

LONDON BOROUGH OF TOWER HAMLETS

RECORD OF THE DECISIONS OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON TUESDAY, 6 FEBRUARY 2018

**THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Peter Golds (Chair)

Councillor Suluk Ahmed (Member)

Councillor Dave Chesterton (Member)

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

Councillor Suluk Ahmed declared a personal interest in respect to item 3.1 that he was a ward member for Spitalfields and Banglatown.

No declarations of disclosable pecuniary interests were declared.

2. RULES OF PROCEDURE

The Rules of Procedure were noted by the Sub Committee.

3. ITEMS FOR CONSIDERATION

3.1 Application for a New Premises Licence for (OSM Ltd) Open Market Space, Old Spitalfields Market, London E1 6AA

The Licensing Objectives

In considering the application, Members were required to consider the same in accordance with the Licensing Act 2003 (as amended), the Licensing Objectives, the Home Office Guidance and the Council's Statement of Licensing Policy and in particular to have regard to the promotion of the four licencing objectives:

1. The Prevention of Crime and Disorder;
2. Public Safety;
3. Prevention of Public Nuisance; and
4. The Protection of Children from Harm

Consideration

Each application must be considered on its own merit. The Sub Committee has carefully considered all of the evidence before them and considered written and verbal representation from the applicant and objectors with particular regard to the licensing objections of prevention of public nuisance, the prevention of crime and disorder and the protection of children from harm.

The Sub-Committee noted that the premises in question the premises are situated in the cumulative impact zone and a representation is received, the licence will be refused. However the effect of this special cumulative impact policy is to create a rebuttable presumption.

The Sub-Committee noted that the applicant can rebut the presumption if they can demonstrate that their application for a premises licence would not undermine any of the four licensing objectives.

The Sub-Committee considered that the onus lay upon the applicant to show this through the operating schedule, with appropriate supporting evidence that the operation of the premises, if licensed, would not add to the cumulative impact already being experienced.

The Sub-Committee noted that the cumulative impact of the number, type and the density of licensed premises in the area may lead to serious problems of nuisance and disorder; and that the cumulative impact zone did not act as an absolute prohibition on granting or varying new licences within that zone.

The Sub Committee heard from the applicant that if the application were granted, the applicant would surrender the premises licences for three other premises in the area currently held by the applicant, which the applicant presented as thus mitigating the impact on the cumulative impact zone of licensed premises in the Open Market Space, Old Spitalfields Market.

The Sub-Committee noted written representations made by objectors. The Sub Committee also heard oral representations from objectors regarding the impact of the premises on the Cumulative Impact Zone. The Sub-Committee noted objectors' concerns relating to the existing levels of noise nuisance and anti-social behaviour; and noted objectors' concerns about increased noise nuisance, impact upon family environment, lack of adequate toilet facilities at the premises in question for the likely increased numbers of clientele if the application were granted, that the premises would become the destination for patrons en route to clubs/bars late at night and into the early hours of the morning, and thereby the likely impact on the cumulative impact zone.

Decision

The Sub Committee noted the applicant's representation that the impact of the premises licence if granted, at the premises in question, would be mitigated by the applicant surrendering the premises licences which they already hold in relation to three other premises in the area.

The Sub-Committee noted the applicant's reference to the absence of objections from any Responsible Authorities, and were surprised at the absence of any representations of any kind from the Responsible Authorities. However, the Sub-Committee considered that the absence of objections from any Responsible Authorities is not conclusive, and the onus remains upon any applicant seeking a premises licence in a cumulative impact zone to demonstrate that their application for a premises licence would not undermine any of the four licensing objectives. The Sub-Committee considered that offering to surrender three existing premises licences in the area did not obviate the need for the applicant to demonstrate in their operating schedule, sufficient measures of sufficient robustness which would address concerns about the impact of a premises licence for that set of premises in the cumulative impact zone. It is true that the surrender of three premises licences for other premises in the area would remove the footfall generated by those other three premises. However, the potential increased footfall arising from any grant of the application in this instance requires a particularly robust operating schedule, which should demonstrate particular measures at the premises to address the likely increased impact of increased clientele and potential alcohol fuelled disorder arising therefrom.

The Sub-Committee was not satisfied that the operating schedule as presented at the Sub-Committee meeting met that requirement. The Sub-Committee was concerned about the impact of an increase in licensing hours in the evenings and weekend; that the premises would become a destination for patrons en route to clubs/bars late at night and into the early hours of the morning; noise nuisance would increase; there would be an impact on family environment; there were inadequate toilet facilities at the premises for the likely increase in numbers of clientele; and the potential increase in crime and disorder, public nuisance and anti-social behaviour.

