

Item No. 5.	Classification: Open	Date: 14 January 2021	Meeting Name: Licensing Sub-Committee
Report title:		Licensing Act 2003: Lokma Restaurant, 11 Bermondsey Square, London SE1 3UN	
Ward(s) or groups affected:		London Bridge & West Bermondsey	
From:		Strategic Director of Environment and Leisure	

RECOMMENDATION

1. That the licensing sub-committee considers an application made by Lokma Limited for a premises licence to vary the premises granted under the Licensing Act 2003 in respect of the premises known as Lokma Restaurant, 11 Bermondsey Square, London SE1 3UN.
2. Notes:
 - a) This application seeks to vary existing licensable activities held under current legislation in respect of the premises known as Lokma Restaurant, 11 Bermondsey Square, London SE1 3UN 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 8 to 12 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 and the notice of decision made on 23 April 2018 are attached as Appendix B.
 - c) Paragraphs 13 to 23 of this report deals with the representations received to the premises licence application and conciliations progress made (if any). Copies of the relevant representations from responsible authorities are attached as Appendix C.
 - d) Paragraph 29 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 on 22 May 2018 to Lokma Limited is attached as Appendix B. The premises licence allows for the following activities and times:

- **Live Music (indoors):**
 - Sunday to Thursday: 12:00 to 00:00
 - Friday and Saturday: 12:00 to 01:00
- **Recorded Music (indoors):**
 - Sunday to Thursday: 12:00 to 00:00
 - Friday and Saturday: 12:00 to 01:00
- **Performance of dance (indoors)**
 - Sunday to Thursday: 12:00 to 00:00
 - Friday and Saturday: 12:00 to 01:00
- **Late night refreshment (indoors and outdoors)**
 - Sunday to Thursday: 23:00 to 00:00
 - Friday and Saturday: 23:00 to 01:00
- **Sale by retail of alcohol to be consumed on premises**
 - Sunday to Thursday: 07:00 to 00:00
 - Friday and Saturday: 07:00 to 01:00
- **Sale by retail of alcohol to be consumed off premises**
 - Monday to Saturday: 09:00 to 23:00
 - Sunday: 12:00 to 22:30
- **Opening hours**
 - Sunday to Thursday: 07:00 to 00:30
 - Friday and Saturday: 07:00 to 01:30

The variation application

9. On 13 November 2020 Lokma Limited applied to this Council to vary the premises licence issued in respect of the premises known as Lokma Restaurant, 11 Bermondsey Square, London SE1 3UN. The premises is described as a restaurant.
10. The application is summarised as follows:
 - To vary the existing premises licence so as to remove the following two conditions:
 - 312 - That the external seating area is to be curfewed at 22.00.
 - 843 - The external area will be out of use by patrons between

22:00 and 07:00, with all outdoor furniture rendered unusable by 22:15 each day.

11. The variation to the premises application form provides the applicant operating schedule. Parts E, F, 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 Shahrokh Parvin who has a personal licence issued by Hammersmith & Fulham Council.

Representations from responsible authorities

13. There are three representations submitted by responsible authorities, namely the Metropolitan Police Service, the environmental protection team and licensing (as a responsible authority).
14. The police are concerned about the removal of conditions 312 and 843 of the premises licence, which restricts the operation of the premises in the outside area. The premises are situated on the ground floor of a large residential block and has a number of residential premises in the immediate vicinity including directly above the outside area.
15. The police advise that the premises was subject to a review of the licence in 2018. The review was submitted by a local resident and a number of control measures were added to the licence. Condition 843 was placed on the licence as a result of the hearing. This application seeks to remove the conditions in their entirety, no replacement or additional control measures have been offered by the applicant.
16. The environmental protection team concerns relate to Lokma restaurant being in close proximity to several residential properties. Their records show that premises has a long history of causing noise from music and patrons using the venue. The premises conditions were reviewed following the review and the above conditions were applied to prevent the occurrences of public nuisance.
17. The environmental protection team advise that the removal of these conditions could lead to the return of the problems encountered before the review and can affect the quality of life of life of the nearby residential occupants. The environmental protection team does not have confidence in the management's ability to prevent public nuisance, primarily because of the location of the premises in relationship to the residents. The applicant also did

not give any mitigating measures that they intend to apply in order to prevent causing a nuisance.

