

| | | | |
|------------------------------------|--------------------------------|--|--|
| Item No. 26 | Classification: Open | Date: 4 FEBRUARY 2002 | MEETING NAME LICENSING COMMITTEE |
| Report title: | | THE BRINK, 148 OLD KENT ROAD, SE1 | |
| Ward(s) or groups affected: | | EAST WALWORTH | |
| From: | | Tim England- Head of Commercial services | |

PURPOSE

1. 1. To consider an application by Bridge Road Management Limited for renewal of annual weekday and Sunday public music and dancing licence in respect of the premises known as The Brink, 148 Old Kent Road, SE1.
2. 2. Notes: The terminal hours of the premises licence are from 11.p.m. on each of the days Monday to Thursday to 1.a.m. on the days following; from 11.p.m. on Fridays and Saturdays to 5.a.m on the following morning; and from 10.30.p.m. to 11.00.p.m. on Sundays.
3. 3. The application is by opposed by a local residents and the Congreve and Barlow Tenants Associations.
4. 4. In considering any application for a public entertainments licence the Committee must consider each case on its merits. In doing so, the Committee will take into account all relevant considerations including:-
 - i) Noise emissions from the premises in the event that the application is granted;
 - ii) Likely disturbance of residents caused by patrons leaving the premises;
 - iii) fitness of the applicant to hold a licence;
 - iv) suitability of the premises and its location; and
 - v) Any other relevant matters, as appropriate.

RECOMMENDATION

5. That the Committee decides whether to grant the application.

BACKGROUND INFORMATION

6. The premises The Brink (formerly known as La Goonda & Frog & Night-Gown) were first licensed for the provision of public entertainment in August 1971. Extended hours operation was first granted in 1982.
7. Since this time the premises has changed ownership on a number of occasions. There have been a number of applications by previous licensees for renewal and variation of the licences which have been heavily opposed by local residents, police and ward councillors. This has, over the years, led to many conditions being imposed on the licence.
8. In May 1999 the former licensees Tagsman Ltd, sought to vary the terminal hours of the licence to 4.a.m. on Wednesday and Thursday nights; and to 5.a.m. on Friday and Saturday nights. The application was opposed by seven local residents and the metropolitan police on the grounds of noise and disturbance and anti-social / violent behaviour from people leaving the premises. This application was considered by the Licensing Committee on 7 February 2000 (Consideration of the application was delayed to allow for the renewal application for the period October 1999 to September 2000 to be considered).
9. The entertainment's licence was transferred from Tagsman Limited to the current licensees Bridge Road Management Ltd in February 2000.
10. Upon the transfer of the licence Bridge Road Management Ltd pursued the application made by Tagsman Ltd detailed in Paragraph 3.3 above. The Licensing Sub-Committee on 7 February 2000 decided that the application to vary the terminal hours of the licence on Wednesdays and Thursdays to 4am on the following mornings be refused. However, the application to extend the terminal hours on Friday and Saturdays to 5am on the following mornings was granted for a period of six months from the date of the meeting, ending on 6 August 2000. The variation was granted subject to the existing terms, conditions and restriction of the entertainment's licence and undertakings given.
11. On 11 October 2000 the Licensing Committee met to consider the following applications submitted by Bridge Road Management Limited :-
 - (a) to remove condition (i) of the licence which states There shall be no new admissions of the public to the premises on each of the nights Monday to Friday after 12.45am and on Saturday after 1am; and that a notice shall be displayed at the entrance of the premises to this effect.
 - (b) the confirmation of the previous temporary consent given by the Licensing Sub-Committee on 7 February 2000 to allow the premises to operate with extended hours from 11pm on Fridays and Saturdays to 5am on the following mornings.
12. Application (a) above was opposed by three local residents, a petition from the Congreve and Barlow Tenants and Residents Association and the Metropolitan Police. Application (b) was opposed by four local residents Barlow Tenants and Residents Association, the Metropolitan Police and Councillor Watson. It was the decision of the Licensing Committee to refuse application (a) and to grant application (b) on a temporary basis until 31 March 2001.

