

Committee :	Date	Classification	Report No.	Agenda Item No.
<b>Licensing Sub-Committee</b>	06 March 18	<b>Unclassified</b>		

Report of: <b>David Tolley</b> <b>Head of Environmental Health &amp; Trading Standards</b>  Originating Officer: <b>Mohshin Ali</b> <b>Senior Licensing Officer</b>	Title: <b>Licensing Act 2003</b> <b>Application for a Premises Licence for (The London City Beach), Land off Buxton Street, London E1 6QL</b>  Ward affected: <b>Spitalfields and Banglatown</b>
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## 1.0 Summary

Applicant:	<b>Awesome Events Limited</b>
Name and	<b>The London City Beach</b>
Address of Premises:	<b>Land off Buxton Street London E1 6QL</b>
Licence sought:	<b>Licensing Act 2003 – premises licence</b> <ul style="list-style-type: none"> <li>• <b>The sale by retail of alcohol (on sales only)</b></li> <li>• <b>The provision of regulated entertainment</b></li> </ul>
Representations:	<b>Met Police</b> <b>Licensing Authority (Responsible Authority)</b> <b>Residents / Residents Association</b>

## 2.0 Recommendations

- 2.1 That the Licensing Committee considers the application and representations 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
<ul style="list-style-type: none"> <li>• Guidance Issued under Section 182 of the Licensing Act 2003</li> <li>• Tower Hamlets Licensing Policy</li> <li>• File</li> </ul>		<b>Mohshin Ali</b> <b>020 7364 5498</b>

### 3.0 **Background**

3.1 This is an application for a premises licence for (The London City Beach), Land off Buxton Street, London E1 6QL. A copy of the premises licence application form is enclosed as **Appendix 1**.

3.2 The applicant has described the premises as follows:  
*“Land to be used for pop-up events with food stalls and facilities for corporate clients and occasional public events”.*

3.3 The applicant has applied for the following licensable activities and timings as follows:-

The sale by retail of alcohol (On sales only)

- Monday to Saturday, from 11:00 hours to 23:00 hours
- Sunday, from 11:00 hours to 21:30 hours

The provision of regulated entertainment – Indoors and outdoors (Plays, Films, Recorded Music, Performance of Dance and anything of a similar description)

- Monday to Saturday, from 11:00 hours to 23:00 hours
- Sunday, from 11:00 hours to 22:00 hours

The opening hours of the premises

- Monday to Saturday, from 11:00 hours to 23:00 hours
- Sunday, from 11:00 hours to 22:00 hours

### 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 the nearest licensed venues 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 the 1<sup>st</sup> 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](http://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, 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.

## 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 following:

<b>Responsible Authorities / Other Persons</b>	<b>Appendix</b>
Corinne Holland – <i>Licensing Authority(RA)</i>	<b>6</b>
Mark Perry – <i>Police Licensing</i>	<b>7</b>
David Spurring - <i>Resident</i>	<b>8</b>
Mr R Singh - <i>Resident</i>	<b>9</b>
Gary Brown - <i>Resident</i>	<b>10</b>
Dr Alex Rhys -Taylor- <i>Resident</i>	<b>11</b>
Charlie Dunlop - <i>Resident</i>	<b>12</b>
David Knight, Cristina Monteiro and Amelia Monteiro Knight - <i>Residents</i>	<b>13</b>
Jon Shapiro - <i>Resident</i>	<b>14</b>
Maria Papageorgiou - <i>Resident</i>	<b>15</b>
Margaret Gordon – <i>Residents Association</i>	<b>16</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 representations 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.

