

Committee: <b>Licensing Sub Committee</b>	Date 19 September 2024	Classification <b>Unrestricted</b>	Report No.	Agenda Item No.
--	------------------------------	---------------------------------------	------------	-----------------

Report of: <b>Tom Lewis</b> <b>Service Manager</b> <b>Regulatory Services (Commercial)</b>	Title: <b>Licensing Act 2003 Application for a new Premise Licence for The Pickle Factory, 11-14 The Oval, London, E2 9DT</b>
Originating Officer: <b>Corinne Holland</b> <b>Licensing Officer</b>	Ward affected: <b>Bethnal Green West</b>

## 1.0 Summary

Applicant:	<b>East Space Limited</b>
Name and Address of Premises:	<b>The Pickle Factory 11-14 The Oval London E2 9DT</b>
Licence sought:	<b>Licensing Act 2003 Sale by retail of Alcohol (on &amp; off sales) Regulated entertainment (films, live &amp; recorded music) Provision of Late-Night Refreshments</b>
Objectors/Supporters:	<b>Environmental Protection Residents / Other persons</b>

## 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 The Pickle Factory, 11-14 The Oval, London, E2 9DT.

3.2 The applicant has described the premises as: Licensed Premises

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 & off sales)

Monday – Wednesday 12:00 – 23:00 hours

Thursday 12:00 – 03:30 hours

Friday & Saturday 12:00 – 05:00 hours (the following day)

Sunday 12:00 – 02:00 hours (the following day)

#### **Regulated Entertainment**

##### **Films, Live & recorded music** (indoors & outdoors)

Monday – Wednesday 12:00 – 00:00 hours (midnight)

Thursday 12:00 – 04:30 hours

Friday & Saturday 12:00 – 06:00 hours (the following day)

Sunday 12:00 – 03:00 hours (the following day)

##### **Late Night Refreshments** (indoors & outdoors)

Monday – Wednesday 23:00 – 00:00 hours (midnight)

Thursday 23:00 – 04:30 hours

Friday & Saturday 23:00 – 06:00 hours (the following day)

Sunday 23:00 – 03:00 hours (the following day)

##### **Opening times**

Monday – Wednesday 12:00 – 00:00 hours (midnight)

Thursday 12:00 – 04:30 hours

Friday & Saturday 12:00 – 06:00 hours (the following day)

Sunday 12:00 – 03:00 hours (the following day)

3.5 For information purposes A copy of the existing Premise Licence for The Pickle Factory is in **Appendix 2**

3.6 For information purposes a Premise Licence for the Oval Café (11-12 The Oval) recently lapsed. It was granted in February 2022 for the following hours and activities:

##### ***The sale by retail of alcohol (on sales only)***

- *Monday to Thursday from 12:00 hours to 23:30 hours*
- *Friday and Saturday from 12:00 hours to 00:00 hours (midnight)*
- *Sunday from 12:00 hours to 22:30 hours*

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

- *Monday to Thursday from 23:00 hours to 23:30 hours*
- *Friday and Saturday from 23:00 hours to 00:00 hours (midnight)*

***The Provision of regulated entertainment – indoors***

***(Recorded Music)***

- *Thursday from 23:00 hours to 23:30 hours*
- *Friday and Saturday from 23:00 hours to 00:00 hours (midnight)*
- *Sunday from 23:00 hours to 22:30 hours*

***Non-standard timings***

- *New Year's Eve, above licensable activities from 08:00 hours to 03:00 hours to 03:00 hours on New Year's Day.*

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

- *Monday to Thursday from 00:00 hours to 00:00 hours (midnight)*
- *Friday and Saturday from 08:00 hours to 00:30 hours (the following day)*
- *Sunday from 08:00 hours to 23:00 hours*

***Non-standard timings***

- *New Year's Eve, above licensable activities from 08:00 hours to 03:00 hours to 03:00 hours on New Year's Day.*

**4.0 Location and Nature of the premises**

4.1 The site plan of the venue is included as **Appendix 3**.

4.2 Maps showing the vicinity are included as **Appendix 4**.

4.3 Photographs of the premises are included in **Appendix 5**.

4.4 Details of other licensed venues in the immediate vicinity are included as **Appendix 6**.

**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 1<sup>st</sup> November 2023.

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 December 2023.

