

Item No. 5.	Classification: Open	Date: 5 May 2021	Meeting Name: Licensing Sub-Committee
Report Title		Licensing Act 2003: The Miller, Miller of Mansfield, 96 Snowfields, London SE1 3SS	
Ward(s) of group(s) affected		London Bridge & West Bermondsey	
From		Strategic Director of Environment and Leisure	

RECOMMENDATION

1. That the licensing sub-committee considers an application made by Bunsmiths Ltd for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as The Miller, Miller of Mansfield, 96 Snowfields, London SE1 3SS.
2. Notes:
 - a) This application forms a new application for a premises licence, submitted under Section 17 of the Licensing Act 2003. The application is subject to representations from responsible authorities and other persons 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.
 - c) Paragraphs 13 to 23 of this report deal with the representations submitted in respect of the application. A copy of the representation from the responsible authority is attached as Appendix B. Copies of the representations from other persons are attached as Appendix C. A copy of the lapsed premises licence is attached as Appendix D.
 - d) Paragraph 30 deals with licensed premises within a 100 metre radius of the premises. A map of the area is attached 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 regulations, has been circulated to all parties to the meeting.

BACKGROUND INFORMATION

The Licensing Act 2003

3. The Licensing Act 2003 provides a licensing regime for:

- The sale of and supply of alcohol
 - The provision of regulated entertainment
 - The provision of late night refreshment.
4. Within Southwark, this council wholly administers the licensing responsibility.
 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 interested parties within the local community may make representations on any part of the application where relevant to the four licensing objectives.

KEY ISSUES FOR CONSIDERATION

The premises licence application

8. On 3 March 2021, Bunsmiths Ltd applied to this council for the grant of a premises licence in respect of The Miller, Miller of Mansfield, 96 Snowfields, London SE1 3SS.
9. The premises is described as a public house with kitchen and theatre space on the first floor. Serving alcoholic and nonalcoholic beverages and food. Theatre to be used primarily for improvised comedy theatre. It is situated on the corner of Kipling Street and Snowfields, with beer garden facing Snowfields and street adjacent seating along Snowfields and Kipling Street sides of the building.

10. The application is summarised as follows:

- Plays (indoors)
 - Sunday to Thursday: 10:00 to 23:00
 - Friday and Saturday: 10:00 to 00:00
- Live music (indoors):
Sunday: 10:00 to 23:00:
 - Monday to Thursday: 10:00 to 00:00
 - Friday and Saturday: 10:00 to 01:00
- Recorded music (indoors):
 - Sunday to Thursday: 10:00 to 00:00
 - Friday and Saturday: 10:00 to 01:00
- Performance of dance (indoors):
 - Sunday to Thursday: 10:00 to 23:00
 - Friday and Saturday: 10:00 to 00:00
- Anything of a similar description to live/recorded music (indoors):
 - Sunday to Thursday: 10:00 to 23:00
 - Friday and Saturday: 10:00 to 00:00
- Late night refreshments(indoors):
 - Sunday to Thursday: 23:00 to 00:30
 - Friday and Saturday: 23:00 to 01:30
- Supply of alcohol (on & off the premises):
 - Sunday to Thursday: 11:00 to 00:00
 - Fri & Sat 11:00 - 01:00
- Operating hours:
 - Sunday to Thursday: 09:00 to 00:30
 - Friday and Saturday: 09:00 to 01:30

11. The premises licence application form provides the applicant's operating schedule. Parts A, E, F, G, H, I, J, K, L and M of the operating schedule set out the proposed licensable activities, operating hours and operating control measures in full, with reference to the four licensing objectives as stated in the Licensing Act 2003. Should a premises licence be issued in respect of the application the information provided in the operating schedule will form the

basis of conditions that will be attached to any licence granted subsequent to the application. A copy of the application is attached to this report as Appendix A.

Designated premises supervisor

12. The proposed designated premises supervisor Jennifer Church who has a personal licence issued by the Southwark Council.

