

Committee: Licensing Sub-Committee	Date 29 June 2021	Classification Unclassified	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 time limited premises licence for Victoria Park, Grove Road London E9 7DE
Originating Officer: Mohshin Ali Senior Licensing Officer	Ward affected: Bow East

1.0 Summary

Applicant:	AEG Presents Limited
Name and	All Points East
Address of Premises:	Victoria Park Grove Rd E9 7DE
Licence sought:	Licensing Act 2003 – time limited premises licence <ul style="list-style-type: none"> • The sale by retail of alcohol • The provision of regulated entertainment
Representations:	Ward Councillor Other persons (both against and in support)

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 time limited premises licence for Victoria Park, Grove Road London E9 7DE from the 1st May 2021 to 31st December 2023.

3.2 The applicant has described the premises as follows:

“The event site will be an area within Victoria Park, secured by a solid metal perimeter fence. Access and Egress to the premises is by means of several gates in the perimeter fence. The terrain is predominantly grassed and includes several mature trees and shrubs. It is intersected by various tarmac roads”

3.3 The capacity of the premises applied for is 49,999 persons.

3.4 A copy of the premises licence application form is enclosed as **Appendix 1**. The application includes a number of documents including:

- Event Management Plan
- Security and Crime Reduction Plan
- Access and Egress Plan
- Alcohol Management Plan
- Noise Management Plan
- Child and Vulnerable Person Plan
- Event Safety Plan.

In the interests of public security, all the documents will be made available at the hearing.

3.5 The hours that have been applied for are as follows:-

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

- *Monday, from 10:00 hrs to 22:15 hrs*
- *Tuesday and Wednesday, from 10:00 hrs to 21:30 hrs*
- *Thursday, from 10:00 hrs to 22:15 hrs*
- *Friday, from 10:00 hrs to 22:45 hrs*
- *Saturday, from 12:00 hrs to 22:45 hrs*
- *Sunday, from 12:00 hrs to 22:15 hrs*

Non-standard timings.

- *Where event days fall on Bank Holiday weekends then the applicant wishes to be able to supply alcohol on a Major Event on the Bank Holiday Monday between the hours of 12:00-22:15. Otherwise on a Minor Event the supply of alcohol on the Bank Holiday Monday will be between the hours of 10:00-21:30*
- *For Thursdays, should a Major Event take place, then the applicant wishes to be able to supply alcohol between the hours of 12:00 and 22:15. Otherwise should a Minor Event take place, the hours will be 10:00-21:30.*
- *For Fridays, should a Major Event take place, then the applicant wishes to be able to supply alcohol between the hours of 12:00 and 22:45.*

Otherwise should a Minor Event take place, the hours will be 10:00-21:30.

- *For Saturdays should a Major Event take place, then the applicant wishes to be able to supply alcohol between the hours of 12:00 and 22:45. Otherwise should a Minor Event take place, the hours will be 12:00-21:30.*
- *For Sundays should a Major Event take place, then the applicant wishes to be able to supply alcohol between the hours of 12:00 and 22:15. Otherwise should a Minor Event take place, the hours will be 12:00-21:30.*

The provision of regulated entertainment – Indoors and outdoors (Plays, Films, Indoor sporting events, Boxing or Wrestling, Live Music, Recorded Music, Performance of Dance and Anything of a Similar Description):

- *Monday, from 10:00 hrs to 22:30 hrs*
- *Tuesday and Wednesday, from 10:00 hrs to 21:30 hrs*
- *Thursday, from 10:00 hrs to 22:30 hrs*
- *Friday and Saturday, from 10:00 hrs to 23:00 hrs*
- *Sunday, from 10:00 hrs to 22:30 hrs*

Non-standard timings.

