

Committee :	Date	Classification
Licensing Sub Committee	19th June 2017	Unrestricted

Report of : David Tolley Head of Environmental Health & Trading Standards	Title: Licensing Act 2003 Application for a new Premises Licence for Calvert Avenue/Arnold Circus (Time Limited 30th July 2017)
Originating Officer: Corinne Holland Licensing Officer	Ward affected: Weavers

1.0 Summary

Applicant: Name and **Simplicious Community Interest Company (African Street Style Festival)**
Address of Premises: **Calvert Avenue (from j/w Boundary Road to Arnold Circus)**

Licence sought: **Licensing Act 2003
Provision of Regulated Entertainment (live music, recorded music, dance and film)**

Objectors: **Local Resident**

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 Only

Corinne Holland
020 7364 3986

3.0 **Background**

3.1 This is an application for a time limited premises licence for an African Street Style Festival (applied for by Simplicious) being held at Calvert Avenue and Arnold Circus, E2 on the afternoon of Sunday 30th July 2017.

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

3.3 The hours applied for are as follows.

The Provision of Regulated Entertainment in the form of films, live music, recorded music, performances of dance and anything of a similar description (outdoors):

- Sunday 30th July 2017 from 12:00hrs (midday) to 19:00hrs

The event will be open to the public:

- Sunday 26th July 2015 from 12:00hrs (midday) to 19:00hrs

4.0 **Location and Nature of the premises**

4.1 The site plan of the venue is included as **Appendix 2**.

4.2 Maps showing the vicinity are included as **Appendix 3**.

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 1st November 2013.

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. It was last revised in April 2017.

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 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following local resident.
- Ms Emma Love (**Appendix 4**)
- 6.2 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
 - Trading Standards
 - Child Protection
 - Public Health
- 6.3 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
- 6.4 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
- 6.5 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.
- 6.6 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.
- 6.7 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.
- 6.8 The Home Office recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation.
- 6.9 Section 182 Advice by the Home Office concerning relevant, vexatious and frivolous representations is attached as **Appendix 5**.

- 6.10 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.
- 6.11 The objections cover allegations of:
- Noise while the premise is in use
 - Disturbance from patrons leaving the premises
 - Close proximity to residential properties
 - Noise leakage from the premises
- 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 Show and Events (part of the SES group) security to patrol the event. Specific focus will be given to the Children's Area situated on the Arnold Circus with additional (DBS checked) stewarding and security located on the Arnold Circus;
- 7.2 No alcohol to be sold on site with the event being promoted as a non-alcohol, family event;
- 7.3 The festival area is pedestrianised, with cars prohibited from entering the site from 08:00hrs to 20:00hrs to administrate the site set-up / set-down.
- 7.4 A noise consultant will monitor sound levels and advise the PA / AV supplier on any adjustments that have to be made throughout the duration of the event.
- 7.5 Fifteen portaloos will be delivered on-site and situated at the Rochelle School/ Rochelle Street. Three of these will have facilities for Baby Changing and for those with disabilities;
- 7.6 Additional Waste Bins and refuse sacks will be provided on site, in liaison with TH Council;
- 7.7 A traffic plan is signed off by TH Highways officials, and appropriate signage is located across the local area advising of the temporary traffic changes and restrictions;

7.8 All practitioners are DBS checked;

7.9 The Arnold Circus is the area where the Lost Children's point will be clearly Highlighted

7.10 St Johns Ambulance services to be commissioned to ensure on-site provision;

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

8.1 N/A

9.0 **Licensing Officer Comments**

9.1 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.

9.2 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)
- 9.3 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.
- 9.4 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”
- 9.5 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.
- 9.6 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)
- 9.7 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 9.8 In **Appendices 6 - 11** 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

- | | |
|--------------------|---|
| Appendix 1 | A copy the application |
| Appendix 2 | Site Plan |
| Appendix 3 | Maps of the surrounding area |
| Appendix 4 | Representation from Emma Love |
| Appendix 5 | Section 182 advice by Home office concerning relevant, vexatious, and frivolous representations |
| Appendix 6 | Licensing Officer comments on Noise while the Premise is in Use |
| Appendix 7 | Licensing Officer comments on Access and Egress Problems |
| Appendix 8 | S182 guidance on public nuisance |
| Appendix 9 | Licensing Policy advice on public nuisance |
| Appendix 10 | Framework Hours |
| Appendix 11 | Planning |