

<b>Item No.</b> 6.	<b>Classification:</b> Open	<b>Date:</b> 3 September 2020	<b>Meeting Name</b> Licensing Sub-Committee
<b>Report title:</b>		Licensing Act 2003: George Canning – 123 Grove Lane, London, SE5 8BG	
<b>Ward(s) or groups affected:</b>		Champion Hill Ward	
<b>From:</b>		Strategic Director of Environment and Leisure	

## RECOMMENDATION:

1. That the licensing sub-committee considers whether it is appropriate to take interim steps pending the determination of an application for a summary review, made under Section 53A of the Licensing Act 2003 by the Chief of Police for the Metropolitan Police area, of the premises licences issued in respect of the premises known as the George Canning – 123 Grove Lane, London, SE5 8BG.

## Notes

2. Under section 53A(2) of the Licensing Act 2003 the licensing authority must consider interim steps within 48 hours following the submission of an application under Section 53A of the Licensing Act 2003.
3. A copy of the full application is attached as Appendix A.

## BACKGROUND INFORMATION

### The Licensing Act 2003

4. 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.
5. Within Southwark, the licensing responsibility is wholly administered by this council.
6. 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.
7. In carrying out its licensing functions, a licensing authority must also have regard to
  - The Act itself
  - The guidance to the act issued under Section 182 of the Act
  - Secondary regulations issued under the Act
  - The licensing authority's own statement of licensing policy
  - The application, including the operating schedule submitted as part of the application
  - Relevant representations.

8. The summary review powers under sections 53A to 53C of the Act allow the police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with serious crime or serious disorder (or both); and the licensing authority to respond by taking interim steps quickly, where appropriate, pending a full review.

## **KEY ISSUES FOR CONSIDERATION**

### **The premises licence**

9. The premises licence issued in respect of the premises known as George Canning – 123 Grove Lane, London, SE5 8BG allows licensable activities as follows:
- The sale by retail of alcohol to be consumed on and off the premises:
    - Monday to Saturday: 11:00 to 01:00
    - Sunday 12:00 to 00:00
  - Live music and recorded music (indoors) and the sale of alcohol to be consumed on and off the premises:
    - Monday to Saturday: 11:00 to 01:00
    - Sunday 12:00 to 00:00
  - Late night refreshment (indoors):
    - Monday to Saturday: 23:00 to 01:00
    - Sunday 23:00 to 00:00
  - Opening Hours:
    - Monday to Saturday: 07:00 to 01:30
    - Sunday 08:00 to 00:30
10. A copy of the current premises licence is attached as Appendix B.

### **Designated premises supervisor**

11. The designated premises supervisor (DPS) of the premises is Brian Coughlan.

### **The review application and certificate**

12. On 1 September 2020 the Metropolitan Police Service applied to this licensing authority for the summary review of the premises licence issued in respect of the premises known as the George Canning – 123 Grove Lane, London, SE5 8BG.
13. On 1 September 2020 a Superintendent for the Metropolitan Police Service certified that in the Superintendent's opinion the premises are associated with serious crime, serious disorder or both.
14. On Monday 31 August 2019 at approximately 02:50hrs a fight started inside the premises, the victim received a broken jaw and was stabbed in the stomach.
15. Three suspects have been arrested at the premises shortly after the incident. One of the suspects is believed to be a member of staff.
16. The premises should have been closed to the public at 00.30hrs with alcohol ceasing at 00.00hrs. The incident was described as a lock in and a number of people present including witnesses were customers of the premises.

