



Licensing Committee

Report title: Ten Em Bee Sports Development Centre 120A Old Bromley Road BR1 4JY

Date: 27 February 2024

Key decision: No.

Class: Part 1.

Ward(s) affected: Downham

Contributors: Safer Community Services.

Outline and recommendations

Determination of Review Application submitted on 5 January 2024 by 2 members of the public.

After having regard to all the representations heard, Members must take such steps as they consider appropriate to promote the Licensing Objectives.

Timeline of engagement and decision-making

The last day for representations was 2 February 2024.

This matter must be heard with 20 days from the day after the last day of representations.

1. Summary

1.1. The premises is currently licenced for the follwing activities:

Provision of entertainment

Plays

Films

Indoor sporting events

Live music

Recorded music

Performances of dance

Supply of alcohol for members and guest

By or on behalf of a club to, or to the order of, a member of the club

The sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place

The times the certificate authorises the carrying out of qualifying club activities

Plays & films	Until 22.00 Monday to Sunday
Indoor Sporting Events	Until 00.00 Monday to Friday
Entertainment	Until 00.00 Monday to Sunday
Alcohol	11.00 – 02.00 Monday to Sunday

2. Outline Grounds for Review

- 2.1 An application for a licence review for Ten Em Bee Sports Development Club was submitted to the Safer Communities Service by 2 members of the public on 5th January 2024. The premises are alleged to be undermining the licensing objective: the Prevention of Public Nuisance.
- 2.2 The application for the review was served on all responsible authorities and has been advertised in accordance with Regulation 38; a notice prominently displayed on or near the premises to which the application relates and at the licensing authority premises for a period of 28 consecutive days. The last date for receiving representations was the 2 February 2024.
- 2.3 We have received no objections supporting this review. We have received a petition and 5 representations from local residents that support the premises in its current format.
- 2.4 The applicants are seeking the following:

A reduction of hours for which Ten Em Bee is licensed to provide entertainment (such as the playing of recorded music) from the current 12:00am midnight cut-off to 10:00pm. This is consistent with general noise expectations in a residential setting and this should not be extended through Temporary Event Notices

A strengthening of provisions around the avoidance of public nuisance,

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particularly regarding noise from patrons entering and leaving the venue, and the steps to be taken to reduce noise including:

1. the mandatory closure of doors and windows should music be played, regardless of season (ie in the summer as well)
2. reduction or removal of bass emitting speakers (sub-woofers)

A member of Ten Em Bee staff at all events who is appointed to ensure the above licensing provisions are followed, and who is reachable by phone during events should there be any issues

3. Recommendations

- 3.1 After having regard to all representations, Members must take such steps as they consider necessary for the promotion of the licensing objectives. In accordance with Section 52 of the Licensing Act 2003, Licensing Committee may;
- 1.) Modify the conditions of the licence (this includes the power to omit or alter existing conditions and add new conditions)
 - 2.) Exclude a licensable activity from the scope of the licence
 - 3.) Remove the designated premises supervisor
 - 4.) Suspend the licence for a period not exceeding three months
 - 5.) Revoke the licence
 - 6.) Take no action if it is considered that no steps are necessary for the promotion of the licensing objectives.

4. Policy Context

- 4.1. Decisions by Members of the Licensing Committee should have regard to the Licensing Act 2003 and the promotion of the four Licensing Objectives at all times, which includes the following:
- Protection of Children from Harm
 - Prevention of Crime and Disorder
 - Prevention of Public Nuisance
 - Public Safety
- 4.2. Members should also have regard to the Licensing Authority's Statement Licensing Policy 2020-25.
- 4.3. Decisions made will link in with the following objectives under the Council's Corporate Strategy – Building an Inclusive Local Economy and Building Safer Communities.

5. Financial implications

- 5.1. Applicants have the right of appeal against any decision by the Licensing

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Committee. Therefore there would likely be costs for the Authority in seeking legal support should an appeal be brought by the applicant.

6. Legal implications

- 6.1 The Licensing Authority is a public authority under the Human Rights Act 1998. Therefore the licensing authority is required to act compatibly with the convention rights in the exercise of their functions. Article 6 (1) of the Convention provides that everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial hearing established by law.
- 6.2 A Premises Licence is a possession for the purpose of the Human Rights Act 1998. The right to hold a licence is a qualified rather than an absolute right. Therefore the right to hold a licence may be interfered with if it affects the interests of local residents or others. Such interference may be justified if it is necessary and proportionate to promote the licensing objectives.

