

Rules Governing Applications for Special Treatment and Near Beer Licences which the Council may Grant

Interpretation

1 In these Rules:-

The masculine always includes the feminine.

"Licence" means any licence, consent, permit or registration which the Council is required or permitted by one or more of the following statutory provisions to grant or make which is for the time being within the terms of reference to the Committee under the Council's Constitution.

a) Part II of London Local Authorities Act 1991 ("Special Treatments Licence")

b) Part IV of London Local Authorities Act 1995 ("Near Beer Licence")

"Occasional Licence" means a Licence granted in respect of one or more particular occasions only as may be specified in the Licence.

"Licensee" means the holder of a Licence.

"Applicant" means the applicant for a licence or licensee as appropriate.

"Application" means an application for one or more of the following, as the case may be:

(a) grant of a Licence;

(b) transfer of a Licence;

(c) renewal of a Licence;

(d) variation of a Licence (including waiver or modification of a licence condition or to extend the licensed area, increase the accommodation capacity or extend the licensed hours).

"Committee" means the Licensing Sub Committee empowered to determine applications under the relevant Act.

"Council" means the Royal Borough of Kensington and Chelsea.

"Governance Services" means the Governance Services section, Room 253, Kensington Town Hall, Hornton Street, London, W8 7NX"

"Objector" means any person who has given Notice in accordance with Rule 13 hereof and who has complied with its terms.

"Parties" means the Applicant(s), and any Objector(s) to the Application, including any Council Officer, in circumstances where he is making a formal objection or seeking revocation or such other Statutory Authority making representations in relation to an application.

"Premises" means the place for which a Licence is sought or for which a Licence is in force.

"Revocation" means the revocation of a Licence under the relevant statutory provision or a proposal to revoke the Licence.

" Bi-Borough Director for Environmental Health" means the Bi-Borough Director for Environmental Health, or his authorised representative.

"Statutory Authority" means a person or body including the Licensing Authority, the Police, the Fire Authority, Planning Officers, Noise and Nuisance Officers, Health and Safety Officers, Waste Management Officers, Trading Standards Officers and such other relevant officers who may wish to make an application, objection or representation under the relevant Act. "Statutory Authority" includes a person representing the same.

"Local Residents Group" means a bona fide residents group accepted as such by the Council.

"Certificate of Lawful Use" means a certificate granted by the Council under Sections 191 or 192 of the Town and Country Planning Act 1990.

Statutory Requirements

2. These Rules are in addition to any requirements specified by any relevant statutory provision including the payment of application fees.

Application Forms

- 3.1 An Application for a Licence shall be made on the form provided by the Council and shall be advertised in accordance with Rules 7, 8 and 9 (where applicable). If an Application has not been determined within six months of its submission the Council may require it to be re-advertised in accordance with Rules 7, 8 and 9 unless an extension of time is granted by the Council. The form of application shall be signed by the Applicant, or a solicitor or other duly authorised agent acting on behalf of the Applicant.
- 3.2 The Application should be sent or delivered to The Licensing Team, 37 Pembroke Road, London, W8 6PW.

Applicants

4. (a) An Application shall be made by the person who lawfully occupies or who will occupy the Premises by virtue of a freehold interest, a lease, an assignment of lease, an agreement for a lease or a tenancy or any other agreement in writing giving a substantial right of occupation and acceptable to the Council. (Documentary evidence of which may be required by the Council.)

(b) Applicants, including directors of companies, shall disclose their normal residential address either on the form provided by the Council or

in accompanying correspondence but this address need not be disclosed on any public notice.

Planning Use

5. The Applicant shall state on the application form the lawful planning use of the Premises and shall submit with the Application documentary evidence that either planning permission has been obtained for the use and hours sought under the Licence, or that planning permission is not required. Should the Council so require a Certificate of Lawful Use in respect of the planning position shall be supplied. The Application will not be considered unless the Council is satisfied that the proposed activity would constitute a lawful planning use.

- Note**
- (a) This Rule shall not apply to Applicants for transfer or renewal of a Licence.
 - (b) It is open to the Applicant to ask the Committee to waive the Rule where it is considered there are exceptional circumstances.
 - (c) Each application for a licence is considered on its merits and Applicants should not assume that because the Council is satisfied that the proposed activity would constitute a lawful planning use a licence will be granted.

