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| Committee : | Date | Classification | Report No. | Agenda Item No. |
| Licensing Sub Committee | 13 March 2014 | Unclassified | LSC 66/134 | |

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| Report of : David Tolley Head of Consumer & Business Relations | Title: Licensing Act 2003 Application for a Time Limited Premises Licence for Victoria Park, London E3 |
| Originating Officer: Kathy Driver Principal Licensing Officer | Ward affected: Bow West |

1.0 Summary

Applicant: **Waxarch Limited**
Name and
Address of Premises: **Victoria Park**
Bow, London E3

Licence sought: **Licensing Act 2003 Premises Licence**
(Time Limited)
Provision of Regulated Entertainment
Sale of Alcohol

Objectors: **Local Resident**

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 Only

Kathy Driver
020 7364 5171

3.0 **Background**

- 3.1 This is an application for aa premises licence for Victoria Park, Bow, London E3.
- 3.2 A copy of the application is enclosed as **Appendix 1**.
- 3.3 The application is for a premises licence to be time limited for a period of four years from 1st May 2014 to 30th September 2017 for a capacity of 39,999. A maximum of three event days per year to run consecutively on either a Friday, Saturday and Sunday or Saturday, Sunday and Monday.
- 3.4 The hours and activities that have been applied for are as follows:-

Plays, Films, indoor Sporting Events, Performance of dance, Live Music, Recorded Music and similar.

Friday and Saturday from 12:00 hours to 23:00 hours

Sunday and Monday from 12:00 hours to 22:30 hours

Sale of alcohol

Friday and Saturday from 11:00 hours to 22:45 hours

Sunday and Monday from 11:00 hours to 22:15 hours

Hours premises is open to the public:

Friday from 12:00 hours to 23:30 hours

Saturday from 11:00 hours to 23:30 hours

Sunday and Monday from 11:00 hours to 23:00 hours

- 3.5 A map showing the relevant premises area is included as **Appendix 2**.

4.0 **Licensing Policy and Government Advice**

- 4.1 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 2013.
- 4.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.
- 4.3 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 June 2013.
- 4.4 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.

5.0 Representations

5.1 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following:

Local Resident -**See Appendix 3**

5.2 Two representations were made against the application. A mediation meeting was arranged with both residents, of which one attended and has since withdrawn with the following agreements:

- To ensure that the license conditions relating to the use of white noise reversing alarms are fully complied with throughout the tenancy at Victoria Park.
- To investigate any further improvements to the sound system design that may reduce the impact on the residents property.
- A representative of Environmental Protection to visit the property during the event live period to take noise measurements and qualitatively assess the impact of event noise on the property, and for all parties to use this information to drive further improvements in the management of the event.
- To offer the opportunity to visit the site during the live period to show the licensees management controls and experience of the event.
- Contact numbers to be given of the applicants and officers.

5.3 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
- Primary Care Trust

5.4 The Metropolitan Police have agreed conditions. These are attached in **Appendix 4**.

5.5 Environmental Protection have also agreed conditions, these are attached in **Appendix 5**.

5.6 The Licensing Authority have agreed conditions, please see **Appendix 6**.

5.7 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

5.8 The objections cover allegations of

- Noise while the premise is in use
- Noise leakage from the premises

5.9 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.

5.10 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.

6.0 Licensing Officer Comments

6.1 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.

6.2 Guidance issued under section 182 of the Licensing Act 2003

- ∇ As stated in the guidance it is "provided for licensing authorities carrying out their functions." It is a key medium for promoting best practice, ensuring consistent application and promoting fairness equal treatment and proportionality (1.7).
- ∇ Also "so long as the guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so." When doing so 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)

- ∇ Conditions may not be imposed for the purpose other than the licensing objectives.
 - ∇ Necessary conditions should emerge from a risk assessment by the applicant, which should then be reflected in the operating schedule (10.7).
 - ∇ The Licensing Authority may only impose such conditions as are necessary for meeting the licensing objectives.
 - ∇ It is Government policy that facilities for people and performers with disabilities should be provided at places of entertainment. (S. 10.24).
 - ∇ The Government has stated “there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested.” (10.20)
 - ∇ Mandatory conditions must be imposed (10.43) and censorship avoided (10.31).
 - ∇ Routine conditions about drink promotions are not permitted but can be imposed in appropriate circumstances (10.38). The Office of Fair Trading’s Advice also needs to be considered, namely that minimum prices setting is not permitted.
- 6.3 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.
- 6.4 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”
- 6.5 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.
- 6.6 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)

6.7 The Council's Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.

6.8 In **Appendices 7-9** 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.

7.0 **Legal Comments**

7.1 The Council's legal officer will give advice at the hearing.

8.0 **Finance Comments**

8.1 There are no financial implications in this report.

9.0 **Appendices**

Appendix 1 A copy the application.

Appendix 2 Map of the area

Appendix 3 Representation of local resident

Appendix 4 Conditions agreed with Metropolitan Police

Appendix 5 Conditions agreed with Environmental Protection

Appendix 6 Conditions agreed with Licensing Authority

Appendix 7 Licensing Officer comments on noise while the premises is in use

Appendix 8 Licensing Officer comments on noise leakage from the Premises

Appendix 9 Licensing Policy relating to hours of trading