

Committee: Licensing Sub Committee	Date 09 July 2024	Classification Unrestricted	Report No.	Agenda Item No.
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Report of: Tom Lewis Service Manager Regulatory Services (Commercial)	Title: Licensing Act 2003 Application for a new Premise Licence for Boro of Bethnal Green Working Men's Club 42-44 Pollard Row, London E2 6NB
Originating Officer: Lavine Miller-Johnson Licensing Officer	Ward affected: Bethnal Green West

1.0 **Summary**

Applicant: **Steven Smorthit**

Name and **Boro of Bethnal Green Working Men's Club**

Address of Premises: **42-46 Pollard Row**
London
E2 6NB

Licence sought: **Licensing Act 2003**
Sales of Alcohol
Regulated Entertainment
Late Night Refreshment

Objectors: **Residents, Licensing, General public, Licence Holder**

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 within the Bethnal Green CIA, for a new Premise Licence for, Boro of Bethnal Green Working Men's Club 42-44 Pollard Row, London E2 6NB
- 3.2 The applicant has described the premises as a member's club that also hires its space to the local community. The building consists of five floors, cellar, basement with bar, ground floor with bar, first floor with bar and office space and private accommodation on the top floor. This application relates to the basement and ground floor bar.
- 4.0 The premises currently hold the following licences:
- 4.1 Premises Licence number **13190, issued on 4th November 2005**. This covers the **first floor** and registered to **Working Men's Club Ltd. See Appendix 1**
- 4.2 Premises Licence number **17819, issued on 29th October 2013**. This covers the **Basement, Ground Floor, First Floor and Second Floor** and registered to **Working Mans Club Ltd. See Appendix 2**
- 4.3 Club Premises Certificate number **10164, issued 4th November 2005** and registered to **Boro' of Bethnal Green Working Men's Club. See Appendix 3.**
- 4.4 A copy of the application is shown in **Appendix 4.**
- 4.5 The hours applied for are as follows:

Regulated Entertainment (Plays, Films, Live & recorded Music and Performance of dance) (Indoors)

Sunday to Wednesday from 10:00 hours to 23:00 hours
Thursdays from 10:00 hours to 01:00 hours
Friday to Saturday from 10:00 hours to 02:30 hours

Late Night Refreshments (indoors)

Sunday to Wednesday (normal hours apply)
Thursdays from 10:00 hours to 01:00 hours
Friday to Saturday from 10:00 hours to 02:30 hours

Sales of Alcohol (on sales only)

Sunday to Wednesday from 10:00 hours to 23:00 hours
Thursdays from 10:00 hours to 01:00 hours
Friday to Saturday from 10:00 hours to 02:30 hours

Opening times

Sunday to Wednesday from 10:00 hours to 23:30 hours
Thursdays from 10:00 hours to 02:00 hours
Friday to Saturday from 10:00 hours to 03:30 hours

5.0 **Location and Nature of the premises**

- 5.1 A copy of the site plan is included as **Appendix 5**.
- 5.2 Maps showing the vicinity are included as **Appendix 6**.
- 5.3 Photographs of the premises are included in **Appendix 7**.
- 5.4 Details of other licensed venues in the immediate vicinity are included as **Appendix 8**.

6.0 **Licensing Policy and Government Advice**

- 6.1 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.
- 6.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.
- 6.3 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.
- 6.4 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.

7.0 **Representations**

- 7.1 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.
- 7.2 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.
- 7.3 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.
- 7.4 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.

- 7.5 The Home Office recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation.
- 7.6 Section 182 Advice by the Home Office concerning relevant, vexatious and frivolous representations is attached as **Appendix 17**
- 7.7 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.
- 7.8 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following.

Deborah	Aitken	Resident	Appendix 9
Ian Derek	Sharp	Resident	Appendix 10
Jack	Mama	Resident	Appendix 11
kevin	Wright	General Public	Appendix 12
David	Duchin	General Public	Appendix 13
Dennis	Buckley	General Public	Appendix 14
Warren	Dent	Licence holder	Appendix 15
Corinne	Holland	RA (TH)	Appendix 16

- 7.9 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)
- 7.10 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
- 7.11 The objections relate to:
- Public nuisance
 - ASB

- 7.12 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.
- 7.13 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.
- 7.14 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.

8.0 Conditions consistent with Operating Schedule

1. Any incidents of a criminal nature that may occur on the premises will be reported to the Police. The Licensee has installed CCTV coverage at the entrance to the premises and it is operated and maintained at the premises. The CCTV meets the conditions outlined by the licensing authority.
2. Appropriate fire safety procedures are in place and all appliances are inspected annually.
3. All emergency exits shall be kept free from obstruction at all times.
4. All safety signs warning customers about the risks to their health and safety are to comply with BS5378 1980 : Safety Signs and Colours.
5. The premises may provide performances of a clearly adult or sexual nature and as such access is not permitted to people under 18 years. Activities inside the premises cannot be seen from outside the premises.
6. All patrons will be asked to leave quietly.
7. Clear and legible notices will be prominently displayed to remind customers to leave quietly and have regard to our neighbours.
8. The licensee and staff will ask persons who appear to be under the age of 25 for photographic ID such as proof of age cards, a Citizen Card, photographic driving licence or passport, an official identity card issued by HM Forces or by an EU country, bearing the photograph and date of birth of bearer.
9. All staff will be reminded of underage sales prevention regularly.

