

Committee :	Date	Classification	Report No.	Agenda Item No.
Licensing Sub-Committee	20/03/18	Unclassified		

Report of: David Tolley Head of Environmental Health and Trading Standards Originating Officer: Mohshin Ali Senior Licensing Officer	Title: Licensing Act 2003 Application for a variation of a premises licence for (Museum Service Station), 319 - 337 Cambridge Heath Road, London E2 9LH Ward affected: St. Peters
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1.0 Summary

Applicant: **Sectorsure Limited**

Name and **Museum Service Station**

Address of Premises: **319 - 337 Cambridge Heath Road
London
E2 9LH**

Licence sought: **Licensing Act 2003 – variation of a premises licence**

- **Extending the times for the sale by retail of alcohol**
- **Extending the existing licensed area**

Representations: **Met Police**

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
<ul style="list-style-type: none"> • Guidance Issued under Section 182 of the Licensing Act 2003 • Tower Hamlets Licensing Policy • File 		Mohshin Ali 020 7364 5498

Background

- 2.2 This is an application for a variation of a premises licence for (Museum Service Station), 319 - 337 Cambridge Heath Road, London E2 9LH.
- 2.3 A copy of the existing licence (including the existing plan) is enclosed as **Appendix 1**. On the 15th November 2017, the licence was transferred to Sectorsure Limited.
- 2.4 The timings of the existing licence are detailed below for information only:-

The Provision of Late Night Refreshment

- Monday to Sunday, from 23:00 to 05:00 the following day

The Sale by Retail of Alcohol (Off sales only)

- Monday to Sunday, from 08:00 to 23:00 hours the following day

The opening hours of the premises

- Monday to Sunday, 24 hours a day

- 2.5 A copy of the variation application is enclosed as **Appendix 2**.
- 2.6 The applicant has described the nature of the variation as follows:
“ground floor convenience store located on a forecourt - extend the hours for the sale of alcohol, the provision of late night refreshment to remain as existing and deposit a modified plan”
- 2.7 The times that have been applied for as follows:

The Provision of Late Night Refreshment (to remain the same)

- Monday to Sunday, from 23:00 to 05:00 the following day

NOTE: (For members' information, a premises licence is not required between 05:00 hours to 23:00 hours. This effectively means the applicant can trade 24 hours a day with the provision of hot food and hot drinks)

The Sale by Retail of Alcohol (Off sales only)

- Monday to Sunday, from 00:00 to 24:00 hours (24 hours a day)

The opening hours of the premises

- Monday to Sunday, from 00:00 to 24:00 hours (24 hours a day)

3.0 **Location and Nature of the premises**

- 3.1 Photographs of the venue and immediate vicinity will be provided at the hearing.
- 3.2 Maps showing the vicinity are included as **Appendix 3**.
- 3.3 Details of the nearest licensed venues are included as **Appendix 4**.

4.0 **Licensing Policy and Government Advice**

- 4.1 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.
- 4.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.
- 4.3 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 April 2017.
- 4.4 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.

5.0 **Representations**

- 5.1 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the Met Police. Please see **Appendix 5**.
- 5.2 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
 - Home Secretary (Home Office Immigration Enforcement)
- 5.3 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

5.4 Essentially, the relevant party opposes 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.

5.5 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.

5.6 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.

6.0 Conditions consistent with Operating Schedule

6.1 *A CCTV system will be installed, or the existing system maintained, such system to be fit for the purpose.*

- The CCTV system shall be capable of producing immediate copies of recordings on site. Copies of recordings will either be recorded on good quality video tapes or digitally on to CD/DVD or other equivalent.*
- Any recording shall be retained and stored in a suitable and secure manner for a minimum of 28 days and shall be made available, subject to compliance with Data Protection Legislation, to the police for inspection on request.*
- The CCTV system will incorporate a camera covering the entrance door and the alcohol display area and will be capable of providing an image which is regarded as identification standard. The precise positions of the cameras may be agreed, subject to compliance with Data Protection legislation, with the police from time to time.*
- The system will display, on any recording, the correct time and date of the recording.*
- A system will be in place to maintain the quality of the recorded image and a complete audit trail maintained.*
- The CCTV system will be maintained so as to be fully operational throughout the hours that the premises are open for any licensable activity.*

- 6.2 *Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.*
- 6.3 *A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer at all times whilst the premises is open.*
- 6.4 *An incident log shall be kept at the premises, and be available on request to the Police or an authorised officer.*
- 6.5 *Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.*
- 6.6 *Access to the shop at the discretion of the cashier 23.00 hours to 05.30 hours*
- 6.7 *All staff whose responsibilities include the retail sale of alcohol shall receive training about the prevention of underage sales. This training and refresher training shall be recorded and the records to be available on request to the Police or any authorised officer.*

7.0 Conditions in consultation with the responsible authorities/other persons

- 7.1 None

8.0 Licensing Officer Comments

- 8.1 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.
- 8.2 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).
- 8.3 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.
- 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.
- 8.6 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)
- 8.7 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 8.8 In **Appendices 6 - 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 in the representations.

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	A copy of the existing licence and plan
Appendix 2	A copy of the variation application
Appendix 3	Maps showing vicinity of venue
Appendix 4	Details of nearest licensed venues
Appendix 5	Representation of Police Licensing
Appendix 6	Licensing Officer comments on noise whilst the premises is in use
Appendix 7	Licensing Officer comments on access and egress problems
Appendix 8	Licensing Officer comments on crime and disorder on the premises
Appendix 9	Licensing Officer comments on crime and disorder from patrons leaving the premises
Appendix 10	Planning
Appendix 11	Licensing Policy relating to hours of trading