

Meeting Name:	Licensing Sub-Committee
Date:	16 May 2024
Report title:	Licensing Act 2003: These Days Aperitivo Bar, 100 Druid Street, London SE1 2HQ
Ward(s) or groups affected:	London Bridge and West Bermondsey
Classification:	Open
Reason for lateness (if applicable):	N/a

RECOMMENDATION

1. That the licensing sub-committee considers an application made by Oliver Man to vary the premises licence granted under the Licensing Act 2003 in respect of the premises known as the These Days Aperitivo Bar, 100 Druid Street, London SE1 2HQ.
2. Notes:
 - a) The application seeks to vary the premises licence held in respect of the premises known as the These Days Aperitivo Bar, 100 Druid Street, London SE1 2HQ 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 9 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 10 to 18 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 are attached at Appendix C
 - d) Paragraphs 19 to 30 of this report deal with the representations submitted in respect of the application. Copies of the representations are attached to this report at Appendix D and conciliation correspondence is attached at Appendix E.
 - e) Paragraphs 31 to 34 is a summary of the history of the premises.
 - f) A map showing the location of the premises is attached to this report at Appendix E.

- 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 These Days Aperitivo Bar, 100 Druid Street, London SE1 2HQ was first issued on 25 April 2023 and allows the following licensable activities:

- **The sale of alcohol to be consumed off the premises:**
 - Monday to Sunday: 10:00 to 22:30
- **The sale of alcohol to be consumed on the premises:**
 - Monday to Sunday: 10:00 to 22:30
- **Opening hours:**
 - Monday to Sunday: 10:00 to 23:00.

9. A copy of the existing premises licence is attached at Appendix A.

The variation application

10. On 23 January 2024 Oliver Man applied to this council to vary the premises licence granted under the Licensing Act 2003 in respect of the premises known as These Days Aperitivo Bar, 100 Druid Street, London SE1 2HQ. The application was missing some information which resulted in delaying the consultation period.

11. The application is summarised as follows:

12. The variation application is summarised as follows:

To extend the closing times on a Thursday, Friday and Saturday one hour from 23:00 hours to midnight and extend the on-sales of alcohol by one hour.

13. The application asks to make the variations to the current premises licence as listed below.

14. Vary the on-sales of alcohol and closing times by extending the terminal hours on a Thursday, Friday and Saturday by hour to end at 00:00 (midnight) and 23:30 respectively, the proposed new times would be:

- **The sale of alcohol to be consumed off the premises:**
 - Monday to Sunday: 10:00 to 22:30
- **The sale of alcohol to be consumed on the premises:**
 - Sunday to Tuesday: 10:00 to 22:30
 - Wednesday to Saturday: 10:00 to 23:30
- **Opening hours:**
 - Sunday to Tuesday: 10:00 to 23:00
 - Wednesday to Saturday: 10:00 to 00:00.

15. To remove the following three conditions:

- 365 All external doors and windows shall be kept closed after 21.00 on any day, except for access and egress.
- 369 The outside drinking area may only be used by customers on Thursdays 17:00 to 21:00hrs, Fridays 16:00hrs and 21:00hrs, Saturdays between 11:00hrs and 21:00hrs, Sunday 12:00hrs to 18:00hrs.

Note – There is another existing condition that also controls customers using the outside area 363 “The designated outside area must be cleared of customers and street furniture by no later than 22:00 with the exception of those who temporarily leave the premises to smoke, this shall be limited to five persons and shall be controlled by staff.”

- 840 That the premises shall not exceed a capacity of 60 people.

Note – this condition is in annex 3 of the premises licence indicating that it was imposed by the Licensing Sub-Committee at a previous hearing.

16. To add the following conditions relating to the removed conditions:

- Careful control of number of customers in the arch at any one time.
(Vague and unenforceable as there is no overcrowding criteria)
- The outside area will close an hour before full closing time
(Vague and unenforceable as it conflicts with existing condition 363)

17. Other proposed conditions in the application’s operating schedule appear to be a copy of existing conditions that already appear on the licence.

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

Representations from responsible authorities

19. A representation was submitted by the Metropolitan Police Service to promote the licensing objective for prevention of crime and disorder and by the Council Licensing Authority to promote the prevention of crime and disorder and the prevention of public nuisance licensing objectives.

20. The police representation says that the application attempts to address the licensing objectives and proposes numerous conditions. However the application doesn’t effectively cover every aspect of the licensing objectives and the application requires further alterations as the wording of some conditions are quite vague and are not enforceable.

21. The police point out that Section 182 statutory guidance states that conditions should be precise and enforceable and say that if the license is to be granted in its

current form it would have a negative impact on the licensing objective for the prevention of crime and disorder.

