

Item No:	Classification: Open	Date: 24/06/2003	Meeting Name: Licensing Committee
Report Title:	Entertainment Licensing – Aristocrat’s, 294 Camberwell Road, SE5		
Ward(s) or groups affected:	Camberwell Green		
From:	Director of Environment & Leisure		

RECOMMENDATION

1. That the Committee considers the fitness of Mr Eyo Henshaw to continue to hold the provisional weekday and Sunday public music and dancing licence issued in respect of the ground floor of the premises known as Aristocrat’s situated at 294 Camberwell Road, London SE5.

BACKGROUND INFORMATION

2. On 25 November 2002 the Committee considered an application made by Mr Eyo Henshaw for the grant of an annual entertainments licence in respect of the premises. The application, which sought operating hours on Monday to Wednesday to 11pm, Thursday to 2am on the day following, Friday & Saturday to 5am on the day following and Sunday to 2am on the day following, was opposed by five local residents, a ward councillor and the police.
3. Attached as Appendix A to the report is an extract from the report presented to the Committee on 25 November 2002, detailing the history of the premises and the matters considered by the Committee at that time.
4. After hearing all the evidence the Committee decided grant the application with reduced hours for a six-month period. In the first instance a provisional licence was granted and a copy the Council’s letter to Mr Eyo Henshaw, which sets down the Committees’ decision in full is attached as Appendix B to the report.
5. Mr Eyo Henshaw lodged an appeal to the local magistrate’s court against the Council’s decision to grant the application with reduced hours. This appeal was to be heard at Camberwell Magistrates Court on 11 June 2003, however as Mr Eyo Henshaw failed to attend the bench dismissed the appeal and awarded the Council £500.00 in costs.
6. In reaching their decision of 25 November 2002 the Committee required that any application for the renewal of the licence must come before them for consideration. As the provisional licence has not been converted to a fully operational one, the matter currently under consideration is for the continuation of the provisional licence as opposed to an application for its renewal. The matter is however referred to the Committee in order that they may consider the fitness of the licensee, Mr Eyo Henshaw, to continue to hold a provisional licence.

KEY ISSUES FOR CONSIDERATION

7. The conversion of a provisional licence to fully operational one is dependent on: -

- i) The satisfactory completion of all public safety, sound containment and management control works; and
 - ii) The holder of the provisional licence remaining a "fit and proper" person.
8. The Committee is asked to consider the fitness of Mr Eyo Henshaw to continue to hold a provisional licence due to: -
 - i) Allegations made by the Licensing Unit that Mr Eyo Henshaw has breached of the provisional licence by providing licensable entertainment prior to its conversion to a fully operable licence; that such entertainment was provided beyond the terminal hour that any full licence would have permitted; and that the maximum number of persons allowed under any full licence was exceeded;
 - ii) Allegations from local residents and the ward councillor that they are suffering from late night disturbance as a result of the continued operation of the premises;
 - iii) Evidence from the Police with regard to the revocation of the Justices On Licence held by Mr Eyo Henshaw in respect of the premises, which reflect on the fitness of Mr Eyo Henshaw; and
 - iv) Allegations from the Police that, despite having the Justices On Licence revoked, alcohol is continuing to be provided at the premises along with the provision of public music and dancing.
9. At approximately 11.00pm on 17 November 2002 and Officers of the Council visited the premises. They entered the premises as members of the public and the male officer was charged an admission fee of £10.00 (females were allowed to enter free of charge at this time). A cloakroom was in operation, the cost of which was £2.00. At the time of the Officers arrival the premises were almost empty, but began to get busy at approximately 12.30am. By the time the Officers left at approximately 02.00am they estimated that between two hundred (200) and two hundred & fifty (250) persons were on the premises. During the three-hour period that the Officers were on the premises they witnessed the continual provision of music and dancing and the sale of alcohol.
10. At approximately 11.55pm on 01 February 2003 an Officer of the Council visited the premises. The Officer, who was accompanied by her daughter, was greeted by two men, one of who appeared to be a door supervisor. They were charged an admission fee of £10.00 each and a further £2.00 to deposit their coats in the cloakroom. At the time of their arrival there were approximately twenty (20) people on the premises, this number had however grown to forty people (40) by the time they left the premises at approximately 12.50am. Music and dancing was being provided the whole time the officer attended the premises.
11. Formal allegations have been made as a result of these visits and the Licensing Unit is currently pursuing a prosecution of Mr Eyo Henshaw through the magistrates' court.
12. Local residents and the ward councillor (who is also a local resident) have continued to complain to the Licensing Council of late night disturbance as a result of the operation of the premises. Copies of their letters of allegation are attached as Appendix C to the report.
13. On 20 May 2003 the police informed the Licensing Unit that the Inner London Crown Court had dismissed an appeal against the decision of the Camberwell Green Magistrates Court to revoke the Justices On Licence held by Mr Eyo Henshaw. The appeal was dismissed, as the Court was satisfied that: -
 - i) The premises were seen to open on numerous occasions after permitted hours;

