

Item No. 7.	Classification: Open	Date: 15 May 2018	Meeting Name: Licensing Sub-Committee
Report Title		Licensing Act 2003: Lighthouse, 262-270 Camberwell Road, London SE5 0DP	
Ward(s) of group(s) affected		Camberwell Green	
From		Strategic Director of Environment and Social Regeneration	

RECOMMENDATION

1. That the licensing sub-committee considers an application made by Lighthouse Operations Limited for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Lighthouse, 262-270 Camberwell Road, London SE5 0DP.
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 10 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 11 to 16 of this report deal with the representations submitted in respect of the application. Copies of the representation submitted by the responsible authorities and attached to this report in Appendix B. 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 16 March 2018 Lighthouse Operations Limited applied for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Lighthouse, 262-270 Camberwell Road, London SE5 0DP. The premises are described in the application as follows:
- “This venue is a Grade II Listed Heritage Building. The prime purpose of the building is a place of worship, however, it has a secondary use as an events space catering for wedding receptions, community events and sporting events.”
9. The application and is summarised as follows:
- The sale by retail of alcohol (on sales only):
 - Monday to Sunday from 17:00 to 04:00 (the following day).
 - The provision of late night refreshment (indoors):
 - Monday to Sunday from 23:00 to 04:00 (the following day).
 - The provision of regulated entertainment in the form of plays, films, live music, recorded music, performances of dance and anything of a similar description (all indoors):
 - Monday to Sunday from 08:00 to 16:00 then 17:00 to 00:00.
 - The provision of regulated entertainment in the form of indoor sporting events:
 - Monday to Sunday from 17:00 to 00:00.

- The provision of regulated entertainment in the form of boxing or wrestling entertainments (indoors):
 - Monday to Sunday from 17:00 to 01:00 (the following day).
 - Opening hours
 - Monday to Sunday from 08:00 to 04:00 (the following day).
10. The designated premises supervisor (DPS) is to be Vicki Heam, who holds a personal licence with the London Borough of Newham.
 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 and premises plan is attached to this report in Appendix A.

Representations from responsible authorities

12. A representation has been received from the Metropolitan Police Service (Licensing Division) which raises concerns regarding the use of the premises as a venue with a 3000 capacity and draws the sub-committee's attention to the Southwark licensing policy for closing hours of clubs in their area. There is also a report of unlicensed activity at the premises on 14 April 2018 further to the withdrawal of temporary events notices.
13. A representation is received from the planning authority, stating that there is planning permission on the site for assembly and leisure use until 23:00 only, further that the venue has a capacity of 1200.
14. A representation has been received from public health with concerns of the location of the premises to local residents and the late timings of the sale of alcohol.
15. A representation from trading standards states that the applicant's operating schedule falls short and has requested additional conditions in relation to the sales of alcohol and the protection of children from harm.
16. A representation has been submitted by the Licensing Department with concerns relating to the hours applied and the proximity of residential dwellings, especially taking into consideration the potential capacity. Attention is also drawn to the recent unlicensed activity at the premises. Witness statements have been requested from the Police whom attended the event. The Applicants for the withdrawn Temporary Events Notices will be invited to the Council offices for an interview under caution and further enforcement action is to be considered.

The representations are all available in Appendix B.

Representations from other persons

17. A local resident had written to the licensing authority stating that they simply 'objected' to the application, but gave no further information. They were written to, to ask for further information, none of which was forthcoming; therefore that correspondence has been omitted from this report.

Conciliation

18. All representations were sent to Phil Adeleke on 18 April 2018 who acknowledged receipt and advised that he wished for a Hearing to go ahead. He is the first contact for the application and the Manager of the premises. At the time this report was written, no conciliation had taken place between the Applicant and the Responsible Authorities despite the advice given to make contact.

