

Item No. 7.	Classification: Open	Date: 13 July 2018	Meeting Name: Licensing Sub-Committee
Report title:		Licensing Act 2003: Tazze Grill, 22 Camberwell Church Street, London, SE5 8QU	
Ward(s) or groups affected:		Camberwell Green	
From:		Strategic Director of Environment and Social Regeneration	

RECOMMENDATION

1. That the licensing sub-committee considers an application made by Sefatullah Rozikhel to vary the premises licence granted under the Licensing Act 2003 in respect of the premises known as: Tazze Grill, 22 Camberwell Church Street, London, SE5 8QU.
2. Notes:
 - The application seeks to vary the premises licence held under current legislation in respect of the premises known as Tazze Grill, 22 Camberwell Church Street, London, SE5 8QU, under section 34 of the Licensing Act 2003. Existing permitted licensable activities are not under consideration at this meeting.
 - Paragraph 8 of this report provides a summary of the existing premises licence. A copy of the existing premises licence is attached at Appendix A.
 - Paragraphs 10 to 14 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 B. A map showing the location of the premises is attached as Appendix D.
 - Paragraphs 16 to 19 of this report deal with the representations submitted in respect of the application by the responsible authorities and are attached in Appendix C.

BACKGROUND INFORMATION

The Licensing Act 2003

3. The Licensing Act 2003 provides a new licensing regime for:
 - The sale of and supply of alcohol
 - The provision of regulated entertainment
 - The provision of late night refreshment.
4. Within Southwark, this council wholly administers the licensing responsibility.
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 interested parties 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 current premises licence

8. The current licence was issued on 20 March 2017. The current premises licence is issued to Sefatullah Rozikhel trading as Tazze Grill, 22 Camberwell Church Street, London SE5 8QU. The licence permits the following:
- The sale of alcohol to be consumed on or off the premises:
 - Monday to Saturday from 10:00 to 00:00
 - Sunday from 12:00 to 23:30.
 - The provision of late night refreshment (indoors):
 - Monday to Wednesday from 23:00 to 00:30
 - Thursday to Saturday from 23:00 to 02:00
 - Sunday from 23:00 to 01:00.
 - Opening hours:
 - Monday to Wednesday from 10:00 to 00:30
 - Thursday to Saturday from 10:00 to 02:00
 - Sunday from 12:00 to 01:00.
9. A copy of the existing premises licence is attached as Appendix A.

The variation application

10. On 2 May 2018 Twist London Limited applied under section 34 of the Licensing Act 2003 to this council to vary the premises licence issued in respect of the premises trading as Tazze Grill, 22 Camberwell Church Street, London SE5 8QU.

11. The application for variation is described as:
 - Opening hours and late night refreshment 10:00 to 04:00 everyday.
 - No change proposed to permitted hours for supply of alcohol.
12. The application seeks the following hours:
 - The provision of late night refreshment:
 - Monday to Sunday from 23:00 to 04:00.
 - Opening hours:
 - Monday to Sunday from 23:00 to 04:00.
13. A copy of the application is attached to this report as Appendix B.
14. Since the initial application, the Applicant's agent has offered to reduce the hours applied for until 03:00 everyday, stating that the shutters would be down after the current hours and that only deliveries would take place. Correspondence is attached to the EPT representation in Appendix C.

Designated premises supervisor

15. The designated premises supervisor (DPS) under the existing premises licence is Dilwar Hussain holding a personal licence with the London Borough of Tower Hamlets.

Representations from responsible authorities

16. The Metropolitan Police Service (Licensing Division) have made a representation against the variation. The concern is that the premises already has hours outside of the Southwark licensing policy for that area and that the application would take it even further outside of the policy hours. Furthermore, the applicant has failed to apply adequate conditions to the operating schedule.
17. Southwark licensing authority (LA) has made a representation akin to the representation of the police in that there are also concerns regarding the hours already being beyond policy hours and the lack of offered conditions.
18. A representation has also been made by Southwark's environmental protection team (EPT), requesting additional conditions to be added to the operating schedule.
19. Representations are available in Appendix C.

Representations from other persons

20. No representations were received from other persons.

Conciliation

21. All representations were sent to the applicant's agent. The Agent has responded to all Responsible Authorities on 23 June. This is available in Appendix D. EPT have

responded and the applicant's agent has accepted these conditions on their behalf, namely:

- A suitable condition is placed on the licence that the delivery drivers are required to wait within the property.
- A suitable condition is placed on the licence that if the premises is operating after 00:30 Monday to Wednesday, 02:00 Thursday to Saturday and 02:00 Sunday, the premises is clearly signed that it is closed and the lights are off in the front part of the unit.