- ii) There was insufficient supervision of the premises;
 - iii) There was an exchange of money for alcohol after permitted hours;
 - iv) There was no responsible response to messages and letters left for the Licensee by the Police;
 - v) The Licensee was apparently unavailable when requested by Police;
 - vi) The appellant has been consistently in breach of the licensing laws; and
 - vii) The licence was properly revoked at Camberwell green Magistrates Court.
14. A copy of the Police letter of 20 May 2003, in which they state that they no longer consider Mr Eyo Henshaw to be a fit and proper person to hold a provisional entertainments licence is attached as Appendix D to the report.
15. A copy of the Police letter of 10 June 2003, in which they allege that on 07 June 2003 alcohol was being provided at the premises without the benefit of a liquor licence; and that public entertainment was being provided in breach of the provisional licence, is attached as Appendix E to the report.

RESOURCE IMPLICATIONS

16. Mr Eyo Henshaw paid a fee of £1373.50 when he first applied for the grant of a public music and dancing licence. A refund of £458.00 would be due should the Committee decide not to grant the application for the continuation of the provisional licence

CONSULTATION

17. Consultation on the application has been undertaken with the Police.

EQUAL OPPORTUNITIES IMPLICATIONS

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

AGENDA 21 IMPLICATIONS

19. When the Committee considered the application for the grant of a licence in November 2002 they had 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 which were relevant under Agenda 21.

REPORT OF THE BOROUGH SOLICITOR AND SECRETARY - LEGAL ISSUES

20. The report recommends that the Committee considers the fitness of Mr Eyo Henshaw to continue to hold the provisional weekday and Sunday public music and dancing licence issued in respect of the ground floor of the premises known as Aristocrat's situated at 294 Camberwell Road, London SE5.

21. In hearing this matter, the Committee are under a duty to consider it 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.
22. In considering this matter, 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 a continuation of the provisional licence to Mr Eyo Henshaw and its effects upon local residents.
23. In considering whether the applicant remains a fit and proper person to hold a public entertainments licence, Members are entitled to take account of the court decisions referred to at paragraph 13 of the report and other evidence concerning the conduct of the premises by the applicant.
24. 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.

BACKGROUND PAPERS

25. Background papers, which include Schedule 12 of the London Government Act 1963 and the premises case file (ELU/ARISTOCRATS), are kept at the Environment & Leisure Department, Licensing Unit, Chaplin Centre, Thurlow Street, SE17 2DG and may be viewed by arrangement with Diane Kraus who can be contacted on telephone number 020 7525 5688.

AUDIT TRAIL

26.

Lead Officer:	Gill Davies, Director of Environment & Leisure	
Report Author:	Diane Kraus, Licensing Officer	
Version:	Final/complete version of the report	
Dated:	12 June 2003	
Key Decision:	No	
CONSULTATION WITH OTHER OFFICIERS/DIRECTORATE/EXECUTIVE MEMBERS		
Officer Title	Comments Sought	Comments included
Borough Solicitor & Secretary	Yes	Yes
Executive Member	No	No
Date final report sent to Constitutional Support Services		12 June 2003

