

<b>Item No.</b> 7.	<b>Classification:</b> Open	<b>Date:</b> 12 June 2023	<b>Meeting Name:</b> Licensing Sub-Committee
<b>Report Title</b>		Licensing Act 2003: Jumbi, Unit 4 1, 133 Copeland Road, London, SE15 3SN	
<b>Ward(s) of group(s) affected</b>		Rye Lane	
<b>From</b>		Strategic Director of Environment, Neighbourhoods and Growth	

## RECOMMENDATION

1. That the licensing sub-committee considers an application made by Elephant Rum Limited for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Jumbi, Unit 4 1, 133 Copeland Road, London, SE15 3SN.
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 3 responsible authorities and 2 petitions in support of the application from other persons 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 13 to 23 of this report deal with the representations submitted in respect of the application. Copies of the representations/and 1 of the petitions submitted are attached in Appendix B1, and C of this report. A map showing the location of the premises is attached to this report as Appendix F.
  - 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 procedure, 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 31 March 2023, Elephant Rum Limited applied for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Jumbi, Unit 4 1,133 Copeland Road, London, SE15 3SN.
9. The premises and purpose is described as follows: *'Jumbi is a Hi-Fi Music Bar & Restaurant in the heart of Peckham celebrating the sounds & flavours of the African-Caribbean diaspora'*.
10. The hours applied for are summarised as follows:
  - Films (indoors), live music (indoors) and recorded music (indoors)
    - Sunday to Thursday from 08:00 to 00:00
    - Friday and Saturday from 08:00 to 02:00
  - Late night refreshment (indoors)
    - Sunday to Thursday from 23:00 to 00:00
    - Friday and Saturday from 23:00 to 02:00
  - The sale by retail of alcohol (on and off the premises):
    - Sunday to Thursday from 08:00 to 23:30
    - Friday and Saturday from 08:00 to 02:00

- Opening hours:
  - Sunday to Thursday from 08:00 to 00:30
  - Friday and Saturday from 08:00 to 02:30
- 11. The premises licence application form provides the applicant's operating schedule. Parts B, E, F, 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 is attached to this report in Appendix A.

### **Designated Premises Supervisor**

- 12. The proposed designated premises supervisor (DPS) is Nathaniel Williams who holds a personal licence issued by Redbridge Council.

### **Representations from responsible authorities**

- 13. There were 3 representations received from responsible authorities namely trading standards, the environmental protection team (EPT) and licensing as a responsible authority.
- 14. The representation submitted by trading standards requested that four conditions be added to the operating schedule to promote the licensing objective for the protection of children from harm.
- 15. The representation submitted by the EPT is concerned with the prevention of public nuisance licensing objective and contends that the premises is located in a cumulative impact area and due to the concentration of licensed premises in this area, there is a risk that if the extended hours are granted, this may contribute to public nuisance due to the cumulative impact of additional late night licensed hours at this premises.
- 16. The representation by licensing as a responsible authority was submitted regarding the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm licensing objectives and relates to the premises being in the cumulative impact area and the conditions within the operating schedule not adequately addressing the four licensing objectives.
- 17. I attach to this report as Appendix B1, the representations from responsible authorities.

### **Representations from other persons**

- 18. Two petitions supporting the application have been submitted on behalf of other persons.

19. The first petition (petition 1) was submitted by the applicant director and DPS Nathaniel Williams and has 5 petitioners.
20. Petition 1 from Nathaniel Williams supporting the application on behalf of other persons is attached to this report as Appendix C.
21. The second petition (petition 2) was submitted by the applicants' legal adviser.
22. There are some overlaps between both petitions.
23. The body of the petition 2 with 1,678 petitioners states:

*'Dear Southwark Licensing Committee,*

*I write to you to outline my support of two New Premises Licence applications (reference 879935 and 879936) for Jumbi, Copeland Park, Peckham, London. JUMBI is a music venue and restaurant in Peckham which has become an important place for numerous local communities in quite a short time. They've played host to countless DJs, collectives, chefs, regular live music and arts programming.*

*I write to support the application for Jumbi as I strongly contend the application will uphold the following licensing objectives:*

- 1. The prevention of crime and disorder. This relates to any crime, disorder or anti-social behaviour at the premises or related to the management of the premises. A licence holder/applicant cannot generally be held responsible for the conduct of individuals once they leave the premises;*
- 2. Public safety. This relates to the safety of the public on the premises, i.e. fire safety, electrical circuitry, lighting, building safety or capacity, and first aid.*
- 3. Prevention of public nuisance. This can relate to issues such as hours of operation, noise emanating from the premises, vibrations, lighting and litter.*
- 4. Protection of children from harm. This relates to protecting children from the activities carried out on the premises whilst they are there. The law already provides special protections for children under 18 to buy alcohol.*