- *For all Minor Events licensable activities will be restricted to the hours of 10:00 – 21:30 hours.*
- *Where event days fall on Bank Holiday weekends then the applicant wishes to be able to operate a Major Event on the Bank Holiday Monday between the hours of 12:00-22:30. Otherwise a Minor Event may operate on the Bank Holiday Monday between the hours of 10:00-21:30*
- *For Thursdays and Sundays, should a Major Event take place, then the applicant wishes to be able to operate between the hours of 12:00 and 22:30. Otherwise should a Minor Event take place, the hours will be 10:00-21:30.*
- *For Fridays and Saturdays, should a Major Event take place, then the applicant wishes to be able to operate between the hours of 12:00 and 23:00. Otherwise should a Minor Event take place, the hours will be 10:00-21:30.*

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 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 a relevant representation against the premises have been made by the following:

Name	Appendix
Cllr Val Whitehead (Labour Bow West)	6
Haslers Wharf Limited Irina Filatova	7

6.9 Representations in support of the premises have also been made by the following:

Name	Appendix
Aaron Veness	8
Emma Manning	9
Miguel Schertel de Oliveira	10

6.10 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)

6.11 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

6.12 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 all of the above licensing objectives.

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

- 7.1 The applicant wishes to carry over the conditions contained in the All Points East Premises Licence (2018 – 2022) save for the following changes:
- 7.2 *In 2021 Major Event Day capacity on no more than four (4) days is proposed to increase to 45,000 on a Friday and Saturday only.*
- 7.3 *In 2021 Major Event Day capacity on no more than two (2) event days may be at a capacity not exceeding 39,999 (Major Event) and may only take place on a Thursday, Friday, Saturday, Sunday and Bank Holiday Monday.*
- 7.4 *In 2022 and 2023 on no more than four (4) days there may be a capacity not exceeding 49,999 and the event may only take place on a Friday and Saturday.*
- 7.5 *On no more than two (2) event days there may be a capacity not exceeding 39,999 on a Thursday, Friday, Saturday, Sunday and Bank Holiday Monday.*
- 7.6 *Days not used for Major Events may be at capacity not exceeding 12,499.*
- 7.7 *Thursday is added as an optional Major Event Day.*
- 7.8 *Minor Event Day capacity is reduced from 14,999 to 12,499.*
- 7.9 *A Covid-19 mitigation plan is now included in the Event Management and Operating Plan (EMOP).*
- 7.10 *Counter-terrorism mitigation measures have been added to the EMOP.*
- 7.11 Please see **Appendix 11** for the existing licence which contains the following conditions:

Annex 3 - Conditions attached after a hearing by the licensing authority

- 1. A maximum of ten (10) event days may be operated under this licence in each calendar year, of which no more than six (6) may be at a capacity not exceeding 39,999 ("Major Event") and the remainder at a capacity not exceeding 14,999 ("Minor Event").*
- 2. Major Event days will take place only on Fridays, Saturday, Sundays or Bank Holiday Mondays, except where otherwise approved by the Multi Agency Planning Group*

3. *Each year, the Premises Licence holder will undertake a full and detailed consultation with each of the responsible authorities. This consultation will take place through a Multi-Agency Planning Group (Chaired by the Local Authority) in the lead up to, and during the event.*
4. *Each year, at least 4 months prior to the first event date, the Premises Licence holder will notify the Licensing Authority of the proposed dates for that years events.*
5. *Each year, at least 3 months prior to the first event date, the Premises Licence holder will produce a draft Event Management & Operating Plan (EMOP) containing detail appropriate to the Event. This will also include a detailed plan of the site.*
6. *The Final Event Management and Operating Plan (EMOP) must be approved by the Multi-Agency Planning Group, at least one month prior to the first event date. Thereafter, no changes will be made to the EMOP without the prior written consent of the Licensing Authority. Any changes during the event can only be made with the consent of the Event Liaison Team (ELT).*
7. *For each event the final EMOP (including the plan of the site) will be implemented and complied with by the Premises License holder.*
8. *Throughout the event open period the Premises Licence holder will maintain an Event Control Room to manage the event.*
9. *A debrief meeting will be undertaken annually after the final event date;*
10. *The Premises Licence holder will implement an event and pre-event communications strategy to provide anti-crime messaging and drugs awareness advice to ticket holders;*
11. *The Premises Licence holder will use screening on the entry points to the event, to exercise the right to refuse entry to any unauthorized or disorderly person;*
12. *The Premises Licence holder will implement various operations to disrupt the misuse of drugs amongst those proposing to attend the event, and to support the Event Organisers “zero tolerance to drugs” policy;*

13. *In conjunction with the Metropolitan Police and other responsible authorities, each year the Premises Licence holder will produce;*
 - a. *Crowd Management Plan*
 - b. *Alcohol Management Plan*
 - c. *Ingress Management Plan*
 - d. *Egress Management Plan*
 - e. *Security & Crime Reduction Plan*

