

Item No. 6.	Classification: Open	Date: 15 February 2024	Meeting Name: Licensing Sub-Committee
Report Title		Licensing Act 2003: Masq London, 201 Tooley Street, London SE1 2JX	
Ward(s) of group(s) affected		London Bridge and West Bermondsey	
From		Strategic Director of Environment, Neighbourhoods and Growth	

RECOMMENDATION

1. That the licensing sub-committee considers an application made by Masq London Ltd to vary the premises licence granted under the Licensing Act 2003 in respect of the premises known as the Masq London, 201 Tooley Street, London SE1 2JX.
2. Notes:
 - a) The application seeks to vary the premises licence held in respect of the premises known as the Masq London, 201 Tooley Street, London SE1 2JX under section 34 of the Licensing Act 2003. Existing permitted licensable activities are not under consideration at this meeting. The variation application is subject to representations submitted by two responsible authorities and 48 'other persons' and is therefore referred to the licensing sub-committee for determination.
 - b) Paragraphs 8 to 10 of this report provides a summary of the current premises licence issued in respect of the premises. A copy of the current premises licence is attached at Appendix A.
 - c) Paragraphs 11 to 16 of this report provide a summary of the application. A copy of the application is attached to this report at Appendix B.
 - d) Paragraphs 16 to 41 of this report deal with the representations submitted in respect of the application. Copies of the representations are attached to this report at Appendices C and D.
 - e) Paragraphs 45 to 61 provide a history of the premises. Details of temporary event notices are at Appendix E, a list of complaints at Appendix F, council night time economy (NTE) visits and warning letters at Appendix G
 - f) Paragraphs 62 provides a list of some similar premises in the vicinity of the application. A showing the location of the premises is in Appendix H.
 - g) A copy of the council's approved procedure for hearings of the sub-committee in relation to an application made under the Licensing Act 2003, along with a copy of the hearing procedure, has been circulated to all parties to the meeting.

BACKGROUND INFORMATION

The Licensing Act 2003

3. The Licensing Act 2003 provides a licensing regime for:
 - The sale of and supply of alcohol
 - The provision of regulated entertainment
 - The provision of late night refreshment.
4. Within Southwark, the licensing responsibility is wholly administered by this council.
5. The Act requires the licensing authority to carry out its functions under the Act with a view to promoting the four stated licensing objectives. These are:
 - The prevention of crime and disorder
 - The promotion of public safety
 - The prevention of nuisance
 - The protection of children from harm.
6. In carrying out its licensing functions, a licensing authority must also have regard to:
 - The Act itself
 - The guidance to the act issued under Section 182 of the Act
 - Secondary regulations issued under the Act
 - The licensing authority's own statement of licensing policy
 - The application, including the operating schedule submitted as part of the application
 - Relevant representations.
7. The premises licence application process involves the provision of all relevant information required under the Act to the licensing authority with copies provided by the applicant to the relevant responsible bodies under the Act. The application must also be advertised at the premises and in the local press. The responsible authorities and other persons within the local community may make representations on any part of the application where relevant to the four licensing objectives.

KEY ISSUES FOR CONSIDERATION

The current premises licence

8. The current version of the premises licence issued in respect of the premises known as the Masq London, 201 Tooley Street, London SE1 2JX was issued on 29 October 2020 and allows the following licensable activities:
 - Live music (indoors):
 - Sunday to Thursday: 18:00 to 23:00
 - Friday and Saturday: 18:00 to 00:00

- Recorded music (indoors):
 - Sunday to Thursday: 18:00 to 23:00
 - Friday and Saturday: 18:00 to 00:00
 - Performance of dance (indoors):
 - Sunday to Thursday: 18:00 to 23:00
 - Friday and Saturday: 18:00 to 00:00
 - Anything similar in description to the above (indoors):
 - Sunday to Thursday: 18:00 to 23:00
 - Fridays and Saturday: 18:00 to 00:00
 - The supply of alcohol (on the premises):
 - Sunday to Thursday: 09:00 to 22:30
 - Fridays and Saturday: 09:00 to 23:00
 -
 - The supply of alcohol (off the premises):
 - Sunday to Thursday: 09:00 to 23:00
 - Fridays and Saturday: 09:00 to 00:00
 - Late night refreshment:
 - Fridays and Saturday: 23:00 to 00:00
 - Opening hours:
 - Sunday to Thursday: 08:00 to 23:00
 - Fridays and Saturday: 08:00 to 00:00
 - Live music, recorded music, performance of dance and anything of a similar description to live music; recorded music and performance of dance:
 - Boxing day, New Year's Eve and New Year's Day: 18:00 to 03:00.
9. A copy of the existing premises licence, notice of decision and dispersal policy are attached as appendix A.
10. The premises is currently described as a bar.

