

<b>Item No.</b> 5.	<b>Classification:</b> Open	<b>Date:</b> 30 April 2024	<b>Meeting Name:</b> Licensing Sub-Committee
<b>Report title:</b>		Licensing Act 2003: El Vacilon De Esquina – Basement and Ground Floor, 58a Camberwell Church Street, London SE5 8QZ	
<b>Ward(s) or groups affected:</b>		St Giles Ward	
<b>Reason for lateness (if applicable):</b>		N/a	

## RECOMMENDATION

1. That the licensing sub-committee considers an application made El Vacilon De Esquina Limited for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as El Vacilon De Esquina – Basement and Ground Floor, 58a Camberwell Church Street, London SE5 8QZ.
2. Notes:
  - a) This application is for a premises licence and has been submitted under Section 17 of the Licensing Act 2003. The application is subject to representations submitted by responsible authorities and ‘other persons’ and is therefore referred to the Licensing Sub Committee for determination.
  - b) Paragraphs 7 to 12 of this report provide a summary of the application. A copy of the application submitted with the application are attached to this report as Appendix A.
  - c) Paragraphs 14 to 26 of this report deal with the representations submitted in respect of the application. A copy of the representations from the responsible authorities are available in Appendix B. The representations from other persons are attached as Appendix C and D. 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 regulations, has been circulated to all parties to the meeting.

## BACKGROUND INFORMATION

### The Licensing Act 2003

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

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

## **KEY ISSUES FOR CONSIDERATION**

### **The premises licence application**

8. On 23 February 2024 El Vacilon De Esquina Limited applied to this council for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as El Vacilon De Esquina – Basement and Ground Floor, 58a Camberwell Church Street, London SE5 8QZ.
9. The hours applied for are summarised as follows:
  - The sale by retail of alcohol (on sales only):
    - Monday to Thursday from 11:00 to 00:00
    - Friday and Saturday from 11:00 to 01:30
    - Sunday from 11:00 to 23:30
  - The provision of late night refreshment (indoors):
    - Sunday to Thursday from 23:00 to 00:00
    - Friday and Saturday from 23:00 to 01:30

- The provision of regulated entertainment in the form of live and recorded music (indoors):
  - Monday to Thursday from 11:00 to 00:00
  - Friday and Saturday from 11:00 to 01:30
  - Sunday from 11:00 to 23:00
- Opening Hours:
  - Monday to Thursday from 09:00 to 00:30
  - Friday and Saturday from 09:00 to 02:00
  - Sunday from 09:00 to 00:00

10. The premises, and the intended operation of the premises, are described in the application as follows:

*“El Vasilon de la Esquina, occupies a ground floor and basement level, carefully designed to offer a seamless dining and entertainment experience while prioritizing safety and compliance.*

*Ground Floor:*

- *Upon entry, guests are welcomed into a stylish reception area, leading seamlessly into comfortable seating arrangements for dining or enjoying our delectable offerings.*
- *A designated counter facilitates efficient takeaway orders, ensuring smooth operations and customer satisfaction.*
- *Booth seating options are available, enhancing both comfort and privacy for patrons.*

*Basement Floor:*

- *The heart of our establishment resides on the basement level, housing the main dining area adorned with elegant seating arrangements, a fully equipped kitchen ensuring the highest culinary standards, and a sophisticated bar area.*
- *Ample storage facilities are strategically placed to optimize workflow and maintain a pristine environment.*
- *Thoughtfully placed conveniences ensure the comfort and convenience of our guests throughout their visit.*

*Alcohol Service:*

- *Complementing our culinary creations, a carefully curated selection of alcoholic and non-alcoholic beverages will be served, enhancing the overall dining experience.*
- *To uphold responsible alcohol service practices, we strictly limit alcohol consumption to our premises, fostering a safe and enjoyable environment for all patrons.*

*Entertainment:*

- *Delightful ambiance is further enriched by low-volume background music, creating an inviting atmosphere conducive to relaxation and enjoyment.*
- *Occasional live music performances, featuring genres such as Jazz and R&B, promise to captivate and entertain our esteemed guests, elevating their dining experience.*

*Safety Measures:*

- *Prioritizing the safety and well-being of our guests, our premises boast multiple emergency exit routes in addition to the main entrance, ensuring swift evacuation in unforeseen circumstances.*
- *Stringent safety protocols are in place, meticulously designed to comply with regulatory standards and provide peace of mind to both patrons and staff alike.*

*This enhanced description not only showcases the establishment's offerings but also emphasizes its commitment to safety, compliance, and providing an exceptional dining experience, aspects that licensing officers would likely appreciate and scrutinize during their assessment.”*

11. The premises licence application form provides the applicant's operating schedule. Parts A, B, E, F, G, H, 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.
12. A copy of the application containing the proposed conditions are attached to this report as Appendix A.