22. At the point of the report going to press, the representation had not formally been withdrawn.

Operating history

23. The premises licence was initially issued on 2 February 2016. On 9 January 2017 Sefatullah Rozikhel applied under section 34 of the Licensing Act 2003 to vary the premises licence issued in respect of the premises formally known as Shanghai Taste Chinese and Thai Restaurant. The application was to:

- To extend the hours for the provision of late night refreshment to:
 - Monday to Sunday from 23:00 to 05:00 (the following day).
- To amend the opening hours of the premises and the hours permitted for the sale of alcohol at the premises to:
 - Monday to Sunday from 10:00 to 03:00 (the following day).

24. A copy of the Notice of Decision is available in Appendix E.

25. The premises does not have a history of temporary event notices.

26. On 21 March 2018, a complaint was received from a local resident regarding the premises that it was opening beyond hours, sometimes until 07:00 the following day and that there were deliveries until 06:00.

27. On 23 March, the premises was visited by licensing enforcement officers to conduct an inspection further to the receipt of the above complaint. Neither the full licence nor summary were available for inspection and there were multiple breaches of conditions. A copy of the warning letter issued is available in Appendix F. The premises has been visited on 26 May and 15 June 2018 to re-inspect, but the premises has been closed with the frontage papered over.

28. Of most concern with the inspection of 23 March was that CCTV recordings proved that the premises had indeed been trading beyond hours permitted on the current licence.

Map

29. A map of the area is attached to this report as Appendix G. There are other licensed premises in the immediate vicinity:

London Food and Wine, 12 Camberwell Church Street, London SE5 8QU:

- The sale of alcohol to be consumed both off the premises:
 - Monday to Sunday 08:00 to 03:00 (the following day).

The Tiger, 18 Camberwell Green, London SE5 7AA:

- The sale of alcohol to be consumed on and off the premises:
 - Sunday to Thursday from 09:00 to 01:30 (the following day)
 - Friday and Saturday from 09:00 to 03:30 (the following day).
- The provision of late night refreshment (indoors):
 - Sunday to Thursday from 23:00 to 01:30 (the following day)
 - Friday and Saturday from 23:00 to 02:30 (the following day).
- The provision of regulated entertainment in the form of recorded music, live music, and performance of dance (indoors):
 - Monday to Thursday from 09:00 to 02:00 (the following day)
 - Friday and Saturday from 09:00 to 04:00 (the following day)
 - Sunday from 09:00 to 01:00 (the following day).

Golden Grill, 20 Camberwell Green, London SE5 7AA:

- The sale of alcohol to be consumed on the premises:
 - Monday to Saturday from 11:00 to 02:00 (the following day)
 - Sunday from 13:00 to 22:30.
- The provision of late night refreshment (indoors):
 - Sunday to Thursday from 23:00 to 02:00 (the following day)
 - Friday and Saturday from 23:00 to 04:00 (the following day).

Hermits Cave, 28 Camberwell Church Street, London SE5 8QU:

- The sale of alcohol to be consumed on and off the premises:
 - Monday to Thursday from 10:00 to 00:00 (midnight)
 - Friday and Saturday from 10:00 to 02:00 (the following day)
 - Sunday from 10:00 to 01:00 (the following day).
- The provision of late night refreshment (indoors):
 - Monday to Thursday from 23:00 to 00:00 (midnight)
 - Friday and Saturday from 23:00 to 02:00 (the following day)
 - Sunday from 23:00 to 01:00 (the following day).

- The provision of regulated entertainment in the form of recorded music, live music, films, and performance of dance (indoors):
 - Monday to Thursday from 10:00 to 00:00 (midnight)
 - Friday and Saturday from 10:00 to 02:00 (the following day)
 - Sunday from 10:00 to 01:00 (the following day).

Chicks Peri Peri Chicken (Organica Pizza), 5 Camberwell Church Street, London SE5 8TR:

- The provision of late night refreshment (indoors):
 - Sunday to Thursday from 23:00 to 01:30 (the following day)
 - Friday and Saturday from 23:00 to 02:30 (the following day).

Bolu Kebab Restaurant, 7 Camberwell Church Street, London SE5 8TR

- The sale of alcohol to be consumed on the premises:
 - Monday to Thursday from 09:00 to 03:00 (the following day)
 - Friday and Saturday from 09:00 to 04:00 (the following day)
 - Sunday from 12:00 to 03:00 (the following day).
- The provision of late night refreshment (indoors):
 - Monday to Sunday 23:00 to 05:00 (the following day).

Portuguese Café Deli, 11 Camberwell Church Street, London SE5 8TR:

- The sale of alcohol to be consumed on and off the premises:
 - Monday to Sunday from 08:00 to 00:00 (midnight).
- The provision of late night refreshment (indoors):
 - Monday to Saturday from 23:00 to 00:00 (midnight)
 - Sunday from 23:00 to 23:30.

Wuli Wuli, 15 Camberwell Church Street, London SE5 8TR:

- The sale of alcohol to be consumed on and off the premises:
 - Sunday to Thursday from 12:00 to 23:00
 - Friday and Saturday from 12:00 to 01:00 (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 01:00 (the following day).

