

Item No. 5.	Classification: Open	Date: 18 May 2015	Meeting Name: Licensing Sub-Committee
Report title:		Licensing Act 2003: The Former Harmsworth Print Works, 1 Surrey Quays Road, London, SE16 7ND	
Ward(s) or groups affected:		Surrey Docks	
From:		Strategic Director of Environment and Leisure	

RECOMMENDATION

1. That the licensing sub-committee considers an application made by Future Shorts Limited for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as The Former Harmsworth Print works, 1 Surrey Quays Road, London, SE16 7ND
2. Notes:
 - a) This application forms a new application for a premises licence, submitted under Section 17 of the Licensing Act 2003. The application is subject to representations and is therefore referred to the sub-committee for determination.
 - b) Paragraphs 8 to 11 of this report provide a summary of the application under consideration by the sub-committee. A copy of the full application is attached as Appendix A.
 - c) Paragraphs 12 to 14 of this report deals with the representations submitted in respect of the application. Copies of the representations are attached as Appendices B - D.
 - d) 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 regulations, has been circulated to all parties to the meeting.

BACKGROUND INFORMATION

The Licensing Act 2003

3. The Licensing Act 2003 received royal assent on 10 July 2003. The Act provides a new 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 premises licence application

8. On 24 March 2015 Future Shorts Limited applied to this council for the grant of a new premises licence in respect of the premises known as The Former Harmsworth Print Works, 1 Surrey Quays Road, London, SE16 7ND
9. The application is summarised as follows:
- Films

Monday to Saturday	12.00 to 23.30
Sunday	12.00 to 23.00
 - Live Music

Monday to Saturday	12.00 to 23.30
Sunday	12.00 to 23.00
 - Recorded Music

Monday to Saturday	12.00 to 23.30
Sunday	12.00 to 23.00
 - Performances of Dance

Monday to Saturday	12.00 to 23.30
Sunday	12.00 to 23.00
 - Anything Similar

Monday to Saturday	12.00 to 23.30
Sunday	12.00 to 23.00

- The provision of late night refreshment:

Monday to Saturday	23.00 to 00.00
Sunday	23.00 to 23.30

- The sale of alcohol:

Monday to Saturday	12.00 to 23.30
Sunday	12.00 to 23.00

- Opening hours:

Monday to Saturday	12.00 to 00.00
Sunday	12.00 to 23.30

10. The premises licence application form contains the applicant's operating schedule. Parts A, B, E, F, G, H, I, J, K, L and M set out the proposed operating hours and operational controls measures in full, with reference to the four licensing objectives as stated in the Licensing Act 2003. Should a premises licence be issued in respect of the application the information provided in part M of the operating schedule will form the basis of conditions that will be attached to the licence. A draft transport statement has also been devised in respect of the application. Copies of the application and the draft transport statement are attached to this report as Appendix A.

Designated premises supervisor

11. The proposed designated premises supervisor is Mr. Jeremy Visciano.

Representations from responsible authorities

12. Southwark Police Licensing Office (SPLO) submitted a representation requesting that various control measures be added to the operating schedule of the application and that these measures shall become conditions of any licence issued in regards to the application. After liaising with SPLO the applicant suggested amendments to the conditions proposed by SPLO. SPLO agreed to the amendments and withdrew their representation. A copy of SPLO's representation and related correspondence is attached as Appendix C.
13. This council's Environmental Protection Team (EPT) submitted a representation concerned with the possibility of noise nuisance arising from the proposed operation of the premises and seek further details of dispersal plans and noise monitoring measures to be undertaken. The EPT state:

"...EPT make representation against this application until finalised details of access/egress & dispersal plans are submitted, full details of noise monitoring have been submitted as well as further site-specific measures put forward to ensure the prevention of public nuisance licensing objective will be met to demonstrate that neighbouring residents will not be exposed to noise disturbance from site activities as well as up to 1,500 patrons visiting the site on a regular basis".

The applicant has been liaising with the EPT in an effort to conciliate the EPT and met with the EPT on 29 April 2015 to discuss the EPT's concerns. At the time of writing this report the EPT have not formally withdrawn their representation which remains outstanding and therefore must be considered by the sub-committee. At the

hearing to determine the application the sub-committee will be updated as to any further developments in respect of the EPT's representation. A copy of the EPT's representation is attached as Appendix D.

Representations from other persons

14. One representation has been submitted by a local resident. The representation is concerned with the prevention of public nuisance and the protection of public safety. The local resident would like confirmation that the premises are adequately sound proofed in respect of the proposed operation of the premises and that the premises are safe for the intended numbers of attendees expected at the premises. A copy of the local resident's representation is attached as Appendix B.

Conciliation

15. Southwark Police Licensing Office (SPLO) submitted a representation requesting that various control measures be added to the operating schedule of the application and that these measures shall become conditions of any licence issued in regards to the application. After liaising with SPLO the applicant suggested amendments to the conditions proposed by SPLO. SPLO agreed to the amendments and withdrew their representation.

