

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

Report of : David Tolley Head of Environmental Health & Trading Standards Originating Officer: Kathy Driver Principal Licensing Officer	Title: Licensing Act 2003 Application for a Premises Licence for Roe Restaurant, Unit A1.1, 5 Park Drive, London E14 9GG Ward affected: Blackwall and Cubit Town
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1.0 Summary

Applicant: **Roe Restaurant Ltd**
 Name and Address of Premises: **Roe Restaurant**
Unit A1.1
5 Park Drive
London E14 9GG

Licence sought: **Licensing Act 2003**
The Sale of Alcohol
Provision of Late Night Refreshment

Objectors: **Local 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

Kathy Driver
 020 7364 5171

3.0 **Background**

- 3.1 This is an application for a premises licence for Roe Restaurant, Unit A1.1, 5 Park Drive, London E14 9GG
- 3.2 A copy of the application is enclosed as **Appendix 1**.
- 3.3 Unit A1.1 has in place a provisional statement which was applied for on 8th February 2022 and subsequently granted on 10th May 2022. A copy of the Provisional Statement is enclosed as **Appendix 2**.

The hours and licensable activities stated under the Provisional Statement duplicate those applied for the premises licence.

- 3.4 The hours that have been applied for are as follows:-

Sale of Alcohol (on and off sales)

Monday to Thursday from 07:00 hours to 23:30 hours
Friday and Saturday from 07:00 hours to 01:00 hours
Sunday from 09:00 hours to 23:30 hours

The Provision of Late Night Refreshment (indoors):

Sunday to Thursday until 23:30 hours
Friday and Saturday until 01:00 hours
From end of standard hours until 05:00 hours for the delivery of hot food and non alcohol drinks within the estate (delivery only – no public access)

Hours premises is open to the public:

Sunday to Thursday from 07:00 hours to midnight
Friday and Saturday from 07:00 hours to 01:00 hours

Non standard Timings:

09:00 hours to 01:00 hours on Sundays prior to a Bank Holiday

4.0 **Location and Nature of the premises**

- 4.1 Photographs of the venue are included in **Appendix 3**
- 4.2 The site plan of the venue is included as **Appendix 4**.
- 4.3 Maps showing the vicinity are included as **Appendix 5**.
- 4.4 Details of other licensed venues including agreed Provisional Statements 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 2023 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 August 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 When a person applies for a premises licence in respect of premises (or part of the premises or premises which are substantially the same) for which a provisional statement has been made, representations by responsible authorities and other persons will be excluded in certain circumstances. These are where:
 - the application for a licence is in the same form as the licence described in the provisional statement;
 - the work in the schedule of works has been satisfactorily completed;
 - given the information provided in the application for a provisional statement, the responsible authority or other person could have made the same, or substantially the same, representations about the application then but failed to do so without reasonable excuse; and
 - there has been no material change in the circumstances relating either to the premises or to the area in the proximity of those premises since the provisional statement was made.
- 6.3 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following local residents.

See **Appendices 7-9**

- 6.4 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
- 6.5 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
- 6.6 The objections cover:
- Noise while the premise is in use
 - Disturbance from patrons leaving the premises on foot
 - Close proximity to residential properties
- 6.7 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.
- 6.8 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 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.

- 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 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.
- 7.3 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,
 - g) any visit by a relevant authority or emergency service.
- 7.4 The premises shall join the Canary Wharf Venue Watch.
- 7.5 Notices shall be prominently displayed at all exists requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
- 7.6 Loudspeakers shall not be located in the entrance lobby or outside the premises building.
- 7.7 No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises, which gives rise to a nuisance.
- 7.8 The external area shall not be used after 22:30 hours except for patrons permitted to temporarily leave and re-enter the premises, e.g. to smoke, and shall be limited to 15 persons at any one time.
- 7.9 Save for any external seating area marked on the deposited plan, off-sales of alcohol shall be in sealed containers only and not consumed outside the premises.
- 7.10 From the end of standard hours to 05:00 hours deliveries of food and non-alcoholic beverages will be pre-ordered and will be delivered by the operator and/or its agents.
- 7.11 The external area shall not be used after 22:30 hours except for patrons permitted to temporarily leave and re-enter the premises, e.g. to smoke, and shall be limited to no more than 15 persons at any time after 22:30.
- 7.12 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.

7.13 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.

8.0 Licensing Officer Comments

8.1 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.

8.2 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)
- 8.3 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.
- 8.4 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”
- 8.5 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.
- 8.6 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)
- 8.7 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.

8.8 In **Appendices 10-13** 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.

8.9 **Music exemptions**

8.10 Section 177A, (1) and (2) of the Act provides that where a premises (or club) is licensed for alcohol consumption on the premises ; is open for the purposes of doing so; if the music is amplified, that the audience is no more than 500; and the music takes place between 8am and 11pm, any conditions do not have effect.

8.11 Section 177A can be disapplied on a licence review if it is proportionate to do so, a review can also add conditions relating to music.

9.0 **Legal Comments**

9.1 The Council's legal officer will give advice at the hearing.

10.0 **Finance Comments**

10.1 There are no financial implications in this report.

11.0 **Appendices**

Appendix 1	A copy of the application
Appendix 2	Copy of the Provisional Statement
Appendix 3	Photographs of the venue
Appendix 4	Site Plan
Appendix 5	Maps of the surrounding area
Appendix 6	Other licensed venues in the area
Appendices 7-9	Representations of local residents
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.