10. A register of refused sales shall be kept and maintained on the premises.

9.0 Conditions Agreed/Requested by Responsible Authority

Environmental Protection

1. Loudspeakers shall not be located in the entrance lobby, or outside the premise building nor on ceilings. And anti-vibration mounts used is speakers attached to the walls
2. All windows and external doors shall be kept closed when regulated entertainment takes place, except for the immediate access & egress of persons.
3. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 10 persons at any one time.
4. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises, which gives rise to a public nuisance.

Police

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.
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.
3. When the designated premise supervisor is not on the premises any or all persons authorised to sell alcohol will be authorised by the designated premises supervisor in writing. This shall be available on request by the Police or any authorised officer
4. 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, searching equipment or scanning
 - g) equipment.
 - h) any refusal of the sale of alcohol.
 - i) any visit by a relevant authority or emergency service.
5. In the event that a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that:
- a. the police (and, where appropriate, the London Ambulance Service) are called without delay.
 - b. Where practicable and safe to do so, all measures that are reasonably
 - c. practicable are taken to apprehend any suspects pending the arrival of the police
 - d. the crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises
6. There must be at the premises a lockable drugs box to which no member of staff, save the DPS and /or premises licence holder shall have access. All controlled drugs (or items suspected to be controlled drugs or contain controlled drugs) found at the premises must be placed in this box as soon as practicable. Whenever this box is emptied, all of its contents must be given to the Police for appropriate disposal.
7. The premises shall adopt the Central East Police Licensing Drugs Policy.
8. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
9. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
10. The premises licence holder shall ensure that any patrons drinking and/or Smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
11. A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours.
12. No alcohol shall be taken off the licensed area.
13. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available

14. 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.
15. 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.
16. All staff whose responsibilities include the retail sale of alcohol shall receive training about the prevention of underage sales on induction and then every six (6) months thereafter, two (2) times a year. This training shall be recorded and The records to be available on request to the Police or any authorised officer. The training to include:
 - a. the operation of the challenge 25 scheme.
 - b. types of acceptable ID.
 - c. the method of recording challenges.
 - d. the likely consequences of making an underage sale.
 - e. refusing sales to persons who appear to be drunk.
 - f. proxy sales.
17. The premises management will carry out a risk assessment into all artists and promoters appearing at the venue as well as events at the venue. The purpose of this is to identify any risks and measures that can be put in place to mitigate against them. Research will include but is not limited to contacting venues they have appeared recently and looking at their social media sites. Mitigating measures will include but is not limited to SIA numbers, male and female SIA ratio, SIA placement. This risk assessment, including all identified risks and mitigating measures taken, must be a documented and made available to Police upon request.
18. The premises will send both Central East Police Licensing and Tower Hamlets Council Licensing a monthly list of events detailing the nature event, start and finish time, number of SIA on duty.
19. A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours. Such a policy to be available to view by responsible authorities upon request.
20. Notices shall be prominently displayed requesting patrons to respect the needs of local residents and businesses whilst in the external area.
21. The premises shall have a Welfare plan in place for events that take place at the venue. This plan will consider options including the use of dedicated Welfare Officers, safe area, and free drinking water etc, to ensure that vulnerable customers are assisted. These plans are to be written down and stored and made available to Police upon request.

1. 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 17– 25** 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.

2. Legal Comments

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

3. Finance Comments

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

4. Appendices

Appendix 1	Premises Licence number 13190
Appendix 2	Premises Licence number 17819
Appendix 3	Club Premises Certificate number 10164
Appendix 4	A copy of the application
Appendix 5	A copy of the site plan
Appendix 6	Maps showing the vicinity
Appendix 7	Photographs of the premises
Appendix 8	Details of other licensed venues
Appendix 9 -14	Representations from residents & general public
Appendix 15	Representation from current Licence Holder Warren Dent
Appendix 16	Representation from Licensing Officer
Appendix 17	Conditions agreed with Police
Appendix 18	Conditions agreed with Environmental Protection
Appendix 19	Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations
Appendix 20	Licensing Officer comments on public nuisance
Appendix 21	S182 advice on public nuisance
Appendix 22	ASB leaving the premises
Appendix 23	CIA Policy
Appendix 24	Licensing Policy relating to hours of trading
Appendix 25	Planning

