

## City of London Corporation Committee Report

<b>Committee(s):</b> Licensing Sub-Committee	<b>Hearing Date:</b> 11/11/2024
<b>Subject:</b> <b>Licensing Act 2003 - Public Hearing in Respect of an Application for the Grant of a Premises Licence</b>	<b>Public report:</b> For Decision
<b>Name of Premises</b>	Forge
<b>Address of Premises</b>	24 Cornhill, London, EC3V 3ND
<b>Ward</b>	Walbrook
<b>This proposal:</b> <ul style="list-style-type: none"><li>• <b>provides statutory duties</b></li></ul>	To determine an application for a Premises Licence in line with the duties under the Licensing Act 2003 to promote the licensing objectives
<b>Does this proposal require extra revenue and/or capital spending?</b>	No
<b>Report of:</b>	Katie Stewart – Executive Director Environment
<b>Report author:</b>	Robert Breese

### Summary

The purpose of this sub-committee is to consider and determine, by public hearing, an application for the grant of a premises licence under the provisions of the Licensing Act 2003, taking into consideration the representations of other persons, as detailed in paragraph 4, together with policy considerations detailed in paragraph 8 of this report.

### Recommendation(s)

Members are asked to:

- Determine this application for the grant of a premises licence under the provisions of the Licensing Act 2003 and in accordance with paragraph 10 of this report.
- 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.

# Main Report

## 1. Background

1.1. An application made by:

**Stonegate Pub Company Limited**  
**3 Monkspath Hall Road**  
**Solihull**  
**B90 4SJ**

was received by the City of London licensing authority on 18 September 2024 for the grant of a premises licence in respect of the premises:

**Forge, 24 Cornhill, London, EC3V 3ND**

1.2. Full details of the application can be seen as Appendix 1.

1.3. The proposed application is a 'shadow' premises licence application, with the proposed licence holder the same as the licence holder for the current licence held at the premises – Stonegate Pub Company Limited. Therefore, it would facilitate a premises licence to allow the sale of alcohol, live music, recorded music, perform dance, similar to (e) (f) (g) and late night refreshment. The licence intended to be 'shadowed' can be seen as Appendix 1 (a).

1.4. The application seeks permission for:

(a) the sale of alcohol for consumption on and off the premises

(b) regulated entertainment in the form of live music, recorded music, perform dance and similar to (e) (f) (g).

(c) the provision of late-night refreshment

1.5. The hours applied for each activity in the application are shown in column 2 of the table below.

<u>Activity</u>	<u>Proposed licence application</u>
Supply of alcohol for consumption on and off the premises	Mon–Fri - 10:00-03:00 Sat -10:00-04:00 Sun – 12:00-00:00

Provision of Live Music	Mon–Fri - 10:00-03:00 Sat -10:00-04:00 Sun – 12:00-00:00
Provision of Recorded Music	Mon–Fri - 10:00-03:00 Sat -10:00-04:00 Sun – 12:00-00:00
Perform Dance	Mon–Fri - 10:00-03:00 Sat -10:00-04:00 Sun – 12:00-00:00
Similar to (e) (f) (g)	Mon–Fri - 10:00-03:00 Sat -10:00-04:00 Sun – 12:00-00:00
Late Night Refreshment	Mon–Fri - 23:00-03:00 Sat -23:00-04:00 Sun – 23:00-00:00
Opening Hours	Mon–Fri - 10:00-03:00 Sat -10:00-04:00 Sun – 12:00-00:00

## 2. Shadow Licences

2.1. The term ‘Shadow Licence’ is used in practice but has no legal definition. It is used to describe a licence which has been obtained by one party in respect of a premises to which another licence has already been granted, on the same or similar terms as the first licence.

2.2. The most common reason for this would be to protect the landlord in case the tenant surrenders the licence without giving the landlord any notice, if the licence lapses, or if review proceedings are brought against the licence and the licence is revoked and the landlord has no knowledge of this. In such a scenario there is a primary or live licence operated usually by a tenant and the ‘shadow licence’ is an additional licence often held by the landlord which sits behind the primary licence.

2.3. The point of difference with this application is that the proposed licence holder is the same as the licence holder for the current licence held at the premises – Stonegate Pub Company Limited.

2.4. There is no restriction in the Licensing Act 2003 for there to be only one licence in effect at the same premises. However, if there is more than one licence in

effect, there would need to be clarity as to which licence is in use at any one time.

- 2.5. Any application made is to be considered on its particular merits with respect to promoting the licensing objectives.

### 3. Deregulation considerations

- 3.1. The applicant has applied for Live Music and Recorded Music with some part of the hours applied for before 23:00 hours.

- 3.2. The following sections/paragraphs of the statutory guidance issued under S182 of the Licensing Act 2003 are particularly relevant to this part of the application (revised December 2022):

Paragraph 16.6 - As a result of deregulatory changes that have amended the 2003 Act, no licence permission is required for the following activities:

**Live music:** when a performance of unamplified live music takes place between 08.00 and 23.00 on any day, on any premises. When a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500, and alcohol is available for sale for consumption on those premises in accordance with the existing premises licence.

**Recorded music:** any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500, and alcohol is available for sale for consumption on those premises in accordance with the existing premises licence.

Paragraph 16.36 – Any conditions added on a determination of an application for a premises licence, which relate to live music or recorded music, are suspended between the hours of 08.00 and 23.00 on the same day where the following conditions are met:

at the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises; if the music is amplified, it takes place before an audience of no more than 500 people; and the music takes place between 08.00 and 23.00 on the same day.

