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| Item No. 6. | Classification: Open | Date: 24 November 2016 | Meeting Name: Licensing Sub-Committee |
| Report title: | | Licensing Act 2003: Unit 60 Druid Street and Arches 30-33 Tanner Street, London SE1 2HQ | |
| Ward(s) or groups affected: | | Riverside | |
| From: | | Strategic Director of Environment and Leisure | |

RECOMMENDATION

1. That the licensing sub-committee considers an application made by Doodle Bar Ltd for a premises licence to vary the premises granted under the Licensing Act 2003 in respect of the premises known as Tanner Street Doodle Bar, Unit 60 Druid Street and Arches 30-33 Tanner Street, London SE1 2HQ.
2. Notes:
 - a) This application seeks to vary existing licensable activities held under current legislation in respect of the premises known as Tanners Street Doodle Bar Unit 60 Druid Street and Arches 30-33 Tanner Street, London SE1 2HQ under Section 34 of the Licensing Act 2003. Existing permitted licensable activities are not the subject of representations and are not under consideration at this meeting. The variation application is subject to representations from responsible authorities and is therefore referred to the sub-committee for determination.
 - b) Paragraphs 10 to 11 of this report provide a summary of the application under consideration by the sub-committee. A copy of the full application is attached as Appendix A. A copy of the existing premises licence is attached as Appendix B.
 - c) Paragraphs 13 to 22 of this report deals with the representations received to the premises licence application and conciliations progress made. Copies of the relevant representations from responsible authorities are attached as Appendix C.
 - d) Paragraph 25 deals with licensed premises within a 100m radius of the premises. A map of the area is attached as Appendix D.
 - 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 regulations, has been circulated to all parties to the meeting.

BACKGROUND INFORMATION

The Licensing Act 2003

3. The Licensing Act 2003 provides a 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 in September 2016 to Doodle Bar Ltd.
 - The premises licence allows for the following activities and times:
Sale of alcohol for consumption on/off the premises
Monday to Sunday 10:00 - 22:30 hours
 - Opening hours
Monday to Sunday 10:00 - 23:00 hours.
9. A copy of the premises licence is provided as Appendix B.

The variation application

10. On 27 September 2016, Doodle Bar Ltd. applied to this council to vary the premises licence issued in respect of the premises known as Tanner Street Doodle Bar Unit 60 Druid Street and Arches 30-33 Tanner Street, London SE1 2HQ. The initial application for a grant described the premises as being a market, gallery, street food restaurant, bar and exhibition space. The site covers a series of interconnected railway arches that border the junction of Druid Street and Tanner Street.

The application is summarised as follows:

- To extend recorded music (indoors) from the deregulated finish time of 23:00 hours to;
Sunday to Thursday 23:00 to 01:00 hours
Friday and Saturday 23:00 to 02:00 hours
 - To extend live music (indoors) from the deregulated finish time of 23:00 hours to;
Sunday to Thursday 23:00 to 01:00 hours
Friday and Saturday 23:00 to 02:00 hours
 - To extend late night refreshment (indoors) on;
Sunday to Thursday 23:00 to 01:00 hours
Friday and Saturday 23:00 to 02:00 hours
 - To extend sale of alcohol hours for consumption on/off the premises on;
Sunday to Thursday 22:30 to 01:00 hours
Friday and Saturday 22:30 to 02:00 hours
 - To extend the opening hours of the premises to
Sunday to Thursday 23:00 to 01:30 hours
Friday and Saturday 23:00 to 02:30 hours.
11. The variation to the premises application form provides the applicant operating schedule. Parts E, F, I, J, K, L, M, N O and P set out the proposed operating hours and operating controls 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 P of the operating schedule will form the basis of conditions that will be attached to the licence. A copy of the application is attached to this report as Appendix A.

Designated premises supervisor

12. The proposed designated premises supervisor is Vincent Barbe who has a personal licence issued by Westminster Council.

Representations from responsible authorities

13. There are four representations submitted by the Metropolitan Police service (MPS), environmental protection team (EPT), licensing (as a responsible authority) and public health.
14. The police representation states that the premises are situated in a residential area as designated by the Southwark statement of licensing policy 2016-2020. The doors to the venues entrances, both in Druid Street and Tanner Street, exit immediately onto the public highway. It is also noted that adjacent to both entrances are residential buildings. No additional control measures have been offered and they believe that any extension to the hours could give rise to crime and disorder and public nuisance
15. The EPT state that the premises is in several railway arches, the current design and layout of these arches premises will not prevent the possibility of a public nuisance when live or recorded music is being played in the premises to the neighbouring

residential premises. The application does not offer any further control measures to address the public nuisance objectives in the operating schedule.

16. The licensing representation is concerned with public nuisance and the prevention of crime and disorder as the application does not offer any further control measures to address those objectives in the operating schedule. The premises is situated in a residential area and under the Southwark statement of licensing policy 2016 – 2020 the appropriate closing times for restaurants, public houses, wine bars or other drinking establishments in this area is 23:00 daily.
17. They recommend refusal of this application unless the applicant can demonstrate that the premises will not be contributing to crime and disorder and public nuisance within the policy area.
18. Furthermore the licensing authority have reiterated conditions which relate to the signage of consumption alcohol off sales, accommodation limit and dispersal policy that were requested and submitted/agreed upon, but however do not show on the current licence.
19. The public health section have concerns regarding the hours of alcohol sales requested. Southwark's statement of licensing policy recommends an end time for alcohol sales of 23:00 daily for this type of establishment in this location and recommend that this application for a variation is rejected.
20. The representations are attached as Appendix C.

