

Committee :	Date	Classification	Report No.	Agenda Item No.
Licensing Sub Committee	15 May 2014	Unclassified	LSC 78/134	

Report of: David Tolley - Head of Consumer & Business Regulations	Title: Licensing Act 2003 - Application for Time Limited Premises Licence for Lovebox 2014
Originating Officer: Andrew Heron Licensing Officer	Wards affected: Bow West & Bow East

1.0 Summary

Applicant: **Lovebox Festivals Ltd.**
Name and Address of Premises: **Lovebox
Victoria Park
London E3**

For **18th July 2014 to 30th September 2017**

Licence sought: **Licensing Act 2003
Time Limited Premises Licence**

- **Sale of alcohol**
- **Provision of regulated entertainment**

Objectors: **Councillor Joshua Peck (Bow West Ward)**

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

File

**Andrew Heron
020 7364 2665**

3.0 **Background**

- 3.1 This is an application for a premises licence which is time limited for 18th July 2014 to 30th September 2017 for a capacity of 39,999.
- 3.2 A copy of the application is enclosed as **Appendix 1**.
- 3.3 Due to large size of the Event Management Plan, this will be available on request. Members will be forwarded the Plan electronically for their information in deciding whether conditions are appropriate to be added. See point **6.2**.
- 3.4 The application is for regulated entertainment and the sale of alcohol.
- 3.5 The hours that have been applied for are as follows:-
Plays, Films, Indoor Sporting Events, Boxing or Wrestling Entertainment, Live Music, Recorded Music, Performances of Dance and anything of a similar description to the above
Sunday to Monday from 12:00hrs (midday) to 22:30hrs
Friday to Saturday from 12:00hrs (midday) to 23:00hrs
- The sale of alcohol:**
Sunday to Monday from 12:00hrs (midday) to 22:30hrs
Friday to Saturday from 12:00hrs (midday) to 23:00hrs
- Hours premises is open to the public:**
Victoria Park is a public park and is open from dawn and usually closes at dusk. For the licensed area:
Sunday to Monday from 12:00hrs (midday) to 23:00hrs
Friday to Saturday from 12:00hrs (midday) to 23:30hrs
- 3.6 Plans showing the park, event site and layout are attached in **Appendix 2**.

4.0 **Licensing Policy and Government Advice**

- 4.1 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 the 8th December 2010.
- 4.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.
- 4.3 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. It was last revised in October 2012.
- 4.4 Relevant Sections of this advice are brought to Members attention within the Licensing Officers report. Members should note however, than in

some areas Tower Hamlets, after a proper consideration of local circumstances, has not followed the Government's advice, or has developed it further.

5.0 Representations

- 5.1 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
- 5.2 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.
- 5.3 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.
- 5.4 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.
- 5.5 The Home Office recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation.
- 5.6 Section 182 Advice by the Home Office concerning relevant, vexatious and frivolous representations is attached as **Appendix 3**.
- 5.7 All the representations in this report have been considered by the relevant officer (Trading Standards and Licensing Manager) and determined to have met the requirements of the Licensing Act 2003.
- 5.8 This hearing is required by the Licensing Act 2003, because a relevant representation has been made by Councillor Joshua Peck - **See Appendix 4**.
- 5.9 All of the responsible authorities have been consulted about this application. They are as follows:
 - The Metropolitan Police
 - The LFEPA (the London Fire and Emergency Planning Authority).
 - Planning
 - Health and Safety
 - Noise (Environmental Health)
 - Trading Standards
 - Child Protection
 - Local PCT

5.10 Additional conditions have been agreed by the applicant and should be noted by members when considering the Operating Schedule. These are as follows:

5.11 Additional Conditions agreed/offered by applicant (see Appendix 5):

1. To ensure that the license conditions relating to the use of white noise reversing alarms are fully complied with throughout the tenancy at Victoria Park.
2. To investigate any further improvements to the sound system design that may reduce the impact on the residents' property.
3. A representative of Environmental Protection to visit the property 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.
4. To offer the opportunity to visit the site during the live period to show the licensees management controls and experience of the event.
5. Contact numbers to be given of the applicants and officers.

5.12 Conditions agreed with Police (see Appendix 6):

6. a) An Operating Schedule and Security Plan have to be sent to Police 3 months prior to the event.

b) The Operating Schedule and Security Plan has to be agreed by Police by 1 month prior to the event. If in the event there is no agreement an ESAG meeting will be called.
7. The event managers and organizers will comply with any reasonable request made by the Police event command team during the course of the event.