BACKGROUND

6. The premises are not currently, nor have they previously been, licensed by this Council for the provision of public entertainment.
7. Licensing Unit records go back to 1995 when allegations that unlicensed public entertainment was being provided at the premises, which were supposedly operating as a "Registered Members Club", were made. Investigations led to the then owner, Mr C, submitting an application for a public entertainments licence. Three local residents, the Castlemead Tenants & Residents Association and the Police, opposed the application and in June 1996 the then Licensing Sub Committee decided to refuse it.
8. An appeal against the Council's refusal to grant a licence was made and on 12 November 1996 the application was re-heard at Camberwell Green Magistrates Court. The Court wholly endorsed the Council's decision to refuse to grant the licence to Mr C for the following reasons: -
 - i) The nature of the premises having regard to its location, the absence of provision for off street parking and the likelihood of nearby residents being disturbed; and
 - ii) The conduct of the Appellant to date having regard to the evidence of the apparent breaches of restrictions currently enforced which do not lead the Court to believe that the terms of the licence would be adhered to.
9. The premises continued to hold a registered members club licence, issued by the Licensing Justices, which allowed alcohol to be served and entertainment provided to bona fide club members up to 12 midnight on weekdays and 10.30pm on Sundays. In 1999 allegations and complaints that the premises were operating beyond the permitted hours and providing unlicensed entertainment were again made. The responsibility to ensure that the premises operated in compliance with the registered members club licence fell to the police, with the Licensing Unit being responsible with regard to the provision of unlicensed entertainment. The Licensing Unit investigated the allegations legal proceeding were instigated against the then premises manager, Mr A.
10. At 6.30am on the morning of 18 November 2000 a shooting took place at the premises. On 20 November 02 a member of the Licensing Unit met with the police and was informed that: -
 - The Police were contacted at 6.40am and attended the premises. A male had been shot in the neck and was admitted to Kings College Hospital, his condition was later said to be stable;
 - Seven (7) arrests were made, and one of the persons arrested was wearing full body armour; and
 - Two (2) firearms were seized.
11. In February 2001, on the advise of Counsel, it was decided not to pursue the prosecution against Mr A for the provision of unlicensed entertainment. This advice was based on the fact that Mr C, whom the Council intended to call as a witness, had turned "hostile".

12. The management of the premises changed hands at the end of August 2001, with the applicant, Mr Eyo Henshaw, applying to the Courts for the premises liquor licence to be in his name. At this point the police succeeded in persuading Mr Eyo Henshaw to allow the registered members club licence to fall. The Courts issued Mr Eyo Henshaw with a Justices On Licence in March 2002.
13. The Licensing Unit continued to receive complaints regarding late night disturbance from the premises and at approx 12 midnight on the night of 10 May 02 Licensing Officers, accompanied by the Police, visited the premises and witnessed the provision of music, plus the sale and consumption of alcohol. Officers met with Mr Didi Henshaw, who said that, his brother Mr Eyo Henshaw held the lease to the premises but was not there and that he was in charge. He claimed that the premises were open for a private function. Officers gave Mr Didi Henshaw advice regarding the provision of licensable public entertainment.
14. The application under consideration was made on 22 May 02 and consultation has been undertaken in accordance with the Council's normal procedure. Objections have been lodged to the application, and the Licensing Unit's conciliation service has been utilised. Conciliation failed to lead to the withdrawal of the all of the objections. The application is referred to Members for their determination.

FACTORS FOR CONSIDERATION

The Premises

15. The premises comprise of three stories and are situated at 294 Camberwell Road, SE5. The ground floor is used as a club with the remaining floors being used as residential flats occupied by staff. The main entrance/exit to/from the ground floor club is located on Camberwell Road. The ground floor of the premises comprise of a lobby/cloakroom that leads into a small lounge area through which you must pass to gain access to the main clubroom where the dance floor, bar, D.J. and toilets are located. Emergency escape provision is located to the side of the premises, is accessed via the main clubroom, and leads directly into a small yard and then onto Camberwell Road.
16. The ground floor of the premises can be made suitable to safely accommodate a maximum of one hundred (100) persons.

