

Committee : <b>Licensing Sub Committee</b>	Date 27 July 2021	Classification <b>Unclassified</b>	Report No.	Agenda Item No.
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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 Application for variation of a Premises Licence for Iberian Connections, 2-10 Ezra Street, London, E2 7RH</b>  Ward affected: <b>Weavers</b>
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## 1.0 Summary

Applicant: **Bruno Pearson**

Name and Address of Premises: **Iberian Connections**  
**2-10 Ezra Street**  
**London**  
**E2 7RH**

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

- **Change floor plan**
- **Alter Sunday timings**
- **Allow seasonal variations for Christmas market**
- **Add conditions**

Objectors: **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

Section 182 guidance  
Licensing Policy  
File

Corinne Holland  
020 7364 3986

### 3.0 **Background**

- 3.1 This is an application for a variation of the premises licence for Iberian Connections, 2-10 Ezra Street, London, E2 7RH.
- 3.2 The existing Premise Licence was issued on 17<sup>th</sup> August 2010 and a copy is enclosed as **Appendix 1**.
- 3.3 The timings of the existing licence are detailed below for information only:-

#### **The Supply of Alcohol (off sales)**

- Sunday 08:00 hours to 15:00 hours

- 3.4 The applicant has described the nature of the variation as follows:  
*'To change the floor plan, alter Sunday timings to 10:00 – 17:00 hours, add seasonal variations during November & December for 16:00 – 21:00 hours for the Christmas markets. Addition of conditions*
- 3.5 A copy of the variation application is enclosed as **Appendix 2**.

### 4.0 **Location and Nature of the premises**

- 4.1 Photographs of the venue and immediate vicinity are enclosed in **Appendix 3**.
- 4.2 Maps showing the vicinity are included as **Appendix 4**.
- 4.3 Nearby Licensed Premises are shown in **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 1<sup>st</sup> November 2018.
- 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](http://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, 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 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 received.

REPRESENTATION	APPENDIX
Anna Crew	7
Christopher Cousins	8
Christopher Sheppard	9
Christopher Want	10
Catherine Yass	11
Duncan Campbell	12
Kristin Perers	13
William Taylor	14

6.9 All of the responsible authorities have been consulted about this application. They are as follows:

- The Licensing Authority
- The Metropolitan Police
- The LFEPA (the London Fire and Emergency Planning Authority).
- Planning
- Health and Safety
- Noise (Environmental Health)
- Trading Standards
- Child Protection
- Public Health
- Immigration

6.10 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

6.11 The objections cover allegations of

- Public nuisance
- Anti - social behaviour

6.12 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.

6.13 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 on existing Premises Licence:**

Mandatory conditions only

## **Conditions consistent with Operating Schedule**

1. An incident log shall be kept at the premises, and made available on request to an authorised officer of the Council or the Police, which will record the following:
  - a. all crimes reported to the venue
  - b. all ejections of patrons
  - c. any complaints received concerning crime and disorder
  - d. any incidents of disorder
  - e. any faults in the CCTV system
  - f. any visit by a relevant authority or emergency service.
2. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
3. CCTV shall be installed, operated and maintained at all times that the premises is open for licensable activities, so as to comply with the following criteria;
  - a) The licensee will ensure that the system is checked every two weeks to ensure that the system is working properly and that the date and time are correct. A record of these checks, showing the date and time of the person checking, shall be kept and made available to police or authorised council officers on request.
  - b) The police must be informed if the system will not be operating for longer than one day of business for any reason
  - c) One camera will show a close-up of the entrance to the premises, to capture a clear, full length image of anyone entering
  - d) The system will provide coverage of any exterior part of the premises accessible to the public
  - e) The system shall record in real time and recordings will be date and time stamped
  - f) Recordings will be kept for a minimum of 31 days and downloaded footage will be provided free of charge to police or authorised council officers on request, (subject to the Data Protection Act 1998) within 24 hours of any request, and
  - g) At all times the premises are open for licensable activity, there will be a person on the premises who can operate the system sufficiently to allow police or authorised council officers to view footage on request.
4. Signage stating that CCTV is in operation at the premises will be clearly displayed at the premises.
5. No high strength beer, lager or cider in cans or plastic bottles of 6.5% abv or above shall be sold.

6. All sales of alcohol for consumption off the premises shall be in recyclable containers only and shall not be consumed on the premises.
7. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale, a description of the person who was refused service and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by authorised officers of the council and the Metropolitan Police upon request.
8. The Licensee shall instruct members of staff to make regular checks of the area immediately outside the premises and remove any litter emanating from the premises. A final check should be made at close of business.
9. The premises will provide a bin or bins which will be subject to regular emptying.
10. The premises shall at all times operate a Challenge 25 policy to prevent any customers who attempt to purchase alcohol and who appear to the staff member to be under the age of 25 years without having first provided identification. Only a valid British driver's licence showing a photograph of the person, a valid passport or proof of age card showing the 'Pass' hologram are to be accepted as identification. Military ID Cards can also be accepted. Notices and/or posters advertising the Challenge 25 policy shall be placed in prominent positions at the premises.
11. All staff members engaged, or to be engaged, in selling alcohol on the premises shall receive full training pertinent to the Licensing Act, specifically in regard to age-restricted sales, and the refusal of sales to persons believed to be under the influence of alcohol or drugs.
12. All such training is to be fully documented and signed by not only the employee but the person delivering the training. Training records shall be kept at the premises and made available upon request to either Police Officers or an authorised officer of the council. Staff employed to sell alcohol shall undergo training upon induction. This shall include, but not be limited to;
  - The premises age verification policy
  - Dealing with refusal of sales
  - Proxy purchasing
  - Identifying attempts by intoxicated persons to purchase alcohol
  - Identifying signs of intoxication
13. Such training sessions are to be documented and refreshed every twelve months. All training sessions are to be documented in English. Records of training shall be kept for a minimum of one year and be made available to an authorised officer of the council and the Metropolitan Police upon request.

## 8.0 Conditions agreed in consultation with the responsible authorities

None

## 9.0 Licensing Officer Comments

9.1 The following is intended 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.

### 9.2 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 under the 2003 Act.” It is a key medium 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.” Therefore licensing authorities will need to give full reasons for their actions (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.
- ❖ 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)



- 9.3 The Licensing Act 2003 permits children of any age to be on the premises which primarily sell alcohol providing they are accompanied by an adult. It is not necessary to make this a condition.
- 9.4 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”
- 9.5 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.
- 9.6 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)
- 9.7 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 9.8 In **Appendices 15 - 19** 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.

#### 10.0 **Legal Comments**

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

#### 11.0 **Finance Comments**

- 11.1 There are no financial implications in this report.

## 12.0 Appendices

<b>Appendix 1</b>	A copy the existing licence
<b>Appendix 2</b>	A copy of the application for variation
<b>Appendix 3</b>	Photographs
<b>Appendix 4</b>	Maps of the surrounding area
<b>Appendix 5</b>	Nearby licensed premises
<b>Appendix 6</b>	Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations
<b>Appendix 7 -14</b>	Resident Representations
<b>Appendix 15</b>	S182 advice re public nuisance
<b>Appendix 16</b>	Licensing Policy advice on public nuisance
<b>Appendix 17</b>	Anti-social behaviour when leaving premises
<b>Appendix 18</b>	Framework hours
<b>Appendix 19</b>	Planning