

Item No. 5.	Classification: Open	Date: 6 July 2017	Meeting Name Licensing Sub-Committee
Report title:		Licensing Act 2003: The Coronet, 28 Old Kent Road, London SE1 6TJ & The Coronet, Railway Arch 3,4 ,5 And 6, Elephant Road, Elephant Mews, London SE17 1LB - Expedited Review	
Ward(s) or groups affected:		East Walworth	
From:		Strategic Director of Environment and Social Regeneration	

RECOMMENDATION

1. That the licensing sub-committee considers whether it is appropriate to take interim steps pending the determination of an application made under Section 53A of the Licensing Act 2003 by the chief of police for the metropolitan police area for a summary review of the premises licences in respect of the premises known The Coronet, Coronet Cinema, 28 Old Kent Road, London SE1 6TJ & The Coronet, Railway Arch 3, 4, 5 and 6, Elephant Road, Elephant Mews, London SE17 1LB.
2. **Notes:**
 - a) Under section 53A(2) of the licensing act 2003 the licensing authority must consider interim steps within 48 hours following the submission of an application under Section 53A of the licensing act 2003.
 - b) A copy of the full application, certificate and supporting evidence from the Metropolitan Police Service is attached as Appendix A.

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 summary review powers under sections 53A to 53C of the Act allow the police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with serious crime or serious disorder (or both); and the licensing authority to respond by taking interim steps quickly, where appropriate, pending a full review.

KEY ISSUES FOR CONSIDERATION

The premises licence

8. There are currently two premises licences in respect of the premises known as The Coronet, for two different parts of the premises. The main part of the building is at 28 Old Kent Road, London SE1 6TJ and the annex at Railway Arch 3,4 ,5 And 6, Elephant Road, Elephant Mews, London SE17 1LB. Both premises licences are held by Elephant Music Limited.
9. 28 Old Kent Road has held a premises licence since the transition of licences in 2005 and the details of the current licence are:
- Opening Hours:

Monday to Wednesday	09:00 to 03:30
Thursday to Sunday	09:00 to 07:30
 - Licensable activities: The provision of regulated entertainment in the form of plays, films, indoor sports, boxing or wrestling, live music, recorded music, performances of dance, anything similar to live/recorded music and sale of alcohol (on sales only):

Monday to Wednesday	09:00 to 03:00
Thursday to Sunday	09:00 to 07:00
 - The provision of late night refreshment:

Monday to Wednesday	23:00 to 03:00
Thursday to Sunday	23:00 to 07:00
10. Railway Arches 3-6 Elephant Road has held a premises licence since September 2011 and the details of this current licence are:
- Opening Hours:

Monday to Wednesday	09:00 to 03:00
Thursday to Sunday	09:00 to 07:00
 - Licensable activities for Arches 3, 4, 5 & 6

The provision of regulated entertainment in the form of plays, films, indoor sports, boxing or wrestling, sale of alcohol:

Monday to Wednesday	09:00 to 03:00
Thursday to Sunday	09:00 to 07:00
 - The provision of late night refreshment:

Monday to Wednesday	23:00 to 03:00
---------------------	----------------

Thursday to Sunday 23:00 to 07:00

- Licensable activities for Arches 3 only:

The provision of regulated entertainment in the form of live music, recorded music, performances of dance and anything similar to live/recorded music:

Monday to Wednesday 09:00 to 03:00

Thursday to Sunday 09:00 to 07:00

11. A copy of the current premises licences are attached as Appendix B.

Designated premises supervisor

12. The designated premises supervisor (DPS) for both licences is Samantha June Porter who holds a personal licence issued by the London Borough of Hackney.