The Objections and Conciliation

17. In the first instance ten (10) local residents and a ward councillor opposed the application. The conciliation service was utilised and a meeting, to which all the objectors and PC McNally of Peckham Police were invited, was held at the premises on 18 September 02.
18. The meeting resulted a reduction in the hours of application and a series of management controls being agreed. A copy of the letter sent by the Licensing Unit setting down the agreement reached at the meeting is attached as Appendix A to the report.
19. Conciliation resulted in five local residents deciding not to pursue their objections. However, five (5) local residents and a local ward councillor are continuing with their opposition to the application. The main grounds of their objections relate to disturbance from people arriving at and leaving from the premises, parking problems and an increase in traffic. Copies of the letters of objection are attached as Appendix B to the report. Two

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of the objectors provided additional information when confirming their intention to proceed with their opposition, and copies of these letters are attached as Appendix C to the report.

20. On 12 November 02 a letter from PC McNally of Peckham Police was received lodging objections to the grant of the licence on the grounds that the applicant is not a fit and proper person to hold a licence. A copy of this letter is attached as Appendix D to the report.

The Current Operation and Management of the Premises

21. The premises currently has the benefit of a licence, issued by the Licensing Justices, that permits the sale of alcohol until 11pm on weekdays and 10.30pm on Sundays. This licence allows limited public entertainment to be provided during the hours it is in force.
22. Paragraph 13 of the report details the visit Licensing Officers made to the premises to the on 10 May 02. This was the first visit to the premises since of the applicant, Mr Eyo Henshaw, had been responsible for them.
23. On 14 September 02 at 2am Officers of the Licensing Unit visited the premises, accompanied by PC McNally of Peckham Police. The purpose of this visit was to check that the premises water supply, as the Council's Health & Safety Unit had been notified that it had been cut off. The water had been re-connected, however Officers noted that the premises were open and providing entertainment (music and dance) and serving alcohol. As Mr Eyo Henshaw was not available the Licensing Officer spoke with Mr Didi Henshaw, who claimed a private function was being held.
24. At the conciliation meeting on 18 September 02 the objectors said that the premises were operating on a regular basis and that they were subjected to the worst disturbance in the early hours of Monday mornings. Mr Didi Henshaw, who was representing the applicant at the meeting, stated that the premises only opened for the private functions.
25. Licensing Officers, accompanied by PC McNally of Peckham Police, conducted observations of the premises on Monday 21 October 02 between 2.45am and 3.30am. Officers noted people arriving at and leaving the premises and customers who had exited being re-admitted. Furthermore music emanating from the premises was audible on the street. Officers witnessed: -
- A man leave the premises, walk to Bullace Row, urinate, sit in a car for several minutes then go back inside;
 - A woman, who had exited the premises, leaning through the window of a car, which was double parked, and chatting, she then went back inside;
 - Customers exiting the premises, chatting outside on mobile phones, then re-entering;
 - A man and women leave the premises and have a loud conversation of several minutes duration before going back inside; and
 - Groups of people who had left the premises standing around outside chatting.
26. At 3.20am Licensing Officers and the Police entered the premises. They were unchallenged by the door supervisor (none of whom were wearing Southwark Council Badges). Once inside the foyer a Door Supervisors informed a Licensing Officer that coats were not permitted in the Club and should be left in the cloakroom. At his stage Officers identified themselves and asked to speak with the premises manager. Officers then

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proceeded into the lounge area from which they could clearly see into the main clubroom. Officers witnessed the provision of music and dancing and the sale and consumption of alcohol. Furthermore the premises were in the opinion of the Officers seriously overcrowded.

27. Officers spoke with Mr Didi Henshaw, who informed them that his brother, Mr Eyo Henshaw, had just left and that he was responsible for the management of the premises. He also claimed that the entertainment being provided was private.
28. Officers suggested to Mr Didi Henshaw that unlicensed public entertainment was being provided and that the premises were seriously overcrowded. Officers were then shown a counting device that indicated the number of persons on the premises to be one hundred & forty nine (149), it is however the contention of the Officers that at least double this number of people were at the premises. Officers asked Mr Didi Henshaw to stop the event and close the premises, he refused. Officers left at 3.50am.

