

MUNICIPAL YEAR 2022/23 REPORT NO.

COMMITTEE:
Licensing Sub-Committee
3 August 2022

REPORT OF :
Licensing Team

LEGISLATION :
Licensing Act 2003

Agenda - Part	Item
	SUBJECT: Application for a New Premises Licence
	PREMISES: Toto Lounge & Bar Ltd, 74 Aldermans Hill, LONDON, N13 4PP
	WARD: Palmers Green

SUPPLEMENTARY REPORT

1. On 1 August 2022, the applicant proposed an amendment to the licensable hours sought, along with confirming agreement to the conditions in Annex 6 plus stating the applicant would have a dispersal policy.
2. The applicant's agent advised:
"As promised please find attached to this email the document with the agreed timings and conditions for the above premises. The client is very upset with the allegations presented in relation to the application and feels unfairly targeted by the interested parties/residents who are trying to link him with crime and criminal activities and behaviour without any justification.

The majority representations from the interested are listing concerns which are outside the remit of licensing and also outside the proposed timings and activities in the application.

We have deviated slightly in relation to Late Night Refreshment (Friday & Saturday until 00:00 midnight) and the Opening Hours (Opening at 06:30 Monday to Friday - *The reason for the 06:30 opening hours presented in the application was in order to facilitate the early morning commuter customers heading towards the nearby rail station.*)"

3. The document from the applicant is attached in Annex 8.
4. As a result of the applicants comments, the additional condition agreed, the Licensing Authority are satisfied and have therefore withdrawn their representation.
5. The final times agreed are set out in Table 3 below.

Table 3

Activity	Proposed Times
Supply of Alcohol (on supply only)	10am to 23:30 daily
Late Night Refreshment (indoor and outdoor)	23:00 to 23:30 Sunday to Thursday 23:00 to 00:00 Friday & Saturday
Opening hours	06:30 to 00:00 Monday to Friday 08:00 to 00:00 Saturday & Saturday

6. The amended final list of conditions are attached in Annex 9.
7. In light of the applicant's concerns as to the content of some of the representations, for example, drug dealing allegations, it is prudent to highlight that the Police did not make representations to this application. Only specific evidence should be considered when determining the application, speculative evidence should not. The statutory guidance highlights the following:

Other persons

8.13 As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises. In addition, these persons may themselves seek a review of a premises licence. Any representations made by these persons must be 'relevant', in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious. In the case of applications for reviews, there is an additional requirement that the grounds for the review should not be considered by the licensing authority to be repetitious. Chapter 9 of this guidance (paragraphs 9.4 to 9.10) provides more detail on the definition of relevant, frivolous and vexatious representations.

Relevant, vexatious and frivolous representations

9.4 A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may

be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.

9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.

9.7 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority's corporate complaints procedure. A person may also challenge the authority's decision by way of judicial review.

9.8 Licensing authorities should not take decisions about whether representations are frivolous, vexatious or relevant to the licensing objectives on the basis of any political judgement. This may be difficult for councillors who receive complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the sub-committee before any decision is taken that necessitates a hearing. Any councillor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.

9.9 It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.

9.10 Licensing authorities should consider providing advice on their websites about how any person can make representations to them.