

Item No. 8.	Classification: Open	Date: 21 July 2017	Meeting Name: Licensing Sub-Committee
Report Title		Licensing Act 2003: Lassco, 37 Maltby Street, London SE1 3PA	
Ward(s) of group(s) affected		Grange Ward	
From		Strategic Director of Environment and Social Regeneration	

RECOMMENDATION

1. That the licensing sub-committee considers an application made by Lassco Limited for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Lassco, 37 Maltby Street, London SE1 3PA.
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 from responsible authorities 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 16 of this report deal with the representations submitted in respect of the application. Copies of the representations submitted responsible authorities are attached to this report in Appendix B. Representations from other persons are attached at Appendix C. A map showing the location of the premises is attached to this report as Appendix 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 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 premises licence application

8. On 5 April 2017 Lassco Limited applied to this council for the grant of a premises licence in respect of Lassco – 37 Maltby Street, London, SE1 3PA. The premises are described in the application as being:

“A classically British 'Prix Fixe' and cooked to order menu is offered with influences from European and Mediterranean styles and combined with a range of locally brewed craft ales, continental wines and other beverages, the restaurant can seat 44 with ample space for those wanting a drink only. The interior decor is a unique blend of salvaged curiosities both practical and ornamental and takes on the air of an antique shop with all items large, small and old for sale.

Parties and receptions form part of the business plan along with corporate events such as business meetings with lunches and buffets on offer. Occasional TENs will be applied for to cover licensable activities for such events that carry on beyond 23:00 to end at 00:00 (midnight).

Breakfast and hot beverages will be on sale from 07:00 until 11:00. Full menu will be offered from 11:00 to 22:00 with hot and cold beverages for consumption on the premises up to 23:00 seven days a week and alcohol of all descriptions on sale for consumption on and off the premises until 23:00 seven days per week. Live music will be provided occasionally once per month for specialist evenings to terminate at 23:00.

The projection of old/classic films, slide presentations of current artefacts and prints for sale, display of paintings and other dated miscellany for sale would be screened via a PowerPoint presentation at various locations throughout the combined licensed area and showroom.”

9. The application and is summarised as follows:
- The supply by retail of alcohol (both on and off sales)
Monday to Sunday from 11:00 to 23:00
 - The provision of regulated entertainment in the form of films (indoors):
Monday to Sunday from 07:00 to 23:00

- Opening hours
Monday to Sunday from 07:00 to 23:30.
10. The proposed designated premises supervisor of the premises is Jerome Slesinski who has a pending personal licence application.
 11. The premises licence application form provides the applicant's operating schedule. Parts A, B, C, E, F, G, H, I, J, K, L, and M of the operating schedule set out the proposed licensable activities, operating hours and operating control 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 any licence granted subsequent to the application. A copy of the application is attached to this report in Appendix A.

Representations from responsible authorities

12. Representations have been submitted by the Metropolitan Police (licensing division) and this council's environmental protection team and the licensing responsible authority.. The representations are available in Appendix B.
13. The Metropolitan Police Service's representation requests additional conditions, namely:
 - 1) That a CCTV system be installed at the premises and be maintained in good working order and be continually recording at all times the premises are in use under the licence. The CCTV System must be capable of capturing a clear facial image of every person who enters the premises.
 - 2) That all CCTV footage be kept for a period of 31 days and shall on request be made immediately available to officers of the police and the council.
 - 3) That a member of staff should be on duty at all times the premises is open that is trained in the use of the CCTV and able to view and download images to a removable device on request of Police or council officer.
 - 4) That all staff are trained in their responsibilities under the licensing act 2003 and training records to be kept and updated every 6 months and shall, upon request, be made immediately available to officers of the police and the council.
14. The representation from environmental protection also asked the applicant to consider the following points:
 - That the applicant did not submit the details of that policy and other measures aimed at preventing a public nuisance from occurring.
 - That the applicant submits details or specific plans to prevent noise escape and avoid causing a statutory nuisance to nearby residents.
 - The environmental protection team has asked that the applicant make these into conditions as part of the operating schedule.
15. The licensing authority have also requested additional conditions.
 - 1) That all off sales of alcohol shall be sold in closed containers.
 - 2) That alcohol for consumption on the premises shall be sold ancillary to a substantial table meal.

