

Committee :	Date	Classification
Licensing Sub Committee	28th March 2017	Unrestricted

Report of : David Tolley Head of Environmental Health & Trading Standards	Title: Licensing Act 2003 Application for a Premises Licence for Renegade London Wine – Arch 12, Gales Gardens, London, E2 0EJ
Originating Officer: Andrew Heron Licensing Officer	Ward affected: St. Peter's

1.0 Summary

Applicant:
Name and
Address of Premises:

Mr John Warwick Smith
Renegade London Wine
Railway Arch 12
Gales Gardens
London
E2 0EJ

Licence sought:

Licensing Act 2003
The Sale of Alcohol

Objectors:

Local Residents

2.0 Recommendations

2.1 That the Licensing Committee considers the application and objections then adjudicate accordingly.

LOCAL GOVERNMENT 2000 (Section 97)
LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT

Brief description of "background paper"

Tick if copy supplied for register

If not supplied, name and telephone number of holder

File Only

Andrew Heron
020 7364 2665

3.0 **Background**

3.1 This is an application for a new premises licence for Renegade London Wine – Arch 12, Gales Gardens, London, E2 0EJ.

3.2 A copy of the application is enclosed as **Appendix 1**.

3.3 The applicant has described the nature of the original application as:

- The sale of alcohol
- Providing regulated entertainment

3.4 The hours that have been applied for are as follows:-

Sale of Alcohol (both on and off sales)

- Monday to Friday from 17:00hrs to 23:00hrs
- Saturday and Sunday from 12:00hrs (midday) to 23:00hrs

The Provision of Regulated Entertainment in the form of Live and Recorded Music (indoors):

- Monday to Friday from 17:00hrs to 23:00hrs
- Saturday and Sunday from 12:00hrs (midday) to 23:00hrs

Hours premises is open to the public:

- Monday to Friday from 17:00hrs to 23:00hrs
- Saturday and Sunday from 12:00hrs (midday) to 23:00hrs

3.5 The application has since been amended upon consultation with the Responsible Authorities. Please see **Appendix 2** for an email containing the agreed modifications.

1) The application for Regulated Entertainment (both live and recorded music) has been withdrawn;

2) The hours for the sale of alcohol (both on and off sales) has been reduced:

- Monday to Friday from 17:00hrs to 22:30hrs
- Saturday from 12:00hrs (midday) to 22:30hrs
- Sunday from 12:00hrs (midday) to 22:00hrs

3) The opening hours have been agreed at closing half an hour after the last drinks are serviced, thus remained the same as per the application with the exception of Sunday, where the terminal hour will be 22:30hrs;

4) Four additional conditions have been agreed with the Applicant:

- a) CCTV. The CCTV system shall incorporate a recording facility and any recordings shall be retained and stored in a suitable and secure manner for a minimum of 31days. A system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system will comply with other essential legislation, and all signs as required will be clearly displayed. The system will be

maintained and fully operational throughout the hours that the premises are open for any licensable activity. There must also be someone on the premises, who can download the images and present them on request by a Police Officer or other Responsible Authority (one camera to be placed outside the entrance and one on entry);

- b) No drinks to be taken outside after 21:00hrs;
- c) No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance;
- d) Loudspeakers shall not be located in the entrance lobby or outside the premises building.

4.0 **Location and Nature of the premises**

- 4.1 Photographs of the venue and immediate vicinity will be provided at the hearing.
- 4.2 The site plan of the venue is included as **Appendix 3**.
- 4.3 Maps showing the vicinity are included as **Appendix 4**.
- 4.4 Details of other licensed venues in the immediate vicinity are included as **Appendix 5**.

5.0 **Licensing Policy and Government Advice**

- 5.1 The Council has adopted a licensing policy and this is available from the Licensing Section, and at the hearing. The revised policy came into effect on 1st November 2013.
- 5.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.
- 5.3 The Home Secretary has issued Guidance under Section 182 of the Licensing Act 2003. This is available on the Government's website, www.homeoffice.gov.uk. It was last revised in March 2015.
- 5.4 Relevant Sections of this advice are brought to Members attention within the Licensing Officers report. Members should note however, that in some areas Tower Hamlets, after a proper consideration of local circumstances, has not followed the Government's advice, or has developed it further.

