

Report for: Licensing Sub Committee 25th June 2019

Item number:

Title: Application for a New Premises licence at Down Lane Studio, Ashley House, Ashley Road London N17.

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

Ward(s) affected TH

**Report for Key/
Non Key Decision:** Not applicable

1. Describe the issue under consideration

1.1 An application has been submitted by Mr Rhys Rose for a licence to allow licensable activity namely, the sale of alcohol, regulated entertainment and late night refreshment at Down Lane Studio, Ashley House, Ashley Road London N17 Appendix 1.

1.2 Regulated Entertainment: Plays

Monday to Sunday 0800 to 0000 hours

Regulated Entertainment: Films

Sunday to Wednesday 0800 to 0000 hours

Thursday 0800 to 0300 hours

Friday to Saturday 0800 to 0400 hours

Regulated Entertainment: Live Music (Indoors/outdoors)

Monday to Sunday 1000 to 2300 hours

Regulated Entertainment: Recorded Music (outdoors until 22.00)

Sunday to Tuesday 0800 to 0000 hours

Wednesday 0800 to 0300 hours

Thursday 0800 to 0400 hours

Friday to Saturday 0800 to 0600 hours

Performance of Dance

Sunday to Tuesday 0800 to 0000 hours

Wednesday 0800 to 0200 hours

Thursday 0800 to 0400 hours

Friday to Saturday 0800 to 0600 hours

Anything of a similar description to live, recorded music or performances of dance

Sunday to Wednesday 0800 to 0000 hours

Thursday 0800 to 0400 hours

Friday to Saturday 0800 to 0600 hours

Late Night Refreshment

Sunday to Tuesday 2300 to 0000 hours

Wednesday 2300 to 0300 hours

Thursday 2300 to 0400 hours

Friday to Saturday 2300 to 0600 hours

Supply of Alcohol

Monday to Tuesday	0900 to 2330 hours
Wednesday	0900 to 0245 hours
Thursday	0900 to 0345 hours
Friday to Saturday	0900 to 0545 hours
Sunday	0900 to 2345 hours

For the consumption **ON** the premises

Hours Open to Public:

Monday to Tuesday	0800 to 0000 hours
Wednesday	0800 to 0315 hours
Thursday	0800 to 0415 hours
Friday to Saturday	0800 to 0615 hours
Sunday	0800 to 0015 hours

1.3 Representations have been received against this application by The Building Control Team & Public Health Team under the Public Safety Objective.

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

Building Control Team representation can be found at Appendix 2.
Public Health Team representation can be found at Appendix 3.

2 Background

2.1 The premises at Ashley House is an old warehouse and does not have Planning permission to be used as an entertainment venue. The applicant wishes to make use of the building as part of a meanwhile space project that combines as a community garden and fundraising for it's chosen charity and mental health projects.

Whilst these are commendable matters to contribute towards, the Licensing Panel is concerned with the licensable activities that has been applied for which would allow the warehouse to operate until 5.15 am offering music and alcohol for a potential 600 capacity crowd.

The area has a entertainment venue also set up as a meanwhile venture called Styx which has operated for a few years before being in a position to obtain a 4am licence following works carried out to ensure better noise management at the venue.

2.2. During the consultation process for the new Premises Licence representations from the Building Control Team and Public Health Team relating to public safety matters were received.

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

3 Relevant Respresentations

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

3.2 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.

3.3 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.

3.4 Representations from responsible authorities do not have to meet the second test of not being vexatious and frivolous. Other persons have to meet this test.

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.

5. The applicant has offered measures in the operating schedule of the application that they say address the promotion of the Licensing Objectives. These can be found at Sec 18 of Appendix 1.

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 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 - Representations from Building Control

Appendix 3 - Representation from Public Health

Background papers: Section 82 Guidance

Haringey Statement of Licensing policy