13. An application for continuation of the temporary consent granted by the Committee as detailed in 3.7 was sought in March 2001. The application resulted in objections being lodged by three local residents and was referred to the Committee for consideration on 4 April 2001. The Committee meeting of 4 April 2001 was adjourned due to the absence of the licensee company representative and was re-convened on 30 April 2001.
14. On 30 April 2001 the Committee considered the application for confirmation of the temporary consent first given by the Licensing Committee on 11 October 2000 to allow the premises to operate with extended hours from 11pm on Fridays and Saturdays to 5am on the following mornings. The Licensing Committee decided to refuse the application and to only grant extended hours on Fridays and Saturdays to 4am on the following mornings.
15. An appeal against the Committee decision on 30 April 2001 was lodged by the applicant company, Bridge Road Management. The appeal was heard at Camberwell Green Magistrates Court on 30 July 2001. The judge on hearing the evidence for both side decided to allow the appeal and therefore the terminal hours were increased on Fridays and Saturdays to 5am on the following mornings. No costs were awarded against the Council in respect of this case.
16. The renewal for the year commencing 1 October 2001 was opposed by five local residents and was considered by the Licensing Committee on 19 February 2002. It was the decision of the Committee to renew the licence but with reduced hours on Mondays to Wednesdays to 1am on the following morning, Fridays and Saturdays to 3am on the following mornings and on Sundays to 11pm. The decision of the committee was appealed by the licensees and was considered by Camberwell magistrates court on 6 August 2002. The District Judge decided to uphold the decision in respect of the terminal hours of 1am on Mondays to Thursdays, but to allow the terminal hours on Fridays and Saturdays to revert back to 5am on the following mornings. The Judge also decided to extend the last admission time allowed at the premises from 12.45 am to 2am(condition (i) of the licence).
17. The application detailed in 1.1 of this report was received on 30 September 2002.
18. In November 2002 application was received by Bridge Road Management Limited for occasional variations to the annual entertainments licences over the Xmas and New Year period as follows:-
 - Tuesday 24 December 02 from 1am to 5am on the following morning;
 - Wednesday 25 December 02 from 1am to 3am on the following morning;
 - Thursday 26 December 02 from 1am to 5am on the following morning;
 - Tuesday 31 December 02 from 1am to 6am on the following morning;
 - Wednesday 1 January 03 from 1am to 3am on the following morning.
19. The applications detailed in paragraph 18 were opposed by four local residents, the Congreve and Barlow Residents Association and the Police. The Officer panel considered the application on 13 December 02. At the commencement of the hearing the licensee advised the panel that he wished to withdraw the applications for Wednesday 25 December 02 and Wednesday 1 January 03. The panel decided to grant the applications on 24 December and 31 December 02. The application to extend the

licence on Tuesday 26 December 02 was refused on the ground that disturbance may be caused to residents as the 27 December is a working day.

20. The application detailed in paragraph 1 of this report was received in September 02. Objections have been lodged by a local resident and the Congreve and Barlow Residents Association. Local residents do not feel that the conciliation process will be beneficial in dealing with their concerns and therefore the application is referred to the Committee for consideration.

RESOURCE IMPLICATIONS

The Operation of the Premises

21. The premises are located on the ground floor of 148 Old Kent Road and comprise of a single bar area with a dance floor. The premises are capable of safely accommodating three hundred (300) persons. Main entrance / exit to the premises is direct from the Old Kent Road and there are two alternative emergency exits, one at the side of the premises and the other at the rear.
22. The premises had operated under the name of La Goonda from August 1998 until August 2000. The new licensee company has operated the premises since the end of January 2000.
23. Notification was received from the police of a shooting incident in the immediate vicinity of La Goonda, which took place in the early hours of 26 January 2000. The licensee company's representative, Mr Raphael, met with an officer of the Licensing Unit on 3 February 2000 to discuss the incident. Mr Raphael agreed with the following measures in addition to ensuring that all terms conditions and restrictions of the entertainment's licence are complied with:-
 - (a) that a strict search procedure be adhered to;
 - (b) that a metal detector will be used to ensure that weapons are not brought into the premises;
 - (c) that CCTV cameras will be maintained in working order and shall be monitored regularly by staff; and
 - (d) that persons evicted from the premises leave the immediate vicinity.
24. A further during performance inspection of the premises was carried out at the premises on 23 June 2000. The inspection found the following:-
 - A number of exit doors had non-removable bolts installed upon them.
 - Inward opening side final exit door needs provision for door to be locked in place when open.
 - There was no video tape in the CCTV.

- The camera at the rear of premises was not working and in need of repair.
- An unregistered Door supervisor was employed at the premises.

25. 25. Between June 2000 and October 2000 a number of visits were made to the premises to conduct a during performance inspection but officers found them to be closed. Therefore a daytime inspection was carried out at the premises on 10 October 2000 and the following matters were noted:-

- CCTV at the rear of premises facing away from East Street was damaged.
- A number of exit doors had non-removable bolts installed upon them.
- Rear Exit partially obstructed by large accumulation of rubbish bags.
- Inward opening side final exit door needs provision for the door to be locked in place when open.
- Fire extinguishers were over due their annual inspection.
- Two extinguishers required to be re-fitted on wall brackets.
- Fixture/fittings/sanitary facilities were all properly maintained.
- signs were displayed both externally and internally requesting customers to leave quietly. No parking signs were not in place.