5.13 Conditions agreed with the Licensing Authority (see Appendix 7):

8. No alcohol shall be taken off the licensed area;
9. 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

21 policy used on site, including preventing proxy sales; and for the prevention of sales to intoxicated customers;

10. 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.
 11. MDS operators must carry a clear indication that a Challenge 21 protocol is in operation.
 12. A Challenge 21 Policy shall be implemented, so that before being served alcohol, identification bearing their photograph, date of birth, and a holographic mark is checked. This will include, for example;
 - a. A photo car driving licence
 - b. A passport
 - c. A proof of age card bearing the PASS hologram.
- 5.14 In addition the application was required to be advertised in a local newspaper and by a blue poster. The consultation period was extended following lack of notices on the major gates relative to the site area. 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
- 5.15 The objection from Cllr Peck cover allegations of
- Crime & Disorder
 - Public Nuisance
 - Crowds and disruption
 - Anti-social behaviour from patrons leaving the premises
 - Acting as a magnet attracting the young who then engage in anti-social behaviour
 - Drug taking
 - Noise while the premise is in use
 - Disturbance from patrons leaving the premises on foot
 - Disturbance from patrons leaving the premises by car and other traffic issues
 - Close proximity to residential properties
 - Noise leakage from the premises
- 5.16 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.

6.14 The following is intended simply 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.

6.15 In addition to the documentation contained in the report, the application contains additional documentation providing the detail of the Event Management Plan/Noise Management Plan/Acoustic Report/Security Plan/Risk Assessment /Crown Safety Plan. Members are asked to consider all the associated documentation which accompanies the application and incorporate any conditions which are relevant, proportionate and enforceable that are necessary to address the licensing objectives.

6.16 Guidance issued under section 182 of the Licensing Act 2003

∇ As stated in the guidance it is "provided for licensing authorities carrying out their functions." It is a key mechanism for promoting best practice, ensuring consistent application and promoting fairness (1.6).

∇ Also "so long as the guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so." When doing so licensing authorities will need to give full reasons for their actions (1.7).

∇ 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." (1.10)

∇ Conditions may not be imposed for the purpose other than the licensing objectives.

∇ Necessary conditions should emerge from a risk assessment by the applicant, which should then be reflected in the operating schedule (10.7).

∇ The Licensing Authority may only impose such conditions as are necessary for meeting the licensing objectives.

∇ It is Government policy that facilities for people and performers with disabilities should be provided at places of entertainment. (S. 10.24).

∇ The Government has stated "there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different

hours from those requested.” (10.20)

- ∇ Mandatory conditions must be imposed (10.43) and censorship avoided (10.31).
- ∇ Routine conditions about drink promotions are not permitted but can be imposed in an appropriate circumstances (10.38). The Office of Fair Trading’s Advice also needs to be considered, namely that minimum prices setting is not permitted.

6.17 The Licensing Act 2003 permits children of any age to be on the premises which primarily sells alcohol providing they are accompanied by an adult. It is not necessary to make this a condition.

6.18 In all cases the Members should make their decision on the civil burden of proof that is “the balance of probability.”

6.19 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.

6.20 The Government has advised that “In the context of preventing public nuisance it is again essential that conditions are focused on measures within the direct control of the licence holder. Conditions relating to public nuisance caused by anti-social behaviour of customers once they are beyond the control of the licence holder or premises management cannot be justified and will not serve the licensing objectives.” (2.38)

6.7 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.

6.8 In **Appendices 8-13** 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.

7.0

Legal Comments

7.1

give advice at the hearing.

The Council’s legal officer will

8.0

Finance Comments

8.1

implications in this report.

There are no financial

9.0

Appendices

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| Appendix 1 | Copy of the Licence Application |
| Appendix 2 | Plans of the site |
| Appendix 3 | Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations |
| Appendix 4 | Representation of Cllr Joshua Peck |
| Appendix 5 | Confirmation email of additional conditions |
| Appendix 6 | Confirmation email of additional conditions – Police |
| Appendix 7 | Confirmation email of additional conditions – Licensing Authority |
| Appendix 8 | Licensing Officer comments on Anti-Social Behaviour from Patrons Leaving the Premises |
| Appendix 9 | Licensing Officer comments on Acting as a Magnet Attracting the Young who then engage in Anti-Social Behaviour |
| Appendix 10 | Licensing Officer comments on Drug Taking |
| Appendix 11 | Licensing Officer comments on Noise while the Premise is in Use |
| Appendix 12 | Licensing Officer comments on Access and Egress Problems |
| Appendix 13 | Licensing Officer comments on Noise Leakage from the Premises |