**Designated Premises Supervisor**

13. The proposed designated premises supervisor is Marco Rosario who holds a personal licence issued by the Royal London Borough of Greenwich.

**Representations from responsible authorities**

14. There are three representations from Responsible Authorities, namely the Metropolitan Police (Licensing Division), the Council's Environment Protection Team and the Council's Licensing Department.
15. The representation from the Police points to the premises being within the Camberwell Cumulative Impact Area and notes that the hours are beyond those recommended within the Southwark Statement of Licensing Policy. It points a history of antisocial behaviour in the area and the current high density of similarly-licensed premises.
16. The representation from Environmental Protection also notes that the hours applied for are outside of the Southwark Statement of Licensing Policy. It raises concerns on the likelihood of residents being negatively impacted by the granting of a later licence. Additional conditions are recommended should the Sub Committee be minded to grant the application.
17. The representation from Licensing also points to the excessive hours against the Policy, and the premises being situated in a CIA and that the application in its current form fails to address that. It is noted that there are ongoing issues

around alcohol-led antisocial behaviour. It also states that there is an existing premises licence which could have been transferred to the new leaseholders.

18. The representations are available in Appendix B.

### **Representations from other persons**

19. Representations have been submitted by 27 other persons, forming local residents, residents associations and the Ward Councillor (other person G).
20. The representations raise the following concerns:
- The excessive hours applied for;
  - The existence of the Camberwell Cumulative Impact Area Policy which would have a rebuttal presumption;
  - The concern that the premises will operate as a night club;
  - The history of antisocial behaviour emanating from previous businesses at the premises;
  - Issues with alcohol-led antisocial behaviour in the locality;
  - The proximity of the premises to residential addresses;
  - The potential for noise egress;
  - Existing issues around waste disposal from the premises;
21. The representations submitted by other persons against the application is attached to this report in Appendix C. It should be noted that Other Persons R (1) and (2) are both from the Mary Datchelor Residents' Association.
22. There is a representation from an individual that supports the application, though it refers to the planning regime, rather than licensing, so may be discounted by the Sub Committee. This is attached as Appendix D.

### **Conciliation**

23. All representations were sent to the Applicant. The Applicant responded, stating that they would be happy to revert to the hours of the existing premises licence. This would mean the hours would be as follows:

#### **Opening Hours:**

- Sunday to Thursday from 09:00 to 23:00
- Friday and Saturday from 09:00 to 00:00

#### **The sale by retail of alcohol (on sales only):**

- Sunday to Thursday from 11:00 to 22:30
- Friday and Saturday from 11:00 to 23:30

#### **The provision of late night refreshment:**

- Friday and Saturday from 23:00 to 23:30

#### **The provision of regulated entertainment in the form of live and recorded music (indoors):**

- Sunday to Thursday from 11:00 to 22:30
- Friday and Saturday from 11:00 to 23:30

24. An advisory email was sent to all objectors. Of the 12 other persons that responded, it should be noted that Other Person N has withdrawn. Concerns continue to be raised about the conditions to be applied to the operating schedule of the licence, including the use of exits onto the street at the point of egress and concerns around fly-tipping.
25. Other Person U appears to imply that there is impropriety taking place between the Council, the Metropolitan Police and the Applicant.
26. A copy of the advisory email and responses are available in Appendix E.

