

LICENSING SUB COMMITTEE

11 November 2021

Title: Licensing Act 2003 – Sweet London, 62a Longbridge Road, Barking IG11 8RT	
Open Report	For Decision
Ward Affected: Abbey	Key Decision: No
Report Author: Theo Lamptey, Service Manager Public Protection	Contact Details: E-mail: theo.lamptey@lbbd.gov.uk
Accountable Director: Andy Opie, Operational Director, Enforcement Services	
Accountable Strategic Director: Fiona Taylor, Strategic Director, Law and Governance	
Summary An application has been received from Rraman Gjana for a variation of the existing premises licence in respect of the premises known as Sweet London, 62a Longbridge Road, Barking, IG11 8RT. The application is opposed by four responsible authorities. The matter is put to the Licensing Sub-Committee for determination at a public hearing, accordingly.	
Recommendation That the Sub-Committee considers this report and appendices together with any oral submissions given at the hearing.	

1. Introduction and Background

- 1.1 The Licensing Act 2003 establishes the national licensing regime for the following licensable activities:
 - The sale and supply of alcohol;
 - The provision of regulated entertainment; and
 - The provision of late-night refreshment.
- 1.2 Under this regime, the Council, as the local licensing authority for its area, is responsible for licensing premises to provide any of the licensable activities under a 'premises licence'. Where a premises licence includes the sale and supply of alcohol, then a Designated Premises Supervisor (DPS) must be incorporated onto the licence, holding a personal licence.
- 1.3 Applications for premises licences are subject of public consultation and consultation with a range of expert 'responsible authorities' named in the Act. It is open to any responsible authority or other person to raise concerns regarding an application as representations.

- 1.4 If no representations are received the application is granted as sought, subject to mandatory licence conditions and conditions reflecting the management controls proposed by the applicant under the operating schedule contained in the application. Where representations are received the application becomes subject of a conciliation process. If conciliation is successful in finding an agreed, negotiated outcome then the application may be granted subject to the agreements reached. If conciliation is unsuccessful then the application must be determined at a public hearing by the Council's Licensing Sub-Committee.
- 1.5 When carrying out its licensing duties, a local licensing authority must have regard to:
- The Act and associated secondary regulations;
 - Guidance for local licensing authorities issued by the Home Office (current version published April 2017); and
 - The Authority's own Statement of Licensing Policy (current version published March 2017).
- 1.6 The Authority must also aim to promote the four licensing objectives:
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.
- 1.7 Premises licences generally continue for the life of the business or operation concerned but they may be reviewed at any time by any one of the named responsible authorities under the Act or an 'other person'.

2. Matters for Consideration

- 2.1 On 28 August 2021, an application was made by Mr Rraman Gjana for a variation of the existing premises licence in respect of the premises trading as Sweet London, 62a Longbridge Road, Barking, IG11 8RT.
- 2.2 The variation application seeks to extend the premises licence, which currently covers the front of house bar and restaurant, also, to apply to the premises new rear extension, while adding regulated entertainment and making changes to the licensed hours. A copy of the variation application is attached as Appendix A1, and a copy of the proposed plan is attached as Appendix A2.
- 2.3 A summary of the current premises licence includes the sale of alcohol for consumption both on and off the premises as follows:
- The retail sale of alcohol for consumption both on and off the premises from 11.00 to 02.00 on the day following each day of the week;
 - Recorded music from 11.00 to 15.00 and then from 16.00 to 02.00 on the day following seven days each day of the week;
 - Late night refreshment from 23.00 to 02.00 on the day following each day of the week; and
 - Opening hours from 06.00 to 14.00 and then from 17.00 to 02.00 on the day following each day of the week.

2.4 The Variation seeks to:

- Amend the licensed hours for the retail sale of alcohol both on and off the premises to begin at 08.00 and continue through to 02.00 each day of the week (adding three hours at the beginning of each day);
- Amend the licensed hours for recorded music to begin at 08.00 and continue through to 02.00 each day of the week (adding three hours at the beginning of the day and an additional hour in the middle of the day);
- Add the licensable activity of live music from 08.00 through to 02.00 each day of the week (previously not on the licence);
- Add the licensable activity of performance of dance from 08.00 through to 02.00 each day of the week (previously not on the licence);
- The provision of late-night refreshment through to 02.00 each day of the week (as per the current licence);
- Amend the opening hours from 08.00 to 02.00 each day of the week (bringing back the opening hour by two hours but enabling the premises to stay open during the middle of the day); and
- Apply the proposed licensable activities and operating hours set out above to the rear extension of the premises.

2.5 The operating schedule (Part M of Appendix A1) provided with the variation application proposes a range of conditions, including:

- CCTV provision;
- Challenge 25 age verification scheme;
- Staff training with refresher training at 6 monthly intervals;
- Incident book;
- Accident book;
- Notices asking customers to leave quietly; and
- Unaccompanied children below 16 years of age not to be admitted.

2.6 The Licence Holder and applicant, Mr Gjana also acts as the Designated Premises Supervisor under the licence.

2.7 A copy of the current premises licence is attached as Appendix B.

3. Other representations

3.1 Representations have been received from four Responsible Authorities, namely the Council's Licensing Authority Responsible Authority Officer, Metropolitan Police Licensing Officer, the Council's Health and Safety Officer and the Council's Environmental Noise Officer.

