

<b>Item No.</b> 6.	<b>Classification:</b> Open	<b>Date:</b> 22 February 2024	<b>Meeting Name:</b> Licensing Sub-Committee
<b>Report Title</b>		Licensing Act 2003: Morocco Bound, 1a Morocco Street, London SE1 3HB	
<b>Ward(s) of group(s) affected</b>		London Bridge and West Bermondsey	
<b>From</b>		Strategic Director of Environment, Neighbourhoods and Growth	

## RECOMMENDATION

1. That the licensing sub-committee considers an application made by Waterhouse 1854 Limited to vary the premises licence granted under the Licensing Act 2003 in respect of the premises known as the Morocco Bound, 1a Morocco Street, London SE1 3HB.
2. Notes:
  - a) The application seeks to vary the premises licence held in respect of the premises known as the Morocco Bound, 1a Morocco Street, London SE1 3HB under section 34 of the Licensing Act 2003. Existing permitted licensable activities are not under consideration at this meeting. The variation application is subject to representations submitted by a responsible authority and is therefore referred to the licensing sub-committee for determination.
  - b) Paragraph 8 to 10 of this report provides a summary of the current premises licence issued in respect of the premises. A copy of the current premises licence is attached at Appendix A.
  - c) Paragraphs 11 to 17 of this report provide a summary of the application. A copy of the application is attached to this report at appendix B. Photographs of the outside of the premises can be found at Appendix C
  - d) Paragraphs 23 to 35 of this report deal with the representations submitted in respect of the application. A copy of the representation from the Metropolitan Police Service is attached to this report at Appendix D and the conciliation correspondence can be found at Appendix E.
  - e) Paragraphs 37 to 43 is a summary of the history of the premises with a list of temporary event notices, which can be found at Appendix F
  - f) A map showing the location of the premises is attached to this report at Appendix G.

- g) 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 current premises licence**

8. The premises licence issued in respect of the premises known as the Morocco Bound, 1a Morocco Street, London SE1 3HB was first issued on 20 December 2019 and allows the following licensable activities:

- **Films – indoors**
  - Monday and Tuesday: 12:00 to 21:00
  - Wednesday to Saturday: 12:00 to 23:00
  - Sunday: 12:00 to 20:00
  
- **The sale of alcohol to be consumed off the premises:**
  - Monday and Tuesday: 12:00 to 21:00
  - Wednesday to Saturday: 12:00 to 23:00
  - Sunday: 12:00 to 20:00
  
- **The sale of alcohol to be consumed on the premises:**
  - Monday and Tuesday: 12:00 to 21:00
  - Wednesday to Saturday: 12:00 to 22:30
  - Sunday: 12:00 to 19:30
  
- **Opening hours:**
  - Monday and Tuesday: 08:30 to 21:00
  - Wednesday to Friday: 08:30 to 23:00
  - Saturday: 10:00 to 23:00
  - Sunday: 10:00 to 20:00.

9. A copy of the existing premises licence is attached as appendix A.

10. The premises are a boutique retail merchant specialising in books, coffee and local craft beers.

### **The variation application**

11. On 30 November 2023 Waterhouse 1854 Limited applied to this council to vary the premises licence granted under the Licensing Act 2003 in respect of the premises known as Morocco Bound, 1a Morocco Street, London SE1 3HB.

12. The application is summarised by the applicant as follows:

“Morocco Bound is a boutique retail merchant and community hub, specialising in books, coffee and local craft beers, which caters to knowledgeable discerning consumers in the Bermondsey Street Area.

With a unique selling point of combining a book seller, craft beer shop and other local produce alongside excellent customer service, Morocco Bound is a destination specialty store as well as a local shop for local people.

The premises also operates as an art and design studio, workspace and cultural centre.

Since the premises licence was obtained in 2019, the business has evolved and developed a loyal client base. This variation seeks to facilitate the changes which are essential to allow the flexibility required to continue that development. The variation seeks an increase to the hours to provide greater consistency throughout the week, however these proposed hours still fall within the hours set out in the Licensing Policy Statement for Southwark and conform with the stated Licensing Hours Policy.

The variation also seeks to facilitate the sale of alcohol to an outside seating area subject to the appropriate permissions being granted for that area. As such the variation seeks to remove three conditions and replace them with one combined condition which will only permit off-sales to be consumed immediately outside the premises, when patrons are seated in an appropriately licensed area.

An additional condition limits the time this external area can be used.”

