

Committee :	Date	Classification	Report No.	Agenda Item No.
<b>Licensing Sub Committee</b>	08 January 2019	<b>Unclassified</b>		

Report of : <b>David Tolley</b> <b>Head of Environmental Health &amp; Trading Standards</b>	Title: <b>Licensing Act 2003 Application for a New Premises Licence for Electric Shuffle, 3-6 Steward Street &amp; 50 Gun Street, London E1 6FQ</b>
Originating Officer: <b>Lavine Miller-Johnson</b> <b>Licensing Officer</b>	Ward affected: <b>Spitalfields,</b>

## 1.0 Summary

Applicant: **Flight Club Darts Ltd**

Name and **Electric Shuffle**

Address of Premises: **3-6 Steward Street & 50 Gun Street,  
London  
E1 6FQ**

Licence sought: **Licensing Act 2003 –**

- **The provision of regulated entertainment**
- **The provision of late night refreshment**
- **The sale by retail of alcohol**

Representations: **Environmental Health Noise Team  
Residents  
Licensing Authority (Responsible Authority)**

## 2.0 Recommendations

2.1 That the Licensing Committee considers the application and objections then adjudicate accordingly.

### LOCAL GOVERNMENT 2000 (Section 97) LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT

Brief description of "background paper"

Tick if copy supplied for register

If not supplied, name and telephone number of holder

- Guidance Issued under Section 182 of the licensing Act 2003
- Tower Hamlets Licensing Policy
- File

Lavine Miller-Johnson  
020 7364 2665

### 3.0 **Background**

3.1 This is an application for a new premises licence for Electric Shuffle, 3-6 Steward Street & 50 Gun Street, London E1 6FQ.

3.2 The applicant has described the premises as follows:  
*“Social entertainment in the form of shuffleboard together with ancillary bar/food offering.*

3.3 A copy of the application is enclosed as **Appendix 1**.

3.4 The applicant has applied for the following licensable activities and timings:

#### **The Provision of Regulated Entertainment – Indoors**

##### **(Recorded Music)**

- Monday to Wednesday, from 12:00 hours to 00:00 hours (Midnight)
- Thursday to Saturday, from 12:00 hours to 00:30 hours (The following day)
- Sunday, from 12:00 hours to 22:30 hours

##### **The provision of late night refreshment - Indoors**

- Monday to Wednesday, from 23:00 to 00:00 hours (Midnight)
- Thursday to Saturday, from 23:00 to 00:30 hours (The following day)

##### **The sale by retail of alcohol – (On sales only)**

- Monday to Wednesday 12:00 hours to 23:30 hours
- Thursday to Saturday 12:00 hours to 00:00 hours (Midnight)
- Sunday, from 12:00 hours to 22:00 hours

##### **Non-standard timings**

- From the end of permitted hours on New Year’s Eve to the start of the permitted hours on New Year’s Day

##### **Hours premises are open to the public:**

- Monday to Wednesday 12:00 to 00:00 hours (Midnight)
- Thursday to Saturday 12:00 to 00:30 hours (The following day)
- Sunday 12:00 hours to 22:30 hours

##### **Non-standard timings**

- From the end of permitted hours on New Year’s Eve to the start of the permitted hours on New Year’s Day

### 4.0 **Location and Nature of the premises**

4.1 Photographs of the venue and immediate vicinity will be provided at the hearing.

- 4.2 The site plan of the venue is included as **Appendix 2**.
- 4.3 Maps showing the vicinity are included as **Appendix 3**.
- 4.4 Details of other licensed venues in the immediate vicinity are included as **Appendix 4**.

## 5.0 **Licensing Policy and Government Advice**

- 5.1 The Council has adopted a licensing policy and this is available from the Licensing Section, and at the hearing. The revised policy came into effect on 1<sup>st</sup> November 2018.
- 5.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.
- 5.3 The Home Secretary has issued Guidance under Section 182 of the Licensing Act 2003. This is available on the Government's website, [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk). It was last revised in April 2018.
- 5.4 Relevant Sections of this advice are brought to Members attention within the Licensing Officers report. Members should note however, that in some areas Tower Hamlets, after a proper consideration of local circumstances, has not followed the Government's advice, or has developed it further.

