

<b>Item No.</b> 6.	<b>Classification:</b> Open	<b>Date:</b> 16 September 2021	<b>Meeting Name:</b> Licensing Sub-Committee
<b>Report Title</b>		Licensing Act 2003: Rose Court, 2 Southwark Bridge, London SE1 9HS	
<b>Ward(s) of group(s) affected</b>		Borough and Bankside	
<b>From</b>		Strategic Director of Environment and Leisure	

## RECOMMENDATION

1. That the licensing sub-committee considers an application made by Green and Fortune Limited for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Rose Court, 2 Southwark Bridge, London SE1 9HS.
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 responsible authorities 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 16 of this report deal with the representations submitted in respect of the application. Copies of the representation submitted by the responsible authorities and attached to this report in Appendix B and copies of representations from other persons attached in Appendix C. A map showing the location of the premises is attached to this report as Appendix E.
  - d) 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 23 July 2021 Green and Fortune Limited applied for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Rose Court, 2 Southwark Bridge, London SE1 9HS. The premises are described in the application as follows:

“The application is to cover WPP’s new co-location office campus, at Rose Court. WPP is a British multinational communications, advertising, public relations, technology, and commerce company, headquartered in London. The new development will provide a high quality office and shared amenity spaces in the form of a café, canteen, restaurant event space and a business lounge. This is in addition to work spaces and internal meeting areas for staff. The layout is more particularly shown on the plans submitted with this application.
  
9. The hours applied for are summarised as follows:
  - The sale by retail of alcohol (both on and off on sales):
    - Sunday to Thursday: 07:00 to 00:00
    - Friday and Saturday: 07:00 to 01:00 the following day

- Roof Terrace: Monday to Saturday: 08:00 to 22:00 and Sunday: 10:00 to 16:00
  - The provision of late night refreshment (indoors):
    - Sunday to Thursday: 23:00 to 00:00
    - Friday to Sunday: 23:00 to 01:00 the following day
  - The provision of regulated entertainment in the form of plays, films, live music, recorded music, performances of dance and anything similar (indoors):
    - Sunday to Thursday: 07:00 to 00:30 the following day
    - Friday and Saturday: 07:00 to 01:30 the following day
  - Opening hours:
    - Monday to Thursday: 07:00 to 01:00
    - Friday to Sunday: 07:00 to 02:00
    - Roof Terrace: Monday to Saturday: 08:00 to 22:00 and Sunday: 10:00 to 16:00
    - New Year's Eve 24 hours
  - Non standard timings
    - From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day for all licensable activities.
10. The designated premises supervisor is to be John Nugent who holds a personal licence with the London Borough of Camden.
11. The premises licence application form provides the applicant's operating schedule. Parts A, B, C, E, F, G, H, 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 part M of 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 and premises plan is attached to this report in Appendix A.

### **Representations from responsible authorities**

12. Representations have been made by the Metropolitan Police Service and the licensing authority.
13. The representation from the Metropolitan Police Service states that the premises falls within the Bankside, Borough, London Bridge Strategic Cultural & London Bridge District Town Centre Area and the cumulative impact area (CIA) for Borough and Bankside. The representation requests additional conditions. The police have since withdrawn their representation on the agreement that the following conditions be added to the operating schedule:

- That the premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the police. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping.
  - That recordings shall be made available immediately upon the request of police or authorised officer throughout the preceding 31 day period. A staff member who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public. This staff member will be able to show a police or authorised council officer recent data or footage with the absolute minimum of delay when requested.
  - That access to the premises shall be restricted to employees and officers of the organisations in occupation, guests of the organisations or their employees/ officers; and attendees at bona fide pre-booked events.
  - That sale and consumption of alcohol on the main office floors shall be restricted to employees and officers of the organisations in occupation of the building and guests of the organisation or their employees/officers.
  - That all staff involved in the sale or service of alcohol shall be trained in their responsibilities under the Licensing Act 2003 with training records to be kept and updated every 6 months and which shall, upon request, be made immediately available to officers of the police and the council.
14. A representation has been submitted by the licensing authority, in their role as a responsible authority. The licensing authority has asked for additional conditions, a dispersal policy. They also state that the premises falls within a CIA. The representation is available in Appendix B.