The Sub Committee was therefore not satisfied that the applicant had rebutted the presumption against granting a premises licence for premises situated in a cumulative impact zone, in that it was considered the applicant failed to demonstrate that their application for a premises licence would not undermine any of the four licensing objectives.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a Premises Licence for Open Market Space, Old Spitalfields Market, London E1 6AA be **REFUSED**

3.2 Application for Time Limited Premises Licence for Victoria Park, London E3

The Licensing Objectives

In considering the application, Members were required to consider the same in accordance with the Licensing Act 2003 (as amended), the Licensing Objectives, the Home Office Guidance and the Council's Statement of Licensing Policy and in particular to have regard to the promotion of the four licencing objectives:

1. The Prevention of Crime and Disorder;
2. Public Safety;
3. Prevention of Public Nuisance; and
4. The Protection of Children from Harm

Consideration

Each application must be considered on its own merit. The Sub Committee has carefully considered all of the evidence before them and considered written and verbal representation on behalf of the Applicant and the local Councillors who had made objections with particular regard to the licensing objection of the prevention of public nuisance.

Members noted that a mediation meeting had taken place between the interested parties during which some points were addressed and options for a reduction in the term of the licence was discussed.

Members were of the view that a comparison to events in Hyde Park and Wembley Stadium were not the same as Victoria Park as the demographics and transport links were very different as opposed to the others, as Victoria Park was in the middle of a residential area and in close proximity to the park.

Members considered the impact on the local residents and noted the number of complaints from previous events at the park and from their own local knowledge. Members were concerned with the potential increase in the number of people that would be visiting the area during the event periods and the likelihood of increased public nuisance. It was noted that although there was an option for interested parties to review a licence, the process to seek a review was not so easy and straightforward.

Members welcomed the efforts made by the Applicant in offering a set of robust conditions and were also pleased to note the increase in sanitation facilities around the park and on route to transport links.

Members considered the proposals made at the meeting and were of the view that due to the number of complaints from previous events it was reasonable and proportionate to grant a two year licence with MNL at 75dba. This would allow the applicants the opportunity to demonstrate their event management plans and would then be able to apply for the remaining term of the contract.

Members considered the proposed conditions by the applicant and the impact of the application on the local area and local residents. Therefore considering all of the above, Members decided to GRANT the application in part to

appease the concerns of residents in both Tower Hamlets and the neighbouring borough of Hackney.

Decision

Accordingly, the Sub Committee unanimously –

RESOLVED

That the application for a Time Limited Premises Licence for AEG, Victoria Park, London E3 be **GRANTED IN PART**.

Time Limited Premise Licence

6th February 2018 to 6th February 2020

Hours premises are open to the public

Monday 10.00 hours to 23:00 hours *
Tuesday 10.00 hours to 22.30 hours
Wednesday 10.00 hours to 22.30 hours
Thursday 10.00 hours to 22.30 hours
Friday 10.00 hours to 23.30 hours#
Saturday 12.00 hours to 23.30 hours
Sunday 12.00 hours to 23.00 hours

*where event days fall on bank holidays the following timings would apply for major events, Bank Holiday Monday: 12.00 hours to 23:00 hours.
For minor events, Bank Holiday Monday: 10.00 hours to 22:00 hours

#where event days fall on Friday the following timings would apply for major events, Friday: 12.00 hours to 23.30 hours. For minor events, Friday: 10.00 hours to 22:00 hours

Supply of Alcohol:

Monday - 10.00 hours to 22.15* hours
Tuesday 10.00 hours to 21.45 hours
Wednesday 10.00 hours to 21.45 hours
Thursday 10.00 hours to 21.45 hours
Friday 10.00 hours to 22.45# hours
Saturday 12.00 hours to 22.45 hours
Sunday 12.00 hours to 22.15 hours

* where event days fall on bank holidays the following timings would apply for major events, Bank Holiday Monday: 12.00 hours to 22.15 hours.