## 6.0 **Representations**

- 6.1 All representations have to meet basic legal and administrative requirements. If they fail to do so they cannot be accepted. When rejected the person sending in the representation must be written to, and an explanation for rejection given in writing
- 6.2 A responsible authority or other person can make a representation. There are two tests for other persons and only one for a responsible authority. The two tests are contained in Section 18 of the Act.
- 6.3 All representations must be "about the likely effect of the grant of the premises licence on the promotion of the licensing objectives." Likely means something that will probably happen, i.e. on balance more likely than not.
- 6.4 Representations by responsible authorities do not have to meet the second test of not being vexatious and frivolous. Other persons have to meet this test.
- 6.5 The Home Office recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation.
- 6.6 Section 182 Advice by the Home Office concerning relevant, vexatious and frivolous representations is attached as **Appendix 5**.

6.7 All the representations in this report have been considered by the relevant officer (Team Leader Licensing & Safety) and determined to have met the requirements of the Licensing Act 2003.

6.8 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the Responsible Authority (RA) and residents, including a petition:

<b>Responsible Authority / Other persons</b>	<b>Appendix</b>
Environmental Health Noise team (Nicola Cadzow)	<b>6</b>
Licensing Authority (Samantha Neale)	<b>7</b>
Abu Zaman (includes a petition)	<b>8</b>
Ameen Khan	<b>9</b>
Charles Cresswell	<b>10</b>
Chiara Sotis	<b>11</b>
David Latham	<b>12</b>
Jimmy Shamash	<b>13</b>
Robin Moore	<b>14</b>
Sevda Gungormus	<b>15</b>

6.9 All of the responsible authorities have been consulted about this application. They are as follows:

- The Licensing Authority
- The Metropolitan Police
- The LFEPA (the London Fire and Emergency Planning Authority).
- Planning
- Health and Safety
- Noise (Environmental Health)
- Trading Standards
- Child Protection
- Public Health
- Home Secretary (Home Office Immigration Enforcement)

6.10 In addition the application was required to be advertised in a local newspaper and by a blue poster. Only objections that relate to the following licensing objectives are relevant:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

6.11 Essentially, the relevant parties oppose the application because in their opinion, the applicant has not explained how within the context of the application they will meet licensing objective of the prevention of public nuisance and the prevention of crime and disorder and the protection of children from harm.

6.12 There are strict time limits to any representations. The time limits are contained in The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.

6.13 The applicant has offered measures in the operating schedule of the application that address the promotion of the Licensing Objectives. If there were no representations, the Licensing Authority would grant the licence, with conditions consistent with the operating schedule, which are relevant, proportionate and enforceable. Members are asked to consider the schedule and incorporate any conditions as necessary to address the licensing objectives.

## **7.0 Conditions consistent with Operating Schedule**

7.1 There shall be a minimum of 7 playing surfaces available at any time the premises is open to the public. Playing surface means the shuffleboard playing area, which consists of a designated area for playing shuffleboard.

7.2 Substantial food and suitable beverages other than alcohol (including drinking water) shall be available at all times when alcohol is supplied at the premises.

7.3 The Premises Licence Holder will ensure that staff are trained, as appropriate, in respect of relevant licensing law; crime scene best practice and upon the sale of alcohol to drunks and to persons underage.

7.4 There shall be no admittance or re-admittance to the premises after 23:30 except for patrons permitted to temporarily leave the premises to smoke.

7.5 A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.

### The Prevention of Crime and Disorder

7.6 A digital hard drive CCTV system shall be in operation to cover internal and external areas of the premises and any area where customers have legitimate access shall be sufficiently illuminated for the purposes of CCTV.

- a. All CCTV recorded images shall have sufficient clarity/quality/definition to enable facial recognition.

- b. CCTV footage shall be kept in an unedited format for a period of 31 days; any footage subsequently produced shall be in a format so it can be played back on a standard personal computer or standard DVD player.
- c. Any manager left in charge of the premises shall be trained in the use of any such CCTV equipment and able to produce/download/burn CCTV images upon request by an authorised officer from a Responsible Authority.
- d. CCTV shall be maintained on a regular basis and kept in good working order. CCTV maintenance records to be kept details of contractor used and work carried out to be recorded.