### **Premises history**

27. The premises has been previously run as a night club named as 'Club Couture'. The premises licence was reviewed following a number of incidents of disorder relating to the club. The licence was review and subsequently revoked on 6 December 2013.
28. An application was later received for a new premises licence for a restaurant on the ground floor of the premises. This application went to the Southwark Licensing Sub Committee on 08 April 2014 and was subsequently granted to Mr Amaechi Billa Mackenzie Achuka.
29. On 22 August 2017 Farey and Ryan Limited applied to this Council for the grant of a premises licence in respect of Farey and Ryan Ltd. The application was heard by the Southwark Licensing Sub Committee on 16 October 2017 and subsequently granted by the Licensing Sub Committee.
30. On 11 March 2019 NMAS Enterprise Limited applied to this Council for the grant of a premises licence in respect of address, now named 'the Dutchie'. The Application was heard by the Licensing Sub Committee on 19 May 2019. A copy of the Notice of Decision is available for Members' information in Appendix F. A copy of the current premises licence is available in Appendix G.
31. The applicant has submitted temporary event notices (TENs) each for multiple dates, see list below:

<b>Applicant</b>	<b>Dates</b>	<b>Activities</b>	<b>Counter Notice</b>
Alexander Morel	02/02/2024 to 04/02/2024 from 12:00 to 23:45	Late TEN: Sale by retail of alcohol (on sales), regulated entertainment and late night refreshment	No
Maria Leonarda Lopez Rivera	21/03/2024 to 25/03/2024 from 11:00 to 01:00 and 11:00 to 03:00	Late TEN: Sale by retail of alcohol (on sales), regulated entertainment and late night refreshment	No

Maria Leonarda Lopez Rivera	28/03/2024 to 31/03/2024 from 12:00 to 23:45, 11:00 to 02:00 and 11:00 to 23:45	Late TEN: Sale by retail of alcohol (on sales), regulated entertainment and late night refreshment	No
Maria Leonarda Lopez Rivera	05/04/2024 to 07/04/2024 from 10:00 to 02:00 and 10:00 to 23:30	Late TEN: Sale by retail of alcohol (on sales), regulated entertainment and late night refreshment	No
Jose Rafael Ferreira Minaya	12/04/2024 to 14/04/2024 from 11:00 to 02:00 and 11:00 to 23:45	Late TEN: Sale by retail of alcohol (on sales), regulated entertainment and late night refreshment	No
Jose Rafael Ferreira Minaya	18/04/2024 to 22/04/2024 from 11:00 to 01:00 and 11:00 to 03:00	Late TEN: Sale by retail of alcohol (on sales), regulated entertainment and late night refreshment	No

32. There have been three recent complaints regarding the premises:

Date	Complainant	Complaint	Response
31 January 2024	Other Person D	Complaint of unlicensed activity being advertised	Premises is licensed, also applied for TENs. NTE visits.
31 January 2024	Local Residents	Complaint of unlicensed activity being advertised	Premises is licensed, also applied for TENs. NTE visits.
21 March 2024	Other Person D	Complaint that TEN not objected to	No grounds for representation

### Map

33. A map showing the location of the premises is attached to this report as Appendix H. The following are a list of similarly licensed premises are in the immediate vicinity of the premises application:

- The Dutchie – 58a Camberwell Church Street**, licenced for:
  - The sale by retail of alcohol (on sales)
    - Sunday to Thursday 11:00 to 22:30
    - Friday and Saturday 11:00 to 23:30
  - The provision of late night refreshment (indoors)
    - Friday and Saturday 23:00 to 23:30

The provision of regulated entertainment in the form of live and recorded

- music (indoors)  
 Sunday to Thursday 11:00 to 22:30  
 Friday and Saturday 11:00 to 23:30
- FM Mangal – 54 Camberwell Church Street**, licenced for:  
The sale by retail of alcohol (both on and off sales)  
 Monday to Sunday 12:00 (midday) to 00:00 (midnight)

The provision of late night refreshment (indoors)  
 Monday to Wednesday 23:00 to 01:00 (the following day)  
 Thursday to Saturday 23:00 to 02:00 (the following day)  
 Sunday 23:00 to 00:00 (midnight)

The provision of regulated entertainment in the form of live music, recorded music and the performance of dance (indoors)  
 Monday to Wednesday 09:00 to 01:00 (the following day)  
 Thursday to Saturday 09:00 to 02:00 (the following day)  
 Sunday 12:00 (midday) to 00:00 (midnight)
  - Maloko Art Café – 60 Camberwell Church Street, SE5 8QZ**, licensed for:  
The sale by retail of alcohol (on sales)  
 Monday to Saturday 12:00 (midday) to 22:00  
 Sunday 12:00 (midday) to 21:00
  - The Vineyard – 3 Camberwell Grove, SE5 8JA**, licensed for:  
The sale by retail of alcohol (on sales)  
 Monday to Saturday 11:00 to 00:00 (midnight)  
 Sunday 12:00 (midday) to 23:30

