

Item No. 6.	Classification: Open	Date: 20 August 2020	Meeting Name: Licensing Sub-Committee
Report Title		Licensing Act 2003: Billy Franks, 104 Druid Street, London SE1 2QH	
Ward(s) of group(s) affected		London Bridge and West Bermondsey	
From		Strategic Director of Environment and Leisure	

RECOMMENDATION

1. That the licensing sub-committee considers an application made by Billy Franks Ltd for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Billy Franks, 104 Druid Street, London SE1 2QH.
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 a responsible authority and other person/s 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 and any further correspondence in respect of the application. Copies of these are attached as Appendices B, C and D.
 - d) Paragraph 20 deals with licensed premises within a 100 metre radius of the premises. A map of the area is attached as Appendix E.
 - e) 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 20 June 2020, Billy Franks Ltd applied to this council for the grant of a premises licence in respect of Billy Franks, 104 Druid Street, London SE1 2QH. The premises is described as a meat snack manufacturing company located in an arch along Druid Street. Whilst the majority of the space will continue be used for food production and the activities associated with it, the front section of the unit (nearest to the door will serve as a bottle shop and space to host events like beer/cider/cocktail and jerky pairings/tastings. There will be cans of beer/cider/spirits from local producers as well as small, craft producers throughout the UK in display fridges which will be available to factory tour customers and members of the public. Also on offer will be a selection of beverages on an online webshop to be paired with our jerky whereby users will need to confirm their birthdate to ensure they are over 18.
9. The application is summarised as follows: **(as amended through conciliation)**:
 - **Supply of alcohol (on and off the premises)**
 - Monday to Sunday: 10:00 to 22:30
 - **Operating hours:**
 - Monday to Sunday: 07:00 - 23:00
10. The premises licence application form provides the applicant's operating schedule. Parts 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 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.

Designated premises supervisor

11. The proposed designated premises supervisor is Lauren Yates who has a personal licence issued by Tower Hamlets Council.

Representations from responsible authorities

12. There were representations from licensing (as a responsible authority) and trading standards.
13. The licensing representation suggested that the residents have suffered from noise made by patrons outside the various premises in Druid Street usually when leaving. An increase in the closing hours beyond 23:00 as recommended in the policy would lead to an extension of the period when patrons are leaving or milling about waiting for taxis or moving on to other later licensed premises. Not only would it be an extension of this period, but it would be an extension into a sensitive time when nearby residents would wish to sleep. Licensing therefore request that the overall opening times shall be Monday to Sunday from 07:00 to 23:00.
14. The applicant has agreed to this and amended the operating schedule to reflect the new operating hours and as such the licensing representation has been withdrawn.
15. The trading standards representation is made under the licensing objective of protection of children from harm and prevention of crime and disorder. They have suggested three conditions to be added to the licence to prevent alcohol from getting into the hands of minors. Two of these conditions have been accepted by the applicant. However, the third condition has not been resolved and therefore the representation is still outstanding.
16. The representations are attached as Appendix B.

Representations from other persons

17. There are two representations from other persons (ward councillors). There is concern for that any additional premises would worsen the public nuisance situation. Noise nuisance is the major consequence of the boom of the brewery industry accelerating on Druid Street. This has a strong and negative impact on the rights of many residents to live in peace. Pupils, vulnerable residents and families will not support this increase of the noise and this will prevent them to fulfil their daily commitments.
18. The representations are attached as Appendix C.

Conciliation

19. The representations were forwarded to the applicant and their representative. Responses/correspondences received are attached as Appendix D. the conciliation process in the form of the reduction in the operating hours has led to licensing

withdrawing their representation. The licensing sub- committee will be updated on 20 August 2020 of any developments.

Deregulation of entertainment

20. 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.

21. Indoor sporting events are deregulated between 08:00 and 23:00 for an audience of up to 1000 people.

22. 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').

23. The showing of films has not been de-regulated.

The local area

24. A map of the area is attached to this report as Appendix E. The premises is identified by a triangle at the centre of the map. For purposes of scale only the circle on the map has a 100 metre radius. The following licensed premises terminal hours are also shown on the map.

Public houses/restaurant/brewery

- Marquis of Wellington Public House, 21 Druid Street, London SE1 (Monday to Wednesday until 23.00, Thursday until 00.00, Friday and Saturday until 01.00 and Sunday until 00.00)
- Elmadero, Railway Arch 840, 30 Druid Street, London SE1 (Monday to Sunday until 23.00)
- Southwark Brewing Company Limited, 46 Druid Street, London SE1 (Monday to Sunday until 23.00)
- Doodle Bar, 60 Druid Street, London SE1 (Sunday to Thursday until 00:00, and Friday and Saturday until 01:00)
- St John Bakery Company Ltd, 72 Druid Street, London SE1 (Monday to Sunday until 23.00)
- Bea's of Bloomsbury Railway Arch, 76 Druid Street, London SE1 (Monday to Sunday until 22.00)

- Speckmobile Railway Arch, 76 Druid Street, London SE1(Monday to Saturday until 23.00 and Sunday until 22:30)
- Lassco, Ropewalk and Arches 46 and 48 to 53, London SE1 (Wednesday to Sunday until 17:30)
- Lassco, 37 Maltby Street,L ondon SE1 (Monday to Sunday until 23:00)
- Maltby Restaurant, 40 Maltby Street, London SE1 (Wednesday to Saturday until 01:00 and Sunday until 17:30)
- Hawkes, 92 Druid Street, London SE1(Monday to Sunday until 23:00)
- Comptoir Gourmand, 98 Druid Street, London SE1 (Monday to Sunday until 23:00)
- Ops Wines Ltd, 108 Druid Street, London SE1 (Monday to Sunday until 23:00)
- Anspach & Hobday, 116 - 118 Druid Street, London SE1 (Monday to Sunday until 23:00)
- Bottles, 128 Druid Street, London SE1(Monday to Sunday until 23.00)
- Lemporio, 134 Druid Street, London SE1 (Sunday to Wednesday until 22.00 and Thursday to Saturday until 23:00)
- Thames Takeaway, 140 Tanner Street, London SE1 (Sunday to Thursday until 00:00 and Sunday until 00:30)
- Ronnies Supermarket, 116-118 Tanners Street, London SE1 (Monday to Saturday until 23:00 and Sunday until 22:30.

Southwark council statement of licensing policy

22. 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.
25. 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.
26. Within the Southwark statement of licensing policy 2019 - 2021 the following closing times are recommended as appropriate within this area for this categories of premises as follows:
- Restaurant, cafés, public houses, wine bars or other drinking establishments:
 - 23:00 daily
 - Hotel bars and guest houses:
 - No restrictions for residents.

Resource implications

27. 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 B.

Consultation

28. 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

29. 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

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

Principles for making the determination

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

Principles for making the determination

34. 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.
35. 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.
36. 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

37. 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.
38. The four licensing objectives are:
- The prevention of crime and disorder
 - Public safety
 - The prevention of nuisance
 - The protection of children from harm.
39. 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.
40. 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.
41. 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

42. 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

43. 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.
44. 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

45. 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.
46. 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.
47. 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.
48. 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.
49. 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.

50. 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.
51. 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.
52. 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

53. 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

54. 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	Representation submitted by responsible authorities
Appendix C	Representation submitted by other persons
Appendix D	Conciliation response
Appendix E	Map of local area

AUDIT TRAIL

Lead Officer	Caroline Bruce, Strategic Director of Environment and Leisure		
Report Author	Dorcas Mills, Principal Licensing Officer		
Version	Final		
Dated	7 August 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			10 August 2020