

Meeting Name:	Licensing Sub-Committee
Date:	7 May 2024
Report title:	Licensing Act 2003: Waterloo Food and Wine, 187 Waterloo Road, London SE1 8UX
Ward(s) or groups affected:	St George's
Classification:	Open
Reason for lateness (if applicable):	No

RECOMMENDATION

1. That the licensing sub-committee considers an application made The Chelsea Food and Wine Company Limited to vary the premises licence granted under the Licensing Act 2003 in respect of the premises known as Waterloo Food and Wine, 187 Waterloo Road, London SE1 8UX.
2. Notes:
 - a) The application seeks to vary the premises licence held in respect of the premises known as Waterloo food and Wine, 187 Waterloo Road, London SE1 8UX. Existing permitted licensable activities are not under consideration at this meeting. The variation application is subject to representations submitted by one responsible authorities and is therefore referred to the licensing sub-committee for determination.
 - b) Paragraphs 8 to 11 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 as Appendix A.
 - c) Paragraphs 12 to 15 of this report provide a summary of the application. A copy of the application is attached to this report as Appendix B.
 - d) Paragraphs 16 to 18 of this report deal with the representations submitted in respect of the application. A copy of the police representation and agreed conditions is attached to this report as Appendix C and supporting evidence to their representation is attached to this report as Appendix D. A Copy of the licensing authority representation is attached to this report as Appendix E.
 - e) A copy of the council's approved procedure for hearings of the sub-committee in relation to an application made under the Licensing Act 2003, along with a copy of the hearing procedure, has been circulated to all parties to the meeting.

BACKGROUND INFORMATION

The Licensing Act 2003

3. The Licensing Act 2003 provides a licensing regime for:
 - The sale of and supply of alcohol
 - The provision of regulated entertainment
 - The provision of late night refreshment.
4. Within Southwark, the licensing responsibility is wholly administered by this council.
5. The Act requires the licensing authority to carry out its functions under the Act with a view to promoting the four stated licensing objectives. These are:
 - The prevention of crime and disorder
 - The promotion of public safety
 - The prevention of nuisance
 - The protection of children from harm.
6. In carrying out its licensing functions, a licensing authority must also have regard to:
 - The Act itself
 - The guidance to the act issued under Section 182 of the Act
 - Secondary regulations issued under the Act
 - The licensing authority's own statement of licensing policy
 - The application, including the operating schedule submitted as part of the application
 - Relevant representations.
7. The premises licence application process involves the provision of all relevant information required under the Act to the licensing authority with copies provided by the applicant to the relevant responsible bodies under the Act. The application must also be advertised at the premises and in the local press. The responsible authorities and other persons within the local community may make representations on any part of the application where relevant to the four licensing objectives.

KEY ISSUES FOR CONSIDERATION

The current premises licence

8. The current premises licence was issued on 17 January 2024 following a recent major variation in relation to the update, amend and replace Annex 3 conditions.

9. The hours on the current licence are:
 - The sale by retail of alcohol (off the premises):
 - Monday to Sunday: 08:00 to 00:00
 - The provision of late night refreshment (outdoors):
 - Monday to Sunday: 08:00 to 01:00
 - Opening hours:
 - Monday to Thursday: 06:30 to 01:00
 - Friday and Saturday: 06:30 to 03:00.
10. The designated premises supervisor (DPS) is Asim Mehmood.
11. A copy of the current premises licence is attached as Appendix A.

The variation application

12. On 17 January 2024 The Chelsea Food and Wine Company Limited applied to this Council to vary the premises licence granted under the Licensing Act 2003 in respect of the premises known as Waterloo Food and Wine, 187 Waterloo Road, London SE1 8UX
13. The application is summarised as follows:

“To vary the terminal hour for the sale of alcohol to 01:00 Sunday to Thursday and 03:00 Friday to Saturday, in accordance with the existing permitted hours for Late Night refreshment. No other changes are sought.”
14. The application seeks to increase the hours of sale alcohol Sunday to Thursday from midnight until 01:00 and on Friday and Saturdays from midnight to 03:00.
15. A copy of the application is attached to this report as Appendix B.

Representations from responsible authorities

16. Representations were received from the licensing authority and the police in their role as responsible authorities.
17. The police representation is focussed on the prevention of crime and disorder. The representation from the police is attached to this report as Appendix C. The police have submitted evidence in support of their representation. This evidence from the police is attached to this report as Appendix D.
18. The licensing authority representation is focussed on the prevention of crime and disorder, promotion of public safety and prevention of public nuisance. Their representation is attached to this report as Appendix E.