- 3.3. In respect of this application, it can be noted that the proposed sale or supply of alcohol for consumption on the premises is from 10:00 hours until at least 00:00 hours daily. In line with 3.2 above, permission for regulated entertainment is not required for live unamplified music until 23:00 hours. Permission is not required

for live amplified music or recorded music until 23:00 hours subject to an audience of less than 500 persons. Where the audience capacity is more than 500 persons, live amplified music and recorded music is always regulated. Any conditions added on the determination of this application for a premises licence which relate to live or recorded music will remain in place but are suspended before 23:00 hours when the criteria in paragraph 3.2 are met.

## **4. Representations**

### **Representations from Responsible Authorities**

4.1. There are no representations from 'responsible authorities' in respect of this application.

### **Representations from 'Other Persons'**

4.2. There is one representation from 'other persons'. This representation seeks for the application to be either rejected or restricted, on the basis that granting the licence as applied for would undermine the licensing objectives of crime and disorder and public safety.

4.3. This representation can be seen in full as Appendix 2.

4.4. Attempts at mediation were made by the Licensing Authority when the representation was received, and discussion included the nature of 'shadow licences'. It was clear that the representation would not be withdrawn, with the contention that the licence should not be allowed to be 'shadowed'.

4.5. Attempts at mediation were also made by the applicant solicitor, but the representation wasn't withdrawn, with issues noted regarding Stonegate's alleged past management failures at the premises. By way of clarification, the applicant solicitor stated that Stonegate are now solely the landlords of that building, and they want the 'shadow licence' as the current licence is to be used by another party/tenant operator and transferred. So the purpose of this application is to better protect the Landlord applicant's interest in the property by way of a duplicate 'shadow premises licence' providing a safety-net in the event of any adverse effect upon the primary licence such as lapse due to insolvency of the tenant operator.

## **5. Conditions**

### **Conditions drawn from the Operating Schedule**

5.1. The operating schedule submitted with the applications suggests steps intended to be taken to promote one or more of the four licensing objectives. Conditions that are consistent with the steps described in the operating schedule and appropriate for the promotion of the licensing objectives can

be included on the premises licence. A summary of such conditions is attached as Appendix 3.

5.2. It can be noted that the conditions 1-15 as proposed in Appendix 3 mirror the conditions attached to the current licence, as shown in Appendix 1 (a).

### **Conditions agreed with Responsible Authorities**

5.3. At the start of the period for representations conditions were agreed between the applicant and the City of London Licensing Team, and the application amended to include these conditions. These conditions are detailed in Appendix 3, and are consistent with conditions the City of London Licensing Team seek to attach to all 'shadow licences' to provide clarity as to which licence is in use at the premises.

## **6. Licensing/Planning History of Premises**

6.1. The premises operating as Forge (previously Abacus), 24 Cornhill has been in use as a restaurant/nightclub for more than 10 years.

6.2. The Planning Officer states that the application does not raise any new planning concerns.

## **7. Map and Plans**

7.1. A map showing the location of the premises and detailing terminal hour for alcohol sales and late-night refreshment at nearby premises, is attached as Appendix 4.

7.2. The plan of the premises can be seen as Appendix 5.

## **8. Policy Considerations**

8.1. 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.

### ***City of London Corporation's Statement of Licensing Policy (2022)***

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

Pages 15-17 address the licensing objective 'The prevention of crime and disorder' and pages 22-25 address the licensing objective 'The prevention of public nuisance'.

Paragraph 92 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.

Paragraph 92 also states an overriding policy principle namely, that each application will be determined on its individual merits.

Certain aspects of paragraphs 97 – 99 are relevant as they address the need of care when controlling noise from those persons leaving a premises – which can apply equally to staff at the premises.

Paragraph 104 considers various factors that should be taken into account when considering whether any licensable activity should be permitted.

Paragraphs 138-144 (Section 13) state the City of London 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**

8.2. The following sections/paragraphs of the statutory guidance issued under S182 of the Licensing Act 2003 are particularly applicable to this application (revised December 2022):

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.*' To which is added; '*Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.*'

### **9. Corporate & Strategic Implications**

Strategic implications – Dynamic economic growth, vibrant thriving destination, providing excellent services.

Financial implications - none

Resource implications - none

Legal implications – see paragraph 11.2 below.

Risk implications - none

Equalities implications – none

Climate implications - none

Security implications - none

## **10. Options**

10.1. 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 City of London 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 of London.

10.2. 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:

- (a) 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;
- (b) exclude from the scope of the licence any of the licensable activities to which the application relates;
- (c) to refuse to specify a person in the licence as the designated premises supervisor;
- (d) reject the application

For the purposes of paragraph 10.2 (a) conditions consistent with the operating schedule are modified if any of them are altered or omitted or any new condition is added.

## **11. Conclusion**

11.1. The Sub-Committee must determine this application for a new premises licence in accordance with paragraph 10 of this report.

11.2. Where a licensing authority takes one or more of the steps stated in paragraph 10.2 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.



## Appendices

- Appendix 1 – Application Form
- Appendix 1 (a) – Current Licence
- Appendix 2 – Representations
- Appendix 3 – Conditions
- Appendix 4 – Map of Nearby Premises and Terminal Hours
- Appendix 5 – Plan

## Background Papers

<u>BACKGROUND PAPER</u>	<u>DEPT</u>	<u>FILE</u>
Corporation of London Statement of Licensing Policy (revised Jan 2022)	MCP	3rd Floor Guildhall
Statutory Guidance – ‘Revised Guidance Issued Under Section 182 Of The Licensing Act 2003’. (December 2022)		<a href="#">Statutory Guidance</a>

**Robert Breese**  
Licensing Officer

T: 020 7332 3344

E: [robert.breese@cityoflondon.gov.uk](mailto:robert.breese@cityoflondon.gov.uk)