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 (as offered by the applicant)**

7.1 *Staff engaged in the conduct of licensable activities shall be trained in the promotion of the licensing objectives as pertinent to their role. Where the role includes the sale of alcohol, training shall be provided on age recognition and assessment of drunkenness. A record of this training shall be maintained in a log book which shall be in bound format and made available for inspection by an authorised officer of the local authority or police.*

7.2 *An incident log book shall be maintained at the premises in bound format that shall be used to record any incident that is pertinent to the licensing objectives. The licence holder shall regularly review any entries that are made in this log book, which shall be made available for inspection by an authorised officer of the licensing authority or police.*

7.3 *Information shall be provided to customers who book the venue regarding the Licence Holder's policies on acceptable behaviour, admission, proof of age and dispersal.*

7.4 *The premises shall not be open solely for the sale or consumption of alcohol*

7.5 *Where any discrete event is held at the premises, regard will be had to the relevant provisions of The Event Safety Guide ('The purple guide'). Policies shall be prepared and notified to the Licensing Authority prior to the event which shall include reference to:*

- a) *The Profile of the audience*
- b) *The Type of Regulated Entertainment to be provided*
- c) *The Capacity anticipated*
- d) *Access and Egress arrangements, including admission criteria*
- e) *Glass Management*
- f) *Evacuation*
- g) *Security*
- h) *Drugs Control*
- i) *Noise control*
- j) *Wind-down arrangements*
- k) *Safeguarding arrangements*

7.6 *Alcohol shall only be permitted to be consumed in the areas of the premises marked in green.*

- 7.7 *No sale of alcohol for consumption on the premises shall take place within the thirty minutes preceding the anticipated close of the premises.*
- 7.8 *A notice shall be displayed at the entrance to the premises which gives details of the admissions policy, including the approach of the licence holder to issues such as drugs and weapons.*
- 7.9 *A risk assessment shall be conducted prior to any event taking place to determine the number of security staff or attendants that are required. This assessment shall have regard to any advice issued by the Police, Fire Authority or Authority Responsible for Health and Safety. Staff shall be engaged to supervise the entrances to the premises whilst licensable activities are being conducted, in accordance with this assessment*
- 7.10 *An admissions policy shall be adopted, which shall be provided to the licensing authority and police in advance of an event.*
- 7.11 *Registered security staff shall be engaged whilst licensable activities are undertaken in accordance with a risk assessment and taking account of advice provided by the police. Door staff will be easily identifiable by wearing a uniform, high visibility jackets or arm bands.*
- 7.12 *Door staff will sign into a register detailing their full SIA licence number, their name, contact details and the time and date their duty commenced and concluded.*
- 7.13 *A CCTV system shall be maintained at the premises whilst licensable activities are being conducted and during dispersal. Recordings of the images from this system shall be made and kept available for a period of 31 days from the date of recording. The system will be designed so as to enable copies of recordings to be taken in a format which can be viewed on domestic-grade reproduction equipment.  
(NB: Police and Licensing Officers have the power of inspection of such recordings under the provisions of the Licensing Act 2003)*
- 7.14 *A trained member of staff will be on duty to operate the system whenever the premises are open*
- 7.15 *Prior to the commencement of any licensable activities, an acoustic evaluation shall be conducted to determine the potential for sound to break out from the premises. This assessment will form the basis for a noise management plan, which shall be documented and held available for inspection by an authorised officer of the local authority. This plan shall include the monitoring of sound during the conduct of licensable activities at identified noise sensitive locations, a wind-down arrangement and dispersal policy.*
- 7.16 *Noise control measures will be implemented, which will include the installation of an acoustic hood over loudspeakers, sound-absorbing materials on acoustically reflective vertical surfaces and a sound limiting*

*device which will be set in accordance with recommendations agreed with the licence holders acoustic consultant and the Councils' noise control officer.*

