

<b>Item No.</b> 6.	<b>Classification:</b> Open	<b>Date:</b> 31 July 2017	<b>Meeting Name</b> Licensing Sub-Committee
<b>Report title:</b>		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	
<b>Ward(s) or groups affected:</b>		East Walworth	
<b>From:</b>		Strategic Director of Environment and Social Regeneration	

## RECOMMENDATION

1. That the licensing sub-committee considers an application made under Section 53C of the Licensing Act 2003 by the chief of police for the metropolitan police for a summary review of the premises licences in respect of the premises known as 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. A copy of the current premises licences issued in respect of the premises are attached to this report as Appendix A.
  - b. The grounds for the review are stated in paragraphs 13 to 27 of this report. A copy of the full application and certificate are provided as Appendix B.
  - c. A copy of the notice of decision from the previous hearing held on 6 July 2017 is in Appendix C.
  - 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 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 03:30  
Thursday to Sunday 09:00 to 07:30

- 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. Copies of the current premises licences are attached as Appendix A.

### **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. A copy of the full application and certificate are provided as Appendix B.
25. The premises licence was subsequently reviewed at a hearing held on 6<sup>th</sup> July 2017. A copy of the notice of decision is available in Appendix C.
26. As a result, the licensing sub-committee put a number of measures in place, namely:
  - a) That the project X (7 July 2017), Dancehall v Soca (22 July 2017) and PJ Lingere Party (29 July 2017) events be cancelled.
  - b) That there are no future events promoted by DJ Dean or David Ice
  - c) That condition 847 on licence number 850322 be amended to read "There shall be a minimum ratio of one SIA staff member to 50 patrons or such ration as the police may think fit following consultation with them in respect of any specific event".
  - d) That condition 840 on licence number 850325 be amended to read "There shall be a minimum ratio of one SAI staff member to 50 patrons or such ration as the police may think fit following consultation with them in respect of any specific event".
27. During the hearing, the premises licence holder produced documents pertaining to the numbers of SIA staff on the premises during the incident in question. This is available in Appendix D.
28. On 9 July 2017 at 01:00 in the morning, the licensing authority attended the premises during a large-scale Pride event, in order to confirm that all interim measures had been put in place. The designated premises supervisor Sam Porter was met and no issues were found; with minimal queues. At that time, 1078 attendees were inside the premises, though the organisers had originally expected 1800. They believed that attendance would peak at 12-1300. The total numbers of SIA door staff was to be 35 by 02:00.

#### **Representations from responsible authorities**

29. A representation as been provided by this council's licensing authority in relation to the prevention of crime and disorder, the prevention of public nuisance and public safety. The

concern is primarily that the premises has had a similar review in the previous year. This leads to a concern that the premises is not being run responsibly as there is little faith in the management.

30. The representation from the licensing authority is available in Appendix E.
31. At the point this report was submitted, the police had not provided any further documentation. The licensing authority understand that the police have been in talks with the licence holder, but an agreement had not been conciliated.

### **Representations from other persons**

32. A representation has been made by one local resident in support of the police review. The representation gives a rundown of anti-social behaviour caused by the patrons of the Coronet. A copy of the representation is available in Appendix F.

### **Operating history**

33. 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.
34. 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.
35. 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.
36. 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.
37. The following visits have been carried out at the premises during night time economy visits in relation to the entrance area.

<b>Date of visit</b>	<b>Time of visit</b>	<b>Outcome comments</b>
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
09/07/2017	01:00	Pride event, minimal queues, no issues.

### **The local area**

38. A map of the local area is attached at Appendix G. There are other licensed premises in the area, 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 – 1<sup>st</sup> 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**

39. Council assembly approved Southwark's statement of licensing policy 2016 to 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.
40. 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 01:00 and Friday, Saturday 03:00 and Sunday 00:00.

### **Resource implications**

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

### **Consultation**

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

### **Community impact statement**

43. 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**

44. The sub-committee is asked to determine, under Section 53C of the Licensing Act 2003, an application, made under Section 53A of the same act, for a review of premises licence. At any stage, following the grant of a premises licence, a responsible authority or any other person may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
45. The principles, which sub-committee members must apply, are set out below.

### **Principles for making the determination**

46. Under Section 53 (A)(2) The licensing authority must determine a review application within 28 days of receipt of the application and reach a determination on that review.
47. 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.
48. 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 licence for a period not exceeding three months
  - Revoke the licence.
49. For the purpose of determining a relevant representation under section 52 of the Act a “relevant representation” means representations which:
  - Are relevant to one or more of the licensing objectives
  - Are made by the holder of the premises licence, a responsible authority or an other person within the prescribed period
  - Have not been withdrawn
  - If made by an other person (who is not also a responsible authority), that they are not, in the opinion of the relevant licensing authority frivolous or vexatious.
50. Modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months.
51. The authority may decide that no action is necessary if it finds that the review does not require it to take any steps appropriate to promote the licensing objectives.
52. 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.

53. 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**

54. 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**

55. 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.
56. 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**

57. 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.

58. 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.
59. 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.
60. 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.
61. 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.
62. 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.
63. 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.
64. 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**

65. 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**

66. The head of community safety and enforcement has confirmed that the costs of this process 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	C/O Southwark Licensing, Community Safety & Enforcement, 3rd Floor Hub C, 160 Tooley Street PO Box 64529 SE1 5LX	Mrs Kirty Read Tel:02075255748

## APPENDICES

Name	Title
Appendix A	The current premises licence
Appendix B	Copy of review application
Appendix C	Copy of the Notice of Decision from 6 <sup>th</sup> July 2017
Appendix D	Documents provided by licence holder following first hearing
Appendix E	Representation from the Licensing Authority
Appendix F	Representation from a local resident
Appendix G	Map of local area

## AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Environment Social Regeneration		
Report Author	Andrew Heron, Principal Licensing Officer		
Version	Final		
Dated	19 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			19 July 2017