### **Representations from other persons**

15. A representation has been received from one other person - Councillor Adele Morris under the licensing objective of the prevention of public nuisance. The representation states that the premises lies within a CIA and raises concerns regarding dispersal late at night. The representation is available in Appendix C.

### **Conciliation**

16. All representations were sent to the applicant and at the point of publication of the report; only the representation from the police has been conciliated. An offer has been made for the applicant to send mediatory correspondence to all parties. The applicant's agent has responded to the police and licensing. Those responses and the Police withdrawal are in Appendix D.

### **Premises history**

17. This address has not been previously licensed. There is no history of temporary event notices (TENs) or complaints to this address.

## Map

18. A map showing the location of the premises is attached to this report as Appendix E. The following are a list of licensed premises in the immediate vicinity of the application:

### **Rose Theatre Exhibition, 56 Park Street, London SE1 9AR**

- The sale by retail of alcohol (on sales):
  - Monday to Sunday from 14:00 to 22:00
- The provision of regulated entertainment in the form of plays, films, live and recorded music, performances of dance and anything similar:
  - Monday to Sunday from 14:00 to 22:00

### **Zizzi, Unit 4, Riverside House, 2a Southwark Bridge Road, London SE1 9HA**

- The sale by retail of alcohol (on and off sales):
  - Monday to Sunday from 11:00 to 00:00
- The provision of late night refreshment (indoors):
  - Monday to Sunday from 23:00 to 00:30
- The provision of regulated entertainment in the form of recorded music:
  - Monday to Sunday from 11:00 to 00:30

### **The Real Greek Souvlaki & Bar, UNITS 1 & 2, Riverside House, 2A Southwark Bridge Road, London SE1 9BA**

- The sale by retail of alcohol (on and off sales):
  - Monday to Saturday from 10:00 to 00:00
  - Sunday from 12:00 to 23:30
- The provision of late night refreshment (indoors):
  - Monday to Saturday from 23:00 to 00:30
  - Sunday from 23:00 to 00:00

### **Tas Pide, Ground Floor, 20-22 New Globe Walk, London SE1 9DR**

- The sale by retail of alcohol (on sales):
  - Monday to Sunday from 11:00 to 00:30
- The provision of late night refreshment (indoors):
  - Monday to Sunday from 23:00 to 00:30

- The provision of regulated entertainment in the form of live and recorded music:
  - Monday to Sunday from 11:00 to 00:30

**Pizza Express, Unit 1, Benbow House, 24 New Globe Walk, SE1 9DS**

- The sale by retail of alcohol (on and off sales):
  - Monday to Saturday from 10:00 to 00:00
  - Sunday from 10:00 to 23:30
- The provision of late night refreshment (indoors):
  - Monday to Saturday from 10:00 to 00:30
  - Sunday from 10:00 to 00:00
- The provision of regulated entertainment in the form of films:
  - Monday to Saturday from 09:00 to 00:30
  - Sunday from 09:00 to 00:00
- The provision of regulated entertainment in the form of recorded music:
  - Monday to Saturday from 09:00 to 23:00
  - Sunday from 09:00 to 22:30.

**Southwark Council statement of licensing policy**

19. Council assembly approved Southwark's statement of licensing policy 2021-2026 on 25 November 2020 and came into effect on 1 January 2021.
20. 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.
21. 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.