26. On 17 November 2000 officers carried out a check on door supervisors at the premises. One of the door supervisors employed was found to be unregistered. A formal caution was accepted by the licensee in respect of this offence.

27. A during performance inspection was carried out at the premises at 23.45pm on the evening of the Saturday 10 February 2001 and the following matters were noted:-

- | | | |
|------|------|---|
| i) | i) | No CCTV was in position at the rear of the premises |
| ii) | ii) | There were no female door supervisors employed at the premises |
| iii) | iii) | There was no door supervisor located at the rear exit; |
| iv) | iv) | No fire notice was displayed; |
| v) | v) | Flammable material was being stored at the rear of the bar in an open cupboard. |

28. On 20 April 2001 at 23.45pm a during performance inspection was carried out. All matters were found to be satisfactory with the exception that there were no female door supervisors on duty at the premises.

29. A further during performance inspection was carried out at the premises on the evening of 4 January 2002. At the time of the inspection all matters were found to be satisfactory at the premises.

30. At approximately 1.20am on Saturday 16 February 02 officers, posing as members of the public, gained admission to the premises. In admitting officers condition (i) of the

premises which at the time prohibited admissions to the premises after 12.45am was breached.

31. A further visit to the premises was made at 1am on 24 May 2002. The following matters were noted:-

- (a) Admissions to the premises were being permitted at time of officers arrival and were continuing to be allowed some thirty minutes later when officer left the premises;
- (b) Premises emergency lighting test certificate had expired in April 02;
- (c) One of the rear CCTV cameras was not properly positioned. Officers asked for cameras to be re-directed towards Stanford Place.

32. It was the intention of the Licensing Unit to institute legal proceedings against the licensee in respect of the breaches to licence conditions detailed in paragraph 4.1.10 and 4.1.11. However, following the decision of the district Judge on 6 August 02, when considering the appeal, to extend the terminal hour for late admissions, it was not considered to be in the public interest to proceed with legal action in respect of these matters.

33. A During inspection was carried out at 1.30am on 7 December 2002. The inspection found the premises to be operating in compliance with licence conditions.

Objections to the Application

34. Copies of the letters of objection are attached as Appendix A. The grounds of objection relate to problems of noise and disturbance, anti-social behaviour, parking problems and a disregard for licence condition from the operation of the premises.

-

Current Annual Licence Conditions

35. The ground floor of the premises is licensed for the provision of weekday and Sunday public music & dancing on each of the days Monday to Thursday to 2am on the day following; on Fridays and Saturdays to 5am on the day following and on Sunday to 11.00pm. The premises is subject to compliance with the Council's Rules of Management for Places of Public Entertainment and to the following special licence conditions:-

- i) There shall be no new admissions of the public to the premises on Fridays and Saturday after 2.00.a.m. and that a notice shall be displayed at the entrance to the premises to this effect;
- ii) That notices shall be prominently displayed stating " over 21's only";

- iii) That door staff registered with Southwark Council shall be employed, with a suitable counting device, to ensure that the limit on numbers is not exceeded;
- iv) That signs are to be displayed and announcements made requesting that patrons leave the premises in a quiet and orderly fashion;
- v) v) That a notice shall be displayed at the rear of the premises requesting that patrons do not park in Stanford Place;
- vi) vi) That a Southwark registered door supervisor will be located at the rear emergency exit (leading to Stanford Place) at all times the premises are in operation;
- vii) vii) That a search policy will be introduced (to prevent drugs being brought on to the premises) and to this effect a female Southwark registered door supervisor shall be employed;
- viii) That security staff will carry out regular patrols of the premises (i.e. every 30 minutes);
- ix) ix) That all Southwark registered door supervisors and security staff shall remain on duty for 30 minutes after the close of business, to ensure that people leave the area in a quiet and orderly manner;
- x) x) A sound limiting / cut out device shall be maintained at a level set by the Councils Environmental Health Officers
- xi) xi) a member of staff will monitor the information provided by CCTV cameras at all times the premises are in operation;
- xii) xii) The rear door of the premises shall be kept closed at all times except to allow access and egress;
- xiii) xiii) That an additional CCTV camera will be located at the rear of the premises, facing toward East Street, in order to monitor Stanford Place;
- xiv) xiv) That should for any reason a person be ejected from the premises via an emergency exit door – that person shall be escorted to the Old Kent Road by door/security staff;
- xv) xv) That no member of staff will, at any time, park their car to the rear of the premises;
- xvi) xvi) That the total number of persons that may be accommodated at any one time in the ground floor bar of the premises shall not exceed three hundred (300).

36. The licensee has also given the following undertakings:-

- a) a) Subject to the consent of the local authority the applicants will fund the erection of a barrier at the rear of Stanford Place;
- b) b) The licensee shall hold regular meetings with the ward councillor and community representatives.

