

Committee: <b>Licensing Sub-Committee</b>	Date: 1 December 2020	Classification: UNRESTRICTED	Report No.	Agenda Item No.
--	--------------------------	---------------------------------	------------	-----------------

Report of: <b>David Tolley</b> <b>Head of Environmental Health &amp; Trading Standards</b>  Originating Officer: <b>Corinne Holland</b> <b>Licensing Officer</b>	Title: <b>Licensing Act 2003</b>  <b>Application to Review the Premises Licence for Queens Head, 8 Flamborough Street, London E14 7LS</b>  Ward affected: <b>St Dunstans</b>
---	--

## 1.0 Summary

Name and Address of premises:	<b>Queens Head 8 Flamborough Street London E14 7LS</b>
Licence under review:	<b>Licensing Act 2003</b> ▪ <b>Sale by retail of alcohol</b>
Review Triggered by:	<b>Environmental Health</b>
Representations:	<b>Licensing Authority Police Local Residents</b>

## 2.0 Recommendations

- 2.1 That the Licensing Committee considers the application for review and then adjudicates 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"> <li>• Guidance Issued under Section 182 of the Licensing Act 2003</li> <li>• Tower Hamlets Licensing Policy</li> <li>• File</li> </ul>		<b>Corinne Holland 020 7364 3986</b>

### 3.0 Review Application

- 3.1 This is an application for a review of the premise licence for the Queens Head Public House, 8 Flamborough Street, London E14 7LS. The review was triggered by the Environmental Health noise team.
- 3.2 A copy of the review application is attached in **Appendix 1**.
- 3.3 Additional evidence provided by Environmental Health is in **Appendix 2**.

### 4.0 The Premises

- 4.1 The premises licence was issued on 29<sup>th</sup> September 2005. The current licence holder is Steven Fairman who has been the licence holder since 14<sup>th</sup> January 2020. The Designated Premises Supervisor, also Steven Fairman, has been in place since 8<sup>th</sup> May 2019. A copy of the current licence is contained in **Appendix 3**.
- 4.2 On 22<sup>nd</sup> January 2019 the Licensing Authority triggered a review which was brought in front of the Licensing Sub Committee on 2<sup>nd</sup> April 2019. The DPS at the time was removed and several conditions were imposed. Full details of the premises' recent history can be found in the representation made by the Licensing Authority in **Appendix 5**.
- 4.3 Maps showing the premises and surrounding area are included in **Appendix 4**.

### 5.0 Representations

- 5.1 This hearing is required by the Licensing Act 2003, because a review has been triggered by Environmental Health.
- 5.2 The review is further supported by the following Responsible Authorities  
Licensing Authority – **Appendix 5**  
Police – **Appendix 6**.
- 5.3 The review has also received representations from local residents in support of the Review. See below representations:

Amanda Luscombe	<b>Appendix 7</b>
Cynthia Grant	<b>Appendix 8</b>
Christopher Ody	<b>Appendix 9</b>
David Richards	<b>Appendix 10</b>
Diana Warren	<b>Appendix 11</b>
Enrique Casarrubios / Jane Robinson	<b>Appendix 12</b>
Elaine & John Fanning	<b>Appendix 13</b>
Iain McLoughlin	<b>Appendix 14</b>
Mike Askew	<b>Appendix 15</b>
Maria Graydon	<b>Appendix 16</b>

Mandy Loveday	<b>Appendix 17</b>
Donna McLoughlin	<b>Appendix 18</b>
Sandra Hanshaw	<b>Appendix 19</b>

5.4 There have also been a number of representations made in support of the premises by local residents:

Brendan Bourne	<b>Appendix 20</b>
Mr & Mrs G Vano	<b>Appendix 21</b>
Iris Baines	<b>Appendix 22</b>
John Boran	<b>Appendix 23</b>
Mrs J Doran	<b>Appendix 24</b>
Mrs M Paul	<b>Appendix 25</b>
Miss S Sinclair	<b>Appendix 26</b>
Tina Rowe	<b>Appendix 27</b>

5.5 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

5.6 In the view of the interested party and the responsible authorities it is necessary to achieve the licensing objectives of the prevention of public nuisance and prevention of crime & disorder.

## 6.0 Review Explained

6.1 The Licensing Act 2003 was described by the Government at the time as “light touch” but as Baroness Blackstone stated in the Lords at the time of the second reading (26 Nov 2002) “Local residents and businesses as well as expert bodies, will have the power to request that the licensing authority review existing licences where problems arise. Such a review could result in the modification of the licence, its suspension, or ultimately, revocation.”

