

Committee :	Date	Classification	Report No.	Agenda Item No.
<b>Licensing Sub-Committee</b>	29 Septemebr 2020	<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 (Alcotraz), 212 Brick Lane, London E1 6SA</b>  Ward affected: <b>Weavers</b>
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## 1.0 Summary

Applicant: **Sam Shearman**

Name and **Alcotraz**

Address of Premises: **212 Brick Lane (ground floor)**  
**London**  
**E1 6SA**

Licence sought: **Licensing Act 2003 – premises licence**  
• **The sale by retail of alcohol**

Representation (s): **Licensing Authority (RA)**  
**Environmental Health Noise Team**  
**Resident**

## 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

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

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### 3.0 Background

- 3.1 This is an application for a premises licence for (Alcotraz), 212 Brick Lane (ground floor), London E1 6SA.
- 3.2 The applicant has described the premises as follows:  
*“... The business concept is an immersive theatrical experience in which guests purchase a ticket in advance to attend. The experience is based on popular Hollywood films and TV and brings to life a prison story with guests as the inmates instructed to conduct a covert mission whilst behind bars. As part of the experience, guests are encouraged to bring their own bottle of alcohol whilst enjoying a theatrical storyline that unfolds around them involving actors...”*
- 3.3 A copy of the premises licence application form is enclosed as **Appendix 1**.
- 3.4 The applicant has applied for the following licensable activities and timings:-

#### **The sale by retail of alcohol (On and off sales)**

- *Monday and Tuesday (no licensable activities)*
- Wednesday to Sunday, from 12:00 hrs to 00:00 hrs (midnight)

#### **The provision of regulated entertainment - Indoors** (Plays)

- *Monday and Tuesday (no licensable activities)*
- Wednesday to Friday, from 17:00 hrs to 23:00 hrs
- Saturday, from 12:00 hrs to 23:00 hrs
- Sunday, from 16:00 hrs to 19:00 hrs

#### (Provision of anything of a similar description to live music, recorded music or performances of dance)

- *Sunday to Tuesday (no licensable activities)*
- Wednesday to Saturday, from 23:00 hrs to 00:00 hrs (midnight)

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

- *Monday and Tuesday (no licensable activities)*
- Wednesday to Saturday, from 12:00 hrs to 00:00 hrs (midnight)

LICENSING OFFICER'S COMMENT: Late night refreshment starts at 23:00 hours

#### **The opening hours of the premises**

- Wednesday and Thursday, 12:00 hrs to 00:30 hrs the following day
- Friday and Saturday, from 12:00 hrs to 01:00 hrs the following day
- Sunday, from 12:00 hrs to 23:30 hrs

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

- 4.1 The site plan of the venue is included as **Appendix 2**.
- 4.2 Maps and pictures showing the vicinity are included as **Appendix 3**.
- 4.3 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 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 a relevant representation has been made by the following:
- Licensing Authority (RA) - **Appendix 6**
  - Environmental Health Noise Team - **Appendix 7**
  - Huw Davies - **Appendix 8**
- 6.9 All of the responsible authorities have been consulted about this application. They are as follows:
- The Licensing Authority
  - The Metropolitan Police
  - London Fire Brigade
  - Planning
  - Health and Safety
  - Environmental Health Noise Team
  - 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 party opposes the application because in their opinion, the applicant has not explained how within the context of the application they will meet the 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.

6.14 After seeing the representations, the applicant has responded. The applicant's responses are in **Appendix 9**.

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

- 7.1 *All tickets will be sold online where age verification takes place. Additionally at the physical premise door supervisors shall carry out ID checks for all attendees and their guests.*
- 7.2 *At least one SIA on premise at all times at least 30 minutes prior to guests arrival and 30 minutes after guests leave to help close.*
- 7.3 *Front door to be manned by door supervisor during opening hours.*
- 7.4 *Clear terms & conditions shall be associated with ticket purchases to refuse entry to anyone intoxicated and operate strict policies to remove disorderly guests.*
- 7.5 *All staff shall be fully trained on safety procedures with guests entering and exiting as well as their behaviours during the experience. Vigilance in preventing the use and sale of illegal drugs - signage on entrance and in toilets and immediate removal if caught.*
- 7.6 *Guests shall be strictly instructed that there is no re-admission, with the ambition that guests are not loitering outside for any reason, keeping guests contained within the premise.*
- 7.7 *Guests shall be strictly instructed upon exit to head towards the nearest taxi rank or tube station by security staff.*
- 7.8 *The actors and staff shall be trained to keep noise to a minimum when entering and exiting the premises, encouraging the guests to do the same.*
- 7.9 *Tickets shall be purchased in advance online, requiring over 18 proof to open credit cards. Admission for over 18s only.*
- 7.10 *Strict challenge 25 policy on the door. We will only accept passport driving licence or Proof of Age PASS scheme as proof of age.*
- 7.11 *A register of refusals book shall be kept.*
- 7.12 *CCTV System is installed to monitor entrance/exits, and other parts of the premises in order to monitor and help prevent crime;*
- 7.13 *A clear and legible notice at the premises entrance indicating the normal hours under the terms of the premises licence during which licensable activities are permitted.*
- 7.14 *Clear and conspicuous notices warning of potential criminal activity, such as theft, that may target customers will be displayed.*

- 7.15 *Clear signage on the desired behaviours of guests during our experience.*
- 7.16 *Customers subjected to random searches of body and bags as per operational risk assessment*
- 7.17 *No admission to the venue, even with pre-purchased tickets for anyone displaying intoxication or drug use.*
- 7.18 *Customers will not be sought by means of personal solicitation outside or in the vicinity of the premises.*
- 7.19 *Have a bi-monthly staff training on public safety measures.*
- 7.20 *Guests are organised in a queue and maintained quiet by staff whilst entering the premise.*
- 7.21 *The street shall be swept and cleared of any litter throughout opening hours and at the end of every day.*
- 7.22 *The premises shall be fitted with adequate soundproofing.*
- 7.23 *No loud music is played and the sound system used to play our background effects is fitted with industry standard limiter.*
- 7.24 *Notices placed at exits and verbal instructions from staff to remind guests to leave quietly and quickly.*
- 7.25 *Dispersion policy employed at all times to ensure guests leave via Bethnal Green Road quietly*
- 7.26 *Guests will be told on ticket emails the closest car parking and be prompted to take public transport to minimise congestion at the busiest time of year.*

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

- 8.1 None agreed, see representations

## **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 10 - 16** 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 from
<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</b>	Representation of Licensing Authority (RA)
<b>Appendix 7</b>	Representation of Environmental Health Noise Team
<b>Appendix 8</b>	Representation of Huw Davies
<b>Appendix 9</b>	Applicant's response to the representations
<b>Appendix 10</b>	Licensing Officer comments on noise while the premise is in use
<b>Appendix 11</b>	Licensing Officer comments on access/egress Problems
<b>Appendix 12</b>	Licensing Officer comments on crime and disorder on the premises
<b>Appendix 13</b>	Licensing Officer comments on crime and disorder from patrons leaving the premises
<b>Appendix 14</b>	Planning
<b>Appendix 15</b>	Licensing Policy relating to hours of trading
<b>Appendix 16</b>	Cumulative Impact Zone