

Report for: Licensing Sub Committee 28th February 2019

Title: Application for a Variation of a Premises Licence – GOLDEN SANDS 433-435 WEST GREEN ROAD LONDON N15

Report authorised by : Daliah Barrett-Licensing Team Leader – Regulatory Services.

Ward(s) affected WG

Report for Key/
Non Key Decision: Not applicable

1. Describe the issue under consideration

1.1 Variation of a Premises Licence to vary the licence to amend the opening times and hours of retail sale of alcohol.

1.2 The application seeks the following:

Provision of anything of a Similar Description to that of Live Music, Recorded Music or performance of Dance:

Sunday to Thursday 2300 to 0200 hours

Friday to Saturday 2300 to 0330 hours

Good Friday, Christmas Day, St Patricks Day from 1100 to 0330 hours

New Year's day 24 hours

Late night refreshment

Sunday to Thursday 2300 to 0230 hours

Friday to Saturday 2300 to 0400 hours

Good Friday, Christmas Day, St Patricks Day from 1100 to 0400 hours

New Year's day 24 hours

Supply of Alcohol

Sunday to Thursday 2300 to 0200 hours

Friday to Saturday 1100 to 0330 hours

Supply of alcohol **ON** and **OFF** the premises

Good Friday, Christmas Day, St Patricks Day from 1100 to 0330 hours

New Year's day 24 hours

Hours open to the public

Sunday to Thursday 1100 to 0230 hours

Friday to Saturday 1100 to 0400 hours

Provision of anything of a Similar Description to that of Live Music, Recorded Music or performance of Dance:

Sunday to Thursday 2300 to 0000 hours

Friday to Saturday 2300 to 0300 hours

Good Friday, Christmas Day, St Patricks Day from 2300 to 0300 hours

Supply of Alcohol

Monday to Sunday 1200 to 0300 hours

Supply of alcohol **ON** and **OFF** the premises

Good Friday, Christmas Day, St Patricks Day from 2300 to 0300 hours

Hours open to the public

Monday to Sunday

1200 to 0330 hours

- 1.3 The current licence issued to the premises permits the following:

Supply of Alcohol

Provision of Late Night Refreshment

Provision of Regulated Entertainment: Recorded Music, Provision of Facilities for Making Music and Dancing

Supply of Alcohol

Monday to Thursday 1000 to 2330

Friday 1000 to 0030

Saturday 1100 to 0030

Sunday 1200 to 2330

Good Friday 1200 to 2220

Christmas Day 1200 to 1450 hrs and 1900 to 2220

Provision of Late Night Refreshment

Monday to Thursday 2300 to 0000

Friday and Saturday 2300 to 0100

Sunday 2300 to 0000

Provision of Regulated Entertainment

Friday and Saturday 2100 to 0100

Christmas Eve 2100 to 0100

New Year's Eve licensable activities from the start of permitted hours on 31 December until the start of permitted hours on 1 January

All licensable activities will be excluded from the outdoor rear area from 2230 hours every day.

The opening hours of the premises:

Monday to Thursday 1000 to 0000

Friday 1000 to 0100

Saturday 1100 to 0100

Sunday 1200 to 0000

Good Friday 1200 to 2250

Christmas Eve 2100 to 0100

Christmas Day 1200 to 1520 and 1900 to 2250

New Year's Eve licensable activities from the start of permitted hours on 31 December until the start of permitted hours on 1 January

- 1.4 Representations have been received against this application by Responsible Authorities.

- 1.4 As such, in accordance with the legislation the Licensing Authority must hold a hearing to consider the application and any relevant representations.

1.5 Representations

Licensing Authority - Appendix 2

2 Background

- 2.1 The premises has held a late licence in the past under the previous owner this licence was subject to a Review by residents due to noise nuisance and related anti social behaviour from patrons leaving the venue in the early hours of the morning and causing noise nuisance out in the side streets. The Council determined to reduce the hours to ensure that the noise nuisance did not prolong into the early hours. This was then endorsed by the Magistrates on appeal.

