

Item No. 6.	Classification: Open	Date: 4 June 2020	Meeting Name: Licensing Sub-Committee
Report Title		Licensing Act 2003: Empire Lounge, 777 Old Kent Road, London SE15 1NZ	
Ward(s) of group(s) affected		Old Kent Road	
From		Strategic Director of Environment and Leisure	

RECOMMENDATION

1. That the licensing sub-committee considers whether an application submitted by Mr George Nwachukwu for a premises licence be granted under the Licensing Act 2003 in respect of the premises known as Empire Lounge, 777 Old Kent Road, London SE15 1NZ.
2. Notes:
 - a) The application is for a premises licence and was submitted under Section 17 of the Licensing Act 2003. The application is subject to representations and is therefore referred to the licensing sub-committee for determination.
 - b) Paragraphs 8 to 15 of this report provide a summary of the application under consideration by the sub-committee. A copy of the full application is attached as Appendix B.
 - c) Paragraphs 16 to 26 of this report deal with the representations submitted in respect of the application. Copies of the representations are attached to this report as Appendices C and D. A map showing the location of the premises is attached to this report as Appendix M.
 - d) A copy of the council's approved procedure for hearings of the sub-committee in relation to applications 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 April 2020 Mr George Nwachukwu applied to this council for the grant of a premises licence in respect of Empire Lounge, 777 Old Kent Road, London SE15 1NZ.
9. The application is summarised as follows:
- **Recorded Music:**
 - Friday and Saturday: 11:00 to 02:00
 - **Late Night Refreshment:**
 - Sunday to Thursday: 23:00 to 23:30
 - Friday and Saturday: 23:00 to 02:00
 - **Supply of alcohol for consumption on and off the premises:**
 - Sunday to Thursday: 11:00 to 23:30
 - Friday and Saturday: 11:00 to 02:00
 - **Proposed opening hours of the premises:**
 - Sunday to Thursday: 11:00 to 00:00
 - Friday and Saturday: 11:00 to 02:30
 - **Non-standard timings:**
 - On the following days the permitted hours may be extended for an additional hour:

Thursday, Friday, Saturday and Sunday of the Easter weekend. Friday, Saturday and Sunday of both May Bank Holidays and the August Bank Holiday, Christmas Eve and Boxing Day.

- From the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.
 - On the trading day on which the clocks go forward (i.e. the start of British Summer Time) permitted hours may be extended for an additional hour.
 - The premises are described in the application as being "a lounge bar and restaurant".
10. The premises licence application form provides the applicant's operating schedule. Parts F, 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 then 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.
 11. Please note that a premises licence is extant regarding the premises (licence number 859547). The licence is held by Mr George Nwachukwu. Mr Nwachukwu is the applicant regarding the application that this report relates to. Mr Nwachukwu is also the designated premises supervisor (DPS) in respect of premises licence number 859547.
 12. This application amounts to a continuation of Mr Nwachukwu's interest in the premises with the proposed effect of extending the hours permitted for existing licensable activities & the opening hours of the premises on Friday and Saturday and also allowing for the provision of a further licensable activity at the premises (recorded music). Mr Nwachukwu has elected not to submit an application to vary the premises licence number 859547.
 13. For reference premises licence number 859547 is attached as Appendix A.
 14. A copy the application to which this report relates is attached as Appendix B.

Designated Premises Supervisor

15. The proposed designated premises supervisor of the premises is Mr George Nwachukwu.

Representations submitted by responsible authorities

16. Representations have been submitted by this council's planning service, this council's environmental protection team, the Metropolitan Police Service and by this council's licensing responsible authority.
17. The planning service's representation states that, in order to protect the amenity of adjoining residents, the premises are subject to a planning condition restricting the premises' terminal hours of operation to 23:00 daily. The planning service states that this condition has not been adhered to and a planning enforcement notice is in place requiring that the condition is adhered to. The planning service contends that there is no possibility of the permitted hours of operation being extending under planning legislation. The planning service recommends that the application be refused.

