

Item No. 5.	Classification: Open	Date: 24 October 2019	Meeting Name: Licensing Sub-Committee
Report Title		Licensing Act 2003: Cruson Supermarket, 26 Camberwell Church Street, London SE5 8QU	
Ward(s) of group(s) affected		Camberwell Green	
From		Strategic Director of Environment and Leisure	

RECOMMENDATION

1. That the licensing sub-committee considers an application made by West End Food and Drinks Ltd for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Cruson Supermarket, 26 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 12 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) Paragraph 13 to 28 of this report deals with the representations submitted by Responsible Authorities. Copies of the representations are detailed in Appendix B.
 - d) Paragraph 29 of this report deal with representations submitted by other persons in respect of the application. Copies of the representations submitted by other persons are detailed in Appendix C.
 - e) A map showing the location of the premises is attached to this report as Appendix D.
 - f) 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 June 2019 West End Food and Drinks Ltd applied for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Cruson Supermarket, 26 Camberwell Church Street, London SE5 8QU.
9. Following the licensing department receiving objections to the premises licence application this matter was scheduled for determination at a licensing sub - committee hearing. At the request of the applicants legal representative a request was made to postpone a hearing to determine this application as the applicant was out of the country.
10. The premises are described in the application as:

“Traditional grocers shop known as Cruson that has been in this location for over 45 years. It is located on the main road and has been purchased by new owners who are intending to invest heavily in the business. The changes will involve a process of modernisation with new equipment such as CCTV and new fixtures and fittings as part of a new shop fit. The new owners will be partners with Nisa but due to the long tradition of the shop at this location they intend to retain that tradition by keeping the name Cruson Supermarket.

The store will continue to supply fresh food and other convenience goods such as frozen food, toiletries and household items. Alcohol will form part of the general offering to customers.

The application is made in full knowledge of the cumulative impact zone (CIZ) and the requirements that are detailed within Southwark Licensing Policy. The hours applied for alcohol sales are as per the policy for this area and the conditions applied to the licence have taken into account the nature of the area.”

11. The hours applied for are summarised as follows:
 - Sale of alcohol (off sales):
 - Monday to Sunday: 06:00 to 00:00
 - Opening hours:
 - Monday to Sunday: 06:00 to 00:00.
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. 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 is attached to this report in Appendix A.

Representations from responsible authorities

13. Representations have been submitted by the Metropolitan Police Service (Licensing Division), public health, trading standards and licensing as a responsible authority.
14. The representation from the Metropolitan Police Service draws members' attention to the premises being within the Camberwell cumulative impact policy area. The Metropolitan Police Service object to the granting of the licence in full and state any further premises selling alcohol will only add to the cumulative impact, attract alcohol dependent people, and add to the local crime and disorder.
15. The Metropolitan Police Service state if the licensing sub-committee feel it is appropriate to grant the licence the following should be noted:

“The opening hours for the premises is 06.00 and the sale of alcohol to start at 06.00. The applicant should consider issues caused by opening and selling alcohol in the early morning as it would attract alcohol dependent people and the problems associated with this. When setting out the steps they will take to promote the licensing objectives these factors should be considered. I believe that the sale of alcohol should not be until 10.00”.
16. The Metropolitan Police Service state that

“the applicant has offered a number of conditions as part of the operating schedule, the conditions set out in the operating schedule should be precise and enforceable, as stated in the Section 182 Guidance of the Licensing Act 2003 issued by the Home Office”.
17. Additionally, the Metropolitan Police Service request that If the committee are minded to grant the licence, consideration should be given to the following control measures to promote the prevention of crime and disorder:
 1. 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 under the licence. The CCTV System must be capable of capturing a clear facial image of every person who enters the premises
 2. 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.

