

Committee : Licensing Sub-Committee	Date	Classification Unclassified	Report No.	Agenda Item No.
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Report of: David Tolley Head of Environmental Health & Trading Standards Originating Officer: Mohshin Ali Senior Licensing Officer	Title: Licensing Act 2003 Application for a Premises Licence for (Broadwick Venues) Oval Studios, 29 – 32 The Oval, London E2 9DT Ward affected: Bethnal Green West
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1.0 Summary

Applicant:	Broadwick Venues Limited
Name and	Broadwick Venues
Address of Premises:	Oval Studios 29 – 32 The Oval London E2 9DT
Licence sought:	Licensing Act 2003 – premises licence <ul style="list-style-type: none"> • The sale by retail of alcohol (on and off sales) • The provision of regulated entertainment • The provision of late night refreshment
Representations:	Licensing Authority (RA) Met Police Environmental Protection Residents

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 premises licence for (Broadwick Venues) Oval Studios, 29 – 32 The Oval, London E2 9DT.
- 3.2 The applicant has described the premises as:
“Multi-purpose event space”.
- 3.3 There is an existing licence held by “Oval Venues Ltd”, for the following licensable activities and timings:

The sale by retail of alcohol (On sales, however, off sales applies on events finishing before 00:00 (midnight) (Standard times))

- *Monday to Wednesday, from 18:00hrs to 00:00hrs (midnight)*
- *Thursday from 18:00hrs to 02:00hrs (the following day)*
- *Friday to Sunday, from 12:00hrs to 00:00hrs (midnight)*

The provision of regulated entertainment

Plays and Films (indoors). Provision of anything similar to live music, recorded music or performance of dance (indoors and outdoors). Provision of facilities for making

music (indoors). Provision of facilities for entertainment of a similar description to those provided for making music or dancing (indoors). Provision of facilities for dancing. Performance of dance. Provision of facilities for making music (indoors and outdoors)

- *Friday to Wednesday, from 09:00hrs to 00:00hrs (midnight)*
- *Thursday from 09:00hrs to 02:00hrs (the following day)*

Live music, recorded music – indoors and outdoors

- *Friday to Wednesday, from 12:00hours to 00:00hrs (midnight)*
- *Thursday from 09:00hrs to 02:00hrs (the following day)*

The provision of late night refreshment – Indoors and outdoors

- *Monday to Sunday, from 23:00hrs to 00:00hrs (midnight)*

Note: “All outdoor events to cease at 21:00hrs”.

Non-standard timings

On 44 occasions in the year falling on a Friday, Saturday, Sundays and Bank Holidays, sale by retail of alcohol shall extend until 04:00 hours (the following day), the provision of regulated entertainment shall extend until 04:00 hours (the following day), and the provision of late night refreshments shall extend until 03:00 hours (the following day).

The opening hours of the premises

- *Friday to Wednesday, from 09:00hrs to 00:00hrs (midnight)*
- *Thursday from 09:00hrs to 02:30hrs (the following day)*

Non-standard timings

On 44 occasions in the year falling on a Friday, Saturday, Sundays and Bank Holidays, sale by retail of alcohol shall extend until 04:00 hours (the following day), the provision of regulated entertainment shall extend until 04:00 hours (the following day), and the provision of late night refreshments shall extend until 03:00 hours (the following day).

- 3.4 The existing licence has been included as **Appendix 1** for information only.
- 3.5 A copy of the new premises licence application form is enclosed as **Appendix 2**. The licensable activities and timings that have been applied for are as follows:

The sale by retail of alcohol (On and off sales)

- *Monday to Sunday, from 10:00 hrs to 01:30 hrs the following day*

The provision of late night refreshment – Indoors and outdoors

- *Monday to Sunday, from 23:00 hrs to 01:30 hrs the following day*

The provision of regulated entertainment - Indoors

Plays and Films. Indoor sporting events. Boxing or wrestling entertainments. live music, recorded music, performance of dance or anything of a similar

- *Monday to Sunday, from 07:00 hrs to 01:30 hrs the following day*

Non-standard timings

- *On Christmas Eve and New Year's Eve until 04:00 hrs the following day*

The opening hours of the premises

- *Monday to Sunday, from 07:00 hrs to 02:00 hrs the following day*

Non-standard timings

- *On Christmas Eve and New Year's Eve until 04:00 hrs the following 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 and photos showing the vicinity are included as **Appendix 4**.