17. It does not appear the licence holders/management contacted police, but a witness called police stating that there was a fight at the pub. Police attended the original call and spoke to staff at the premises but nothing was disclosed to police on arrival. Just after 03.00hrs the call log was marked as no fight at location.
18. A further call to police was made by a member of the public at 03.04hrs, about the victim, who had been found lying on the pavement just outside the Lettsom Estate, Camberwell Grove SES. The informant was woken up by victim calling for help, shouting he had been stabbed.
19. On arrival of the police and ambulance, the victim stated that the incident occurred inside The George Canning public house. Officers were sent back to the premises. When officers attended the premises it was being cleaned up by the management. The victim stated that there were about 4-5 people in the pub at the time of the incident.
20. Police attended the pub and found the manager in an alley next to pub. The police made a request to view the CCTV of the incident. The manager initially denied being able to show the officers the CCTV but later admitted that he could and led the police to the office so they could view the footage. The manager appeared intoxicated.
21. The police then obtained the keys to the inside of the licensed area of the pub to examine any potential crime scene. As the officers went into the kitchen area of the pub they found two suspects hiding in the darkness. Both were arrested on suspicion of assault.
22. CCTV was viewed and seized by CID officers. It shows an incident at 02.20hrs, of a female (suspect arrested) who is the girlfriend of the victim assaulting him. Then between 02.50hrs and 03.00hrs it shows what is believed to be the victim punching a suspect, and then three people including his girlfriend attack him, dragging him to ground, in what is described by police as a melee.
23. The CCTV shows the victim emerging with a blood stained top. The weapon was not located and believed disposed of prior to police arrival. The victim then leaves the premises and is found by a member of the public after hearing his calls for help.
24. The police contend that the addition of further licence conditions as interim steps is not appropriate considering the seriousness of the disorder witnessed at the premises. The police therefore recommend that the licence is suspended pending the full review and further investigation.
25. The licensing sub-committee is not restricted to just considering this step.
26. Copies of the review application and evidence provided by the police in support of the of the review application are attached to this report as Appendix A.

### **The review procedure**

27. The current hearing is for the purpose of considering if interim steps are needed as a result of the summary review application submitted by the police, prior to the pending full review hearing that will be held on 24 September 2020.
28. The licensing sub-committee is not obliged to hear evidence from other parties at this stage of the procedure. However the premises licence holder and DPS have been invited to attend the hearing.
29. The review is currently being consulted on and a public notice is advertised at the premises for 10 days. Responsible authorities and any other persons may make

representations that will then be considered at the full Licensing Sub-Committee hearing regarding this matter.

30. Any interim steps made by the licensing sub-committee at this hearing will cease to have effect once the review has been determined.

### **Operating history**

31. The licence was first applied for in January 2007 by Stephen Douglas Corbett as premises licence holder and DPS; and transferred to Enterprise Inns PLC in September 2009.
32. The DPS was varied to Philip John Bagshaw in November 2009 and again to Carole Elizabeth Callnon in December 2010 and to Brian Coughlan in April 2011.
33. In February 2012, the licence was transferred to Adrian Ennis. In March 2019, Mr Ennis applied for a minor variation to alter the internal layout.
34. On 09 May 2019, Ei Group PLC applied for an Interim Authority Notice on the premises. An Interim Authority notice may be given to the licensing authority where a premises licence has lapsed owing to the death, mental incapacity or insolvency of the premises licence holder, where the holder is an individual or on the dissolution or insolvency of a company which holds a premises licence. The effect of the interim authority is to reinstate the premises licence from the time the notice is received and the person giving the notice becomes the licence holder.
35. After this date, the licence holder became Ei Group PLC, but would have lapsed if no transfer had been received by 24 August 2019. The transfer to the current licence holder, Donal Ennis was received on 6 August 2019 and remains in place.
36. The premises was last inspected by the licensing authority on 26 October 2018 and found to be fully compliant.
37. There is no recent history of complaints or TENs at the premises.
38. The current premises licence was issued in respect of the premises numbered 869338. For reference, a copy of the licence is attached to this report as Appendix B.

### **The local area**

39. A map of the local area is attached at Appendix C.

### **Southwark Council Statement of Licensing Policy**

40. 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.
- Section 8 - The prevention of crime and disorder. This provides general guidance on the promotion of the first licensing objective.
- Section 9 - Public safety. This provides general guidance on the promotion of the second licensing objective.
- Section 10 - The prevention of nuisance. This provides general guidance on the promotion of the third licensing objective.
- Section 11 - The protection of children from harm. This provides general guidance on the promotion of the fourth licensing objective.

