

Committee : Licensing Sub-Committee	Date 8 February 2022	Classification Unclassified	Report No.	Agenda Item No.
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Report of: David Tolley Head of Environmental Health & Trading Standards Originating Officer: Lavine Miller-Johnson Licensing Officer	Title: Licensing Act 2003 Application for a Premises Licence Tondo Pizza Ltd Unit 2 Hermitage Court London E1W1NR Ward affected: St. Katherine's and Wapping
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1.0 Summary

Applicant:	Tondo Pizza Limited
Name and	Tondo Pizza
Address of Premises:	Unit 2 Hermitage Court Wapping High Street London E1W1NR
Licence sought:	Licensing Act 2003 – premises licence <ul style="list-style-type: none"> • The sale by retail of alcohol (on sales only)
Representations:	Residents

2.0 Recommendations

- 2.1 That the Licensing Committee considers the application and representations 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

- Guidance Issued under Section 182 of the Licensing Act 2003
- Tower Hamlets Licensing Policy
- File

Lavine Miller-Johnson
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3.0 **Background**

This is an application for a premises licence Tondo Pizza Unit 2
Hermitage Court Wapping High Street London E1W1NR

3.1 The applicant has described the premises as follows:

A3 Licence restaurant

3.2 A copy of the premises licence application form is enclosed as
Appendix 1.

3.3 The licensable activities and timings that have been applied for are as follows:

The sale by retail of alcohol – (on & off sales only)

- *Monday to Friday from 12:00 hours – 15:00hours then 18:00 hours to 23:00 hours*
- *Saturday from 12:00 hours to 17:00 hours then 18:00 hours to 24:00 hours*
- *Sundays from 12:00 hours to 17:00 hours then 18:00 hours to 23:00 hours*

The opening hours of the premises

- *Monday to Friday from 12:00 hours – 15:00hours then 18:00 hours to 23:00 hours*
- *Saturday from 12:00 hours to 17:00 hours then 18:00 hours to 24:00 hours*
- *Sundays from 12:00 hours to 17:00 hours then 18:00 hours to 23:00 hours*

3.4 The sale of alcohol is proposed to continue until the premises closes to the public. It is difficult to see how the applicant will ensure that the licence conditions are met. The problem of course is that if sales continue until the last minute the premises cannot be emptied on time. Members are advised to consider a break between the end of the licensable activities and the time the premises closes to the public.

4.0 **Location and Nature of the premises**

4.1 The site plan of the venue is included as **Appendix 2.**

4.2 Maps and photos showing the vicinity are included as **Appendix 3.**

4.3 Details of the nearest licensed venues are included as **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 the 1st November 2018. It was last revised in November 2021.
- 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, 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 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following:

- Local residents

Name Objectors		
Kay Colin	resident	Appendix 5
David Langworth	resident	Appendix 6
Glyn Owen	resident	Appendix 7
Howard Redgwell	resident	Appendix 8
Ian Bryant	resident	Appendix 9
Jane Earl	resident	Appendix 10
Jane Fothergill	resident	Appendix 11
Jagdish Menezes	resident	Appendix 12
Jason Morris	resident	Appendix 13
Timothy Tyndall	resident	Appendix 14

- 6.2 The applicant has been in communication with Environmental Protection and Licensing Authority following the representations, however, it is not clear if there have been any agreements between them.
- 6.3 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
- Environmental Protection (Noise)
- Trading Standards
- Child Protection
- Public Health
- Home Secretary (Home Office Immigration Enforcement)

6.4 In addition, the application was required to be advertised in a local newspaper and by a blue poster. 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

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

6.6 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.

6.7 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**

7.1 Strong management control and training for all staff

7.2 Challenge 25 to be in use

7.3 CCTV system installed to monitor entrances, exits and other parts of the premises in order to address the prevention of crime and disorder

7.4 A clear and legible notice outside the premises indicating the normal hours under the terms premises licence.

7.5 Clear and conspicuous notices warning of potential criminal activity such as theft, that may target customers will be displayed.

7.6 Not selling alcohol to drunk or intoxicated customers

- 7.7 A logbook or recording system shall be kept upon the premises in which shall be entered particulars of inspections made; Those required to be made by statute, and information complied to comply with any public safety condition attached to the premises licence that requires the recording or such information.
- 7.8 Noise reduction measures to address the public nuisance objective.
- 7.9 prominent, clear and legible notice will be displayed at the exit requesting the public to respect the needs of the nearby residents and to leave the premises and the area quietly.
- 7.10 Deliveries of goods necessary for the operation of the business will be carried out at such a time or in such a manner as to avoid causing disturbance to nearby residents. Customers will be asked not to stand around loudly talking in the street outside the premises.
- 7.11 Customers will not be admitted to the premises above opening hours.
- 7.12 The movement of bins and rubbish outside the premises will be kept to a minimum after 11:00 pm
- 7.13 Challenge 25 sign which is a retailing strategy that encourages anyone who is over 18 but looks under 25 to carry acceptable ID (a card bearing the PASS hologram, a photographic driving licence or a passport if they wish to buy alcohol.

8.0 Conditions in consultation with the Responsible Authorities

- 8.1 The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Tower Hamlets Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
- 8.2 A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
- 8.3 An incident log shall be kept at the premises and be available on request to the Police or an authorised officer. It must be completed within 24 hours of any incident and 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) all seizures of drugs or offensive weapons;
- f) any faults in the CCTV system, searching equipment or scanning equipment;
- g) any refusal of the sale of alcohol;
- h) any visit by a relevant authority or emergency service.

8.4 Loudspeakers shall not be located in the entrance lobby or outside the premise building

8.5 Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.

8.6 Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 8 persons at any one time.

8.7 The external area shall not be used after 22:30 hours, except for patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, and shall be limited to 10 persons at any one time.

8.8 No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

8.9 A Challenge 21 or 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.

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.
- 9.2 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>
- 9.3 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.
- 9.4 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. 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.
- 9.5 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)

9.6 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.

- 9.7 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”
- 9.8 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.
- 9.9 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)
- 9.10 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 9.11 In **Appendices 15 - 20** 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

Appendix 1	A copy of the application
Appendix 2	Site Plan
Appendix 3	Map and photo of the surrounding area
Appendix 4	Other licensed venues in the area
Appendix 5-14	Representation of Residents
Appendix 15	Licensing Officer comments on noise while the premise is in use
Appendix 16	Licensing Officer comments on access/egress Problems
Appendix 17	Licensing Officer comments on crime and disorder on the premises
Appendix 18	Licensing Officer comments on crime and disorder from patrons leaving the premises
Appendix 19	Planning
Appendix 20	Licensing Policy relating to hours of trading