

Committee: Licensing Sub Committee	Date	Classification Unrestricted	Report No.	Agenda Item No.
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Report of: David Tolley Head of Environmental Health & Trading Standards	Title: Licensing Act 2003 Application for a new Premise Licence for Pirate Studios, 13 Rothbury Road, London, E9 5HA
Originating Officer: Corinne Holland Licensing Officer	Ward affected: Bow East

1.0 Summary

Applicant:	Pirate Studios Limited
Name and Address of Premises:	Pirate Studios 13 Rothbury Road London E9 5HA
Licence sought:	Licensing Act 2003 Sale by retail of Alcohol (on sales)
Objectors:	Residents

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
Section 182 Guidance
LBTH Licensing Policy

Corinne Holland
020 7364 3986

3.0 **Background**

- 3.1 This is an application for a new Premise Licence for Pirate Studios, 13 Rothbury Road, London, E9 5HA.
- 3.2 The applicant has described the premises as: *Licensable activities to take place within a recording studio space. Alcohol will be ancillary to persons participating in studio services.*
- 3.3 A copy of the application is shown in **Appendix 1**.
- 3.4 The hours applied for are as follows:

Sale of Alcohol (on sales only)

Monday – Thursday 10:00 – 23:30 hours

Friday – Saturday 10:00 - 00:00 hours (midnight)

Sunday 10:00 – 22:30 hours

Non-standard hours

From the end of permitted hours on New Years Eve to the start or permitted hours on New Years Day

Opening times

24 hours

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**.
- 4.3 Photographs of the premises are included in **Appendix 4**.
- 4.4 Details of other licensed venues in the immediate vicinity are included as **Appendix 5**.

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 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 August 2023.

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 15**

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.

Anna Fumagalli	Appendix 6
Ben Lamy	Appendix 7
Jasmine Wu	Appendix 8
Mohammed Noor	Appendix 9
Rashel Miah	Appendix 10
Sandra Freeman	Appendix 11
Tamryn Stowell	Appendix 12
Mohammed Noor - Petition	Appendix 13

- 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 office (Immigration Enforcement)
- 6.10 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
- 6.11 The objections relate to:
- Public nuisance
 - Crime and Disorder
 - ASB
- 6.12 Essentially, the relevant parties oppose the application because 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.
- 6.13 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 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

1. A CCTV system shall be maintained and operated at the premises with cameras positioned both internally and externally.
2. Recorded CCTV images will be maintained and stored for a period of twenty-eight days and shall be produced to the Police or Licensing Authority upon request.
3. CCTV will be in operation at any time a person is in the premises. Where CCTV is recorded onto a hard drive system, any DVDs subsequently produced will be in a format so it can be played back on a standard PC or DVD player.
4. Any person left in charge of the premises whilst licensable activities are taking place must be trained in the use of any such CCTV equipment, and be able to produce CCTV images to an officer from a responsible authority upon request.
5. SIA registered door staff shall be employed at the premises, in accordance with a risk assessment, to be carried out by the DPS from time to time.
6. When employed, door staff will wear high visibility armbands.
7. When employed, a register of those door staff employed shall be maintained at the premises and shall include:
 - (i) the number of door staff on duty;
 - (ii) the identity of each member of door staff; and
 - (iii) the times the door staff are on duty.
8. There shall be no off-sales of alcohol.
9. The sale and service of alcohol shall be restricted to those persons participating in studio services at the premises.
10. All staff authorised to sell alcohol shall be trained in:
 - (i) Relevant age restrictions in respect of products;
 - (ii) Prevention of underage sales;
 - (iii) Prevention of proxy sales;
 - (iv) Maintenance of the refusals log;
 - (v) Recognising signs of drunkenness and vulnerability;
 - (vi) How overservice of alcohol impacts on the four objectives of the Licensing Act 2003;
 - (vii) How to refuse service;
 - (viii) Understanding and dealing with situations involving vulnerable people, and incidents of harassment; and how to report issues of modern slavery and trafficking;

- (ix) Action to be taken in the event of an emergency, including the preservation of a crime scene and reporting an incident to the emergency services; and
- (x) The conditions in force under this licence.

This training shall be documented and repeated at 6 monthly intervals. Training records shall be made available for inspection upon request by a Police Officer or an authorised officer of The Licensing Authority.

11. A refusals book will be maintained at the premises and made available to an officer of a responsible authority upon request.
12. Customers shall not be permitted to bring into the premises any alcoholic drinks purchased off the premises.
13. A first aid box will be available at the premises at all times.
14. Regular safety checks shall be carried out by staff.
15. Management shall liaise with the Fire Authority as necessary to ensure compliance with all necessary fire regulations.
16. The premises shall maintain an Incident Log (which may be kept electronically) and public liability insurance.
17. No noise shall emanate from the premises which gives rise to a nuisance.
18. The exterior of the building shall be cleared of litter at regular intervals.
19. Notices will be positioned at the exits to the building requesting customers to leave in a quiet manner.
20. Doors and windows at the premises are to remain closed after 11pm, save for access and egress.
21. The emptying of bins into skips, and refuse collections will not take place between 11pm and 8am.
22. A "Challenge 25" Policy shall be implemented in full and appropriate identification sought from any person who appears to be under the age of 25. The only acceptable forms of ID are photographic driving licences, passports, HM forces warrant cards, EU/EEA national ID card or similar document or a form of identification with the "PASS" hologram.
23. Staff training will include the Challenge 25 Policy and its operation. In particular, staff shall be trained to take such action as is necessary to prevent the sale of alcohol to persons over the age of 18 where those customers are engaged in the distribution of alcohol to persons under the age of 18. The training must be given to a new member of bar staff before they commence employment and all bar staff must receive refresher training every 6 months.

24. Notices advising what forms of ID are acceptable must be displayed.
25. Notices must be displayed in prominent positions indicating that the Challenge 25 policy is in operation.

8.0 Conditions Agreed/Requested by Responsible Authority

Conditions agreed with the Environmental Health – **Appendix 14**

1. *No noise shall emanate from the premises which gives rise to a public nuisance.*
2. *The exterior of the building shall be cleared of litter at regular intervals.*
3. *Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.*
4. *Doors and windows at the premises are to remain closed after 21:00 hours, save for access and egress.*
5. *The emptying of bins into skips and refuse collections will not take place between 10pm and 8am.*
6. *Loudspeakers shall not be located outside the premise building .*

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 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 sell 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 15 - 22** 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	Photographs of the premises
Appendix 5	Other licensed venues in the area
Appendix 6-13	Resident representations
Appendix 14	Environmental Health Conditions
Appendix 15	Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations
Appendix 16	Licensing Officer comments on public nuisance
Appendix 17	S182 advice on public nuisance
Appendix 18	Licensing Officer comments on crime & disorder
Appendix 19	S182 advice on crime & disorder
Appendix 20	ASB leaving the premises
Appendix 21	Licensing Policy relating to hours of trading
Appendix 22	Planning