13. The details of the variation are set out below.
14. To vary the hours to start the sale of alcohol from 09:00, and extend the closing times to 23:30 daily with all licensable activities finishing at 23:00 hours:
  - **Films – indoors**
    - Monday to Sunday: 12:00 to 23:00
  - **The sale of alcohol to be consumed off the premises:**
    - Monday to Sunday: 09:00 to 23:00
  - **The sale of alcohol to be consumed on the premises:**
    - Monday to Sunday: 11:00 to 23:00
  - **Opening hours:**
    - Monday to Friday: 08:30 to 23:30
    - Saturday and Sunday: 09:00 to 23:30
15. To remove the following two conditions:
  - 343 Any ‘off sales’ of alcohol shall be provided in sealed containers and taken away from the premises.
  - 350 Alcoholic drinks will not be sold for immediate consumption immediately outside the premises at any time, including for those leaving for the purpose of smoking. For the purpose of this condition ‘outside the premises’ refers to areas outside of the area covered by the red line in the plans.

16. To add the following two conditions:

- That to consumption of alcohol shall take place outside the premises (as delineated by the red lines on the plans) after 22.30 on any day, including those persons leaving temporarily for the purpose of smoking.
- That all tables and chairs located in the external areas of the premises shall be rendered unusable after 22.30 on each day.

17. A copy of the application is attached to this report as Appendix B.

### **Other legislation related to the use of outside area for the consumption of alcohol**

18. Section 11 of the Business and Planning Act 2020 temporarily allows premises with a premises licence for the sale of alcohol on the premises to allow the sale of alcohol off the premises for the same times as on sales, but not exceeding 23:00.

19. Conditions that are inconsistent with this off-sales permission, or that prevent off-sales in an open container, are temporarily suspended.

20. Currently these provisions expire in 31 March 2025.

21. The Business and Planning Act 2020 and the Highway Act 1980 allow for a pavement licence to be issued by the council for tables and chairs. According to the government guidance, in most circumstances 1,500 millimetres or 1.5 metres of clear space should be regarded as the minimum acceptable distance between the obstacle and the edge of the footway. Conflicts of street furniture with pedestrian movement should also be considered, particularly for disabled people, older people and those with mobility needs. The positioning of furniture should not discourage pedestrians from using the footway.

22. A photograph of the pavement outside the premises can be seen at Appendix C.

### **Representations from responsible authorities**

23. A representation was submitted by the Metropolitan Police Service under the licensing objectives for prevention of crime and disorder, public safety and prevention of public nuisance.

24. The police representation states that the hours requested are outside those recommended within the policy for a residential area but have confirmed that they do not object to the grant of the extended hours.

25. The police say that the removal of conditions 343 and 350 will allow consumption of alcohol immediately outside the premises and the proposed new conditions are vague and do not control the use of the outside area. There is no mention within the conditions that alcohol would only be consumed by persons seated outside and also suggests that persons leaving the venue to smoke would also be able to take alcohol with them allowing for vertical drinking outside.

26. They also contend that the premises has a narrow footpath immediately outside which borders a road. Should the footpath be used for the consumption of alcohol it could either result in pedestrians having to go into the road to pass by or lead to patrons using the road to consume alcohol which are matters of concern for public safety.
27. The police object to the removal of conditions 343 and 350.
28. A copy of the representation submitted by the metropolitan police service is attached at Appendix D.

### **Representations from other persons**

29. No representations have been submitted by other persons.

### **Conciliation**

30. The applicant's representative has corresponded with the police to provide further information on the application to replace the two conditions in the variation application. They stated that there have been no incidents public safety or crime and disorder while using the outside area under current provisions and makes assurances that it is not the applicant's intention to change the nature of the premises to that of a pub or bar.
31. The applicant also offered to change the two proposed conditions to:
  - That no consumption of alcohol shall take place outside the premises (as delineated by the red lines on the plans) after 22.00 on any day, including those persons leaving temporarily for the purpose of smoking.
  - That all tables and chairs located in the external areas of the premises (as delineated by the red lines on the plans) shall be rendered unusable after 22.00 on each day.
32. Additionally a further two conditions were offered as follows:
  - That no more than 12 persons would be permitted to consume alcohol in the area immediately outside the premises (as delineated by the red line on the plans) at any one time, unless seated in an area covered by a current tables and chairs licence.
  - That customers consuming alcohol must remain on the pavement at all times and no customers shall be permitted to stand on the road while consuming alcohol. unless within the area covered by a current tables and chairs licence.
33. The police responded stating that the maintain their objection stating that the Business and Planning Act did not however take into account condition placed on a licence when granted in regards to public safety and obstruction of the highway would not agree to remove the conditions without adequate safety precautions put

in place. They also say that the footpath is under 4 feet wide outside the premises and does not provide adequate room for safe outside drinking.

