

Committee :	Date	Classification	Report No.	Agenda Item No.
Licensing Sub Committee	06 October 2010	Unclassified	LSC 35/011	

Report of Colin Perrins Head of Trading Standards and Commercial	Title Licensing Act 2003 Application to Vary the Premises Licence for Tai's Vine, 113 Globe Road, London, E1 4LB
Originating Officer:	Ward affected: Bethnal Green South
Licensing Officer: Andrew Heron	

1.0 Summary

Applicant: **Mr Nikolaos Vassilakis**
Name and **Tai's Vine**
Address of Premises: **113 Globe Road, London, E1 4LB**

Licence sought: **Licensing Act 2003 variation:**
Extending the hours for the sale of alcohol

Objectors: **The Metropolitan Police**
Planning Enforcement
Local Residents

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

File Only

020 7364 2665

3.0 **Background**

3.1 This is an application for a variation in a premises licence for Tai's Vine – 113 Globe Road, London, E1 4LB.

3.2 **A copy of the existing licence is enclosed as Appendix 1.**

The current hours are as follows: Sale of Alcohol

- a. On weekdays, other than Christmas Day, 8 a.m. to 11 p.m.
- b. On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.
- c. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
- d. On Good Friday, 8 a.m. to 10.30 p.m.

3.3 A copy of the variation application is enclosed as **Appendix 2.**

3.4 The applicant has described the nature of the variation as:

Extending the hours for the sale of alcohol

3.5 The hours that have been applied for are as follows:-

Sale of Alcohol (off sales only sales only)

- Monday 08:00 – 03:00
- Tuesday 08:00 – 03:00
- Wednesday 08:00 – 03:00
- Thursday 08:00 – 03:00
- Friday 08:00 – 03:00
- Saturday 08:00 – 03:00
- Sunday 08:00 – 03:00

Hours premises is open to the public:

- Monday 07:00 – 03:00
- Tuesday 07:00 – 03:00
- Wednesday 07:00 – 03:00
- Thursday 07:00 – 03:00
- Friday 07:00 – 03:00
- Saturday 07:00 – 03:00
- Sunday 07:00 – 03:00

3.6 A map showing the relevant premises is included as **Appendix 3.**

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 7th January 2008.

4.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.

- 4.3 The Government Minister, the Secretary of State for Culture, Media and Sport has issued Guidance under Section 182 of the Licensing Act 2003. This is available on the Government's website, www.culture.gov.uk. It was substantially revised on the 28 June 2007.
- 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 following:
The Metropolitan Police (**See Appendix 4**)
Planning Enforcement (**See Appendix 5**)
20 Local Residents in close proximity to the premises (**See Appendix 6**)
- 5.2 All of the responsible authorities have been consulted about this application. They are as follows:
- The Metropolitan Police
 - The LFEPA (the London Fire and Emergency Planning Authority).
 - Planning
 - Health and Safety
 - Noise (Environmental Health)
 - Trading Standards
 - Child Protection
- 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 The objections cover allegations of
- The prevention of crime and disorder
 - The prevention of public nuisance
 - Anti-social behaviour on the premises
 - Drug Taking
 - Acting as a magnet attracting the young who then engage in anti-social behaviour
 - Noise while the premise is in use
 - Close proximity to residential properties

- Underage drinking or other harm to minors

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.

6.0 Licensing Officer Comments

6.1 The Licensing Section is not a responsible authority and therefore has no ability to make any relevant representations. The following therefore 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.

6.2 Guidance issued under section 182 of the Licensing Act 2003

- ❖ As stated in the guidance it is “provided for licensing authorities carrying out their functions.” It is a key mechanism for promoting best practice, ensuring consistent application and promoting fairness (1.6).
Also “so long as the guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so.” When doing so licensing authorities will need to give full reasons for their actions (1.7).
- ❖ 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.” (1.10)
- ❖ 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 (10.7).
- ❖ 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. (S. 10.24).
- ❖ The Government has stated “there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the

application or grant it with appropriate conditions and/or different hours from those requested.” (10.20)

- ❖ Mandatory conditions must be imposed (10.43) and censorship avoided (10.31).
- 6.3 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.
- 6.4 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”
- 6.5 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.
- 6.6 The Government has advised that “In the context of preventing public nuisance it is again essential that conditions are focused on measures within the direct control of the licence holder. Conditions relating to public nuisance caused by anti-social behaviour of customers once they are beyond the control of the licence holder or premises management cannot be justified and will not serve the licensing objectives.” (2.38)
- 6.7 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 6.7 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.

- Appendix 7** Licensing Officer comments on Crime and Disorder From Patrons Leaving The Premises
- Appendix 8** Acting As A Magnet Attracting The Young Who Then Engage In Anti-Social Behaviour
- Appendix 9** Noise While Premise is in use
- Appendix 10** Licensing Officer comments on Egress Problems
- Appendix 11** Underage drinking or other harm to minors
- Appendix 12** Drug Taking
- Appendix 13** Planning
- Appendix 14** Licensing Policy relating to hours of trading

7.0 Exemptions

- 7.1 There are a number of statutory exemptions from the operation of the Licensing Act 2003, and Members need to bear these in mind.
- 7.2 Schedule 1 Part 2 of the Act states that entertainment in churches, Morris dancing (and accompanying music if live and unamplified) and incidental music are not licensable activities-that is no conditions can be set for them.
- 7.3 Acts of religious worship, wherever performed are not licensable.
- 7.4 Section 177, (1) and (2) of the Act provides that where a premises (or club) is licensed for alcohol consumption on the premises and is primarily thus used, and the permitted capacity does not exceed 200, additional conditions relating to the music should only relate to public safety or the prevention of crime (or both). That is they should not relate to any “noise nuisance.”
- 7.5 Section 177 (4) provides that where a premises licence (or club) has a capacity of not more than 200 and the only music is unamplified live music between 08 00 hrs and midnight, no additional conditions should be set relating to the music.
- 7.6 Section 177 can be disapplied on a licence review if it is proportionate to do so.

8.0 Legal Comments

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

9.0 Finance Comments

- 9.1 There are no financial implications in this report.

10.0 Appendices

- Appendix 1** A copy the existing licence
- Appendix 2** A copy of the application for variation
- Appendix 3** Maps of the area
- Appendix 4** Representation of Metropolitan Police
- Appendix 5** Representation of Planning Enforcement
- Appendix 6** Representations of Local residents
- Appendix 7** Licensing Officer comments on Crime and Disorder From Patrons Leaving The Premises
- Appendix 8** Acting As A Magnet Attracting The Young Who Then Engage In Anti-Social Behaviour
- Appendix 9** Noise While Premise is in use
- Appendix 10** Licensing Officer comments on Egress Problems
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