Plans and Specifications

6. An Applicant shall submit such plans and specifications of the Premises as may be required by the Council within two months of being advised of the Council's requirements unless an extension of time is granted by the Bi-Borough Director for Environmental Health or his authorised representative.

Note: When the Application forms are submitted to the Council the Bi-Borough Director for Environmental Health will arrange for a survey to determine the suitability of the Premises with a view to ensuring public safety. Two copies of plans and specifications will subsequently have to be submitted by the Applicant for formal approval and record purposes.

Exhibition of a Notice at the Premises

7. (a) Within 7 days of the date on which the Application is made the Applicant for the grant or variation of a Licence or for the renewal of a Near Beer Licence shall arrange for a notice or, (if the Premises are large or front more than one street), notices of the Application to be put up at the Premises using the form provided by the Council. The notice(s) must be put up and shall bear the date it was first exhibited. It shall then be kept exhibited for not less than 28 days on a part of the Premises where it can easily be seen and read by persons in the street or any adjoining public place. With the consent of the Council the notice(s) may, if necessary, be exhibited near the Premises.
- (b) The Application is made on the day the Application is delivered to the Council at the address specified in rule 3.2 above. If posted to the address specified in rule 3.2 above, the application shall be deemed to be made on the date shown on the postmark of the envelope addressed to the Council.
- (c) If this Rule is not strictly complied with the Council will require the notice to be re-dated and kept exhibited at the Premises for 28 days from the date of re-exhibition.
- (d) This Rule shall not apply to an Application for a transfer or renewal of a Licence (save for the renewal of a Near Beer Licence) unless the Council specifically so requires. In appropriate cases the Council may waive this Rule for certain applications to vary the Licence or extend the licensed area.

Newspaper Advertisements

8. (a) Within 14 days of the date on which the Application is made for the grant, variation or renewal of a New Beer Licence notice of the Application in the form required by the Council shall be published (at the expense of the Applicant) in a local newspaper which circulates in the locality in which the Premises are situated.

Note: A London wide newspaper, such as 'The Standard' is **NOT** regarded as a local newspaper for the purposes of this Rule.

- (b) The Applicant shall send one complete copy of the newspaper containing the advertisement to the Council.
- (c) This Rule shall not apply to an Application for a Special Treatments Licence.
- (d) In appropriate cases the Council may waive this Rule for certain applications to vary the Licence or extend the licensed area.

Notice to Local Residents Groups

9. (a) Within 7 days of the date on which the Application is made the Applicant for the grant, variation or renewal of a Near Beer Licence shall send notice of the Application in the form required by the Council to such Local Residents' Groups which may be affected by the Application as the Council may require. Such notices shall be sent by first class post, supported in each case by a certificate of posting. Copies of all such notices and certificates of posting shall be sent to the Council.

(b) This Rule shall apply to an Application for a Special Treatments Licence.

(c) In appropriate cases the Council may waive this Rule for certain Applications to vary the Licence or extend the licensed area.

Notification of the Police and Fire Authority

10. An Applicant for the grant, renewal, transfer or variation of a Licence shall give written notice of the Application to the Commissioner of Police of the Metropolis (local police station) and the London Fire and Emergency Planning Authority. Such notices shall be sent by recorded delivery. Copies of all such notices and evidence of posting by recorded delivery shall be sent to the Council.

Notification of Licensee

11. Within 7 days of the date on which the Application is made the Applicant for the transfer of a Licence shall give written notice of the Application in the form required by the Council to the Licensee(s) of the Premises. Such notice shall be sent by recorded delivery. Copies of all such notices and evidence of posting by recorded delivery shall be sent to the Council.

Time Limits for Objections

12. The last day for objection shall be 21 days from the date of the newspaper advertisement or the date on which the complete copy of the newspaper has been received by the Council or 28 days from the date of the notice at the Premises or 28 days from the date notice is received by Local Residents Groups or the Licensee, whichever is the later. A late objection will only be accepted by the Council in exceptional circumstances.

