

Committee: Licensing Sub Committee	Date	Classification Unrestricted	Report No.	Agenda Item No.
--	------	---------------------------------------	------------	-----------------

Report of: David Tolley Head of Environmental Health & Trading Standards	Title: Licensing Act 2003 Application for a new Premise Licence for Brewdog, Unit 17, 2 Churchill Place, London, E14 5RB
Originating Officer: Corinne Holland Licensing Officer	Ward affected: Canary Wharf

1.0 Summary

Applicant:	Brewdog Retail Limited
Name and Address of Premises:	Brewdog Unit 17, 2 Churchill Place London E14 5RB
Licence sought:	Licensing Act 2003 Sale by retail of Alcohol (on & off sales) Provision of regulated entertainment (films & recorded music,) Late-Night refreshments
Objectors:	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

Corinne Holland
020 7364 3986

3.0 **Background**

- 3.1 This is an application for a new Premise Licence for Brewdog, Unit 17, 2 Churchill Place, London, E14 5RB.
- 3.2 The applicant has described the premises as: *This application is for a new layout and to incorporate the adjacent unit into the existing site*
- 3.3 Brewdog already holds a licence at this location. The licence was granted on 17th June 2009 and will be surrendered upon the grant of this application.
- 3.4 For information purposes only the current licence has the following licensable activities and hours. A full copy of the licence can be seen in **Appendix 1**

Provision of regulated entertainment.

Films and recorded music:

Monday to Sunday from 09:00 hours to midnight.

In addition to all of the above: From end of permitted hours on New Years Eve to the start of permitted hours on New Years Day

Late Night Refreshment:

Monday to Sunday from 23:00 hours to 05:00 hours the following day

The sale by retail of alcohol:

Monday to Sunday from 09:00 hours to midnight

In addition to all of the above: From end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.

- 3.5 A copy of the application and supporting documentation is shown in **Appendix 2.**
- 3.6 The hours applied for are as follows:

Sale of Alcohol (on & off sales)

Monday – Sunday 09:00 hours – 00:00 hours (midnight)

Late-Night refreshments (indoors & outdoors)

Monday – Sunday 23:00 hours – 00:00 hours (midnight)

Provision of regulated entertainment – (indoors)

Films and recorded music:

Monday - Sunday from 09:00 hours to 00:00 (midnight).

Non-Standard hours (all of above)

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

Opening Hours

Monday – Sunday 09:00 hours – 00:30 hours

Non-Standard hours

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

4.0 Location and Nature of the premises

4.1 The site plan of the venue is included as **Appendix 3**.

4.2 Maps showing the vicinity are included as **Appendix 4**.

4.3 Photographs of the premises are included in **Appendix 5**.

4.4 Details of other licensed venues in the immediate vicinity are included as **Appendix 6**.

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 July 2023.

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 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 made by the following:

- **Police – Appendix 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
 - 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 and Disorder

- 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 premises shall operate a CCTV system that complies with the minimum requirements.
2. The premises licence holder must ensure that:
 - (i) Cameras are located within the premises to cover all public areas (not including the toilets) and all entrances and exits;
 - (ii) The system records clear images enabling the identification of individuals;
 - (iii) All recorded footage is securely retained for a minimum period of twenty-eight days;
 - (iv) The CCTV system operates at all times the premises are open for licensable activities;
 - (v) All equipment must have constant and accurate time and date generation;
 - (vi) The CCTV system is fitted with security functions to prevent recordings being tampered with;
 - (vii) There is at least one member of trained staff at the premises during opening hours able to provide viewable copies on request to police or authorised local authority officers as soon as is reasonably practicable in accordance with all relevant data protection legislation.
3. SIA registered door supervisors shall be employed at the premises in accordance with a risk assessment, to be carried out by the DPS.
4. When employed, all door supervisors on duty at the premises must correctly display their current SIA accreditation and be briefed on their responsibilities and relevant company operating procedures before they commence duty.

