

Committee :	Date	Classification	Report No.	Agenda Item No.
<b>Licensing Sub Committee</b>	14 September 2021	<b>Unclassified</b>		

Report of : <b>David Tolley</b> <b>Head of Environmental Health &amp; Trading Standards</b>  Originating Officer: <b>Lavine Miller-Johnson</b> <b>Licensing Officer</b>	Title: <b>Licensing Act 2003 Application for variation of a Premises Licence for Printers and Stationers, 21a Ezra Street, London E2 7RH</b>  Ward affected: <b>Weavers</b>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

## 1.0 Summary

Applicant: **Augustin De la Brosse**

Name and Address of Premises: **Printers and Stationers  
21a Ezra Street  
London  
E2 7RH**

Licence sought: **Licensing Act 2003  
Variation to Premises Licence (to remove condition 2 in Annex 2)**

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

Lavine Miller-Johnson  
020 7364 2665

### 3.0 **Background**

3.1 This is an application for a variation of the premises licence for Printers and Stationers, 21a Ezra Street, London, E2 7RH

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

3.3 The timings of the existing licence are detailed below for information only:-

#### **The Sale of alcohol (on & off sales):**

- Monday to Friday 09:00 hours – 21:00 hours
- Saturday & Sunday 09:00 hours – 20:00 hours

#### **The opening hours of the premises:**

- Monday to Friday 09:00 hours – 21:00 hours
- Saturday & Sunday 09:00 hours – 20:00 hours

3.4 A copy of the variation application is enclosed as **Appendix 2**.

3.5 The applicant has described the nature of the variation as follows:

*To remove the condition 2: of Annex 2*

*2. No drinks are to be taken outside the premises.*

3.6 The times for the licensable activities and opening hours have not been varied:

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

4.1 Maps & images showing the vicinity are included as **Appendix 3**.

4.2 Nearby Licensed Premises are shown in **Appendix 4**.

### 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, 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 5**.
- 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 both against and in support of the application.

<b>Objectors Representations</b>	<b>Appendix</b>
Alice Boreman	<b>Appendix 6</b>
Afsaneh Mastouri	<b>Appendix 7</b>

Christopher Sheppard	<b>Appendix 8</b>
Christopher Want	<b>Appendix 9</b>
Duncan Campbell	<b>Appendix 10</b>
Edward Stanger	<b>Appendix 11</b>
Laurie Davison	<b>Appendix 12</b>
Neil Blake	<b>Appendix 13</b>
Richard Hall	<b>Appendix 14</b>
Sara Dixon	<b>Appendix 15</b>
Tony Tedore	<b>Appendix 16</b>
Wanda Briggs	<b>Appendix 17</b>
<b>Supporting Representations</b>	
Alastair Murray	<b>Appendix 18</b>
Ben Day	<b>Appendix 19</b>
Christopher Cousins	<b>Appendix 20</b>
Carl Forrest	<b>Appendix 21</b>
Corinna Julnes	<b>Appendix 22</b>
Hugo MacGregor Craig	<b>Appendix 23</b>
Conor Pearson	<b>Appendix 24</b>
David Battchelor & Ann Gallagher	<b>Appendix 25</b>
Darren mc Closkey	<b>Appendix 26</b>
Emma Caseley	<b>Appendix 27</b>
Ellen Coughlan	<b>Appendix 28</b>
Emma Iantosca	<b>Appendix 29</b>
Felipe Carvajal-Echavarria	<b>Appendix 30</b>
Harry Hitchens	<b>Appendix 31</b>
Helen Liaudin	<b>Appendix 32</b>
Isla Haigh	<b>Appendix 33</b>
Julia Kuttner	<b>Appendix 34</b>
Jane Manning	<b>Appendix 35</b>
John Moore	<b>Appendix 36</b>
Jackie thompson	<b>Appendix 37</b>
Juliette Tuke	<b>Appendix 38</b>
Liz Francis & Marie Sleigh	<b>Appendix 39</b>
lily Jones	<b>Appendix 40</b>
Maggie Hunt	<b>Appendix 41</b>
Mrjana Krstic	<b>Appendix 42</b>
Maurizio Von Trapp	<b>Appendix 43</b>
Miss R Griffin	<b>Appendix 44</b>
Rebecca Williams	<b>Appendix 45</b>
Stella Blunt	<b>Appendix 46</b>
Sue Game	<b>Appendix 47</b>
Simon Pearce	<b>Appendix 48</b>

Tom Maloney	<b>Appendix 49</b>
William Brown	<b>Appendix 50</b>
Wendy Lowe	<b>Appendix 51</b>
Petra Stelzenmuller	<b>Appendix 52</b>

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

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
- Noise

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.

**Conditions on existing Premises Licence:**

1. An incident book will be kept on the premises to record any refused sales or unacceptable behaviour.
2. No drinks are to be taken outside the premises.
3. No persons under the age of 18 will be allowed on the premises whilst they are trading unless they are accompanied by a person over the age of 18.
4. The staff on the premises will operate a "Challenge 21" policy and will demand photo ID from any person attempting to purchase alcohol who appears to be under 21 years of age.

### **Conditions consistent with Operating Schedule**

1. A Challenge 25 proof of age scheme shall 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.
2. Staff are trained to adhere to Challenge 25
3. Outside furniture to be removed at 21:00 hours.
4. No under 18's permitted inside without an accompanying adult.

## **7.0 Conditions agreed in consultation with the responsible authorities**

### **Condition agreed with Licensing Authority**

- All customers consuming alcohol outside the front of the premises, must be seated in the area authorised under the tables and chairs licence, issued by the Local Authority, except on a Sunday until 17:00 hours, and during the months of November and December for the Christmas Markets.

## **8.0 Licensing Officer Comments**

8.1 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.

### **8.2 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)
- 8.3 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.
- 8.4 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”
- 8.5 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.
- 8.6 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)

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

8.8 In **Appendices 53 - 57** 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.

## 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>	A copy the existing licence
<b>Appendix 2</b>	A copy of the application for variation
<b>Appendix 3</b>	Maps of the surrounding area
<b>Appendix 4</b>	Nearby licensed premises
<b>Appendix 5</b>	Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations
<b>Appendix 6-17</b>	Representations from residents (objections)
<b>Appendix 18-52</b>	Representations from residents (support)
<b>Appendix 53</b>	Advice re noise whilst the premises is in use
<b>Appendix 54</b>	Advice on anti-social behaviour on the premises
<b>Appendix 55</b>	Licensing Policy advice on public nuisance
<b>Appendix 56</b>	S182 advice re public nuisance
<b>Appendix 57</b>	Framework hours