

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 125-127 Bethnal Green Road Ground Floor & Basement London E2 7DG
Originating Officer: Lavine Miller-Johnson Licensing Officer	Ward affected: Weavers

1.0 **Summary**

Applicant: **Destination9 Ltd**

Name and: **Destintion9 Ltd**

Address of Premises: **125-127 Bethnal Green Road
Ground Floor & Basement E2 7DG**

Licence sought: **Licensing Act 2003
Sales of Alcohol
Regulated Entertainment (films)**

Objectors: **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

File
Section 182 Guidance
LBTH Licensing Policy

Lavine Miller-Johnson
020 7364 2665

3.0 **Background**

- 3.1 This is an application for a new Premise Licence for 125-127 Bethnal Green Road Ground Floor & Basement London E2 7DG.
- 3.2 The applicant has described the premises as a sophisticated and refined wine bar, offering an extensive selection of wines from around the globe.
- 3.3 A copy of the application is shown in **Appendix 1**.
- 3.4 The hours applied for are as follows:

Regulated Entertainment (Films) (Indoors)

Monday to Sunday from 12:00 hours to 23:30 hours

Sales of Alcohol (on sales only)

Monday to Sunday from 08:00 hours to 23:30 hours

Opening times

Monday to Sunday from 12:00 hours to 00:00 hours

4.0 **Location and Nature of the premises**

- 4.1 A copy of the site plan 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 2023.
- 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 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 7**.
- 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.
- Nicola Cadzow (**Environmental Protection**) – **Appendix 6**
- 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:

- Public nuisance
- ASB
- Crime & 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 current Operating Schedule

1. An incident log shall be kept at the premises, and made available on request to an authorised officer of the Council or the Police, which 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) any faults in the CCTV system
 - (f) any visits by a relevant authority or emergency service

2. There shall be at least 1 personal licence holder on duty at all times the vessel is operating with licensable activities.
3. A recognised member of the premises management must attend a police council licensing forums meetings when invited.
4. Licensable activity in the event space will only be permitted in the following circumstances:
 - a) on receipt of pre booking. A pre booking system shall be employed whereby the full name address email and phone number for the lead booker shall be recorded and kept.
 - b) for an event advertised by the licensee/management
5. 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.
6. 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. Signage stating that CCTV is in operation at the premises will be clearly displayed.
8. In the event that a serious assault is committed on the premises the management will immediately ensure that:
 - a) the police (and where appropriate, the London Ambulance Service) are called without delay,
 - b) all measures that are reasonably practicable are taken to apprehend any suspects, pending the arrival of the police,
 - c) The crime scene is preserved so to enable a full forensic investigation to be carried out by the police
 - d) such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.
9. The service of alcohol will be by table service only (save for the event area in the basement) whereby alcohol will only be served to persons seated.

10. There will be no vertical drinking (save for the event area in the basement).
11. There will be no beer, cider or ale available on tap. All beer, cider and ales shall be served in bottles only.
12. 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.
13. Food will be available during all hours of licensable activity.
14. A minimum of 1 SIA licensed door supervisors shall be on duty at the premises Thursday to Saturday (and any day preceding a bank holiday) between 21:00 hours to 15 minutes after close.
15. The licensee/management shall record the full name, home address and contact telephone number, SIA registration number, and the time/date of employment of any door supervisor(s) employed at the premises, Where door supervisors are provided by an agency, the name business address and contact telephone number will also be recorded. These records are to be maintained for no less than 12 months.
16. The maximum number of persons permitted in the premises will not exceed 50 persons on the ground floor and 50 persons in the basement, split evenly between the two rooms (Not including staff and performers)
17. The premises shall prominently display signage informing customers to leave the premises and area quietly.
18. The removal of rubbish to outside the premises, will not take place between the hours of 21:00 hours and 07:00 hours.
19. The licensee shall instruct members of staff to make regular checks of the area immediately outside the premises and remove any bottles and glasses emanating from the premises. A final check should be made at close of business.
20. A dispersal policy will be in existence which shall so far as in possible, ensure that minimum disturbance or nuisance is caused to our neighbours and to ensure that the operation of the premises makes the minimum impact upon the neighbourhood in relation to potential nuisance and anti-social behaviour.
21. No more than 6 patrons will be permitted to smoke outside the premises at any one time.
22. Patrons will not be permitted to take drinks outside of the premises.

23. 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.
24. All staff members engaged, or to be engaged in selling alcohol on the premises shall receive full training pertinent to the Licensing Act, specifically in regard to age – restricted sales, and the refusal of sales to persons believed to be under the influence of alcohol or drugs.
25. All such training is to be fully documented and signed by not only the employee but the person delivering the training. Training records shall be kept at the premises and made available upon request to either an authorised officer of the council or the police on request / staff employed to sell alcohol shall undergo training upon induction. This shall include but not be limited to:
- The premise age verification policy
 - Dealing with refusal of sales
 - Proxy purchasing
 - Identifying attempts by intoxicated persons to purchase alcohol
 - Identifying signs of intoxication
26. Such training sessions are to be documented and refreshed every twelve months.
27. All training sessions are to be documented in English, Records of training shall be kept for a minimum of one year and be made available to an authorised officer of the council or the police upon request.

8.0 Conditions Agreed/Requested by Responsible Authority (Licensing)

- The supply of alcohol shall be to a person seated and ancillary to the consumption of food (complimentary or otherwise)

28. Licensing Officer Comments

- (a) 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.
- (b) 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)
- (c) 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.
- (d) In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”
- (e) 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.
- (f) 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)
- (g) The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- (h) In **Appendices 7 – 14** 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.

29. Legal Comments

- (a) The Council’s legal officer will give advice at the hearing.

30. Finance Comments

- (a) There are no financial implications in this report.

31. Appendices

Appendix 1	A copy of the application
Appendix 2	Copy of site plan
Appendix 3	Maps of the surrounding area
Appendix 4	Photographs of the premises
Appendix 5	Other licensed premises in the area
Appendix 6	Representation from Environmental Protection
Appendix 7	Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations
Appendix 8	Licensing Officer comments on public nuisance
Appendix 9	S182 advice on public nuisance
Appendix 10	Licensing Officer comments on Crime & Disorder
Appendix 11	S182 advice on crime & disorder
Appendix 12	ASB leaving the premises
Appendix 13	Licensing Policy relating to hours of trading
Appendix 14	Planning