The current operators took over the premises on 27th May 2016 and have received a Simple Caution due to breaching of licence conditions in operating beyond the terms of the licence in May 2017.

- 2.2. Council officers are satisfied that the application has been made and advertised correctly.

3 Relevant Representations

- 3.1 All representations have to meet a basic legal and administrative requirements. If they fail to do so they cannot be accepted. The person or body sending the representation must give an explanation for rejection in writing.

- 4 All the responsible authorities have been consulted about this application. They are as follows:

- The Licensing Authority
- The Metropolitan Police
- The London Fire and Emergency Planning Authority
- Planning
- Health and Safety (includes Building Control)
- Noise Environmental Health
- Food Environmental Health
- Trading Standards
- Child protection
- Public Health

6 Licensing Officer comments

- 6.1 The following information is intended to advise Members of the relevant aspects of the Statement of Licensing Policy, guidance issued by the Secretary of State, legislation and good practice. Members may depart from the Councils Policy and or Section 182 Guidance provided they consider it appropriate to do so and provide clear reasons for their decision.

- 6.2 Committee will also wish to be aware of the guidance issued under section 182 of the Licensing Act 2003. Licensing is about regulating the provision of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Licensing Act 2003. The terms and conditions attached to various permissions are focused on matters which are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places.

- 6.3 The objective of the licensing process is to allow for the carrying on of retail sales of alcohol and the prevention of public nuisance, prevention of crime and disorder, public safety and protection of children from harm. It is the Licensing Authority's wish to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.

- 6.4 In considering licence applications, where relevant representations are made, this
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Licensing Authority will consider the adequacy of measures proposed to deal with the potential for public nuisance and/or public disorder having regard to all the circumstances of the case.

- 6.5 Where relevant representations are made, this authority will demand stricter conditions with regard to noise control in areas that have denser residential accommodation, but this will not limit opening hours without regard for the individual merits of any application. This authority will consider each application and work with the parties concerned to ensure that adequate noise control measures are in place. Any action taken to promote the licensing objectives will be appropriate and proportionate.
- 6.6 Also The Licensing Authority may not impose conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of the hearing 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 required.
- 6.7 The Licensing Act 2003 permits children of any ages to be on the premises which primarily sells alcohol provided they are accompanied by an adult. It is not necessary to make this a condition.
- 6.8 In cases Members should make their decisions on the civil burden of proof, that is the balance of probability.
- 6.9 Members should consider in all cases 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.
- 6.10 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.
The Councils Licensing policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.

7 Options:

- 7.1 The Authority must, having regard to the application and the representations, take such steps (if any), as it considers appropriate for the promotion of the licensing objectives. The steps are:

In determining this application the Sub-Committee may take any of the following steps as it considers appropriate for the promotion of the licensing objectives, namely:

- To grant the licence subject to such conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the authority considers appropriate for the promotion of the licensing objectives.
- To exclude from the scope of the licence any of the licensable activities to which the application relates.
- To refuse to specify a person in the licence as the premises supervisor.
- To reject the application.

For the purposes of the Licensing Act 2003 the conditions of the licence are modified if any of them are altered or omitted or a new condition added.

- 8 The licensing authority's determination of this application is subject to a 21 day appeal period or if the decision is appealed the date of the appeal is determined and /or

disposed of.

9. Other considerations

Section 17 of the Crime and Disorder Act 1998 states:

“Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that it reasonably can to prevent crime and disorder in its area”.

9.1 Human Rights

While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 8 – Right to respect for private and family life.
- Article 1 of the First Protocol – Protection of Property
- Article 6(1) – Right to a fair hearing.
- Article 10 – Freedom of Expression

10 Use of Appendices

Appendix 1 – Application document

Appendix 2 – Representation from Licensing Authority

Appendix 3 – Representation from Met Police

Appendix 4 – Representation from Enforcement Response

Background papers: Section 182 Guidance

Haringey Statement of Licensing policy