

Item No. 5.	Classification: Open	Date: 27 September 2018	Meeting Name: Licensing Sub-Committee
Report Title		The Lighthouse Venue – 254-270 Camberwell Road, London, SE5 0DP	
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 Lighthouse Operations Limited for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as The Lighthouse Venue – 254-270 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 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 representation submitted by the responsible authorities and attached to this report in Appendix B and copies of representations from other persons attached in Appendix C. A map showing the location of the premises is attached to this report as Appendix H.
 - 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 6 August 2018 Lighthouse Operations Limited applied for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as The Lighthouse Venue – 254-270 Camberwell Road, London, SE5 0DP. The premises are described in the application as being:

"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 hours seem somewhat confused. The hours applied for are summarised as follows:
- The sale by retail of alcohol (on sales only)
 - Monday to Sunday 11:00 to 23:00
 - The provision of late night refreshment (outdoors)
 - Friday and Saturday 23:00 to 00:00
 - The provision of regulated entertainment in the form of plays (both indoors and outdoors)
 - Sunday to Thursday 11:00 to 23:00
 - Friday and Saturday 11:00 to 23:30
 - The provision of regulated entertainment in the form of films (both indoors and outdoors)
 - Monday to Sunday 17:00 to 00:00
 - The provision of regulated entertainment in the form of live music (both indoors and outdoors)

- Monday to Saturday 13:00 to 23:00
 - Sunday 19:00 to 23:00
 - The provision of regulated entertainment in the form of recorded music (both indoors and outdoors)
 - Monday to Saturday 17:00 to 23:00
 - Sunday 19:00 to 23:00
 - The provision of regulated entertainment in the form of performances of dance (both indoors and outdoors)
 - Monday to Sunday 17:00 to 23:00
 - The provision of regulated entertainment in the form of anything of a similar description (both indoors and outdoors)
 - Monday to Saturday 11:00 to 00:00
 - Sunday 18:00 to 00:00
 - The provision of indoor sporting events
 - Monday to Sunday 17:00 to 00:00
 - Boxing or wrestling (both indoors and outdoors)
 - Monday to Saturday 13:00 to 00:00
 - Sunday 19:00 to 00:00
 - Opening hours
 - Monday to Sunday 06:00 to 00:00
10. The designated premises supervisor 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 (licensing division) which raises concerns regarding the use of the premises as a venue with a 3000 capacity. There are concerns that the operating schedule does not adequately address the licensing objectives.
13. Correspondence has been received from the planning authority, in regards to planning permissions and raises concerns regarding the use of temporary structures in the external area that may require planning permission. Whilst this is not a representation, it has been included for information for members.

14. A representation has been provided by this council's environmental protection team. There are general concerns regarding the application and the lack of information provided. Most essentially, concerns regard any use of the external area for any licensable activities.
15. 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. The author draws the sub committee's attention to the Southwark licensing policy as the application falls outside of its remit.
16. The representations from responsible authorities are all available in Appendix B.

Representations from other persons

17. Representations have been received from thirteen local residents. The residents reside in a nearby block of flats that has recently been built. Representations are concerned with existing issues of noise egress from the premises and how granting such a licence will exacerbate those problems. Redacted versions of the representations are available in Appendix C.

Conciliation

18. All representations were sent to the applicant. On the day this report was submitted, responses had been forthcoming to the responsible authorities that day, though no agreements had been made.
19. The applicant has requested that correspondence be forwarded to all local residents in order to address their concerns. This has been done; a copy of that correspondence is available in Appendix D.

Premises history

20. 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 E. 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.
21. 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	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

Applicant	Activities	Dates	Counter Notice
Road			
Brenda David for 254-268 Camberwell Road	Sale by retail of alcohol to be consumed on the premises for 300 people	From 22/04/2018 to 22/04/2018 17:00 - 23:00	No
Philemon Adeleke for 262-270 Camberwell Road	Sale by retail of alcohol to be consumed on the premises for 350 people	From 24/06/2018 to 30/06/2018 15:00 – 20:00	Withdrawn following Police representation
Philemon Adeleke for 254-268 Camberwell Road	Sale by retail of alcohol to be consumed both on off the premises for 300 people	From 07/07/2018 to 13/07/2018 23:00 to 02:30	Rejected as surpassed number of late TENS
Philemon Adeleke 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 480 people	22/09/2018 to 23/09/2018 23:00 to 02:30	Rejected as surpassed number of late TENS
Heredia Cristian 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 450 people	21/09/2018 to 22/09/2018 23:00 to 02:30	Awaiting

