

Committee :	Date	Classification
<b>Licensing Sub Committee</b>	<b>28<sup>th</sup> February 2017</b>	<b>Unrestricted</b>

Report of: <b>David Tolley</b> <b>Head of Environmental Health &amp; Trading Standards</b>  Originating Officer: <b>Mohshin Ali</b> <b>Senior Licensing Officer</b>	Title: <b>Licensing Act 2003</b> <b>Application for a Premises Licence for Hub by Premier Inn (proposed), Silvex House, Quaker Street, London E1 6SN</b>  Ward affected: <b>Spitalfields and Banglatown</b>
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## 1.0 Summary

Applicant: **Whitbread Group Plc**

Name and **Hub by Premier Inn (proposed)**

Address of Premises: **Silvex House  
Quaker Street  
London  
E1 6SN**

Licence sought: **Licensing Act 2003 – premises licence**

- **The sale by retail of alcohol**
- **The provision of regulated entertainment (films)**
- **The provision of late night refreshment**

Representations: **Local Residents**

## 2.0 Recommendations

2.1 That the Licensing Committee considers the application and representations 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

**Mohshin Ali**  
**020 7364 5498**

### **3.0 Background**

- 3.1 This is an application for a premises licence for Hub by Premier Inn (proposed), Silvex House, Quaker Street, London E1 6SN. The other floor plans have been included for information only.
- 3.2 The applicant has described the premises as follows: "It is intended that the site will be developed to create a c.246 bed hub by Premier Inn".
- 3.3 A copy of the premises licence application form is enclosed as **Appendix 1**.
- 3.4 The applicant has applied for the following licensable activities and timings:-

**The Sale by retail of alcohol (On and off sales)**

- Monday to Sunday, from 10:00 hours to 23:00 hours

**The provision of regulated entertainment – Indoors  
(Films only)**

- Monday to Sunday, from 10:00 hours to 23:00 hours

**Non-standard timings**

- On New Year's Eve, permitted hours from 10:00 hours to 23:00 hours on New Year's Day
- The premises shall remain open to permit the sale of alcohol, provision of late night refreshment and the provision of films to hotel residents 24 hours a day.

**Note: the off sale of alcohol is limited to the resident's bedrooms only**

**The opening hours of the premises**

- Monday to Sunday, from 06:00 hours to 23:30 hours

**Non-standard timings**

- On New Year's Eve, permitted hours from 10:00 hours to 23:30 hours on New Year's Day
- The premises shall remain open 24 hours a day for hotel residents.

### **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 1<sup>st</sup> 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](http://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, than 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 5**.
- 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 the following local residents:
- Alan Williams - **Appendix 6**
  - Glenn Leeder - **Appendix 7**
  - Sian Phillips - **Appendix 8**
  - Pat Jones - **Appendix 9**
- 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
  - Environmental Health (Noise)
  - Trading Standards
  - Child Protection
  - Public Health
- 6.10 In addition the application was required to be advertised in a local newspaper and by a blue poster.
- 6.11 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
- 6.12 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 objective of the prevention of crime and disorder and the prevention of public nuisance.
- 6.13 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.
- 6.14 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 use of door staff will be risk assessed on an ongoing basis by the licence holder of premises supervisor. Where engaged, door staff shall be licensed by the Security Industry Authority.
- 7.2 Alcoholic and other drinks may not be removed from the premises in open containers save for consumption in the hotel bedrooms.
- 7.3 Staff will receive training on matters concerning underage sales, drugs policies and operating procedures.
- 7.4 There shall be a zero tolerance policy in relation to drugs at the premises and there shall be regular checks by management to prevent the use of drugs by patrons. Drugs seized shall be stored securely and handed to the police.
- 7.5 The premises shall operate a proof of age scheme and will require photographic identification from any person who appears to be under the age of 21 years.
- 7.6 The management of the premises will liaise with police on issues of local concern or disorder.
- 7.7 There shall be no drinks promotions at the premises which are inconsistent with the need to promote responsible drinking.
- 7.8 Where appropriate, prominent, clear and legible notices shall be displayed at all exits requesting the public respect the needs of local residents and to leave the premises and area quietly.
- 7.9 Patrons will be encouraged by staff to leave quietly and respect the interests of the occupiers of any nearby noise sensitive premises; where appropriate the licensee or a suitable staff member will monitor patrons leaving at the closing time.
- 7.10 Noise or vibration shall not emanate from the premises so as to cause a nuisance to nearby properties.
- 7.11 Contact numbers for local taxi firm(s) shall be kept at the premises and made available to patrons requiring a taxi.
- 7.12 There shall be adequate controls in place including staff training to safeguard against the sale of alcohol to persons under 18 years.
- 7.13 Policies in relation to children shall be adequately communicated to patrons by staff or through appropriate signage.

- 8.0 Conditions in consultation with the Responsible Authorities/other persons**
- 8.1 Environmental Health (Noise) has agreed (please see **Appendix 10**) the following with the applicant:
- “1) no noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
- 2) Loudspeakers shall not be located in the entrance lobby or outside the premises building.
- 3) All windows and external doors shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate access & egress of persons.”
- 8.2 Met Police has also agreed (please see **Appendix 11**) the following with the applicant:
- “1. 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.
2. 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 whilst ever the premises are open to non-residents and otherwise within a reasonable period”.
- 8.3 The Fire Brigade have also responded
- 8.4 The applicant has amended the application to permit the off-sale of alcohol to the bedrooms only (please see **Appendix 12**). The applicant has written to the relevant parties to advise them accordingly. In response, one resident has withdrawn their representation and therefore has not been included the report. Pat Jones (**Appendix 9**) wishes to maintain the representation and the other persons have not responded.

**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. 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 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 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 13 - 19** 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** Site Plan
- Appendix 3** Maps of the surrounding area
- Appendix 4** Other licensed venues in the area
- Appendix 5** Section 182 Guidance by the Home Office
- Appendix 6** Representation of Alan Williams
- Appendix 7** Representation of Glenn Leeder
- Appendix 8** Representation of Sian Phillips
- Appendix 9** Representation of Pat Jones
- Appendix 10** Agreement with Environmental Health (Noise)
- Appendix 11** Agreement with Met Police
- Appendix 12** Applicant's amendment
- Appendix 13** Licensing Officer comments on noise while the premise is in use
- Appendix 14** Licensing Officer comments on access/egress Problems
- Appendix 15** Licensing Officer comments on crime and disorder on the premises
- Appendix 16** Licensing Officer comments on crime and disorder from patrons leaving the premises
- Appendix 17** Planning
- Appendix 18** Licensing Policy relating to hours of trading
- Appendix 19** Licensing Officer comments on the Tower Hamlets Cumulative Impact Zone