14. *In conjunction with LBTH Health & Safety and other responsible authorities, each year the Premises Licence holder will produce;*
 - a. *Risk Assessment*
 - b. *Fire Risk Assessment*
 - c. *Schedule of Temporary Structures*
 - d. *Questionnaire and Inspection schedule for Food Traders*
 - e. *Rules for Site contractors*

15. *The Premises Licence holder will set up a publicised meeting each year with local residents prior to the first event date. This meeting will be to discuss plans for the Event and receive residents feedback.*

16. *The Premises Licence holder will set up a publicised meeting each year with local residents after the final event date. This meeting will be to receive residents feedback;*

17. *Age restrictions will apply to each event day, the age restrictions for each event day will be agreed in advance with the Multi-Agency Group and will be contained within the EMOP*

18. *All alcohol outlets will be monitored by security staff and bars management team. All bar staff will receive training and daily briefings;*

19. *The Premises Licence holder offers the opportunity for agencies to visit the site during the live period to demonstrate the licence holders management controls and experience of the event.*

20. *The Premises Licence holder will provide the contact numbers of the applicants and their appointed officers*

21. *For Major Events, the “Music Noise Level” (MNL) measured as a LAeq over any 15- minute from an agreed permanent noise monitoring position shall not exceed 75 dBA 15-minutes.*

22. *For Minor Events, the “Music Noise Level” (MNL) measured as a LAeq over any 15- minute from an agreed permanent noise monitoring position shall not exceed 65*

23. *The following three permanent noise monitoring positions have been agreed (as detailed below), but should it be found that these are not representative of the site layout or residential noise impact, then they may be relocated with the agreement of the Premises Licence holder and environmental health. The three agreed Permanent Noise Monitoring Locations are: i) Waterside Close, at the residential façade. ii) Empire Wharf (within Victoria Park) in-line with the building arch. iii) Wetherell Road (Iveagh Close) Day Nursery (within Victoria Park).*
24. *The sound system and site design shall be reviewed to manage containment of sub-bass, so as not to cause a public nuisance.*
25. *The Premises Licence holder shall appoint a competent Noise Consultant. The consultant will have the ability to monitor music noise levels competently and with the authority to control sound levels to ensure compliance with the music noise conditions.*
26. *A direct means of communication between the Noise Consultant and the Officers of the Environmental Health Department must be made available. There must also be a separate radio channel dedicated to noise control.*
27. *In consultation with the Council's Environmental Health Department, the sound systems and other noise sources shall be positioned so as to minimise noise disturbance.*
28. *In conjunction with the Council's Environmental Health Department, sound tests shall be carried out before the event. This will determine the maximum music noise levels that can prevail at agreed proxy monitoring positions so as to ensure compliance with the agreed noise limits;*
29. *A permanent noise monitor shall be placed at all "front of house" sound mixer positions, this must be able to measure 15 minute LAeq periods or less and print or store the results, Officers must be able to view all the results at the mixer position during the event. A copy of any noise measurements undertaken at permanent sound mixer or the 3 residential monitoring locations must be forwarded within 10 working days to the Environmental Health Department.*
30. *The Noise Consultant shall be able to demonstrate an up to date calibration certificate for all noise meters used according to BS7580: 1992 and be a minimum type 2 grade instrument according to BS5969: 1981.*
31. *Erection, dismantling and cleaning operations should only be*

undertaken during Council Policy working hours Mon. – Fri 8.00 a.m. – 6.00 p.m. and Saturday 8.00a.m. – 1.00 p.m. unless otherwise agreed by prior consent. If work or operations are agreed outside of the above hours a contact telephone number (not an answer phone) must be provided for the person in charge of these operations.