For minor events, Bank Holiday Monday: 10.00 hours to 21.30 hours and closing time of the venue for "Minor" events to 22:00 hours

where event days fall on Friday the following timings would apply for major events, Friday: 12.00 hours to 22.45 hours. For minor events, Friday: 10.00 to 21.30 hours and closing time of the venue for "Minor" events to 22:00 hours

Plays / Films / Indoor sporting events / Boxing or Wrestling/ Live Music / Recorded Music/ Performance of Dance / Anything of a Similar Description:

Monday 10.00 hours to 22.30 hours *
Tuesday 10.00 hours to 22.00 hours
Wednesday 10.00 hours to 22.00 hours
Thursday 10.00 hours to 22.00 hours
Friday 10.00 hours to 23.00 hours#
Saturday 12.00 hours to 23.00 hours
Sunday 12.00 hours to 22.30 hours

* where event days fall on bank holidays the following timings would apply for major events, Bank Holiday Monday: 12.00 hours to 22.30 hours.

For minor events, Bank Holiday Monday: 10.00 hours to 21.30 hours and closing time of the venue for "Minor" events to 22:00 hours

where event days fall on Friday the following timings would apply for major events, Friday: 12.00 hours to 23.00 hours. For minor events, Friday: 10.00 hours to 21.30 hours and closing time of the venue for "Minor" events to 22:00 hours

Conditions

1. A maximum of ten (10) event days may be operated under this licence in each calendar year, of which no more than six (6) may be at a capacity not exceeding 39,999 ("Major Event") and the remainder at a capacity not exceeding 14,999 ("Minor Event").
2. Major Event days will take place only on Fridays, Saturday, Sundays or Bank Holiday Mondays, except where otherwise approved by the Multi Agency Planning Group
3. Each year, the Premises Licence holder will undertake a full and detailed consultation with each of the responsible authorities. This consultation will take place through a Multi-Agency Planning Group (Chaired by the Local Authority) in the lead up to, and during the event.
4. Each year, at least 4 months prior to the first event date, the Premises Licence holder will notify the Licensing Authority of the proposed dates for that years events.

5. Each year, at least 3 months prior to the first event date, the Premises Licence holder will produce a draft Event Management & Operating Plan (EMOP) containing detail appropriate to the Event. This will also include a detailed plan of the site.
6. The Final Event Management and Operating Plan (EMOP) must be approved by the Multi-Agency Planning Group, at least one month prior to the first event date. Thereafter, no changes will be made to the EMOP without the prior written consent of the Licensing Authority. Any changes during the event can only be made with the consent of the Event Liaison Team (ELT).
7. For each event the final EMOP (including the plan of the site) will be implemented and complied with by the Premises License holder.
8. Throughout the event open period the Premises Licence holder will maintain an Event Control Room to manage the event.
9. A debrief meeting will be undertaken annually after the final event date;
10. The Premises Licence holder will implement an event and pre-event communications strategy to provide anti-crime messaging and drugs awareness advice to ticket holders;
11. The Premises Licence holder will use screening on the entry points to the event, to exercise the right to refuse entry to any unauthorized or disorderly person;
12. The Premises Licence holder will implement various operations to disrupt the misuse of drugs amongst those proposing to attend the event, and to support the Event Organisers "zero tolerance to drugs" policy;
13. In conjunction with the Metropolitan Police and other responsible authorities, each year the Premises Licence holder will produce;

Crowd Management Plan
Alcohol Management Plan
Ingress Management Plan
Egress Management Plan
Security & Crime Reduction Plan

14. In conjunction with LBTH Health & Safety and other responsible authorities, each year the Premises Licence holder will produce;

Risk Assessment

Fire Risk Assessment
Schedule of Temporary Structures
Questionnaire and Inspection schedule for Food Traders
Rules for Site contractors

15. The Premises Licence holder will set up a publicised meeting each year with local residents prior to the first event date. This meeting will be to discuss plans for the Event and receive residents feedback.
16. The Premises Licence holder will set up a publicised meeting each year with local residents after the final event date. This meeting will be to receive residents feedback;
17. Age restrictions will apply to each event day, the age restrictions for each event day will be agreed in advance with the Multi-Agency Group and will be contained within the EMOP
18. All alcohol outlets will be monitored by security staff and bars management team. All bar staff will receive training and daily briefings;
19. The Premises Licence holder offers the opportunity for agencies to visit the site during the live period to demonstrate the licence holders management controls and experience of the event.
20. The Premises Licence holder will provide the contact numbers of the applicants and their appointed officers
21. For Major Events, the "Music Noise Level" (MNL) measured as a LAeq over any 15- minute from an agreed permanent noise monitoring position shall not exceed 75 dBA 15-minutes.
22. For Minor Events, the "Music Noise Level" (MNL) measured as a LAeq over any 15- minute from an agreed permanent noise monitoring position shall not exceed 65
23. The following three permanent noise monitoring positions have been agreed (as detailed below), but should it be found that these are not representative of the site layout or residential noise impact, then they may be relocated with the agreement of the Premises Licence holder and environmental health. The three agreed Permanent Noise Monitoring Locations are: i) Waterside Close, at the residential façade. ii) Empire Wharf (within Victoria Park) in-line with the building arch. ii) Wetherell Road (Iveagh Close) Day Nursery (within Victoria Park).
24. The sound system and site design shall be reviewed to manage containment of sub- bass, so as not to cause a public nuisance.
25. The Premises Licence holder shall appoint a competent Noise

Consultant. The consultant will have the ability to monitor music noise levels competently and with the authority to control sound levels to ensure compliance with the music noise conditions.