34. The police representation remains valid.
35. The conciliation correspondence can be found at Appendix E.

### **Premises licensing history**

36. The original premises licence in respect of the premises was issued to Waterhouse 1854 Limited on 20 December 2019.
37. The designated premises supervisor (DPS) in respect of the premises has been varied three times on 21 May 2020, 14 August 2020 and to the current DPS on 24 June 2021.
38. There have been 12 temporary event notices (TENs) submitted in respect of the premises.
39. The details of the TENs can be found at Appendix F.
40. Three visit have been made to the premises by licensing officers:

<b>Date</b>	<b>Description</b>	<b>Further information</b>
22/09/2023	21:14 Night Time Economy Team Visit	Compliant
16/11/2023	Visit to premises	Compliant
10/04/2021	Visit to premises	Follow up to police visit, conditions 344 & 4A1 & no DPS. Now compliant

41. On the visit of 22 September 2023 the officer photographed patrons standing the outside of the premises. This photograph can be found at Appendix C.

### **Complaints**

42. There have been three relevant complaints made to the Council as follows:

<b>Date</b>	<b>Reference</b>	<b>Category</b>	<b>Unit</b>	<b>Description</b>
17/05/2023	999423	Public nuisance	Licensing	Loud music
19/09/2023	A07662	Loud Music	Noise Team	Amplified music and general noise from patrons
21/09/2023	A07784	Public nuisance	Licensing	Noise from patrons, public safety from patrons drinking in the street

## Map

43. A map showing the location of the premises is attached to this report as Appendix G. The following premises are also shown on the map and are permitted to provide licensable activities as stated:

<b>Premises</b>	<b>Opening hours</b>	<b>Alcohol on premises</b>	<b>Alcohol off premises</b>
<b>The Woolpack, 98 Bermondsey Street, London SE1 3UB</b>	Mon: 09:00 to 23:00 Tue: 09:00 to 23:00 Wed: 09:00 to 23:00 Thur: 09:00 to 00:00 Fri: 09:00 to 01:30 Sat: 09:00 to 01:30 Sun: 09:00 to 22:30	Mon: 11:00 to 23:00 Tue: 11:00 to 23:00 Wed: 11:00 to 23:00 Thur: 11:00 to 23:30 Fri: 11:00 to 00:00 Sat: 11:00 to 00:00 Sun: 11:00 to 22:30	Mon: 11:00 to 23:00 Tue: 11:00 to 23:00 Wed: 11:00 to 23:00 Thur: 11:00 to 23:30 Fri: 11:00 to 00:00 Sat: 11:00 to 00:00 Sun: 11:00 to 22:30
<b>The Garrison Public House, 99 - 101 Bermondsey Street, London SE1 3XB</b>	Mon: 10:00 to 23:30 Tue: 10:00 to 23:30 Wed: 10:00 to 23:30 Thur: 10:00 to 23:30 Fri: 10:00 to 00:30 Sat: 10:00 to 00:30 Sun: 12:00 to 22:30	Mon: 10:00 to 23:00 Tue: 10:00 to 23:00 Wed: 10:00 to 23:00 Thur: 10:00 to 23:00 Fri: 10:00 to 00:00 Sat: 10:00 to 00:00 Sun: 12:00 to 22:30	Mon: 10:00 to 23:00 Tue: 10:00 to 23:00 Wed: 10:00 to 23:00 Thur: 10:00 to 23:00 Fri: 10:00 to 00:00 Sat: 10:00 to 00:00 Sun: 12:00 to 22:30
<b>Jose, 104 Bermondsey Street, London SE1 3UB</b>	Mon: 12:00 to 23:00 Tue: 12:00 to 23:00 Wed: 12:00 to 23:00 Thur: 12:00 to 23:00 Fri: 09:00 to 23:00 Sat: 09:00 to 23:00 Sun: 10:00 to 23:00	Mon: 12:00 to 22:30 Tue: 12:00 to 22:30 Wed: 12:00 to 22:30 Thur: 12:00 to 22:30 Fri: 12:00 to 22:30 Sat: 12:00 to 22:30 Sun: 12:00 to 22:00	Mon: 12:00 to 22:30 Tue: 12:00 to 22:30 Wed: 12:00 to 22:30 Thur: 12:00 to 22:30 Fri: 12:00 to 22:30 Sat: 12:00 to 22:30 Sun: 12:00 to 22:00
<b>Casse Croute, 109 Bermondsey Street, London SE1 3XB</b>	Mon: 06:00 to 23:00 Tue: 06:00 to 23:00 Wed: 06:00 to 23:00 Thur: 06:00 to 23:00 Fri: 06:00 to 23:00 Sat: 06:00 to 23:00 Sun: 06:00 to 23:00	Mon: 12:00 to 22:30 Tue: 12:00 to 22:30 Wed: 12:00 to 22:30 Thur: 12:00 to 22:30 Fri: 12:00 to 22:30 Sat: 12:00 to 22:30 Sun: 12:00 to 22:30	Mon: 12:00 to 22:30 Tue: 12:00 to 22:30 Wed: 12:00 to 22:30 Thur: 12:00 to 22:30 Fri: 12:00 to 22:30 Sat: 12:00 to 22:30 Sun: 12:00 to 22:30
<b>Franco Manca UK Limited, 124 (Ground Floor), Bermondsey Street. London SE1 3TX</b>	Mon: 09:00 to 23:00 Tue: 09:00 to 23:00 Wed: 09:00 to 23:00 Thur: 09:00 to 23:00 Fri: 09:00 to 23:00 Sat: 09:00 to 00:00 Sun: 10:00 to 22:30	Mon: 11:00 to 23:00 Tue: 11:00 to 23:00 Wed: 11:00 to 23:00 Thur: 11:00 to 23:00 Fri: 11:00 to 23:00 Sat: 11:00 to 00:00 Sun: 12:00 to 22:30	Mon: 11:00 to 23:00 Tue: 11:00 to 23:00 Wed: 11:00 to 23:00 Thur: 11:00 to 23:00 Fri: 11:00 to 23:00 Sat: 11:00 to 00:00 Sun: 12:00 to 22:30



