

APPENDIX B

To: Licensing Unit	From: Wesley McArthur wesley.mcarthur@southwark.gov.uk 020 7525 5779 (on behalf of the Licensing Unit in its role as a responsible authority)	Date: 28 March 2024
Subject:	Representation	
Act:	The Licensing Act 2003 (the Act)	
Premises:	London Bridge Local, Part Ground Floor, 85-87 Borough High Street, London, SE1 1NH	
Ref:	882534	

We object to the grant of a premises licence application, submitted by Mrs Shital Mehta under The Licensing Act 2003 (the Act), in respect of the premises known as London Bridge Local, Part Ground Floor, 85-87 Borough High Street, London, SE1 1NH.

1. The application

The application is to allow for the sale of alcohol for consumption off the premises as follows -

- **Monday – Sunday: 10:00 – 00:00 (midnight)**
- **New Year’s Eve: 10:00 – 02:00**

The proposed opening hours of the premises are:

- **Monday – Wednesday: 06:30 – 01:00**
- **Thursday – Saturday: 06:30 – 02:00**
- **Sunday: 07:00 – 00:00**
- **New Year’s Eve: 06:30 – 02:00**

The premises are described in the application as (verbatim):

- *“London Bridge Local is a small general convenience store located on Borough High Street about 50 metres south from London Bridge Station.”*

2. The Locale

The premises are located on Borough High Street, which is a major thoroughfare. It is a densely urbanised road with various commercial premises, offices and residential properties. There are 46 licensed premises on Borough High Street itself, with many more in the locale. The licensed premises on Borough High Street include off-licences, supermarkets and grocers allowing for the off sale of alcohol and other types of premises that also allow for the off sale of alcohol.

There are already six premises that could be described as off-licences, supermarkets or grocers and which are licensed for the off sale of alcohol as follows -

No.	Licence number	Name	Address
1	865998	Londis	53 Borough High Street
2	879452	Borough Food and Wine	116 – 126 Borough High Street
3	876329	Sainsbury’s	116 – 126 Borough High Street

4	857791	Tesco	127 – 143 Borough High Street
5	878366	Borough Supermarket	214 – 216 Borough High Street
6	9007	Supersave Express	223 Borough High Street

In addition to the above licensed premises, there are another 22 licensed premises of varying description that are also licensed for the off sale of alcohol, as follows -

No.	Licence number	Name	Address
1	845116	St. George The Martyr	St. George The Martyr, Borough High Street
2	879905	Barrowboy & Banker	6 - 8 Borough High Street
3	848802	Boro Bistro	6 – 10 Borough High Street
4	880768	Patty & Bun	19 Borough High Street
5	872747	Bridge Tap	32 Borough High Street
6	849025	Turkish Deli	Stand 8, 33 Borough High Street
7	869522	Old King's Head	45 Borough High Street
8	880165	Luncheonette & Giuseppe's Restaurant	47 – 49 Borough High Street
9	878768	The George Inn	75 – 77 Borough High Street
10	879764	The Whisky Exchange	88 Borough High Street
11	878035	St Christopher's Inn	121 Borough High Street
12	874513	Premier Inn	127 – 143 Borough High Street
13	874515	Belushi's	161 – 165 Borough High Street
14	878004	Blue Eyed Maid	173 Borough High Street
15	870446	St. John Bakery	Unit 4a, 180 Borough High Street
16	872142	Prezzemole & Vitale	Unit 4b, 180 Borough High Street
17	879721	The Trinity	202 – 206 Borough High Street
18	878529	Boutique da Carne	208 Borough High Street
19	878496	Rice Coming Noodle Bar	218 Borough High Street
20	862437	Tempo	304 Borough High Street
21	862660	Rao Deli	304 Borough High Street
22	864700	Brindisa	Units 9 & 10, Floral Hall, Borough Market

The above lists only relate to Borough High Street itself and it should be noted that there are other premises licenced for the off-sale of alcohol in the locale.

3. Our objection

Our objection is based on the following criteria:

The premises fall within, and are subject to, the Borough and Bankside Cumulative Impact Area (Borough and Bankside CIA).

Paragraph 131 this council's statement of licensing policy 2021 – 2026 states –

- *“Applications made within specified Cumulative Impact Areas (CIAs) are deemed likely to add to the potential impact the policy is intended to avoid. There is therefore an*

automatic presumption that such applications will be refused, however each application will be judged on its own merits.”

Paragraph 150 of the statement of licensing policy stipulates regarding the Borough and Bankside CIA that –

- *“The classes of premises within the area to which the policy shall apply will be night-clubs / public houses and bars / restaurants and cafes / **off-licences, supermarkets and grocers.**”* (Emphasis added).

Therefore, the above premises is of a type of premises that is subject to the Borough and Bankside CIA.

