

Item No. 7.	Classification: Open	Date: 24 September 2018	Meeting Name: Licensing Sub-Committee
Report Title		Price Cutter – 4 Camberwell Church Street, London SE5 8QU	
Ward(s) of group(s) affected		Camberwell Green Ward	
From		Strategic Director of Environment and Social Regeneration	

RECOMMENDATION

1. That the licensing sub-committee considers an application made by Somasundram Ariyaratnam for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Price Cutter – 4 Camberwell Church Street, London SE5 8QU.
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 18 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 G.
 - 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.
6. These are:
 - The prevention of crime and disorder
 - The promotion of public safety
 - The prevention of nuisance
 - The protection of children from harm.
7. 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.
8. 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

9. On 12 July 2018 Somasundram Ariyarajah applied to this council for the grant of a premises licence in respect of Price Cutter, 4 Camberwell Church Street, London, SE5 8QU. The premises are described in the application simply as being:

"A convenience store"
10. The application and is summarised as follows:

The sale by retail of alcohol (off sales only)

 - Monday to Sunday from 08:00 to 00:00

Opening hours

 - Monday to Sunday, 24 hours a day.-
11. The proposed designated premises supervisor of the premises is Somasundram Ariyarajah (the licence applicant) who has a personal licence by London Borough of Bromley. A copy of the DPS consent accompanies the application in Appendix A.
12. 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.

13. 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

14. Representations were submitted by the Metropolitan Police (Licensing Division), this council's trading standards, licensing and public health authorities.
15. The Metropolitan Police Service has made a representation which raises concerns in relation to a failed test purchase at the premises. There are concerns regarding the locality of the premises and the existence of persons with alcohol-dependency issues. Further evidence is provided via a statement by PC McKay. Multiple additional conditions are sought. The representation is available in Appendix B.
16. The representation from Southwark council's trading standards department is concerned with the history of the premises, in which the previous licence was revoked. No changes have been made to the land registry or leasehold. A copy of the signed lease agreement has been requested. The hours are excessive when compared to the Southwark licensing policy and the existence of the cumulative impact policy in that area. The representation is available in Appendix B.
17. The representation from the council's public health department is concerned with the availability of alcohol within the cumulative impact zone. The representation is available in Appendix B. Additional conditions have been requested and agreed by the Applicant's agent. The representation has therefore been withdrawn with the following conditions agreed:
 - i) No beers/ciders in single cans, bottles or multi-packs with an ABV of above 6.5% will be displayed/sold or offered for sale from the premises.
 - ii) No alcohol to be stored or displayed within 2 metres of the entrance/exit unless behind the staff counter.
 - iii) 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. It should cover all areas the public have access and the outside area to the front.
 - iv) 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.
 - v) 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.
 - vi) 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.
 - vii) Traceable invoices shall be kept on the premises (or if not possible copies of those invoices) for inspection by police, council officers and HMCR on request for a minimum of 6 months.

viii) When the premises are open to the public and the licence is not in operation; all alcohol shall be stored in a locked cabinet/cooler, behind a lockable blind or behind the counter.

18. The representation from the council's licensing department in their role as responsible Authority raises concerns regarding the history of the premises and the location in relation to the cumulative impact zone. Offences have been committed at the premises since the applicant took control of the business. The representation is also available in Appendix B.

Representations from other persons

19. A representation has been received from one other person. The objector works in the area and is concerned with the history of the premises and underage sales. The objector states that the same staff work in the premises since the previous offences. This representation is available in Appendix C.

Conciliation

20. The applicant's agent has been sent copies of all the submitted representations. The responsible authorities have all been responded to, please see Appendix D. The representation from other persons has not been responded to. The representation from Public Health has subsequently been withdrawn. The other responsible authorities had not reached agreement at the point this report was submitted. It is noted that trading standards believe that there are anomalies in the dates surrounding the lease. The applicant's agent had originally requested a meeting with the responsible authorities before providing written responses to the representations made. It was decided that it was pertinent to receive written responses before arranging a meeting.

