

Committee: Licensing Sub-Committee	Date 14 May 2024	Classification Unclassified	Report No.	Agenda Item No.
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Report of: Tom Lewis Service Manager - Regulatory Services (Commercial) Originating Officer: Ibrahim Hussain Licensing Officer	Title: Licensing Act 2003 Application for a Premises Licence for (Local Café), 84 St Stephen's Road, London, E3 5JL Ward affected: Bow East
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1.0 Summary

Applicant: **A. Sandra Bajraliu**

Name and Address of Premises: **(Local Café)**
84 St Stephen's Road, London, E3 5JL

Licence sought: **Licensing Act 2003 – Premises Licence**

- **The sale by retail of alcohol (On the premises only)**

Representations: **Residents**

2.0 Recommendations

2.1 That the Licensing Committee considers the application and representations 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
<ul style="list-style-type: none"> • Guidance Issued under Section 182 of the Licensing Act 2003 • Tower Hamlets Licensing Policy • File 		Ibrahim Hussain 020 7364 3329

3.0 **Background**

- 3.1 This is an application for a premises licence for (Local Café), 84 St Stephen's Road, London, E3 5JL
- 3.2 The applicant has described the premises as: Café currently serving hot and cold beverages, as well as snacks.
- 3.3 A copy of the premises licence application form is enclosed as **Appendix 1**.
- 3.4 The licensable activities and timings that have been applied for are as follows:

The sale by retail of alcohol - On sales only

- *Monday to Sunday, from 11:00 hrs to 22:00 hrs*

Hours premises are open to the public

- *Monday to Thursday, from 11:00 hrs to 22:00 hrs*
- *Friday, from 11:00 hrs to 16:00 hrs*
- *Saturday to Sunday, from 11:00 hrs to 22:00 hrs*

Please note Friday closing hours could be typed in error

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 **Appendix 4**.
- 4.4 Details of the nearest licensed venues 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 the 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 December 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 9**.
- 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 (objectors) have been made by the following:

Damien Wilson	- Appendix 6
Nina Chakkour	- 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
 - Environmental Protection (Noise)
 - Trading Standards
 - Child Protection

- Public Health
- Home Secretary (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 representations 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 Essentially, the relevant parties oppose the application because in their opinion, the applicant has not explained how within the context of the application they will meet the licensing objective of the prevention of crime and disorder and the prevention of public nuisance.

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 consistent with Operating Schedule (offered by the applicant)

1. Cameras will be strategically positioned to monitor both interior and exterior entrance and exit doors.
2. Cameras placed at entrances will capture full-frame shots of individuals' heads and shoulders as they enter the premises, allowing for easy identification.
3. Cameras observing till areas will capture frames covering at least 50% of the screen.
4. Cameras overlooking floor areas will be wide-angled to provide a comprehensive view of the premises.
5. The system will be capable of visually confirming the nature of any crimes committed.
6. It will maintain a linked record of date, time, and location for all captured images.

7. The CCTV system will produce high-quality images, including colour images during operating hours.
8. The system will function under existing light conditions both inside and outside the premises.
9. The recording device will be located in a secure area or locked cabinet.
10. A monitor will be available for reviewing images and assessing recorded picture quality.
11. Regular maintenance will be conducted to ensure the continuous quality of image capture and retention.
12. Signage will be displayed in the customer area to inform patrons that CCTV surveillance is in operation.
13. Digital images will be retained for a period of 31 days.
14. Police authorities will have access to the CCTV images at any reasonable time.
15. The equipment will include a suitable export method, such as a CD/DVD writer, to facilitate the creation of evidential copies of required data by the police. This data will be stored in its native file format to preserve image quality. In case the format is non-standard (e.g., manufacturer proprietary), the manufacturer will supply replay software to ensure compatibility with standard computer systems. Copies of the data will be made available to the Police upon request.
16. The necessary fire safety measures are implemented within the premises as the Licensee. This includes the presence of various fire safety equipment, such as foam, H2O, and CO2 fire extinguishers, a fire blanket, internally illuminated fire exit signs, and multiple smoke detectors.
17. Furthermore, as part of our safety protocols, all fire safety appliances will undergo annual inspections to guarantee their effectiveness and compliance with safety standards.
18. It will be a priority to maintain all emergency exits free from any obstructions at all times to ensure swift and unimpeded evacuation in case of an emergency. Safety will remain a paramount concern within the premises, with the goal of safeguarding both staff and patrons.
19. All our customers to exit the premises quietly. To reinforce this request and maintain a considerate environment for our neighbours, we will prominently display clear and legible notices reminding