Cannon and Cannon Fine Foods, 17-21 Camberwell Church Street, London SE5 8TR:

- The sale of alcohol to be consumed on and off the premises:
 - Monday to Sunday from 11:00 to 23:00.

Stormbird, 25 Camberwell Church Street, London SE5 8TR:

- The sale of alcohol to be consumed on and off the premises:
 - Monday to Wednesday from 10:00 to 00:00 (midnight)
 - Thursday from 10:00 to 02:00
 - Friday and Saturday from 10:00 to 03:00 (the following day)
 - Sunday from 10:00 to 00:00 (midnight).
- The provision of late night refreshment (indoors)
 - Monday to Wednesday from 23:00 to 00:00 (midnight)
 - Thursday from 23:00 to 02:00
 - Friday and Saturday from 23:00 to 03:00 (the following day)
 - Sunday from 23:00 to 00:00 (midnight).
- The provision of regulated entertainment in the form of recorded music, live music, films, and performance of dance (indoors):
 - Monday to Wednesday from 10:00 to 00:00 (midnight)
 - Thursday from 10:00 to 02:00
 - Friday and Saturday from 10:00 to 03:00 (the following day)
 - Sunday from 10:00 to 00:00 (midnight).

Southwark council statement of licensing policy

30. 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.
31. 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.
32. On 5 November 2008, council assembly agreed that it was appropriate and necessary to introduce a local policy dealing with the cumulative impact of licensed premises in the Camberwell area.
33. Within Southwark’s Statement of Licensing Policy, the premises are identified as being within the Camberwell CIP area. The boundary of the area is defined as follows: From Camberwell New Road at the junction with Wyndham Road progressing via Camberwell Road / Bowyer Place / Edmund Street / Benhill Road / Wilson Road / Graces Road / Graces Mews / Camberwell Grove (via alley) / Grove Lane / De Crespigny Park / Denmark Hill following the Lambeth boundary to Coldharbour Lane / Denmark Road / Flodden Road and Camberwell New Road returning to the start.
34. The classes of premises to which the policy applies is defined as follows: night clubs, pubs and bars, off-licences, grocers, supermarkets, convenience stores and similar premises. Therefore relevant times recommended in the statement of licensing policy for licensed premises in this area are as follows:
- Closing time for restaurants and cafes:
 - Sunday to Thursday is 00:00.
 - Friday and Saturday is 01:00.

Resource implications

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

Consultation

36. Consultation has been carried out in respect of this application in accordance with the provisions of the Licensing Act 2003. A public notice was published in a local newspaper twice (there was an error on the initial advert; however, this was republished within the specified time period to the satisfaction of the Licensing

Authority). A similar notice exhibited at the premises for a period of 28 consecutive days. This was inspected by a Licensing Officer during the consultation period and found to be compliant.

Community impact statement

37. 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

38. The sub-committee is asked to determine the variation application for a premises licence under section 34 of the Licensing Act 2003.
39. The principles which sub-committee members must apply are set out below.

Principles for making the determination

40. Section 35 of the Licensing Act 2003 sets out the licensing authority's powers and duties in considering the determination of an application for variation.
41. The general principle is that applications for variation 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.
42. 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 other party or responsible authority
 - Have not been withdrawn
 - Are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
43. 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:
 - Add to, omit, and/or alter the conditions of the licence, or
 - Reject the whole or part of the application for variation.

Conditions

44. 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.
45. The four licensing objectives are:
 - The prevention of crime and disorder
 - Public safety

- The prevention of nuisance
 - The protection of children from harm.
46. 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.
47. 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.
48. The Licensing Act requires mandatory conditions in respect of supply of alcohol, the exhibition of films and in respect of door supervisors. The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2003 introduced three new conditions in respect of irresponsible promotions, the oral dispensing of alcohol and free tap water. In October 2010 an additional two conditions came into force: age verification policy and smaller measures for alcoholic drinks.
49. 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

50. 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

51. 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.
52. This matter relates to the determination of an application to vary a premises licence under section 34 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

53. 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.
54. 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.
55. 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.
56. 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.
57. 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.
58. The sub-committee can only consider matters within the application that have been raised through representations from other persons and responsible authorities. Interested parties must live in the vicinity of the premises. This will be decided on a case to case basis.

59. 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.
60. 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

61. 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

62. 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	Mrs Kirty Read Tel: 020 7525 5748

APPENDICES

Name	Title
Appendix A	Copy of the existing premises licence
Appendix B	Copy of the application
Appendix C	Copy of representations from Responsible Authorities
Appendix D	Responses to representations
Appendix E	Copy Notice of Decision 20 March 2017
Appendix F	Copy warning letter dated 28 March 2018
Appendix G	Map of the local area

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Environment and Social Regeneration	
Report Author	Andrew, Principal Licensing Officer	
Version	Final	
Dated	28 June 2018	
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	28 June 2018	