

Committee: Licensing Sub Committee	Date 23 April 2024	Classification Unrestricted	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 new Premise Licence for Code Floors 3-4, 34 Westferry Circus London E14 8RR
Originating Officer: Lavine Miller-Johnson Licensing Officer	Ward affected: Canary Wharf

1.0 **Summary**

Applicant: **E14 Lounge Ltd**

Name and **CODE**

Address of Premises: **Floor 3-4, 34 Westferry Circus
Canary Wharf, London
E14 8RR**

Licence sought: **Licensing Act 2003
Sales of Alcohol
Regulated Entertainment
Late Night Refreshment**

Objectors: **Environmental Protection, Licensing, Police & Residents**

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

Lavine Miller-Johnson
020 7364 2665

3.0 **Background**

- 3.1 This is an application for a new Premise Licence for, Floor 3-4, 34 Westferry Circus Canary Wharf, London E14 8RR.
- 3.2 The applicant has described the premises as restaurant on the 4th floor and a lounge bar and restaurant on the 3rd floor.
- 3.3 A copy of the application is shown in **Appendix 1**.
- 3.4 The hours applied for are as follows:

Regulated Entertainment, plays, films, live music, recorded music and performance of dance. (indoors)

Monday- Sunday from 12:00 hours to 02:00 hours

(Occasional dance shows which will take place on the 3rd floor of the premises only)

Late Night Refreshments

Monday to Sunday from 23:00 hours to 02:00 hours

Sales of Alcohol (on sales only)

Monday to Sunday from 12:00 hours to 02:00 hours

Opening times

Monday to Sunday from 12:00 hours to 02:00 hours

4.0 **Location and Nature of the premises**

- 4.1 A copy of the site plan is included as **Appendix 2**.
- 4.2 Maps showing the vicinity are included as **Appendix 3**.
- 4.3 Photographs of the premises are included in **Appendix 4**.
- 4.4 Details of other licensed venues in the immediate vicinity 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 1st 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. 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 12**.
- 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.
- Nicola Cadzow (**Environmental Protection**) – **Appendix 7**
 - Corinne Holland (**Licensing**) – **Appendix 8**
 - Residents (**petition**) – **Appendix 9**
 - Alastair Newton (**Resident**) **Appendix 10**
 - PC Mark Perry (**Licensing Police**) - **Appendix 11**

(Although conditions have been agreed, policies are still to be agreed)

6.9 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)

6.10 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

6.11 The objections relate to:

- Public nuisance
- ASB
- Crime and disorder

6.12 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.

6.13 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

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. No alcohol shall be sold if the CCTV equipment is inoperative for any reason.
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.
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;
 - 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. 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.
 8. On any occasion that regulated entertainment is provided, not less than 2 SIA registered door supervisors will be engaged to control entry to the premises and additional SIA registered door supervisors will be engaged inside the premises to monitor and supervise customers.
 9. 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.
 10. A written search policy that aims to prevent customers or staff bringing illegal drugs, weapon or other illegal items onto the premises at any time shall be in place and operate at the premises.
 11. The sale of alcohol to customers on the 4th floor of the premises shall be to persons who are seated at the premises, i.e. table service only.
 12. Staff will be trained in respect of the Fire Risk Assessment, Health and Safety Risk Assessment and other policies and procedures in respect of the emergency evacuation of the premises.
 13. First Aid facilities shall be provided at the premises.
 14. Patrons permitted to temporarily leave and then re-enter the premises, e.g., to smoke, shall not be permitted to take drinks or glass containers with them.
 15. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
 16. All windows and external doors shall be kept closed at any time when regulated entertainment takes place, except for the immediate access and egress of persons.

17. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
18. 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.
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. After 22.30hrs, access to the premises shall be by way of the entrance in the underground car park at the premises – the doors at the top of the stairway along the Canary Wharf Promenade shall not be used after this time.
21. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 20.00hrs and 09.00hrs on the following day.
22. No advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or be distributed to the public.
23. 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.
24. 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.
25. Entry by children under the age of 18 to the premises is prohibited unless accompanied by an adult (a person who is over the age of 18)

8.0 Conditions Agreed/Requested by Responsible Authority (Police) – See Appendix 11

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. 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.
3. An incident log shall be kept at the premises, and be available on request to the Police or authorised council officers. 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 visit by a relevant authority or emergency service.

