

Committee: Licensing Sub-Committee	Date: 20/03/18	Classification: UNRESTRICTED	Report No.	Agenda Item No.
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Report of: David Tolley Head of Environmental Health & Trading Standards Originating Officer: Corinne Holland Licensing Officer	Title: Licensing Act 2003 Application to Review the Premises Licence for Paradise Cottage, 477 Bethnal Green Road, London, E2 9QH Ward affected: St Peter's
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1.0 Summary

Name and Address of premises:	Paradise Cottage 477 Bethnal Green Road London E2 9QH
Licence under review:	Licensing Act 2003 <ul style="list-style-type: none"> ▪ Sale by retail of alcohol ▪ Provision of Regulated Entertainment (recorded music only) ▪ Provision of Late Night Refreshments
Review triggered by:	Metropolitan Police
Representations:	Environmental Protection

2.0 Recommendations

- 2.1 That the Licensing Committee considers the application for review and then adjudicates 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
<ul style="list-style-type: none"> • Guidance Issued under Section 182 of the Licensing Act 2003 • Tower Hamlets Licensing Policy • File 		Corinne Holland 020 7364 3986

Review Application

3.0 This is an application for a review of the premises licence for Paradise Cottage, 477 Bethnal Green Road, London E2 9QH. The review was triggered by PC Mark Perry of the Metropolitan Police (Licensing Division).

3.1 A copy of the review application and supporting evidence is attached in **Appendix 1**.

4.0 The Premises

4.1 The premises licence was a converted licence from the 1964 Licensing Act under grandfather rights in 2005. A copy of the current licence is contained in **Appendix 2**.

4.2 Maps showing the premises location are included in **Appendix 3**.

5.0 Representations

5.1 This hearing is required by the Licensing Act 2003, because a review has been triggered by the Metropolitan Police (Licensing Division).

5.2 The Environmental Protection team have made a representation in support of the Review:

- Nicola Cadzow - **Appendix 4**

5.3 Only representations 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

5.4 In the view of the interested party and the responsible authorities it is necessary to achieve the licensing objective of:

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

6.0 Review Explained

6.1 The Licensing Act 2003 was described by the Government at the time as "light touch" but as Baroness Blackstone stated in the Lords at the time of the second reading (26 Nov 2002) "Local residents and businesses as well as expert bodies, will have the power to request that the licensing authority review existing licences where problems arise. Such a review

could result in the modification of the licence, its suspension, or ultimately, revocation.”

- 6.2 The Home Office has issued guidance under Section 182 of the Licensing Act 2003 in relation to reviews and that is contained in **Appendix 5**. It is available on the Government’s website, www.homeoffice.gov.uk. It was last revised in April 2017.
- 6.3 Members are particularly asked to note the comments in relation Crime and Disorder. In particular the home office advice is that “The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted.”
- 6.4 Members should also note the Section 182 Guidance in relation to Crime and Disorder, the relevant parts of which are contained in **Appendix 7**.
- 6.5 Members should also note the Councils’ Licensing Policy in relation to Crime and Disorder, the relevant parts of which are contained in **Appendix 6**.
- 6.6 Home Office guidance regarding the prevention of public nuisance is shown in **Appendix 8**.
- 6.7 The Councils’ Licensing Policy in relation to Public Nuisance is contained in **Appendix 9**.
- 6.8 The Home Office has issued guidance in relation to Protection of Children from Harm and is contained in **Appendix 10**
- 6.9 The Councils’ Licensing Policy in relation to the Protection of Children from Harm is shown in **Appendix 11**.
- 6.10 In relation to the prevention of Public Safety the Home Office advises Licensing Authorities under article 43 of the Regulatory Reform (Fire Safety) Order 2005 any conditions imposed by the licensing authority that relate to any requirements or prohibitions that are or could be imposed by the Order have no effect and should therefore not seek to impose fire safety conditions where the Order applies.
- 6.11 The Home Office has advised that where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

6.12 An interested party or a responsible authority can trigger a review at any time, but the grounds must be relevant to the licensing objectives. The form of the application, and the advertisement of the review are the subject of regulations (The Licensing Act 2003 (Premises Licences and Club Premises Certificate) Regulations 2005). In addition, the licensing authority has to satisfy itself of certain matters in relation to the Licensing Act 2003. All the matters stated in 5.0 were considered before any representations were accepted for inclusion in this report.

6.13 The Licensing Act 2003 requires that the Licensing Authority satisfies itself that it should reject the grounds for a review because:

- The ground is not relevant to one or more of the licensing objectives
- In the case of an application by a local resident that the application is frivolous, vexatious or repetitious.

7.0 Review Advertisement

7.1 The review was advertised by a blue poster, next to the premises, by the Licensing Section. This was periodically monitored by the Section to ensure it was on continuous display, and replaced as necessary. It was also advertised at Mulberry Place, 5 Clove Crescent, London E14 2BG.

7.2 The statutory blue notice was attached to a lamp post directly outside the premises on 24/1/18 by a council officer, together with an additional notice a short distance from the premises.

7.3 The party that triggers the review must notify the licence holder and responsible authorities. The review documents were sent to the licence holders.

7.4 The procedure for a review can be summarised as follows:

- A review is triggered by a responsible authority or interested party
- Consultation is conducted for 28 full days
- Other responsible authorities or interested parties may join in the review
- Members conduct a hearing
- Members make a determination
- All the parties to the review have the right of appeal to the magistrates court (i.e. the licence holder, the person who triggered the review and those who have made a representation).

8.0 Licensing Officer Comments

8.1 The Governments advice in relation to reviews is contained in **Appendix 5**. Members must consider all the evidence and then decide from the following alternatives:

- Take no further action as it is not required to take any further steps to promote the licensing objectives.
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition)
- Exclude a licensable activity from the scope of the licence
- Remove the Designated Premises Supervisor
- Suspend the licence for a period not exceeding three months
- Revoke the licence completely

8.2 The licence should only be suspended or revoked if Members believe that alterations to the existing licence, including imposing new conditions does not have a reasonable prospect of ensuring that the licensing objectives are met.

8.3 Members should bear in mind that conditions may not be imposed for any purpose other than to meet the licensing objectives.

8.4 In all cases the Members should make their decision on the civil burden of proof that is “the balance of probability.”

8.5 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.

9.0 **Legal Comments**

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

10.0 **Finance Comments**

10.1 There are no financial implications in this report.

11.0 Appendices

Appendix 1	Copy of the review application
Appendix 2	Current Premises Licence
Appendix 3	Maps of the premises and surrounding area
Appendix 4	Representation of Environmental Protection
Appendix 5	Guidance issued under Section 182 by the Home Office for reviews
Appendix 6	Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Crime and Disorder
Appendix 7	Licensing Policy in relation to the prevention of Crime and Disorder
Appendix 8	Home Office guidance for the prevention of public nuisance
Appendix 9	Licensing Policy in relation to the prevention of Public Nuisance
Appendix 10	Home Office guidance in relation to the protection of children from harm
Appendix 11	Licensing Policy in relation to the Protection of children from harm