

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

Report of : David Tolley Head of Environmental Health & Trading Standards	Title: Licensing Act 2003 Application for variation of a Premises Licence for Pasta Evangelists, 148 Bethnal Green Road, London, E2 6DG
Originating Officer: Corinne Holland Licensing Officer	Ward affected: Weavers

1.0 Summary

Applicant:	Pasta Evangelists Ltd
Name and Address of Premises:	Pasta Evangelists 148 Bethnal Green Road London E2 6DG
Licence sought:	Licensing Act 2003 - Variation to Premise Licence <ul style="list-style-type: none"> Add the provision of late-night refreshments (deliveries only)
Objectors:	Licensing Authority Environmental Protection

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

Corinne Holland
020 7364 3986

3.0 **Background**

- 3.1 This is an application for a variation of the premises licence for Pasta Evangelist, 148 Bethnal Green Road, London, E2 6DG
- 3.2 The existing Premise Licence was issued on 22nd December 2020 and a copy is enclosed as **Appendix 1**. The licence currently is for the sale of alcohol (off sales only). The premises operates as a delivery kitchen and is not open to the public.
- 3.3 The timings of the existing licence are detailed below for information purposes only:-

Sale of Alcohol (off sales)

- *Monday – Sunday 12:00 – 23:00 hours*

- 3.4 The applicant has described the nature of the variation as follows:
- *To sell hot food from 23:00 – 02:00 hours. No member of the public can collect from the premises.*

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

- 3.6 The variation/additional hours applied for are:

Provision of late-night refreshment – (outdoor)

- *Friday – Sunday 23:00 hours – 02:00 hours the following day*

Opening hours

- *Friday – Sunday 11:00 hours - 02:00 hours the following day*

4.0 **Location and Nature of the premises**

- 4.1 Photographs of the venue and immediate vicinity are enclosed in **Appendix 3**.
- 4.2 Maps showing the vicinity are included as **Appendix 4**.
- 4.3 Nearby Licensed Premises are shown in **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 August 2023.
- 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 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 8**.
- 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 received.

REPRESENTATION	APPENDIX
Licensing Authority	6
Environmental Health Noise Team	7

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
- Immigration

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
- Crime & Disorder

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.

7.0 Conditions on existing Premises Licence

1. The premises are not open to the public at any time.
2. A standard age verification check shall be undertaken on entering the website.
3. Challenge 25 age verification shall be applied at the point of delivery and no delivery shall be left without I.D being show.

4. Every third party courier delivery box shall be labelled with the words "Age Restricted Product".
5. Alcohol shall only be delivered to a residential or business address and not to a public place.
6. All off sales to be in sealed containers.
7. No idling of delivery vehicles whilst awaiting orders to be collected.

8.0 Conditions consistent with Operating Schedule

1. The premises will operate as a delivery only business.
2. The premises will not open to the public and will be used for the dispatch of alcohol and other goods only.
3. There shall be no collection of alcohol by the public from the premises.
4. All CCTV recordings made by the CCTV system shall be retained and stored in a suitable and secure manner for a minimum of 30 days. There shall be at least one camera positioned at each entry and exit point to monitor any external areas to the premises and of such quality to enable identification of the recorded person in any light.
5. The business will arrange for the telephone number for the premises and/or a member of the management team to be provided to residents upon request in order that any complaints can be made direct
6. The premises will encourage all riders involved in deliveries to use their vehicles in a responsible manner so as not to cause a nuisance to any residents or generally gather outside the premises; (where vehicles have engines) not to leave engines running when the vehicles are parked; and not to obstruct the highway.

9.0 Conditions agreed in consultation with the responsible authorities

None

10.0 Licensing Officer Comments

- 10.1 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.

10.2 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 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)

10.3 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.

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

10.5 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.

10.6 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)

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

10.8 In **Appendices 8 – 15** 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.

11.0 Legal Comments

11.1 The Council’s legal officer will give advice at the hearing.

12.0 Finance Comments

12.1 There are no financial implications in this report.

13.0 Appendices

Appendix 1	A copy the existing licence
Appendix 2	A copy of the application for variation
Appendix 3	Photographs
Appendix 4	Maps of the surrounding area
Appendix 5	Nearby licensed premises
Appendix 6	Representation from LA
Appendix 7	Representation from the Environmental Health
Appendix 8	Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations
Appendix 9	S182 advice re crime & disorder
Appendix 10	Licensing policy advice re crime & disorder
Appendix 11	S182 advice re public nuisance
Appendix 12	Licensing Policy advice on public nuisance
Appendix 13	Brick Lane CIA
Appendix 14	Framework hours
Appendix 15	Planning