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 33**

6.7 All the representations in this report have been considered by the relevant officer (Team Leader Licensing) 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>OPPOSING REPRESENTATIONS</b>	
N.Cadzow – Environmental Protection	<b>Appendix 7</b>
S.Fernandez	<b>Appendix 8</b>
G.Grbic	<b>Appendix 9</b>
P. Gucevicius	<b>Appendix 10</b>
G. Lewis	<b>Appendix 11</b>
O. Olah	<b>Appendix 12</b>
J. Lewis/ D.Lewis/ E Lewis / L. Lewis/ P. Tverijonas	<b>Appendix 13</b>
L.Rijper	<b>Appendix 14</b>
<b>SUPPORTING REPRESENTATIONS</b>	
A.Harris	<b>Appendix 15</b>
A.Lame	<b>Appendix 16</b>
B.Smith	<b>Appendix 17</b>
C. Jordan	<b>Appendix 18</b>
D.Chung	<b>Appendix 19</b>
D.Selby	<b>Appendix 20</b>
D.Sherringham	<b>Appendix 21</b>
D.Taylor	<b>Appendix 22</b>
E.Lansdowne	<b>Appendix 23</b>
G.Peterson	<b>Appendix 24</b>
H.Farmer	<b>Appendix 25</b>
H.Lamb	<b>Appendix 26</b>
K.Ferdinand	<b>Appendix 27</b>
M.Kill	<b>Appendix 28</b>
R.Maguire	<b>Appendix 29</b>
T.Jankovich	<b>Appendix 30</b>
R.Best/M.Sermon/S.Nathan (Hackney Night Shelter)	<b>Appendix 31</b>

6.9 Applicants' email regarding a residents meeting – **Appendix 32**

6.10 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)

6.11 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

6.12 The objections relate to:

- Public nuisance
- ASB
- Crime & Disorder
- Public safety
- Access & Egress

6.13 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.

6.14 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.

6.15 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. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Tower Hamlets Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
2. The CCTV system serving the premises shall:

- a. be maintained fully operational and in good working order at all times;
  - b. make and retain clear images that include the points of sale of alcohol and facial images of the purchasers of the alcohol; and
  - c. show an accurate date and time that the images were made.
3. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
4. An incident log shall be kept at the premises and be available on request to the Police or an authorised officer. It must be completed within 24 hours of any incident and will record the following:
  - a. all crimes reported to the venue;
  - b. all ejections of patrons;
  - c. any complaints received concerning crime and disorder
  - d. any incidents of disorder;
  - e. all seizures of drugs or offensive weapons;
  - f. any faults in the CCTV system, searching equipment or scanning equipment;
  - g. any refusal of the sale of alcohol;
  - h. any visit by a relevant authority or emergency service.
5. In the event that a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that:
  - a. the police (and, where appropriate, the London Ambulance Service) are called without delay;
  - b. all measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police;
  - c. the crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and
  - d. such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.
6. When the designated premise supervisor is not on the premises any or all persons authorised to sell alcohol will be authorised by the designated premises supervisor in writing. This shall be available on request by the Police or any authorised officer.
7. When regulated entertainment takes place the premises will risk assess the event and ensure the appropriate number of SIA door supervisors are in place for the event with a minimum of 1 SIA door supervisor per 100 people (a female door supervisor to be appointed as required).

8. Where SIA registered door supervisors are used at the premises, a record must be kept of their SIA registration number and the dates and times they are on duty.
9. The premises will operate a written Search Policy of which all SIA security members of staff shall be provided a copy of before their first shift, and a record will be kept.
10. A written entry policy shall be in place and implemented at the premises to move customers into the premises in such a way as to cause minimum disturbance or nuisance to neighbours. The policy shall include details on queue management to ensure any queue to enter the premises is managed effectively and supervised by door staff to ensure that there is no public nuisance or obstruction to the public highway.
11. There must be at the premises a lockable drugs box to which no member of staff, save the DPS, Security Manager, General Manager and Duty Manager shall have access. All controlled drugs (or items suspected to be controlled drugs or contain controlled drugs) found at the premises must be placed in this box as soon as practicable. Whenever this box is emptied, all of its contents must be given to the Police for appropriate disposal.
12. The venue will conduct a comprehensive in-house risk assessment for all promoted events, The risk assessment shall demonstrate any measures to be put place to mitigate any identified risks, together with the rationale applied. A copy of all risk assessments shall be retained on the premises for 1 year and made available for immediate inspection by police or responsible authorities upon request.
13. A diary of events shall be sent to Tower Hamlets Police Licensing and Environmental Health on a monthly basis.
14. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 654.
15. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating



equipment shall be used on the premises without being routed through the sound limiter device.

16. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
17. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
18. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
19. A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours.
20. 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.
21. Each bar shall keep a record detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer at all times whilst the premises is open.
22. All staff whose duties include the serving of alcohol must be trained in the requirements of this scheme including the importance of recording any refusals.
23. All staff whose responsibilities include the retail sale of alcohol shall receive training about the prevention of underage sales on induction and then every [insert appropriate number] months thereafter/[insert appropriate number] times a year. This training shall be recorded and the records to be available on request to the Police or any authorised officer. The training to include:
  - a. the operation of the challenge 25 scheme;
  - b. types of acceptable ID;
  - c. the method of recording challenges;
  - d. the likely consequences of making an underage sale;
  - e. refusing sales to persons who appear to be drunk;
  - f. proxy sales.

24. Collections of waste or recycling materials (including bottles) or deliveries to and from the premises shall take place between 08:00 – 22:00 Monday to Saturday and 09:00 – 21:00 (midday) on Sundays.
25. A barricade is to be used outside the entrance to the venue when events are on to facilitate the effective queuing of people wishing to gain entry. 1m space will be kept for pedestrians at all times.
26. The licence holder will be a member of the local Pub Watch scheme and will send a representative to all meetings.
27. All flat surfaces in the toilet areas shall be removed or covered over to prevent and deter drug use. Toilet seat covers shall be removed from all toilets.
28. Prominent notices will be placed throughout the venue asking customers to mind their property and report any suspicious incidents.
29. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas or outside the premises between 22:00 hours and 08:00 hours on the following day.
30. Events that finish past the terminal time for public transport to have a travel plan put in place to ensure that customers can leave without causing nuisance to local residents.
31. A security policy shall be agreed with Tower Hamlets Police Licensing.
32. All windows and external doors shall be kept closed after 23:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
33. The premises shall adopt the Central East Police Licensing Drugs Policy.
34. The premises shall have a welfare policy that will show how venue staff will manage customers who become vulnerable through intoxication or drugs, such a policy will include but is not limited to the use of dedicated “welfare officers” at peak times who will be easily identifiable, to customers, their role will be to monitor the welfare of customers, including identifying any customers who may be at risk of becoming overly intoxicated and liaising with management/security staff to assist them where necessary. staff training on customer welfare such as “WAVE” and availability of free water to customers. The policy must be written, reviewed yearly, and made available to Police upon request.

35. Where indicated by the event risk assessment, welfare staff will be deployed to the event. The welfare staff will be easily identifiable to customers, their role will be to monitor the welfare of customers, including identifying any customers who may be at risk of becoming overly intoxicated or otherwise vulnerable and liaising with management/security staff to assist them where necessary. All welfare interventions and outcomes to be logged in the welfare log.

36. All front of house staff shall complete welfare and vulnerability awareness training as part of their induction process to work at the premises). This training shall be documented and repeated /refreshed at six-monthly intervals.

37. Persons under the age of 18 shall not be permitted on the premises after 21:00.

38. There shall be no admittance or re admittance to the premises 1 hour before the terminal hour of the proposed event except for patrons permitted to temporarily leave the premises to smoke.

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

None

#### **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 33 - 43** 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>	Existing licence No. 156449
<b>Appendix 3</b>	Site Plan
<b>Appendix 4</b>	Maps of the surrounding area
<b>Appendix 5</b>	Photographs of the premises
<b>Appendix 6</b>	Other licensed venues in the area
<b>Appendix 7 - 14</b>	Opposing Representations
<b>Appendix 15 - 31</b>	Supporting Representations
<b>Appendix 32</b>	Applicants' email regarding a resident meeting
<b>Appendix 33</b>	Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations
<b>Appendix 34</b>	Licensing Officer comments on public nuisance
<b>Appendix 35</b>	S182 advice on public nuisance
<b>Appendix 36</b>	Licensing Officer comments on crime and disorder nuisance
<b>Appendix 37</b>	S182 advice on crime & disorder
<b>Appendix 38</b>	ASB on leaving the premises
<b>Appendix 39</b>	Licensing Officer comments on public safety
<b>Appendix 40</b>	S182 advice on public safety
<b>Appendix 41</b>	Access & Egress
<b>Appendix 42</b>	Licensing Policy relating to hours of trading
<b>Appendix 43</b>	Planning
<b>Appendix 44</b>	Environmental Health – withdrawal and agreed conditions

