

Item No. 5.	Classification: Open	Date: 1 September 2022	Meeting Name: Licensing Sub-Committee
Report Title		Licensing Act 2003: Pollo, 2 Datchelor Place, London SE5 7AP	
Ward(s) of group(s) affected		St Giles	
From		Strategic Director of Environment and Leisure	

RECOMMENDATION

1. That the licensing sub-committee reconsiders an application made by Base (Islington) Limited for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Pollo, 2 Datchelor Place, London SE5 7AP.
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 20 of this report deal with the representations submitted in respect of the application. Copies of the representation submitted by the responsible authorities and the subsequent withdrawals by the police and licensing responsible authority are attached to this report in Appendix B. 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 F.
 - d) The decision made by the licensing sub-committee on 26 May 2022 was appealed by the applicant at Croydon Magistrates Court. The application has been referred back to the licensing sub-committee for reconsideration. A copy of the notice of decision from the sub-committee hearing on 26 May 2022 is attached as Appendix D.
 - e) A copy of the council's approved procedure for hearings of the sub-committee in relation to an application made under the Licensing Act 2003, along with a copy of the hearing regulations, has been circulated to all parties to the meeting.

BACKGROUND INFORMATION

The Licensing Act 2003

3. The Licensing Act 2003 provides a licensing regime for:
 - The sale of and supply of alcohol

- The provision of regulated entertainment
 - The provision of late night refreshment.
4. Within Southwark, the licensing responsibility is wholly administered by this council.
5. The Act requires the licensing authority to carry out its functions under the Act with a view to promoting the four stated licensing objectives. These are:
- The prevention of crime and disorder
 - The promotion of public safety
 - The prevention of nuisance
 - The protection of children from harm.
6. In carrying out its licensing functions, a licensing authority must also have regard to:
- The Act itself
 - The guidance to the act issued under Section 182 of the Act
 - Secondary regulations issued under the Act
 - The licensing authority's own statement of licensing policy
 - The application, including the operating schedule submitted as part of the application
 - Relevant representations.
7. The premises licence application process involves the provision of all relevant information required under the Act to the licensing authority with copies provided by the applicant to the relevant responsible bodies under the Act. The application must also be advertised at the premises and in the local press. The responsible authorities and other persons within the local community may make representations on any part of the application where relevant to the four licensing objectives.

KEY ISSUES FOR CONSIDERATION

The premises licence application

8. On 14 March 2022 Base (Islington) Limited applied for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Pollo, 2 Datchelor Place, London SE5 7AP. The premises are described in the application simply as:

“Takeaway sandwiches.”

9. The hours applied for are summarised as follows:
- The provision of late night refreshment (outdoors):
 - Monday to Saturday: 23:00 to 05:00 the following day
 - Opening hours:
 - Monday to Saturday: 10:30 to 05:00 the following day.

10. 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.
11. A copy of the application and premises plan is attached to this report in Appendix A.

Representations from responsible authorities

12. A representation has been submitted by the Metropolitan Police (Licensing Division) under the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance; stating that the hours applied for are outside of the Southwark statement of licensing policy and that the operating schedule accompanying the application falls short. There is confusion as to the operation of the premises, as to whether there is seating or if it is purely a takeaway. There are concerns regarding the proximity of the premises to residential properties.
13. A representation has been made by the council's environmental protection team in their role as Responsible Authority in relation to the prevention of public nuisance. It states that the hours are outside of the Southwark statement of licensing policy and there are concerns of the proximity of local residents to the premises.
14. A representation has been submitted by the licensing authority, in their role as a responsible authority in relation to the prevention of crime and disorder and the prevention of public nuisance. The licensing authority states that the premises falls within the Camberwell cumulative impact area (CIA) and that the hours are excessive to the Southwark statement of licensing policy. If the sub-committee were minded to grant the licence, additional conditions and a dispersal policy are requested.
15. The representations are available in Appendix B.
16. The police have withdrawn their representation upon agreement of the following change of hours and additional conditions to be added to the operating schedule:
 - That late night refreshment (outdoors) shall be: Monday to Sunday from 23:00 to 02:00 the following day.
 - That overall opening times shall be: Monday to Sunday from 10:30 to 02:00 the following day.
 - That the premises shall be closed to the public from 23:00 and any provision of late night refreshment shall be provided by delivery service only.
 - That no delivery driver/rider shall use Mary Datchelor Close to access the venue.
 - That all delivery drivers/riders after 23:00 should wait inside the premises for their order.