18. The licensing as a responsible authority representation is based on the Southwark statement of licensing policy 2019 - 2021 and relates to the licensing objectives for the prevention of crime and disorder and the prevention of public nuisance. Licensing advise that the premises is situated in a residential area and the current premises licensed hours granted already exceed that which is recommended within the licensing policy (closing times 23:00 daily).
19. Condition 843, which the applicant seeks to remove was added to the premises licence by the licensing sub-committee on 23 April 2018 in order to promote the licensing objectives.
20. On 29 June 2018 breaches of the license conditions were observed by the police and a Section 19 notice was served on the premises. More recently, following a complaint received from a local resident, a licensing officer visited the premises on 25 July 2020 and witnessed breaches of conditions 312 and 843 on the premises (the same conditions that the applicant is seeking to remove).
21. The representations are attached as Appendix C.

Representation from other persons

22. There are no representations from other persons from other persons

Conciliation

23. The representations were forwarded to the applicant. The licensing sub-committee will be updated of any developments on 14 January 2021.

History of premises

24. The initial premises licence was issued to Del Aziz Limited on 19 February 2009. The designated premises supervisor was shahrokh Parvin, whom remains in place to this time.
25. On 18 December 2017 an application to transfer the premises licence to Lokma Limited was received and granted with immediate effect.
26. On 23 April 2018 the licensing sub-committee determined an application for a review of the premises licence submitted by a local resident who was being subjected to public nuisance. The notice of decision forms part of Appendix B.

Complaints

27. The following complaints have been received by the authority regarding the premises from 2019 to date:

Date	Complainant	Details
4/2/2019	Local Resident	Loud music from restaurant.
24/2/2019	Local Resident	Loud music from restaurant.
7/10/2019	Local Resident	Loud music from restaurant.
27/07/2020	Local Resident	Loud music. Suspects sound limiter not being used.

Temporary events notices (Tens)

28. No temporary events notices have been issued this year.

The local area

29. 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. The following licensed premises terminal hours are also shown on the map.

- The Larder at Bermonds Locke, 153-157 Tower Bridge Road, SE1(Monday to Sunday: 23:00
- Premier Inn London Hotel, 159 Tower Bridge Road, London SE1 ((24 hours) Monday to Sunday: 01.00 for licensable activities)
- Village East, 171 – 173 Bermondsey Street, London SE1 (Monday to Thursday: 00:30, Friday and Saturday: 02:30 and Sunday: 23:30)
- South Point Suites, 190 Bermondsey Street, London SE1 (24 hours)
- Pizarro Restaurant, 194-204 Bermondsey Street, London SE1 (Monday to Saturday: 00:30 and Sunday: 00:00)
- Antico, 214 Bermondsey Street, London SE1(Monday to Wednesday: 23:00, Thursday: 00:00, Friday and Saturday: 01:30 and Sunday: 22:30)
- Constancia Argentine Grill, 52 Tanner Street, London SE1 (Monday to Saturday: 23:00 and Sunday: 22.30).
- Pique Nique, 32 Tanner Street, London SE1 (Monday to Saturday: 22:00 and Sunday: 18:00)
- Ugly Duck, 47-49 Tanner Street, London SE1 (Sunday to Thursday: 22:30 and Friday and Saturday: 23:00)
- Co-Op, 168B Tower Bridge Road, London SE1 (24 hours)
- Magdalene TA, Purbrook Street, London SE1 (Sunday to Thursday: 00;00 and Friday and Saturday: 01:00)

- Franco Manca, 126 Bermondsey Street, London SE1, (Monday to Friday: 23:00, Saturday: 00:00 and Sunday: 22:30)
- Shortwave, 10 Bermondsey Square, London SE1 (Monday to Wednesday:23:00 and Friday to Sunday: 00:00)
- Bermondsey Square Hotel, Bermondsey Square, London SE1(24 hours) Monday to Sunday: 02:00 for licensable activities)
- Sainsbury's Supermarket, 13-14 Bermondsey Square, London SE1 (24 hours) Monday to Sunday: 00:00 for licensable activities).

