

Committee : Licensing Sub-Committee	Date 16 th April 2019	Classification Unclassified	Report No.	Agenda Item No.
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Report of: David Tolley Head of Environmental Health & Trading Standards Originating Officer: Mohshin Ali Senior Licensing Officer	Title: Licensing Act 2003 Application for a Premises Licence for (Fora), Lower ground Floor, 42 – 46 Princelet Street, London E1 5LP Ward affected: Spitalfields and Banglatown
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1.0 Summary

Applicant:	Fora Space Limited
Name and	Fora
Address of Premises:	42 - 46 Princelet Street London E1 5LP
Licence sought:	Licensing Act 2003 – premises licence <ul style="list-style-type: none"> • The sale by retail of alcohol (on sales) • The provision of regulated entertainment
Representations:	Residents

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"> • Guidance Issued under Section 182 of the Licensing Act 2003 • Tower Hamlets Licensing Policy • File 		Mohshin Ali 020 7364 5498

3.0 **Background**

3.1 This is an application for a premises licence for (Fora), Lower ground Floor, 42 - 46 Princelet Street, London E1 5LP.

3.2 The applicant has described the premises as:

“The new build premises offer workspaces to their members known as residents on a flexible monthly basis throughout the building. The premises comprise of a lower ground floor and three further floors.

This application for licensable activities only relates to the lower ground floor and alcohol is restricted to members and guests”.

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

3.4 The licensable activities and timings that have been applied for are as follows:

The sale by retail of alcohol – (on sales only)

- Monday to Saturday, from 10:00 hours to 23:00 hours
- Sunday, from 10:00 hours to 20:00 hours

The provision of regulated entertainment – Indoors (Recorded Music)

- Monday to Saturday, from 10:00 hours to 23:00 hours
- Sunday, from 10:00 hours to 22:00 hours

The applicant has amended the opening times in consultation with Environmental Health Noise Team:

The opening hours of the premises

- Monday to Saturday, from 10:00 hours to 23:30 hours
- Sunday, from 10:00 hours to 22:30 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 1st 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. 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 Licensing Authority (RA) and residents:

Other persons / residents	Appendix
Andrew Edwards	6
Abdul Khalique	7
Azad Khan	8
Abdul Malik	9
Alex Gordon Shute	10
Barra little	11
Caroline Hamilton	12
Fatema Bibi	13
John and Sandy Critchley	14
James Isola	15
Jon Shapiro	16
Kevin Connors	17
Khaled Miah	18
Mohammed J Ali (petition)	19
Mohammed Rahman	20
Pat Jones	21
Suzi Godson	22
Dame Sian Phillips	23
Jonathan Stebbing (SMRA)	24
Tim Lowe	25
Dr Zoe Hudson	26

- 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

- 7.1 *There should be no off-sales*
- 7.2 *The main use of the Premises at all times will be office use.*
- 7.3 *The sale of alcohol will be to residents/members and their guests*
- 7.4 *A list of the names and addresses of members shall be kept on the premises at all times together with a book showing the names and dates of attendance of any guests introduced by members. Both the list and the book shall be produced on demand for inspection by the police or an authorised officer of the council.*
- 7.5 *CCTV shall be installed, operated and maintained in agreement with the Police. Maintained means that the system will be regularly serviced (at least once a year) and checked every two weeks to ensure that it is storing images correctly and a log kept and signed by a supervisor to this effect.*
- a) *The system will provide an identifiable full head and shoulder image of everyone entering the premises and will operate in any light conditions within the premises.*
 - b) *The system will cover the full exterior of the premises and shall record in real time, date and shall be time stamped and will offer it whilst the premises are open for licensable activities.*
 - c) *The recordings will be kept for a minimum of 31 days and copies will be made available to an authorised officer or a Police Officer (subject to the Data Protection Act 1998) within 24 hours of any request free of charge.*

- d) *There will always be a member of staff on duty who can operate the system, to allow officers to view recordings and if required by a Police Officer, provide a copy of images immediately free of charge to assist in the immediate investigation of offences.*
- e) *If the system malfunctions and will not be operated for longer than one day of business the Police must be informed.*

7.6 *Dedicated licence taxi/mini cab service will be available within the premises for customers.*

7.7 *Signs shall be displayed at the exit reminding customers to leave quietly and respect the neighbours.*

7.8 *There shall be no waste collections or deliveries between 23.00 and 07.00 Mondays to Saturdays and none between 22.00 and 09.00 on Sundays and Bank Holidays.*

7.9 *An area shall be identified for smokers outside the venue and smoker shall be monitored and encourage not to cause noise disturbance and a maximum number of smokers set in relation to that areas.*

8.0 **Conditions in consultation with the Responsible Authorities**

8.1 The applicant has agreed the following with Environmental Health Noise Team (Please see **Appendix 27**):

8.1..1. Agrees to 30 minute drink up time (and not as per the application)

Agreement to applying the following noise conditions:

8.1..2. Amendment to point 9 in the operating schedule to read . Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 5 persons at any one time.

8.1..3. No Music or Amplified Sound shall be generated on the premises to give rise to a nuisance to neighbouring residents

8.1..4. Loudspeakers shall not be located in the entrance lobby or outside the premise building.

8.1..5. All windows and external doors shall be kept closed when regulated entertainment takes place, except for the immediate access & egress of persons.

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 28 - 36** 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 of the application
Appendix 2	Site Plan
Appendix 3	Maps of the surrounding area
Appendix 4	Other licensed venues in the area
Appendix 5	Section 182 Guidance by the Home Office
Appendices 6 - 26	Representations of other persons / residents
Appendix 27	Representations of Environmental Health Noise Team
Appendix 28	Licensing Officer comments on noise while the premise is in use
Appendix 29	Licensing Officer comments on access/egress Problems
Appendix 30	Licensing Officer comments on crime and disorder on the premises
Appendix 31	Licensing Officer comments on crime and disorder from patrons leaving the premises
Appendix 32	Safety problems
Appendix 33	Licensing officer comments on Underage Drinking or other Harm to Minors
Appendix 34	Planning
Appendix 35	Licensing Policy relating to hours of trading
Appendix 36	Tower Hamlets Cumulative Impact Zone