The variation application

11. On 7 December 2023 Masq London Ltd applied to this council to vary the premises licence granted under the Licensing Act 2003 in respect of the premises known as Masq London, 201 Tooley Street, London SE1 2JX. The premises licence

application was postponed as the blue premises posters were not displayed and the application was accepted on 25 December 2023.

12. The application is summarised by the applicant as follows:

“MASQ LONDON currently close for business at 23:00 on Sundays to Thursdays 00:00 on Fridays & Saturdays.

All public holidays are normal closing hours, with exception of 3am closing time on these three days December 26th, December 31st and January 1st.

We want to vary these timings.

We wish to extend the closing time by 1hr to 00:00 on Sundays to Thursdays 01:00 on Fridays & Saturdays.

And we want the 3am closing time on these three days to remain the same. December 26, December 31 and January 1.

And Sale by retail of alcohol to be consumed on premises to Stop 30 minutes before closing time.

When we initially applied for our premises licence in 2010, with the then officer Jayne Tear offering that we choose to close at 12am or 1am on Fridays & Saturdays, but we chose 12am thinking that will work with our business model.

At the moment, we rarely get any single bookings on Sundays to Thursdays. We only get bookings on Friday and Saturday, with many customers cancelling or doubling down on their first line of enquiry when they find out that we close at 12am, with almost all the lost bookings taking preference on wanting to go ahead with the booking if we the closing time can be extended to 1am for them.

Turning tables is the most efficient way for restaurants to earn money. A cover refers to a paying customer. A cover count or cover in a restaurant is defined as the number of people or guests served during a particular period of time. Increasing the amount of covers by turning tables allows restaurants to serve more customers leading to higher profits.

At MASQ, 90% of our weekend bookings start from about 8pm. Which means that we can not turn tables/ covers in a single day. So we are stuck with a single booking from 8pm to 12am.

Closing at 1am will help us at least turn tables twice and maximise our covers, and see a higher cover count on weekends, and thereby ultimately giving us higher revenue.

This closing time variation is necessitated by the lack of reasonable customer patronage, lack of Sunday to Thursdays patronage, the ability to not be able to turn the tables around when we do finally have patrons on weekends, as a result of customers booking tables from about 8pm upwards.

The 1 hour extension variation, will be on the same level as some other restaurants in the vicinity including the JD-WETHERSPOONS that is next door to us.

The closing time option that we chose from our initial Premises License application in 2020 has failed our business model woefully, and we have been suffering the consequences of the option that we chose.

As a result of these consequences, we are lacking and failing to satisfy our monthly financial commitments on Loans we took out on our all our properties as well as multiple bank and business finance Loans that we took out to set up the business, which is further more putting us into further debt by seeking additional loans from friends and family to meet up with some monthly financial commitments. All our properties and this business is now at risk.

It has now gotten to a point where the business is not sustainable, and will inevitably close down in couple of months unless we have a radical change or total business model overhaul.

Based on the business experience and trading history that we have had so far since we had the Premises license from October 2010, we strongly believe that 1am extension on the closing time will help boost our business to great heights and increase revenue.”

13. The application also describes each of the activities.
14. The application asks to increase the closing time for the premises and the end time of most licensable activities by one hour, detailed as follows:
 - Live music (indoors):
 - Sunday to Thursday: 18:00 to 00:00
 - Fridays and Saturday: 18:00 to 01:00
 - Recorded music (indoors):
 - Sunday to Thursday: 18:00 to 00:00
 - Fridays and Saturday: 18:00 to 01:00
 - Performance of dance (indoors):
 - Sunday to Thursday: 18:00 to 00:00
 - Fridays and Saturday: 18:00 to 01:00
 - Anything similar in description to the above (indoors):
 - Sunday to Thursday: 18:00 to 00:00
 - Fridays and Saturday: 18:00 to 01:00

- The supply of alcohol (on the premises):
 - Sunday to Thursday: 09:00 to 23:30
 - Fridays and Saturday: 09:00 to 00:30
 - The supply of alcohol (off the premises):
 - Sunday to Thursday: 09:00 to 23:30
 - Fridays and Saturday: 09:00 to 00:30
 - Late night refreshment:
 - Fridays and Saturday: 00:00 to 01:00
 - Opening hours:
 - Sunday to Thursday: 08:00 to 00:00
 - Fridays and Saturday: 08:00 to 01:00.
15. The application does not make any changes to the existing none standard timings.
16. A copy of the application is attached to this report as Appendix B.