- 32. White noise “Broadband” reversing alarms shall be used on any forklift truck or vehicle likely to affect any residential property throughout the occupation of the park by the Premises Licence holder.*
- 33. Any complaints received should be directed via a central complaints handling system and directed to the Council Officers and all concerned immediately by secure phone or messaging service, not via an insecure wireless radio system. The Council’s complaints procedure for taking and logging complaints must be followed at all times.*
- 34. The Premises Licence holder shall comply with any reasonable instructions given by the licensing authority that seek to control noise nuisance.*
- 35. The noise-consultant must have a sufficient number of competent staff with the necessary authority, confirmed in writing by the licensee to control the music noise levels. This number should be agreed with Environmental Health department in advance of the event.*
- 36. The Premises Licence holder shall invite a representative of Environmental Protection Department to visit the site 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.*
- 37. No alcohol shall be taken out of the licensed area;*

38. *Any mobile dispensing servers (MDS) will be accompanied by persons not involved directly in serving alcohol. These other persons ('shepherds') will be responsible, jointly with the sellers and security personnel, for ensuring that mobile units comply with the Challenge 25 policy used on site, including preventing proxy sales; and sales to intoxicated customers;*
39. *The licensee must ensure that all staff involved in MDS operations are fully aware of and understand the requirements of the Licensing Act 2003 and all related conditions applicable to the event.*
40. *MDS operators must carry a clear indication that a Challenge 25 protocol is in operation.*
41. *A Challenge 25 Policy shall be implemented, so that before being served alcohol, identification bearing their photograph, date of birth, and a holographic mark is checked. Identification will include, for example;*
- a. A photo driving licence*
 - b. A passport*
 - c. A proof of age card bearing the PASS hologram.*
42. *Throughout the duration of the events (including sound checks, rehearsals and concert performances) the control limits set at the mixer position shall be adequate to ensure that the 63Hz and 125Hz octave frequency bands shall not exceed 75dB (LZeq 15 minutes) as a result of Music Noise level (MNL) beyond a 2km radius (distance measured from the main stage mixer position). The 63 Hz and 125 Hz octave frequency bands shall be assessed in a free field position at measurement points prescribed by the London Borough of Tower Hamlets Environmental Health.*
43. *The noise consultant shall make use of a monitoring system that allows for real-time correlation between performance stages and off site monitoring locations.*

8.0 Conditions in consultation with the Responsible Authorities

8.1 None

9.0 Licensing Officer Comments

9.1 The Business & Planning Act 2020 came into force on Wednesday 22nd July 2020 and provides a temporary permission for businesses that have a premises licence that permits them to sell alcohol in regards to the ability to sell alcohol as an off sale, i.e. for consumption off the premises. The permission will end on 30th September 2021 unless the legislation is changed by the Secretary of State.

It will only apply to businesses that hold a Premises Licence up to 22nd July 2020 and that in the last 3 years preceding 22 July 2020 those licences have NOT:

- had a premises licence application where permission for off sales was refused;
- had a variation of a premises licence seeking permission for off sales refused
- had a variation seeking to exclude off sales permission granted
- had a premises licence varied or modified by a review hearing to exclude off sales.

9.2 The new off-sales permission will permit off-sales to be made at a time when the licensed premises are open for the purposes of selling alcohol for consumption on the premises, subject to a cut off time of 11pm or the cut off time of the current licensed hours stated on the licence, whichever is earlier. Measures also temporarily suspend existing licence conditions in so far as they are inconsistent with the new off-sales permission. Further Guidance on this can be found at <https://www.gov.uk/government/publications/guidance-for-temporary-alcohol-licensing-provisions-in-the-business-and-planning-bill>

9.3 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.

9.4 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.

9.5 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)
- 9.6 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.
- 9.7 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”

- 9.8 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.
- 9.9 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)
- 9.10 The Council's Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 9.11 In **Appendices 12 - 19** 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 current application
- Appendix 2** Site Plan
- Appendix 3** Maps and photos of the surrounding area
- Appendix 4** Other licensed venues in the area
- Appendix 5** Section 182 Guidance by the Home Office
- Appendices 6-7** Representations against the premises
- Appendices 8-10** Representations in support of the premises
- Appendix 11** A copy of the existing licence
- Appendix 12** Licensing Officer comments on noise while the premise is in use
- Appendix 13** Licensing Officer comments on access/egress Problems
- Appendix 14** Licensing Officer comments on crime and disorder on the premises
- Appendix 15** Licensing Officer comments on crime and disorder from patrons leaving the premises
- Appendix 16** The protection of children from harm
- Appendix 17** Public safety
- Appendix 18** Planning
- Appendix 19** Licensing Policy relating to hours of trading