

<b>Item No.</b> 27	<b>Classification:</b> Open	<b>Date:</b> 12/02/03	<b>MEETING NAME</b> Licensing Committee
<b>Report title:</b>		Entertainment Licensing – Obalende, Ground Floor, 43 Peckham High Street, SE15	
<b>Ward(s) or groups affected:</b>		Peckham (borders The Lane)	
<b>From:</b>		Director of Environment & Leisure	

## RECOMMENDATIONS

1. That the Committee considers an application by Mr Tokunbo Odebunmi for the grant of an annual public music and dancing licences in respect of the ground floor of the premises situated at 43 Peckham High Street, London SE15.
2. The application seeks an extension beyond the normal terminal hour of 11pm on weekdays and 10.30pm on Sundays on Monday, Tuesday & Wednesday to 1am on the day following (except Bank Holiday Mondays when an extension to 3am on the day following is sought); Thursday to 3.30am on the day following; Friday & Saturday to 4.30am on the day following and Sunday to 3.30am on the day following.
3. In considering any application for a public entertainment's licence the Committee must consider each case on its merits. In doing so, the Committee will take into account all relevant considerations including: -
  - i) noise emissions from the premises in the event that a licence is granted;
  - ii) likely disturbance of residents caused by patrons leaving the premises;
  - iii) fitness of the applicant to hold a licence;
  - iv) suitability of the premises and its location; and
  - v) any other relevant matters, as appropriate.
4. That the Committee decides whether to grant the application.

## BACKGROUND INFORMATION

5. The premises first came to the attention of the Licensing Unit In February 00, when Mr Odebunmi made an application for a series of occasional licences throughout April 00. However, whilst the application was unopposed, licences were not issued due to the amount of work that needed to be completed in order for the premises to meet the required public safety standard. Full details of the Council's works requirements were provided to Mr Odebunmi.
6. On 3 July 02 Mr Odebunmi informed the Licensing Unit that he had brought the premises up to the required standard and made an application for occasional licences for three dates in August. The following week (12 July 02) Mr Odebunmi submitted an application for an annual licence.
7. Consultation on both applications was carried out in accordance with the Council's normal procedure. No objections were lodged in respect of the occasional application and licences were therefore issued in respect of 2, 24 and 26 August 02. Officers of the Licensing Unit

carried out a during performance inspection of the premises on the date of the first event and found them to be operating in compliance with the conditions of the occasional licence.

8. Two local councillors and the Sumner Residents Association did however lodge objections to the annual licence. The conciliation service was utilised but failed to lead to the withdrawal of the objections.
9. On 5 November 02 Mr Odebunmi submitted a further application for occasional licences so as to facility the provision of entertainment at the premises in the run up to and over the Christmas and New Year period. A local councillor opposed this application it was therefore referred to the Licensing Panel for determination. The Panel met on 27 November 02, however as the local councillor was not able to attend the meeting, they only considered the first of the dates applied for (i.e. 30 November 02). The Panel decided to grant an occasional licence for 30 November 02.
10. On 5 December 02 the Panel met to consider the remaining dates (i.e. 7, 14, 21, 28 & 31 December 02) and decided to grant occasional licences in respect of all the dates. The Panel requested that Officers of the Licensing Unit carry out "during performance" inspections on two of the five dates granted.
11. Officers of the Licensing Unit visited the premises on 14 and 21 December 02 with the intent of conducting a "during performance" inspection. The premises were however not found to be operating under their occasional licence on either visit.
12. As conciliation failed to lead to the withdrawal of the opposition to the application for an annual licence the matter is referred to the Committee for determination.

## **KEY ISSUES FOR CONSIDERATION**

### The Premises

13. The application seeks consent to provide public entertainment in a ground floor room located to the rear of 43 Peckham High Street. Entrance/exit to/from the premises is situated on Peckham High Street. Emergency escape provision is provided to rear of the ground floor room and leads into a yard and then onto Melon Road. The nightclub "Chicago's" is located immediately above the premises and the rear yard is shared with them.
14. It has been determined that the premises can safely accommodate one hundred & ten (110) persons for the provision of public music and dancing.

### The Opposition

15. The application is opposed by two local councilors and the Sumner Residents Association and copies of the letters detailing the grounds of their objection are attached as Appendix A to the report.

### Conciliation

16. On 22 October 02 the Licensing Officer and PC McNally of Peckham Police met with the applicant to discuss the intended operation and management control of the premises. The objectors were invited to this meeting, but were unable to attend.
17. After the meeting of 22 October the applicant issued a statement in which he offered to amend the hours of his application. He also provided detail of the conditions he had agreed to, the sound containment works and other measures he would take to try to resolve the objectors concerns. A copy of this statement, which was circulated to all the objectors, is attached as Appendix B to the report.