Representations from other persons

19. There are no representations submitted by other persons.

Conciliation

20. At the time of the writing of this report the representations have not been conciliated.

Premises licensing history

21. On 20 July 2005 a premises licence was issued in respect of the premises to Waterloo Wine Co. At this time the premises was known as the Bottle and Basket. The premises licence allowed:

- The sale by retail of alcohol (off the premises):
 - Monday to Saturday: 08:00 to 23:00
 - Sundays: 10:00 to 22:30
- Opening hours weekdays: 08:00 to 23:00

22. The premises changed ownership and was subsequently an application to review the premises licence was made on 4 April 2016. The review was initially heard on 26 April 2016. The meeting was adjourned and then reconvened on 24 May 2016. The sub-committee determined to suspend the premises licence for two weeks and attach the conditions that this application seeks to vary. The notice of decision from this sub-committee meeting is attached at Appendix F.

23. On 29 September 2017 a variation application was made to increase the hours of sale of alcohol for consumption off premises. The application was heard by the sub-committee on the 27 November 2017 and the terminal hour was subsequently increased to 00:00 (midnight).

24. On 17 March 2023 the premises was transferred to the incumbent licence holder and Asim Mehmood was specified as the designated premises supervisor.

25. On 20 March 2023 a minor variation application was made to update the plans of the premises to reflect a change of layout.

26. On 15 August 2023 a minor variation application was made to vary the opening hours of the premises to:

- Sunday to Thursday: 06:30 to 01:00
- Friday to Saturday: 06:30 to 03:00.

27. On 22 August 2023 a minor variation application was made to include late night refreshment in accordance with the opening hours of the premises.

28. On 17 November 2023 a major variation application was made to update, amend and remove conditions on Annex 3 of the licence.

Temporary event notices

29. In the 2023 calendar year, the premises has issued a number of temporary event notices (TENs) covering the following dates and activities:

- On 6 October 2023 a TEN was submitted to extend off sales of alcohol and late night refreshment on:
 - Friday 21 October 2023: 00:00 to 03:00
 - Saturday 22 October: 2023 00:00 to 03:00
- On 12 October 2023 a TEN was submitted to extend off sales of alcohol on:
 - Thursday 27 October 2023: 00:00 to 01:00
 - Friday 28 October 2023 00:00 to 03:00
 - Saturday 29 October 2023 00:00 to 03:00
- On 13 October 2023 a TEN was submitted to extend off sales of alcohol and late night refreshment on:
 - Thursday 3 November: 2023 00:00 to 01:00
 - Friday 4 November 2023: 00:00 to 03:00
 - Saturday 5 November: 2023 00:00 to 03:00
- On 13 October 2023 a TEN was submitted to extend off sales of alcohol on:
 - Thursday 10 November 2023: 00:00 to 01:00
 - Friday 11 November 2023: 00:00 to 03:00
 - Saturday 12 November 2023: 00:00 to 03:00
- On 13 October 2023 a TEN was submitted to extend off sales of alcohol on:
 - Thursday 17 November 2023: 00:00 to 01:00
 - Friday 18 November 2023: 00:00 to 03:00
 - Saturday 19 November 2023: 00:00 to 03:00
- On 13 October 2023 a TEN was submitted to extend off sales of alcohol on:
 - Friday 25 November 2023: 00:00 to 03:00
 - Saturday 26 November 2023: 00:00 to 03:00
- On 13 October 2023 a TEN was submitted to extend off sales of alcohol on:
 - Friday: 2 December 2023: 00:00 to 03:00
 - Saturday: 3 December 2023: 00:00 to 03:00
- On 13 October 2023 a TEN was submitted to extend off sales of alcohol on:
 - Friday 9 December 2023: 00:00 to 03:00
 - Saturday 10 December 2023: 00:00 to 03:00

- On 13 October 2023 a TEN was submitted to extend off sales of alcohol on:
 - Friday 16 December 2023: 00:00 to 03:00
 - Saturday 17 December 2023: 00:00 to 03:00
- On 13 October 2023 a TEN was submitted to extend off sales of alcohol on:
 - Friday 23 December 2023: 00:00 to 03:00
 - Saturday: 24 December 2023 00:00 to 03:00
- On 13 October 2023 a TEN was submitted to extend off sales of alcohol on:
 - Friday: 30 December 2023: 00:00 to 03:00
 - Saturday 31 December 2023: 00:00 to 03:00.