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

44. Council assembly approved Southwark's statement of licensing policy 2021-2026 on 25 November 2020 and it came into effect on 1 January 2021.
45. 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.
46. 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.
47. 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)**

48. The premises are not situated in a Cumulative Impact Area.
49. The premises also falls within the London Bridge District Town Centre
50. Under the Southwark's statement of licensing policy 2021 - 2026 the following closing times are recommended as appropriate within this area for the categories of premises stated:
  - Restaurants and cafes:
    - Friday and Saturday: 01:00
    - Sunday to Thursday: 00:00
  - Public Houses, Wine bars or other drinking establishments:
    - Friday and Saturday: 00:00
    - Sunday to Thursday: 23:00.

### **Climate change implications**

51. Following council assembly on 14 July 2021, the council is committed to considering the climate change implications of any decisions.
52. 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.
53. 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.

54. 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**

55. 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**

56. 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.

57. 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.

58. 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>.

59. The equalities impact assessment is available at:

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

### **Health impact statement**

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

## **Resource implications**

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

## **Consultation**

62. Consultation has been carried out on this application in accordance with the provisions of the Licensing Act 2003. A public notice was published in a local newspaper and similar notices were exhibited outside of the premises for a period of 28 consecutive days.

## **Community impact statement**

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

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

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

64. The sub-committee is asked to determine the application to vary the premises licence under Section 34 of the Licensing Act 2003.
65. The principles which sub-committee members must apply are set out below.

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

66. Section 35 of the Licensing Act 2003 sets out the licensing authority's powers and duties in considering the determination of an application for variation.
67. The general principle is that applications for variation 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.
68. 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 other party or responsible authority
  - Have not been withdrawn
  - Are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
69. 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;
- Add to, omit, and/or alter the conditions of the licence or,
  - Reject the whole or part of the application for variation.

## **Conditions**

70. The sub-committee's discretion is thus limited. It can only modify the conditions put forward by the applicant, or refuse the variation, 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.
71. The four licensing objectives are:
- The prevention of crime and disorder
  - Public safety
  - The prevention of nuisance
  - The protection of children from harm.
72. 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.
73. Conditions will not be necessary if they duplicate a statutory position. Conditions relating to late night refreshment and take away aspect of the licence 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.
74. The Licensing Act requires mandatory conditions in respect of supply of alcohol, the exhibition of films and in respect of door supervisors. The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2003 introduced 3 new conditions in respect of irresponsible promotions, the oral dispensing of alcohol and free tap water. In October 2010 an additional 2 conditions will come into force – age verification policy and smaller measures for alcoholic drinks.
75. 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**

76. If the sub-committee determines that it is necessary to modify the conditions, or to refuse the application to vary the premises licence, it must give reasons for its decision.

## **Hearing procedures**

77. 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.

78. This matter relates to the determination of an application to vary a premises licence under section 34 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**

79. 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.

80. 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.

81. 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.

82. 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.
83. 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.
84. 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.
85. 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.
86. 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**

87. 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**

88. 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 current premises licence issued in respect of the premises
Appendix B	Copy of the variation application
Appendix C	Photographs of the premises
Appendix D	Copy of the representation submitted by the Metropolitan Police Service
Appendix E	Conciliation correspondence
Appendix F	List of temporary event notices
Appendix G	Map showing the location of the premises

## AUDIT TRAIL

<b>Lead Officer</b>	Toni Ainge, Acting Strategic Director of Environment, Neighbourhoods and Growth	
<b>Report Author</b>	David Franklin, Principal Licensing Officer	
<b>Version</b>	Final	
<b>Dated</b>	9 February 2024	
<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>	9 February 2024	