Representations from responsible authorities

17. Representations were submitted by the Metropolitan Police Service and the council's licensing authority.
18. The police representation states that the initial application in 2020 was for a 03:00 closing time at the weekends. These hours were considerably greater than the hours recommended for bars and restaurants under Southwark's statement of licensing policy.
19. Through the consultation process it was agreed that if the premises wanted to operate as a bar and restaurant, with regulated entrainment, then the closing time should be 00:00. If the premises were to operate as a restaurant with the licence conditions restricting them to operate as a restaurant then they could extend the hours until 01:00.
20. The applicant agreed a time closing of midnight as they wished to have the flexibility to operate as a bar. The hours applied for are in line with those recommended for restaurants. The applicants have not offered any additional control measures to restrict the use of the premises to that of a restaurant.
21. The variation hours currently applied for are in line with those recommended for restaurants. The applicants have not offered any additional control measures to restrict the use of the premises to that of a restaurant. The police recommend 14 additional conditions should the variation application be granted, primarily to assist with the control of patrons attending the premises and includes a condition preventing alcohol to be sold except with a table meal.

22. The police also state that the premises has been the subject of a number of complaints from local residents with regard to anti-social behaviour and disturbance from patrons leaving the venue after midnight. Some of these complaints seem to coincide with temporary events submitted by the premises with a later finishing time.
23. The licensing representation objects to the grant of the variation application under the licensing objectives for prevention of public nuisance and prevention of crime and disorder.
24. The representation describes the location of the premises and states that the area has a large amount high-density residential housing estates/blocks in the immediate and wider vicinity of the premises in all directions.
25. The representation states that, according to section 7 of this council's statement of licensing policy the premises are not subject to a cumulative impact area. The premises fall within Borough and Bankside District Town Centre with the following recommended closing times:
 - Restaurants and cafes:
 - Sunday to Thursday: 00:00
 - Friday and Saturday: 01:00
 - Public houses, wine bars, or other drinking establishments and bars in other types of premises:
 - Sunday to Thursday: 23:00
 - Friday and Saturday: 00:00.
26. The licensing authority representation also introduces eleven unsubstantiated (as the complaint is received after the event/incident) complaints made to the licensing team regarding public nuisance, anti-social behaviour and parking issues that are indicative of the operation of the premises and the affect it has on local residents.
27. Should members be minded to grant the application the licensing authority recommends 11 new and amended conditions primarily to assist with the control of patrons attending the premises.
28. A copy of the representations from the responsible authorities are attached as Appendix C.

Representations from other persons

29. 48 representations have been submitted by 'other persons'. Some of the representations include more than one person. Representations are predominantly from residents in the area. The representations also include ward councillors, the Shad Thames Residents Association, the building manager of Boss House and a commercial business.