26. A direct means of communication between the Noise Consultant and the Officers of the Environmental Health Department must be made available. There must also be a separate radio channel dedicated to noise control.
27. In consultation with the Council's Environmental Health Department, the sound systems and other noise sources shall be positioned so as to minimise noise disturbance.
28. In conjunction with the Council's Environmental Health Department, sound tests shall be carried out before the event. This will determine the maximum music noise levels that can prevail at agreed proxy monitoring positions so as to ensure compliance with the agreed noise limits;
29. A permanent noise monitor shall be placed at all "front of house" sound mixer positions, this must be able to measure 15 minute LAeq periods or less and print or store the results, Officers must be able to view all the results at the mixer position during the event. A copy of any noise measurements undertaken at permanent sound mixer or the 3 residential monitoring locations must be forwarded within 10 working days to the Environmental Health Department.
30. The Noise Consultant shall be able to demonstrate an up to date calibration certificate for all noise meters used according to BS7580: 1992 and be a minimum type 2 grade instrument according to BS5969: 1981.
31. Erection, dismantling and cleaning operations should only be undertaken during Council Policy working hours Mon. – Fri 8.00 a.m. – 6.00 p.m. and Saturday 8.00a.m. – 1.00 p.m. unless otherwise agreed by prior consent. If work or operations are agreed outside of the above hours a contact telephone number (not an answer phone) must be provided for the person in charge of these operations.
32. White noise "Broadband" reversing alarms shall be used on any forklift truck or vehicle likely to affect any residential property throughout the occupation of the park by the Premises Licence holder.
33. Any complaints received should be directed via a central complaints handling system and directed to the Council Officers and all concerned immediately by secure phone or messaging service, not via an insecure wireless radio system. The Council's complaints

procedure for taking and logging complaints must be followed at all times.

34. The Premises Licence holder shall comply with any reasonable instructions given by the licensing authority that seek to control noise nuisance.
35. The noise-consultant must have a sufficient number of competent staff with the necessary authority, confirmed in writing by the licensee to control the music noise levels. This number should be agreed with Environmental Health department in advance of the event.
36. The Premises Licence holder shall invite a representative of Environmental Protection Department to visit the site during the event live period to take noise measurements and qualitatively assess the impact of event noise on the property, and for all parties to use this information to drive further improvements in the management of the event.
37. No alcohol shall be taken out of the licensed area;
38. Any mobile dispensing servers (MDS) will be accompanied by persons not involved directly in serving alcohol. These other persons ('shepherds') will be responsible, jointly with the sellers and security personnel, for ensuring that mobile units comply with the Challenge 25 policy used on site, including preventing proxy sales; and sales to intoxicated customers;
39. The licensee must ensure that all staff involved in MDS operations are fully aware of and understand the requirements of the Licensing Act 2003 and all related conditions applicable to the event.
40. MDS operators must carry a clear indication that a Challenge 25 protocol is in operation.
41. A Challenge 25 Policy shall be implemented, so that before being served alcohol, identification bearing their photograph, date of birth, and a holographic mark is checked. Identification will include, for example;
 - A photo driving licence
 - A passport
 - A proof of age card bearing the PASS hologram.
42. Throughout the duration of the events (including sound checks, rehearsals and concert performances) the control limits set at the mixer position shall be adequate to ensure that the 63Hz and 125Hz octave frequency bands shall not exceed 75dB (LZeq 15 minutes) as

a result of Music Noise level (MNL) beyond a 2km radius (distance measured from the main stage mixer position). The 63 Hz and 125 Hz octave frequency bands shall be assessed in a free field position at measurement points prescribed by the London Borough of Tower Hamlets Environmental Health.

43. The noise consultant shall make use of a monitoring system that allows for real-time correlation between performance stages and off site monitoring locations.

4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

The meeting ended at 9.55 p.m.

Chair,
Licensing Sub Committee