7.7 The need for door security shall be assessed by the Premises Licence Holder or Designated Premises Supervisor and door staff shall be employed when and where the risk assessment deems this appropriate.

7.8 The number of Door Supervisors employed at the premises when licensable activities are taking place, their locations and the times they will be employed will be decided in consultation with the Tower Hamlets Police Licensing Officer.

7.9 Any person who tries to gain entry to the premises who is involved in disorderly conduct or anti-social behaviour outside the premises shall not be permitted entry. The Premises Licence Holder or Designated Premises Supervisor shall ensure that any person within the premises who is involved in disorderly conduct or any anti-social behaviour within the premises shall be removed from the premises.

7.10 No customers shall be allowed to leave the premises while in possession of any drinking vessel or open glass bottle, whether empty or containing any beverage. This includes patrons using any smoking area.

7.11 The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.

7.12 An incident log shall be kept at the premises, and made available on request to an authorised officer or the Police, which will record the following:

- a. All crimes reported to the venue
- b. All ejections of patrons
- c. Any complaints received
- d. Any incidents of disorder and violence

- e. All seizures of drugs or offensive weapons
- f. Any faults in the CCTV system or searching equipment or scanning equipment
- g. Any visit made by a relevant authority or emergency service.

#### The Prevention of Public Nuisance

- 7.13 No music or amplified sound shall be generated on the premises so as to give rise to a nuisance.
- 7.14 A prominent notice shall be displayed at the exit from the premises requesting patrons to respect local residents and to leave the premises and area quietly.
- 7.15 A dispersal policy shall be in place at the premises to ensure that customers leave the area quietly.
- 7.16 Adequate and suitable receptacles shall be provided to receive and store refuse from the premises and shall be emptied regularly to minimise nuisance smells.
- 7.17 A smoking policy shall be in place at the premises to ensure that customers smoking outside the premises do so quietly.
- 7.18 From 21:00 hours the premises licence holder shall not permit more than 10 people to use the smoking area immediately outside the premises.
- 7.19 A notice shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
- 7.20 Deliveries to the premises are prohibited between the hours of 20:00 and 07:00 the day following Monday to Saturday and 20:00 and 08:00 the day following on Sundays.
- 7.21 Collections from the premises are prohibited between the hours of 20:00 and 07:00 the day following Monday to Saturday and 20:00 and 08:00 the day following on Sundays.
- 7.22 Disposal of refuse from the premises is prohibited between the hours of 20:00 and 07:00 the day following Monday to Saturday and 20:00 and 08:00 the day following on Sundays.
- 7.23 Local taxi numbers shall be available for customers to assist in ordering a taxi.
- 7.24 Loudspeakers shall not be located in the entrance lobby or outside the premises building.

7.25 All windows and external doors shall be kept closed after 21:00 hours or at any time Regulated Entertainment takes place, except for the immediate access and egress of persons.

### **The Protection of Children from Harm**

7.26 A Challenge 25 policy shall be implemented and full and appropriate identification shall be sought from any person who appears under the age of 25. The only acceptable forms of identification shall be passport, photo driving licence, and those carrying the PASS logo.

7.27 A notice shall be displayed indicating that the Challenge 25 policy is in force.

7.28 Staff training shall include the Challenge 25 policy and its operation. In particular staff shall be trained to take such action as is necessary to prevent the sale of alcohol to persons over the age of 18 where those customers are engaged in the distribution of alcohol to persons under the age of 18. The training shall be given to a new member of staff before they commence paid employment and all staff shall be re-trained twice yearly. All training shall be documented.

7.29 A sales refusal book shall be kept at the premises and this shall be checked each week by either the premises licence holder or the designated premises supervisor to ensure that staff are accurately recording refusals. The refusal book shall be open to inspection by appropriate officers of the Responsible Authorities.

### **Public Safety**

7.30 The Premises Licence Holder shall ensure that adequate fire safety measures are in place at the premises and regularly maintained as per a fire risk assessment or the advice of the Fire Safety Officer.