Deregulation of entertainment

30. On 6 April 2015 entertainment became deregulated and as a result:

- Live unamplified music is deregulated between 08:00 and 23:00 on any premises.
- Live amplified music and recorded music are deregulated between 08:00 and 23:00 at on licensed premises for an audience of up to 500 people.
- Plays and the performance of dance are deregulated between 08:00 and 23:00 for an audience of up to 500 people.

31. Indoor sporting events are deregulated between 08:00 and 23:00 for an audience of up to 1000 people.

32. Live music and recorded music can become licensable in on-licensed premises if the licensing authority removes the effect of deregulation following a licence review ('licence review mechanism').

33. The showing of films has not been de-regulated.

Business and Planning Act

34. The provisions in the Act temporarily modify the Licensing Act 2003 to provide an automatic extension to the terms of most premises licences which only permit the sale of alcohol for consumption on the premises to allow the sale of alcohol for consumption off the premises. This will make it easier for licensed premises to sell alcohol to customers for consumption off the premises in England and Wales, which will allow businesses to trade and maintain social distancing.

Cumulative impact area

35. The premises sits outside of a cumulative impact area but within a residential area.

Southwark council statement of licensing policy

36. Council assembly approved Southwark's statement of licensing policy 2019 - 2021 on 27 March 2019. The policy came into effect on 28 March 2019. 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.
37. 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.
38. Within the Southwark statement of licensing policy 2019 - 2021 the following closing times are recommended as appropriate within this area for this categories of premises as follows:

- Restaurants, cafes, public houses, wine bars or other drinking establishments: 23:00 daily.
- Hotel bars and guest houses: no restrictions for residents.

Resource implications

39. A fee of £190 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 B.

Consultation

40. Consultation has been carried out in respect of this application in accordance with the provisions of the Licensing Act 2003. A public notice was published in a local newspaper twice (there was an error on the initial advert; however, this was republished within the specified time period to the satisfaction of the Licensing Authority). A similar notice exhibited at the premises for a period of 28 consecutive days. This was inspected by a Licensing Officer during the consultation period and found to be compliant.

Community impact statement

41. 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

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

Principles for making the determination

44. 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.
45. 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.
46. 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.
47. 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

48. 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.
49. The four licensing objectives are
- The prevention of crime and disorder
 - Public safety
 - The prevention of nuisance
 - The protection of children from harm.
50. 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.
51. 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.
52. 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 new conditions in respect of irresponsible promotions, the oral dispensing of alcohol and free tap water. In October 2010 an additional two conditions will come into force – age verification policy and smaller measures for alcoholic drinks.
53. 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

54. If the sub-committee determines that it is necessary to modify the conditions, or to refuse the application for to vary the premises licence, it must give reasons for its decision.

Hearing procedures

55. 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
 - 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.

The council's multiple roles and the role of the licensing sub-committee

56. 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.
57. 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.
58. 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.
59. 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.
60. 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.
61. 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.
62. 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

63. Members are required to have regard to the Home Office revised 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

64. 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 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 and notice of decision from 23 April 2018
Appendix C	Representations from responsible authorities
Appendix D	Map of the local area

AUDIT TRAIL

Lead Officer	Caroline Bruce, Strategic Director of Environment and Leisure	
Report Author	Dorcas Mills, Principal Licensing Officer	
Version	Final	
Dated	4 January 2021	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law & Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	No
Cabinet Member	No	No
Date final report sent to Constitutional Team	4 January 2021	