6.0 Representations

- 6.1 All representations have to meet basic legal and administrative requirements. If they fail to do so they cannot be accepted. When rejected the person sending in the representation must be written to, and an explanation for rejection given in writing
- 6.2 A responsible authority or other person can make a representation. There are two tests for other persons and only one for a responsible authority. The two tests are contained in Section 18 of the Act.
- 6.3 All representations must be “about the likely effect of the grant of the premises licence on the promotion of the licensing objectives.” Likely means something that will probably happen, i.e. on balance more likely than not.
- 6.4 Representations by responsible authorities do not have to meet the second test of not being vexatious and frivolous. Other persons have to meet this test.
- 6.5 The Home Office recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation.
- 6.6 Section 182 Advice by the Home Office concerning relevant, vexatious and frivolous representations is attached as **Appendix 6**.
- 6.7 All the representations in this report have been considered by the relevant officer (Team Leader Licensing & Safety) and determined to have met the requirements of the Licensing Act 2003.
- 6.8 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following local residents.
- **Appendix 7** Fakhrul Ahmed
 - **Appendix 8** Identical letters of objection received from the following persons, some residing at the same residential address:
 - Sitara Bibi, Akhtar Hussain, Renu Bibi and Rujna Begum - of the same address
 - Jean Ryan
 - Mamta and Amit Sharma - of the same address
 - Margaret Betgman
 - Mrs Jahura Bibi
 - Askalu Ferezji
 - Hamna Miah
- 6.9 All of the responsible authorities have been consulted about this application. They are as follows:
- The Licensing Authority
 - The Metropolitan Police

- The LFEPA (the London Fire and Emergency Planning Authority).
- Planning
- Health and Safety
- Noise (Environmental Health)
- Trading Standards
- Child Protection
- Primary Care Trust (Public Health England)

6.10 In addition the application was required to be advertised in a local newspaper and by a blue poster. Only objections that relate to the following licensing objectives are relevant:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

6.11 The objections cover allegations of:

- Historical anti-social behaviour on the premises
- Historical anti-social behaviour from patrons leaving the premises
- Close proximity to residential properties

6.12 There are strict time limits to any representations. The time limits are contained in The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.

6.13 The applicant has offered measures in the operating schedule of the application that address the promotion of the Licensing Objectives. If there were no representations, the Licensing Authority would grant the licence, with conditions consistent with the operating schedule, which are relevant, proportionate and enforceable. Members are asked to consider the schedule and incorporate any conditions as necessary to address the licensing objectives.

7.0 **Conditions consistent with Operating Schedule**

7.1 The Applicant has provided extensive references to potential within the Operating Schedule, which have been simply duplicated here for the purposes of the report (Members will need to apply any that they feel are necessary and proportionate):

7.2 The prevention of crime and disorder:

- Preventing crime and disorder in the premises is very important to all the team. We want to create a safe, homely environment that is relaxed and welcoming. We will have a zero tolerance attitude to drugs, violence, unsociable behaviour, crime and disorder.
- We plan to put in place a number of policies and practices that will significantly reduce the possibility of such negative activity. Namely;

- Security measures including CCTV – internal and external CCTV to prevent and record all activity.
- External lighting – to ensure areas are illuminated for safety.
- Door staff – if the premises require staff we will not hesitate to hire highly trained staff. That said, we do not plan to have excessive numbers of customers at any time.
- Effective security policies – all staff will be trained on security procedures.
- Security reviews – every 6 months we will carry out security reviews.
- Daily staff briefing – before and after shifts.
- Door admissions policy – known by all staff and enforced.
- Provision of plastic drinking vessels – if needed, we will provide plastic vessels.
- Measures to preserve a crime scene – in the unlikely event of a crime happening.
- Staff Training – compulsory.
- Sharing of information – with local bars, businesses and the police and council.
- Zero tolerance to drugs and weapons – Zero tolerance!
- Working with the police – we are keen to work with the Met and local teams.
- Layout and lighting – our space will be open and uncluttered and well lit.
- Positioning alcohol – alcohol will be securely stored and with CCTV.
- Drink aware posters – promoting healthy and responsible drinking.
- Restrict sale – we will not sell to people who we are concerned will not uphold our rules regarding safety, respect and responsible drinking.