3. 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.
 4. 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.
 5. 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.
 6. No alcohol to be stored or displayed within 2 metres of the entrance/exit unless behind the staff counter.
18. If opening hours are granted outside the sale of alcohol then the following condition should be placed on the licence, to avoid confrontation with customers:
7. 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.
19. The representation is available in Appendix B.
20. A representation to this application has been made by trading standards on the grounds of "the prevention of crime and disorder". Trading standards state
- "nowhere in the application is there any explanation as to how the applicant would ensure that there is no further cumulative impact from the opening of what is in effect a new off license. It should also be noted that the Camberwell area has some serious street drinking problems and the police and trading standards have worked hard over the last seven years to deal with problem off licenses in the area. Illegal alcohol has been a major issue in the area and particular attention has been turned over the years to shops selling super strength lagers at or close to the minimum price. It is particularly pertinent in the application that there is no acknowledgement of the issues faced in the area by the use / abuse of high strength drinks. There is no acknowledgement in the application about these issues and what the business would do to mitigate them should it be granted a premises license. It should also be noted that this is a 24 hour shop".
21. Trading Standards state:
- "The issue of the prevention of alcohol sales to minors are adequately dealt with in the licensing objectives. However, given the issues relating to problem drinking in the area and the applicants desire to open another off license opening 24 hours a day (even if the licensed hours do not cover the actual opening hours) - this application appears to have no regard to the public health issues this raises and the effects that alcohol misuse has on crime and disorder in the area".
22. Trading standards, as a responsible authority request the licensing sub-committee reject this application outright on the basis that this premises would have a serious impact on the Camberwell cumulative impact policy area. This representation is detailed in Appendix B.
23. A Representation to this application has also been made from the council's public health team. Representation is made under the grounds of prevention of crime and disorder, the prevention of public nuisance and protection of children from harm.

24. Public health advise that the Camberwell cumulative impact policy area accounts for 9.5% of all rowdy behaviour and street drinking, and 8.4% of all alcohol related non-domestic violence in Southwark (2017 - 2018). More specifically, Camberwell Green is responsible for 6% of all alcohol related ambulance call outs in Southwark (222 in 2017 alone), thus placing it in the second highest quintile.
25. As a general comment public health state that they also have concerns regarding the hours of operation and suggest a later start time for alcohol sales: early-morning alcohol purchasers are more likely to be alcohol misusers and may thereby contribute to antisocial behaviour such as street drinking. In fact, early morning drinking is considered one of the indicators for alcohol misuse.
26. Additionally, public health state that the premises is located within a 10 minute walk from three primary schools and one secondary school. It is therefore likely that children will live close to this premises and are likely to be negatively impacted. For example, early in the morning, children could be exposed to street drinking on their way to school. This representation is detailed in Appendix B.
27. The representation from the council's licensing authority draws on the location of the premises within the cumulative impact policy area. Licensing as a responsible authority state the requested hours by the applicant fall outside of the Southwark licensing policy. The following conditions have been proposed by licensing as a responsible authority:
 1. That off sales of alcohol shall be sold in closed containers and taken away from the premises.
 2. That clear legible signage shall be prominently displayed where it can be easily seen and read, requesting that alcohol sold as 'off sales' should not be opened and consumed in the vicinity of the premises.
28. This representation is detailed in Appendix B

Representations from other persons

29. Representations to this application have been received on the grounds of prevention of crime and the prevention of public nuisance from three local residents. Attention is drawn to the location of the premises in the Camberwell cumulative impact policy area. These representations are detailed at Appendix C.

Conciliation

30. The applicant's legal representative was sent copies of all the submitted representations. At the point that this report was published, no conciliation had been reached.

Operating history

31. The premises has no previous licensing operating history.

Map

32. 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 in the immediate vicinity of the premises application:

FM Mangal, 54 Camberwell Church Street, London SE5 8QZ licenced for:

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

- Monday to Sunday: 12:00 (midday) to 00:00 (midnight)
- The provision of late night refreshment (indoors):
 - Monday to Wednesday: 23:00 to 01:00 (the following day)
 - Thursday to Saturday: 23:00 to 02:00 (the following day)
 - Sunday: 23:00 to 00:00 (midnight)
- The provision of regulated entertainment in the form of live music, recorded music and the performance of dance (indoors):
 - Monday to Wednesday: 09:00 to 01:00 (the following day)
 - Thursday to Saturday: 09:00 to 02:00 (the following day)
 - Sunday: 12:00 (midday) to 00:00 (midnight)