*The reason for this is as follows:'.*

24. The "representations" have been collated as petitions because:
  - They have come from third parties, not the individuals themselves;
  - Many are missing names and addresses and email contacts (Southwark do not accept anonymous representations without stated reasons and exceptional circumstances);
  - They have been provided in a standard format;
  - While the licensing objectives are stated, the comments from the petitioners rarely, if at all, make reference to the Licensing objectives;
  - Some state that they have not even been to the premises;
  - Petitioners state that they have "seen this petition on Instagram";
  - Some appear to be duplicates and multiple entries have been completed with nonsensical typing (e.g. 'jhhhjl;ews,gfraew – erhreagh3earg');

- A number of entries are just 'test' entries;
- I would question the capability of some signatories, when all they write in their comments, they write: *'fun', 'ok', 'fab', 'great food', "I F\*\*\*ing love Jumbi"*;
- Many give comments that suggest they believe the premises is being closed down ("*Save Jumbi*") – this is for an extension of hours. This suggests that they have been misled and/or no understanding of the content of the application.

## **Conciliation**

25. At the time of writing this report the representation from trading standards has been conciliated and withdrawn. The agreement and withdrawal statement from trading standards is attached to this report as Appendix B2.
26. The representations from responsible authorities and the 2 petitions supporting the application remain outstanding.
27. At the hearing to determine this application the licensing sub-committee will be apprised as to any further conciliation that may have taken place.

## **Application History**

28. The premises currently has a premises licence which was originally granted to Copeland Enterprises Ltd on 21 February 2021. The DPS named on the licence at this time was Timothy Wilson.
29. On 21 April 2021, the licence was transferred to Mikes Peckham Limited, and simultaneously, the designated premises supervisor (DPS) was varied to Peter Frank Boxer.
30. On 16 June 2022 the licence was then transferred to Elephant Rum Limited and the DPS was simultaneously varied on 17 June 2022 to Nathaniel Williams.
31. A new premises licence application was received by the licensing team on 22 November 2022 and subsequently withdrawn.
32. The existing premises licence issued in respect of the premises on 17 June 2022 allows for the following licensable activities:
  - **Recorded Music – Indoors**
    - Monday to Sunday: 08:00 – 00:00
  - **Late Night Refreshment – Indoors:**
    - Monday to Sunday: 23:00 – 00:00
  - **Sale by retail of alcohol to be consumed on and off the premises:**
    - Monday to Sunday: 08:00 – 23:30

- **Opening hours:**
  - Monday to Sunday: 08:00 – 00:00

33. A copy of the existing premises licence is attached to this report as Appendix D.

### **Temporary Event Notices**

There have been 27 temporary events notices (TENS) given at the premises within the last year. I attach a table of TENS to this report as Appendix E.

### **Complaints**

There are no complaints received by the licensing unit with regards to the premises.

### **Map**

34. A map showing the location of the premises is attached to this report as Appendix F. The following are a list of licensed premises shown on the map:

#### **Bold Tendencies, 95a Levels 7-8 Car Park Rye Lane, SE15 4ST licensed for:**

- Live music, recorded music – Indoors:
  - Tuesday to Saturday: 17:00 - 23:00, Sunday: 12:00 - 22:00

#### **Frank's Café, 95a Levels 7-8 Car Park Rye Lane, SE15 4ST licensed for:**

- Late Night Refreshment – Indoors:
  - Tuesday to Saturday: 23:00 - 00:00
- Sale by retail of alcohol to be consumed on the premises:
  - Tuesday to Saturday: 11:00 - 23:30, Sunday: 11:00 - 23:00

#### **Peckham Levels, 95a Basement to Level 6 Rye Lane, SE15 4ST licensed for:**

- Films – indoors; indoor sporting events, live music – indoors and outdoors, performance of dance – indoors and outdoors, plays – indoors and outdoors, recorded music – indoors and outdoors, live music – indoors and outdoors:
  - Sunday to Wednesday: 10:00 – 23:30, Thursday to Saturday: 08:00 – 01:00
- Late Night Refreshment – Indoors and outdoors:
  - Sunday to Wednesday: 23:00 – 00:00, Thursday to Saturday: 23:00 – 01:00
- Sale by retail of alcohol to be consumed off the premises:

- Sunday to Wednesday: 10:00 – 23:30, Thursday to Saturday: 08:00 – 01:00
- Sale by retail of alcohol to be consumed on the premises:
  - Sunday to Wednesday: 10:00 – 23:30, Thursday to Saturday: 08:00 – 00:30