22. The licensing authority representation describes the locality of the premises in Druid Street as quiet during the evening. The premises forms part of the “Bermondsey beer mile,” which comprises of local brewers, bars and distilleries in and near to Druid Street. There are 12 licensed premises in Druid Street that form part of the “Bermondsey beer mile” and is one of the highest concentrations of bars in any one road in the Borough. The representation also expresses concerns with the potential for cumulative impact.
23. According to the Southwark statement of licensing policy the premises is in a residential area with recommended closing times for public houses, wine bars, or other drinking establishments and bars in other types of premises on Monday to Sunday of 23:00. These recommended closing times are to protect residents
24. The representation says that the premises is directly opposite the Arnold Estate where hundreds of residents/families live and it is not appropriate to allow premises to sell alcohol later than 23:00 in an area with so many residential properties in close proximity is likely to have a detrimental effect on the quality of life for local residents.
25. Also the representation states that premises selling alcohol often become hubs for crime and disorder, anti-social behaviour and nuisance and confrontations can often arise between customers. The Bermondsey Beer Mile itself has become a hub for drinkers from all over London.
26. Licensing object to any extension of the premises’ operating hours and to the removal of current licence conditions.
27. The licensing authority also submitted additional evidence in support of their objection, this included a magistrate’s court appeal decision to refuse an appeal for a similar variation application for a premises at 46 Druid Street. While this decision is not binding on the Licensing Sub-Committee it can be considered in relation to determining this application for 100 Druid Street.
28. A copy of the representations submitted by the Metropolitan Police Service and the licensing authority is attached at Appendix C.

Representations from other persons

29. No representations have been submitted by other persons.

Conciliation

30. The applicant’s representative has corresponded with both the police and the council’s licensing responsible authority. At the time of writing the report no conciliation agreement has been made.

Premises licensing history

31. The original premises licence application in respect of the premises was contested by two responsible authorities, and one other person. The responsible authorities agreed additional conditions and withdrew their representations.
32. The premises licence was issued to Oliver Man on 25 April 2023 following a hearing by the licensing sub-committee on 23 March 2023 who decided to impose one additional condition:
- 840 That the premises shall not exceed a capacity of 60 people.
33. There have been 3 temporary event notices (TENs) submitted in respect of the premises, detailed below:

start date	end date	times	max no people	sale of alcohol	for consumption	reg ent	late night refresh	police obj	ept obj
09/12/2023	10/12/2023	23:00 to 01:00	50	Yes	On Premises	No	No	No	No
31/12/2023	01/01/2024	23:00 to 02:00	50	Yes	On Premises	No	No	No	No
13/04/2024	14/04/2024	23:00 to 01:00	60	Yes	On Premises	No	No	No	No

Complaints

34. There have been no complaints made to the council regarding this premises.

Map

35. A list of similar licensed premises in Druid Street with sale of alcohol and opening times are in Appendix D.
36. A map showing the location of the premises is attached to this report as Appendix E.

Southwark Council statement of licensing policy

37. Council assembly approved Southwark's statement of licensing policy 2021-2026 on 25 November 2020 and came into effect on 1 January 2021.
38. 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.
39. 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.
40. 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)

41. The premises are not situated in a cumulative impact area.
42. The premises falls within a residential area.

43. 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:

- Public houses, wine bars or other drinking establishments:
 - Monday to Sunday 23:00.

Climate change implications

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

45. 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.

46. 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.

47. 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

48. 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

49. 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.

50. 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.

51. 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>.

52. The equalities impact assessment is available at:

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

Health impact statement

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

Resource implications

54. 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 rateable value C.

Consultation

55. 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

56. 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

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

Principles for making the determination

59. 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.
60. 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.
61. 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.
62. 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

63. 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.
64. The four licensing objectives are;
 - The prevention of crime and disorder
 - Public safety
 - The prevention of nuisance
 - The protection of children from harm.
65. 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.
66. 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.

67. 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 three conditions in respect of irresponsible promotions, the oral dispensing of alcohol and free tap water. In October 2010 an additional two conditions came into force – age verification policy and smaller measures for alcoholic drinks.
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 to vary the premises licence, 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 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

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.

Guidance

80. 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

81. 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 and notice of decision
Appendix B	Copy of the variation application
Appendix C	Responsible authority representations
Appendix D	Licensed premises in Druid Street
Appendix E	Map showing the location of the premises

AUDIT TRAIL

Lead Officer	Toni Ainge, Strategic Director of Environment, Neighbourhoods and Growth	
Report Author	David Franklin, Principal Licensing Officer	
Version	Final	
Dated	7 May 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		7 May 2024