The provision of late night refreshment (indoors)  
 Monday to Saturday 23:00 to 00:30 (the following day)  
 Sunday 23:00 to 00:00 (midnight)
  - I Go Chop – 46 Camberwell Church Street, SE5 8QZ**, licensed for:  
The sale by retail of alcohol (both on and sales)  
 Sunday to Thursday 10:00 to 23:30  
 Friday and Saturday 10:00 to 00:30 (the following day)

The provision of late night refreshment (indoors and outdoors)  
 Monday to Sunday 23:00 to 05:00 (the following day)
  - Hoia Viet – 42 Camberwell Church Street, SE5 8QZ**, licensed for:  
The sale by retail of alcohol (both on and off sales)  
 Monday to Saturday 11:00 to 00:00 (midnight)  
 Sunday 11:00 to 23:30

The provision of late night refreshment (indoors)  
 Monday to Saturday 23:00 to 00:30 (the following day)  
 Sunday 23:00 to 00:00 (midnight)
  - Daily Goods – 36 Camberwell Church Street, SE5 8QZ**, licensed for:  
The sale by retail of alcohol (both on and off sales)



Monday to Saturday 10:00 to 22:00  
Sunday 11:00 to 22:00

- **Camberwell Superstore – 34 Camberwell Church Street, SE5 8QZ**, licensed for:

The sale by retail of alcohol (off sales only)

Monday to Saturday 08:00 to 23:00  
Sunday 10:00 to 22:30

- **Well Mix Oriental – 69 Camberwell Church Street, SE5 8TR**, licensed for:

The sale by retail of alcohol (both on and off sales)

Monday to Saturday 11:00 to 00:00 (midnight)  
Sunday 11:00 to 23:30

The provision of late night refreshment (indoors)

Monday to Saturday 23:00 to 00:30 (the following day)  
Sunday 23:00 to 00:00 (midnight)

- **The Camberwell Arms– 65 Camberwell Church Street, SE5 8TR**, licenced for:

The sale by retail of alcohol (on sales)

Sunday to Thursday 10:00 to 00:00 (midnight)  
Friday and Saturday 10:00 to 02:00 (the following day)

The sale by retail of alcohol (off sales)

Sunday to Thursday 10:00 to 00:00 (midnight)  
Friday and Saturday 10:00 to 03:00 (the following day)

The provision of late night refreshment (indoors)

Sunday to Thursday 23:00 to 00:00 (midnight)  
Friday and Saturday 23:00 to 02:30 (the following day)

The provision of regulated entertainment in the form of live music, recorded music, facilities for making music and anything similar and the performance of dance (indoors)

Sunday to Thursday 10:00 to 00:00 (midnight)  
Friday and Saturday 10:00 to 02:00 (the following day)

- **We Are Lumberjack – 70 Camberwell Church Street, SE5 8QZ**, licensed for:

The sale by retail of alcohol (both on and off sales)

Monday to Saturday 10:00 to 23:00  
Sunday 12:00 (midday) to 22:30

The provision of late night refreshment (indoors)

Monday to Saturday 23:00 to 23:30

- **We Are Lumberjack – 70 Camberwell Church Street, SE5 8QZ**, licensed for:

The provision of late night refreshment (indoors)

Monday to Sunday 23:00 to 04:00 (the following day)

- Shreeji News – 63 Camberwell Church Street, SE5 8TR**, licensed for:  
The sale by retail of alcohol (off sales only)  
Monday to Saturday 08:00 to 23:00  
Sunday 10:00 to 22:30
- Day 1 - 61 Camberwell Church Street, SE5 8TR**, licensed for:  
The sale by retail of alcohol (off sales only)  
Monday to Saturday 06:00 to 01:00 (the following day)  
Sunday 06:00 to 00:00 (midnight)
- The Pidgeon Hole Café Bar – 2 Datchelor Place, SE5 7AP**, licensed for:  
The sale by retail of alcohol (on sales only)  
Monday to Sunday 12:00 (midday) to 23:00
- The New Dome Hotel – 51-53 Camberwell Church Street, SE5 8TR**,  
licensed for:  
The sale by retail of alcohol (on sales only)  
Monday to Saturday 10:00 to 00:00 (midnight)  
Sunday 10:00 to 23:30