**Peckhamplex, 95a Rye Lane, SE15 4ST** licensed for:

- Films – indoors:
  - Sunday to Thursday: 09:00 – 00:00, Friday to Saturday: 09:00 – 02:00
- Sale by retail of alcohol to be consumed on the premises:
  - Monday to Thursday: 14:00 – 22:00, Friday to Saturday: 12:00 – 23:00, Sunday: 12:00 – 23:00

**Peckham Audio, 133 Unit 2 Basement Area Rye Lane, SE15 4S** licensed for:

- Films – Indoors:
  - Monday to Wednesday: 12:00 – 23:45, Thursday: 12:00 – 00:30, Friday to Saturday: 12:00 – 02:45, Sunday: 12:00 – 00:00
- Indoor Sporting Event; Entertainment Similar to live/recorded music / dance – Indoors, Performance of Dance – Indoors:
  - Monday to Sunday: 12:00 – 00:00
- Live music – indoors; recorded music – indoors:
  - Monday to Wednesday: 12:00 – 23:45, Thursday: 12:00 – 00:30, Friday to Saturday: 12:00 – 03:45, Sunday: 12:00 – 00:00
- Sale by retail of alcohol to be consumed on the premises:
  - Monday to Wednesday: 12:00 – 23:30, Thursday: 12:00 – 00:30, Friday to Saturday: 12:00 – 03:30, Sunday: 12:00 – 00:00

**Tonkotsu, First Floor, 133 Rye Lane, London, SE15 4BQ** licensed for:

- Sale by retail of alcohol to be consumed on and off the premises:
  - Monday to Sunday: 11:00 – 23:00

**Roof A, Bussey Building, Rear 133 Rye Lane, London, SE15 4ST** licensed for:

- Plays – outdoors; films – outdoors:
  - Monday to Sunday: 12:00 – 00:00

- Live Music – outdoors:
  - Monday to Sunday: 12:00 – 22:00
- Sale by retail of alcohol to be consumed on premises:
  - Monday to Saturday: 17:00 – 23:00, Sunday: 17:00 – 22:00

**Roof B (Bussey Building), 133 Copeland Road, London, SE15 3SN** licensed for:

- Plays – Outdoors:
  - Monday to Sunday: 12:00 – 23:00
- Films – Outdoors:
  - Monday to Sunday: 12:00 – 00:00
- Live Music – Outdoors:
  - Monday to Sunday: 12:00 – 22:00
- Sale by retail of alcohol to be consumed off premises:
  - Monday to Friday: 17:00 – 22:30, Saturday and Sunday: 12:00 – 22:30

**Roof B (Bussey Building), 133 Rye Lane, London, SE15 3SN** licensed for:

- Plays – indoors and outdoors, films – indoors and outdoors:
  - Monday to Sunday: 12:00 – 23:00
- Live Music – indoors and outdoors:
  - Monday to Sunday: 12:00 – 22:00
- Sale by retail of alcohol to be consumed on and off premises:
  - Monday to Sunday: 12:00 – 23:00

**Roof D, Block D Part First Floor, Rear, 133 Rye Lane, London, SE15 4ST** licensed for:

- Plays – indoors and outdoors:
  - Sunday to Thursday: 12:00 – 23:00, Friday and Saturday: 12:00 -00:00
- Films – outdoors:
  - Sunday to Thursday: 12:00 – 23:00, Friday and Saturday: 12:00 -00:00
- Live Music – outdoors:



- Monday to Thursday: 17:00 – 22:00, Friday and Saturday: 12:00 – 22:00, Sunday: 12:00 – 22:00
- Recorded music and performance of dance – outdoors:
  - Sunday to Thursday: 12:00 – 23:00, Friday and Saturday: 12:00 – 00:00
- Sale by retail of alcohol to be consumed on the premises:
  - Monday to Thursday: 17:00 – 22:30, Friday and Saturday: 12:00 – 23:30, Sunday: 12:00 – 22:30

**Jumbi, Rear Of, 137-139 Copeland Road, London, SE15 3SN** licensed for:

- Recorded Music - Indoors and Outdoors:
  - Monday to Sunday: 08:00 – 00:00
- Late Night Refreshment - Indoors and outdoors:
  - Monday to Sunday: 23:00 – 00:00
- Sale by retail of alcohol to be consumed on and off premises:
  - Monday to Sunday: 08:00 – 23:30

**Mambow, Market Stall 11, Ground Floor, 133a Rye Lane, London, SE15 4BQ** licensed for:

- Sale by retail of alcohol to be consumed on and off the premises:
  - Sunday to Tuesday: 11:30 – 20:30, Wednesday: 11:30 – 21:30, Thursday to Saturday: 11:30 - 22:30