- That a prominent polite notice shall be displayed, which requests that customers do not eat outside the premises, particularly in Datchelor Place and Mary Datchelor Close, and reminding them that this is a residential area and that customers should leave the premises quietly.
 - That a CCTV system shall be installed at the premises, be maintained in full working order and be continually recording at all times the premises are in use under the licence. The CCTV system must be capable of capturing a clear facial image of every person who enters the premises and cover the outside area.
 - That all CCTV footage will be kept for a period of 31 days and shall be available to the police or council officers for viewing immediately on request. There will be at least one person on duty at all times that is familiar with the operation of the CCTV and able to download footage on request.
 - That delivery drivers/riders shall be given clear written instructions to use their vehicles in a responsible manner so as not to cause a nuisance in the vicinity of the licensed premises or the delivery location, not to leave engines running when vehicles are parked and not to obstruct the highway or footway. Delivery drivers shall dismount prior to entering Datchelor place Drivers/riders who do not comply with the instructions will not be permitted to make deliveries on behalf of the licensee.
17. Licensing have also withdrawn their representation upon agreement of the same hours and conditions as agreed with the police.
18. The withdrawals of the representations from the police and licensing are attached to Appendix B.

Representations from other persons

19. Representations against the application have been received from 14 other persons, namely two ward councilors and 12 local residents residing in the immediate vicinity. The representations infer issues with the Camberwell cumulative impact area in that the addition of another licensed premises will add to existing antisocial behaviour in the area. There are concerns with the current running of the business and that any extension of late night refreshment hours will add to this and lead to an increase in antisocial behaviour in the locality. The ward councilors write to support the representations made by their constituents.
20. Representations from other persons are available in Appendix C.

Conciliation

21. All representations were sent to the applicant and at the point of publication of the original report, none of the representations had been conciliated.
22. The police and licensing authority have withdrawn their representations as per paragraphs 14 to 16 of this report.

23. A response had been made to the environmental protection team (included in Appendix B) in which an offer had been made to add the following condition:
- That on Sunday to Thursday at 00:00 and on Friday and Saturday at 01:00 the premises shall be closed to the public and any provision of late-night refreshment shall be provided by delivery service only.
24. However, the environmental protection team have not withdrawn their representation.
25. The applicant's representative wrote to the objecting residents. A copy of that correspondence is available in Appendix E. No residents withdrew their representations. However, other persons C and I provided supplementary statements which are appended to their representations.

Premises history

26. This address has previously held a premises licence for The Pidgeon Hole Café, which held a licence for on sales of alcohol only from 12:00 to 23:00 daily. The licence was surrendered on 3 September 2020.
27. There is no history of temporary event notices (TENS) or complaints to this address.
28. The application was considered by the licensing sub-committee on 26 May 2022. A copy of the notice of decision is attached as Appendix D.
29. The decision was appealed by the applicant at the Magistrates Court and the application has been referred back to the licensing sub-committee for reconsideration.

Map

30. A map showing the location of the premises is attached to this report as Appendix F. The following are a list of licensed premises in the immediate vicinity of the application (within 100m):

rancesco Sourdough Pizza, 53 Camberwell Church Street, London SE5 8TR
licensed for:

- The provision of late night refreshment (outdoors):
 - Monday and Sunday: 23:00 to 05:00

Peckham Cellars, 75 Camberwell Church Street, London SE5 8TU licensed for:

The sale by retail of alcohol (on sales):

- Monday to Saturday: 11:00 to 22:30
- Sunday: 11:00 to 19:30

The sale by retail of alcohol (off sales):

