

Appendix Two

LONDON BOROUGH OF TOWER HAMLETS

SPECIAL TREATMENT LICENSING - PROCEDURES

RULES GOVERNING APPLICATION FOR SPECIAL TREATMENT LICENCES

Interpretation

1. In these Rules:-

“Act” means Part II of the London Local Authorities Act 1991

“Applicant” means an applicant for or the holder of a licence as appropriate.

“Licence” means any special treatment licence which the Council can grant under the Act. This includes any associated consent or permission.

“Licensee” means an applicant for or the holder of a licence as appropriate.

“Objector” means any person who is objecting to an application specified in rule 7 and who has complied with its terms.

“Occupier” means the place for which a licence is sought or for which a licence is in force.

“Premises” means the place for which a licence is sought or for which a licence is in force.

“Revocation” means a proposal to revoke the licence under Sections 9 and 14 of the Act.

“Council” means the London Borough of Tower Hamlets.

Plans and Specifications

2. An applicant shall submit such plans and specifications of the premises concerned as may be required by the Council within two months of being advised of the Council’s requirements unless an extension of time is granted by the Environmental Health Department.

NOTE: When the licence application forms are submitting to the Council, the Environmental Health Department will arrange for a survey to determine the suitability of the premises concerned with a view to ensuring public safety. Four copies of plans and specifications will

subsequently have to be submitted by the applicant for formal approval and record purposes.

Application Forms

3. An application for a licence shall be made on the form provided by the Council and if required shall be advertised in accordance with Nos. 4 and 5 of these Rules. If an application has been required to be advertised has not been determined within twelve months of its submission to the Council it shall be readvertised in accordance with rules 4 and 5 unless an extension of time is granted by the Council. The form of application shall be signed by the applicant, or a solicitor or other duly authorised agent acting on behalf of the applicant.

Exhibition of a Notice at the Premises

4. On the date on which the application is made the applicant for a new licence shall arrange for a notice or, (if the premises are large or front more than one street), notices of the application to be put up at the premises using the form provided by the Council. The notice(s) must be put up and kept exhibited for not less than 28 days on a part of the premises where it can be easily seen and read by persons in the street or any adjoining public place. With the consent of the Council, the notice(s) may, if necessary, be exhibited near the premises.

The 28 days shall start on the date the application is delivered to the Council or, if posted, on the date shown on the postmark of the envelope addressed to the Council and the notice shall bear this date.

If this rule is not strictly complied with, the Council will require the notice to be re-dated and kept exhibited at the premises for 28 days from this date.

Newspaper Advertisements

5. (a) Within 7 days of the date on which the application is made for a new licence, notice of the application in the form required by the Council shall be published (at the expense of the applicant) in a local newspaper which circulates in the locality in which the premises are situated and which is on sale at local newsagents.

NOTE: A London wide newspaper such as the "The Standard" is NOT regarded as a local newspaper for the purposes of this rule.

(b) Within 14 days of the date on which the application was made the applicant shall send one complete copy of the newspaper containing the advertisement to the Council.

(c) In the event of either or both of the time limits specified in (a) and (b) above not being complied with the last day for lodging objection to

the application shall be extended to 21 days from the date of the newspaper advertisement or to the date by which the complete copy of the newspaper has been received by the Council whichever is the later.

This rule shall not apply to an application for a transfer or renewal of a licence unless the Council specifically so requires.

Modification or Waiver of Conditions of Licence or Extension of Licensed Area

6. A licensee applying (whether or not at the same time as an applicant for transfer or renewal) for the modification or waiver of any of the terms, conditions or restrictions of a licence or for an amendment of a licence relating to an extension of a licensed area shall comply, where appropriate, with Nos. 2, 4 and 5 of these rules as required by the Council.

Objections

7. A person who wishes to object to:
 - I. the grant, transfer or renewal of the licence: or
 - II the modification or waiver of a licence conditions: or
 - III amendment of the licence where this would extend the licensed areashall within the time specified in the notice, put up at the premises or contained in the newspaper advertisement, relating to the application write to the Head of Environmental Health (Commercial) giving in detail the reasons for objection. The Head of Environmental Health (Commercial) shall forward to the applicant a copy of every valid written objection.
8. A late objection will only be accepted by the Council in the most exceptional circumstances.
9. The Council will not accept an objection where it considers that the grounds of objection contain matters which it cannot take into account.
10. An opposed application shall be decided at a hearing where evidence is given orally and in public unless the Policy and Strategy Committee or the Licensing Sub-Committee decide otherwise.
11. At any public oral hearing in of an application, an objector shall not be allowed to raise any matter not referred to in the written objection.

12. At any public oral hearing in of an application the applicant and the objector shall attend in person or, if the application or objection is made by a body corporate, business firm, society, associated or other group, a duly authorised representative shall be present.
13. If any person who has written to the Head of Environmental Health (Commercial) objecting to the granting of a licence fails to attend the public oral hearing, the licensing Sub-Committee will hear and consider any evidence and arguments put forward by or on behalf of the applicant in relation to the written objection received, the Sub-Committee will take into account in considering the importance to be attached to the objection that the objector was not available to be questioned about his statements.