18. Subsequent to the issue of the conciliation statement the applicant retracted his agreement to have a condition imposed on the licence that restricts the last admission time to the premises to 1am. A copy of the e-mail from the applicant in relation to his matter is attached as Appendix C to the report.
19. Conciliation failed to lead to the withdrawal of the objections.

#### Sound Containment Observation

20. An Officer of the Council's Noise Team visited the premises, which are accessed via Peckham High Street, on 2 August 02. The function room has an emergency exit to the rear right hand side, which is of single leaf construction with panic bars fitted. There is a false ceiling that covers approximately 80% of the existing ceiling. This false ceiling holds the ducting for the air conditioning unit. The area above the stage is not covered. There are no windows in the function room.
21. There is a residential flat in the adjacent premises that faces Peckham High Street and some residential properties to the rear of the function room, approximately 100 metres away, in Melon Road.
22. There have been no noise complaints recorded.
23. The Council's Noise Team recommends that the following works will be required to be undertaken in the event of the application being granted, whether in full or part, and that entertainment shall not be provided until these works have been completed: -
  - i) That a sound-limiting device shall be installed at the premises, the maximum level of which shall be set by an Officer of the Noise Team. The Sound-Limiting Device shall be interlocked with the rear doors;
  40. That the "drop" ceiling is to be continued over the stage area; and
  - iii) That the emergency escape doors to the rear of the premises are soundproofed to the satisfaction of the Council's Noise Team
24. It is also recommended that the following conditions be placed on any licence that may be granted: -
  - i) That all audio/ musical equipment on the premises shall be played through the sound limiting device, the level of which is to be maintained to the satisfaction of the Council's Noise Team;
  - ii) That regular perimeter checks of the premises are to be carried out by responsible members of staff who will address any noise breakout immediately; and
  - iii) That the double doors to the front of the function room shall to remain closed whilst entertainment is in progress.

#### Technical Suitability

25. A suitability survey of the premises has been carried out by an officer of the London Fire and Emergency Planning Authority (LFEPA) and the Council's Building Surveyor; and it has been determined that subject to the satisfactory completion of works the premises can meet the required standard. Copies of the schedule of work requirements, issued by LFEPA and the Council's Building Surveyor are attached as Appendix D to the report.

## Licence Conditions

26. If members are minded to grant the application it is recommended that in the first instance a provisional licence is issued, the conversion of the provisional licence to a fully operational licence should be conditional on:-
- i) The satisfactory completion of all requirements set out in the schedule attached as Appendix D to the report;
  - ii) The satisfactory completion of the works recommended by the Council's Noise Team set out in paragraph 23 of the report;
  - iii) The satisfactory installation at the premises of a CCTV system; and
  - iv) The holder of the provisional licence remaining to be a "fit and proper" person.
27. It is further recommended that any full licence issued should be made subject to the Council's Rules of Management and to the following special conditions: -
- i) That all audio/ musical equipment on the premises shall be played through the sound limiting device, the level of which is to be maintained to the satisfaction of the Council's Noise Team;
  - ii) That regular perimeter checks of the premises are to be carried out by responsible members of staff who will address any noise breakout immediately;
  - iii) That the double doors to the front of the function room shall remain closed whilst entertainment is in progress.
  - iv) That the CCTV system installed at the premises is to be maintained in good working order, be fully operational and continually recording at all times that the premises are in use under the licence;
  - v) That all CCTV footage shall be kept for a period of thirty-one (31) days and shall upon request be made available to Officers of the Council and the Police;
  - vi) That Southwark Council registered door supervisors, one of whom is female, shall be employed at all times at the premises are in use under the licence and provided with:
    - a) Hand held metal detection units in order to ensure that searches are carried out in respect of all admissions to the premises, whether members of the public or performers or their assistants; and
    - b) Mechanical counting devices to ensure that the maximum limit on the number of persons permitted in the premises are not exceeded;
  - vii) That signs shall be displayed in the entrance foyer to the premises that state "**DRUGS FREE ZONE**" and "**NO SEARCH, NO ENTRY, MANAGEMENT RESERVE THE RIGHT TO REFUSE ENTRY**";
  - viii) That a drugs drop box, which must be secure and have a tamper proof entrance, shall be fixed to the wall in the entrance foyer to the premises, and an agreement must be established with the local Police over the emptying and collection of any drugs deposited in the box;
  - ix) That all matters relating to drugs shall be in accordance with the Metropolitan Police Best Practice Guide on the handling of drugs in pubs and clubs;

- x) That suitable notices shall be displayed and announcements made requesting people to leave the premises in a quiet and orderly manner so as not to disturb local residents; and
- xi) That the total number of persons that may be accommodated in the premises at any one time shall not exceed one hundred and ten (110).