The applicant met with the EPT on 29 April 2015 in an effort to conciliate the EPT, however at the time of writing this report the EPT had not formally withdrawn their representation which remains outstanding and must be considered by the sub-committee. At the hearing to determine the application the sub-committee will be updated as to any further developments in respect of the EPT's representation.

The applicant has stated that they will provide further information to the local resident in an effort to conciliate the local resident, however at the time of the writing of this report such information has not yet been provided and the local resident's representation remains outstanding and must be considered by the sub-committee. At the hearing to determine the application the sub-committee will be updated as to any further developments in respect of the local resident's representation.

Operating history

16. No premises licence (or equivalent licence under prior licensing legislation) has been or is held by the applicant or any other party in regards to the premises.

The local area

17. A map of the area is attached to this report as Appendix E. The premises are identified by a diamond at the centre of the map. The following licensed premises are also shown on the map and are licensed as stated:

- **Hollywood Bowl**, 3A Teredo Street, SE16 7LW, licensed for:

The sale of alcohol, films:

Monday to Sunday: 10.00 to 01.00

Late night refreshment:

Monday to Sunday: 23.00 to 01.00

Recorded music:

Monday to Sunday: 08.00 to 01.00

Indoor sporting events:

Monday to Sunday: 09.00 to 01.00

- **Gala Club**, Surrey Quays Leisure Park, Surrey Quays Road, SE16 1LL licensed for:

The sale of alcohol, films, live music, recorded music, anything similar to live or recorded music:

Monday to Saturday: 09.00 to 23.00

Sunday: 12.00 to 22.30

- **Odeon Cinema** The Mast Leisure Park, Surrey Quays Road, SE16 1LL licensed for:

The sale of alcohol:

Monday to Sunday: 11.00 to 01.00

Films, live music, recorded music, anything similar to live or recorded music, performances of dance and plays:

Monday to Sunday: 09.00 to 03.00

Late night refreshment:

Monday to Sunday: 23.00 to 03.00

Southwark council statement of licensing policy

18. Council Assembly approved Southwark's statement of licensing policy 2011-14 on 12 October 2011. Sections of the statement that are considered to be of particular relevance to this application are:
 - Section 3 which sets out the purpose and scope of the policy and reinforces the four licensing objectives
 - Section 5 which sets out the council's approach with regard to the imposition of conditions including mandatory conditions to be attached to the licence
 - Section 6 details other relevant council and government policies, strategies, responsibilities and guidance, including the relevant articles under the Human Rights Act 1998
 - Section 7 provides general guidance on dealing with crime and disorder and deals with licensing hours
 - Section 8 provides general guidance on ensuring public safety including safe capacities
 - Section 9 provides general guidance on the prevention of nuisance
 - Section 10 provides general guidance on the protection of children from harm.
19. 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.

Resource implications

20. A fee of £100 has been paid by the applicant company in respect of this application being the statutory fee payable for premises within non-domestic rateable value band A.

Consultations

21. 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 multiple similar notices have been exhibited outside of the premises for a period of 28 consecutive days.

Community impact statement

22. 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

Director of Legal Services

23. The sub-committee is asked to determine the application for a premises licence under section 17 of the Licensing Act 2003.
24. The principles which sub-committee members must apply are set out below.

Principles for making the determination

25. 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.
26. 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 other persons or responsible authority
 - Have not been withdrawn
 - Are not, in the opinion of the relevant licensing authority, frivolous or vexatious
27. 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

28. 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 appropriate 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.
29. The four licensing objectives are:
- The prevention of crime and disorder
 - Public safety
 - The prevention of nuisance
 - The protection of children from harm.
30. 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.
31. 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.
32. Members are also referred to the DCMS guidance on conditions, specifically section 10, and Annex D.

Reasons

33. 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

34. 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.
35. 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

36. 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.
37. 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.
38. 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.

39. 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.
40. 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.
41. The sub-committee can only consider matters within the application that have been raised through representations from other persons and responsible authorities. Other persons must live in the vicinity of the premises. This will be decided on a case to case basis.
42. 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.
43. 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

44. Members are required to have regard to the DCMS 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.

BACKGROUND DOCUMENTS

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

APPENDICES

Name	Title
Appendix A	Application and draft transport statement
Appendix B	Representation submitted by SPLO and related correspondence
Appendix C	Representation submitted by an 'other person'
Appendix D	Representations submitted by the EPT and related correspondence
Appendix E	Map
Appendix F	Other persons details (RESTRICTED)

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Environment and Leisure	
Report Author	Wesley McArthur, Licensing Enforcement Officer	
Version	Final	
Dated	29 April 2015	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	No	No
Cabinet Member	No	No
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