

/Committee: Licensing Sub-Committee	Date 23 July 24	Classification Unclassified	Report No.	Agenda Item No.
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Report of: Tom Lewis Service Manager of Regulatory Services (Commercial) Originating Officer: Ibrahim Hussain Licensing Officer	Title: Licensing Act 2003 Application for a variation of a Premises Licence for (Gopuff), 89 Hemming Street, London, E11 5BW Ward affected: Spitalfields and Banglatown
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1.0 Summary

Licence holder: **GOBRANDS UK HOLDINGS LTD**

Name and Address of Premises: **Gopuff, 89 Hemming Street, London, E1 5BW**

Licence sought: **Licensing Act 2003 - Variation**

Extension of hours for the sale by the retail of alcohol for consumption off the premises only to 00:00 – 00:00 Monday to Sunday.

Representations: **Residents**

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 		Ibrahim Hussain 020 7364 3329

3.0 **Background**

- 3.1 This is an application for a variation of a variation of a premises licence for (Gopuff), 89 Hemming Street, London, E11 5BW.
- 3.2 A copy of the existing licence (Lic no. 159312) is enclosed as **Appendix 1**. The licensable activities and timings are stated below for information only:

Sale of Alcohol (off sales only)

- Monday to Thursday from 06:00 hours to 23:30 hours
- Friday and Saturday from 06:00 hours to 00:00 hours (midnight)
- Sunday from 06:00 hours to 22:30 hours

Hours premises are open to the public:

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

- 3.3 A copy of the variation application is enclosed as **Appendix 2**. The applicant has described the variation as follows:

“... Extension of hours for the sale by the retail of alcohol for consumption off the premises only to 00:00 – 00:00 Monday to Sunday...”

- 3.4 The licensable activities and timings that have been applied for are:

The sale by retail of alcohol – (Off sales)

- Monday – Sunday 00:00 – 00:00 hours (24 hours)

Hours premises are open to the public:

- Section not completed The sale by retail of alcohol Off sales requested for 24 hours.

4.0 **Location and Nature of the premises**

- 4.1 Maps of the venue are included as **Appendix 3**.
- 4.2 Photographs showing the vicinity are included as **Appendix 4**.
- 4.3 Details of the nearest licensed venues are included as **Appendix 5**.

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 2023.

- 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 December 2023.
- 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 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following:

Residents' names	Appendix
Anna Arfen	6
Annie Ku	7
Anor Miah	8
Carlo De Stefano	9
Charlo□e Wallace	10
Dominic Burrell	11
Duygu Dewey Baydur	12
El montasir El bakkali	13
Emmanuel Nataf	14
George Rhodes	15
Gurkan Oluc	16
Jaeyun Chung	17
Karen Woo	18
Katarzyna Szeliga	19
Martin Coucke	20
Mathew Armstrong	21
Mehdi Kaddour	22
Merel Theisen	23
Michael McGee	24
Mohammed Tanbir	25

Nicholas Block	26
Nisha Ahmed	27
Razvan Lucanu	28
Roberto Tamsanguan	29
Rory Malone	30
Sarah Clements	31
Sarah McGee	32
Sebastian GOMEZ-ALARCON	33
Shawn Clarke	34
Shushan Davtyan	35
Suhena Begum	36
Tahira Akhtar	37
Xiangjun Wei	38

6.4 Essentially, the relevant parties oppose the application because the applicant has not explained how within the context of the application, they will meet all of the above the licensing objective(s).

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

6.5 All of the responsible authorities have been consulted about this application. In addition the application has been advertised in a local newspaper and by a blue public notice at the premises.

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**

7.1 As per the conditions on the existing premises licence (See **Appendix 1**):

7.2 *Customer queues will be marked out and managed by stallholders and market managers so they do not obstruct park users.*

7.3 *Clear and conspicuous notices warning of potential criminal activity such as bag theft which may target customers will be displayed.*

7.4 *All alcohol stalls will not be located near any residential buildings thus minimising any noise.*

7.5 *Stall holders will keep a refusal book on their stalls which will log any incidents where alcohol has been refused to be served*

8.0 Conditions in consultation with the responsible authorities/other person

Existing licence ref: M/168019 - Conditions agreed with Environmental Protection (See Appendix 39)

8.1 *Notices shall be prominently displayed at the site requesting Patrons and Stall Staff to respect the needs of local residents and leave the area quietly. This should be enforced by Market Managers.*

8.2 *No noise generated at the Market shall give rise to a nuisance.*

9.0 Licensing Officer Comments

9.1 The Business & Planning Act 2020 came into force on Wednesday 22nd July 2020 and provides a temporary permission for businesses that have a premises licence that permits them to sell alcohol in regards to the ability to sell alcohol as an off sale, i.e. for consumption off the premises. The permission will end on 31st March 2025 unless the legislation is changed by the Secretary of State.

It will only apply to businesses that hold a Premises Licence up to 22nd July 2020 and that in the last 3 years preceding 22 July 2020 those licences have NOT:

- had a premises licence application where permission for off sales was refused;
- had a variation of a premises licence seeking permission for off sales refused
- had a variation seeking to exclude off sales permission granted
- had a premises licence varied or modified by a review hearing to exclude off sales.

The new off-sales permission will permit off-sales to be made at a time when the licensed premises are open for the purposes of selling alcohol for consumption on the premises, subject to a cut off time of 11pm or the cut off time of the current licensed hours stated on the licence, whichever is earlier. Measures also temporarily suspend existing licence conditions in so far as they are inconsistent with the new off-sales permission. Further Guidance on this can be found at <https://www.gov.uk/government/publications/guidance-for-temporary-alcohol-licensing-provisions-in-the-business-and-planning-bill>

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

9.3 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.

9.4 Members must consider all the evidence and then decide from the following alternatives:

- Grant the application as applied for
- Grant the application with modifications (adjust hours and conditions)
- Refuse

10.0 Licensing Policy and Home Office Advice

10.1 The Council's licensing policy and the Home Office Guidance will be available at the hearing.

11.0 Legal Comments

11.1 The Council's legal officer will give advice at the hearing.

12.0 Finance Comments

12.1 There are no financial implications in this report.

13.0 Appendices

- Appendix 1** A copy of the existing licence
- Appendix 2** A copy of the variation application
- Appendix 3** Maps of the venue
- Appendix 4** Photographs showing vicinity of the venue
- Appendix 5** Details of nearest licensed venues
- Appendices 6-38** Representation of resident
- Appendix 39** Applicant's agreement to EP conditions