

Committee :	Date	Classification	Report No.	Agenda Item No.
Licensing Sub Committee	24 April 2012	Unclassified	090/112	

Report of Colin Perrins Head of Commercial Services	Title Licensing Act 2003 Application for Time Limited Premises Licence
Originating Officer: Kathy Driver Principal Licensing Officer	Wards affected Bow West & Bow East

1.0 Summary

Applicant: **Lovebox Festivals Ltd**

Name and
Address of Premises: **Victoria Park**
London E3

For **15th to 17th June 2012**

Licence sought: **Licensing Act 2003**
Time Limited Premises Licence

- **Sale of alcohol**
- **Provision of regulated entertainment**

Objectors: **Local 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
Event Management Plan

Kathy Driver
020 7364 5171

3.0 **Background**

- 3.1 This is an application for a premises licence which is time limited for Friday 15th June to Sunday 17th June 2012 for a capacity of 29,999.
- 3.2 A copy of the application is enclosed as **Appendix 1**.
- 3.3 Due to large size of the Event Management Plan, this will be available on request. Members will be forwarded the Plan electronically for their information in deciding whether conditions are appropriate to be added. See point **6.2**.
- 3.4 The application is for regulated entertainment consisting of:
Live Music, films, recorded music. Provision of facilities for making music and dancing and the supply of alcohol.
- 3.5 The hours that have been applied for are as follows:-
Live Music, films, recorded music. Provision of facilities for making music and dancing:
Friday - from 14 :00 hrs until 23:00 hrs
Saturday - from midday until 23:00 hrs
Sunday - from midday until 22:30 hrs
The sale of alcohol:
Friday - from 14 :00 hrs until 22:45 hrs
Saturday - from midday until 22:45 hrs
Sunday - from midday until 22:15 hrs
- Hours premises is open to the public:**
Victoria Park is a public park and is open from dawn and usually closes at dusk. For the area being applied for:
Friday - from 14:00 hrs until 23:30 hrs
Saturday - from midday until 23:30 hrs
Sunday - from midday until 23:00 hrs
- 3.6 Plans showing the event site and layout is attached in **Appendix 2**.

4.0 **Licensing Policy and Government Advice**

- 4.1 The Council has adopted a licensing policy and this is available from the Licensing Section, and at the hearing. The revised policy came into effect on the 8th December 2010.
- 4.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.
- 4.3 The Home Secretary has issued Guidance under Section 182 of the Licensing Act 2003. This is available on the Government's website, www.homeoffice.gov**.uk. It was last revised on the 12th October 2010.

4.4 Relevant Sections of this advice are brought to Members attention within the Licensing Officers report. Members should note however, than in some areas Tower Hamlets, after a proper consideration of local circumstances, has not followed the Government's advice, or has developed it further.

5.0 **Representations**

- 5.1 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
- 5.2 Interested party as defined in Section 13 (3) of the Licensing Act 2003 is limited to persons living in the vicinity of the premises, their representatives and local businesses in the vicinity of the premises and their representatives. Essentially, the interested party making the representation should show by what they say that they, or those they represent are sufficiently close to be personally affected by the application.
- 5.3 Only a responsible authority or an interested party can make a representation. Both of these terms are defined by statute, in Section 13 of the Licensing Act 2003.
- 5.4 There are two tests for an interested party and only one for a responsible authority. The two tests are contained in Section 18 of the Act.
- 5.5 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.
- 5.6 Representations by responsible authorities do not have to meet the second test of not being vexatious and frivolous. Interested parties and their representatives have to meet this test.
- 5.7 The Home Office recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation.
- 5.8 All the representations in this report have been considered by the relevant officer (Licensing Services Manager) and determined to have met the requirements of the Licensing Act 2003.
- 5.9 This hearing is required by the Licensing Act 2003, because relevant representations have been made by local residents against and in support of the application.