The review application and certificate

13. On 4 July 2017 the Metropolitan Police applied to the licensing authority for a summary review of the premises licence issued in respect of the premises known as The Coronet, 28 Old Kent Road, London SE1 6TJ and The Coronet, Railway Arch 3, 4, 5 and 6, Elephant Road, Elephant Mews, London SE17 1LB.
14. On 3 July 2017 a Superintendent for the Metropolitan Police force certified that in his opinion the premises are associated with serious disorder.
15. The application is concerned with a serious incident that took place in the early hours of Sunday 2 July 2017 from 02:06. The police attended the premises further to an emergency call requesting assistance as 200 people had rushed the front door. Police units were dispatched arriving at 02:12 and it became clear that a serious public order situation was occurring. Police serials and dog units were requested and at 02:13 officer assistance was required to deal with a large fight.
16. The seriousness of these incidents passes the police threshold test for what amounts to serious disorder, and of particular concern is the scale, length of time and resources it took to regain control.
17. It has been described as 'serious disorder' with missiles being thrown and fights occurring. The road was blocked and the crowd estimated up to a thousand spanning round to the Walworth road.
18. The venue holds approximately 2600 people over a number of floors. On police arrival it was estimated that between 750 to 800 people were inside and estimates range from between 500 to 1000 for the number of people outside (venue estimates). The venue was expecting 2000 people to attend the event. Police felt it was clear that the venue was unable to cope with this amount of people entering and carrying out full searches and ID checks. Some people outside claimed that they had been waiting for up to 2 hours.
19. Whilst police and security staff attempted to regain control, a number of attempts by those queuing were made to enter the venue including via the station and railway lines and other emergency exits. Police cordons had to be put around all entry points and across the road. Police attempted to withdraw from the area but as soon as they did further disorder occurred and there were further attempts to enter the venue.
20. In addition, on the 26 February 2017 at about 03:50 a breach of the door at the venue occurred by a large group of males forcing their way by the security at the entrance into

the venue. During this a firearm was seen and as such the club was closed and required considerable police resources to manage the risk involved around this.

21. In addition, on the 13 May 2017 at about 05:30 council CCTV controllers reported a large disturbance outside and on police arrived reported about 100 people fighting and officers required urgent assistance due to serious disorder.
22. In November 2015, the premises licence holders were subject of another Section 53(A) and section 53(C) review relating to violence and breach of security where weapons got inside the venue which was considered a serious breach on security. One male was stabbed, a noxious substance was discharged and a firearm was believed seen. Conditions were placed on the licence in an attempt to prevent further violence and disorder being associated with the venue. A number of instances have occurred since and a number this year. The venue is situated in a difficult position on a major road with limited pavement space outside to establish a safe and controlled queuing system. The amount of people attending DJ lead events and the security controls required at this sort of event appear to be causing the disorder and violence.
23. In 2017 Police have received at least 15 emergency calls to the 999 system to the venue tagged as violent incidents.
24. The police request that following interim steps are taken to prevent further incidents from occurring:
 - The licence is suspended until such time as the full hearing is determined
25. The licensing sub-committee is not restricted to just considering this step.
26. A copy of the application, certificate and supporting evidence from the Metropolitan Police Service are attached to this report as Appendix A.

The review procedure

27. The current hearing is for the purpose of considering if interim steps are needed as a result of the Police review and information submitted pending the full review hearing which will be held on 31 July 2017.
28. The licensing sub-committee is not obliged to hear evidence from other parties at this stage of the procedure. However the premises licence holder and designated premises supervisor (DPS) have been invited to attend the hearing.
29. The review is currently being consulted on and is advertised at the premises for 10 days. Responsible authorities and any other persons may make representations that will then be considered at the full hearing of the licensing sub-committee.
30. Any interim steps made by the licensing sub-committee at this hearing will cease to have effect once the review has been determined.

Operating History

31. As stated above, on 10 November 2015 the Metropolitan Police applied to the licensing authority for a summary review of the premises licence issued in respect of the premises known The Coronet, 28 Old Kent Road, London SE1 6TJ and Railway Arch 3,4 ,5 And 6, Elephant Road, Elephant Mews, London SE17 1LB. A senior member of the police force for the area has certified that in his opinion the premises are associated with serious crime or serious disorder or both.