customers to leave quietly. This approach aims to ensure a peaceful and respectful atmosphere for both our patrons and the local community, demonstrating our commitment to being good neighbours and fostering positive relations within the neighbourhood.

20. will diligently request photographic identification from individuals who appear to be under the age of 25. Acceptable forms of ID will include proof of age cards, the Connexions Card, Citizen Card, photographic driving license, passport, official identity cards issued by HM Forces, or those issued by an EU country that bear the photograph and date of birth of the bearer.
21. To ensure strict compliance, all members of the staff will undergo regular training on UNDERAGE SALES PREVENTION.
22. Furthermore, we will maintain a register of refused sales directly on the premises. This register will accurately document instances where the sale of alcohol was denied, reinforcing our commitment to responsible and lawful alcohol service.

8.0 Conditions in consultation with the Responsible Authorities

8.1 Conditions agreed with Environmental Protection (Appendix 8)

1. All external doors and/or windows shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
2. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
3. The premises license holder shall ensure that music and/or patrons sound is not audible at the nearest noise sensitive premises.
4. The external area shall not be used after 21:00 hours, except for patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, and shall be limited to 3 persons at any one time.
5. No collections of waste or recycling materials (including bottles) from the premises shall take place between 22:00 hours and 08:00 hours on the following day.
6. No deliveries to the premises shall take place between 22:00 hours and 08:00 hours the following day.

9.0 Licensing Officer Comments

- 9.1 The Business & Planning Act 2020 came into force on Wednesday 22nd July 2020 and provides a temporary permission for businesses that have a premises licence that permits them to sell alcohol in regards to the ability to sell alcohol as an off sale, i.e. for consumption off the premises. The permission will end on 31st March 2025 unless the legislation is changed by the Secretary of State.

It will only apply to businesses that hold a Premises Licence up to 22nd July 2020 and that in the last 3 years preceding 22 July 2020 those licences have NOT:

- had a premises licence application where permission for off sales was refused;
- had a variation of a premises licence seeking permission for off sales refused
- had a variation seeking to exclude off sales permission granted
- had a premises licence varied or modified by a review hearing to exclude off sales.

9.2 The new off-sales permission will permit off-sales to be made at a time when the licensed premises are open for the purposes of selling alcohol for consumption on the premises, subject to a cut off time of 11pm or the cut off time of the current licensed hours stated on the licence, whichever is earlier. Measures also temporarily suspend existing licence conditions in so far as they are inconsistent with the new off-sales permission. Further Guidance on this can be found at <https://www.gov.uk/government/publications/guidance-for-temporary-alcohol-licensing-provisions-in-the-business-and-planning-bill>

9.3 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.

9.4 The following is intended simply 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.

9.5 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)
- 9.6 The Licensing Act 2003 permits children of any age to be on the premises which primarily sells alcohol providing they are accompanied by an adult. It is not necessary to make this a condition.
- 9.7 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”

- 9.8 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.
- 9.9 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)
- 9.10 The Council's Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 9.11 In **Appendices 9 – 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.

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 6-7	Residents Representation
Appendix 8	Conditions agreed with Environmental Protection
Appendix 9	Home Office concerning relevant, vexatious and frivolous representations
Appendix 10	Licensing Officer comments on noise while the premise is in use
Appendix 11	Licensing Officer comments on access/egress Problems
Appendix 12	Licensing Officer comments on crime and disorder on the premises
Appendix 13	Licensing Officer comments on crime and disorder from patrons leaving the premises
Appendix 14	Planning
Appendix 15	Licensing Policy relating to hours of trading.