

Committee :	Date	Classification	Report No.	Agenda Item No.
Licensing Sub-committee	15 July 2021	Unclassified		

Report of: David Tolley Head of Environmental Health and Trading Standards Originating Officer: Lavine Miller-Johnson Licensing Officer	Title: Licensing Act 2003 Application for a premises licence variation for Travelodge 20 Middlesex Street London E1 7EX Ward affected: Spitalfields and Banglatown
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1.0 Summary

Applicant: **Travelodge Limited**

Name and **Travelodge**

Address of Premises: **20 Middlesex Street
London
E1 7EX**

Licence sought: **Licensing Act 2003 – Premises Licence
variation to remove restrictions to allow off
sales**

Representations: **Licensing Authority
Environmental Health**

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

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3.0 **Background**

3.1 This is an application for a premises licence variation for **Travelodge 20 Middlesex Street London E1 7EX**

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

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:
The application is to remove that restriction to allow customers of the hotel to take their drinks to the outside seating areas. The style and operation of the premises will not change and the conditions of the premises licence will be complied with.

4.0 **Location and Nature of the premises**

4.1 Photographs of the venue and immediate vicinity are included as **Appendix 3**

4.2 Maps 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 2013.

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, 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.

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 All representations must be “about the likely effect of the grant of the premises licence on the promotion of the licensing objectives.” Likely means something that will probably happen, i.e. on balance more likely than not.
- 6.4 Representations by responsible authorities do not have to meet the second test of not being vexatious and frivolous. Other persons have to meet this test.
- 6.5 The Home Office recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation.
- 6.6 Section 182 Advice by the Home Office concerning relevant, vexatious and frivolous representations is attached as **Appendix 6**.
- 6.7 All the representations in this report have been considered by the relevant officer (Team Leader Licensing & Safety) and determined to have met the requirements of the Licensing Act 2003.
- 6.8 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following responsible authorities and local residents:
- Licensing Authority **Appendix 7**
 - Environmental Health **Appendix 8**
- 6.9 Agents response to the representation included as **Appendix 9**
- 6.10 All of the responsible authorities have been consulted about this application. They are as follows:
- The Licensing Authority
 - The Metropolitan Police
 - The LFEP (the London Fire and Emergency Planning Authority).
 - Planning
 - Health and Safety
 - Noise
 - Trading Standards
 - Child Protection
 - Public Health
- 6.11 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

6.12 Essentially, the relevant parties oppose the application because the applicant has not explained how within the context of the application, they will meet the licensing objectives, particularly the prevention of public nuisance.

6.13 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.

6.14 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 The following are conditions already on the existing Premises Licence:

Annex 2 - Conditions consistent with the operating Schedule

None

Annex 3 - Conditions attached after a hearing by the licensing authority

Hearing date 4th April 2018

The premises have **On and off sales** (*No off sales to be removed from the building*)

1. A colour digital CCTV system will be installed and maintained to the satisfaction of the Police and Licensing Authority. Recordings from the installed CCTV are to be kept for 31 days, these recordings shall be immediately available for inspection and viewing on the premises by Police and/or licensing Authority officers on request.
2. Hard copy recordings of CCTV footage in a playable format must be provided to Police and/or Licensing Authority Officers within 48 hours of their request.
3. The premises must ensure the CCTV system is operating and recording 24 hours every day (save for the purpose of maintenance).
4. The licence holder will ensure all members of staff are trained in the requirements of the Licensing Act and other relevant legislation.

5. Between the hours of 23:00 and 10:00 hours the sale of alcohol will be restricted to hotel residents and bona fide guests of hotel residents.
6. After 23:00 hours access to the hotel is restricted to residents with key card.
7. Notices shall be prominently displayed near all exits from the premises asking patrons to leave quietly with consideration for neighbours.
8. The emptying of bottles into outside bins will be restricted to the hours of 08:00 hours and 22:30 hours.
9. Persons under 16 years of age will be accompanied by an adult in the area where licensable activities take place.
10. A Challenge 25 proof of age scheme will be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
11. There shall be no sales to non-residents after 23:00 hours to 10:00 hours the following day.

8.0 Conditions consistent with Operating Schedule

Not applicable

9.0 Conditions agreed in consultation with responsible authorities:

None

10.0 Licensing Officer Comments

10.1 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.

10.2 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 (See 6.2). 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.

10.3 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.” It is a key mechanism 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.” (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)
- ❖ It is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention (10.5)

- ❖ 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.
- ❖ “The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities.” (10.11)
- ❖ 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)
- ❖ 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. This may be unlawful under current law. However, it is important to note that the mandatory conditions made under sections 19A and 73B of the 2003 Act prohibit a number of types of drinks promotions where they give rise to a significant risk to any one of the four licensing objectives (10.21).
- ❖ 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)

10.4 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.

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

10.6 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.

10.7 The Government has advised that “Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.” (2.21)

10.8 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.

10.9 In **Appendices 10-14** Members are given general advice, and also have explanations of the Council’s Licensing Policy, Government advice and other legislation relating to the matters in the representations.

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.

Appendices

Appendix 1	A copy of existing Premises Licence
Appendix 2	Copy of variation application
Appendix 3	Photographs of the premises
Appendix 4	Maps showing vicinity of venue & Brick Lane CIZ
Appendix 5	Details of nearest licensed venues
Appendix 6	Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations
Appendix 7	Representation from Licensing Authority
Appendix 8	Representation from Environmental Health
Appendix 9	Agents response to the representation
Appendix 10	Licensing Officer comments on Public Nuisance
Appendix 11	S182 advice on Public Nuisance
Appendix 12	Licensing Policy relating to hours of trading
Appendix 13	Licensing Policy on the CIZ
Appendix 14	Planning