Premises history

21. A premises licence was issued in respect of the premises on 9 April 2008. The licence was granted to Mohammed Imran and Ghulam Rasool in respect of the premises known as Superdeals (Food and Wine), 4 Camberwell Church Street, London SE5 8QU. Over the course of its history, the premises has been known as Superdeals, Food & Wine and Price Cutter.

22. On 29 December 2012 a visit by the night time economy team inspected the premises and found no training records, no personal licence holder on site and missing notices regarding police, awareness of pickpockets and a contact name for customers. A warning letter was sent out.

23. On 6 April 2014 licensing enforcement officer attended the premises which were not compliant. No personal licence holder or DPS was at the premises.

24. On 22 August 2015 a full inspection of the premises was undertaken, despite 3 staff being present at the time, they were unable to show CCTV footage, and so could not be sure that it was working. In addition, there were no notices in accordance with conditions 341 - 345 and no full licence available.

25. On 2 November 2015, licensing enforcement officers carried out an inspection to determine whether the licensable activities at the above premises were carried out in accordance with the premises licence issued in respect of the premises.

26. During the inspection the officers witnessed the following:

- It was not possible to ascertain if the CCTV system at the premises has a 31

day recording capacity as required by condition 289 of the premises licence.

- Footage from the CCTV system could not be made available to the inspecting officers on as required by condition 289.
 - There was no signage displayed, as required by condition 341, informing customers that the police will be informed in the event of any individual being found in possession of controlled substances or offensive weapons.
 - There was no signage displayed, as required by condition 342, informing customers about the need to be aware of pickpockets or bag snatchers, and to guard their property, or unattended bags.
 - There was no signage displayed, as required by condition 343, displaying the name of a contact for customers if they wish to report concerns.
 - Each of the matters listed above potentially constitutes a breach of the licence issued by the Council under the Licensing Act 2003.
 - It was apparent that the person left in charge of the premises was not aware of the premises licence issued in respect of the premises or its terms and conditions. Please ensure that all staff employed at the premises are aware of the terms and conditions of the premises licence and have received training in respect of it.
 - The staff member present at the time of the visit displayed a lack of knowledge as to the acceptable forms of identification that can be accepted as proof of age in regards to the sale of alcohol – a training pack in regards to age restricted products is enclosed. All members of staff at the premises should read the training pack and complete the training record included with it.
 - It is recommended that all staff members who do not have a personal licence are authorised in writing by the designated supervisor (DPS) of the premises to make sales of alcohol. Should you require it, please find enclosed a letter of authorisation template. If you use the authorisation template please keep it at the premises.
27. A warning letter was issued for the above. On 28 January 2017, a test purchase was carried out at the request of Trading Standards further to information received that the Designated Premises Supervisor had departed the business. Alcohol was sold.
28. On 31 January 2017, the premises applied for a vary DPS application, which was deemed as invalid. A letter was sent that day to advise, which is included in the supporting representation made by the licensing authority. A valid application was not received until 14 February 2017.
29. On 21 April 2017 an application was submitted by this council's trading standards service under Section 51 of the Licensing Act 2003, for the review of the premises licence held by Mohammed Imran and Ghulam Rasool in respect of the premises known as Superdeals (Food and Wine) – 4 Camberwell Church Street, London, SE5 8QU. The premises was visited by trading standards; the review documents were delivered. A non-personal licence holder was found to be working alone in the shop; he continued to sell alcohol despite being advised that it was an offence under the terms of the premises licence. The employee was also unable to operate the CCTV.