Representations from responsible authorities

13. There is one representation from the Metropolitan Police Service. The police note that this premises has had the benefit of a premises licence for many years, however it has only fallen away due to the unfortunate passing of the then premises licence holder and the oversight not to transfer the premises licence within the 28 day period.
14. They advise that this premise is situated within the Bankside, Borough, London Bridge strategic cultural and London Bridge district town centre area. Under the Southwark statement of licensing policy 2021 – 2026 the appropriate closing times for public houses, wine bars or other drinking establishments on Sunday to Thursday is 23:00 and for Friday and Saturday is 00:00.
15. The premises also falls within the cumulative impact area (CIA) for Borough and Bankside. Under the Southwark statement of licensing policy 2021 - 2026 the local CIA applies to night clubs, public houses & bars, restaurants & cafes, off-licences, supermarkets, convenience stores and similar premises.
16. Therefore under 131 of the policy there is a rebuttable presumption that applications for new premises licences that are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations. In such circumstances, it is for the applicant to demonstrate that the application will not, if granted, further contribute to the negative local cumulative impact on any one or more of the licensing objectives.
17. The premises has operated for a number of years without any serious issues in relation to crime and disorder, save for a number of reports relating to minor theft offences within the premises. As such they have no real concerns relating to the cumulative impact of the premises if the licence were to be granted. Consideration should therefore be given to reducing the terminal hour to bring it more in line with the hours as recommended by Southwark's statement of licensing policy.
18. A number of control measures have been offered within the operating schedule, however these control measures need to be precise and enforceable. To promote the prevention of crime and disorder licensing objective the police have offered control measures to replace those proposed by the applicant. If agreed these will form part of the licence conditions if granted.

19. The representations are attached as Appendix B.

Representations from other persons

20. There are 12 representations from other persons and a petition signed by 35 from Crosby, Lockyer and Hamilton Tenants Residents Association. The objection is to the exceedingly late night hours proposed. The hours proposed will cause severe inconvenience and nuisances to residents living nearby and will negatively impact on their lives
21. The residents state that bar creates nuisance noise past 11pm already and this makes it very difficult for the children who need to go to school and the adults who need to go to work in the morning to sleep. This bar thinks that it is acceptable to be breaking glass bottles, by chucking them with full force into the recycling bin, in the night way past 11pm. The residents in the nearby compound can easily hear people talking in the street.
22. The noise levels are already very high late into the evenings in the warmer months, and the experience of Hamilton Square residents is that the noise continues well after the current 'last orders' time of 11pm, as the crowd takes time to disperse. If the pub were granted a late licence, this would perpetuate noise well into the small hours and impact heavily on sleep quality for all residents in the densely populated Hamilton Square estate. Hamilton Square is located immediately behind the public house and many of the residents are elderly.
23. The representations are attached as Appendix C.

Conciliation

24. The representations were forwarded to the applicant. The licensing sub-committee will be updated on 5 May 2021 of any developments.

Recent History

25. The premises has had the benefit of a premises licence for many years, it has only fallen away due to the unfortunate passing of the then premises licence holder and the oversight not to transfer the premises licence within the 28 day period. The lapsed premises licence is attached as Appendix D.

Deregulation of entertainment

26. 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.
 - Indoor sporting events are deregulated between 08:00 and 23:00 for an audience of up to 1000 people.
27. 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').
28. The showing of films has not been de-regulated.

Business & Planning Act

29. 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.

Map of the local area

30. A map of the area is attached to this report as Appendix E. 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

Restaurants, Public Houses/Bars

- Greenwood Theatre, 55 Weston Street, London SE1 (Monday to Sunday until 00:00)
- Londrino Restaurant and Bar, 36 Snowsfields, London SE1 (Sunday to Thursday until 00.00 and Friday and Saturday until 00:30)
- The Rose, 123 Swownsfields , London SE1 (Monday to Sunday until 23.00)
- Lost Rivers Deli Bar, Unit 2, 7-13 Melior Street, London SE1 (Sunday to Thursday until 23:30 and Friday and Saturday until 00.00)
- Champor Champor, 62-64 Weston Street, London SE1 (Monday to Saturday until 00:30 and Sunday until 00:00).