18. The environmental protection team notes that complaints regarding noise nuisance have been made regarding the premises since it has operated as Empire Lounge, that numerous breaches of the conditions of the existing premises licence issued in respect of the premises have been observed by council officers and that the premises has been observed operating outside of the hours permitted by the premises licence issued in respect of the premises.
19. The environmental protection team contends that there is nothing in the application to indicate that this situation will not continue thus causing further nuisance and disturbance to local residents. The environmental protection team further state that if opening until 02:30 hours on Friday and Saturday evenings and also permitting recorded music (i.e. not just at background levels) until 02:00 on those nights was to be allowed, it is likely to lead to further public nuisance and other disturbance to local residents. The environmental protection team recommends that the application be refused.
20. The Metropolitan Police Service notes that the applicant has applied to have the premises' hours of operation as permitted under planning legislation extended twice previously and that on both occasions these applications have been refused and rejected on appeal. The Metropolitan Police Service state that any extension to licensing hours would be in conflict with those pertaining to the premises' planning permission and that this could lead to the applicant being prosecuted for breach of planning legislation.
21. The Metropolitan Police Service notes that, according to this council's statement of licensing policy, the premises are located in a residential area and that the closing times recommended in the statement of licensing policy for premises located in residential areas and licensed to sell alcohol is 23:00 daily. The Metropolitan Police Service state that the premises have been observed being operated in breach of the terms and conditions of the premises licence issued in respect of the premises on numerous occasions and that complaints regarding noise nuisance caused by the premises' customers have been made by local residents. The Metropolitan Police Service object to this application as they say that the proposed operation of the premises is highly likely to have a negative impact on local residents and also lead to an increase in public nuisance and crime and disorder in the area.
22. The licensing responsible authority notes that, according to this council's statement of licensing policy, the premises are located in a residential area and that the closing times recommended in the statement of licensing policy for premises located in residential areas and licensed to sell alcohol is 23:00 daily.
23. The licensing responsible authority further notes that it is not considered suitable for nightclubs to be located in residential areas. The licensing responsible authority states that the premises currently holds a premises licence (number 859547), and that the closing times granted in respect of premises licence number 859547 are already in excess of those considered appropriate for premises licensed to sell alcohol that are located in residential areas. The representation notes that the council has received complaints regarding the premises in the past, and that in 2017 a local resident submitted an application for the review of the premises licence issued in respect of the premises. The licensing responsible authority object to the granting of this application because the proposed extended operating hours (on Friday and Saturday) which are in excess of those permitted by the current licence could impact negatively on local residents. The licensing responsible authority further state that, if the licensing sub-committee is minded to grant the application,

conditions relating to notification as to which licence is being used (i.e. the existing premises licence or any licence granted subsequent to this application) should be imposed on any licence granted subsequent to this application.

24. Copies of the representations submitted by responsible authorities, and related correspondence, are attached as Appendix C.

Representations from other persons

25. A local ward councillor has submitted a representation objecting to the application. The representation refers to the prior operation of the premises which has led to alleged noise nuisance, crime and disorder and anti-social behaviour in the local area.
26. A copy of the representation submitted by the local ward councillor is attached to this report as Appendix D.

Conciliation

27. All of the representations received have been provided to the applicant.
28. At this time all of the representations submitted remain outstanding and must be considered by the licensing sub committee.
29. The licensing sub-committee will be informed as to any conciliation of the objectors at the licensing sub-committee hearing to determine this application.

Premises history

30. Although this is an application for a new premises licence, because Mr George Nwachukwu is the licensee in respect of the premises licence currently held in respect of the premises, and also the applicant regarding this application, the operating history regarding the existing premises licence issued in respect of the premises is included below.
31. A premises licence was issued to Mr George Nwachukwu in respect of the premises on 25 September 2016. On the licence Mr Nwachukwu was specified as the premises' DPS.
32. On 15 December 2016 a complaint was made to Southwark anti-social behaviour unit (SASBU) by a local resident ('resident 1') alleging that customers using the premises engage in anti-social behaviour in the locale. The complaint was forwarded to the licensing unit by SASBU.
33. On 23 December 2016 a complaint was made to a local ward councillor by a second local resident ('resident 2') alleging that customers using the premises engage in anti-social behaviour in the locale. The complaint was forwarded to the licensing unit by the local ward councillor.
34. On 3 January 2017 a complaint was made to a local MP by a third local resident ('resident 3') alleging that customers using the premises engage in anti-social behaviour in the locale. The complaint was forwarded to local ward councillors by the local MP. The complaint was then forwarded to the licensing unit by a local ward councillor.

