

Report for: Licensing Sub Committee 14th May 2019, 19:00pm – Civic Centre, High Road , Wood Green N22.

Item number:

Title: Application for a Variation of a Premises Licence – Tarshish 16-20 High Road Wood Green London N22. 1st & 2nd Floor.

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

Ward(s) affected Woodside

Report for Key/ Non Key Decision: Not applicable

1. Describe the issue under consideration

1.1 To vary the layout of the Premises to include a 3rd terrace floor as per plan submitted, with the ability to offer licensable activity to the existing times on the current licence. Application and plans are at Appendix 1.

1.2 The current licence issued to the premises permits the following: App 2
Regulated Entertainment: Live Music and Recorded Music

Supply of Alcohol

Late Night Refreshment

The times the Licence authorises the carrying out of licensable activities:

Live Music and Recorded Music

Sunday to Thursday 1000 to 0100

Friday to Saturday 1000 to 0200

Late Night Refreshment

Monday to Sunday 2300 to 0200

Supply of Alcohol

Monday to 1000 to 2330

Sunday 1000 to 0100

The opening hours of the premises:

Monday to Sunday 1000 to 0230

1.3 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

Planning representation - Appendix 3- Planning advised:

The use of the first and second floors is subject to planning decision HGY/2014/2443.

Condition 5 of the above planning decision states:

5. The use hereby permitted shall not be operated before 0700 hours or after 2400 hours.

Reason: To ensure that the amenities of adjacent properties are not diminished consistent with Saved Policy UD3 of the Haringey Unitary Development Plan 2006.

cannot find any subsequent planning decisions that supersede the above condition and so their proposals would not be in accordance with planning conditions.

1.6 Representation from Building Control under Public Safety objective: App 4

- The stairs on the roof plan do not line up with the stairs on the second floor
- No accommodation numbers provided.
- No Call Points shown at Storey exit.
- No emergency lighting shown.
- No exit signage indicated on plan.
- No fire alarm provision indicated.
- Electrical circuits not demonstrated to be fire resisting.
- Electrical circuits not shown to be provided with RCD protection.
- Staircase and balustrading details not provided.
- Provision for disabled not indicated

1.7 Representation from the Fire Authority – App 5

From the information supplied they do not provide suitable escape as it only shows 2nd and 1st floors with what I assume is main entrance door opening inwards max 60 in whole building and no protection the staircase at 1st floor

The applicant was requested to submit an updated plan that took care of the concerns raised by the Building Control RA and Fire Authority RA. The applicant submitted revised plans after the closing date of the consultation (APP IA) and the Fire Authority RA then responded with the following:

The Fire Authority, as Responsible Authority under the Licensing Act 2003 with reference to the Licensing objective for the Protection of Public Safety, would like to raise a Representation to the use of the above named premises for the application to vary the Premises License, as shown in the details submitted to this department, for failure to demonstrate compliance

1. The roof area would appear to be an inner room and the means of escape shown is unsatisfactory.
2. It has been stated that the accommodation number is 70, however seating is shown for over 100 people. Two protected exits are required for the new floor level, only one has been indicated therefore the means of escape is unsatisfactory
3. No details of the fire alarm system.
4. No emergency lighting has been shown
5. No exit signage has been indicated on the plan.
6. The provision for disabled access not indicated not clarified

1.8 Licensing Authority representation – Appendix 6

2 Background

2.1 The premises has operated over a number of years at this location utilising the upper floor of the building. The venue currently operates on 2 levels, 1st and 2nd floor. The applicant indicated that it was the intention to utilise a 3rd floor with the intent to offer shisha smoking. This was not mentioned in the application and is not a licensable activity. The Planning Department advised that the condition granted on the premises was for it to be used as a restaurant and that any use as a shisha lounge would require a further Planning application to be determined. Planning made representation due to the hours being sought by the variation application also.

2.2. The applicant was also advised of the concerns relating to the public safety objective that were raised by the Building Control and Fire Authority. A further set of plans were requested to clarify the concerns and to ensure any alterations were compliant for safe means of escape from the venue. The applicant submitted revised plans after the closing date and a covering letter clarifying that shisha activity was no longer on the table and sought to clarify the

public safety concerns . These were not satisfactory to the Responsible Authorities.

Mr Yavuz also emailed to request a meeting with the relevant parties but this was not accepted as the public safety issues raised were about ensuring safe means of escape from the premises in the event of a fire and the officers are not in a position to agree to anything less than this.

- 2.3 Under the Licensing Act 2003, the RAs comment on the public safety elements of any applications for premises licences. This is part of the licensing process to determine whether a building is suitable to hold a premises licence. In order to establish if the occupier is meeting the public safety licensing objective officers may inspect the premises prior to making representation or summarise from the plans submitted with the application.

The plan should be drawn in the standard scale 1:100 and detail the following:

- The dimensions of the building boundary and any external walls and openings.
- The access and exit points from the premises including escape routes.
- Those areas used for each licensable activity.
- Fixed structures including furniture and fittings, which may affect access to escape routes.
- Location and type of fire safety measures and fire fighting equipment.
- The location of any raised stage, floor areas, steps, stairs, elevators or lifts.

3 Licensing Officer comments

- 3.1 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.
- 3.2 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.
- 3.3 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.
- 3.4 The Section 182 Guidance advises the following:

Public safety

2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.

2.8 A number of matters should be considered in relation to public safety. These may include:

- Fire safety;
- Ensuring appropriate access for emergency services such as ambulances;
- Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises
- Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).

2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

3.5 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.

3.6 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.

3.7 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.

4 Options:

4.1 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.

5 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.

6. 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”.

6.1 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

7 Use of Appendices

Appendix 1 – Application document

Appendix 1A- revised plans and covering letter (after consultation period)

Appendix 2 – Copy of current Premises licence

Appendix 3 – Representation from Planning

Appendix 4 – Representation from Building Control

Appendix 5– Representation from Fire Authority

Appendix 6 – Representation Licensing Authority.

Background papers: Section 182 Guidance

Haringey Statement of Licensing policy