### **Cumulative Impact Area (CIA)**

22. The premises is situated in the Bankside, Borough, London Bridge Strategic Cultural & Bankside and Borough District Town Centre and the Borough and Bankside CIA.
23. Under the Southwark Statement of Licensing Policy 2021 - 2026 the following closing times are recommended as appropriate within this area for these categories of premises:
- Closing time for restaurants and cafes:
    - Sunday to Thursday to 00:00 (midnight)
    - Friday and Saturday to 01:00 (the following day)
  - Closing time for public houses, wine bars or other drinking establishments:
    - Sunday to Thursday to 23:00
    - Friday and Saturday to 00:00 (midnight)
  - Event premises/ spaces where sale of alcohol is included in, and ancillary to, range of activities including meals
    - Friday to Saturday to 01:00 (the following day)
    - Sunday to Thursday to 00:00 (midnight).

### **Climate Change Implications**

24. Following council assembly on 14 July 2021, the council is committed to considering the climate change implications of any decisions.
25. Climate change is not a legal factor in the consideration of a grant of a premises license under the current licensing objectives, however members can make

enquiries and request an agreement from applicants to promote the reduction of the impact of climate change that may be caused by the operation of the premises.

26. Examples of such an agreement may be:

- Not to use single use plastics, such as disposable plastic glasses, when selling alcohol at the premises.
- Encourage patrons not to drive to venues by providing details of public transport on their webpages/tickets.

27. The council's climate change strategy is available at:

<https://www.southwark.gov.uk/assets/attach/48607/Climate-Change-Strategy-July-2021-.pdf>

## **Community, equalities (including socio-economic) and health impacts**

### **Community impact statement**

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

### **Equalities (including socio-economic) impact statement**

29. This report does not result in a policy decision and each application is required to be considered upon its own individual merits with all relevant matters taken into account. In considering the recommendations of this report, due regard must be given to the public sector equality duty set out in section 149 of the Equality Act 2010. This requires the council to consider all individuals when carrying out its functions.

30. Importantly, the council must have due regard to the need to eliminate discrimination, harassment, victimisation, or other prohibited conduct; advance equality of opportunity and foster good relations between people with protected characteristics and those who do not. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. The public sector equality duty also applies to marriage and civil partnership, but only in relation to the need to eliminate discrimination, harassment, victimisation, or other prohibited conduct.

31. The equalities impact statement for licensing decisions is contained within the Southwark statement of licensing Policy 2021 – 2026:

<https://www.southwark.gov.uk/business/licences/business-premises/licensing/licensing-and-gambling-act-policy>.

### **Health impact statement**

32. Health impacts cannot be considered by law when making decisions under the Licensing Act 2003.



## **Resource implications**

33. A fee of £635.00 has been paid by the applicant company in respect of this application being the statutory fee payable for premises within non-domestic rateable value E.

## **Consultation**

34. 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**

35. 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 Governance**

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

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

38. The sub-committee is asked to determine the application for a premises licence under Section 17 of the Licensing Act 2003.
39. The principles which sub-committee members must apply are set out below.
40. 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.
41. 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.

42. 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**

43. 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.
44. The four licensing objectives are:
- The prevention of crime and disorder
  - Public safety
  - The prevention of nuisance
  - The protection of children from harm.
45. 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.
46. 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.
47. 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**

48. 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**

49. 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.
50. 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**

51. 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.
52. 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.

53. 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.
54. 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.
55. 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.
56. 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.
57. 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.
58. 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**

59. 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

60. 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 and plans
Appendix B	Representations submitted by Responsible Authorities
Appendix C	Representations submitted by Other Persons
Appendix D	Responses to the Police and Licensing
Appendix E	Map of the locality

### AUDIT TRAIL

<b>Lead Officer</b>	Caroline Bruce, Strategic Director of Environment and Leisure	
<b>Report Author</b>	Andrew Heron, Principal Licensing Officer	
<b>Version</b>	Final	
<b>Dated</b>	3 September 2021	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments sought</b>	<b>Comments included</b>
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
<b>Cabinet Member</b>	No	No
<b>Date final report sent to Constitutional Team</b>	3 September 2021	