

Committee :	Date	Classification	Report No.	Agenda Item No.
<b>Licensing Sub-Committee</b>	01 October 2019	<b>Unclassified</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 (Make It Group)</b> <b>5 Hancock Road, London E3 3DA</b>  Ward affected: <b>Bromley North</b>
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## 1.0 Summary

Applicant: **Make It Group Ltd**

Name and **Make It Bow**

Address of Premises: **5 Hancock Road**  
**London**  
**E3 3DA**

Licence sought: **Licensing Act 2003 – premises licence**  
• **The sale by retail of alcohol (on sales)**

Representation(s): **Resident (one)**

## 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

- Guidance Issued under Section 182 of the Licensing Act 2003
- Tower Hamlets Licensing Policy
- File

Mohshin Ali  
020 7364 5498

### 3.0 Background

3.1 This is an application for a premises licence for (Ozone Coffee Roastery) 8 Pritchards Road, London E2 9AP.

3.2 The applicant has described the premises as follows:

*““Make It Bow” is a converted warehouse occupying two floors, offering flexible space for tenants both for short to medium term occupation or single day or short term hire. As a result it is expected to be used for product launches, exhibitions, fashion shows, and photo shoots, when the sale of alcohol by retail will from time to time be required. There will be a relaxation area on the first floor for tenants to use when they and their guests are on the premises, offering the sale of food, hot and cold drinks, and alcohol ,during the hours proposed”.*

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 sales only**

- Monday to Sunday, from 12:00 hrs to 22:30 hrs

**The opening hours of the premises**

- Monday to Sunday, from 08:00 hrs to 23:00 hrs

### 4.0 Location and Nature of the premises

4.1 The site plan of the venue is included as **Appendix 2.**

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

4.3 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 2018.

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 April 2018.

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 a relevant representation has been made by a local resident (See **Appendix 6**).
- 6.9 The applicant has responded to the allegations made in the resident's representation and this communication is included as **Appendix 7**.
- 6.10 All of the responsible authorities have been consulted about this application. They are as follows:
  - The Licensing Authority
  - The Metropolitan Police
  - London Fire Brigade
  - Planning
  - Health and Safety
  - Environmental Health Noise Team
  - Trading Standards
  - Child Protection
  - Public Health

- Home Secretary (Home Office Immigration Enforcement)

6.11 In addition the application was required to be advertised in a local newspaper and by a blue poster. 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

6.12 Essentially, the relevant party opposes the application because in their opinion, the applicant has not explained how within the context of the application they will meet the licensing objective of the prevention of 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 (as offered by the applicant)**

7.1 *The designated premises supervisor shall ensure that all members of staff involved in the sale of alcohol receive training in the essentials of licensing law and the specific conditions of the Premises Licence before being given permission to sell alcohol. This training will include the following:*

- Explanation of the four licensing objectives.*
- The Premises Licence conditions for Make it Bow*
- Understanding and implementation of Challenge 25 and appropriate forms of identification.*
- Use of the premises' incident book, and what must be recorded*

7.2 *Training must be documented, signed by any person involved in the sale of alcohol on site to state that they understand the training, and will do their utmost to support the licensing objectives and comply with the conditions of the Premises Licence when on duty.*

7.3 *Training records will be retained on the premises and refresher training provided at least every six months.*

- 7.4 *An incident log shall be kept at the premises, and made available on request to the police or an authorised officer, which will record the following:*
- a) *All crimes reported to the venue*
  - b) *Any complaints received*
  - c) *Any incidents of disorder*
  - d) *Any faults in the CCTV system*
  - e) *Any visit by a relevant authority or emergency service*
  - f) *All ejections from the premises*
  - g) *All seizures of drugs or offensive weapons*
  - h) *Any refusal of the sale of alcohol*
- 7.5 *The premises will install and maintain a comprehensive CCTV system to cover all public areas of the ground floor and first floor and the areas immediately outside the premises. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when guests remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of police or authorised officer in accordance with the Data Protection Act 1998 throughout the preceding 31 day period.*
- 7.6 *A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open for licensable activities. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.*
- 7.7 *No super-strength beer, lagers or ciders of 5.5% ABV (alcohol by volume) or above shall be sold at the premises.*
- 7.8 *A pre-opening check will be conducted every morning before licensable activities commence, ensuring fire exits are clear, fire extinguishers in position, no slipping or tripping hazards exist, and the CCTV system is in full working order.*
- 7.9 *Throughout the time, either floor of the premises is being used for licensable activities, an hourly patrol will take place covering both floors, public toilets and the immediate area outside the premises, to ensure there is no instance of compromise to public safety, and that other licensing objectives are also being supported as a matter of routine.*
- 7.10 *Notices shall be prominently displayed at all exits requesting guests to respect the needs of local residents and leave the area quietly.*
- 7.11 *No rubbish, including bottles, shall be disposed of in outside receptacles or outside areas between 22.00 hours and 08.00 hours.*

- 7.12 *No deliveries may be made to the premises between 22.00 hours and 08.00 hours.*
- 7.13 *The departure and dispersal of guests will be supervised from 23:00 until the last guest has departed, including collections by taxis, to ensure no nuisance is caused to local residents.*
- 7.14 *A designated smoking area will be established outside the main entrance to the premises, with the number of people using the facility at any one time restricted to 10 persons, with signage to explain this condition clearly displayed both inside and outside the entrance.*
- 7.15 *All windows will be kept closed after 21:00 to avoid noise escape.*
- 7.16 *The Premises will implement a “Challenge 25” policy whereby all guests requesting alcohol who appear to be under 25 must produce photographic identification in the form of a valid passport, driving licence or photographic Proof of Age card, with an immediately recognisable photograph of the bearer, date of birth proving he or she is over the age of 18, and an appropriate holographic mark.*
- 7.17 *Signage advising guests that Challenge 25 is in operation shall be prominently displayed at the public entrance and all points of sale/service.*
- 7.18 *Anyone under the age of 18 on the premises, must be accompanied by an adult after 21.00.*

## **8.0 Conditions in consultation with the Responsible Authorities**

None

## **9.0 Licensing Officer Comments**

- 9.1 The Live Music Act removed licensing requirements for the following:
- amplified live music and recorded music between 8am and 11pm before audiences of no more than 500 people on premises authorised to sell alcohol for consumption on the premises;
  - unamplified live music between 8am and 11pm in all venues.
  - Further exemptions apply see Section 16.5-16.6 of Section 182 Guidance.
- 9.2 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.

### 9.3 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 (10.25) 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.” (10.58) 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)

- 9.4 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.
- 9.5 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”
- 9.6 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.
- 9.7 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)
- 9.8 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 9.9 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

<b>Appendix 1</b>	A copy of the current application
<b>Appendix 2</b>	Site Plan
<b>Appendix 3</b>	Maps of the surrounding area
<b>Appendix 4</b>	Other licensed venues in the area
<b>Appendix 5</b>	Section 182 Guidance by the Home Office
<b>Appendix 6</b>	Representation of resident
<b>Appendix 7</b>	Applicant's response to resident's allegations
<b>Appendix 8</b>	Licensing Officer comments on noise while the premise is in use
<b>Appendix 9</b>	Licensing Officer comments on access/egress Problems
<b>Appendix 10</b>	Planning
<b>Appendix 11</b>	Licensing Policy relating to hours of trading