30. The premises sits in the London Bridge and West Bermondsey ward on the boundary with the North Bermondsey ward and the ward councillors from both wards have made representations.
31. London Bridge and West Bermondsey councillors (other person(s) 25) state that they have received numerous emails from residents of Shad Thames over the last 12 months concerning disturbances from Masq. These reported disturbances consist of patrons exiting the establishment and causing severe noise nuisance through shouting, playing music from vehicles, and congregating outside or near to residents' residences, which impacts on the sleep, wellbeing and feeling of safety of these residents.
32. Residents also reported their attempts to engage with these patrons have been met with hostility. Masq patrons cause disturbance to them. Public safety and crime and disorder issues have also been reported. These include patrons using foul language, a number of fights with at least one individual observed carrying a knife, public consumption of drugs and alcohol and littering.
33. The Councillors ask that the application is not granted until such time as the premises can show that they can operate to a later hour without causing public nuisance, public safety and crime and disorder issues.
34. North Bermondsey Ward Councillors (other person(s) 36) state that they have received correspondence from a large number of residents with multiple concerns raised with both since and prior to this variation was applied for.
35. Their representation is based on all four of the licensing objectives, prevention of public nuisance, prevention of crime and disorder, public safety and the prevention of harm to children.
36. They state that residents nearby the MASQ London premises have been experiencing anti-social behaviour and nuisance from patrons of the premises from loud music from vehicles of patrons, shouting and rowdy patrons, public urination and littering including of drug paraphernalia. Additionally there are regular fights and brawls breaking out between patrons of the venue, patrons congregating outside and on Tower Bridge Road itself, forcing cars to one lane of the road, and glass bottle being thrown at nearby buildings. These issues have the potential to disturb the sleep of young children, particularly when there are issues with noise and other anti-social behaviour.
37. The councillors also state that these disturbance for residents have been exacerbated by later closings at MASQ London under temporary events notices, which demonstrates that later closing hours for the premises would not be appropriate and would cause an unnecessary amount of noise and disturbance for local residents and that the variation application should be refused.
38. The Shad Thames Residents Association representation (other person 23) is made under all four of the licensing objectives. It states that residents have contacted them regarding anti-social behaviour including drug taking and fighting. Masq patrons often congregate around vehicles parked in Shad Thames for extended periods after leaving the venue, playing loud music, shouting, and sometimes taking drugs. This

generates significant public nuisance waking residents who are then kept awake by the noise and music.

39. It also says that children walking to school through Shad Thames must navigate around alcoholic drinks, broken glass, and the remnants of drugs left littering the street after these late-night parties. Shad Thames also has no public toilets to accommodate individuals who party late into the morning on the pavements, resulting in public urination and defecation on our pavements by Masq patrons who have left and continue to party near parked cars in Shad Thames.
40. The representation also provides evidence in some copies of noise reports submitted to them, regarding Masq, using their noise reporting tool.
41. A number of the residents' representations provide personal experiences, evidence and detail on the issues described above. Evidence provided includes adverts for events at Masq, photographs of patrons in the street and video recordings are also available. All of the representations ask for the variation application not to be granted.
42. Copies of the representations submitted by the other persons are attached to this report at Appendix D.

Conciliation

43. The representations were provided to the applicant, who was advised that the applicant could provide a reply to the representations if the applicant so wished.
44. At the time of the writing of this report all of the representations remain outstanding and so must be considered by the licensing sub-committee in their determination of the application.
45. The licensing sub-committee will be apprised as to any conciliation.

Premises licensing history

46. The premises was built around 1900 as a bank and is currently a Grade 2 listed building. A planning change of use to A3/A4 use was granted on 22 April 2020 with a condition on hours of use as follows:
 - The use hereby permitted for A3 and A4 purposes shall not be carried on outside of the hours of:
 - 08:00 to 23:30 on Monday to Friday
 - 08:00 to 00:00 on Saturday
 - 08:00am to 23:00 on Sunday and Bank Holiday.
47. A3 and A4 are now revoked and replaced and the new classes are:
 - A3 – E(b) Sale of food and drink for consumption (mostly) on the premises
 - A4 – Sui Generis - public houses, wine bars or other drinking establishments

48. Planning decisions are not binding on licensing decisions, however revised guidance for local authorities, under Section 182 of the Licensing Act 2003 states at paragraph 9.41 that:
- “..the decision of the licensing authority will not exempt an applicant from the need to apply for building control approval, planning permission or both of these where appropriate”.
49. Additionally section 14.66 of the 182 guidance states that:
- “There are circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee”
50. The original premises licence in respect of the premises was applied for on 3 September 2020. The applications received representations from two responsible authorities (the police and the council’s licensing authority) and three other persons.
51. Both responsible authorities conciliated with a reduction of operating times, additional conditions including a dispersal policy. Two of the remaining resident representations continued regarding the closing hours on non-standard timings for Boxing day, New Year’s Eve and New Year’s Day at 03:00.
52. The application was determined at a meeting of the licensing sub-committee on 29 October 2020. The application was granted as conciliated. A copy of the notice of decision is provided with the premises licence at Appendix A.
53. There have been a number of temporary event notices (TENs) submitted in respect of the premises since August 2022.
54. Details of these TENs can be seen at Appendix E.
55. There have been 15 complaints received by the council regarding public nuisance and other issues that are associated to the operation of the premises.
56. The first four complaints seem to relate to an alleged unlicensed event in July 2022. Other complaints were received following weekends where temporary events were in place. The complaints are mainly concerned with noise and anti-social behaviour from Masq patrons in the street and parking issues.
57. A list of the complaints are provided at Appendix F.
58. Council officers have made 11 licensing visits during the night time economy to the premises. On two occasions the premises were found to have be in breach of their

licence conditions. Two warning letters were sent to the premises licence holder and the designated premises supervisor.