Complaints

30. There are no recent complaints to licensing in relation to the premises.

Map

31. A map showing the location of the premises is attached to this report as Appendix F. Similar premises in the locality (100 metres) include:

Travelodge Hotel, St Georges House, London SE1 8UX, licensed for:

- Sale by retail of alcohol to be consumed on and off the premises:
 - Monday to Sunday: 24 hours
- Late night refreshment:
 - Monday to Sunday: 23:00 to 05:00
- Opening hours:
 - Monday to Sunday: 24 hours

The Crown, 108 Blackfriars, London SE1 8HW, licensed for:

- Sale by retail of alcohol to be consumed on and off the premises:
 - Sunday to Thursday: 10:00 to 00:00
 - Friday to Saturday: 10:00 to 01:00
- Regulated entertainment (facilities for dancing, making music, and live music - indoors):
 - Sunday to Thursday: 10:00 to 00:30
 - Friday to Saturday: 10:00 to 01:30

- Recorded music (Indoors):
 - Sunday to Thursday: 10:00 to 00:00
 - Friday to Saturday: 10:00 to 01:00
- Late night refreshment (indoors):
 - Sunday to Thursday: 10:00 to 00:30
 - Friday to Saturday: 10:00 to 01:30
- Opening hours:
 - Sunday to Thursday: 10:00 to 00:30
 - Friday to Saturday: 10:00 to 01:30

Masters Cafe, Unit 3, 109-115 Blackfriars Road, London SE1 8HW, licensed for:

- Sale by retail of alcohol to be consumed on and off the premises:
 - Monday to Sunday: 10:00 to 22:30
- Opening hours:
 - Monday to Sunday: 07:00 to 23:00.

Southwark Council statement of licensing policy

32. Council assembly approved Southwark's statement of licensing policy 2021-2026 on 25 November 2020 and it came into effect on 1 January 2021.
33. 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.
34. 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.
35. 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)

36. The premises is situated within a cumulative impact area. The area is listed as both a strategic cultural centre and a district town centre. As such there is a presumption against the grant for the variation of existing premises licences.
37. Under the Southwark statement of licensing policy 2021 - 2026 the following closing times are recommended as appropriate within this area for premises operating as:
- Closing time for off licences and alcohol sales in grocers and supermarkets:
 - 00:00 daily.

Climate change implications

38. Following council assembly on 14 July 2021, the council is committed to considering the climate change implications of any decisions.
39. 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.
40. 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.
41. 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

42. 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

43. 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.
44. 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.

45. 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>.

46. The equalities impact assessment is available at:

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

Health impact statement

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

Resource implications

48. 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 B.

Consultation

49. 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 at both the front and rear of the premises.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Assistant Chief Executive – Governance and Assurance

50. The sub-committee is asked to determine the application for a premises licence under Section 17 of the Licensing Act 2003.

51. The principles which sub-committee members must apply are set out below.

Principles for making the determination

52. The sub-committee is asked to determine the application for a premises licence under Section 17 of the Licensing Act 2003.

53. The principles which sub-committee members must apply are set out below.

54. 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.

55. 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.
56. 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

57. 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.
58. The four licensing objectives are:
- The prevention of crime and disorder
 - Public safety
 - The prevention of nuisance
 - The protection of children from harm.
59. 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.
60. 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.

61. 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

62. 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

63. 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.

64. 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

65. 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.
66. 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.
67. 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.
68. 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.
69. 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.
70. 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.
71. 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.

72. 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

73. 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

74. 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	Southwark Licensing, C/O	Mrs Kirty Read Tel: 020 7525 5748
Home Office Revised Guidance to the Act	Community Safety and Enforcement, 160	
Secondary Regulations	Tooley Street, London SE1 2QH	
Southwark statement of licensing policy		
Case file		

APPENDICES

Name	Title
Appendix A	The current premises licence issued in respect of the premises
Appendix B	Variation application (881569)
Appendix C	Representation from the police
Appendix D	Supporting evidence from the police
Appendix E	Representation from the licensing authority
Appendix F	Decision notice from 2016 review
Appendix G	Map of the area

AUDIT TRAIL

Lead Officer	Tony Ainge, Strategic Director of Environment, Neighbourhoods and Growth	
Report Author	Andrew Heron, Principal Licensing Officer	
Version	Final	
Dated	4 April 2024	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Assistant Chief Executive Governance and Assurance	Yes	Yes
Strategic Director of Finance	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional Team	4 April 2024	