- 3) That staff make regular checks outside to ensure that their patrons have not taken alcohol off the premises in open containers and to request patrons to that have to return inside the premises.

Representations from other persons

16. Representations have been received from 15 other persons, though it is noted that some residential addresses have provided multiple representations. The accepted representations that were made relate to all four of the licensing objectives. Other representations were received but were rejected for failing to address the licensing objectives. The concerns surround the proximity of the premises to residential properties and the potential for associated nuisance with a licensed premises, including noise. Many of the residents point to the current operation of Lassco at 40 Maltby Street and the anti-social behaviour residents have experienced from this premises. However, it is noted that all applications are to be considered on their own merits. These representations are available in Appendix C.

Conciliation

17. The applicant was sent copies of the representations that were submitted. At the time this report was composed, the applicant had not contacted the responsible authorities. From the representations of the local residents, it is clear that they simply do not want another licensed premises in the area therefore conciliation is unlikely.

Premises history

18. The premises has not previously been licensed, but has operated under five individual temporary events notices (TENs) issued in the last year. The premises received one complaint from a local resident in relation to noise caused during one of these TENs, particularly as the premises permitted tables and chairs to be used out the front of the venue. The complaint was received during the consultation period for the current application, for which the complainant was informed. That complainant did not make representations against this application.

19.

Date of Application	Date of Event	Applicant	Licensable Activities	Outcome
28/05/2017	From Wed 07/06/2017 to Sun 11/06/2017 7, 8&9/6/17 17:00-23:00 10/6/17 11:00-23:00 11/6/17 12:00-17:00	Anna Masing	Sale by retail of alcohol to be consumed on the premises	Granted
26/05/2017	Late TEN Friday 03/06/2017 to Saturday 04/06/2017 17:00 - 22:00 (on both dates)	Anna Massing	Sale by retail of alcohol to be consumed on the premises	Rejected – out of time
11/06/2017	From Fri 16/06/2017 to Sat 17/06/2017 17:00 - 22:00 (on both dates)	Jerome Slesinski	Sale by retail of alcohol to be consumed on the premises	Granted
16/06/2017	From Fri 23/06/2017 to Sat 24/06/2017 12:00 - 22:00 (on both dates)	George Amos	Sale by retail of alcohol to be consumed on the premises	Granted
22/06/2017	From Fri 30/06/2017 to Sat	George	Sale by retail	Granted

Date of Application	Date of Event	Applicant	Licensable Activities	Outcome
	01/07/2017 12:00 - 22:00 (on both dates)	Amos	of alcohol to be consumed on the premises	
29/06/2017	From Fri 07/07/2017 to Sat 08/07/2017 17:00 - 22:00 (on both dates)	Anna Masing	Sale by retail of alcohol to be consumed on the premises	Granted

Deregulation of entertainment

20. On 6 April 2015 entertainment became deregulated and as a result:

- Live unamplified music is deregulated between 08:00 and 23:00 on any premises.
- Live amplified music is deregulated between 08.00 and 23.00 at on-licensed premises provided the audience does not exceed 500 people, however, live music can become licensable in on-licensed premises if the licensing authority removes the effect of the deregulation following a licence review ('licence review mechanism').