7.3 Public safety:

- Public safety is central to ensuring our winery business is viable and that our customers are reassured that there are sufficient policies in place to make the premises safe and enjoyable.
- We plan to undertake a number of policies and practical initiatives to ensure we do all we can to make the premises as safe as can be. These are detailed below;
- Premises Risk Assessment – in order to provide guidance and context to a number of safety issues we are keen to undertake a premises risk assessment and review this regularly.
- First Aid Boxes – we will keep primary first aid resources within the premises.
- First Aider – we will appoint a trained first aider or send employees for training as necessary.
- Temperature levels – naturally the winery is kept as a moderate temperature. If necessary, however, we will install additional temperature controls to keep patrons comfortable.
- Capacity of premises – this will be assessed in the principle risk assessment
- Policy to manage capacity – this will be shared with all employees and hired door staff.

- Glass collection policy – to keep areas safe and free from excessive glasses.
- Spill and broken glass – policy includes details of how to clean this up quickly and effectively.
- Bottle bins – for used wine bottles.
- Fire detection system – to prevent fire spreading and detection before danger occurs.
- Means of escape – clearly marked escape routes and fire exits.
- Staff training – critical to ensuring policies run smoothly.
- Zero tolerance – as before, ZERO tolerance to crime, drugs, anti-social activities and other negative behaviours.
- Discourage drink driving – we will actively discourage this. All staff will communicate this.

7.4 The prevention of public nuisance

- We want to be an asset to the local community and not a nuisance. Our daily activity of making wine does not make excessive noise or have the potential to cause nuisance. We want to ensure that this is also the case where the supply of alcohol is also concerned. We are dedicated to making sure that the neighbourhood and our neighbours are not disturbed or irritated by any of the activities of the business. We aim to create a relaxed atmosphere and do not plan to play loud music or trade late into the night. All precautions will be taken to ensure that noise is not polluted to the outside of the premises and that any additional noise insulating steps are taken.
- We plan to install a number of policies and practical arrangements to mitigate against any public nuisance. These are detailed below;
- Noise management policy – regarding when and how sound is made, what we do to ensure no sound pollution or nuisance is created.
- Windows and doors to be kept closed – this is to mitigate from the potential for noise to carry in the surrounding areas. We are also prepared to install additional sound insulation within the property to mitigate this. That said, the arch is quite a distance from any residential development and is also close to the road where significant road noise is present. We do not envisage creating any additional noise pollution for local residents.
- Location of speakers and noise creating devices – these will be placed at locations within the premises to minimise any disturbance to external parties.
- Contact telephone number for all residents – we will provide a 24hour contact number for all local residents so that they can voice their concerns or pose questions to the staff. We will act on the requests and desires of local residents to ensure no public nuisance occurs.
- Reduce queue lines – we do not envisage having significant numbers of customers within the premises that queues will ever occur. That said, we will ask customers to not queue outside.
- Customer dispersal policy – all customers will be asked to leave quietly and this will be overseen by staff. We will also put up signage reinforcing this.

- Signage – as mentioned, we will have clear signage asking customers to be respectful and quiet.
- Door supervisors – these, if needed will be fully trained on our policies.
- Screening and noise travel prevention – we do not believe at this stage that any significant screening or additional noise prevention materials are needed to keep the peace and avoid nuisance. That said, should we need to erect screens or increase insulation, or reduce any activity that causes noise, we are very willing to do so.

7.5 The protection of children from harm

- We are dedicated to providing a winery that is for the enjoyment and education of adults. We will not allow children that are not accompanied by an adult, preferably their parents, to be on the premises. We will take a number of steps to ensure that children are protected from harm. These are detailed below.
- Restrict access to children – No unaccompanied children will be allowed on the premises. That means, no under 18's.
- No ID, No Sale Policy – if we suspect someone to be under 25, we will ask for ID to verify their age. Only driving photo cards, passports or PASS cards will be accepted.
- Posters – these will indicate that it is an offence to purchase alcohol on behalf of an underage person.
- Refusals Book – to log and formalise all that were refused sale.
- Staff training – to ensure knowledge is up to date and that policies are enforced.
- No access to unaccompanied under 18's – as above we will have a zero tolerance policy to allowing underage persons within the premises. Nobody under 18 will be allowed in the premises unless accompanied by an adult.