As per paragraph 150 of the statement of licensing policy, the council has found that certain types of premises are likely to increase the negative cumulative impact in the Borough and Bankside CIA of licensed premises in that area. We are in agreement with this stance and are therefore of the opinion that the application be refused.

Paragraph 132 of the statement of licensing policy states that –

- *“It is normally the case that a representation citing a relevant CIA will have to be determined at a Licensing Sub-Committee hearing.”*

We further note that section 136 of the statement of licensing policy states –

- *“The effect of publishing a cumulative impact assessment is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations, following relevant representations. In such circumstances, it is for the Applicant to demonstrate that the application will not, if granted, further contribute to the negative local cumulative impact on any one or more of the licensing objectives.”*

Full details of the statement of licensing policy are available via:

[Premises licence \(Licensing Act 2003\) - Southwark Council](#)

In addition to the above, it is clear that there are already a large number of off-licensed premises to provide an offering to the local area.

The applicant has addressed cumulative impact in the application however, in our opinion; the applicant has not demonstrated that the application will not, if granted, further contribute to the negative local cumulative impact on any one or more of the licensing objectives.

Further, we contend that granting the application **will** further contribute to the negative local cumulative impact of licensed premises in the Borough and Bankside CIA.

We do not think it is appropriate **at all** to allow **any** further premises to sell alcohol in the Borough and Bankside CIA.

The particular stretch of Borough High Street where the premises are located attracts problem drinkers including intoxicated people who have been drinking at other licensed premises in

the locale and street drinkers.

The area in general has a large problem with street drinking and alcohol abuse, and the associated crime and disorder puts a heavy burden upon the police, the London Ambulance Service and other emergency services. This is partly the reason the area is subject to the cumulative impact policy.

Granting another premises licence allowing the off sales of alcohol on Borough High Street will exacerbate the serious problems caused by the consumption of alcohol in the locale.

We also refer to R (on the application of Westminster City Council) -v- Middlesex Crown Court [2002] EWHC 1104 in which HHJ Baker adjudicated

“Notwithstanding the applicant being a fit and proper person and the premises would be well run a licence could be refused on the sole ground that the area was already saturated with licence premises....and the cumulative effect of the existing premises was impacting adversely on the area to an unacceptable level.”

This means that the above application can be refused on the **sole basis** that it is subject to a cumulative impact area.

We further add that the full council assembly approved the current version of the SoLP and have maintained the Borough and Bankside CIA four times in a row, showing that the problems related to licensed premises in the locale (including off-licences, grocers, supermarkets, convenience stores) are **longstanding and ongoing**.

4. Temporary Event Notices (TENs)

We note that the applicant has stated that the premises has operated under TENs to allow the sale of alcohol at the premises, without incident or complaint.

The TENs mechanism allows premises to be used for licensable activities for up to 21 days a year. This would mean that, currently, the applicant could only sell alcohol under TENs on 21 days a year.

This application to allow for alcohol sales on 365 days a year.

This is an increase of 1638% on the number of days that TENs would allow for the sale of alcohol at the premises. We say this is a huge difference, which would lead to a high increase in the likelihood of problems being caused by the sale of alcohol at the premises.

In addition to the above, it is very important to note that the TENs mechanism **is not** intended to be used as a precursor to premises licence applications. It is not intended in the act that an applicant should use the fact that they have operated a premises without complaint under TENs to support a permanent premises licence application.

It is not stated or implied in the Licensing Act 2003 itself, the guidance to the act issued by the Secretary of State under section 182 of the act, or suggested in Southwark Council's own SoLP that the prior satisfactory operation of premises under TENs should, or could, be used to support a permanent premises licence application.

One of the important facets of the TEN mechanism is that it limits the risk posed by the

provision of licensable activities at premises compared to the grant of a permanent premises licence in respect of the same premises.

We say that the prior operation of the premises under TENs should be given *minimal* weight in the licensing sub-committee's determination of this application.

5. Prior application

It must be noted that the applicant previously applied for a premises licence. The application was subject to representations objecting to the application and this same licensing sub-committee subsequently refused the application.

We say that the Licensing Sub-Committee made the correct determination regarding the prior premises licence application, that the situation and circumstances in the area have not changed, and that there is no reason for the Licensing Sub-Committee to deviate from its prior decision.

A copy of the Notice of Decision regarding the prior application is attached to this representation as appendix 1.

Taking into account the above, we refer this application to the council's Licensing Sub-Committee and recommend that the application be refused.

Notwithstanding the above, we note that the applicant has offered various control measures in the operating schedule of the application, which would form the basis of enforceable licence conditions (should a premise licence be issued subsequent to this application).