The provision of late night refreshment (indoors)  
Monday to Saturday 23:00 to 00:30 (the following day)  
Sunday 23:00 to 00:00 (midnight)
- Silk Road Restaurant - 49 Camberwell Church Street, SE5 8TR**, licensed  
for:  
The sale by retail of alcohol (both on and sales)  
Monday to Saturday 10:00 to 23:00  
Sunday 10:00 to 22:30

The provision of late night refreshment (indoors)  
Monday to Saturday 23:00 to 23:30
- Caravaggio - 47 Camberwell Church Street, SE5 8TR**, licenced for:  
The sale by retail of alcohol (on sales)  
Monday to Sunday 10:00 to 00:00 (midnight)

The provision of late night refreshment (indoors)  
Monday to Sunday 23:00 to 00:30 (the following day)

The provision of regulated entertainment in the form of recorded music (indoors)  
Monday to Sunday 10:00 to 00:30 (the following day)
- Tadim Café/Cycles PS Ltd. - 41 Camberwell Church Street, SE5 8TR**,  
licenced for:  
The sale by retail of alcohol (on sales)  
Monday to Sunday 12:00 (midday) to 23:00

The provision of regulated entertainment in the form of recorded music (indoors)  
Monday to Sunday 09:00 to 23:00

- Kentucky Fried Chicken – 35 Camberwell Church Street, SE5 8TR**  
 licenced for:  
The provision of late night refreshment (indoors)  
 Sunday to Thursday 23:00 to 02:00 (the following day)  
 Friday and Saturday 23:00 to 03:30 (the following day)
- The Crooked Well – 16 Grove Lane, SE5 8SF**, licenced for:  
The sale by retail of alcohol (both on and off sales)  
 Sunday to Thursday 10:00 to 00:00 (midnight)  
 Friday and Saturday 10:00 to 01:00 (the following day)

The provision of late night refreshment (indoors)  
 Sunday to Thursday 23:00 to 00:00 (midnight)  
 Friday and Saturday 23:00 to 01:00 (the following day)

The provision of regulated entertainment in the form of films, recorded and live music (indoors)  
 Sunday to Thursday 10:00 to 00:00 (midnight)  
 Friday and Saturday 10:00 to 01:00 (the following day)
- The Hill Bakery and Deli – 4a Grove Lane, SE5 8SY**, licenced for:  
The sale by retail of alcohol (off sales only)  
 Monday to Thursday 09:00 to 19:00  
 Friday and Saturday 10:00 to 20:00  
 Sunday 10:00 to 16:00
- Hermit’s Cave – 28 Camberwell Church Street, SE5 8QU**, licenced for:  
The sale by retail of alcohol (both on and off sales)  
 Sunday to Thursday 10:00 to 01:00 (the following day)  
 Friday and Saturday 10:00 to 02:00 (the following day)

The provision of late night refreshment (indoors)  
 Sunday to Thursday 23:00 to 01:00 (the following day)  
 Friday and Saturday 23:00 to 02:00 (the following day)

The provision of regulated entertainment in the form of films, performances of dance, recorded and live music (indoors)  
 Sunday to Thursday 10:00 to 01:00 (the following day)  
 Friday and Saturday 10:00 to 02:00 (the following day)
- Angels and Gypsies – 29-33 Camberwell Church Street, SE5 8TR**,  
 licenced for:  
The sale by retail of alcohol (both on and off sales)  
 Monday to Saturday 11:00 to 00:00 (midnight)  
 Sunday 12:00 (midday) to 23:30

The provision of late night refreshment (indoors)  
 Monday to Saturday 23:00 to 00:30 (the following day)  
 Sunday 23:00 to 23:30
- Stormbird - 25 Camberwell Church Street, SE5 8TR**, licenced for:

The sale by retail of alcohol (both on and off sales)