Representation from other persons

21. There are no representations from other persons.

Conciliation

22. The representations were forwarded to the applicant. The licensing sub-committee will be updated of any developments on 24 November 2016.

Temporary events

23. The premises has submitted temporary event notices this year (between 27 July and 25 August 2016 10:00 – 23:00) for 21 days spread over eight events.

Complaints

24. There have been no complaints specifically related to the premises received by the licensing team within the last 12 months.

The local area

25. A map of the area is attached to this report as Appendix D. The premises is identified by a triangle at the centre of the map. For purposes of scale-only the circle on the map has a 100-metre radius. The following licensed premises terminal hours are also shown on the map.

Public houses/restaurants

- Marquis of Wellington PH, 21 Druid Street, SE1 (Monday – Wednesday until 23:00; Thursday until 00:00; Friday & Saturday until 01:00; Sunday until 00:00) - Currently closed for operation.
- Elmadero, Railway Arch 840, 30 Druid Street SE1 (Monday – Sunday until 23:00)
- Southwark Brewing Company Limited, 46 Druid Street, SE1 (Monday – Sunday until 23:00)
- St John Bakery Company Ltd, 72 Druid Street, SE1 (Monday – Sunday until 23:00)
- Bea's of Bloomsbury Railway Arch, 76 Druid Street, SE1 (Monday – Sunday until 22:00)
- Maltby & Greek wholesalers, Railway Arch, 76 Druid Street, SE1 (Monday – Sunday until 22:00)
- Comptoir Gourmand, 98 Druid Street, SE1 (Monday – Sunday until 23:00)
- Anspach & Hobday, 116 - 118 Druid Street, SE1 (Monday – Sunday until 23:00)
- Bottles, 128 Druid Street, SE1 (Monday – Sunday until 23:00)
- Lemporio, 134 Druid Street, SE1 (Sunday - Wednesday until 22:00 and Thursday – Saturday until 23:00)

Deregulation of entertainment

26. On 6 April 2015 entertainment became deregulated and as a result:
 - Live unamplified music is deregulated between 08:00 – 23:00 on any premises.
 - Live amplified music is deregulated between 08:00 and 23:00 provided the audience does not exceed 500 people.
27. However, live music can become licensable in on-licensed premises if the licensing authority removes the effect of the deregulation following a licence review ('licence review mechanism').

Southwark Statement of Licensing Policy

28. Within the Southwark statement of licensing policy 2016 - 2020 the following closing times are recommended as appropriate within this area for this categories of premises as follows:
 - Closing time for restaurants and cafes: Sunday to Thursday is 00:00 hours and for Friday and Saturday is 01:00 hours
 - Closing time for public houses, wine bars or other drinking establishments: Sunday to Thursday is 23:00 hours and for Friday and Saturday 00:00 hours
 - Closing time for hotel bars and guest houses : No restrictions for residents

- Closing time for night clubs (with sui generis planning classification) : Monday to Thursday is 01:00 hours and for Friday and Saturday 03:00 hours and for Sunday 00:00 hours
 - Closing time for off-licences and alcohol sales in grocers and supermarkets is 00:00 hours daily
 - Closing time for take-away establishment: Sunday to Thursday is 00:00 hours and for Friday and Saturday is 01:00 hours
 - Closing time for cinemas and theatres is 02:00 hours daily
 - Closing time for vessels is 23:00 hours daily
 - Closing time for qualifying members club is 02:00 hours daily.
29. Council assembly approved Southwark's statement of licensing policy 2016-20 on 25 November 2015. 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. To be read in conjunction with Appendix B to the policy.
 - 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.
30. 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.

Resource implications

31. A fee of £315 has been paid by the applicant company in respect of this application being the statutory fee payable for premises within non-domestic rateable value band A.

Consultations

32. 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 a similar notice exhibited outside of the premises for a period of 28 consecutive days.

Community impact statement

33. 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

Director of Law and Democracy

34. The sub-committee is asked to determine the variation application for a premises licence under section 34 of the Licensing Act 2003.
35. The principles which sub-committee members must apply are set out below.

Principles for making the determination

36. 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.
37. 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.
38. 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.
39. 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

40. 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.
41. The four licensing objectives are:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of nuisance
 - The protection of children from harm.
42. 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.
43. 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.
44. The Licensing Act requires mandatory conditions in respect of supply of alcohol, the exhibition of films and in respect of door supervisors. The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2003 introduced 3 new conditions in respect of irresponsible promotions, the oral dispensing of alcohol and free tap water. In October 2010 an additional 2 conditions will come into force – age verification policy and smaller measures for alcoholic drinks.
45. 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

46. 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

47. 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.
48. 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

49. 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.
50. 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.
51. 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.
52. 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.

53. 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.
54. 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.
55. 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.
56. 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

57. 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 and Governance

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

APPENDICES

| Name | Title |
|------------|--|
| Appendix A | Variation application |
| Appendix B | Current licence |
| Appendix C | Representations from responsible authorities |
| Appendix D | Map of the local area |

AUDIT TRAIL

| | | |
|---|--|--------------------------|
| Lead Officer | Deborah Collins, Strategic Director of Environment and Leisure | |
| Report Author | Dorcas Mills, Principal Licensing Officer | |
| Version | Final | |
| Dated | 12 November 2016 | |
| Key Decision? | No | |
| CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER | | |
| Officer Title | Comments sought | Comments included |
| Director of Law and Democracy | Yes | Yes |
| Strategic Director of Finance and Governance | Yes | Yes |
| Cabinet Member | No | No |
| Date final report sent to Constitutional Team | | 12 November 2016 |