Borough and Bankside Cumulative Impact Area

31. Council assembly approved the introduction of a special policy for Borough and Bankside on the cumulative impact of a concentration of licensed premises (saturation/cumulative impact policy) on 4 November 2009 and extended the area in April 2011. This application falls within the policy area.
32. The decision to introduce saturation policy was taken with regard to the committee's concern over rising trends of late night alcohol related violence against the person and late night disorder and rowdiness associated with late night licensed premises in the area.
33. The effect of this special policy is to create a presumption that applications for new premises licences or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.
34. The applicant has been advised to address the committee's concerns around cumulative impact at the meeting.

Southwark council statement of licensing policy

35. Council assembly approved Southwark's statement of licensing policy 2021 - 2026 on 25 November 2020. The policy came into effect on 1 January 2021. Sections of the statement that are considered to be of particular relevance to the sub-committee's consideration are:
 - Section 3 - Purpose and scope of the policy. This reinforces the four licensing objectives and the fundamental principles upon which this authority relies in determining licence applications
 - Section 5 – Determining applications for premises licences and club premises certificates. This explains how the policy works and considers issues such as location; high standards of management; and the principles behind condition setting.
 - Section 6 – Local cumulative impact policies. This sets out this authority's approach to cumulative impact and defines the boundaries of the current special policy areas and the classifications of premises to which they apply. To be read in conjunction with Appendix B to the policy
 - Section 7 – Hours of operation. This provides a guide to the hours of licensed operation that this Authority might consider appropriate by type of premises and (planning) area classification.
 - Section 8 – The prevention of crime and disorder. This provides general guidance on the promotion of the first licensing objective

- Section 9 – Public safety. This provides general guidance on the promotion of the second licensing objective
 - Section 10 – The prevention of nuisance. This provides general guidance on the promotion of the third licensing objective
 - Section 11 – The protection of children from harm. This provides general guidance on the promotion of the fourth licensing objective.
36. The purpose of Southwark’s statement of licensing policy is to make clear to applicants what considerations will be taken into account when determining applications and should act as a guide to the sub-committee when considering the applications. However, the sub-committee must always consider each application on its own merits and allow exceptions to the normal policy where these are justified by the circumstances of the application.
37. Under the Southwark statement of licensing policy 2021 - 2026 the following closing times are recommended as appropriate within this area for this categories of premises indicated:
- The appropriate times for public houses, wine bars, or other drinking establishments:
 - Sunday to Thursday: 2300.
 - Friday and Saturday: 0000.

Resource implications

38. 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 band C.

Consultation

39. 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

40. 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 Governance

41. The sub-committee is asked to determine the application for a premises licence under Section 17 of the Licensing Act 2003.
42. The principles which sub-committee members must apply are set out below.

Principles for making the determination

43. The sub-committee is asked to determine the application for a premises licence under section 17 of the Licensing Act 2003.
44. The principles which sub-committee members must apply are set out below.
45. 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.
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 interested 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:
 - 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

48. 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.
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 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.
52. 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

53. 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

54. 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

55. 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.
56. 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.
57. 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.

58. 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.
59. 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.
60. 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.
61. 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

62. 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

63. 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 and Enforcement, 160 Tooley Street, London SE1 2QH	Mrs Kirty Read Tel: 020 7525 5748

APPENDICES

Name	Title
Appendix A	Application for a premises licence
Appendix B	Representations submitted by responsible authority
Appendix C	Representations submitted by other persons
Appendix D	Lapsed licence
Appendix E	Map of local area

AUDIT TRAIL

Lead Officer	Caroline Bruce, Strategic Director of Environment and Leisure	
Report Author	Dorcas Mills, Principal Licensing Officer	
Version	Final	
Dated	22 April 2021	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	No	No
Cabinet Member	No	No
Date final report sent to Constitutional Team		26 April 2021