

<b>Item No.</b> 5.	<b>Classification:</b> Open	<b>Date:</b> 21 September 2023	<b>Meeting Name:</b> Licensing Sub-Committee
<b>Report Title</b>		Licensing Act 2003: Planet of the Grapes, Rear of 43 Lordship Lane, London SE22 8EW	
<b>Ward(s) of group(s) affected</b>		Old Kent Road	
<b>From</b>		Strategic Director of Environment, Neighbourhoods and Growth	

## RECOMMENDATION

1. That the licensing sub-committee considers an application made by Planet of the Grapes Ltd for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Planet of the Grapes, Rear of 43 Lordship Lane, London SE22 8EW.
2. Notes:
  - a) This application forms a new application for a premises licence, submitted under Section 17 of the Licensing Act 2003. The application was subject to representations from two Responsible Authorities (now withdrawn) and from two residential objectors (not withdrawn) and is, therefore, referred to the Sub-Committee for determination.
  - b) Paragraphs 8 to 14 of this report provide a summary of the application under consideration by the Sub-Committee. A copy of the initial and revised applications of 20 July 2023 and 26 July 2023 can be found at Appendixes A and B, respectively.
  - c) Paragraphs 16 to 23 of this report deal with the representations submitted in respect of the application. Copies of the representations submitted (and some withdrawal statements) are attached in Appendixes C to E.
  - d) A map showing the location of the premises is attached to this report as Appendix F.
  - 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 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 20 July 2023, Planet of the Grapes Ltd applied for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Planet of the Grapes, Rear of 43 Lordship Lane, London, SE22 8EW.
9. The nature of the application, as shown in the original application form (which can be found at Appendix A) is described as follows:

Up until [20 July 2023] the premises was used as a plant and flower shop. We tried to get a unit on North Cross Road SE22 but the people who were at rear of 43 Lordship Lane got the lease instead of us so we would like to take over their old building.

It is an old garage/workshop and has flagstone floors and tiled walls. We would like to use the majority of the unit as a retail wine shop, making use of the cellar to store stock, and the small office room for an admin member of staff. We would also like to offer the opportunity for people to sit in and enjoy a glass of wine on [premises] within the shop area and serve cold food - cheese and charcuterie.

This would be for a maximum of 30 people, or the number that Southwark allow based on the space available. No outdoor seating or space required for this.

10. The hours applied for in the initial application of 21 Jul 2023 were as follows:
  - Recorded music – indoors:
    - Monday to Saturday: 11:00 to 23:00
    - Sunday: 11:00 to 22:00
  - The supply of alcohol – to be consumed on and off the premises:
    - Monday to Sunday: 10:00 to 23:00
  - Opening hours:
    - Monday to Saturday: 10:00 to 23:00.
    - Sunday: 11:00 to 22:00.
11. Following a representation submitted by the Metropolitan Police Service on 21 July 2023, the police and the applicant discussed the proposed application. By 25 July 2023, the applicant took the view that some of their proposed hours of activity and operation should be amended and some additional conditions should be added (in the event the licence were granted) to help address the licensing objectives.
12. On 26 July 2023, the following day, the applicant sent the licensing team a revised application, which can be found at Appendix B, seeking the following hours of activity and operation:
  - Recorded music – indoors:
    - Monday to Sunday: 10:00 to 22:00
  - The supply of alcohol – to be consumed on and off the premises:
    - Monday to Sunday: 10:00 to 22:00.
  - Opening hours:
    - Monday to Sunday: 10:00 to 22:00.
13. The additional conditions offered by the Applicant on 26 July 2023 were as follows:
  1. That a CCTV system shall be installed and maintained in full working order. The CCTV system will record footage of evidential quality in all lighting conditions and should be able to capture a clear facial image of all persons that enter the venue. All public areas will be covered by the CCTV system including the bar and smoking areas. The premises shall not be open at any time when the CCTV is not operating correctly.
  2. That there shall be at least one member of staff on duty at all times the premises are in operation who is trained and proficient in the operation of the CCTV system and who is capable of operating and retrieving footage at the request of police, council or other authorised officers.