- Monday to Saturday: 11:00 to 23:00
- Sunday: 11:00 to 20:00

The Dutchie, 58a Camberwell Church Street, London SE5 8QZ

- The sale by retail of alcohol (on sales):
 - Monday to Saturday: 11:00 to 23:30
 - Sunday: 11:00 to 22:30
- The provision of late night refreshment (indoors):
 - Friday and Saturday: 23:00 to 23:30
- The provision of regulated entertainment in the form of live music and recorded music (indoors):
 - Monday to Saturday: 11:00 to 23:30
 - Sunday: 11:00 to 22:30

Winemakers Club 2000, 78 Camberwell Church Street, London SE5 8QZ
licensed for:

- The sale by retail of alcohol (on sales):
 - Monday to Saturday: 11:00 to 22:30
 - Sunday: 11:00 to 19:30
- The sale by retail of alcohol (off sales):
 - Monday to Saturday: 11:00 to 23:00
 - Sunday: 11:00 to 20:00
- The provision of regulated entertainment in the form of recorded music:
 - Monday to Saturday: 11:00 to 23:00
 - Sunday: 11:00 to 20:00

The Vineyard, 3 Camberwell Grove, London SE5 8JA

- The sale by retail of alcohol (on sales):
 - Monday to Saturday: 11:00 to 00:00 (midnight)
 - Sunday: 12:00 (midday) to 23:30
- The provision of late night refreshment (indoors):
 - Monday to Saturday: 23:00 to 00:30 (the following day)
 - Sunday: 23:00 to 00:00 (midnight)

I Go Chop, 46 Camberwell Church Street, London SE5 8QZ

- The sale by retail of alcohol (both on and sales):
 - Sunday to Thursday: 10:00 to 23:30
 - Friday and Saturday: 10:00 to 00:30 (the following day)

The provision of late night refreshment (indoors and outdoors):

- Monday to Sunday: 23:00 to 05:00 (the following day)

Hoa Viet, 42 Camberwell Church Street, London SE5 8QZ

- The sale by retail of alcohol (both on and off sales):
 - Monday to Saturday: 11:00 to 00:00 (midnight)
 - Sunday: 11:00 to 23:30
- The provision of late night refreshment (indoors):
 - Monday to Saturday; 23:00 to 00:30 (the following day)
 - Sunday: 23:00 to 00:00 (midnight)

Daily Goods, 36 Camberwell Church Street, London SE5 8QZ

- The sale by retail of alcohol (both on and off sales):
 - Monday to Saturday: 10:00 to 22:00
 - Sunday: 11:00 to 22:00

Camberwell Superstore, 34 Camberwell Church Street, London SE5 8QZ

- The sale by retail of alcohol (off sales only):
 - Monday to Saturday: 08:00 to 23:00
 - Sunday: 10:00 to 22:30

Well Mix Oriental, 69 Camberwell Church Street, London SE5 8TR

- The sale by retail of alcohol (both on and off sales):
 - Monday to Saturday: 11:00 to 00:00 (midnight)
 - Sunday: 11:00 to 23:30
- The provision of late night refreshment (indoors):
 - Monday to Saturday: 23:00 to 00:30 (the following day)
 - Sunday: 23:00 to 00:00 (midnight)

The Camberwell Arms, 65 Camberwell Church Street, London SE5 8TR

- The sale by retail of alcohol (on sales):
 - Sunday to Thursday: 10:00 to 00:00 (midnight)
 - Friday and Saturday: 10:00 to 02:00 (the following day)
- The sale by retail of alcohol (off sales):
 - Sunday to Thursday: 10:00 to 00:00 (midnight)
 - Friday and Saturday: 10:00 to 03:00 (the following day)
- The provision of late night refreshment (indoors):
 - Sunday to Thursday; 23:00 to 00:00 (midnight)
 - Friday and Saturday: 23:00 to 02:30 (the following day)
- The provision of regulated entertainment in the form of live music, recorded music, facilities for making music and anything similar and the performance of dance (indoors):
 - Sunday to Thursday: 10:00 to 00:00 (midnight)
 - Friday and Saturday: 10:00 to 02:00 (the following day)