35. As a result of the above complaints an induction meeting at the premises was undertaken by a licensing officer on 5 January 2017. At the induction meeting the conditions of the premises licence issued in respect of the premises, the remit of the licensing unit and the potential consequences of breaching licensing legislation were explained to the licensee. During the induction meeting it was established that the following conditions of the premises licence issued in respect of the premises were not being complied with:
- 841 (concerning a dispersal policy required at the premises)
 - 4A1 (concerning a refusal register required at the premises)
 - 305 (concerning signage required to be displayed at the premises)
 - 288 (concerning the maintenance of a CCTV system at the premises)
36. A warning letter was sent to the licensee in regards to the above breaches of the licence conditions.
37. On 20 June 2017 an application to vary the premises licence issued in respect of the premises was submitted. The application sought to extend the hours permitted for licensable activities at the premises and extend the premises' opening hours. The application was subject to representations submitted by responsible authorities and four 'other persons' and so the application was referred to the licensing sub-committee for determination.
38. On 14 July 2017 an inspection of the premises was undertaken by a licensing officer. At the time of the inspection the premises were found to be being operated in compliance with the conditions of the premises licence issued in respect of the premises.
39. On 1 August 2017 a complaint was made to SASBU by 'resident 1' alleging that the premises were being operated outside of the hours permitted for licensable activities by the premises licence issued in respect of the premises (specifically "past midnight"), and that customers shout and drink in the surrounding streets when leaving the premises. The complaint was forwarded to the Licensing Unit by SASBU.
40. A licensing sub-committee hearing in respect of the variation application submitted on 20 June 2017 was held on 6 September 2017. At the hearing the application was granted with hours that were reduced from the hours applied for. A copy of the Notice of Decision in regards to the hearing is attached as Appendix E.
41. On 7 September 2017 a complaint was made to the Licensing Unit by a fourth local resident ('resident 4') stating that the provision of licensable activities at the premises, outside of the hours permitted for licensable activities by the premises licence issued in respect of the premises, was being advertised in respect of the premises.
- N.B.** The hours referred to in the complaint are a closing time of 11pm on Monday to Thursday and "till late" on Friday and Saturday. The decision made by the licensing sub-committee on 6 September 2017 would allow for a closing time of 00:00 (midnight) on Monday to Thursday.
42. On 12 July 2017 an application was submitted by an 'other person' ('resident 1'), under Section 51 of the Licensing Act 2003, for the review of the premises licence held by George Nwachukwu in respect of the premises known as Unit 2, 777 Old Kent Road, London SE15 1NZ.

43. On 2 October 2017 a licensing sub-committee hearing in respect of the review application submitted on 12 July 2017 was held. At the hearing condition 852, requiring that a dispersal policy be devised in respect of the premises, was imposed on the premises licence issued in respect of the premises. A copy of the notice of decision in regards to the hearing is attached as Appendix F.
44. On 27 January 2018 the police visited the premises and noted various breaches of the premises licence issued in respect of the premises. The police provided the licensing unit with two witness statements regarding the visit. The witness statements are attached as Appendix G.
45. On 2 February 2018 a second induction meeting with the Mr Nwachukwu was undertaken. At the induction meeting the conditions of the premises licence issued in respect of the premises, the remit of the Licensing Unit and the potential consequences of breaching licensing legislation were again explained to the licensee.
46. On 2 April 2018 a complaint was made by 'resident 2' to the licensing unit. The complaint alleged that noise nuisance caused by loud music frequently emanated from the premises and that the premises frequently operated outside of the hours permitted.
47. On 5 April 2018 a complaint was made to a local ward councillor by 'resident 2' alleging that noise nuisance caused by loud music frequently emanated from the premises and that the premises frequently operated outside of the hours permitted.
48. As a result of 'resident 2's' complaints of 2 April 2018 and 5 April 2018 a visit to the premises by a licensing officer was undertaken on 6 April 2018. At the time of the inspection it was noted that the premises were operating outside of the hours permitted by the planning permission granted in respect of the premises. A witness statement pertaining to this visit is attached as appendix H.
49. On 9 April 2018 the council's planning service sent a letter with questions asked of Mr Nwachukwu under caution. The questions pertained to a planning enforcement notice dated 26 October 2017 requiring that the premises either operate as per the hours allowed by the planning permission granted in respect of the premises or cease operating as a restaurant and hot food takeaway. Copies of this letter and the related planning enforcement notice are attached as Appendix I.
50. On 13 April 2018 an inspection of the premises was undertaken by a licensing officer. Various breaches of the premises licence issued in respect of the premises were noted by the inspecting officer. A warning letter was sent to the premises regarding the inspection.
51. On 11 August 2018 the police visited the premises and in their opinion licensable activities were being provided at the premises outside of the hours permitted by the premises licence issued in respect of the premises. The police provided the licensing unit with a witness statement regarding the visit. The witness statement is attached as Appendix J.
52. On 3 November 2018 a re-inspection of the premises was undertaken by a licensing officer. The premises were found to be being operated compliantly.
53. On 14 February 2019 a complaint was made by 'resident 2' to the licensing unit. The complaint alleged that noise nuisance caused by loud music frequently continues to

emanate from the premises and that the premises continues to frequently be operated outside of permitted hours.