30. The review application was submitted in respect of the prevention of crime and disorder, public safety and the protection of children from harm licensing objectives and in summary states that the following has been witnessed and/or taken place at the premises:

Prevention of crime and disorder

- Sale of alcohol when there was no Designated Premises Supervisor – (breach of condition 100) - various dates
- Sale of alcohol to a child (an offence under s.146 Licensing Act 2003)
- Numerous breaches of Premises Licence conditions - re CCTV, notices, age verification, personal licence holder not on premise (various dates), untrained staff
- Offer and Sale of alcohol below duty price – (breach of mandatory condition 491)
- Failure to make available copy of Premises Licence (an offence under s.57 Licensing Act 2003)
- Failure to produce traceable invoices for super strength beers (an offence under the General Food Hygiene Regulations 2013)

Public safety

- Breaches of Premises Licence conditions (conditions 100, 341, 342 343, 344 and 2470 - lack of notices re personal safety, CCTV (condition 289).

Protection of children from harm

- Sale of alcohol to a child (an offence under s.146 Licensing Act 2003)
 - Failure to adopt an age verification scheme (condition 334)
 - Failure to operate a refused sales register (condition 340)
 - Failure to display notices detailing restrictions on sales to children (condition 344) and at each point of sale stating "No proof of age - no sale" (condition 347)
31. On 26 April 2017, the premises was visited by Trading Standards, the Metropolitan Police and the Licensing Authority. Mr Mustaq Ahmed was running the store alone, selling alcohol. He claimed to have a personal licence with Tower Hamlets, however, he has only made an application, which has not yet been granted. Additionally, he is a failed asylum seeker. He should not be working; he is appealing this ruling. This will therefore affect his ability to hold a personal licence.
32. The licence was revoked by the licensing sub-committee on 15 June 2017; a copy of the notice of decision is attached as Appendix E.
33. The licensing authority received an appeal dated 4 July 2017 against the revocation. The premises was therefore able to continue trading until the appeal was heard. The licensing appeal hearing was due to be heard on 18 April 2018 at Camberwell Green Magistrates' Court. However, the day before the appeal, the Magistrates' Court listed the case on its own motion. On being informed of this transfer application, the district judge was of the opinion that the transfer application should be determined by the licensing sub-committee. The appeal was therefore adjourned to 29 June 2018.
34. In between, a premises licence transfer application was then received on 19 March 2018 to remove Mohammed Imran Ghulam Rasool as the premises licence holder of Food and Wine and to specify Somasundram Ariyarajah as the new premises licence holder. On the same day, a vary DPS application was received, but rejected.

35. On 19 March 2018 consents were also received. The transfer received representation from the Police and went to the licensing sub-committee on 10 May 2018, at which point it was refused. A copy of the notice of decision is available in Appendix F. The applicant to the transfer application subsequently appealed the decision to refuse to transfer the DPS to the Magistrates' Court on or around 12 June 2018.
36. On 14 July 2018, the appeal against the revocation was withdrawn at Court at the commencement of the Appeal hearing.
37. On or around appeal against the refusal to transfer was withdrawn by Mr Somasundram Ariyarajah.
38. No TEN's have been submitted in regards to the premises.

Map

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

London Food and Wine – 12 Camberwell Church Street, 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, SE5 7AA

The sale of alcohol to be consumed on and off the premises

- Sunday to Thursday 09:00 to 01:30 (the following day)
- Friday and Saturday 09:00 to 03:30 (the following day)

The provision of late night refreshment (indoors)

- Sunday to Thursday 23:00 to 01:30 (the following day)
- Friday and Saturday 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 09:00 to 02:00 (the following day)
- Friday and Saturday 09:00 to 04:00 (the following day)
- Sunday 09:00 to 01:00 (the following day)

Golden Grill – 20 Camberwell Green SE5 7AA

The sale of alcohol to be consumed on the premises

- Monday to Saturday 11:00 to 02:00 (the following day)
- Sunday 13:00 to 22:30

The provision of late night refreshment (indoors)

- Sunday to Thursday 23:00 to 02:00 (the following day)
- Friday and Saturday 23:00 to 04:00 (the following day)

Hermits Cave - 28 Camberwell Church Street, SE5 8QU

The sale of alcohol to be consumed on and off the premises

- Monday to Thursday 10:00 to 00:00 (midnight)
- Friday and Saturday 10:00 to 02:00 (the following day)
- Sunday 10:00 to 01:00 (the following day)