59. Details of the visits and copies of the warning letters can be found at Appendix G.
60. The licensing team arraigned for a joint visit of Council civil enforcement officers and NTE Police to provide support on Friday 8 December into Saturday 9 December 2023. Officers visited the area between 11.30pm and 1.30am where over 15 vehicles were moved, no penalty charge notices (PCNs) were issued as drivers consented to move their vehicles.
61. The licensing team also arranged for TfL enforcement officers to visit the area on Saturday 20th into Sunday morning 21 January 2024. The officer visited between 21:30 and 01:30. Officers engaged with the premises SIA and patrons arriving in cars. Two PCNs were issued.
62. Both these visits coincided with and extension of hours under a TEN at Masq London.

Map

63. A map showing the location of the premises is attached to this report as appendix G. The following premises are also shown on the map and are permitted to provide licensable activities as stated:

Premises	Opening hours	Alcohol sales	Late night refreshment	Live/recorded music
SHIPWRIGHTS ARMS Tooley Street SE1 2TF	Mon 10:00 - 00:00 Tue 10:00 - 00:00 Wed 10:00 - 00:00 Thur 10:00 - 00:00 Fri 10:00 - 01:00 Sat 10:00 - 01:00 Sun 12:00 - 23:00	Mon 10:00 - 00:00 Tue 10:00 - 00:00 Wed 10:00 - 00:00 Thur 10:00 - 00:00 Fri 10:00 - 01:00 Sat 10:00 - 01:00 Sun 12:00 - 23:00	Mon 23:00 - 00:00 Tue 23:00 - 00:00 Wed 23:00 - 00:00 Thur 23:00 - 00:00 Fri 23:00 - 01:00 Sat 23:00 - 01:00	Mon 10:00 - 00:00 Tue 10:00 - 00:00 Wed 10:00 - 00:00 Thur 10:00 - 00:00 Fri 10:00 - 01:00 Sat 10:00 - 01:00 Sun 12:00 - 23:00
Pommelers Rest 192-196 Tower Bridge Road SE1 2UN	Mon 07:00 - 01:30 Tue 07:00 - 01:30 Wed 07:00 - 01:30 Thur 07:00 - 01:30 Fri 07:00 - 02:00 Sat 07:00 - 02:00 Sun 07:00 - 01:30	Mon 09:00 - 00:30 Tue 09:00 - 00:30 Wed 09:00 - 00:30 Thur 09:00 - 00:30 Fri 09:00 - 01:00 Sat 09:00 - 01:00 Sun 09:00 - 00:30	Mon 23:00 - 00:30 Tue 23:00 - 00:30 Wed 23:00 - 00:30 Thur 23:00 - 00:30 Fri 23:00 - 01:00 Sat 23:00 - 01:00 Sun 23:00 - 00:30	
Draft House 206-208 Tower Bridge Road SE1 2UP	Mon 08:00 - 01:00 Tue 08:00 - 01:00 Wed 08:00 - 01:00 Thur 08:00 - 01:00 Fri 08:00 - 02:00 Sat 08:00 - 02:00 Sun 10:00 - 23:30	Mon 08:00 - 00:30 Tue 08:00 - 00:30 Wed 08:00 - 00:30 Thur 08:00 - 00:30 Fri 08:00 - 01:30 Sat 08:00 - 01:30 Sun 10:00 - 23:00	Mon 23:00 - 00:30 Tue 23:00 - 00:30 Wed 23:00 - 00:30 Thur 23:00 - 00:30 Fri 23:00 - 01:30 Sat 23:00 - 01:30	Mon 12:00 - 00:30 Tue 12:00 - 00:30 Wed 12:00 - 00:30 Thur 12:00 - 00:30 Fri 12:00 - 01:30 Sat 12:00 - 01:30 Sun 12:00 - 23:00