8.0 Conditions Agreed/Requested by Responsible Authorities

8.1 As stated above in 3.5:

- 1) CCTV. The CCTV system shall incorporate a recording facility and any recordings shall be retained and stored in a suitable and secure manner for a minimum of 31 days. A system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system will comply with other essential legislation, and all signs as required will be clearly displayed. The system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity. There must also be someone on the premises, who can download the images and present them on request by a Police Officer or other Responsible Authority (one camera to be placed outside the entrance and one on entry);
- 2) No drinks to be taken outside after 21:00hrs;

- 3) No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance;
- 4) Loudspeakers shall not be located in the entrance lobby or outside the premises building.

9.0 Licensing Officer Comments

9.1 The following is intended to advise Members of the relevant aspects of the Boroughs Licensing Policy, guidance from the Secretary of State, legislation and good practice. Members may depart from the Council's Licensing Policy and/or Government advice, provide they consider it appropriate to do so, and have clear reasons for their decision.

9.2 Guidance issued under section 182 of the Licensing Act 2003

- ❖ As stated in the guidance it is "provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act." It is a key medium for promoting best practice, ensuring consistent application and promoting fairness equal treatment and proportionality (1.7).
- ❖ Also "as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken." Therefore licensing authorities will need to give full reasons for their actions (1.9).
- ❖ Also Members should note "A Licensing Authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives." (1.12)
- ❖ Also, "The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives." Therefore, conditions may not be imposed for the purpose other than promoting the licensing objectives and in some cases no additional conditions will be appropriate. (10.8)
- ❖ Necessary conditions should emerge from a risk assessment by the applicant, which should then be reflected in the operating schedule (10.4).
- ❖ The Guidance states: "Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with

appropriate conditions and/or different hours from those requested.”
(10.14)

- ❖ Mandatory conditions must be imposed (10.27) and censorship avoided (10.17).
- ❖ The Guidance states: “It is still permitted to sell alcohol using promotions (as long as they are compatible with any other licensing condition that may be in force), and the relevant person should ensure that the price of the alcohol is not less than the permitted price. Detailed guidance on the use of promotions is given in the guidance document available on the Gov.uk website.” (10.60) Also, “Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club licences or club premises certificates in an area.” (10.21)

- 9.3 The Licensing Act 2003 permits children of any age to be on the premises which primarily sell alcohol providing they are accompanied by an adult. It is not necessary to make this a condition.
- 9.4 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”
- 9.5 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.
- 9.6 The Government has advised that conditions must be tailored to the individual type, location and characteristics of the premises and events concerned. Conditions cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff and standardised conditions should be avoided where they cannot be shown to be appropriate. (1.16/1.17)
- 9.7 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 9.8 In **Appendices 9-11** Members are given general advice, and also have explanations of the Council’s Licensing Policy, Government advice and other legislation relating to the matters previously identified.

10.0 Legal Comments

- 10.1 The Council’s legal officer will give advice at the hearing.

11.0 Finance Comments

11.1 There are no financial implications in this report.

12.0 Appendices

- Appendix 1** A copy of the application
- Appendix 2** An email between the Applicant and the Responsible Authorities modifying the application
- Appendix 3** Site Plan
- Appendix 4** Maps of the surrounding area
- Appendix 5** Other licensed venues in the area
- Appendix 6** Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations
- Appendix 7** Representation of local resident Fakhrul Ahmed
- Appendix 8** Representation of local residents – identical letters from Sitara Bibi, Akhtar Hussain, Renu Bibi and Rujna Begum, Jean Ryan, Mamta and Amit Sharma, Margaret Betgman, Mrs Jahura Bibi, Askalu Ferezji and Hamna Miah
- Appendix 9** Licensing Officer comments on Anti-Social Behaviour on the premises
- Appendix 10** Licensing officer comments on anti-social behaviour patrons leaving the premises
- Appendix 11** Licensing officer comments on Access and egress problems