



## Licensing Committee

### Report title: Maestro 45 Deptford Broadway SE8 4PH

**Date:**

**Key decision:** No.

**Class:** Part 1.

**Ward(s) affected:** New Cross

**Contributors:** Community Services – Safer Communities Service

### Outline and recommendations

Determination of Full Variation Application submitted on 21<sup>st</sup> July 2023 by Louis Armand Tchanagoum Tchatchouang.

After having regard to the representation heard, Members must take such steps as they consider appropriate to promote the Licensing Objectives.

### Timeline of engagement and decision-making

This application consultation period was extended due to the applicant not advertising the application when first submitted. It was decided to extend the application rather than reject it as we had already received objections. It was then advertised in accordance with regulation 25 of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.

The last day for representations was 3 October 2023.

## 1. Summary

### 1.1. Particulars of Application

The application is to change:

- Amendment to Annex 3 Conditions
- Vary Hours for Live Music, Recorded Music & Alcohol sales ON the premises.

- To add Alcohol for the consumption OFF the premises to match current alcohol for the consumption ON the premises hours and proposed extended hours.
- To change the licence opening hours to 30 minutes after the last licensable activity

**Remove Annex 3 conditions:**

2. There will be no live music or the playing of recorded music between the hours of 23:00 and 07:59.

6. Two SIA registered door staff, one of whom ought to be female (if labour is available) and must be independent of and in addition to the Maestro staff working that day, to be on duty while the premises is open to the public between 21:00 till close and until all customers have left the premises and vicinity.

7. A 'no search, no entry' policy will also operate at these times. All persons entering and re-entering the premises will be searched. If they refuse, they will not be able to enter the premises.

8. At the commencement of work, security personnel must ensure that they are recorded on the CCTV system and that a clear head and shoulders image showing their face clear of any hat, glasses or other obstruction is recorded.

9. A register of security personnel employed on the premises shall be maintained in a legible format and made available to Police or local authority officers on request. The register should be completed by the DPS/Duty Manager at the commencement of work by each member of security staff and details recorded should include:

Full name

Badge number

Time of commencement of duties

Security operative to sign their name against their details

**To add the following:**

Live Music (Indoors)

23:00 – 01:00 Friday - Sunday

Recorded Music (Indoors)

23:00 – 01:00 Monday - Thursday

23:00 – 03:00 Friday & Saturday

23:00 – 02:00 Sunday

Late night Refreshment

00:00 – 01:00 Monday - Thursday

00:00 – 03:00 Friday & Saturday

00:00 – 02:00 Sunday

Alcohol for consumption ON & Off the premises

23:30 – 01:00 Monday - Thursday

01:30 – 03:00 Friday & Saturday

23:30 – 02:00 Sunday

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- 1.2. 3 representations have been received from local residents on the grounds of the prevention of public nuisance. We have also received an objection from the Licensing authority.
- 1.3. The representations received have been examined by Officers and are not considered to be vexatious or frivolous. The representations were received within the specified time.

## **2. Recommendations**

- 2.1 After having regard to the representation heard, Members must take such steps as they consider appropriate to promote the licensing objectives. The steps available to the Licensing Authority:
  - 1.) Grant the full variation to the licence as applied for
  - 2.) Grant the full variation subject to conditions modified to such extent as the authority considers appropriate for the promotion of the licensing objectives
  - 3.) Exclude from the scope of the licence any of the licensable activities to which the application relates.
  - 4.) Refuse to specify a person in the licence as the designated premises supervisor
  - 5.) Refuse to grant the application.
- 2.2 Either party has a right of appeal to the Magistrates Court against a decision which should be submitted to the court within 21 days of the date of the decision letter.

## **3. Policy Context**

- 3.1. Decisions by Members of the Licensing Committee should have regard to the Licensing Act 2003 and the promotion of the four Licensing Objectives at all times, which are:
  - Protection of Children from Harm
  - Prevention of Crime and Disorder
  - Prevention of Public Nuisance
  - Public Safety
- 3.2. Members should also have regard to the Licensing Authority's Statement of Licensing Policy 2020-25.
- 3.3. Decisions made will link in with the following objectives under the Council's Corporate Strategy – Building an Inclusive Local Economy and Building Safer Communities.