Premises	Opening hours	Alcohol sales	Late night refreshment	Live/recorded music
Two Bridges, 186 Tooley Street SE1 2TZ	Mon 08:00 - 01:30	Mon 10:00 - 01:00	Mon 23:00 - 01:00	Mon 10:00 - 00:00
	Tues 08:00 - 01:30	Tues 10:00 - 01:00	Tues 23:00 - 01:00	Tues 10:00 - 00:00
	Wed 08:00 - 01:30	Wed 10:00 - 01:00	Wed 23:00 - 01:00	Wed 10:00 - 00:00
	Thur 08:00 - 01:30	Thur 10:00 - 01:00	Thur 23:00 - 01:00	Thur 10:00 - 00:00
	Fri 08:00 - 01:30	Fri 10:00 - 01:00	Fri 23:00 - 01:00	Fri 10:00 - 00:00
	Sat 08:00 - 01:30	Sat 10:00 - 01:00	Sat 23:00 - 01:00	Sat 10:00 - 00:00
	Sun 08:00 - 01:00	Sun 12:00 - 00:30	Sun 23:00 - 00:30	Sun 12:00 - 00:00

Southwark Council statement of licensing policy

64. Council assembly approved Southwark's statement of licensing policy 2021-2026 on 25 November 2020 and came into effect on 1 January 2021.
65. Sections of the statement that are considered to be of particular relevance to the sub-committee's consideration are:
- Section 3 - Purpose and scope of the policy. This reinforces the four licensing objectives and the fundamental principles upon which this Authority relies in determining licence applications
 - Section 5 – Determining applications for premises licences and club premises certificates. This explains how the policy works and considers issues such as location; high standards of management; and the principles behind condition setting.
 - Section 6 – Local cumulative impact policies. This sets out this authority's approach to cumulative impact and defines the boundaries of the current special policy areas and the classifications of premises to which they apply. To be read in conjunction with appendix B to the policy.
 - Section 7 – Hours of operation. This provides a guide to the hours of licensed operation that this Authority might consider appropriate by type of premises and (planning) area classification.
 - Section 8 – The prevention of crime and disorder. This provides general guidance on the promotion of the first licensing objective.
 - Section 9 – Public safety. This provides general guidance on the promotion of the second licensing objective.
 - Section 10 – The prevention of nuisance. This provides general guidance on the promotion of the third licensing objective.
 - Section 11 – The protection of children from harm. This provides general guidance on the promotion of the fourth licensing objective.
66. The purpose of Southwark's statement of licensing policy is to make clear to applicants what considerations will be taken into account when determining applications and should act as a guide to the sub-committee when considering the

applications. However, the sub-committee must always consider each application on its own merits and allow exceptions to the normal policy where these are justified by the circumstances of the application.

67. Members should take into consideration both the Southwark Statement of Licensing Policy and the Section 182 Guidance when making decisions. The links for these are below:

Southwark Policy:

<https://www.southwark.gov.uk/business/licences/business-premises-licensing/licensing-and-gambling-act-policy>

Section 182 Guidance:

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

Cumulative impact area (CIA)

68. The premises are not situated in a cumulative impact area.
69. The premises also falls within South Bank Strategic Cultural Quarter and London Bridge District Town Centre Area.
70. The Southwark statement of licensing policy states at paragraph 178 with regard to strategic cultural areas that It is recognised that these areas, although of mixed use, have a high residential usage and consideration for the later hours beyond should be accompanied by evidence that the proposal is intended to enhance the provision of arts, culture and tourism in the area.
71. Under the Southwark's statement of licensing policy 2021 - 2026 the following closing times are recommended as appropriate within this area for the categories of premises stated:
- Restaurants and cafes:
 - Sunday to Thursday: 00:00
 - Friday and Saturday: 01:00
 - Public houses, wine bars, or other drinking establishments and bars in other types of premises:
 - Sunday to Thursday: 23:00
 - Friday and Saturday: 00:00.

Climate change implications

72. Following council assembly on 14 July 2021, the council is committed to considering the climate change implications of any decisions.

73. Climate change is not a legal factor in the consideration of a grant of a premises license under the current licensing objectives, however members can make enquiries and request an agreement from applicants to promote the reduction of the impact of climate change that may be caused by the operation of the premises.

74. Examples of such agreements may be:

- Not use single use plastics, such as disposable plastic glasses, when selling alcohol at the premises.
- Encourage patrons not to drive to venues by providing details of public transport on their webpages/tickets.