3. All CCTV footage shall be kept for a period of thirty one (31) days and shall be made immediately available for inspection to officers of the Police and the Council on request.
4. That all staff are trained in their responsibilities under the Licensing Act 2003 and training records to be kept and updated every six months and shall, upon request, be made immediately available to officers of the police and the council.
5. No alcohol shall be removed from the premises with the exception of off-sales of alcohol which shall be sold in sealed containers for consumption away from the premises.
6. That clear legible signage shall be prominently displayed where it can be easily seen and read, requesting that 'off sales' of alcohol are not opened and consumed in the vicinity of the premises.
7. That a challenge 25 scheme shall be maintained at the premises requiring that staff selling alcohol request that any customer who looks under 25 years old, and who is attempting to purchase alcohol, provides valid photographic identification proving that the customer is at least 18 years old. Valid photographic identification is composed of a driving licence, passport, UK armed services ID card and any Proof of Age Standards Scheme (PASS) accredited card such as the Proof of Age London (PAL) card.
8. That all staff involved in the sale of alcohol shall be trained in the prevention of sales of alcohol to underage persons, and the challenge 25 scheme in operation. A record of such training shall be kept / be accessible at all times and be made immediately available for inspection to council or police officers on request. The training record shall include the trainee's name (in block capitals), the trainer's name (in block capitals), the signature of the trainee, the signature of the trainer, the date(s) of training and a declaration that the training has been received.
9. That clearly legible signs shall be prominently displayed where they can easily be seen and read by customers stating to the effect that a challenge 25 policy is in operation at the premises, that customers may be asked to provide proof of age and stating what the acceptable forms of proof of age are. Such signage shall be displayed at all entrances, points of sale and in all areas where alcohol is displayed for sale. The signage shall be kept free from obstructions at all times.
10. That a register of refused sales of alcohol shall be maintained in order to demonstrate effective operation of the challenge 25 policy. The register shall be clearly and legibly marked on the front cover as a register of refused sales, with the address of the premises and with the name and address of the licence holder. The register shall be kept/be accessible at the premises at all times. The register shall be made immediately available for inspection at the premises to council or police officers on request.

11. That the premises shall have a written dispersal policy. The written dispersal policy shall be kept at the premises with the licence and made available for inspection by authorised council officers or the police. All relevant staff shall be trained in the implementation of the dispersal policy. That Police and council shall be informed of any future amendments to the dispersal policy.
  12. That a direct telephone number for the manager on duty at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
  13. That no outdoor area shall be used with the exception of those that temporarily leave to smoke, this shall not exceed 3 persons and shall be monitored by staff to ensure no nuisance or disturbance is caused to their neighbours.
  14. That alcohol sold for consumption on the premises shall be to persons seated only.
14. Consequently, it is the amended proposed hours and additional proposed conditions in Paragraphs 12 and 13 (above) that the sub-committee are being asked to consider as part of this Hearing.

#### **Designated premises supervisor**

15. The proposed designated premises supervisor is Matthew Harris, who holds a personal licence issued by the London Borough of Southwark.

#### **Representations from responsible authorities**

16. Representations were received from the Metropolitan Police Service and the council's trading standards team.
17. The police representation raised concerns about the potential risk of anti-social behavior from patrons exiting the premises so late in the evening, queried how much of the premises was dedicated to seating-related patrons and deemed the initial steps offered by the applicant not to be enough to uphold the licensing objectives.
18. However, following discussions with the applicant between 21 and 25 July 2023, the applicant's revised application of 26 July 2023 (different hours and additional conditions) and the agreement of further conditions on 10 August 2023, the police then withdrew their representation.
19. The original representation, agreed conditions and withdrawal statement can be found at Appendix C.
20. The trading standards representation related solely for the need, in their view, of the addition of a Challenge 25 Policy so that older looking under 18 year olds were not served alcohol. Some additional conditions to mitigate this issue were suggested by trading standards and, as the applicant has accepted these, trading standards then withdrew their representation.
21. The original representation, agreed conditions and withdrawal statement can be found at Appendix D.

## **Representations from other persons**

22. Two representations have been received from members of the public, who have cited potential concerns that the premises, if granted a licence, would cause adverse public nuisance to neighboring properties and local residents. At the time of writing this report, both representations have yet to be withdrawn, so remain in place for the sub-committee to consider as part of their deliberations.
23. Both representations can be found at Appendix E.

## **Conciliation**

24. As mentioned above, the applicant has addressed the concerns raised by the police and trading standards, thus leaving the residential objectors outstanding and triggering the need for a sub-committee hearing.