We Are Lumberjack, 70 Camberwell Church Street, London SE5 8QZ

- The sale by retail of alcohol (both on and off sales):
 - Monday to Saturday: 10:00 to 23:00
 - Sunday: 12:00 (midday) to 22:30

The provision of late night refreshment (indoors):

- Monday to Saturday: 23:00 to 23:30

We Are Lumberjack, 70 Camberwell Church Street, London SE5 8QZ

- The provision of late night refreshment (indoors):
 - Monday to Sunday: 23:00 to 04:00 (the following day)

Shreeji News, 63 Camberwell Church Street, London SE5 8TR

- The sale by retail of alcohol (off sales only):
 - Monday to Saturday: 08:00 to 23:00
 - Sunday: 10:00 to 22:30

Day 1 - 61 Camberwell Church Street, London SE5 8TR

- The sale by retail of alcohol (off sales only):
 - Monday to Saturday: 06:00 to 01:00 (the following day)
 - Sunday: 06:00 to 00:00 (midnight)

The New Dome Hotel, 51-53 Camberwell Church Street, London SE5 8TR

- The sale by retail of alcohol (on sales only):
 - Monday to Saturday: 10:00 to 00:00 (midnight)
 - Sunday: 10:00 to 23:30
- The provision of late night refreshment (indoors):
 - Monday to Saturday: 23:00 to 00:30 (the following day)
 - Sunday: 23:00 to 00:00 (midnight)

Tadim Café/Cycles PS Ltd, 41 Camberwell Church Street, London SE5 8TR

- The sale by retail of alcohol (on sales):
 - Monday to Sunday: 12:00 (midday) to 23:00
- The provision of regulated entertainment in the form of recorded music (indoors):
 - Monday to Sunday: 09:00 to 23:00

Kentucky Fried Chicken, 35 Camberwell Church Street, London SE5 8TR

- The provision of late night refreshment (indoors)
 - Sunday to Thursday: 23:00 to 02:00 (the following day)
 - Friday and Saturday: 23:00 to 03:30 (the following day)

The Crooked Well, 16 Grove Lane, London SE5 8SF

- The sale by retail of alcohol (both on and off sales):
 - Sunday to Thursday: 10:00 to 00:00 (midnight)
 - Friday and Saturday: 10:00 to 01:00 (the following day)
- The provision of late night refreshment (indoors):
 - Sunday to Thursday: 23:00 to 00:00 (midnight)
 - Friday and Saturday: 23:00 to 01:00 (the following day)

- The provision of regulated entertainment in the form of films, recorded and live music (indoors):
 - Sunday to Thursday; 10:00 to 00:00 (midnight)
 - Friday and Saturday: 10:00 to 01:00 (the following day)

The Hill Bakery and Deli, 4a Grove Lane, London SE5 8SY

- The sale by retail of alcohol (off sales only):
 - Monday to Thursday: 09:00 to 19:00
 - Friday and Saturday: 10:00 to 20:00
 - Sunday: 10:00 to 16:00

Hermit's Cave, 28 Camberwell Church Street, London SE5 8QU

- The sale by retail of alcohol (both on and off sales):
 - Sunday to Thursday: 10:00 to 01:00 (the following day)
 - Friday and Saturday: 10:00 to 02:00 (the following day)
- The provision of late night refreshment (indoors):
 - Sunday to Thursday: 23:00 to 01:00 (the following day)
 - Friday and Saturday: 23:00 to 02:00 (the following day)
- The provision of regulated entertainment in the form of films, performances of dance, recorded and live music (indoors):
 - Sunday to Thursday: 10:00 to 01:00 (the following day)
 - Friday and Saturday: 10:00 to 02:00 (the following day)

Angels and Gypsies, 29-33 Camberwell Church Street, London SE5 8TR

- The sale by retail of alcohol (both on and off sales):
 - Monday to Saturday: 11:00 to 00:00 (midnight)
 - Sunday: 12:00 (midday) to 23:30
- The provision of late night refreshment (indoors):
 - Monday to Saturday: 23:00 to 00:30 (the following day)
 - Sunday: 23:00 to 23:30