32. The review application stated the premises licence numbers 840278, which related to 28 Old Kent Road, London SE1 6TJ, 840281 which relates to the annex at Railway Arch 3,4, 5 And 6, Elephant Road, Elephant Mews, London SE17 1LB and 845674 which relate to a time limited premises licence which is now expired.
33. The application was concerned with serious incidents that took place on 8 November 2015 where it was alleged that a fight broke out involving approximately 15 patrons, a noxious gas was discharged and a person was found with a stab wound and a gun was seen all within the premises. Other crime in or immediately outside the premises including three separate incidents of theft.
34. Copies of the decision notices from these hearings are attached in Appendix C for members' information. The premises had been permitted to reopen with additional conditions attached the operating Schedule.
35. On 13 March 2017, a local resident initiated a review, further to anti-social issues experienced by who they claimed, were patrons of The Coronet. The review was subsequently withdrawn.
36. No full inspections have been carried out at the premises since May 2015, however, observations of the have been carried out at the premises during night time economy visits in relation to the entrance area as set out below:

Date of Visit	Time of Visit	Outcome Comments
15/04/2017	22:18	No Queues outside yet, premises open
16/04/2017	02:15	No Queues outside yet, premises open
28/05/2017	00:20	Long queues outside, gay night no issues
28/05/2017	01:35	No queues outside now, all in order.

The local area

37. A map of the local area is attached at Appendix D. There are other licensed premises in the immediate vicinity, namely:

The Charlie Chaplin – 26 New Kent Road, London SE1 6TJ

- The sale by retail of alcohol (both on and off sales)
Monday to Saturday from 11:00 to 01:00 (the following day)
Sunday from 11:00 to 23:00
- The provision of late night refreshment (indoors)
Monday to Saturday from 23:00 to 01:30 (the following day)
Sunday from 23:00 to 23:30
- The provision of regulated entertainment in the form of live and recorded music (indoors)
Monday to Friday from 21:00 to 01:30 (the following day)

Davish News – 30 New Kent Road, London SE1 6TJ

- The sale by retail of alcohol (off sales)
Monday to Sunday from 07:00 to 23:00

Naranjo Restaurant – 113 Elephant Road, London SE17 1LB

- The sale by retail of alcohol (on sales)
Monday to Sunday from 07:00 to 22:30

London Palace Bingo Club – 1st Floor, Shopping Centre Elephant and Castle, London SE1 6TE

- The sale by retail of alcohol (on sales)
Monday to Friday from 10:00 to 23:00
Saturday from 10:00 to 23:30
Sunday from 12:00 (midday) to 22:30
- The provision of late night refreshment (indoors)
Monday to Saturday from 23:00 to 23:30
- The provision of regulated entertainment in the form of live and recorded music and anything similar
Monday to Friday from 10:00 to 23:00
Saturday from 10:00 to 23:30
Sunday from 12:00 (midday) to 22:30

Tesco Metro – 326-328 Shopping Centre Elephant and Castle, London SE1 6TB

- The Sale by retail of alcohol (off sales)
Monday to Saturday from 07:00 to 22:30
Sunday from 09:00 to 17:30

Agata London – Unit 5 Metro Central Heights, 119 Newington Causeway, London SE1 6DQ

- The sale by retail of alcohol (off sales)
Monday to Sunday 24 hours per day

Nando's – Unit 4 Metro Central Heights, 119 Newington Causeway, London SE1 6BA

- The sale by retail of alcohol (on sales)
Monday to Saturday from 11:00 to 00:00 (midnight)
Sunday from 11:00 to 23:30
- The provision of late night refreshment (indoors)
Monday to Saturday from 23:00 to 00:30 (the following day)
Sunday from 23:00 to 00:00 (midnight)

Elephant and Castle Public House – 121 Newington Causeway, London SE1 6BN

- The sale by retail of alcohol (on sales)

Sunday to Wednesday from 11:00 to 00:00 (midnight)
Thursday from 11:00 to 01:00
Friday and Saturday from 11:00 to 02:00 (the following day)
- The provision of late night refreshment (indoors)

Sunday to Wednesday from 23:00 to 00:30 (the following day)
Thursday from 23:00 to 01:30
Friday and Saturday from 23:00 to 02:30 (the following day)
- The provision of regulated entertainment in the form of recorded music (indoors)

Sunday to Wednesday from 11:00 to 00:00 (midnight)
Thursday from 11:00 to 01:00
Friday and Saturday from 11:00 to 02:00 (the following day)

May Stores – Unit A, 28 Arch Street, London SE1 6AS

- The sale by retail of alcohol (off sales)

Monday to Sunday from 07:00 to 02:00 (the following day)

Southwark Council statement of licensing policy

38. Council assembly approved Southwark's statement of licensing policy 2016-20 on 25 November 2015. The policy came into effect on 1 January 2016. 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.