## **Map**

25. A map showing the location of the premises is attached to this report as Appendix F and the following licensed premises are within the immediate vicinity of the application site:

### **Organic Village Market, 18 Lordship Lane, London SE22 8HN:**

- Sale by retail of alcohol – to be consumed off premises:
  - Sunday to Thursday: 07:00 to 02:00
  - Friday and Saturday: 07:00 to 03:30.
- Opening hours:
  - Monday to Sunday: 00:00 to 00:00

### **Payless Food & Wine/Costcutter, 24 Lordship Lane, London SE22 8HN:**

- Sale by retail of alcohol – to be consumed off premises:
  - Monday to Sunday: 00:00 to 00:00
- Opening hours:
  - Monday to Sunday: 00:00 to 00:00

### **Viet Flavours, 19 Lordship Lane, London SE22 8EW:**

- Late night refreshment – indoors:
  - Monday to Thursday: 10:00 to 03:00
  - Friday and Saturday: 10:00 to 05:00
  - Sunday: 10:00 to 02:00

- Sale by retail of alcohol – to be consumed on premises:
  - Monday to Sunday: 10:00 to 01:00
- Opening hours:
  - Monday to Thursday: 10:00 to 03:00
  - Friday and Saturday: 10:00 to 05:00
  - Sunday: 10:00 to 02:00

**Franco Manca, 21 Lordship Lane, London SE22 8EW:**

- Films – indoors:
  - Sunday to Wednesday: 10:00 to 00:00
  - Thursday to Saturday: 10:00 to 01:00
- Recorded music – indoors:
  - Sunday to Wednesday: 10:00 to 00:00
  - Thursday to Saturday: 10:00 to 01:00
- Late night refreshment – indoors:
  - Sunday to Wednesday: 10:00 to 00:00
  - Thursday to Saturday: 10:00 to 01:00
- Sale by retail of alcohol – to be consumed on and off premises:
  - Sunday to Wednesday: 10:00 to 00:00
  - Thursday to Saturday: 10:00 to 01:00
- Opening hours:
  - Sunday to Wednesday: 07:00 to 00:30
  - Thursday to Saturday: 07:00 to 01:30

**The Bishop, 27 Lordship Lane, London SE22 8EW:**

- Recorded music – indoors:
  - Monday to Thursday: 12:00 to 01:00
  - Friday and Saturday: 12:00 to 02:00.
  - Sunday: 12:00 to 01:00
- Late night refreshment – indoors:
  - Monday to Thursday: 12:00 to 01:00
  - Friday and Saturday: 12:00 to 02:00
  - Sunday: 12:00 to 01:00

- Sale by retail of alcohol – to be consumed on and off premises:
  - Monday to Thursday: 12:00 to 01:00
  - Friday and Saturday: 12:00 to 02:00
  - Sunday: 12:00 to 01:00
- Opening hours:
  - Monday to Thursday: 11:00 to 01:30
  - Friday and Saturday: 11:00 to 02:30
  - Sunday: 12:00 to 01:30

**Toasted Restaurant & Wine Shop, 38 Lordship Lane, London SE22 8HJ:**

- Recorded music – indoors:
  - Monday to Saturday: 09:00 to 00:00
  - Sunday: 11:00 to 23:00
- Late night refreshment – indoors:
  - Monday to Saturday: 23:00 to 00:00
- Sale by retail of alcohol – to be consumed on and off premises:
  - Monday to Saturday: 08:00 to 00:00
  - Sunday: 08:00 to 23:00
- Opening hours:
  - Monday to Saturday: 07:00 to 00:00
  - Sunday: 07:00 to 23:00

**V7 Local, 40 Lordship Lane, London SE22 8HJ:**

- Sale by retail of alcohol – to be consumed off premises:
  - Monday to Saturday: 08:00 to 23:00
  - Sunday: 10:00 to 22:30
- Opening hours:
  - Monday to Saturday: 08:00 to 23:00
  - Sunday: 10:00 to 22:30

**Surma Curry House, 42 Lordship Lane, London SE22 8HJ:**

- Late night refreshment – indoors:
  - Monday to Saturday: 23:00 to 00:30
  - Sunday: 23:00 to 00:00

- Sale by retail of alcohol – to be consumed on premises:
  - Monday to Saturday: 11:00 to 00:00
  - Sunday: 12:00 to 23:30
- Opening hours:
  - Monday to Saturday: 11:00 to 00:30
  - Sunday: 12:00 to 00:00

**Xoco Bar and Grill, 44 Lordship Lane, London SE22 8HJ:**

- Late night refreshment – indoors:
  - Saturday: 23:00 to 00:00
- Sale by retail of alcohol – to be consumed on and off premises:
  - Sunday to Thursday: 12:00 to 22:30
  - Friday and Saturday: 12:00 to 23:30
- Opening hours:
  - Sunday to Thursday: 12:00 to 23:00
  - Friday and Saturday: 12:00 to 00:00

**Meatliquor, 37 Lordship Lane, London SE22 8EW:**

- Late night refreshment – indoors:
  - Monday to Saturday: 23:00 to 00:30
  - Sunday: 23:00 to 00:00
- Sale by retail of alcohol – to be consumed on and off premises:
  - Monday to Saturday: 11:00 to 00:00
  - Sunday: 12:00 to 23:30
- Opening hours:
  - Monday to Saturday: 11:00 to 00:30
  - Sunday: 12:00 to 00:00