The provision of late night refreshment (indoors)

- Monday to Thursday 23:00 to 00:00 (midnight)
- Friday and Saturday 23:00 to 02:00 (the following day)
- Sunday 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 10:00 to 00:00 (midnight)
- Friday and Saturday 10:00 to 02:00 (the following day)
- Sunday 10:00 to 01:00 (the following day)

Chicks Peri Peri Chicken – 5 Camberwell Church Street, SE5 8TR

The provision of late night refreshment (indoors)

- Sunday to Thursday 23:00 to 01:30 (the following day)
- Friday and Saturday 23:00 to 02:30 (the following day)

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

The sale of alcohol to be consumed on the premises

- Monday to Thursday 09:00 to 03:00 (the following day)
- Friday and Saturday 09:00 to 04:00 (the following day)
- Sunday 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, SE5 8TR

The sale of alcohol to be consumed on and off the premises

- Monday to Sunday 08:00 to 00:00 (midnight)

The provision of late night refreshment (indoors)

- Monday to Saturday 23:00 to 00:00 (midnight)
- Sunday 23:00 to 23:30

Wuli Wuli – 15 Camberwell Church Street, SE5 8TR

The sale of alcohol to be consumed on and off the premises

- Sunday to Thursday 12:00 to 23:00
- Friday and Saturday 12:00 to 01:00 (the following day)

The provision of late night refreshment (indoors)

- Sunday to Thursday 23:00 to 23:30
- Friday and Saturday 23:00 to 01:00 (the following day)

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

The sale of alcohol to be consumed on and off the premises

- Monday to Sunday 11:00 to 23:00

Stormbird – 25 Camberwell Church Street, SE5 8TR

The sale of alcohol to be consumed on and off the premises

- Monday to Wednesday 10:00 to 00:00 (midnight)
- Thursday 10:00 to 02:00
- Friday and Saturday 10:00 to 03:00 (the following day)
- Sunday 10:00 to 00:00 (midnight)

The provision of late night refreshment (indoors)

- Monday to Wednesday 23:00 to 00:00 (midnight)
- Thursday 23:00 to 02:00
- Friday and Saturday 23:00 to 03:00 (the following day)
- Sunday 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 10:00 to 00:00 (midnight)
- Thursday 10:00 to 02:00
- Friday and Saturday 10:00 to 03:00 (the following day)
- Sunday 10:00 to 00:00 (midnight)

Southwark council statement of licensing policy

40. 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.
41. 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.
42. Within Southwark's statement of licensing policy 2016 - 2020, the premises are identified as being within the Camberwell CIP area. Under the Southwark statement of licensing policy 2016 - 2020 the local CIP applies to night clubs, public houses and bars, off-licences, supermarkets and grocers. The closing time recommended in the statement of licensing policy for off licences, and grocers or supermarkets with off sales of alcohol in this area is 00:00 (midnight) daily.

Camberwell CIP

43. 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.
44. 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.

Resource implications

45. 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.

Consultations

46. 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

47. 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

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

Principles for making the determination

50. 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.
51. 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
52. 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

53. 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.
54. The four licensing objectives are:

- The prevention of crime and disorder
 - Public safety
 - The prevention of nuisance
 - The protection of children from harm
55. 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.
56. 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.
57. 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

58. 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

59. 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.

60. 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

61. 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.
62. 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.
63. 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.
64. 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.
65. 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.
66. 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.
67. 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.
68. 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

69. 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

70. 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 and DPS Consent
Appendix B	Representations submitted by responsible authorities
Appendix C	Representations submitted by other persons
Appendix D	Responses to Responsible Authorities
Appendix E	Notice of Decision: 15 June 2017
Appendix F	Notice of Decision: 10 May 2018
Appendix G	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	29 August 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	No	No
Cabinet Member	No	No
Date final report sent to constitutional team		29 August 2018