**Rotorious, Unit 1, 133a Rye Lane, London, SE15 4ST** licensed for:

- Films – indoors:
  - Tuesday to Wednesday: 19:30 – 22:00, Sunday 15:00 – 18:00
- Live Music – indoors:
  - Thursday to Friday: 20:00 – 23:00, Saturday: 21:00 – 23:30
- Recorded music – indoors:
  - Friday and Saturday: 19:00 – 00:00, Sunday: 19:00 – 23:00
- Sale by retail of alcohol to be consumed on the premises:
  - Sunday to Thursday: 11:00 – 22:30, Friday and Saturday: 11:00 – 23:30

- Sale by retail of alcohol to be consumed off the premises:
  - Sunday to Thursday: 11:00 – 23:00, Friday and Saturday: 11:00 – 00:00

**Forza Win, Fifth Floor, 133a Rye Lane, London, SE15 4BQ** licensed for:

- Late Night Refreshment – Indoors and outdoors:
  - Sunday to Thursday: 23:00 – 00:00, Friday and Saturday: 23:00 – 01:00
- Sale by retail of alcohol to be consumed on and off the premises:
  - Sunday to Thursday: 10:00 – 00:00, Friday and Saturday: 10:00 – 01:00

**John The Unicorn, 157-159 Rye Lane, London, SE15 4TL** licensed for:

- Recorded music – indoors:
  - Sunday to Thursday: 11:00 – 00:00, Friday and Saturday: 11:00 – 01:00
- Late Night Refreshment – indoors:
  - Sunday to Thursday: 23:00 – 00:30, Friday and Saturday: 23:00 – 01:30
- Sale by retail of alcohol to be consumed on the premises:
  - Sunday to Thursday: 11:00 – 00:00, Friday and Saturday: 11:00 – 01:00

### **Southwark Council statement of licensing policy**

35. Council assembly approved Southwark's statement of licensing policy 2021-2026 on 25 November 2020 and it came into effect on 1 January 2021.
36. 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 licenses 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.
37. 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.
38. 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](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)**

39. The premises falls within the Peckham Cumulative Impact Area (CIA)
40. The types of premises that the CIA applies to are:
- Night clubs, public houses and bars, off-licences, supermarkets, grocers, convenience stores and similar premises
41. The premises are also situated in Peckham Major Town Centre.
42. Under the Southwark’s statement of licensing policy 2021 - 2026 the following closing times are recommended as appropriate within Peckham Major Town Centre
- Restaurants and cafes:
    - Sunday to Thursday is 00:00, and for Friday and Saturday is 01:00
  - Public houses, wine bars or other drinking establishments:

- Sunday to Thursday is 23:00, and for Friday and Saturday 00:00

### **Climate Change implications**

43. Following council assembly on 14 July 2021, the council is committed to considering the climate change implications of any decisions.
44. 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.
45. 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.
46. 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**

47. 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**

48. 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.
49. 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.
50. 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>.

51. The equalities impact assessment is available at:

<https://moderngov.southwark.gov.uk/documents/s92016/Appendix%20F%20-%20Equalities%20Impact%20Assessment.pdf>

### **Health impact statement**

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

### **Resource implications**

53. A fee of £190.00 has been paid by the applicant in respect of this application being the statutory fee payable for premises within non-domestic rateable value B.

### **Consultation**

54. 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 a similar notice was exhibited outside of the premises for a period of 28 consecutive days.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Assistant Chief Executive – Governance and Assurance**

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

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

57. The sub-committee is asked to determine the application for a premises licence under Section 17 of the Licensing Act 2003.
58. The principles which sub-committee members must apply are set out below.
59. 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.
60. 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.
61. 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**

62. 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.
63. The four licensing objectives are:
- The prevention of crime and disorder
  - Public safety
  - The prevention of nuisance
  - The protection of children from harm.
64. 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.
65. 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.
66. 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**

67. 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**

68. 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.
69. 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**

70. 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.

71. 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.
72. 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.
73. 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.
74. 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.
75. 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.
76. 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.
77. 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**

78. 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

79. 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	Copy of the application for a premises licence
Appendix B1	Representations submitted by responsible authorities
Appendix B2	Withdrawal statement from Trading Standards
Appendix C	1 petition from the applicant in support of the application
Appendix D	Copy of the existing premises licence
Appendix E	Table of TENS
Appendix F	Map of the locality

## AUDIT TRAIL

<b>Lead Officer</b>	Caroline Bruce, Strategic Director Environment, Neighbourhoods and Growth		
<b>Report Author</b>	Jayne Tear, Principal Licensing Officer		
<b>Version</b>	Final		
<b>Dated</b>	2 May 2023		
<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>
Assistant Chief Executive – Governance and Assurance		Yes	Yes
Strategic Director of Finance		Yes	Yes
<b>Cabinet Member</b>		No	No
<b>Date final report sent to Constitutional Team</b>			25 May 2023