5. When employed, all door supervisors shall wear high visibility armbands.
6. When employed, a register of door supervisors shall be maintained at the premises and shall include:
 - (i) The SIA registration number of door staff on duty;
 - (ii) the identity of each member of door staff;
 - (iii) the dates and times the door staff are on duty.
7. The Designated Premises Supervisor must have attended a CT Awareness training session delivered by CTPNW-trained personnel as soon as is reasonably practicable. In all cases, within 28 days of a new Designated Premises Supervisor being named on the licence, they must have registered to attend a course and be able to provide evidence of this if requested by a police officer or authorised officer of Tower Hamlets Council.
8. Open containers of alcohol shall not be removed from the premises, save for consumption in any delineated external area.
9. All staff authorised to sell alcohol shall be trained in:
 - (i) Relevant age restrictions in respect of products
 - (ii) Prevention of underage sales
 - (iii) Prevention of proxy sales
 - (iv) Maintenance of the refusals log
 - (v) Recognising signs of drunkenness and vulnerability
 - (vi) How overservice of alcohol impacts on the four objectives of the Licensing Act 2003
 - (vii) How to refuse service
 - (viii) The premises' duty of care policy, understanding and dealing with situations involving vulnerable people, and incidents of harassment; and how to report issues of modern slavery and trafficking
 - (ix) Action to be taken in the event of an emergency, including the preservation of a crime scene and reporting an incident to the emergency services
 - (x) The conditions in force under this licence.

This training shall be documented and repeated at 6 monthly intervals. Training records shall be made available for inspection upon request by a police officer or an authorised officer of Tower Hamlets Council.

10. A refusals record must be kept at the premises which details all refusals to sell alcohol. This record must include the date and time of the incident, the name of the staff member who refused the sale, and the reason the sale was refused. All entries must be made within 24 hours of the refusal. The record must be made available for inspection and copying within a reasonable time of a request by an officer of a Responsible Authority.

11. The premises licence holder shall ensure that at all times when the public is present there is an appropriate number of competent person(s) able to administer first aid, that an adequate and appropriate supply of first aid equipment and materials is available on the premises, and that adequate records are maintained in relation to the supply of any first aid treatment.
12. Regular safety checks shall be carried out by staff.
13. Management shall liaise with the Fire Authority as necessary to ensure compliance with all necessary fire regulations.
14. Any and all of the following incidents must be noted including pertinent details and, as appropriate, reported promptly so that investigations can be made and action taken:
 - a. alleged crimes reported to the venue or by the venue to the police
 - b. ejections of patrons
 - c. complaints received
 - d. incidents of disorder
 - e. seizures of drugs, offensive weapons, fraudulent ID or other items
 - f. faults in the CCTV system, searching equipment or scanning equipment
 - g. visit by a responsible authority or emergency service
15. Incident logs (which may be kept electronically) must be kept at the premises for at least 6 months and must be made available on request to the police or an authorised officer of the licensing authority.
16. The premises shall maintain public liability insurance.
17. The premises shall have a documented Duty of Care policy for managing intoxicated and vulnerable customers and dealing with incidents of harassment at the premises. The policy shall also include provision for persons refused entry to the premises who are also considered vulnerable by staff.
18. Noise from amplified music or voices shall not be such as to cause a noise nuisance to occupants of nearby premises.
19. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
20. The exterior of the building shall be cleared of litter at regular intervals.
21. Notices will be positioned at the exits to the building requesting customers to leave in a quiet manner.

22. All external doors and windows must be kept shut at all times when regulated entertainment is being provided, save for normal access and egress.
23. The Challenge 25 scheme must be operated to ensure that any person who appears to be under the age of 25 shall provide documented proof that he/she is over 18 years of age. Proof of age shall only comprise a passport, photo card driving licence, an EU/EEA national ID card or similar document, an HM Forces warrant card, a card bearing the PASS hologram, or any electronic or biometric age verification technology approved by the licensing authority.
24. The premises shall display prominent signage indicating that the Challenge 25 scheme is in operation.
25. The premises shall display prominent signage indicating that it is an offence to buy or attempt to buy alcohol for a person who is under 18 and for a person under the age of 18 to buy or attempt to buy alcohol.
26. Staff training will include the Challenge 25 Policy and its operation. In particular, staff shall be trained to take such action as is necessary to prevent the sale of alcohol to persons over the age of 18 where those customers are engaged in the distribution of alcohol to persons under the age of 18. The training must be given to a new member of staff before they commence employment and all staff must receive refresher training every 6 months.

8.0 Conditions Agreed/Requested by Responsible Authority

Not applicable

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- 12** 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 existing licence
Appendix 2	Licence application & supporting documents
Appendix 3	Site Plan
Appendix 4	Maps of the surrounding area
Appendix 5	Photographs of the premises
Appendix 6	Other licensed venues in the area
Appendix 7	Representations from the police
Appendix 8	Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations
Appendix 9	Licensing Officer comments on crime & disorder
Appendix 10	S182 advice on crime & disorder
Appendix 11	Licensing Policy relating to hours of trading
Appendix 12	Planning