22. The licensing department has no history of complaints in relation to this premises resulting from licensable activities in the past 12 months, however, one complaint of music was made to the noise team on 18 August by a local resident. The premises was visited and a warning letter was issued. A copy of that warning letter is available for information in Appendix F. It would appear that no TEN had been issued for that evening.
23. Two applications for 254-268 Camberwell Road for temporary events notices for 450 people each from 14 to 15 April from 21:00 to 04:00 by Fiona Munkoh. Philemon Adeleke also made an application for 262-270 Camberwell Road, for the same dates and times. Representations were received from the Police leading both to write to withdraw both applications. Further to the withdrawals, the Police visited that evening and witnessed wide-spread sales of alcohol on the premises.
24. On 15 April at around 02:15 Metropolitan Police Officers (licensing division) attended the premises. The premises was open, patrons were paying to get in and were purchasing and consuming alcohol on the premises.
25. Both Fiona Munkoh and Philemon Adeleke attended interviews under caution at the council offices on 30 May 2018. Both admitted that offences had taken place and assurances were given that legislative requirements were fully understood and that no repeat would take place. Both were subsequently issued with written warnings. Copies of those written warnings are available in Appendix G.
26. The premises also runs as a church named the “House of Praise”. Schedule 1 of the Licensing Act 2003 states that a place of public religious worship is exempt from regulated entertainment for the purposes of the Act. More advice will be provided to members at the hearing.

Map

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

- **Mozah Anz – 278 Camberwell Road, SE5 0DL**, licenced for:

The sale by retail of alcohol (on sales)

- Monday to Wednesday 12:00 to 00:00
- Thursday to Saturday 12:00 to 01:30
- Sunday 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, 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 23:00 to 03:00
- Friday to Sunday 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 23:00 to 03:00
- Friday to Sunday 23:00 to 05:00

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

The sale by retail of alcohol (of sales)

- Monday to Sunday 08:00 to 00:00

- **Nags Head PH – 242 Camberwell Road, SE5 0DP**, licensed for:

The sale by retail of alcohol (on and off sales)

- Monday to Sunday 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

28. Council assembly approved Southwark's statement of licensing policy 2011-14 on 12 October 2011. Council assembly approved Southwark's Statement of Licensing Policy 2016-20 on 25 November 2015. The policy came into effect on 1 January 2016.
29. Further sections of the statement that are considered to be of particular relevance to the sub-committee's consideration are:
 - Section 3 - Purpose and scope of the policy – Which 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 - Which 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 – Which 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 – Which 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 – Which provides general guidance on the promotion of the first licensing objective
 - Section 9 – Public safety – Which provides general guidance on the promotion of the second licensing objective
 - Section 10 – The prevention of nuisance – Which provides general guidance on the promotion of the third licensing objective
 - Section 11 – The protection of children from harm – Which provides general guidance on the promotion of the fourth licensing objective.
30. 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.
31. Within Southwark's Statement of Licensing Policy, the premises are identified as being within the Camberwell CIP 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:
 - Closing time for restaurants and cafes is 23:00hrs daily
 - Closing time for public houses wine bars or other drinking establishments is 23:00hrs
 - Closing time for night clubs (with sui generis planning classification) are not considered appropriate for this area.

Camberwell cumulative impact zone

32. Council assembly approved the introduction of a special policy for Camberwell on the cumulative impact of a concentration of licensed premises (saturation/cumulative impact policy) on 5 November 2008. This application falls within the policy area.
33. The decision to introduce saturation policy was taken with regard to the committee's concern over rising trends of late night alcohol related violence against the person and late night disorder and rowdiness associated with late night licensed premises in the area.
34. The effect of this special policy is to create a presumption that applications for new premises licences or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

Resource implications

35. 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.

Consultations

36. 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

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 & Democracy

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

Principles for making the determination

40. 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.
41. 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.
42. 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

43. 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.
44. The four licensing objectives are:
- The prevention of crime and disorder
 - Public safety
 - The prevention of nuisance
 - The protection of children from harm.
45. 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.
46. 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.
47. 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

48. 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

49. 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.
50. 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

51. 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.
52. 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.
53. 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.
54. 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.
55. 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.

56. 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.
57. 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.
58. 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

59. 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.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Licensing Act 2003 DCMS 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 020 7525 5748

APPENDICES

Name	Title
Appendix A	Application for a premises licence
Appendix B	Representations submitted by Responsible Authorities
Appendix C	Representations submitted by Other Persons
Appendix D	Copy correspondence to local residents
Appendix E	Copy of previous premises licence
Appendix F	Copy of warning letter from Noise Team
Appendix G	Copy of warning emails from Licensing
Appendix H	Map of the locality

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Environment and Social Regeneration		
Report Author	Andrew Heron, Principal Licensing Officer		
Version	Final		
Dated	13 September 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	No	No	
Cabinet Member	No	No	
Date final report sent to Constitutional Team		13 September 2018	