Procedure At and After Oral Hearing In Public

14. A report will be put before the Sub-Committee, prepared by the relevant officer of the Council, outlining important aspects of the application. In addition the Applicant will provide a detailed plan of the premises and , where appropriate, an Ordnance survey sheet indicating other premises within a suitable radius which are licensed whether for special treatments or for public entertainment or as night cafes.
15. At the start of the Hearing the Chair will introduce him/herself and the other members of the Sub-Committee.
16. The Chair will then invite the relevant officer of the Council to introduce the report. This officer will outline impartially the matter before the Sub-Committee (e.g. the application, revocation proposed etc) give any relevant background information and call any necessary officer to give factual information (e.g. as to the technical arrangements of the premises). These officers can be cross-examined by any of the parties present or questioned by members of the Sub-Committee on matters relating to their professional expertise and are subject to re-examination by the relevant officer of the Council.

NOTE: See Rule 17(v) for an explanation of these terms.

17. The Chair will then check that there are no additions or alterations to the list of those appearing at the hearing, which will have been prepared in advance by the appropriate officer and will then outline the procedure that will be followed for the remainder of the hearing.

(l) The objectors present their cases before the applicant presents his.

N.B In appropriate cases the Sub-Committee may during or at the end of the objectors case wish to establish whether the objectors are opposed to the application in its entirety or, for example are objecting

to the lateness of the hours sought and not to the grant of the licence itself.

(II) Subject to Rule 18 below, when all objectors have been heard, the applicant may present his case.

(III) Each party (or his representative) is entitled to address the Sub-Committee as of right on only one occasion - either before calling his evidence or immediately after he and/or his witnesses have completed their evidence.

(IV) Each person giving evidence may be cross-examined by the opposing party or parties and by members of the Sub-Committee.

NOTE 1 Where the applicant or objector appears without representation and wishes to address the Sub-Committee the Chair should ask him whether he is prepared to submit to cross examination. (Less importance will be attached to a statement that is not subjected to cross examination).

NOTE 2 Objectors to an application may not question each other but an objector may question his or her witness (es).

(V) When a person is called to give evidence:-

(a) He is first asked to state his full name and address:

(b) He is questioned by the person calling him (Examination in Chief).

(c) He may be questioned by the other party or parties or their representative (cross - examination).

(d) Throughout the presentation of the respective cases for the Objector and the Applicant questions may not be put by Members of the Sub- Committee. Such questions will normally be put immediately following cross-examination. (Following the questions by Members the Sub-Committee they may have to consider whether a further opportunity for cross-examination should be afforded to the other party or parties on "new" evidence introduced as a result of the replied to Member' questions).

(e) He may be questioned further by the person who called him. These questions must be limited to matters which have already arisen in previous examination or Members' question. (Re-examination). No new matters may be raised at this stage.

(IV) Unless the Sub-Committee rules otherwise, or one of the parties objects, all witnesses may be present in the Licensing room throughout the hearing. Once they have given evidence they shall remain in the room until either the hearing is closed or they are released by the Chair.

18. The Councillor for the Ward in which the premises of either the applicant or the objector(s) are situated may address the Sub-Committee or may submit written representations in respect of the application regardless of whether or not he/she is an objector or is being called by any party.

NOTE: (I) Before a Ward Councillor addresses the Sub-Committee he must first make a declaration that he has not previously discussed the application with the Members of the Sub-Committee and will take no part in the determination of the application.

If representation is given by way of written submission the Chairman will indicate that the Sub-Committee will take into account the fact that the submission of the Ward Councillor cannot be tested by cross-examination.

Documents

19. Where one of the parties wishes to submit a document at the hearing the following procedure should be followed:-

(a) The Chair shall establish whether the opposing party or parties (or their representatives) have already seen the document and whether they have any objection to its submission.

(b) If the other parties have not previously seen the document the Chair will request that it be first passed to them (or to their representative) so they can decide whether they object to it being submitted to the Sub-Committee and if so the grounds of their objection.

N.B For this purpose it may be necessary to allow time for study of the document.

(c) If there is an objection to the submission of the document both parties may give their reasons for or against the proposed submission to the Sub-Committee. The Legal Advisor to the Sub-Committee may also give advice before the Sub-Committee decide whether to allow the document to be submitted.

N.B. In some cases it may be necessary for them to see the document before making a decision.

- 20.** If there has been no objection to the submission of a document or if the Sub-Committee has ruled that it may be submitted, the document will normally be read aloud by the party submitting it or by his representative. If the submission is a letter or written statement by someone who is not present and its submission has been opposed by one of the parties, the Chair, (if the Sub-Committee have ruled that it should be admitted) will indicate that the weight of evidence (importance) account the fact that the signatory of the letter or the maker of the statement is not present to be cross-examined.

NOTE: At least 6 copies should be provided of any document which is to be submitted to the Sub-Committee.

Decision

- 21.** At the end of the hearing the Chair will announce that the hearing is adjourned to enable the Sub-Committee to deliberate in private and will return as soon as possible to announce their decision. The Sub-Committee will normally be accompanied by the relevant officers of the Council but the decision shall be arrived at by Members of the Sub-Committee only. Sometimes the Sub-Committee will go to a private room or they may ask the parties concerned and the public to leave.
- 22.** The Sub-Committee may decide to grant the application in whole or in part, to refuse the application, or to make a revocation and may attach any additional conditions, if granting a licence, they consider appropriate.

Notification of Decision

- 23.** The Chair will normally announce the Sub-Committee's decision at the end of the hearing. This decision will then be communicated in writing to the parties as soon as possible after the hearing.

Waiver of Rules

- 24.** In any particular case, any of these rules may be waived, altered or modified by the Committee, Sub-Committee or their Chair or in the case of Rules 2, 3, 4, 5, 6, 7, 8 and 9 by a duly authorised officer of the Council.