- 7.17 Luminaires on the external aspect of the premises shall be directed so as not to radiate directly towards the windows of any occupied residential property that is immediately adjacent to the site.*
- 7.18 Notices shall be displayed at the public exits of the premises seeking that patrons leave the area in a manner that does not cause disturbance to neighbours. Staff will be engaged to monitor patrons who are leaving and take corrective action in accordance with a dispersal policy. The dispersal policy shall be provided to all staff engaged in such activities and maintained on site for reference whilst any licensable activity is carried out.*
- 7.19 A designated smoking area for patrons shall be established in the area indicated in blue on the approved plan. At least one attendant, steward or licensed security operative shall monitor the area whilst it is in use for this purpose.*
- 7.20 A telephone number shall be displayed on the external aspect of the premises which members of the public may telephone if they should be disturbed by noise. This number shall be monitored whilst a licensable activity is being conducted and calls shall be noted in the log book mentioned in (7.2) above, along with details of any corrective action taken*
- 7.21 Signage shall be erected at the exits of the premises to seek that patrons behave in a responsible manner when leaving and have regard for neighbours. These signs shall be supplemented by verbal instructions by staff.*
- 7.22 A plan shall be devised and operated to address the management of rubbish generated from licensable activities on the site. This shall form part of the event management plan.*
- 7.23 Where any person appears to be under the age of 21, proof of age shall be required before any sale of alcohol is made. Acceptable identification shall be a passport, driving licence or any other form of identification recognised by the Licensing Authority's Statement of Licensing Policy or a government department as being a valid method of age verification.*

## 8.0 Conditions in consultation with the Responsible Authorities

### 8.1 The applicant has agreed the following conditions with Environmental Health Noise Team (Please see **Appendix 17**):

8.1.□.1. *Licensable activities will only take place under the licence between the 1st June and the 31st July each year.*

8.1.□.2. *The licence holder or its nominated representative will supply:-*

8.1.□.2.1. *an event management plan and ;*

8.1.□.2.2. *a security plans to Tower Hamlets Police and the Licensing Authority and;*

8.1.□.2.3. *a Noise Management Plan to the Responsible Authority for the Protection of the Environment, which should include predicted background noise levels (prior to the event), noise measuring points, noise mitigation measures (including Music Noise Levels, leaflet drop to residents with contact number for event organisers).*

8.1.□.2.4. *The above plans have to be agreed by Tower Hamlets Police and Tower Hamlets Council prior to the event taking place within 30 days of the supply of documentation?*

8.1.□.3. *Licensable activities shall conclude no less than 30 minutes prior to the planned finish of any event.*

8.1.□.4. *A noise limiter must be fitted to the musical amplification system used for licensable activities, set at a level determined by and to the satisfaction of an authorised officer of the Responsible Authority for the Protection of the Environment and Premises Management, so as to ensure that no noise nuisance is caused to local residents or businesses. The operation panel of the noise limiter shall then be secured by a key or password and access shall only be by persons authorised by the Premises Licence Holder. The cut-out level of the limiter shall not be altered without prior agreement with an authorised officer of the Responsible Authority for the Protection of the Environment.*

### 8.2 Trading Standards have requested the following condition (Please see **Appendix 18**):

*A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram*



8.3 The applicant may wish to clarify if the above condition has been agreed or not.

## 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 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.

### 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 (10.25) 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.” (10.58) 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 sells 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 19 - 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 Guidance by the Home Office
<b>Appendix 6 - 16</b>	Representations of Responsible Authorities / Other Persons
<b>Appendix 17</b>	Conditions agreed with Environmental Health Noise
<b>Appendix 18</b>	Comments of Trading Standards
<b>Appendix 19</b>	Licensing Officer comments on noise while the premise is in use
<b>Appendix 20</b>	Licensing Officer comments on access/egress Problems
<b>Appendix 21</b>	Licensing Officer comments on crime and disorder on the premises
<b>Appendix 22</b>	Licensing Officer comments on crime and disorder from patrons leaving the premises
<b>Appendix 23</b>	Planning
<b>Appendix 24</b>	Licensing Policy relating to hours of trading
<b>Appendix 25</b>	Licensing Officer comments on the Tower Hamlets Cumulative Impact Zone