-

-

Technical Regulations

- 37. The ground floor of the premises meets the standards required under the Council's Technical Regulations for Places of Public Entertainment.

Environmental Health Observations

- 38. This premises has been in use as a night club for a number of years and has been known as The Brink since 2000. It is situated on the Old Kent Road, a wide, busy arterial route. To the rear is Chelsfield House and to the west is Yaldam House, blocks of municipal flats. Measures to reduce noise breakout from The Brink have been in place for a number of years.
- 39. There have been a number of complaints received regarding noise nuisance from The Brink. The most recent being a letter received on 28th October 2002. The complainant was advised to contact the Noise Team when the disturbance occurred.
- 40. A number of visits have been made by the Noise Team both proactive and reacting to complaints, no statutory noise nuisance has been witnessed. Proactive visits took place on the following dates:-

13th April 2002 at 23:45.

14th April 2002 at 01:00, 02:00, 03:00, 04:00.

- 41. Reactive visits, in response to complaints of noise nuisance, were made on:-

6th April 2002 at 03:13. The noise was assessed in the complainant's bedroom with the window open for ten minutes and judged not to be a statutory nuisance.

28th December 2001 at 03:28 the noise was assessed for fifteen minutes in the complaint's living room, not a nuisance. 22ND April 2001 03:06 the noise was assessed in the complaint's and not considered a nuisance.

The Local Vicinity

- 42. A map of the local vicinity is attached as Appendix B. Shown on the map and licensed for the provision of public entertainment is the World Turned Upside Down, 145 Old Kent Road (Mon - Wed to 1am and Thur - Sat to 2am) and the Gin Palace, 205-209 Old Kent Road (Mon - Wed to 1am and Thur - Sat to 2am). Also shown on the map and licensed

as a Night Café is Quality Fried Chicken at 190 Old Kent Road. This premises has a 2.a.m. extension Sunday through to Wednesday; a 3.a.m. extension on Thursdays; and a 4.a.m. extension on Fridays and Saturdays. Not shown on the map but housed on the Old Kent Road are numerous other late night entertainment venues and night café / takeaways. Possibly the closest is Club Caesars at 84 – 86 Old Kent Road which enjoys a 2.a.m. extension Monday to Thursday and a 4am on Friday and Saturday nights.

EQUAL OPPORTUNITIES IMPLICATIONS

43. Each application is required by law to be considered upon its own merits with all relevant matters taken into account.

RESOURCE IMPLICATIONS

44. Upon applications a total fee of £ 2263.40 was paid. This fee contributes toward the cost of administering the application and of compliance inspections at the premises.

AGENDA 21 IMPLICATIONS

45. In considering the application the Committee will have regard to noise emissions from the premises; likely disturbance of residents caused by patrons leaving the premises; and the suitability of the premises and its location. All of these factors are relevant under Agenda 21.

BOROUGH SOLICITOR & SECRETARY- LEGAL IMPLICATIONS

REPORT OF THE BOROUGH SECRETARY & SOLICITOR - LEGAL ISSUES

46. The report recommends that the Committee decides whether to grant the application made by Bridge Road Management Limited for the renewal of the annual weekday and Sunday public music and dancing licence in respect of the premises known as The Brink, 148 Old Kent Road, SE1
47. The Committee has wide powers under Section 52 and Schedule 12 of the London Government Act 1963 to grant music and dancing licences subject to such terms, conditions and restrictions as they may specify. The Committee may impose standard rules of management for places of public entertainment in their entirety. The Committee may not, however, impose conditions concerning the sale of alcohol as this is within the jurisdiction of the local licensing justices.
48. In hearing this matter, the Committee are under a duty to consider the application on its merits and in accordance with the rules of natural justice. Any decision made must be one which is not incompatible with a convention right and must be in accordance with the Human Rights Act 1998. 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. Secondly, the Committee must give fair consideration to the contentions of all persons entitled to make representations to them.

49 In considering this application, the Committee are subject to a duty to ensure the health and safety of all citizens and residents in the Borough, which will include normal uses of the premises and residences around and within its area. The Committee are therefore entitled to consider the suitability of the applicant and the premises including their locations and impact upon the environment in the surrounding area and upon the amenity issues of granting the licence and its effects upon local residents.

50. The Committee are 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 inadmissible and should be excluded.

Lead Officer: Gill Davies -
Director of Environment & Leisure

Report Author: Debbie Casey--Licensing Officer
Background papers (including Schedule 12 of the London Government Act 1963 and various papers from the premises case file ELU/THEBRINK) may be viewed by arrangement with Debbie Casey of the Licensing Unit at The Chaplin Centre, Thurlow Street, SE17. Telephone number 020 7525 4263.