

Committee :	Date	Classification	Report No.	Agenda Item No.
Licensing Sub Committee	19 July 2022	Unclassified		

Report of : David Tolley Head of Environmental Health & Trading Standards Originating Officer: Kathy Driver Principal Licensing Officer	Title: Licensing Act 2003 Application for variation of a Premises Licence for Adventure Bar, Unit 6 Frobisher passage, London E14 Ward affected: Canary Wharf
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1.0 Summary

Applicant: **+Venture Battersea Limited**
 Name and Address of Premises: **Adventure Bar**
Unit 6
Frobisher Passage
London E14 5HA

Licence sought: **Licensing Act 2003**
The Sale of Alcohol
Provide Late Night Refreshment
Provide regulated entertainment

Objectors: **Licensing Authority**
Environmental Protection
Metropolitan Police

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

Kathy Driver
 020 7364 5171

3.0 **Background**

- 3.1 This is an application for a premises licence for Adventure Bar, Unit 6 Frobisher Passage, London E14 5HA.
- 3.2 A copy of the application is enclosed as **Appendix 1**.
- 3.3 The applicant has described the premises as a licensed premises, applying for the sale of alcohol, live music, recorded music, performance of dance and late night refreshment.
- 3.4 The hours that have been applied for are as follows:-

Sale of Alcohol (on and off sales)

Monday to Sunday from 10:00 hours to 03:00 hours

The Provision of Late Night Refreshment (indoors):

Monday to Sunday from 23:00 hours to 03:00 hours

**The Provision of Regulated Entertainment in the form of:
Live Music; recorded music; performance of dance**

Monday to Sunday from 10:00 hours to 03:00 hours

Hours premises is open to the public:

Monday to Sunday from 10:00 hours to 03:30 hours

There are further non-standard times applied for all the above activities:

From the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.

An additional hour to the standard and non-standard times on the day when British Summertime commences.

4.0 **Location and Nature of the premises**

- 4.1 Photographs of the venue and immediate vicinity will be provided at the hearing.
- 4.2 The site plan of the venue is included as **Appendix 2**.
- 4.3 Maps showing the vicinity are included as **Appendix 3**.
- 4.4 Details of other licensed venues in the immediate vicinity 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 1st November 2018 with an update on the CIZ policy 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, 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 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following:

Licensing Authority - See **Appendices 5**

Environmental Protection – See **Appendix 6**

Metropolitan Police – See **Appendix 7**

- 6.6 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
 - Primary Care Trust (Public Health England)
 - Home office Immigration Enforcement
- 6.7 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
- 6.8 The objections cover allegations of
- Anti social behaviour from patrons leaving the premises
 - Noise while the premise is in use
 - Disturbance from patrons leaving the premises
 - Access and egress problems
- 6.9 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.
- 6.10 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 The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Licensing Police. 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.

Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.

- 7.2 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 is open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.
- 7.3 An incident log shall be maintained at the premises and made available on request to an authorised officer, the Local Authority or Police. The register shall 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 or searching equipment or scanning equipment.
 - G. Any refusal of the sale of alcohol.
 - H. Any visit by a relevant authority or emergency service.
- 7.4 A minimum of two SIA door staff shall be employed at the premises from 10pm until closing on Fridays and Saturdays.
- 7.5 The premises licence holder shall ensure that all door supervisors employed at the premises wear a current identification badge, issued by the Security Industry Authority, in a conspicuous position to the front of their upper body.
- 7.6 A register of security personnel employed on the premises shall be maintained in a legible format, and made available to Police upon reasonable request. The register should be completed by the DPS/duty manager/nominated staff member at the commencement of work by each member of security staff, and details recorded should include full name, SIA badge number, contact details and time of commencement of duties. The security operative should then sign their name against these details.
- 7.7 A minimum of 1 SIA door staff shall be employed at the premises from 10pm until closing on Thursdays. On other occasions a risk assessment will be compiled as to whether door staff are required and if so, how many and for what times.

- 7.8 The area immediately outside the premises, shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.
- 7.9 An entry, closure and dispersal policy for controlling the opening of the premises and the departure of customers from the premises at the conclusion of the licensed activities shall be put in place and shall be actively operated. The policy shall be in written form and made available upon request by an authorised officer of the Police and authorised officers.
- 7.10 Notices will be prominently displayed at exits requesting the public to respect the need of local residents and to leave the premises and the area quietly.
- 7.11 Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
- 7.12 Off sales shall only be sold for consumption in the outside area shown on the proposed licensing plans, which shall be monitored by staff at all times.
- 7.13 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.
- 7.14 All staff responsible for selling alcohol shall receive regular training in the Licensing Act 2003 in terms of the licensing objectives, offences committed under the Act and conditions of the Premises Licence. Written records of staff training in relation to the Licensing Act 2003 shall be retained and made available to police and authorised officers of the Licensing Authority on reasonable request.

8.0 Conditions Requested by Responsible Authorities

- 8.1 Conditions have been requested by the Police in their representation, these have not as yet been agreed with the applicant, please see **Appendix 7**.

9.0 Licensing Officer Comments

- 9.1 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.

9.2 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.

9.3 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 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)

9.4 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.

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

9.6 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.

9.7 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)

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

9.9 In **Appendices 8-13** 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	Maps of the surrounding area
Appendix 4	Other licensed venues in the area
Appendix 5	Representations by the Licensing Authority
Appendix 6	Representations by Environmental Protection
Appendix 7	Representations by the Metropolitan Police
Appendix 8	Licensing Officer comments on Anti-Social Behaviour on the premises
Appendix 9	Licensing officer comments on anti-social behaviour patrons leaving the premises
Appendix 10	Licensing officer comments on Access and egress problems
Appendix 11	Licensing officer comments on Noise when the premises is in use
Appendix 12	Planning
Appendix 13	Licensing Policy relating to hours of trading.