Map

21. A map showing the location of the premises is attached to this report as Appendix D. The following licensed premises are in the immediate vicinity of the premises application:

Comptoir Gourmand, 98 Druid Street, London SE1 2HQ licenced for:

- The sale of alcohol (on and off sales)
Monday to Saturday from 08:00 to 22:30
Sunday from 09:00 to 22:30

Hawkes, 92 Druid Street, London SE1 2HQ, licensed for:

- The sale of alcohol (on sales)
Monday to Sunday from 10:00 to 23:00
- The sale of alcohol (Off sales)
Monday to Sunday from 10:00 to 22:30

Maltby & Greek Wholesale Limited, 76 Druid Street, SE1 2HH, licensed for:

- The sale by retail of alcohol (off sales)
Monday to Friday from 12:00 to 22:00
Saturday and Sunday from 11:00 to 22:00

Doodle Bar, 60 Druid Street, London SE1 2EZ, licenced for:

- The sale by retail of alcohol (on and off sales)
Sunday to Thursday from 10:00 to 23:30
Friday and Saturday from 10:00 to 00:30 (the following day)
- The provision of regulated entertainment in the form of live music and recorded music (indoors)
Sunday to Thursday from 10:00 to 23:30
Friday and Saturday from 10:00 to 00:30 (the following day)

- The provision of late night refreshment (indoors)
Sunday to Thursday from 23:00 to 23:30
Friday and Saturday from 23:00 to 00:30 (the following day)

Hive Beers Limited, 56 Stanworth Street, SE1 3NY, licensed for:

- The sale by retail of alcohol (on and off sales)
Monday to Friday from 11:00 to 22:00
Saturday from 11:00 to 23:00
Sunday from 11:00 to 20:00

Maltby Restaurant, 40 Maltby Street, SE1 3PA, licensed for:

- The sale by retail of alcohol (on and off sales)
Monday to Tuesday from 10:00 to 23:00
Wednesday to Friday from 10:00 to 00:30 (the following day)
Saturday from 09:00 to 00:00 (midnight)
Sunday from 10:00 to 17:00
- The provision of late night refreshment (indoors)
Wednesday to Sunday from 23:00 to 01:00 (the following day)

- **Ronnies Supermarket – 116-118 Tanner Street, licensed for:**

- The sale by retail of alcohol (off sales only)
Monday to Saturday from 08:00 to 23:00
Sunday from 10:00 to 22:30

- **Southwark Brewing Company Limited – 46 Druid Street, SE1 2EZ, licenced for:**

- The sale by retail of alcohol (on and off sales)
Monday to Friday from 11:00 to 23:00
Saturday from 09:00 to 23:00
Sunday from 10:00 to 23:00

Southwark council statement of licensing policy

22. Council assembly approved Southwark's statement of licensing policy 2011-14 on 12 October 2011 council assembly approved Southwark's statement of licensing policy 2016-20 on 25 November 2015. The policy came into effect on 1 January 2016.
23. Further 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.
24. 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.
25. Within Southwark's statement of licensing policy, the premises are identified as being outside of a cumulative impact zone and as situated within a residential area. Relevant closing times recommended in the statement of licensing policy for licensed premises in residential areas are as follows:
- Restaurants, pubs, cafes, wine bars, theatres and cinemas: Monday to Sunday 23:00

Resource implications

26. A fee of £190.00 has been paid by the applicant company in respect of this application being the statutory fee payable for premises within non-domestic rateable value bands D/E.

Consultation

27. 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

28. 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

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

Principles for making the determination

31. 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.
32. 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.
33. 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

34. 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.
35. The four licensing objectives are:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of nuisance
 - The protection of children from harm.
36. 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.
37. 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.
38. 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

39. 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

40. 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.
41. 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

42. 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.
43. 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.

44. 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.
45. 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.
46. 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.

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.

47. 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.
48. 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

49. 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.

Strategic Director of Finance and Governance

50. 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 Home Office revised 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	Kirby Read Tel: 020 7525 5748

APPENDICES

Name	Title
Appendix A	Application for a premises licence
Appendix B	Representations submitted by responsible authorities
Appendix C	Representations submitted by other persons
Appendix D	Map of the local area

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Environment and Social Regeneration	
Report Author	Andrew Heron, Principal Licensing Officer	
Version	Final	
Dated	4 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