4.3 Details of the nearest licensed venues 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 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 6**.
- 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:

Representations	Appendix
Nicola Cadzow (Environmental Protection)	7
Kathy Driver (Licensing)	8
PC Mark Perry (Police)	9
Aleksandra Satikova (Resident)	10
Deborah Colvin (Resident)	11
David Shaw (Resident)	12
Eliza Wren (Resident)	13
Ian Robinson (Resident)	14
Lucy Johnstone (Resident)	15
Michaela Alexander (Resident)	16
Mike Schmitz (Resident)	17
Sebastian Fernandez (Resident)	18
Natasha Wren (Resident)	19

- 6.9 Since the representations were made, the applicant has responded to the representations of Environmental Protection, Licensing and Police and the residents (**See Appendix 20**). At the time of writing this report, there were no agreement reached between the parties involved.

- 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
- Environmental Protection (Noise)
- 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 the licensing objective of the prevention of crime and disorder and the prevention of public nuisance.
- 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 (offered by the applicant)

- 7.1 *No publicly ticketed music events shall take place at the premises.*
- 7.2 *All events shall have a Venue Duty Manager appointed by the Premises Licence Holder who shall be the designated point of contact for the Licensing Authority and Responsible Authorities throughout each event.*
- 7.3 *The Premises Licence Holder shall notify the Licensing Authority and Metropolitan Police by email on a regular basis of all events programmed for the upcoming month that are attended by the public.*
- 7.4 *The Event Safety Management Plan shall set out in detail how the premises shall be kept secure and prevent unauthorised access.*
- 7.5 *A Risk Assessment shall be carried out for each event to establish the appropriate number of SIA registered security staff and stewards and role types to ensure a safe environment as per the event Security Management Plan.*
- 7.6 *A suitable number of security staff shall remain on duty following the end of each event to ensure the orderly dispersal of customers from the immediate vicinity of the premises. Such egress shall not hinder any access to public roads unless otherwise agreed with the Licensing Authority in advance and set out in the Security Management Plan.*
- 7.7 *A register shall be maintained by the security supplier of all security and stewarding staff employed at the premises containing their full names, date of birth, home address and where appropriate their SIA Licence details. This information shall be made available to the Metropolitan Police and the Licensing Authority upon request.*

- 7.8 *The Premises Licence Holder shall comply with all licence obligations including nuisance from sound generated by the venue including in respect of the terrace area. Where regulated entertainment takes place at the premises, a sound monitoring system will be in place and managed by a sound engineer to minimise noise nuisance. This monitoring will be controlled by the Premises Licence Holder's staff.*
- 7.9 *The Premises Licence Holder shall produce a Noise Management Plan.*
- 7.10 *There shall be a dedicated phone number for residents and businesses in the local area to contact the premises in the case of any concern during business hours and during an event.*
- 7.11 *The Premises Licence Holder shall ensure that a suitable Transport Management Plan shall be in place and adhered to for all events to ensure that:*
- a) the transport facilities are available to transport persons to and from events and that the transport systems are not overloaded;*
 - b) members of public attending each event will be kept safe whilst travelling between the transport hub and the premises during ingress and egress.*
- 7.12 *Notices shall be displayed at exits of the premises requesting that customers leave the area quietly as directed by security and stewarding staff.*
- 7.13 *Where risk assessed as appropriate and proportionate to the event format and activities taking place, a digital CCTV system shall be maintained at the premises on an ongoing basis to Police recommendations. When installed, it is to be maintained whilst the premises are operational and open to the public, with footage stored for a minimum of 31 days with date and time stamping.*
- 7.14 *An Incident Report Register shall be maintained which shall detail the date, time, and location of any notable incidents at the premises including accidents, anti-social behaviour and ejections from the premises. This shall be made available for inspection upon request from the Metropolitan Police and/or the Licensing Authority.*
- 7.15 *The Premises Licence Holder shall exercise due diligence across all events organiser and suppliers to ensure, as far as reasonably practicable, that each event organiser and suppliers are competent to operate a safe event.*
- 7.16 *An Alcohol Management Plan shall be in place at the premises. All staff involved in any managerial, supervisory or security roles for the sale of alcohol, during an event at the premises shall be trained in relation to the Alcohol Management Plan. Training records shall be kept and be accessible at the premises and made available to the Licensing Authority and/or the Metropolitan Police upon request*