**Yard Sale Pizza, 39 Lordship Lane, London SE22 8EW:**

- Recorded music – indoors:
  - Sunday and Monday: 12:00 to 22:00
  - Tuesday to Saturday: 12:00 to 23:00

- Sale by retail of alcohol – to be consumed on and off premises:
  - Sunday and Monday: 12:00 to 21:30
  - Tuesday to Saturday: 12:00 to 22:30
- Opening hours:
  - Sunday and Monday: 12:00 to 22:00
  - Tuesday to Saturday: 12:00 to 23:00

**Marks & Spencer Simply Foods, 84-90 Lordship Lane London SE22 8HF**

- Sale by retail of alcohol – to be consumed off premises:
  - Monday to Sunday: 08:00 to 00:00
- Opening hours:
  - Monday to Sunday: 06:00 to 00:00

**Jaflong, 41 Lordship Lane, London SE22 8EW:**

- Late night refreshment – indoors:
  - Monday to Sunday: 23:00 to 01:00
- Sale by retail of alcohol – to be consumed on premises:
  - Monday to Sunday: 11:00 to 15:00  
17:00 to 01:00
- Opening hours:
  - Monday to Sunday: 11:00 to 16:00  
17:00 to 02:00

**The French House, 52 Lordship Lane, London SE22 8HJ:**

- Recorded music – indoors:
  - Monday to Thursday: 10:00 to 00:00
  - Friday and Saturday: 10:00 to 01:30
  - Sunday: 12:00 to 00:00
- Late night refreshment – indoors:
  - Sunday to Thursday: 23:00 to 00:30
  - Friday and Saturday: 23:00 to 02:00

- Sale by retail of alcohol – to be consumed on premises:
  - Monday to Thursday: 10:00 to 00:00
  - Friday and Saturday: 10:00 to 01:30
  - Sunday: 12:00 to 00:00
- Opening hours:
  - Monday to Thursday: 10:00 to 00:30
  - Friday and Saturday: 10:00 to 02:00
  - Sunday: 12:00 to 00:30

**Dulwich Tandoori, 54 Lordship Lane, London SE22 8HJ:**

- Late night refreshment – indoors:
  - Monday to Sunday: 23:00 to 23:30
- Sale by retail of alcohol – to be consumed on and off premises:
  - Monday to Saturday: 08:00 to 23:00
  - Sunday: 10:00 to 22:30
- Opening hours:
  - Monday to Saturday: 08:00 to 23:30
  - Sunday: 09:00 to 23:30

**The Co-Operative, 56-62 Lordship Lane, London SE22 8HJ:**

- Sale by retail of alcohol – to be consumed off premises:
  - Monday to Saturday: 07:00 to 23:00
  - Sunday: 10:00 to 22:30
- Opening hours:
  - Monday to Saturday: 07:00 to 23:00
  - Sunday: 10:00 to 22:30

**Chipotle Mexican Grill, 49-51 Lordship Lane, London SE22 8EP:**

- Late night refreshment – indoors and outdoors:
  - Monday to Saturday: 23:00 to 05:00
  - Sunday: 23:00 to 23:30
- Sale by retail of alcohol – to be consumed on premises:
  - Monday to Saturday: 11:00 to 00:00
  - Sunday: 12:00 to 23:30

- Opening hours:
  - Monday to Saturday: 11:00 to 05:00
  - Sunday: 12:00 to 23:30

**Lux Thai Restaurant, 57 Lordship Lane, London SE22 8EP:**

- Late night refreshment – indoors:
  - Monday to Sunday: 23:00 to 01:00
- Sale by retail of alcohol – to be consumed on premises:
  - Monday to Sunday: 10:00 to 01:00
- Opening hours:
  - Monday to Sunday: 10:00 to 01:30

**Tart London Limited, 65 Lordship Lane, London SE22 8EP:**

- Late night refreshment – indoors:
  - Monday to Saturday: 23:00 to 00:30
  - Sunday: 23:00 to 00:00
- Sale by retail of alcohol – to be consumed on and off premises:
  - Monday to Saturday: 11:00 to 00:00
  - Sunday: 12:00 to 23:30
- Opening hours:
  - Monday to Saturday: 11:00 to 00:30.
  - Sunday: 12:00 to 00:00.