If the Licensing Sub-Committee is minded to grant this application, we would seek preferred wording for some of the proposed conditions to ensure that they are practicable and enforceable. We will be happy to provide the applicant and Licensing Sub-Committee with a scheduled of suitably worded conditions at the hearing to determine the application, **however we strongly re-iterate that it is our opinion that this application be refused.**

Yours sincerely,

Wesley McArthur
Principal Enforcement Officer

NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 12 SEPTEMBER 2023

SECTION 17 LICENSING ACT 2003: LONDON BRIDGE FOOD & WINE, 85-87 PART GROUND FLOOR BOROUGH HIGH STREET, LONDON, SE1 1NH

Decision

That the application made by Shital Mehta for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as London Bridge Food & Wine, 85-87 Part Ground Floor Borough High Street, London SE1 1NH be refused.

Reasons

This was an application made by Shital Mehta for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as London Bridge Food & Wine, 85-87 Part Ground Floor Borough High Street, London SE1 1NH.

The licensing sub-committee heard from the applicant's representative who advised Mr and Mrs Mehta were seeking to operate an off licence. Mrs Mehta had recently undertaken a personal licence training course which was carefully focused on what the cumulative impact policy sought to prevent, principally people drinking in the streets. She previously worked in a Poundland on the tills and managing the stock, she had also worked in a shop to obtain some experience with alcohol. The conditions within the operating schedule were highlighted as well as the shop being of a very small size, 300 square feet excluding storage.

Whilst there were similar premises within the area, it was submitted that this was the only one within that section of the street and that, within a busy area with many commuters, residents, stall holders and so forth, even that distance is important for people to legitimately, properly and safely, buy beers, wines and whatever they need for home consumption in a safe and controlled environment.

The licensing sub-committee heard from the Metropolitan Police Service, as a responsible authority, who advised the premises was located within the Borough and Bankside cumulative impact area (CIA) which applied to night clubs, public houses & bars, restaurants & cafes, off-licences, supermarkets and grocers. Under paragraph 131 of Southwark's statement of licensing policy 2021-2026 there was a rebuttable presumption that applications for new premises licences would be deemed likely to add to the existing cumulative impact and would normally be refused.

The police submitted that there were four off licences within fifty metres of the premises, one of which had a 24 hour licence. Whilst one of those premises may not currently sell alcohol, the licence still existed and this could be resumed at any time.

Street drinking within Borough High Street was very prevalent. They stated that it was a burden upon the emergency services and street drinkers tend to move from off licence to off licence or loiter outside begging for money to purchase alcohol. The prevalence was acute at the present time and a further off licence could only have a negative impact on an already saturated area, no matter how well it was run, and so the licensing Sub-Committee was invited to refuse the application as a result.

Licensing as a responsible authority also raised that the premises was located within a CIA. They advised that there were six convenience stores in close proximity to the premises and that multiple off licences often become a magnet or hub for drinkers of all types, not just street drinkers but also social drinkers. It was submitted that the area is completely saturated with off sales and that this application should be refused.

The licensing sub-committee noted the two written representations from other persons objecting to the application.

The licensing sub-committee were concerned that the premises was an off licence, rather than a convenience store; it would be alcohol led and the applicant intended for alcohol to represent 60% of their income. The designated premises supervisor had limited experience of selling alcohol and the premises was situated within an area that had an acute problem with street and social drinking, particularly given the proximity to Borough Market, the Thames Path and the station.

It was of further concern that Mr Mehta, who did not have any experience, intended to run the premises in the evening, which would likely be the most problematic time. The licensing sub-committee carefully considered whether any conditions would allay their concerns but determined the applicant had failed to mitigate how the premises would not contribute to an already saturated area.

The applicant has therefore failed to rebut the presumption to refuse this premises licence application.

The sub-committee were referred to R (on the application of Westminster City Council) - v- Middlesex Crown Court [2002] EWHC 1104 in which HHJ Baker adjudicated "Notwithstanding the applicant being a fit and proper person and the premises would be well run a licence could be refused on the sole ground that the area was already saturated with licence premises....and the cumulative effect of the existing premises was impacting adversely on the area to an unacceptable level".

In the circumstances, since the premises is located in the Borough and Bankside CIA, this application is refused.

In reaching this decision, the sub-committee had regard to all the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate.

Appeal rights.

The applicant may appeal against any decision:

- a) To impose conditions on the licence
- b) To exclude a licensable activity or refuse to specify a person as premises supervisor.

Any person who made relevant representations in relation to the application who desires to contend:

- a) That the licence ought not to have been granted; or
- b) That, on granting the licence, the licensing authority ought not to have imposed different or additional conditions to the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the Magistrates' Court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

Issued by the Constitutional Team on behalf of the Assistant Chief Executive - Governance and Assurance.

Date: 26 September 2023.