Premises history

19. The premises has previously held a premises licence as Gala Bingo Hall Bar. This licence was surrendered in December 2010. A copy of the old licence is available for Members' information in Appendix C. The area has not had a full time premises licence previously and is a place of worship, for which there are exemption from the need for a licence for music entertainment in defined circumstances as set out in the Home Office Guidance.
20. The area has been granted a number of Temporary Events Notices in the last year

Applicant	Activities	Dates	Counter Notice
Wilmer Quintero Morales for 254-268 Camberwell Road	Sale by retail of alcohol to be consumed on the premises Provision of Regulated Entertainment Provision of Late night Refreshment for 499 people	From 26/03/2016 to 27/03/2016 21:00 - 04:00	No
Philemon Adeleke for 254-268 Camberwell Road	Sale by retail of alcohol to be consumed on the premises for 450 people	From 14/04/2018 to 15/04/2018 21:00 - 04:00	No
Fiona Munkoh for 262-270 Camberwell Road	Sale by retail of alcohol to be consumed on the premises for 450 people	From 14/04/2018 to 15/04/2018 21:00 - 04:00	Withdrawn
Fiona Munkoh for 254-268 Camberwell Road	Sale by retail of alcohol to be consumed on the premises for 450 people	From 21/04/2018 to 21/04/2018 17:00 - 23:00	Withdrawn
Brenda David for 254-268 Camberwell Road	Sale by retail of alcohol to be consumed on the premises for 300 people	From 22/04/2016 to 22/04/2016 17:00 - 23:00	No

21. The licensing department has no history of complaints in relation to this premises resulting from licensable activities in the past 12 months.

Map

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

Mozah Anz, 278 Camberwell Road, London SE5 0DL licenced for:

- The sale by retail of alcohol (on sales):
 - Monday to Wednesday from 12:00 to 00:00
 - Thursday to Saturday from 12:00 to 01:30
 - Sunday from 12:00 to 23:30.
- Late night refreshment (indoors):
 - Monday to Wednesday 23:00 to 00:00
 - Thursday to Saturday 23:00 to 01:30
 - Sunday 23:00 to 23:30.

The Planet Nollywood/Father Redcap – 319 Camberwell Road, London SE5 0HQ licensed for:

- The sale by retail of alcohol (both on and off sales):
 - Monday to Thursday 10:00 to 03:00
 - Friday to Sunday 10:00 to 05:00.
- Late night refreshment (indoors):
 - Monday to Thursday from 23:00 to 03:00
 - Friday to Sunday from 23:00 to 05:00.
- The provision of regulated entertainment in the form of films, live and recorded music, indoor sporting events and performances of dance (indoors):
 - Monday to Thursday from 23:00 to 03:00
 - Friday to Sunday from 23:00 to 05:00.

Premier Food and Wine, 244-246 Camberwell Road, London SE5 0DP, licensed for:

- The sale by retail of alcohol (of sales):
 - Monday to Sunday from 08:00 to 00:00.

Nags Head Public House, 242 Camberwell Road, London SE5 0DP, licensed for:

- The sale by retail of alcohol (on and off sales):
 - Monday to Sunday from 10:00 to 01:00.
- The provision of regulated entertainment in the form of live music and recorded music (indoors):
 - Monday to Sunday 10:00 to 01:00.

Southwark council statement of licensing policy

23. Council assembly approved Southwark's statement of licensing policy 2016 - 2020 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.

24. Within Southwark’s statement of licensing policy, the premises are identified as being within the Camberwell cumulative impact policy area and within a residential area. Under the Southwark statement of licensing policy 2016 - 2020 the premises within this application would fall under the recommended closing times:

- Restaurants and cafes is 23:00 daily
- Public houses wine bars or other drinking establishments is 23:00
- Closing time for Night Clubs (with sui generis planning classification) are not considered appropriate for this area.

Resource implications

25. A fee of £1905.00 has been paid by the applicant company in respect of this application being the statutory fee payable for premises within non-domestic rateable value band D.

Consultation

26. 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

27. 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

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

Principles for making the determination

30. 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.
31. 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.
32. 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

33. 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.
34. The four licensing objectives are:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of nuisance
 - The protection of children from harm.

35. 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.
36. 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.
37. 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

38. 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

39. 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.
40. 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

41. 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.
42. 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.
43. 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.
44. 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.
45. 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.
46. 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 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

50. 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	Southwark Licensing, C/O Community Safety & Enforcement, 160 Tooley Street, London, SE1 2QH	Kirty Read Tel: 020 7525 5748

APPENDICES

Name	Title
Appendix A	Application for a premises licence
Appendix B	Representations submitted by Responsible Authorities
Appendix C	Copy of previous premises licence
Appendix D	Map

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Environment and Social Regeneration	
Report Author	Andrew Heron, Principal Licensing Officer	
Version	Final	
Dated	30 April 2018	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law & Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional Team		2 May 2018