

Committee : Licensing Sub Committee	Date 11th April 2017	Classification Unclassified
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Report of: David Tolley Head of Environmental Health and Trading Standards Originating Officer: Corinne Holland Licensing Officer	Title: Licensing Act 2003 Application for a new premises licence for Shell, 139-149 Whitechapel Road, E Carlton, 238 Bancroft Road, E1 1DT Ward affected: Spitalfields and Banglatown
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1.0 Summary

Applicant: **Shell Oil Products Limited**

Name and Address of Premises: **Shell Whitechapel**
139-149 Whitechapel Road
London
E1 1DT

Licence sought: **Licensing Act 2003 – New Premises Licence**

Representations: **Met Police**
Environmental Protection
Resident (on behalf of SPIRE)

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

Corinne Holland
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3.0 **Background**

3.1 This is an application for a new premises licence for (Shell Whitechapel), 139-149 Whitechapel Road, London E1 1DT.

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

3.3 The applicant has applied for the sale of alcohol and late night refreshments:

Sale of alcohol – (off sales only)

- Monday to Sunday 24 hours a day

Hours premises are open to the public:

- Monday to Sunday 24 hours a day

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 2**.

4.3 Maps showing the vicinity are included as **Appendix 3**.

4.4 Details of the nearest licensed venues are included as **Appendix 4**.

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 the 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 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following responsible authorities:
- Met Police (**Appendix 5**)
 - LBTH Environmental Protection (**Appendix 6**)
 - Resident (**Appendix 7**)
- 6.2 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
 - Trading Standards
 - Child Protection
 - Public Health
- 6.3 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
- 6.4 Essentially, the relevant parties oppose the application because the applicant has not explained how within the context of the application they will meet the licensing objectives, particularly the prevention of crime and disorder and the prevention of public nuisance.
- 6.5 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.
- 6.6 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 (as offered by the Applicant)

- 7.1 A suitable and sufficient CCTV system with recording facilities will be in place at site and will operate at all times the premise is open for licensable activities. Images can be made available upon reasonable request by the Police or other relevant officers of a responsible authority.
- 7.2 Access to the equipment and recordings will be provided to the Police within 24 hours of the request being made, contact details of the Retailer will be kept on site and made available to the Police for the purpose of obtaining access to the equipment and recordings.
- 7.3 Staff will be trained with regard to their responsibilities in the retail sale of alcohol and regular refresher training will also be undertaken. Training records can be made available for inspection upon reasonable request by the Police or other relevant officers of a responsible authority.
- 7.4 A refusals log will be operated and maintained and will be produced to a relevant officer of the Police or other relevant officers of a responsible authority upon request.
- 7.5 An incident log will be operated and maintained and will be produced to a relevant officer of the Police or other relevant officers of a responsible authority upon request.
- 7.6 A Challenge 25 policy will be operated at the premise, acceptable forms of identification are a passport, photocard driving licence and PASS accredited identification card.
- 7.7 Spirits (with the exception of spirit mixers and pre mixed spirit drinks) will be located behind the counter.

8.0 Conditions in consultation with the responsible authorities/other persons

- 8.1 None

9.0 Licensing Officer Comments

- 9.1 The following is intended simply to advise Members of the relevant aspects of the Boroughs Licensing Policy, guidance from the Secretary of State, legislation and good practice (See 6.2). 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.” It is a key mechanism for promoting best practice, ensuring consistent application and promoting fairness (1.7)
- ❖ Also “so long as licensing authorities have properly understood the Guidance, they may depart from it if they have reason to do so as long as they have reason to do so.” When doing so 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)
- ❖ Conditions may not be imposed for the purpose other than the licensing objectives.
- ❖ Necessary conditions should emerge from a risk assessment by the applicant, which should then be reflected in the operating schedule (10.6).
- ❖ The Licensing Authority may only impose such conditions as are necessary for meeting the licensing objectives.
- ❖ It is Government policy that facilities for people and performers with disabilities should be provided at places of entertainment.
- ❖ “The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities.” (10.11)
- ❖ Mandatory conditions must be imposed (10.38) and censorship avoided (10.17).
- ❖ 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. This may be unlawful under current law. However, it is important to note that the mandatory conditions made under sections 19A and 73B of the 2003 Act prohibit a number of types of drinks promotions where they give rise to a significant risk to any one of the four licensing objectives (10.26).

- 9.3 The Licensing Act 2003 permits children of any age to be on the premises which primarily sells 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 “Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.” (2.20)
- 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 8 - 15** Members are given general advice, and also have explanations of the Council’s Licensing Policy, Government advice and other legislation relating to the matters in the representations.

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	Site plan of the venue
Appendix 3	Maps showing vicinity of venue
Appendix 4	Details of nearest licensed venues
Appendix 5	Representations from Police
Appendix 6	Representations from Environmental Protection
Appendix 7	Representation from resident
Appendix 8	Licensing Officer comments on noise whilst the premises is in use
Appendix 9	Licensing Officer comments on access and egress problems
Appendix 10	S182 Advice on public nuisance
Appendix 11	Licensing Officer comments on crime and disorder
Appendix 12	S182 Advice on crime and disorder
Appendix 13	Licensing Officers advice on anti- social behaviour relating to leaving the premises
Appendix 14	Planning
Appendix 15	Licensing Policy relating to hours of trading