### The Local Vicinity

28. A map of the local vicinity is attached as Appendix E to the report. Shown on the map and licensed for the provision of public entertainment on an annual basis are: -
- 40. Chicago's, 1<sup>st</sup> Floor, 43 Peckham High Street, SE15 (Mon & Tues to 12 midnight, Wed & Thur to 3am on the days following, Fri to 4am on the day following, Sat to 5am on the day following and Sun to 3am on the day following);
  - 41. Club 56, 56 Peckham High Street, SE15 (Mon & Tues to 12 midnight, Wed & Thur to 4am on the days following, Fri & Sat to 5.30am on the days following and Sun to 3am on the day following);
  - 42. Unity Centre, 37/39 Peckham High Street, SE15 (Mon - Thur to 12 midnight, Fri & Sat to 2am on the days following and Sun to 11pm); and
  - 43. Mantis, 14 Peckham High Street, SE15 (Mon - Thur to 2am on the days following and Fri & Sat to 4am on the days following)
29. Just off the map and licensed for the provision of public entertainment on an annual basis is: -
- 40. Jubilee Restaurant, 1 Peckham High Street, SE15 (Mon - Wed to 11pm and Thur - Sat to 4am on the days following).
30. Shown on the map and licensed to operate as night café/takeaways are: -
- 40. Dixy Chicken, 16 Peckham High Street, SE15 (Sun - Tues to 2am on the days following, Wed & Thur to 3am on the days following and Fri & Sat to 5am on the days following);
  - 41. Fried Chicken House, 9 Peckham High Street, SE15 (Sun - Thur to 2am on the days following and Fri & Sat to 4.30am on the days following); and
  - 42. Obalende Bar- B-Que, 43 Peckham High Street, SE15 (Sun – Thur to 3am on the days following and Fri & Sat to 4am on the days following).

### **RESOURCE IMPLICATIONS**

31. Upon application a fee of £2281.00 was paid. This fee contributes towards the cost of administering the application and of compliance inspections at the premises

### **CONSULTATION**

32. Consultation on this application has been undertaken in accordance with the Council's procedure for dealing with applications for the grant of annual public entertainment licences.

### **EQUAL OPPORTUNITIES IMPLICATIONS**

33. Each application is required by law to be considered upon its own merits with all relevant matters taken into account.

### **AGENDA 21 IMPLICATIONS**

34. In considering the application the Panel will have regard to noise emissions from the premises; likely disturbance of residents caused by patrons leaving the premises; and the suitability of the premises and its location. All of these factors are relevant under Agenda 21.

### **REPORT BY THE BOROUGH SECRETARY & SOLICITOR - LEGAL ISSUES**

35. The report recommends that the Committee decides whether to grant the application made by Mr Tokunbo Odebunmi for the grant of an annual public music dance licence in respect of the ground floor of the premises known as Obalende and situated at 43 Peckham High Street, London SE15.
36. The Committee have wide powers under Section 52 and Schedule 12 of the London Government Act 1963 to grant music and dancing licences subject to such terms, conditions and restrictions as they may specify. The Committee may impose standard rules of management for places of public entertainment in their entirety. The Committee may not, however, impose conditions concerning the sale of alcohol as this is within the jurisdiction of the local licensing justices.
37. In hearing this matter, the Committee are under a duty to consider the application on its merits and in accordance with the rules of natural justice. Any decision made must be one, which is not incompatible with a convention right and must be in accordance with the Human Rights Act 1998. The decision must be based on evidence, that is to say, material, which tends logically to show the existence or non-existence of relevant facts, or the likelihood or unlikelihood of the occurrence of some future event, the occurrence of which would be relevant. Secondly, the Committee must give fair consideration to the contentions of all persons entitled to make representations to them.
38. In considering this application, the Committee is subject to a duty to ensure the health and safety of all citizens and residents in the Borough, which will include normal uses of the premises and residences around and within its area. The Committee is therefore entitled to consider the suitability of the applicant and the premises including their locations and impact upon the environment in the surrounding area and upon the amenity issues of granting the licence and its effects upon local residents.
39. The Committee is entitled to consider events outside of the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for the same to be relevant. However, if such events are not properly attributable to the premises being open, then the evidence is inadmissible and should be excluded.

### **BACKGROUND PAPERS**

40. Background papers, which include Schedule 12 of the London Government Act 1963 and the case file ELU/OBALENDE, are kept at the Environment & Leisure Department, Licensing Unit, Chaplin Centre, Thurlow Street, SE17 2DG and may be viewed by arrangement with Diane Kraus who can be contacted on telephone number 020 7525 5688.