4. In the event that a serious assault (for example, one which will require the attendance of London Ambulance Services) 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) Where reasonably practicable, 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.
5. A Challenge 25 proof of age scheme shall be operated at the premises. The only acceptable forms of identification are nationally recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
6. No open containers of alcohol to be taken outside the premises.
7. A record shall be kept detailing all refused sales of alcohol. The record must include the date and time of the refused sale, the name of the member of staff who refused the sale, and the reason for the refusal, and how the refusal was resolved. The record shall be available for inspection at the premises by police or authorised council officers all times during hours of licensable activities.
8. The premises shall risk assess all events taking place at the venue. The purpose of this is to identify risks associated with the event and the measures that can be put in place to mitigate against them. Risks could include but not limited to intoxicated customers, violence, drug use, and underage customers. Mitigating

measures will include but is not limited to SIA numbers, male and female SIA ratio, SIA placement, searching and ID checks. Where indicated by the event risk assessment, searches of all persons entering or re-entering the venue will be undertaken by SIA licensed staff while monitored by the premises CCTV system. The event risk assessment will determine the level of searches to be undertaken; according to the venue search policy. The risk assessment is to be recorded and made available to Police or relevant authority upon request.

9. We believe the innate risk of running a late night venue as requested by the applicant, requires the premises to have a minimum of 4 SIA security staff on duty on Thursday, Friday, and Saturday from 20:00 until after the last customers have left the area. When hosting promoted music events finishing past 00:00 the venue will instigate a search policy of all people entering the venue and the use of an ID scanner. searches of all persons entering or re-entering the venue will be undertaken by SIA licensed staff while monitored by the premises CCTV system.
10. Where indicated by the event risk assessment, searches of all persons entering or re-entering the venue will be undertaken by SIA licensed staff while monitored by the premises CCTV system. The event risk assessment will determine the level of searches to be undertaken; according to the venue search policy.
11. The premises must have a detailed documented security plan, that must include an ejections policy, search policy, anti-theft policy, and SIA numbers, The security plan will be made available to police upon request.
12. 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 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.
13. The premises shall have a written egress policy that shows how the venues customers will leave the venue without causing noise nuisance to local residents, and shall enable customers to leave the area safely. This policy will show taxi pick

up points, customer waiting areas and marshalling / security plans to protect customers as they leave.

14. The premises' security, egress, dispersal plans and searching policy as well as searching effectiveness shall be reviewed yearly and the results made available to the MPS Central East Police Licensing Office upon request.
15. The premises shall have a written welfare policy (reviewable annually) that will show how venue staff will manage customers who become vulnerable through intoxication or drugs, this policy will include the use of Welfare Officers at peak times. Dedicated, clearly identifiable welfare officers will in place during peak times and when required by the event risk assessment. The policy will be made available to Police upon request.
16. The premises shall agree to the Central East Police Licensing Drugs Policy (Attached)

1. Licensing Officer Comments

- (a) 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.
- (b) 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)
- (c) 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.
- (d) In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”

- (e) 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.
- (f) 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)
- (g) The Council's Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- (h) In **Appendices 12 – 17** 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.

2. **Legal Comments**

- (a) The Council's legal officer will give advice at the hearing.

3. **Finance Comments**

- (a) There are no financial implications in this report.

4. Appendices

Appendix 1	A copy of the application
Appendix 2	Copy of site plan
Appendix 3	Maps of the vicinity
Appendix 4	Photographs of the premises
Appendix 5	Other licensed premises in the area
Appendix 6	Noise management plan
Appendix 7	Representation from Environmental Protection
Appendix 8	Representation from Licensing Officer
Appendix 9	Representation from residents (petition)
Appendix 10	Representation from resident
Appendix 11	Representation from Police with agreed conditions and drugs policy
Appendix 12	Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations
Appendix 13	Licensing Officer comments on public nuisance
Appendix 14	S182 advice on public nuisance
Appendix 15	ASB leaving the premises
Appendix 16	Licensing Policy relating to hours of trading
Appendix 17	Planning