List of representations is attached as **Appendix 3**

Those objecting to the application are detailed in **Appendices 4-7**

Those in support of the application are detailed in **Appendices 8-20**

- 5.10 All of the responsible authorities have been consulted about this application. They are as follows:
- The Metropolitan Police
 - The LFEPA (the London Fire and Emergency Planning Authority).
 - Planning
 - Health and Safety
 - Noise (Environmental Health)
 - Trading Standards
 - Child Protection
- 5.11 Environmental Health have agreed conditions relating to noise, these are attached in **Appendix 21**
- 5.12 In addition the application was required to be advertised in a local newspaper and by a blue poster. Only objections that relate to the following licensing objectives are relevant:
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm
- 5.13 The objections cover allegations of
- Public Nuisance
 - Noise
 - Crowds and disruption
 - Crime & Disorder
 - Street Cleaning
 - Public Safety
- 5.14 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.

6.0 **Licensing Officer Comments**

- 6.1 The Licensing Section is not a responsible authority and therefore has no ability to make any relevant representations. The following therefore 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.
- 6.2 In addition to the documentation contained in the report, the application contains additional documentation providing the detail of the Event

Management Plan/Noise Management Plan/Acoustic Report/Security Plan/Risk Assessment /Crown Safety Plan. Members are asked to consider all the associated documentation which accompanies the application and incorporate any conditions which are relevant, proportionate and enforceable that are necessary to address the licensing objectives.

6.3 Guidance issued under section 182 of the Licensing Act 2003

- ∇ As stated in the guidance it is “provided for licensing authorities carrying out their functions.” It is a key mechanism for promoting best practice, ensuring consistent application and promoting fairness (1.6).
Also “so long as the guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so.” When doing so licensing authorities will need to give full reasons for their actions (1.7).
- ∇ 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.” (1.10)
- ∇ Conditions may not be imposed for the purpose other than the licensing objectives.
- ∇ Necessary conditions should emerge from a risk assessment by the applicant, which should then be reflected in the operating schedule (10.7).
- ∇ The Licensing Authority may only impose such conditions as are necessary for meeting the licensing objectives.
- ∇ It is Government policy that facilities for people and performers with disabilities should be provided at places of entertainment. (S. 10.24).
- ∇ The Government has stated “there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested.” (10.20)
- ∇ Mandatory conditions must be imposed (10.43) and censorship avoided (10.31).
- ∇ Routine conditions about drink promotions are not permitted but can be imposed in appropriate circumstances (10.38). The Office of

Fair Trading's Advice also needs to be considered, namely that minimum prices setting is not permitted.

- 6.4 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.
- 6.5 In all cases the Members should make their decision on the civil burden of proof that is "the balance of probability."
- 6.6 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.
- 6.7 The Government has advised that "In the context of preventing public nuisance it is again essential that conditions are focused on measures within the direct control of the licence holder. Conditions relating to public nuisance caused by anti-social behaviour of customers once they are beyond the control of the licence holder or premises management cannot be justified and will not serve the licensing objectives." (2.38)
- 6.7 The Council's Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 6.8 In **Appendices 22-28** 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.

7.0 **Legal Comments**

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

8.0 **Finance Comments**

- 8.1 There are no financial implications in this report.

9.0 **Appendices**

Appendix 1	A copy of the application
Appendix 2	Site Plans
Appendix 3	List of representations
Appendices 4-7	Letters of objection.
Appendices 8-20	Letters of support
Appendix 21	Environmental Health agreed conditions
Appendix 22	London Borough of Tower Hamlets Policy in relation to the prevention of Public Nuisance
Appendix 23	Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Public Nuisance
Appendix 24	Licensing Officer comments on Noise while the premise is in use
Appendix 25	Licensing Officer comments on Access and Egress
Appendix 26	Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Public Safety
Appendix 27	Licensing Officer comments on Crime & Disorder
Appendix 28	Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Crime & Disorder
Appendix 29	Event Safety Management Plan