Maloko Art Café, 60 Camberwell Church Street, London SE5 8QZ, licensed for:

- The sale by retail of alcohol (on sales):
 - Monday to Saturday: 12:00 (midday) to 22:00
 - Sunday: 12:00 (midday) to 21:00

The Vineyard, 3 Camberwell Grove, London SE5 8JA, licensed for:

- The sale by retail of alcohol (on sales):
 - Monday to Saturday: 11:00 to 00:00 (midnight)
 - Sunday: 12:00 (midday) to 23:30
- The provision of late night refreshment (indoors):
 - Monday to Saturday: 23:00 to 00:30 (the following day)
 - Sunday: 23:00 to 00:00 (midnight)

I Go Chop, 46 Camberwell Church Street, London SE5 8QZ, licensed for:

- The sale by retail of alcohol (both on and sales):
 - Sunday to Thursday: 10:00 to 23:30
 - Friday and Saturday: 10:00 to 00:30 (the following day)
- The provision of late night refreshment (indoors and outdoors):
 - Monday to Sunday: 23:00 to 05:00 (the following day)

Hoa Viet, 42 Camberwell Church Street, London SE5 8QZ, licensed for:

- The sale by retail of alcohol (both on and off sales):
 - Monday to Saturday: 11:00 to 00:00 (midnight)
 - Sunday: 11:00 to 23:30
- The provision of late night refreshment (indoors):
 - Monday to Saturday: 23:00 to 00:30 (the following day)

- Sunday: 23:00 to 00:00 (midnight)

Daily Goods, 36 Camberwell Church Street, London SE5 8QZ, licensed for:

- The sale by retail of alcohol (both on and off sales):
 - Monday to Saturday: 10:00 to 22:00
 - Sunday: 11:00 to 22:00

Camberwell Superstore, 34 Camberwell Church Street, London SE5 8QZ, licensed for:

- The sale by retail of alcohol (off sales only):
 - Monday to Saturday: 08:00 to 23:00
 - Sunday: 10:00 to 22:30

Well Mix Oriental, 69 Camberwell Church Street, London SE5 8TR, licensed for:

- The sale by retail of alcohol (both on and off sales):
 - Monday to Saturday: 11:00 to 00:00 (midnight)
 - Sunday: 11:00 to 23:30
- The provision of late night refreshment (indoors):
 - Monday to Saturday: 23:00 to 00:30 (the following day)
 - Sunday: 23:00 to 00:00 (midnight)

The Camberwell Arms, 65 Camberwell Church Street, London SE5 8TR, licensed for:

- The sale by retail of alcohol (on sales):
 - Sunday to Thursday: 10:00 to 00:00 (midnight)
 - Friday and Saturday: 10:00 to 02:00 (the following day)
- The sale by retail of alcohol (off sales):
 - Sunday to Thursday: 10:00 to 00:00 (midnight)
 - Friday and Saturday: 10:00 to 03:00 (the following day)
- The provision of late night refreshment (indoors):
 - Sunday to Thursday: 23:00 to 00:00 (midnight)
 - Friday and Saturday: 23:00 to 02:30 (the following day)
- The provision of regulated entertainment in the form of live music, recorded music, facilities for making music and anything similar and the performance of dance (indoors):
 - Sunday to Thursday: 10:00 to 00:00 (midnight)
 - Friday and Saturday: 10:00 to 02:00 (the following day)

We Are Lumberjack, 70 Camberwell Church Street, London SE5 8QZ, licensed for:

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

- Monday to Saturday: 10:00 to 23:00
- Sunday: 12:00 (midday) to 22:30
- The provision of late night refreshment (indoors):
 - Monday to Saturday: 23:00 to 23:30

We Are Lumberjack, 70 Camberwell Church Street, London SE5 8QZ, licensed for:

- The provision of late night refreshment (indoors):
 - Monday to Sunday: 23:00 to 04:00 (the following day)

Shreeji News, 63 Camberwell Church Street, London SE5 8TR, licensed for:

- The sale by retail of alcohol (off sales only)
 - Monday to Saturday: 08:00 to 23:00
 - Sunday: 10:00 to 22:30

Day 1, 61 Camberwell Church Street, London SE5 8TR, licensed for:

- The sale by retail of alcohol (off sales only):
 - Monday to Saturday: 06:00 to 01:00 (the following day)
 - Sunday: 06:00 to 00:00 (midnight)

The Pigeon Hole Café Bar, 2 Datchelor Place, London SE5 7AP, licensed for:

- The sale by retail of alcohol (on sales only):
 - Monday to Sunday: 12:00 (midday) to 23:00

The New Dome Hotel, 51-53 Camberwell Church Street, SE5 8TR, licensed for:

- The sale by retail of alcohol (on sales only):
 - Monday to Saturday: 10:00 to 00:00 (midnight)
 - Sunday: 10:00 to 23:30
- The provision of late night refreshment (indoors):
 - Monday to Saturday: 23:00 to 00:30 (the following day)
 - Sunday: 23:00 to 00:00 (midnight)

Silk Road Restaurant, 49 Camberwell Church Street, London SE5 8TR, licensed for:

- The sale by retail of alcohol (both on and sales):
 - Monday to Saturday: 10:00 to 23:00
 - Sunday: 10:00 to 22:30
- The provision of late night refreshment (indoors)
 - Monday to Saturday: 23:00 to 23:30

Caravaggio, 47 Camberwell Church Street, London SE5 8TR, licenced for:

- The sale by retail of alcohol (on sales):
 - Monday to Sunday: 10:00 to 00:00 (midnight)
- The provision of late night refreshment (indoors):
 - Monday to Sunday: 23:00 to 00:30 (the following day)
- The provision of regulated entertainment in the form of recorded music (indoors):
 - Monday to Sunday: 10:00 to 00:30 (the following day)

Tadim Café/Cycles PS Ltd, 41 Camberwell Church Street, London SE5 8TR, licenced for:

- The sale by retail of alcohol (on sales):
 - Monday to Sunday: 12:00 (midday) to 23:00
- The provision of regulated entertainment in the form of recorded music (indoors):
 - Monday to Sunday: 09:00 to 23:00

Kentucky Fried Chicken, 35 Camberwell Church Street, London SE5 8TR licenced for:

- The provision of late night refreshment (indoors):
 - Sunday to Thursday: 23:00 to 02:00 (the following day)
 - Friday and Saturday: 23:00 to 03:30 (the following day)

The Crooked Well, 16 Grove Lane, London SE5 8SF, licenced for:

- The sale by retail of alcohol (both on and off sales):
 - Sunday to Thursday: 10:00 to 00:00 (midnight)
 - Friday and Saturday: 10:00 to 01:00 (the following day)
- The provision of late night refreshment (indoors):
 - Sunday to Thursday: 23:00 to 00:00 (midnight)
 - Friday and Saturday: 23:00 to 01:00 (the following day)
- The provision of regulated entertainment in the form of films, recorded and live music (indoors):
 - Sunday to Thursday: 10:00 to 00:00 (midnight)
 - Friday and Saturday: 10:00 to 01:00 (the following day)

The Hill Bakery and Deli, 4a Grove Lane, London SE5 8SY, licenced for:

- The sale by retail of alcohol (off sales only):
 - Monday to Thursday: 09:00 to 19:00
 - Friday and Saturday: 10:00 to 20:00
 - Sunday: 10:00 to 16:00

Hermit's Cave, 28 Camberwell Church Street, London SE5 8QU, licenced for:

- The sale by retail of alcohol (both on and off sales):
 - Sunday to Thursday: 10:00 to 01:00 (the following day)
 - Friday and Saturday: 10:00 to 02:00 (the following day)
- The provision of late night refreshment (indoors):
 - Sunday to Thursday: 23:00 to 01:00 (the following day)
 - Friday and Saturday: 23:00 to 02:00 (the following day)
- The provision of regulated entertainment in the form of films, performances of dance, recorded and live music (indoors):
 - Sunday to Thursday: 10:00 to 01:00 (the following day)
 - Friday and Saturday: 10:00 to 02:00 (the following day)

Angels and Gypsies, 29-33 Camberwell Church Street, London SE5 8TR, licenced for:

- The sale by retail of alcohol (both on and off sales):
 - Monday to Saturday: 11:00 to 00:00 (midnight)
 - Sunday: 12:00 (midday) to 23:30
- The provision of late night refreshment (indoors):
 - Monday to Saturday: 23:00 to 00:30 (the following day)
 - Sunday: 23:00 to 23:30

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

- The sale by retail of alcohol (both on and off sales):
 - Monday to Wednesday: 10:00 to 00:00 (midnight)
 - Thursday: 10:00 to 02:00 (the following day)
 - Friday and Saturday: 10:00 to 03:00 (the following day)
 - Sunday: 12:00 (midday) to 00:00 (midnight)
- The provision of late night refreshment (indoors):
 - Sunday to Wednesday: 23:00 to 00:30 (the following day)
 - Thursday: 23:00 to 02:30 (the following day)
 - Friday and Saturday: 23:00 to 03:30 (the following day)
- The provision of regulated entertainment in the form of performances of dance recorded and live music (indoors):
 - Monday to Wednesday: 10:00 to 00:00 (midnight)
 - Thursday; 10:00 to 02:00 (the following day)
 - Friday and Saturday: 10:00 to 03:00 (the following day)
 - Sunday: 12:00 (midday) to 00:00 (midnight).

Southwark council statement of licensing policy

33. Council assembly approved Southwark's statement of licensing policy 2016-20 on 25 November 2015. 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. To be read in conjunction with Appendix B to the policy.
- 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.

34. 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.

35. The premises is within the Camberwell district town centre area. Under the Southwark Statement of Licensing policy 2016 - 2020 the following closing times are recommended as appropriate within this area for the following categories of premises:

- Restaurants and cafes:
 - Sunday to Thursday: 00:00
 - Friday and Saturday 01:00
- Public houses, wine bars or other drinking establishments:
 - Sunday to Thursday: 23:00
 - Friday and Saturday: 00:00

- Night clubs (with sui generis planning classification):
 - Sunday to Thursday: 00:00
 - Friday and Saturday: 01:00

Camberwell cumulative impact policy area

36. 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.
37. 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.
38. The classes of premises to which the policy applies is defined as follows: nightclubs, pubs and bars, off-licences, grocers, supermarkets, convenience stores and similar premises.

Resource implications

39. 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.

Consultation

40. 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 a similar notice exhibited outside of the premises for a period of 28 consecutive days.

Community impact statement

41. 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

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

Principles for making the determination

44. 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.
45. 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.
46. 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

47. 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.
48. The four licensing objectives are:
- The prevention of crime and disorder
 - Public safety
 - The prevention of nuisance
 - The protection of children from harm.
49. 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.
50. 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.
51. 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

52. 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

53. 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.
54. 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

55. 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.
56. 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.
57. 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.
58. 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.

59. 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.
60. 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.
61. 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.
62. 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

63. Members are required to have regard to the Home Office 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

64. 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 and Enforcement, 160 Tooley Street, London, SE1 2QH	Mrs Kirty Read Tel: 020 7525 5748

APPENDICES

Name	Title
Appendix A	Application for a premises licence
Appendix B	Responsible Authority Representations
Appendix C	Representations from other persons
Appendix D	Map of the locality

AUDIT TRAIL

Lead Officer	Caroline Bruce, Strategic Director of Environment and Leisure	
Report Author	Richard Kalu, Principal Licensing Officer	
Version	Final	
Dated	7 October 2019	
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		11 October 2019