54. On 13 February 2020 a complaint was made by a fifth local resident ('resident 5') alleging that noise nuisance caused by loud music frequently emanated from the premises and that the premises frequently operated outside of the hours permitted.
55. On 8 March 2020 an inspection of the premises was undertaken by a licensing officer. One condition (number 288 relating to CCTV at the premises) was found to be being breached.
56. The premises have been monitored periodically as a result of the complaints outlined above. Details of this monitoring are provided in Appendix K.
57. A list of the temporary event notices (TENs) submitted in respect of the premises is attached as Appendix L.

Deregulation of entertainment

58. On 6 April 2015 entertainment became deregulated and as a result:
 - Live unamplified music is deregulated between 08:00 and 23:00 on any premises.
 - Live amplified music and recorded music are deregulated between 08:00 and 23:00 at on licensed premises for an audience of up to 500 people.
 - Plays and the performance of dance are deregulated between 08:00 and 23:00 for an audience of up to 500 people.
59. Indoor sporting events are deregulated between 08:00 and 23:00 for an audience of up to 1000 people.
60. Live music and recorded music can become licensable in on-licensed premises if the licensing authority removes the effect of deregulation following a licence review ('licence review mechanism').
61. The showing of films has not been de-regulated.

Map

62. A map showing the location of the premises is attached to this report as appendix M. The following licensed premises are also shown on the map and provide licensable activities as stated:

805 Restaurant, 805-809 Old Kent Road, London SE15 1NX licensed for:

- The provision of late night refreshment:
 - Monday to Sunday: 23:00 to 00:30
- The sale of alcohol provision of regulated entertainment:
 - Monday to Sunday: 14:00 to 00:30

Champagne Bar & Lounge, 817 Old Kent Road, London SE15 1NX licensed for:

- The provision of late night refreshment:
 - Monday to Sunday: 23:00 to 00:30
- The sale of alcohol:
 - Sunday to Thursday: 10:00 to 00:00
 - Friday and Saturday: 10:00 to 03:00

Iceland Foods LTD, 789-799 Old Kent Road, London SE15 1NZ licensed for:

- The sale of alcohol:
 - Monday to Saturday: 08:00 to 23:00
 - Sunday: 10:00 to 22:30

Murco Costcutter Hopfields Service Station, 747-759 Old Kent Road, London SE15 1NZ licensed for:

- The sale of alcohol:
 - Monday to Sunday: 00:00 to 00:00
- The provision of late night refreshment:
 - Friday and Saturday: 23:00 to 05:00.

Southwark council statement of licensing policy

63. Council assembly approved Southwark's statement of licensing policy 2019 - 2021 on 27 March 2019. The policy came into effect on 28 March 2019. 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.
64. 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.
65. According to this council’s statement of licensing policy the premises are located in a residential area. Closing times as stated below are suggested in the statement of licensing policy for the following types of licensed premises located in residential areas:
- Restaurants:
 - Monday to Sunday: 23:00
 - Public houses, wine bars, or other drinking establishments and bars in other types of premises:
 - Monday to Sunday:23:00
 - Nightclubs:
 - Not suitable for residential areas

Resource implications

66. 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 band A.

Consultation

67. 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

68. 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

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

Principles for making the determination

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

Principles for making the determination

73. 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.
74. 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.
75. 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

76. 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.

77. The four licensing objectives are:

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

78. 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.

79. 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.

80. 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

81. 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

82. 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.
83. 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

84. 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.
85. 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.
86. 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.
87. 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.
88. 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.
89. 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.

90. 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.
91. 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

92. 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

93. 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	Copy of premises licence number 859547
Appendix B	Copy of the application
Appendix C	Copies of the representations submitted by responsible authorities
Appendix D	Copy of the representation submitted by a local ward councillor
Appendix E	Copy of the notice of decision regarding the variation application submitted on 20 June 2017
Appendix F	Copy of the notice of decision regarding the review application submitted on 12 July 2017
Appendix G	Copies of the Metropolitan Police Service witness statements regarding a visit to the premises on 27 January 2018
Appendix H	Copy of the licensing officer witness statement regarding a visit to the premises on 6 April 2018
Appendix I	Copies of the planning caution letter of 9 April 2018 and related planning enforcement notice

Name	Title
Appendix J	Copy of the Metropolitan Police Service witness statements regarding a visit to the premises on 11 August 2018
Appendix K	Details of licensing night time visits to the premises
Appendix L	List of temporary event notices submitted in respect of the premises
Appendix M	Map of the local area

AUDIT TRAIL

Lead Officer	Caroline Bruce, Strategic Director of Environment and Leisure	
Report Author	Wesley McArthur, Principal Licensing Officer	
Version	Final	
Dated	19 May 2020	
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	22 May 2020	