## **4. Financial implications**

- 4.1. Applicants have the right of appeal against any decision by the Licensing Committee. Therefore there would likely be costs for the Authority in seeking legal support should an appeal be brought by the applicant.

## **5. Legal implications**

- 5.1 The Licensing Authority is a public authority under the Human Rights Act 1998. Therefore, the licensing authority is required to act compatibly with the convention rights in the exercise of their functions. Article 6 (1) of the Convention provides that everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial hearing established by law.
- 5.2 A Premises Licence is a possession for the purpose of the Human Rights Act 1998. The

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right to hold a licence is a qualified rather than an absolute right. Therefore, the right to hold a licence may be interfered with if it affects the interests of local residents or others. Such interference may be justified if it is necessary and proportionate to promote the licensing objectives.

## 6. Equalities implications

- 6.1 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 6.2 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - advance equality of opportunity between people who share a protected characteristic and those who do not.
  - foster good relations between people who share a protected characteristic and those who do not.
- 6.3 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation, or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above.
- 6.4 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 6.5 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:
- <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>
- <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>
- 6.6 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
- [The essential guide to the public sector equality duty](#)
  - [Meeting the equality duty in policy and decision-making](#)
  - [Engagement and the equality duty: A guide for public authorities](#)
  - [Objectives and the equality duty. A guide for public authorities](#)

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- [Equality Information and the Equality Duty: A Guide for Public Authorities](#)

6.7 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

## 7. Climate change and environmental implications

7.1. Any decision made by Members must fall in line with the Licensing Act 2003, to that end there are no climate change or environmental considerations.

## 8. Crime and disorder implications

8.1. Under the Licensing Act 2003, one of the 4 licensing objectives is the Prevention of Crime and Disorder.

8.2. It is a requirement of the Licensing Act 2003 that any decision made by the Licensing Committee must not negatively impact on the Licensing objectives.

## 9. Background papers

9.1. Application received 21<sup>st</sup> July 2023.

9.2. Representations from three local residents and the licensing authority.

## 10. Glossary

Term	Definition
Appeal	asking a court to overturn a lower court's decision. If the decision of a court is disputed it may be possible to ask a higher court to consider the case again by lodging an appeal.
Licence	an authority to do something.
Licensee	the holder of a licence to do something.
Licensing Authority	The Council (London Borough of Lewisham) Under section 3 of the 2003 Act, the licensing authority's area is the area for which the authority acts.

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Licence Objectives	<p>Under section 4 of the 2003 Act the Licensing Authority must promote the following 4 objectives</p> <ul style="list-style-type: none"> <li>• Prevention of crime and disorder</li> <li>• Public safety</li> <li>• Prevention of public nuisance</li> <li>• Protection of children from harm</li> </ul>
Interested Person	<p>A person who lives in the vicinity of the premises  A body who represents the persons who live in that vicinity  A person involved in a business in that vicinity  A body representing businesses in that vicinity  An elected member of the council</p>
Relevant Representation	<p>A representation that is specific to the premises in question, related to the four licensing objectives and/or the local licensing policy.</p>
Responsible Authorities	<p>Public bodies that must be notified of all applications and who are entitled to make representations in relation to Premises Licences, as follows:</p> <ul style="list-style-type: none"> <li>• Licensing Authority</li> <li>• Chief Officer of Police</li> <li>• London Fire Brigade</li> <li>• Trading Standards</li> <li>• Planning Authority</li> <li>• Public Health</li> <li>• Environmental Enforcement (with respect to Noise)</li> <li>• Children's Services</li> <li>• Home Office Immigration</li> </ul>

## 11. Report author and contact

- 11.1. Angela Mullin-Murrell Safer Communities Service Officer for Licensing Angela.mullin-murrell@lewisham.gov.uk.

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