- 7.17 *All staff engaged in the sale and/or supply of alcohol shall receive training in the following areas on an annual basis:*
- a) *product age restrictions, proxy sales and offences under the Licensing Act 2003;*
 - b) *challenge 25, and acceptable forms of ID;*
 - c) *recognising signs of intoxication and how to refuse service; and*
 - d) *emergency procedures and reporting.*
 - e) *each bar shall be supervised by a Personal Licence holder.*
- 7.18 *A log shall be kept at each bar of all instances where the sale and/or supply of alcohol has been refused.*
- 7.19 *No alcohol shall be supplied to any person under 18 years of age.*
- 7.20 *A Challenge 25 Policy on the sale of alcohol and other age restricted products and proxy sales shall be in operation.*
- 7.21 *Anyone who appears to be under the age of 25 shall be asked to produce appropriate photo identification before being served alcohol (i.e., from driving licence, passport, HM Forces Warrant Card, PASS accredited proof of age card).*
- 7.22 *A Risk Assessment for each event shall determine whether it is appropriate to serve drinks in glasses, bottles, or cans, or whether all alcohol shall be decanted into containers made from polycarbonate plastic or paper.*
- 7.23 *Notices shall be displayed at all bars indicating it is unlawful for a person under the age of 18 to purchase alcohol or for another person to purchase alcohol on behalf of such person.*
- 7.24 *A Fire Risk Assessment shall be carried out for the premises generally and reviewed on an annual basis.*
- 7.25 *An Event Safety Management Plan shall be in place for the premises and made available for by the Licensing Authority and Metropolitan Police.*
- 7.26 *As Risk Assessment shall determine the level of First Aid cover and facilities to be provided appropriate to each event.*
- 7.27 *A Safeguarding Children and Vulnerable Persons Policy shall be in place for all events. The Premises Licence Holder shall operate in line with the Woman's Night Safety Charter.*
- 7.28 *The Premises Licence Holder shall ensure that any child performer is licensed with the local council's licensing unit and accompanied by a registered chaperone.*

7.29 *Where children are allowed on the premises, information shall be displayed at the premises as to what to do if there is a cause for concern regarding a child's welfare.*

7.30 *Off-sales shall only be permitted in sealed containers for consumption away from the premises as detailed in the Alcohol Management Plan for the event.*

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 2023 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 21 – 28** 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 existing licence
Appendix 2	A copy of the new application
Appendix 3	Site Plan
Appendix 4	Maps of the surrounding area
Appendix 5	Other licensed venues in the area
Appendix 6	Home Office concerning relevant, vexatious and frivolous representations
Appendix 7	Representation of Environmental Protection (RA)
Appendix 8	Representation of Licensing Authority
Appendix 9	Representation of residents
Appendices 10-19	Representation of Police
Appendix 20	Applicant's response to representation of EP, Licensing, Police and residents
Appendix 21	Licensing Officer comments on noise while the premise is in use
Appendix 22	Licensing Officer comments on access/egress Problems
Appendix 23	Licensing Officer comments on crime and disorder on the premises
Appendix 24	Licensing Officer comments on crime and disorder from patrons leaving the premises
Appendix 25	The protection of children from harm
Appendix 26	Public safety
Appendix 27	Planning
Appendix 28	Licensing Policy relating to hours of trading