3.2 The Licensing Authority Responsible Authority Officer has made a representation under the licensing objectives of the prevention of crime and disorder, and prevention of nuisance. The concerns raised relate primarily to the extension of the licence to the rear extension. This representation is attached as Appendix C.

3.3 The Metropolitan Police Licensing Officer representation is made under the licensing objectives of the prevention of crime and disorder, and the prevention of nuisance.

Again, the concerns relate primarily to the extension of the licence to the rear extension. This representation is attached as Appendix D.

- 3.4 The Council's Health and Safety Officer has also made a representation concerning matters of compliance of the rear extension of the premises under the smokefree workplace regulations. This representation, which deals principally with matters of public health, is not made under one of the four licensing objectives, but is included as relevant context. This representation is attached as Appendix E.
- 3.5 The Council's Environmental Noise Officer representation is not made under one of the four licensing objectives, but supports the application on the basis of an additional condition being added to the licence and is attached as Appendix F.

4. Conciliation

- 4.1 There was discussion between the applicant and the responsible authorities' officers, namely Licensing Officer, Police Licensing Officer and Health and Safety officers. However, no agreement was reached during the discussion.

5. The Premises Operating History

- 5.1 The premises has been licenced to Mr Gjana since 2017.
- 5.2 On 27 April 2021, under "THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (ENGLAND) (NO. 3) REGULATIONS 2020 (No.2020/750), REGULATION 4(1)", a direction notice was served against the premises owner and considered appropriate in the circumstances due to the supply of shisha to customers, contrary to the above regulations, and due to a lack of social distancing or safe grouped seating arrangements at the premises. A copy of the notice is attached as Appendix G.

The Rear Extension to the Premises and Smokefree Workplace Regulations

- 5.3 The rear extension to the premises has been constructed as a smoking shelter and shisha lounge. It is currently used for this purpose. The extension is built onto the back of the main premises with solid construction walls and roof but with what is understood to be a 1.5m gap running around three sides of the extension.
- 5.4 Under the current smokefree legislation, all public enclosed or substantially closed areas / premises fall into the No Smoking allowed category. A premise or structure is considered substantially enclosed if it has a ceiling or roof but there is an opening or aggregate area of openings in the walls which is less than half of the total area of the walls, including other structures that serve the purpose of walls and constitute the perimeter of the premise. This is called the '50% rule'.
- 5.5 On 29 April 2021, the Council's Health and Safety Officer confirmed to Mr Gjana that the rear extension is 'substantially enclosed' and smoking was not permitted. The officer notes that based on visual inspection, it was evident that the wall space was larger than the opening and that the 50% rule had been misinterpreted.

5.6 Mr Gjana currently contests this view, stating the premises was constructed to specification based on calculations and the situation is currently unresolved.

Fire Safety

5.7 As part of the application, the applicant has provided a copy of a fire risk assessment report compiled by TK Fire Risk-Assessment UK Ltd on 23 September 2021.

5.8 In general, the report states that the risk to life from fire at the premises is moderate.

5.9 The report states that under a moderate risk, it is essential that steps are taken to reduce the risk and that risk reduction measures should be implemented within a 6-month period.

5.10 Works highlighted as necessary include the rehangings of the final exit doors from the rear extension so as to open in the direction of escape, together with fitting of panic bars, as well as works to protect escape routes and to fire doors in the premises. The Fire Risk Assessment Report is attached as Appendix H.

5.11 Mr Gjana has been asked to provide a copy of the programme of works to reduce the risk at the premises. This is still pending.

Map and Photos

- A map of the local area is attached as Appendix I.
- Photos of the exterior of the premises are included in the representation from the Council's Environmental Noise Officer, as seen in Appendix F.

6 The Options open to the Sub-Committee

6.1 Having had regard to all relevant matters and taken all relevant information into account, the Sub-Committee may decide to:

- Modify the conditions of the premises licence;
- Exclude the sale of alcohol by retail from the scope of the licence;
- Remove the Designated Premises Supervisor from the licence;
- Suspend the licence for a period not exceeding three months;
- Revoke the licence.

7 Consultation

7.1 The application has been advertised in accordance with the normal procedures. This includes a copy of a public notice being placed in a local newspaper, a similar notice displayed at the premises and information on the Council's website. Delays in complying fully with the requirements for advertisement did delay this application being determined, but these requirements are now met.

8. Legal Implications

Implications completed by Simon Scrowther, Litigation Lawyer, Corporate Legal

The London Borough of Barking and Dagenham, as Licensing Authority under the Licensing Act 2003 and subordinate legislation, is empowered to determine applications of this nature.

Appendices to this Report:

Appendix A – Variation Application (A1) and Proposed Plan (A2)

Appendix B – Current Premises Licence

Appendix C – Representation from the Licensing Authority Responsible Authority Officer

Appendix D – Representation from the Metropolitan Police Licensing Officer

Appendix E – Representation from the Council's Health and Safety Officer

Appendix F – Representation from the Council's Environmental Noise Officer

Appendix G – Direction Notice

Appendix H – Fire Risk Assessment Report

Appendix I – Map of the local area