41. The purpose of Southwark's statement of licensing policy is to make clear to applicants what considerations will be taken into account when determining applications and should act as a guide to the sub-committee when considering the applications. However, the sub-committee must always consider each application on its own merits and allow exceptions to the normal policy where these are justified by the circumstances of the application.

### **Resource implications**

42. There is no fee associated with this type of application.

### **Consultation**

43. The premises licence holder has been informed of the application for review and of the details of the interim hearing.

### **Community impact statement**

44. 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**

45. The sub-committee is asked to consider interim steps following an application to review the premises licence under Section 53A of the licensing act 2003.

46. The principles, which sub-committee members must apply, are set out below.

### **Principles for making the determination**

47. The licensing authority must hold a hearing to consider interim steps within 48 hours of receiving an application for review of a premises licence where.

- The application is properly made in accordance with Section 53A of the Act.
- The licensing authority has considered the ground(s) of review to be relevant to the licensing objective for prevention of crime and disorder.

48. The four licensing objectives are:

- The prevention of crime and disorder
  - The protection of public safety
  - The prevention of nuisance
  - The protection of children from harm.
49. Each objective must be considered to be of equal importance. The authority must, having regard to the application and any relevant representations, take such of the following steps as it considers appropriate for the promotion of the licensing objectives. The steps are to:
- Modify the conditions of the licence by altering, omitting or adding any condition
  - Exclude a licensable activity from the scope of the licence
  - Remove the designated premises supervisor
  - Suspend the premises licence.
50. The steps will remain in place until the review application is determined at a full hearing of the licensing sub-committee.
51. The authority may decide to take no action if it finds no interim steps are appropriate to promote the licensing objectives.
52. In deciding what remedial action if any it should take, the authority must direct its mind to the causes or concerns that the representations identify. The remedial action should generally be directed at these causes and should always be no more than an appropriate and proportionate response.
53. It is of particular importance that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives in the circumstances that gave rise to the application for review.

### **Reasons**

54. Where the authority takes interim steps an application for review it must notify the determination and reasons why for making it to:
- The holder of the licence
  - The chief officer of police for the area (or each police area) in which the premises are situated.

### **Hearing procedures**

55. 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
  - To 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.

56. This matter relates to the review of the premises licence under section 53A of the Licensing Act 2003.

#### **Council's multiple roles and the role of the licensing sub-committee**

57. 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.
58. 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.
59. 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.
60. 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.
61. 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.

62. The sub-committee can only consider matters within the application that have been raised through representations from interested parties and responsible authorities. Interested parties must live in the vicinity of the premises. This will be decided on a case to case basis.
63. 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.
64. There is no right of appeal to a Magistrates' Court against the licensing authority's decision regarding the setting of interim steps at this stage.

### **Guidance**

65. Members are required to have regard to the Home Office revised 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**

66. The head of community safety and enforcement has confirmed that the costs of this process are borne by the service.

### **REASONS FOR LATENESS**

67. When an application for an expedited summary review is received from the police under section 53a of the Licensing Act 2003 the council's licensing authority has a statutory duty hold a hearing within 48 hours from receipt of the application to consider interim steps that may be placed on the premises licence until such time as the application can be fully determined.

### **REASONS FOR URGENCY**

68. The council has a statutory duty under section 53a to hold an interim hearing within 48 hours of receipt of a summary review.

### **BACKGROUND DOCUMENTS**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
Licensing Act 2003 Home Office Revised Guidance to the Act Secondary Regulations Southwark Statement of Licensing Policy Case file	C/O Southwark Licensing, Community Safety & Enforcement, 3rd Floor Hub C, 160 Tooley Street PO Box 64529 SE1 5LX	Mrs Kirty Read Tel:02075255748

## APPENDICES

Name	Title
Appendix A	Copy of the review application
Appendix B	Copy of current premises licence
Appendix C	Map showing the location of the premises

## AUDIT TRAIL

<b>Lead Officer</b>	Caroline Bruce, Strategic Director of Environment and Leisure	
<b>Report Author</b>	Andrew Heron, Principal Licensing Officer	
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Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
<b>Cabinet Member</b>	No	No
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