How to Object

13. A person who wishes to object to an Application shall within the time limits specified in Rule 12 write to the Bi-Borough Director for Environmental Health giving in detail the reasons for objection. The Council is unable to consider anonymous objections.
14. Within 14 days of the last day for lodging objections the Bi-Borough Director for Environmental Health shall forward to the Applicant a copy of

every valid written objection and forward to every objector a summary of the objections received together with a list of the names and addresses of each objector.

15. Where an objection is made by an Association or Local Residents Group, the Chairman or Secretary or other officer of the Association or Local Residents Group shall either confirm at the licensing hearing or in writing beforehand that the objection is made by a duly authorised officer on behalf of that Association or Local Residents Group.
16. Petitions shall bear the prayer of that petition on each page and a warning to potential signatories that a copy of the petition will be supplied by the Council to the Applicant. Each person signing should also print his name and address. Each page of the petition should be dated.
17. The Committee will not accept an objection or any individual ground of an objection when it considers that either the objection as a whole or the individual ground is irrelevant to the decision to be reached.
18. Unless the objection relates to the character of the Applicant Council officers may, in appropriate circumstances, seek to conciliate between the Parties.
19. Where there is more than one Objector raising the same or similar points only one person may normally address the Committee on behalf of the Objectors who are objecting on the same or similar grounds. Objectors who are raising the same or similar points should elect a spokesman to speak on their behalf at the hearing. All Parties are required to send a Notice to Governance Services no later than 5 working days before the date of the hearing confirming (a) whether they intend to attend the hearing; (b) whether they will be represented and (c) whether they intend to call any witnesses. The spokesman may call other Objectors as witnesses but will be limited to a period of 10 minutes in which to present his case.
20. An opposed Application shall be decided at a hearing where evidence (oral and written) is given orally and in public unless the Committee decides otherwise.
21. (a) At any oral hearing in public of an Application an Objector shall not be allowed to raise any matter not referred to in the written objection lodged by the Objector concerned unless there are exceptional reasons for so doing and the Objector is able to justify why the new material should be placed before the Committee. Similarly an Applicant shall not be allowed to introduce any new matters, except in exceptional circumstances, where the Applicant is able to justify why such new matters should be included.

(b) Where an application is made to introduce any new matters (whether by the Applicant or any of the Objectors) the following rules will apply:-

(i) The Party seeking to introduce any new matters will need to explain why the new matter was not raised prior to the hearing;

(ii) The Committee will establish whether any of the other Parties object to the new matter being raised.

(iii) If the new matter is contained within a document and if that document has not previously been seen by the other Parties, the Committee will ask the Party seeking to rely on that document to circulate copies of the document to the other Parties, attending the hearing. It may be necessary to adjourn the hearing for a short period to allow the Parties time to study the document before that party can decide whether or not they object to the document being produced.

(iv) The Committee will decide whether the new matter or new documentation should be considered in evidence. This is in line with the procedure being approved by committee!

22. At any oral hearing in public of an Application, the Applicant and the Objector or his elected spokesman shall attend in person or, if the Application or objection is made by a body corporate, business firm, society, association or other group, a duly authorised representative shall be present who is able to speak on behalf of the body corporate and who, in the case of the Applicant, is empowered to supply any undertaking requested by the Committee or demonstrate that any conditions attached to the Licence will be complied with.
23. A Party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.
24. If any person who has written to the Bi-Borough Director for Environmental Health and who is not represented by a spokesman fails to attend the oral hearing in public the Committee will hear and consider any evidence and arguments put forward by or on behalf of the Applicant in relation to the written objection received. The Committee will take into account, in considering the importance to be attached to the objection that the Objector was not available to be questioned about his statements.

Occasional Licences

25. These Rules apply to an Application for an Occasional Licence and save that Rules 4, 5, 7, 8 and 9 only apply to an Application for an Occasional Licence if the Bi-Borough Director for Environmental Health

Waiver of Rules

26. In any particular case, any of these Rules may be waived, altered or modified either by the Committee or by the Bi-Borough Director for Environmental Health with the agreement of the Chairman or the Cabinet Member for Environment, Environmental Health, Leisure and the Arts.