7.31 The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.

2. All external emergency exit doors shall be fitted with sensor alarms and visible indicators to alert staff when the doors have been opened.

3. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.

### **8.0 Conditions Agreed/Requested by Responsible Authority**

N/A

### **9.0 Licensing Officer Comments**

9.1 The Live Music Act removed licensing requirements for the following:

- amplified live music and recorded music between 8am and 11pm before audiences of no more than 500 people on premises authorised to sell alcohol for consumption on the premises;
- Unamplified live music between 8am and 11pm in all venues.
- Further exemptions apply see Section 16.5-16.6 of Section 182 Guidance.

9.2 The following is intended to advise Members of the relevant aspects of the Boroughs Licensing Policy, guidance from the Secretary of State, legislation and good practice. Members may depart from the Council's Licensing Policy and/or Government advice, provide they consider it appropriate to do so, and have clear reasons for their decision.

9.3 Guidance issued under section 182 of the Licensing Act 2003

- ❖ As stated in the guidance it is “provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act.” It is a key medium for promoting best practice, ensuring consistent application and promoting fairness equal treatment and proportionality (1.7).
- ❖ Also “as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.” Therefore licensing authorities will need to give full reasons for their actions (1.9).
- ❖ Also Members should note “A Licensing Authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives.” (1.12)
- ❖ Also, “The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.” Therefore, conditions may not be imposed for the purpose other than promoting the licensing objectives and in some cases no additional conditions will be appropriate. (10.8)
- ❖ Necessary conditions should emerge from a risk assessment by the applicant, which should then be reflected in the operating schedule

(10.4).

- ❖ The Guidance states: “Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.” (10.14)
- ❖ Mandatory conditions must be imposed (10.27) and censorship avoided (10.17).
- ❖ The Guidance states: “It is still permitted to sell alcohol using promotions (as long as they are compatible with any other licensing condition that may be in force), and the relevant person should ensure that the price of the alcohol is not less than the permitted price. Detailed guidance on the use of promotions is given in the guidance document available on the Gov.uk website.” (10.60) Also, “Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club licences or club premises certificates in an area.” (10.21)

- 9.4 The Licensing Act 2003 permits children of any age to be on the premises which primarily sell alcohol providing they are accompanied by an adult. It is not necessary to make this a condition.
- 9.5 In all cases the Members should make their decision on the civil burden of proof that is “the balance of probability.”
- 9.6 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.
- 9.7 The Government has advised that conditions must be tailored to the individual type, location and characteristics of the premises and events concerned. Conditions cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff and standardised conditions should be avoided where they cannot be shown to be appropriate. (1.16/1.17)
- 9.8 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 9.9 In **Appendices 16- 25** Members are given general advice, and also have explanations of the Council’s Licensing Policy, Government advice and other legislation relating to the matters previously identified.

## **10.0 Legal Comments**

10.1 The Council's legal officer will give advice at the hearing.

## **11.0 Finance Comments**

11.1 There are no financial implications in this report.

## 12.0 Appendices

<b>Appendix 1</b>	A copy of the application
<b>Appendix 2</b>	Site Plan
<b>Appendix 3</b>	Maps of the surrounding area
<b>Appendix 4</b>	Other licensed venues in the area
<b>Appendix 5</b>	Section 182 advice by Home office concerning relevant, vexatious, and frivolous representations
<b>Appendix 6</b>	Representations of Environmental Health Noise Team
<b>Appendix 7</b>	Representations from Licensing Authority
<b>Appendices 8-15</b>	Representations from resident
<b>Appendix 16</b>	Licensing Officer comments on noise while the premise is in use
<b>Appendix 17</b>	Licensing Officer comments on access/egress Problems
<b>Appendix 18</b>	Licensing Officer comments on crime and disorder on the premises
<b>Appendix 19</b>	Licensing Officer comments on crime and disorder from patrons leaving the premises
<b>Appendix 20</b>	Licensing Policy advice Protection of Children from Harm
<b>Appendix 21</b>	Section 182 guidance Protection of Children from Harm
<b>Appendix 22</b>	Planning
<b>Appendix 23</b>	Licensing Policy relating to hours of trading
<b>Appendix 24</b>	Tower Hamlets Cumulative Impact Zone