39. 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. Within Southwark's statement of licensing policy, the premises are identified as being outside of a cumulative impact zone situated within a major town centre area. Relevant closing times recommended in the statement of licensing policy for licensed premises in residential areas are as follows:

- Closing time for Night Clubs (with sui generis planning classification): Monday to Thursday is 01:00 hours and for Friday and Saturday 03:00 hours and for Sunday 00:00 hours

Resource implications

40. There is no fee associated with this type of application.

Consultation

41. The premises licence holder has been informed of the application for review and of the details of the interim hearing.

Community impact statement

42. 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 Law and Democracy

43. The sub-committee is asked to consider interim steps following an application to review the premises licence under Section 53A of the licensing act 2003.

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

Principles for making the determination

45. The licensing authority must hold a hearing to consider interim steps within 48 hours of receiving an application for review of a premises licence where.

- The application is properly made in accordance with Section 53A of the Act.
- The licensing authority has considered the ground(s) of review to be relevant to the licensing objective for prevention of crime and disorder.

46. The four licensing objectives are:

- The prevention of crime and disorder
- The protection of public safety
- The prevention of nuisance
- The protection of children from harm.

47. Each objective must be considered to be of equal importance. The authority must, having regard to the application and any relevant representations, take such of the following steps as it considers appropriate for the promotion of the licensing objectives. The steps are to:
- Modify the conditions of the licence by altering, omitting or adding any condition
 - Exclude a licensable activity from the scope of the licence
 - Remove the designated premises supervisor
 - Suspend the premises licence.
48. The steps will remain in place until the review application is determined at a full hearing of the licensing sub-committee.
49. The authority may decide to take no action if it finds no interim steps are appropriate to promote the licensing objectives.
50. In deciding what remedial action if any it should take, the authority must direct its mind to the causes or concerns that the representations identify. The remedial action should generally be directed at these causes and should always be no more than an appropriate and proportionate response.
51. It is of particular importance that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives in the circumstances that gave rise to the application for review.

Reasons

52. Where the authority takes interim steps an application for review it must notify the determination and reasons why for making it to:
- The holder of the licence
 - The chief officer of police for the area (or each police area) in which the premises are situated.

Hearing procedures

53. 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
 - To 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.

54. This matter relates to the review of the premises licence under section 53A of the Licensing Act 2003.

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

55. 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.
56. 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.
57. 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.
58. 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.
59. 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.
60. The sub-committee can only consider matters within the application that have been raised through representations from interested parties and responsible authorities. Interested parties must live in the vicinity of the premises. This will be decided on a case to case basis.
61. 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.

62. There is no right of appeal to a magistrates' court against the licensing authority's decision regarding the setting of interim steps at this Stage.

Guidance

63. Members are required to have regard to the Home Office revised 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 and Governance

64. The head of community safety and enforcement has confirmed that the costs of this process are borne by the service.

REASONS FOR LATENESS

65. The reasons for lateness are that when an application for an expedited summary review is received from the Police under section 53a of the Licensing Act 2003 the Council's licensing authority has a statutory duty hold a hearing within 48 hours from receipt of the application to consider interim steps that may be placed on the premises licence until such time as the application can be fully determined.

REASONS FOR URGENCY

66. The Council has a statutory duty under section 53a to hold an interim hearing within 48 hours of receipt of a summary review.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Licensing Act 2003 Home Office Revised Guidance to the Act Secondary Regulations Southwark Statement of Licensing Policy Case file	C/O Southwark Licensing, Community Safety & Enforcement, 3rd Floor Hub C, 160 Tooley Street PO Box 64529 SE1 5LX	Mrs Kirty Read Tel: 020 7525 5748

APPENDICES

Name	Title
Appendix A	Copy of review application and certificate
Appendix B	Copy of the existing premises licences
Appendix C	Copy of Notices of decision from licensing sub-committee from 12 November 2015 and 2 December 2015
Appendix D	Map of local area

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Environment and Leisure	
Report Author	Andrew Heron, Principal Licensing Officer	
Version	Final	
Dated	5 July 2017	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional Team		5 July 2017