Monday to Wednesday	10:00 to 00:00 (midnight)
Thursday	10:00 to 02:00 (the following day)
Friday and Saturday	10:00 to 03:00 (the following day)
Sunday	12:00 (midday) to 00:00 (midnight)

The provision of late night refreshment (indoors)

Sunday to Wednesday	23:00 to 00:30 (the following day)
Thursday	23:00 to 02:30 (the following day)
Friday and Saturday	23:00 to 03:30 (the following day)

The provision of regulated entertainment in the form of performances of dance recorded and live music (indoors)

Monday to Wednesday	10:00 to 00:00 (midnight)
Thursday	10:00 to 02:00 (the following day)
Friday and Saturday	10:00 to 03:00 (the following day)
Sunday	12:00 (midday) to 00:00 (midnight)

**Policy framework implications - Southwark Council statement of licensing policy**

34. 25 November 2020 and it came into effect on 1 January 2021.

35. 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.

36. 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.

37. 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>

## **Community, equalities (including socio-economic) and health impacts**

### **Community impact statement**

38. 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**

39. 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.

40. 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.

41. 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>.

42. The equalities impact assessment is available at:

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

### **Health impact statement**

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

### **General guidance**

44. Members should take into consideration both the Southwark Statement of Licensing Policy and the Section 182 Guidance when making decisions.

[https://assets.publishing.service.gov.uk/media/65a8f578ed27ca000d27b1f9/Revised\\_guidance\\_issued\\_under\\_section\\_182\\_of\\_the\\_Licensing\\_Act\\_2003\\_-\\_December\\_2023.pdf](https://assets.publishing.service.gov.uk/media/65a8f578ed27ca000d27b1f9/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_-_December_2023.pdf)

45. 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.

### **Considerations when writing reports**

46. N/a.

### **Further guidance**

47. N/a.

### **Climate change implications**

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

49. 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.

50. 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.

51. The council's climate change strategy is available at:  
<https://www.southwark.gov.uk/assets/attach/48607/Climate-Change-Strategy-July-2021-.pdf>

## **Resource implications**

52. A fee of £315.00 has been paid by the applicant company in respect of this application being the statutory fee payable for premises within non-domestic ratable value C.

## **Note: Legal/Financial implications (and when to seek supplementary advice)**

53. N/a.

## **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 similar notices were exhibited outside of the premises for a period of 28 consecutive days.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

55. N/a.

## **Head of Procurement**

56. N/a.

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

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.

## **Principles for making the determination**

59. The sub-committee is asked to determine the application for a premises licence under section 17 of the Licensing Act 2003.
60. The principles which sub-committee members must apply are set out below.
61. 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.
62. 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.

63. 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**

64. 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.

65. The four licensing objectives are:

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

66. 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.

67. 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.

68. Members are also referred to the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 on conditions, specifically section

### **Reasons**

69. 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**

70. 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.

71. 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**

72. 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.

73. 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.

74. 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.
75. 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.
76. 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.
77. 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.
78. 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.
79. 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.

### **Strategic Director, Finance**

80. The head of regulatory services has confirmed that the costs of this process over and above the application fee are borne by the service.

## Other officers

81. N/a

## BACKGROUND DOCUMENTS

82. See below.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Licensing Act 2003	Southwark Licensing, C/O	Mrs Kirty Read Tel: 55748
Home Office Revised Guidance to the Act	Regulatory Services, 160 Tooley Street, London SE1 2QH	
Secondary Regulations		
Southwark statement of licensing policy		
Case file		

## APPENDICES

No.	Title
Appendix A	Copy of the application
Appendix B	Representations from Responsible Authorities
Appendix C	Representations from Other Persons against the application
Appendix D	Representation from Other Person in favour of the application
Appendix E	Email to Objectors and responses from Other Persons
Appendix F	Notice of Decision from 19 May 2019
Appendix G	Copy of current premises licence
Appendix H	Map of locality

## AUDIT TRAIL

<b>Lead Officer</b>	Toni Ainge, Strategic Director Environment, Neighbourhoods and Growth	
<b>Report Author</b>	Andrew Heron – Principal Licensing Officer	
<b>Version</b>	FINAL	
<b>Dated</b>	11 April 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, Finance	No	No
List other officers here	N/a	N/a
<b>Cabinet Member</b>	No	No
<b>Date final report sent to Constitutional Team</b>	15 April 2024	