7. Equalities implications

- 7.1 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.2 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.
- 7.3 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above.
- 7.4 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 7.5 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled "Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice". The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality

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duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

7.6 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- [The essential guide to the public sector equality duty](#)
- [Meeting the equality duty in policy and decision-making](#)
- [Engagement and the equality duty: A guide for public authorities](#)
- [Objectives and the equality duty. A guide for public authorities](#)
- [Equality Information and the Equality Duty: A Guide for Public Authorities](#)

7.7 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

8. Climate change and environmental implications

8.1. Any decision made by Members must fall in line with the Licensing Act 2003, to that end there are no climate change or environmental considerations.

9. Crime and disorder implications

9.1. Under the Licensing Act 2003, one of the 4 licensing objectives is the Prevention of Crime and Disorder.

9.2. It is a requirement of the Licensing Act 2003 that any decision made by the Licensing Committee must not negatively impact on the Licensing objectives.

10. Background papers

10.1. Application for review from Members of the public received 5 January 2024.

10.2. Grounds for review submitted with the application

10.3. 2 x Diary sheets from applicants, submitted with application

10.4. A letter from the premises with attached appendix 2 - 5

10.5. Appendix 1 – a Petition

10.6. 5 representations in support of the premises

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11. Glossary

Term	Definition
Appeal	Asking a court to overturn a lower court's decision. If the decision of a court is disputed it may be possible to ask a higher court to consider the case again by lodging an appeal.
Applicant	A person who carries on, or proposes to carry on, a business which involves the use of a premises for licensable activities to which the application relates or, a person who makes an application pursuant to any statutory function discharged by that person relating to those licensable activities, or a person who applies for the grant of a Personal Licence from a Licensing Authority.
Designated Premises Supervisor	The person named on the Premises Licence as being the person with ultimate responsibility for the running of the premises. He or she must hold a Personal Licence. There can only be one Designated Premises Supervisor for each premises.
Licence	An authority to do something.
Licence Objectives	<p>Under section 4 of the 2003 Act the Licensing Authority must promote the following 4 objectives</p> <ul style="list-style-type: none"> • Prevention of crime and disorder • Public safety • Prevention of public nuisance • Protection of children from harm
Licensable Activities	Activities undertaken at premises which require the authority of a Premises Licence, Club Premises Certificate or Temporary Event Notice.
Licensee	The holder of a licence to do something.
Licensing Authority	The Council (London Borough of Lewisham) Under section 3 of the 2003 Act, the licensing authority's area is the area for which the authority acts.

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Term	Definition
Licensing Committee	A committee of not less than ten and not greater than 15 Council members to which the discharge of the licensing function is delegated by the Council. The whole committee may sit or delegate its responsibility to sub committees consisting of at least three members.
Licensing Policy	Document published by the Local Authority detailing how the licensing regime will be delivered at a local level.
Interested Person	<p>A person who lives in the vicinity of the premises</p> <p>A body who represents the persons who live in that vicinity</p> <p>A person involved in a business in that vicinity</p> <p>A body representing businesses in that vicinity</p> <p>An elected member of the council</p>
Mandatory Conditions	Conditions applied to every Premises Licence and Club Premises Certificate.
Premises Licence	A written authorisation from the Licensing Authority allowing a premises to carry out Licensable Activities.
Relevant Representation	A representation that is specific to the premises in question, related to the four licensing objectives and/or the local licensing policy.
Responsible Authorities	<p>Public bodies that must be notified of all applications and who are entitled to make representations in relation to Premises Licences, as follows:</p> <ul style="list-style-type: none"> • Licensing Authority • Chief Officer of Police • London Fire Brigade • Trading Standards • Planning Authority • Public Health • Environmental Enforcement (with respect to Noise) • Children's Services • Home Office Immigration

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Term	Definition
Review	A review is where any interested party or responsible authority asks the licensing authority to review a premises licence because of a matter arising that is alleged to be undermining one or more of the four licensing objectives. The Committee members may take such steps at the review as they deem appropriate to promote licensing objectives. This can include amendments to licence terms or revocation of the licence.

12. Report author and contact

- 12.1. Angela Mullin-Murrell, Safer Communities Service Officer - Licensing
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