75. The council's climate change strategy is available at:

<https://www.southwark.gov.uk/assets/attach/48607/Climate-Change-Strategy-July-2021-.pdf>

Community, equalities (including socio-economic) and health impacts

Community impact statement

76. Each application is required by law to be considered upon its own individual merits with all relevant matters taken into account.

Equalities (including socio-economic) impact statement

77. This report does not result in a policy decision and each application is required to be considered upon its own individual merits with all relevant matters taken into account. In considering the recommendations of this report, due regard must be given to the public sector equality duty set out in section 149 of the Equality Act 2010. This requires the Council to consider all individuals when carrying out its functions.

78. Importantly, the council must have due regard to the need to eliminate discrimination, harassment, victimisation, or other prohibited conduct; advance equality of opportunity and foster good relations between people with protected characteristics and those who do not. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. The public sector equality duty also applies to marriage and civil partnership, but only in relation to the need to eliminate discrimination, harassment, victimisation, or other prohibited conduct.

79. The equalities impact statement for licensing decisions is contained within the Southwark statement of licensing policy 2021 – 2026 at:

<https://www.southwark.gov.uk/business/licences/business-premises-licensing/licensing-and-gambling-act-policy>.

80. The equalities impact assessment is available at:

<https://modern.gov.southwark.gov.uk/documents/s92016/appendix%20F%20-%20Equalities%20Impact%20Assessment.pdf>

Health impact statement

81. Health impacts cannot be considered by law when making decisions under the Licensing Act 2003.

Resource implications

82. A fee of £635.00 has been paid by the applicant company in respect of this application being the statutory fee payable for premises within non-domestic rateable value E.

Consultation

83. Consultation has been carried out on this application in accordance with the provisions of the Licensing Act 2003. A public notice was published in a local newspaper and similar notices were exhibited outside of the premises for a period of 28 consecutive days.

Community impact statement

84. Each application is required by law to be considered upon its own individual merits with all relevant matters taken into account.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Assistant Chief Executive – Governance and Assurance

85. The sub-committee is asked to determine the application for a premises licence under Section 17 of the Licensing Act 2003.

86. The principles which sub-committee members must apply are set out below.

Principles for making the determination

87. The sub-committee is asked to determine the application for a premises licence under section 17 of the Licensing Act 2003.

88. The principles which sub-committee members must apply are set out below.

89. The general principle is that applications for premises licence applications must be granted unless relevant representations are received. This is subject to the proviso that the applicant has complied with regulations in advertising and submitting the application.

90. Relevant representations are those which:
- Are about the likely effect of the granting of the application on the promotion of the licensing objectives
 - Are made by an interested party or responsible authority
 - Have not been withdrawn
 - Are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
91. If relevant representations are received then the sub-committee must have regard to them, in determining whether it is necessary for the promotion of the licensing objectives to:
- To grant the licence subject to:
 - The conditions mentioned in section 18 (2)(a) modified to such extent as the licensing authority considers necessary for the promotion of the licensing objectives
 - Any condition which must under section 19, 20 or 21 be included in the licence.
 - To exclude from the scope of the licence any of the licensable activities to which the application relates.
 - To refuse to specify a person in the licence as the premises supervisor.
 - To reject the application.

Conditions

92. The sub-committee's discretion is thus limited. It can only modify the conditions put forward by the applicant, or refuse the application, if it is necessary to do so. Conditions must be necessary and proportionate for the promotion of one of the four licensing objectives, and not for any other reason. Conditions must also be within the control of the licensee, and should be worded in a way which is clear, certain, consistent and enforceable.
93. The four licensing objectives are:
- The prevention of crime and disorder
 - Public safety
 - The prevention of nuisance
 - The protection of children from harm.
94. Members should note that each objective is of equal importance. There are no other licensing objectives, and the four objectives are paramount considerations at all times.
95. Conditions will not be necessary if they duplicate a statutory position. Conditions relating to night café and take away aspect of the license must relate to the night time operation of the premises and must not be used to impose conditions which could not be imposed on day time operators.

96. Members are also referred to the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 on conditions, specifically section 10.

Reasons

97. If the sub-committee determines that it is necessary to modify the conditions, or to refuse the application for a premises licence application, it must give reasons for its decision.

