

Licensing Sub-Committee

Wednesday 10 May 2017

10.00 am

Ground Floor Meeting Room G02C - 160 Tooley Street,
London SE1 2QH

Supplemental Agenda No.1

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Date: 9 May 2017

Item No. 7.	Classification: Open	Date: 10 May 2017	Meeting Name: Licensing Sub-Committee
Report title:		Licensing Act 2003: Bala Baya, Arch 25, Old Union Yard Arches, Union Street, London SE1 0UR (Temporary Event Notice: 858083)	
Ward(s) or groups affected:		Cathedral	
From:		Strategic Director of Environment and Social Regeneration	

RECOMMENDATION

1. That the licensing sub-committee decide whether or not to issue a counter notice in respect of a temporary event notice (TEN) 858083 served by Ms Charlotte Evans in regards to an event to be held at Bala Baya, Arch 25, Old Union Yard Arches, Union Street, London SE1 0UR. The TEN is between 23:30 on Friday 30 June 2017 and 04:00 on Saturday 1 July 2017.

BACKGROUND INFORMATION

The Licensing Act 2003

2. On 24 November 2005 the Licensing Act 2003 established a licensing regime for the following licensable activities:
 - a) The retail sale of alcohol
 - b) The supply of alcohol to club members or on behalf of a club
 - c) The provision of regulated entertainment
 - d) The provision of late night refreshments.
3. The Act established a process for the giving of “temporary event notices” (TENs).
4. Amendments to the Licensing Act 2003 were brought about by way of the Police Reform and Social Responsibility Act 2011 as of 25 April 2012.
5. A premises user may serve a TEN, where it is proposed to use the premises concerned to provide one or more licensable activities for a period not exceeding 168 hours for less than 500 persons.
6. A person holding a personal license issued under the Act may serve up to 50 TENs in a calendar year. Non personal licence holders may serve up to five TENs in the same period. No premises may be used for more than 12 TENs in a calendar year or for more than 21 days in a calendar year.
7. No premises may be used for temporary events that are less than 24 hours apart.
8. The police or environmental health authority may intervene to prevent such an event taking place or agree a modification of the proposed arrangements, and their

intervention may in some cases result in the licensing authority imposing conditions on a TEN.

9. If the police or environmental health team believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and the licensing authority an objection notice. This must be given within three working days of the receipt of the TEN.
10. A TEN does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required.
11. The police or environmental health may contact the premises user to discuss their objections and attempt to come to an agreement which will allow the proposed licensable activities to proceed. The TEN can be modified. If there is no agreement, the licensing authority must hold a hearing to consider the notice.
12. If the licensing authority receives an objection notice from the police or environmental health that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection (unless all parties agree that this is unnecessary). The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions, and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and give a counter notice. This prohibits the event from taking place.

KEY ISSUES FOR CONSIDERATION

The temporary event notices

13. On 2 May 2017 the TEN was served by Ms Charlotte Evans in respect of an event intended to be held at Bala Baya, Arch 25, Old Union Yard Arches, Union Street, London SE1 0UR. A copy of the TEN is attached to this report as Appendix A.
14. The TEN is summarised as follows:
 - TEN 858616: To allow the sale of alcohol, the provision of regulated entertainment and the provision of late night refreshment between 23:30 on Friday 30 June 2017 and 04:00 the following day. The maximum number of people expected at any one time at the premises is 250. The activities are to take place on the premises only.

