

Committee: Licensing Sub Committee	Date	Classification Unrestricted	Report No.	Agenda Item No.
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Report of: David Tolley Head of Environmental Health & Trading Standards	Title: Licensing Act 2003 Application for a new Premise Licence for Parnell Mini-Market, 117a Parnell Road, London, E3 2RT
Originating Officer: Corinne Holland Licensing Officer	Ward affected: Bow East

1.0 Summary

Applicant: **Sirazum Monira**

Name and Address of Premises: **Parnell Mini-Market
119a Parnell Road
London
E3 2RT**

Licence sought: **Licensing Act 2003
Sale of alcohol**

Objectors: **Licensing Authority
Trading Standards**

Supporting Reps: **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

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 Parnell Mini-Market, 117a Parnell Road, London, E3 2RT.
- 3.2 The applicant has described the premises as: Supermarket/Convenience store.
- 3.3 A copy of the application is shown in **Appendix 1**.
- 3.4 The hours applied for are as follows:

Sale of alcohol (off sales) / Opening hours

Monday to Sunday – 07:00 hours – 23:00 hours

- 3.5 This premise previously had a Premise Licence for the sale of alcohol (off sales) for the following hours:
- Monday – Sunday 08:00 hours to 23:00 hours

A review of this licence was triggered by Trading Standards on the 25th January 2022 following an underage sale of alcohol, which was heard by the Licensing Sub Committee on 26th March 2022. The decision was made to revoke the Premise Licence.

The applicant appealed this decision but the revocation was upheld by the Magistrates Court on the 28th February 2023.

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 1st 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. It was last revised in December 2022.
- 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 13**.
- 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.
- Licensing Authority – **Appendix 6**
 - Trading Standards – **Appendix 7**
Supporting Reps
 - A. McLean – **Appendix 8**
 - D. Pirozzolo – **Appendix 9**
 - J. Ball – **Appendix 10**

- 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
 - Home office (Immigration Enforcement)
- 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 relate to:
- Crime & disorder
 - Protection of children from harm
- 6.12 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.
- 6.13 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.
- 6.14 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. The Licence Holder shall install a CCTV system at the premises and ensure that it is maintained in working order. The system shall conform to the following points:
 - a) The CCTV shall encompass all ingress and egress, fire exits, outside areas and all areas where the sale/supply of alcohol occurs.
 - b) All entry and exit points will be covered enabling facial recognition of every person entering in any light condition;
 - c) The recording device shall be located in a secure environment under the control of the DPS or other responsible named individual.
 - d) Equipment must be maintained in good working order, be correctly time and date stamped and kept for a minimum period of 31 days and handed to police on demand.
 - e) An operational daily log report must be maintained, endorsed by signature, indicating the system has been checked of technical failure of the CCTV equipment the Premise Licence Holder/DPS must report the failure to the police immediately.

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.

3. All spirits will be displayed behind the counter.

4. An incident record will be kept in a bound book. This book will be made available to the police and officers from the council on request.

5. Notices will be placed at the entrance/exit reminding customers to leave the premises quietly and have consideration to neighbouring properties.

6. 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. Prominent, clear and legible signage shall be displayed at all entrances to the premises as well as at least one location behind any counter advertising the Challenge 25 scheme.

8. The Premise Licence Holder shall ensure that all staff engaged, or to be engaged, in the selling of alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products:
 - a) The lawful selling of age restricted products
 - b) Refusing the sale of alcohol to a person who is drunk
9. Further verbal refresher training covering the above will be carried out thereafter at intervals not exceeding six months, with the date and time of the training documented. All training records will be kept at the premises and made available to officers of any responsible authority upon request.
10. The premises shall at all times maintain and operate a refusals recording system (either in a book or electronic form), which shall be reviewed by the DPS at least every 4 weeks and feedback given to staff as relevant. This refusals book will be kept at the premises and made available to officers of any responsible authority upon request.

8.0 Conditions Agreed/Requested by Responsible Authority

Condition agreed with the Police – Appendix 11

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.
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.
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.
4. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer at all times whilst the premises is open.
5. All staff whose responsibilities include the retail sale of alcohol shall receive training about the prevention of underage sales on induction and then every 6 months thereafter. This training shall be recorded and the records to be available on request to the Police or any authorised officer. The training to include:
- a) the operation of the challenge 25 scheme;
 - b) types of acceptable ID;
 - c) the method of recording challenges;
 - d) the likely consequences of making an underage sale;
 - e) refusing sales to persons who appear to be drunk;
 - f) proxy sales.
6. Md Al Mamunul Huq not to be allowed on the premises when licensable activities are taking place

Environmental Protection team – **Appendix 12:**

- No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises, which gives rise to a public nuisance.

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)
- ❖ 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)

- 9.3 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 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)
- 9.7 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 13- 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

Appendix 1	A copy of the application
Appendix 2	Site Plan
Appendix 3	Maps of the surrounding area
Appendix 4	Photographs of the premises
Appendix 5	Other licensed venues in the area
Appendix 6	Representation from LA
Appendix 7	Representation from TS
Appendix 8 - 10	Supporting resident representations
Appendix 11	Police agreed conditions
Appendix 12	EP agreed conditions
Appendix 13	Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations
Appendix 14	Licensing Officer comments on crime & disorder nuisance
Appendix 15	S182 advice on crime & disorder
Appendix 16	Licensing Officer comments on protecting children from harm
Appendix 17	S182 advice on protecting children from harm
Appendix 18	Licensing Policy relating to hours of trading
Appendix 19	Planning