Sound Containment Observation

29. The premise is at the centre of a terrace of shops, is 3 stories high, the ground floor being used for the club, the above floors, residential flats used by staff. The building is at the Camberwell Green end of Camberwell Road.
30. The property fronts onto the main Camberwell Road, and to the side is a small yard area, accessed by double fire escape doors. This yard backs onto an empty industrial unit. The nearest residential property is across the road in Camberwell Road (over 4 lanes of traffic) approximately 35m away, or possibly to the side above existing shops.
31. On entering through a wooden door, there is a lobby, which is used as a cloakroom area. To reach the dance area, you need to pass through what is called the "VIP" area. The small bar is on the right hand side as you enter the dance area. The walls to all sides except the front façade are brick; the restaurant front is boarded up.
32. The music is provided by a DJ situated at rear of the club, the speakers are all mounted on the walls of the club. One speaker is mounted right next to the vent-air. The club owns the equipment that is used.
33. The ventilation is obtained from air conditioning units situated throughout the club; there is also an extractor unit in operation.
34. The Noise Team have considered the times applied for and have no objection to the license being granted on noise grounds-because there is no history of noise complaints.

Technical Suitability

35. A suitability survey of the premises has been carried out by an officer of the London Fire and Emergency Planning Authority (LFEPA) and the Council's Building Surveyor; and it has been determined that subject to the satisfactory completion of works the premises can meet the required standard. Copies of the schedule of work requirements, issued by LFEPA and the Council's Building Surveyor are attached as Appendix E to the report.

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Licence Conditions

36. If members are minded to grant the application it is recommended that in the first instance a provisional licence is issued, the conversion of the provisional licence to a fully operational licence should be conditional on: -
- i) The satisfactory completion of all requirements set out in the schedule attached as Appendix E to the report;
 - ii) The satisfactory installation at the premises of a CCTV system;
 - iii) The holder of the provisional licence remaining to be a “fit and proper” person.
37. It is further recommended that any full licence issued should be made subject to the Council’s Rules of Management and to the following special conditions: -
- i) That suitable notices shall be displayed and announcements made requesting people to leave the premises in a quiet and orderly manner so as not to disturb local residents;
 - ii) That there shall be no new admissions of the public to the premises on Thursday and Sunday after 1am on the day following and on Friday and Saturday after 2.30am on the day following;
 - iii) That notices shall be prominently displayed at the entrance to the premises stating “No Entry To Under 21’s”;
 - iv) That Southwark Council registered door supervisors, one of whom is female, shall be employed at all times at the premises are in use under the licence and provided with: -
 - a) Hand held metal detection units in order to ensure that searches are carried out in respect of all admissions to the premises, whether members of the public or performers or their assistants; and
 - b) Mechanical counting devices to ensure that the maximum limit on the number of persons permitted in the premises are not exceeded;
 - v) That the CCTV system installed at the premises is to be maintained in good working order at all times that the premises are in use under the licence;
 - vi) That all CCTV footage shall be kept for a period of thirty-one (31) days and shall upon request be made available to Officers of the Council and the Police; and
 - vii) That the total number of persons that may be accommodated in the ground floor of the premises at any one time shall not exceed one hundred (100).

The Local Vicinity

38. A map of the local vicinity is attached as Appendix F to the report. Shown on the map and licensed for public entertainment are: -

- Red Star, 319 Camberwell Road, SE5 (Mon - Thur to 2am, Fri & Sat to 4am and Sun to 12 midnight); and

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- St Mary’s Church Hall, 305 Camberwell New Road, SE5 (Mon - Thur to 11pm and Fri - Sun to 2am).

39. Just of the map and licensed for public entertainment are: -

- Imperial Gardens, 299 Camberwell New Road, SE5 (Mon - Wed to 11pm, Thur to 2am, Fri & Sat to 6am and Sun to 12 midnight);
- Jack Beard, 296a Camberwell New Road, SE5 (Mon - Thur to 11pm, Fri & Sat to 12 midnight and Sun to 11.30pm);
- Sacred Heart Church Hall, 298-300 Camberwell New Road, SE5 (Mon - Sat to 12 midnight); and
- Silver Buckle, 18 Camberwell Green, SE5 (Mon – Thur to 1am, Fri & Sat to 2am and Sun to 12 midnight).