6.2 The Home Office has issued guidance under Section 182 of the Licensing Act 2003 in relation to reviews and that is contained in **Appendix 28**. It is available on the Government’s website, [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk). It was last revised in April 2018.

6.3 Members are particularly asked to note the comments in relation Crime and Disorder. In particular the home office advice is that “The role of the licensing authority when determining such a review is not therefore to

establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted.”

- 6.4 In relation to its advice on representations the home office has also advised that “there is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premises to support their representations.” It has also issued revised guidance about Crime and Disorder. **See Appendix 29.**
- 6.5 Members should also note the Council’s Licensing Policy in relation to Crime and Disorder, the relevant parts of which are contained in **Appendix 30.**
- 6.6 The home office has also issued guidance about the prevention of public nuisance this is contained in **Appendix 31.**
- 6.7 The Council’s Licensing Policy in relation to Public Nuisance is contained in **Appendix 32.**
- 6.8 The Home Office has advised that in relation to reviews “ Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation. ”
- 6.9 An interested party or a responsible authority can trigger a review at any time, but the grounds must be relevant to the licensing objectives. The form of the application, and the advertisement of the review are the subject of regulations (The Licensing Act 2003 (Premises Licences and Club Premises Certificate) Regulations 2005). In addition, the licensing authority has to satisfy itself of certain matters in relation to the Licensing Act 2003. The Licensing & Safety Team Leader is the delegated officer who deals with this on behalf of the Licensing Authority. All the matters stated in 5.0 were considered before any representations were accepted for inclusion in this report.
- 6.10 The Licensing Act 2003 requires that the Licensing Authority satisfies itself that it should reject the grounds for a review because:
  - The ground is not relevant to one or more of the licensing objectives
  - In the case of an application by a local resident that the application is frivolous, vexatious or repetitious.

## 7.0 Review Advertisement

- 7.1 The review was advertised by a blue poster, next to the premises, by the Licensing Section. This was periodically monitored by the Section to ensure it was on continuous display, and replaced as necessary. It was also advertised at Mulberry Place, 5 Clove Crescent, London E14 2BG.
- 7.2 The party that triggers the review must notify the licence holder and responsible authorities. The review documents were sent to the licence holders.
- 7.3 The procedure for a review can be summarised as follows:
- A review is triggered by a responsible authority or interested party
  - Consultation is conducted for 28 full days
  - Other responsible authorities or interested parties may join in the review
  - Members conduct a hearing
  - Members make a determination
  - All the parties to the review have the right of appeal to the magistrates court (i.e. the licence holder, the person who triggered the review and those who have made a representation).

## 8.0 Licensing Officer Comments

- 8.1 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 30th September 2021 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.
- 8.2 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>

8.3 The Government's advice in relation to reviews is contained in **Appendix 28**. Members must consider all the evidence and then decide from the following alternatives:

- Take no further action as they do not consider it proportionate to do so
- Impose conditions (including altering existing permissions) that relate to problems which they consider have been identified and which are necessary and proportionate to ensure that the licensing objectives are met
- Suspend the licence for a period
- Revoke the licence completely

8.4 The licence should only be suspended or revoked if Members believe that alterations to the existing licence, including imposing new conditions does not have a reasonable prospect of ensuring that the licensing objectives are met.

8.5 Members should bear in mind that conditions may not be imposed for any purpose other than to meet the licensing objectives.

8.6 In all cases the Members should make their decision on the civil burden of proof that is "the balance of probability."

8.7 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.

## 9.0 **Legal Comments**

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

## 10.0 **Finance Comments**

10.1 There are no financial implications in this report.

## 11.0 Appendices

<b>Appendix 1</b>	Copy of the review application
<b>Appendix 2</b>	Additional evidence from Environmental Health
<b>Appendix 3</b>	Premises Licence
<b>Appendix 4</b>	Maps of locality
<b>Appendix 5</b>	Representations from Licensing Authority
<b>Appendix 6</b>	Representations from Police
<b>Appendix 7-19</b>	Representation from local residents supporting review
<b>Appendix 20-27</b>	Representations in support of the premises
<b>Appendix 28</b>	Guidance issued under Section 182 by the Home Office for reviews
<b>Appendix 29</b>	Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Crime and Disorder
<b>Appendix 30</b>	London Borough of Tower Hamlets Licensing Policy in relation to the prevention of Crime and Disorder
<b>Appendix 31</b>	Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Public Nuisance
<b>Appendix 32</b>	London Borough of Tower Hamlets Policy in relation to the prevention of Public Nuisance