**Odbbins, 67 Lordship Lane, London SE22 8EP:**

- Sale by retail of alcohol – to be consumed off premises:
  - Monday to Saturday: 08:00 to 23:00
  - Sunday: 10:00 to 22:30
- Opening hours:
  - Monday to Saturday: 08:00 to 23:00
  - Sunday: 10:00 to 22:30

#### **Platform 4, 71 Lordship Lane, London SE22 8EP:**

- Late night refreshment – indoors:
  - Monday to Saturday: 23:00 to 00:30
  - Sunday: 23:00 to 00:00
- Sale by retail of alcohol – to be consumed on premises:
  - Monday to Saturday: 11:00 to 00:00
  - Sunday: 12:00 to 23:30
- Opening hours:
  - Monday to Saturday: 11:00 to 00:30
  - Sunday: 12:00 to 00:00

#### **Tandoori Nights, 73 Lordship Lane, London SE22 8EP:**

- Late night refreshment – Indoors:
  - Monday to Saturday: 23:00 to 00:30
  - Sunday: 23:00 to 00:00
- Sale by retail of alcohol – to be consumed on and off premises:
  - Monday to Saturday: 11:00 to 00:00
  - Sunday: 12:00 to 23:30
- Opening hours:
  - Monday to Saturday: 11:00 to 00:30
  - Sunday: 12:00 to 00:00.

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

26. Council assembly approved Southwark's statement of licensing policy 2021-2026 on 25 November 2020 and it came into effect on 1 January 2021.
27. 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.
28. 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.
29. Members should take into consideration both the Southwark statement of licensing policy and the Section 182 Guidance when making decisions. The links for these are below.

Southwark policy:

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

Section 182 Guidance:

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

### **Cumulative impact area (CIA)**

30. The premises does not fall within a cumulative impact area (CIA), but does fall within the Lordslip Lane district town centre area.
31. Under the Southwark statement of licensing policy 2021 – 2026, the following closing times are recommended as appropriate within this area:

- Restaurants and cafes:
  - Sunday to Thursday: 00:00
  - Friday and Saturday: 01:00
- Public houses, wine bars or other drinking establishments:
  - Sunday to Thursday: 23:00
  - Friday and Saturday: 00:00
- Nightclubs:
  - Sunday to Thursday: 00:00
  - Friday and Saturday: 01:00
- Off licenses:
  - Monday to Sunday: 00:00
- Cinemas:
  - Monday to Sunday: 01:00
- Takeaways:
  - Sunday to Thursday: 00:00
  - Friday and Saturday: 01:00.

### **Climate change implications**

32. Following council assembly on 14 July 2021, the council is committed to considering the climate change implications of any decisions.
33. 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.
34. 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.
35. 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**

36. 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**

37. 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.
38. 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 who have 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.
39. The equalities impact statement for licensing decisions is contained within the Southwark statement of licensing Policy 2021 – 2026 at:

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

40. The equalities impact assessment is available at:

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

### **Health impact statement**

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

### **Resource implications**

42. A fee of £190 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**

43. 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. The consultation period was extended in light of the revised application received on 26 July 2023.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

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

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

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

46. The sub-committee is asked to determine the application for a premises licence under Section 17 of the Licensing Act 2003.
47. The principles which sub-committee members must apply are set out below.
48. 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.
49. 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.
50. 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**

51. 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.
52. The four licensing objectives are:
  - The prevention of crime and disorder
  - Public safety
  - The prevention of nuisance
  - The protection of children from harm.
53. 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.
54. 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.
55. 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**

56. 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**

57. 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.

58. 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**

59. 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.
60. 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.
61. 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.
62. 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.

63. 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.
64. 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.
65. 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.
66. 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**

67. 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, Finance**

68. 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**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
Licensing Act 2003	Southwark Licensing, C/O	Mrs Kirty Read Tel: 020 7525 5748
Home Office Revised Guidance to the Act	Community Safety and Enforcement, 160	
Secondary Regulations	Tooley Street, London SE1 2QH	
Southwark statement of licensing policy		
Case file		

## APPENDICES

Name	Title
Appendix A	Original premises licence application (20 July 2023)
Appendix B	Revised premises licence application (26 July 2023)
Appendix C	Metropolitan Police Service representation and conciliation
Appendix D	Trading standards representation and conciliation
Appendix E	Representations from residential objectors.
Appendix F	Area map

## AUDIT TRAIL

<b>Lead Officer</b>	Caroline Bruce, Strategic Director Environment, Neighbourhoods and Growth		
<b>Report Author</b>	Matt Tucker, Principal Licensing Officer		
<b>Version</b>	Final		
<b>Dated</b>	1 September 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, Finance	Yes	Yes	
<b>Cabinet Member</b>	No	No	
<b>Date final report sent to Constitutional Team</b>			6 September 2023