

Committee: <b>Licensing Sub Committee</b>	Date 07 December 2021	Classification <b>Unrestricted</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>	Title: <b>Licensing Act 2003 Application for a new Premise Licence for Classic Football Shirts, 17 Commercial Street, London, E1 6NE</b>
Originating Officer: <b>Corinne Holland</b> <b>Licensing Officer</b>	Ward affected: <b>Spitalfields and Banglatown</b>

## 1.0 Summary

Applicant: **Classic Football Company (Ciaran Gold) Trading Limited**

Name and Address of Premises: **Classic Football Shirts  
17 Commercial Street  
London  
E1 6NE**

Licence sought: **Licensing Act 2003  
Sale by retail of Alcohol**

Objectors: **Environmental Protection  
Licensing Authority**

## 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  
Section 182 Guidance  
LBTH Licensing Policy

Corinne Holland  
020 7364 3986

### 3.0 **Background**

- 3.1 This is an application for a new Premise Licence for Classic Football Shirts, 17 Commercial Street, London, E1 6NE.
- 3.2 The applicant has described the premises as: Café selling beer & wine within a football shirt shop (on sales only) for fewer than 50 patrons.
- 3.3 A copy of the application is shown in **Appendix 1**.
- 3.4 The hours applied for are as follows:

#### **Sale of Alcohol (on sales)**

Monday – Saturday 11:00 – 23:00 hours

Sunday 11:00 – 22:30 hours

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

- 4.1 The site plan of the venue is included as **Appendix 2**.
- 4.2 Maps showing the vicinity are included as **Appendix 3**.
- 4.3 Photographs of the premises are included in **Appendix 4**.
- 4.4 Details of other licensed venues in the immediate vicinity 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 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 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.
- Environmental Protection – **Appendix 7**
  - Licensing Authority – **Appendix 8**
- 6.9 Correspondence from applicant to Environmental Protection– **Appendix 9**
- Correspondence from applicant to Licensing Authority – **Appendix 10**
- 6.10 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
  - Home office (Immigration Enforcement)
- 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 The objections relate to:

- Public nuisance
- Crime & disorder
- Noise
- The LBTH Cumulative Impact Zone

6.13 Essentially, the relevant parties oppose the application because the applicant has not explained how within the context of the application they will meet licensing objective of the prevention of public nuisance and the prevention of crime and disorder.

6.14 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.

6.15 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 consistent with Operating Schedule**

1. All staff shall be suitably trained for their job function in the premises. The training shall be written into a ongoing programme and under constant review and shall be made available to a relevant responsible authority when called upon.
2. A properly specified and fully operational CCTV system shall be installed, operated and maintained. The system shall incorporate a camera covering the entrance door and be capable of providing an image which is regarded as 'identification standard' of all persons entering and/or leaving the premises. The CCTV system shall be in operation at the premises at all times when the premises are used for the provision of licensable activity.
3. The CCTV system shall incorporate a recording facility and all recordings shall be securely stored for a minimum of 31 days. The CCTV system shall be maintained and fully operational throughout the hours that the premises is open for any licensable activity.

4. Signage indicating that a CCTV recording system is in operation shall be displayed prominently in the premises.
5. A premises daily register shall be kept at the premises. This register shall be maintained and kept for a rolling period of 12 months. The register shall record the name of the person responsible for the premises on each given day.
6. The register shall record all incidents which may have occurred which are relevant to the supply of alcohol and the promotion of the licensing objectives. Such incidents shall include complaints made to the premises alleging nuisance or anti-social behaviour by persons attending or leaving the premises.
7. The register shall also record all refusals to sell alcohol. The register shall be readily available for inspection by an authorised person upon reasonable request.
8. No person shall be allowed to leave the premises whilst in the possession of any glass drinking vessel or open glass bottle, whether empty or containing any beverage.
9. Signage requesting customers to be respectful of others when entering or leaving the premises shall be installed in a prominent position by the premises' exit.
10. The premises' frontage shall be regularly monitored to keep it clean and clear of litter.
11. 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 a Proof of Age card carrying a 'PASS' logo.
12. All occasions when persons have been refused service shall be recorded in the premises daily register.
13. There shall be no children unaccompanied by a responsible adult on the premises after 20:00.
14. All children under the age of 12 years shall be accompanied by an adult whilst on the premises.

#### **8.0 Conditions Agreed/Requested by Responsible Authority**

None

## 9.0 Licensing Officer Comments

9.1 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 2022 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.

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>

9.2 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.

9.3 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.

#### 9.4 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)
- ❖ 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)

- ❖ Also, “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.” (10.21)

- 9.5 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.
- 9.6 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”
- 9.7 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.
- 9.8 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)
- 9.9 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 9.10 In **Appendices 11 - 18** 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 of the application
<b>Appendix 2</b>	Site Plan
<b>Appendix 3</b>	Maps of the surrounding area
<b>Appendix 4</b>	Photographs of the premises
<b>Appendix 5</b>	Other licensed venues in the area
<b>Appendix 6</b>	Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations
<b>Appendix 7</b>	Representations from Environmental Protection
<b>Appendix 8</b>	Representations from Licensing Authority
<b>Appendix 9</b>	Correspondence from applicant to EP
<b>Appendix 10</b>	Correspondence from applicant to LA
<b>Appendix 11</b>	Licensing Officer comments on public nuisance
<b>Appendix 12</b>	S182 advice on public nuisance
<b>Appendix 13</b>	Licensing Officer comments on crime & disorder
<b>Appendix 14</b>	S182 advice on crime & disorder
<b>Appendix 15</b>	Noise when the premises is in use
<b>Appendix 16</b>	CIZ
<b>Appendix 17</b>	Licensing Policy relating to hours of trading
<b>Appendix 18</b>	Planning