

Committee : <b>Licensing Sub-Committee</b>	Date 27 July 2021	Classification <b>Unclassified</b>	Report No.	Agenda Item No.
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Report of: <b>David Tolley</b> <b>Head of Environmental Health &amp; Trading Standards</b>  Originating Officer: <b>Lavine Miller-Johnson</b> <b>Licensing Officer</b>	Title: <b>Licensing Act 2003</b> <b>Application for a Premises Licence for Hyatt Place London City East Black Lion House 45 Whitechapel Road London E1 1DU</b>  Ward affected: <b>Whitechapel</b>
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## 1.0 Summary

Applicant: **Black Lion House GP Ltd**

Name and Address of Premises: **Hyatt Place London City East**  
**Black Lion House 45 Whitechapel Road London E1 1DU**

Licence sought: **Licensing Act 2003 – premises licence**

- Provisions of Regulated Entertainment
- Late Night Refreshment
- Supply of Alcohol (on & off)

Representations: **Licensing Authority (RA)**

## 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 **Hyatt Place London City East Black Lion House 45 Whitechapel Road London E1 1DU**

3.2 The applicant has described the premises as *Hotel across one building and eleven floors. The hotel comprises, 280 guest bedrooms, across 9 floors, with a restaurant, bar lounge and orangery which may be used for private dining located in the lower ground floor alongside a market pantry offering 24/7 snacks, additionally there is an ancillary bar and terrace located upon the 9th floor of the property.*

3.3 A copy of the premises licence application form is enclosed as **Appendix 1.**

3.4 The licensable activities and timings that have been applied for are as follows:

**The provisions of regulated entertainment including Plays (indoors), Films (indoors & outdoors), Live Music indoors & Outdoors), (Recorded Music Indoors & Outdoors, Performance of Dance (Indoors & Outdoors) Anything of a similar nature to Live and Recorded Music or Performance of Dance**

- Monday -Sunday from 08:00 hours to 00:00 hours

**The Provision of Late Night Refreshment (Indoors & Outdoors)**

- Monday to Sunday from 23:00 hours 00:00 hours

**The supply of alcohol – (On & Off Sales)**

- Monday to Sundays from 08:00 to 00:00 hours

**The opening hours of the premises**

- 24 Hours a day

### 4.0 Location and Nature of the premises

4.1 The site plan of the venue is included as **Appendix 2.**

4.2 Map showing the vicinity and Brick Lane CIZ area 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 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following:
- Licensing Authority acting as a Responsible Authority (See **Appendix 5**).
- 6.2 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
  - Environmental Protection (Noise)
  - Trading Standards
  - Child Protection
  - Public Health
  - Home Secretary (Home Office Immigration Enforcement)
- 6.3 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
- 6.4 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 the licensing objective of the prevention of crime and disorder and the prevention of public nuisance.

- 6.5 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.
- 6.6 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 (offered by the applicant)**
- 7.1 The premises shall install and maintain a comprehensive digital CCTV system. All public areas of the licensed premises, including all public entry and exit points, and the street environment will be covered, enabling facial identification of every person entering in any light condition. The CCTV cameras shall continually record while the premises are open to the public and recording shall be kept available and unedited for a minimum of 28 days with the date and time stamping.
- 7.2 A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public and must be able to produce/download/ burn CCTV images upon request by a police officer or an authorised officer of the licensing authority. Any footage must be in a format that can be played back on a standard personal computer or standard DVD player. Where the recording is on a removable medium (ie. compact disc, flash card etc), a secure storage system to store those recording mediums shall be provided.
- 7.3 The premises licence holder will risk assess the need for door supervisors at the premises and/or deploy such supervisors at such time and in such numbers as deemed necessary by the risk assessment and/or at other times at the request of the police.
- 7.4 An incident log (which may be electronic) shall be kept at the premises for at least six months, and made available on request to an authorised officer of the licensing authority, which will record details of incidents and refusals.
- 7.5 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.

7.6 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 providing the staff are not in danger;
- 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

7.7 All windows and external doors shall be kept closed when regulated entertainment takes place, except for the immediate access and egress of persons.

7.8 No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises that gives rise to a nuisance.

7.9 The sale of alcohol shall not be permitted after 24:00 except to hotel residents and their bona fide guests or persons attending a pre-booked function/event.

7.10 No collections of waste or recycling materials (including bottles) from the premises shall take place between 22:00 hours and 07:00 hours on the following day.

7.11 No deliveries to the premises shall take place between 22:00 hours and 07:00 hours the following day.

7.12 Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.

7.13 No music or amplified sound shall be generated on the premises to give rise to a nuisance to neighbouring residents.

7.14 Loudspeakers shall not be located in the entrance lobby or outside the entrance to the premises

7.15 The external terrace area on the 9th floor shall be closed at 23.00 daily

7.16 The external terrace will operate a no smoking policy at all times

- 7.17 The designated smoking area will be the Courtyard adjacent to the Orangery Restaurant which will be adequately monitored by staff and CCTV to ensure that guests using that area do not cause a nuisance.
- 7.18 All food and beverage staff will undergo internal training on induction as to the requirements under the Licensing Act 2003 including underage sales and the hotel's proof of age policy and will receive refresher training at least annually.
- 7.19 The Challenge 21 scheme must be operated to ensure that any person who appears to be under the age of 21 shall provide documented proof that he/she is over 18 years of age. Proof of age shall only comprise a passport, photo card driving licence, an EU/EEA national ID card or similar document, an HM Forces warrant card, or a card bearing the PASS hologram.
- 7.20 In addition all staff will receive training on Modern Slavery and Child exploitation and the premises will operate The © Queen's Printer and Controller of HMSO 2009 Continued from previous page... Metropolitan police "Operation Make Safe" or equivalent policy.

## **8.0 Conditions agreed with the Responsible Authorities**

- Agreed as above

## **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 6 - 14** 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>	Site Plan
<b>Appendix 3</b>	Maps of the surrounding area and Brick Lane CIZ
<b>Appendix 4</b>	Other licensed venues in the area
<b>Appendix 5</b>	Representation of Licensing Authority (RA)
<b>Appendix 6</b>	Licensing Officer comments on noise while the premise is in use
<b>Appendix 7</b>	Licensing Officer comments on access/egress Problems
<b>Appendix 8</b>	Licensing Officer comments on public nuisance
<b>Appendix 9</b>	Section 182 guidance on public nuisance
<b>Appendix 10</b>	Licensing Officer comments on crime and disorder
<b>Appendix 11</b>	Section 182 guidance on crime and disorder
<b>Appendix 12</b>	Planning
<b>Appendix 13</b>	Licensing Policy relating to hours of trading
<b>Appendix 14</b>	Tower Hamlets Cumulative Impact Zone