

Committee :	Date	Classification	Report No.	Agenda Item No.
Licensing Sub-Committee	9 June 2020	Unclassified		

Report of: David Tolley Head of Environmental Health & Trading Standards Originating Officer: Mohshin Ali Senior Licensing Officer	Title: Licensing Act 2003 Application for a Premises Licence for (Unity Diner) 60 Wentworth Street, London E1 7AL Ward affected: Spitalfields and Banglatown
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1.0 Summary

Applicant:	Twigs & Grass Ltd
Name and	Unity Diner
Address of Premises:	60 Wentworth Street London E1 7AL
Licence sought:	Licensing Act 2003 – premises licence <ul style="list-style-type: none"> • The sale by retail of alcohol (on sales only)
Representations:	Licensing Authority (RA) Environmental Health Noise Team

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
<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

3.0 **Background**

- 3.1 This is an application for a premises licence for (Unity Diner) 60 Wentworth Street, London E1 7AL.
- 3.2 The applicant has described the premises as:
“A vegetarian and vegan restaurant situated on the ground floor only”.
- 3.3 A copy of the premises licence application form is enclosed as **Appendix 1**.
- 3.4 The licensable activities and timings that have been applied for are as follows:

The sale by retail of alcohol - (on sales only)

- Monday to Friday, from 12:00 hrs to 23:00 hrs
- Saturday, from 12:00 hrs to 23:30 hrs
- Sunday, from 12:00 hrs to 21:30 hrs

The opening hours of the premises

- Monday to Friday, from 12:00 hrs to 23:30 hrs
- Saturday, from 12:00 hrs to 00:00 hrs (midnight)
- Sunday, from 12:00 hrs to 22:00 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 and photographs 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 1st 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. 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 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the the following:

- Licensing Authority acting as a Responsible Authority (See **Appendix 5**).
- Environmental Health Noise Team (See **Appendix 6**).

6.2 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 Department
- Health and Safety
- Environmental Health Noise Team
- Trading Standards
- Child Protection
- Public Health
- Home Secretary (Home Office Immigration Enforcement)

6.3 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

6.4 Essentially, the relevant parties oppose the application because in their opinion, the applicant has not explained how within the context of the application they will meet the licensing objectives of 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 *Appropriate digital CCTV equipment and the sufficient number of cameras shall be installed and maintained at the premises to record colour images that are clear enough to allow the Police to use to investigate any crimes that are committed on the premises. The areas covered by the cameras will cover all areas within the premise that are open to the public. A camera will be positioned to obtain images of persons entering the building by the mainentrance.*
- 7.2 *No persons other than the Police, the Licensing Authority, the Premises Holder, the manager or authorised persons shall have access to the CCTV recording equipment or the recordings made from such equipment. The CCTV system will be in operation, and recording whenever the premises are open to the public.*
- 7.3 *Recordings made on the CCTV system shall be retained for a period of at least 30 days of recording.*
- 7.4 *A minimum of two notices stating that CCTV is in operation shall be displayed throughout the premises where the public have access. The notices shall be at least A4 size.*
- 7.5 *There shall be an incident book which shall be kept at the premises to record any incidents of crime or anti-social behaviour.*
- 7.6 *Alcohol will only be served with a substantial meal.*
- 7.7 *There shall be no re-entry or admission of new customers after 2100 hours on Sundays, 2230 hours Mondays to Fridays, and 2300 hours on Saturdays.*
- 7.8 *A log shall be retained recording all refusals of alcohol. The log book shall be available for inspection by a police or council officer*
- 7.9 *The licence holder must ensure that all staff are aware of their social and legal obligations, and their responsibilities regarding the sale of alcohol.*
- 7.10 *Training shall be given to all staff to ensure compliance with the four licensing objectives. Training records will be kept on the premises, and the training records will show the date of training. The training record is to be signed by the staff member receiving the training and then countersigned by the Designated Premises Supervisor (DPS). The training on the compliance with the four licensing objectives shall be repeated on an annual basis.*
- 7.11 *An adequate and appropriate supply of first aid equipment and materials must be available on the premises.*

- 7.12 *Staff will be trained on health and safety procedures. New employees will receive training within one month of commencement of employment and it will be a condition of their continued employment that they satisfactorily complete the training.*
- 7.13 *There shall be a sign displayed near the door reminding patrons to leave the premises quietly.*
- 7.14 *The premises shall display the telephone number of at least three local taxi firms which patrons may use when leaving the premises.*
- 7.15 *The premises shall operate a Dispersal Policy to be approved by the Council and Police to ensure that patrons leave the immediate area quietly without causing a disturbance, or other anti-social behaviour.*
- 7.16 *Doors to the premises to be kept shut at all times, save when patrons enter or leave the premises.*
- 7.17 *Challenge 25 to be implemented whenever a young person seeks to purchase alcohol.*
- 7.18 *Children (persons under 18) shall only be admitted if in the company of an adult (a person over 18).*

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 7 - 13** 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	Representation of Licensing Authority (RA)
Appendix 6	Representation of EH Noise Team
Appendix 7	Licensing Officer comments on noise while the premise is in use
Appendix 8	Licensing Officer comments on access/egress Problems
Appendix 9	Licensing Officer comments on crime and disorder on the premises
Appendix 10	Licensing Officer comments on crime and disorder from patrons leaving the premises
Appendix 11	Planning
Appendix 12	Licensing Policy relating to hours of trading
Appendix 13	Tower Hamlets Cumulative Impact Zone