Hearing procedures

98. Subject to the licensing hearing regulations, the licensing committee may determine its own procedures. Key elements of the regulations are that:

- The hearing shall take the form of a discussion led by the authority. Cross examination shall not be permitted unless the authority considered that it is required for it to consider the representations.
- Members of the authority are free to ask any question of any party or other person appearing at the hearing.
- The committee must allow the parties an equal maximum period of time in which to exercise their rights to:
 - Address the authority
 - If given permission by the committee, question any other party.
 - In response to a point which the authority has given notice it will require clarification, give further information in support of their application.
- The committee shall disregard any information given by a party which is not relevant to the particular application before the committee and the licensing objectives.
- The hearing shall be in public, although the committee may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in private.
- In considering any representations or notice made by a party the authority may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.

99. This matter relates to the determination of an application for a premises licence under Section 17 of the Licensing Act 2003. Regulation 26(1) (a) requires the sub-committee to make its determination at the conclusion of the hearing.

Council's multiple roles and the role of the licensing sub-committee

100. Sub-committee members will note that, in relation to this application, the council has multiple roles. Council officers from various departments have been asked to consider the application from the perspective of the council as authority responsible respectively for environmental health, trading standards, health and safety and as the planning authority.
101. Members should note that the licensing sub-committee is meeting on this occasion solely to perform the role of licensing authority. The sub-committee sits in quasi-judicial capacity, and must act impartially. It must offer a fair and unbiased hearing of the application. In this case, members should disregard the council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the licensing law, guidance and the council's statement of licensing policy.
102. As a quasi-judicial body the licensing sub-committee is required to consider the application on its merits. The sub-committee must take into account only relevant factors, and ignore irrelevant factors. The decision must be based on evidence, that is to say material, which tends logically to show the existence or non-existence of relevant facts, or the likelihood or unlikelihood of the occurrence of some future event, the occurrence of which would be relevant. The licensing sub-committee must give fair consideration to the contentions of all persons entitled to make representations to them.
103. The licensing sub-committee is entitled to consider events outside of the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for the same to be relevant. However, if such events are not properly attributable to the premises being open, then the evidence is not relevant and should be excluded. Guidance is that the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activity in the area concerned.
104. Members will be aware of the council's code of conduct which requires them to declare personal and prejudicial interests. The code applies to members when considering licensing applications. In addition, as a quasi-judicial body, members are required to avoid both actual bias, and the appearance of bias.
105. The sub-committee can only consider matters within the application that have been raised through representations from other persons and responsible authorities. Interested parties must live in the vicinity of the premises. This will be decided on a case to case basis.
106. Under the Human Rights Act 1998, the sub-committee needs to consider the balance between the rights of the applicant and those making representations to the application when making their decision. The sub-committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the borough.

107. Other persons, responsible authorities and the applicant have the right to appeal the decision of the sub-committee to the magistrates' court within a period of 21 days beginning with the day on which the applicant was notified by the licensing authority of the decision to be appealed against.

Guidance

108. Members are required to have regard to the Home Office guidance in carrying out the functions of licensing authority. However, guidance does not cover every possible situation, so long as the guidance has been properly and carefully understood, members may depart from it if they have reason to do so. Full reasons must be given if this is the case.

Strategic Director of Finance

109. The head of regulatory services has confirmed that the costs of this process over and above the application fee are borne by the service.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Licensing Act 2003	Southwark Licensing, C/O	Mrs Kirty Read Tel: 020 7525 5748
Home Office Revised Guidance to the Act	Community Safety and Enforcement, 160 Tooley Street, London SE1 2QH	
Secondary Regulations		
Southwark statement of licensing policy		
Case file		

APPENDICES

Name	Title
appendix A	Copy of the current premises licence issued in respect of the premises and notice of decision
appendix B	Copy of the application
appendix C	Copy of the representation submitted by the responsible authorities
appendix D	Copy of the representations submitted by 'other persons'
appendix E	Temporary event notices
appendix F	Complaints received
appendix G	Council Night time economy team visits and warning letters
appendix H	Map showing the location of the premises

AUDIT TRAIL

Lead Officer	Toni Ainge, Acting Strategic Director of Environment, Neighbourhoods and Growth	
Report Author	David Franklin, Principal Licensing Officer	
Version	Final	
Dated	25 January 2024	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Assistant Chief Executive – Governance and Assurance	Yes	Yes
Strategic Director of Finance	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional Team	2 February 2024	