



Licensing Committee

Report title: Jerk Haven, 118 Bromley Road, SE6 2UN

Date: 29th August 2024

Key decision: No

Class: Part 1

Ward(s) affected: Catford South

Contributors: Community Services – Safer Communities Service

Outline and recommendations

Determination of New Premises Licence Application submitted on 25th June 2024 by Cleos Thompson.

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

This application was not initially advertised in accordance with regulation 25 of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005. The consultation period was therefore extended to ensure compliance with the regulations.

The last day for representations was extended from 23rd July 2024 to 02nd August 2024

Summary

1.1. Particulars of Application

Late Night Refreshment

23:00 – 02:00 Monday – Thursday

23:00 – 04:00 Friday & Saturday

23:00 – 00:00 Sunday

Sale of alcohol for consumption on and off the premises

12:00 – 02:00 Monday – Thursday

12:00 – 04:00 Friday & Saturday

12:00 – 00:00 Sunday

Seasonal Variation

Any day preceding a Bank Holiday until 02:00

Jamaican Independence Day (6th August) until 02:00

- 1.2. Sixteen representations have been received from local residents on the grounds of the prevention of public nuisance, the prevention of crime and disorder, protection of children from harm as well as public safety.
- 1.3. The representations received have been examined by Officers and are not considered to be vexatious or frivolous. The representations were received within the specified time.

The applicant offered conditions under Section M of the application form. Following representations from the licensing authority and the police the below additional conditions and amendments to hours were agreed, the objections from the licensing authority and Police have now been withdrawn.

Additional

1. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (23.00) hours and (08.00) hours on the following day.
2. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
3. The premises licence holder shall ensure that any patrons drinking and/or smoking in the rear garden and the outside seating area to the front of the premises do so in an orderly manner so as not to cause a public nuisance or obstruction of the public highway.
4. Front outside seating area to close by 22:00 and any seating removed
5. Rear garden not to be used by patrons
6. The supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by a person as ancillary to their meal
7. The supply of alcohol shall be by waiter/waitress service only.
8. All sale of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
9. Smoking area solely at the front of the venue and limited to 4 people at a time after 22:00.

Amendments to hours as agreed with the police and Licensing Authority

The restaurant will close at:

- 00:30 hours on Monday – Thursday instead of 02:00. Takeaway and deliveries **only** can continue until 02:00 hours

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- The restaurant will close at:
- 02:00 hours on Friday & Saturdays. Takeaway and deliveries **only** can continue until 04:00 hours.
 - Sunday hours as applied until 00:00

- 1.4. It was noted that the applicant agreed all proposed conditions and amendments with the police and the Licensing Authority. The hours proposed by both contradicted each other and as a result the lesser of the 2 will supersede the later hours proposed. The authorised hours for licensable activities will be as follows:

Until 00:30 Monday to Thursday
Until 02:00 Friday and Saturday
Until 00:00 Sunday (as applied)

Seasonal Variation

Any day preceding a Bank Holiday until 02:00

Jamaican Independence Day (6th August) until 02:00

- 1.5. Full list of conditions and final amendments to hours are attached as 1.17
1.6. There were no representations received from any other Responsible Authority.

Recommendations

- 1.6 After having regard to all the representations heard, Members must take such steps as they consider appropriate to promote the licensing objectives. The steps available to the Licensing Authority:
- 1.) Grant the new premises licence as applied for
 - 2.) Grant the licence subject to conditions modified to such extent as the authority considers appropriate for the promotion of the licensing objectives
 - 3.) Exclude from the scope of the licence any of the licensable activities to which the application relates.
 - 4.) Refuse to specify a person in the licence as the designated premises supervisor
 - 5.) Refuse to grant the application.
- 1.7 Either party has a right of appeal to the Magistrates Court against a decision which should be submitted to the court within 21 days of the date of the decision letter.

Policy Context

- 1.7. 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 are:
- Protection of Children from Harm
 - Prevention of Crime and Disorder
 - Prevention of Public Nuisance
 - Public Safety
- 1.8. Members should also have regard to the Licensing Authority's Statement of Licensing Policy 2020-25.
- 1.9. Decisions made will link in with the following objectives under the Council's Corporate Strategy – Building an Inclusive Local Economy and Building Safer Communities.

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Financial implications

- 1.10. Applicants have the right of appeal against any decision by the Licensing Committee. Therefore there would likely be costs for the Authority in seeking legal support should an appeal be brought by the applicant.

Legal implications

- 5.1 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.
- 5.2 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.

Equalities implications

- 6.1 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.
- 6.2 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.
- 6.3 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.
- 6.4 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.
- 6.5 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 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

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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>

6.6 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](#)

6.7 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>

Climate change and environmental implications

1.11. 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.

Crime and disorder implications

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

1.13. 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.

Background papers

1.14. Application received 25th June 2024.

1.15. Premises Plan

1.16. Sixteen Representations from members of the Public

1.17. List of proposed conditions from applicant and additional conditions/Amendments agreed with the licensing authority and police.

1.18. Locality and surrounding premises information

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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.
Licence	an authority to do something.
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.
Licence Objectives	Under section 4 of the 2003 Act the Licensing Authority must promote the following 4 objectives <ul style="list-style-type: none"> • Prevention of crime and disorder • Public safety • Prevention of public nuisance • Protection of children from harm
Interested Person	A person who lives in the vicinity of the premises A body who represents the persons who live in that vicinity A person involved in a business in that vicinity A body representing businesses in that vicinity An elected member of the council
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	Public bodies that must be notified of all applications and who are entitled to make representations in relation to Premises Licences, as follows: <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)

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	<ul style="list-style-type: none">• Children's Services• Home Office Immigration
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Report author and contact

1.19. Clare Chown - Safer Communities Service Officer for Licensing.

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