Stormbird, 25 Camberwell Church Street, London SE5 8TR

- The sale of alcohol to be consumed on and off the premises:
 - Monday to Wednesday: 10:00 to 00:00 (midnight)
 - Thursday; 10:00 to 02:00
 - Friday and Saturday: 10:00 to 03:00 (the following day)
 - Sunday: 10:00 to 00:00 (midnight)

- The provision of late night refreshment (indoors):
 - Monday to Wednesday; 23:00 to 00:00 (midnight)
 - Thursday: 23:00 to 02:00
 - Friday and Saturday; 23:00 to 03:00 (the following day)
 - Sunday: 23:00 to 00:00 (midnight)

- The provision of regulated entertainment in the form of recorded music, live music, films, and performance of dance (indoors):
 - Monday to Wednesday: 10:00 to 00:00 (midnight)
 - Thursday: 10:00 to 02:00
 - Friday and Saturday: 10:00 to 03:00 (the following day)
 - Sunday: 10:00 to 00:00 (midnight).

Southwark Council statement of licensing policy

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

32. 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.

33. 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.
34. Members should take into consideration both the Southwark statement of licensing policy and the Section 182 Guidance when making decisions. Links are below:

Southwark Policy:

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

Section 182 Guidance:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

Cumulative Impact Area (CIA)

35. The premises is situated within the Camberwell CIA.
36. Under the Southwark Statement of Licensing Policy 2021 - 2026 the Local CIA applies to the following premises:
 - Night clubs, public houses and bars, off-licences, supermarkets and grocers.
37. The premises is within the Camberwell district town centre area. Under the Southwark statement of licensing policy 2021 – 2026 the following closing times are recommended as appropriate within this area for the following categories of premises:
 - Closing time for take away establishments:
 - Sunday to Thursday: 00:00
 - Friday and Saturday: 01:00.

Camberwell CIA

38. On 5 November 2008, council assembly agreed that it was appropriate and necessary to introduce a local policy dealing with the cumulative impact of licensed premises in the Camberwell area.
39. The boundary of the area is defined as follows: From Camberwell New Road at the junction with Wyndham Road progressing via Camberwell Road / Bowyer Place / Edmund Street / Benhill Road / Wilson Road / Graces Road / Graces Mews/ Camberwell Grove (via alley) / Grove Lane / De Crespigny Park / Denmark Hill following the Lambeth boundary to Coldharbour Lane / Denmark Road / Flodden Road and Camberwell New Road, returning to the start.

40. The classes of premises to which the policy applies is defined as follows: night clubs, pubs and bars, off-licences, grocers, supermarkets, convenience stores and similar premises.

Climate change implications

41. Following council assembly on 14 July 2021, the council is committed to considering the climate change implications of any decisions.
42. 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.
43. Examples of such agreements may be:
- Not 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.
44. 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

45. 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

46. 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.
47. 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.

48. The equalities impact statement for licensing decisions is contained within the Southwark statement of licensing policy 2021 – 2026 is available at:

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

Health impact statement

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

Resource implications

50. A fee of £100.00 has been paid by the applicant company in respect of this application being the statutory fee payable for premises within non-domestic rateable value A.

Consultation

51. 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.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Governance

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

Principles for making the determination

54. The sub-committee is asked to determine the application for a premises licence under section 17 of the Licensing Act 2003.
55. The principles which sub-committee members must apply are set out below.
56. 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.
57. 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.

58. 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

59. 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.

60. The four licensing objectives are:

- The prevention of crime and disorder
- Public safety
- The prevention of nuisance
- The protection of children from harm.

61. 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.

62. 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.

63. 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

64. 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

65. 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.
66. 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

67. 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.
68. 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.

69. 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.
70. 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.
71. 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.
72. 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.
73. 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.
74. 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

75. 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

76. 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	Notice of decision from 26 May 2022
Appendix E	Letter to objecting residents
Appendix F	Map

AUDIT TRAIL

Lead Officer	Caroline Bruce, Strategic Director of Environment and Leisure	
Report Author	Andrew Heron, Principal Licensing Officer	
Version	Final	
Dated	16 August 2022	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional Team		16 August 2022