director of Markets and Consumer Protection</b>		<b>Public / <del>Non-Public</del></b>
<b>Ward (if appropriate):</b>  <b>Queenhithe</b>		

## **1    Introduction**

- 1.1 To consider and determine, by public hearing, the application to vary a premises license under the Licensing Act 2003, taking into account the representations of ‘responsible authorities’ 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:

**Edyn Ltd**  
**6<sup>th</sup> Floor Embassy House**  
**Queens Avenue**  
**Clifton**  
**BS8 1SB**

was received by the City of London Licensing Authority on 24 June 2020 to vary the premises licence in respect of the premises at:

**Edyn**  
**Broken Wharf House**  
**2 Broken Wharf**  
**EC4V 3DT**

### 2.2 The application seeks to vary the layout of the premises by adding an external 'bar servery'. In addition, the application seeks to amend condition 4 from:

*'Off sales of alcohol shall be limited to residents and their bona fide guests, or for consumption by persons within the designated external licence area as shown on the approved plans'*

To

*'There shall be no off sales of alcohol in open containers, save for patrons seated on any designated external areas as shown on the approved licensed plan'*

The current licence is for both on and off sales.

### 2.3 The above changes to the licence would permit off-sales in closed containers to anybody and off-sales in open containers only to those persons seated in the designated area. It should be noted that although the proposed tables and chairs are to be placed on private land, the land has also been designated as City Walkway. Therefore, in order to be able to use any tables and chairs within the designated area a separate licence would have to be obtained e.g. a pavement licence. Full details of the application are contained in the copy of the Application Form at Appendix 1.

- 2.4 The Operating Schedule submitted by the applicant suggests no further steps necessary in order to promote the licensing objectives.

### **3 Licensing History of Premises**

- 3.1 The premises received a premises licence on 9<sup>th</sup> January 2020.
- 3.2 A copy of the current premises licence and conditions can be seen as Appendix 2 and 3 respectively.

### **4 Representations From Other Persons**

- 4.1 There are no representations from ‘other persons’.

### **5 Representations from Responsible Authorities**

- 5.1 There has been one representation from the Environmental Health Pollution Team against the granting of the variation. The representation against granting the variation is made on the basis that if granted it will undermine the licensing objective of ‘the prevention of public nuisance’.
- 5.2 The representation can be seen as Appendix 4.

### **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.

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.

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

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 ten 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 2018):

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 as Appendix 5. 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 The amended plan of the premises is attached as Appendix 6. The part of the plan of relevance to this application is the second drawing from the top entitled 'Ground Floor Level Licensing Plan'. This differs from the original by the addition of a small rectangle towards the left hand side of this drawing which depicts the outside servery/bar.

## **8 Summary**

- 8.1 The Licensing Authority has a duty under the Licensing Act 2003 to promote the Licensing Objectives.
- 8.2 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 Public Notices**

- 9.1 The statutory blue public notice was duly exhibited at the premises as evidenced by a photograph attached as Appendix 7 and verified to be accurate by a Licensing Officer.

## **10 Options**

- 10.1 The Sub-committee must, having regard to the representations, take such of the following steps as it considers appropriate and necessary for the promotion of the licensing objectives:

- i) modify the conditions of the licence; or
- ii) reject the whole or part of the application

Any determination by the licensing sub-committee will not have effect until the end of 21 days following notification of the decision to the applicant by the licensing authority or, in the event of an appeal to the Magistrates' Court against the Sub-Committee's decision, the determination of the appeal.

For the purposes of paragraph 10.1(i) conditions are modified if any of them are altered or omitted or any new condition is added.

## **11 Recommendation**

11.1 It is therefore RECOMMENDED that your Sub-Committee determine this application for a variation of a premises licence in accordance with paragraph 10 of this report.

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## **Background Papers**

<u>BACKGROUND PAPERS</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 2018	MCP	3rd Floor Guild Hall  <a href="#">Statutory Guidance</a>