The objection notice

15. On 5 May 2017 the councils environmental protection team ("EPT") served an objection notice in respect of the TEN.

16. The objection notice state that this venue was recently the source of a noise complaint from a member of the public and upon investigation by the noise officer was found to be open beyond the hours permitted on the premises licence.
17. The environmental protection team make the following points in support of their objections:
 - The premises licence for Arch 25 was granted under licence number 851909 in June 2016. The opening times sought of the licence mirrored the hours agreed through planning. The licence also restricts recorded music to be played indoors until 23:00 on Thursdays to Saturdays.
 - Southwark's noise and nuisance service received a noise complaint from a residential neighbour at 22:58 on Thursday 30 March 2017 regarding loud audible music being emitted from the Bala Baya premises.
 - A noise and nuisance team officer visited the complainant's property at 00:10 on Friday 31 March 2017 and witnessed a statutory nuisance being caused due to the level of intrusion from music and people noise being emitted from the Bala Baya premises. The noise officer visited the premises at 00:30 to discuss through with the manager.
 - EPT have stated that the noise officer witnessed the premises open and the playing of recorded music beyond the permitted times stated on the premises licence which subsequently caused a statutory noise nuisance.
 - EPT have strong concerns that if this TEN event were to be granted then further noise nuisance will be caused and therefore object to this application with regards to the prevention of public nuisance licensing objection. The hours stipulated on the premises licence (and the planning application) are relevant considering the location of the arch premises and the proximity of residential neighbours.
 - EPT have also object based on the crime and disorder licensing objective, whereas granting the TEN application will be in breach of planning law. The event will exceed the hours stipulated on the planning application, furthermore the event planned is for drinking, dancing and entertainment which is contrary to the A3 (restaurant) use class.
18. A copy of the EPT objection notice is attached to this report in Appendix B.

TENs History

19. Below is the recent history of TENs for the last year in respect of the premises:

No.	Premises user	Date of event	Time of event and activities
1	Samuel Shaun	31/12/16	23:30 – 05.00 following day Alcohol, LNR, and Regulated Entertainment Indoors only
2	Charlotte Evans	1/4/17	23:30 – 05.00 following day Alcohol, LNR, and Regulated Entertainment Indoors only
3	Charlotte Evans	12/5/17	23:30 – 05.00 following day Alcohol, LNR, and Regulated Entertainment Indoors only
4	Charlotte Evans	30/6/17	23:30 – 04.00 following day Alcohol, LNR, and Regulated Entertainment Indoors only

Premises history

20. The premises consists of a restaurant within a railway arch on the ground floor of Arch 25 in Old Union Yard Arches SE1.
21. The premises licence was granted to Sefardi Ltd on 8 June 2016. The NOD is attached as Appendix C.

Premises Licence

22. Details of current premises licence:

- **Opening hours of the premises**
Monday to Sunday 07:00 - 23:30
- **Films - indoors**
Thursday to Saturday 21:00 - 23:00
- **Recorded music - indoors**
Thursday to Saturday 21:00 - 23:00

- **Sale by retail of alcohol to be consumed on premises**
Monday to Friday 12:00 - 23:30
Saturday and Sunday 10:00 - 23:30.

23. The current premises licence is attached as Appendix D.

Licensing visit history

A visit was carried out by an enforcement officer whilst operating under a TEN on 1 April 2016 at 21:45. The officer reported no issues.

The local area.

24. A map showing the location of the premises is attached to this report as Appendix E. The premises are identified at the centre of the circle on the map.

Policy considerations

25. Section 4 of the Southwark statement of licensing policy on “administration, exercise and delegation of function” deals with the parameters under which TENs may be considered.

Consideration by the sub-committee

26. The sub-committee is asked to consider whether the issue of a counter notice is necessary for the promotion of the prevention of public nuisance and protection of public safety licensing objectives.

Community impact statement

27. Members are advised that under the Act, the matters to which consideration may be given in this instance are the crime and disorder and public nuisance objectives.

28. In considering the TENs in terms of community impact the sub-committee must restrict its considerations to this matter.

Resource implications

29. A fee of £21.00 has been paid by the applicant in respect of the TEN, this being the statutory fee payable.

Consultation

30. The Act provides for no consultations to take place other than the process outlined in this report.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

31. The sub-committee is asked to determine the notification of this temporary event under Section 105 of the Licensing Act 2003 and to consider whether or not a

counter notice should be issued in the circumstance. It must only issue a counter notice if they believe the event would undermine the crime prevention objective set out in the Act

32. The principles which sub-committee members must apply are set out below.

Principles for making the determination

33. The general principle is that temporary event notices must be accepted unless a relevant objection is received from the police. This is subject to the proviso that the premises user has complied with regulations and submitted the notice within a prescribed time.
34. A relevant objection is that which:
- Is about the likely effect of the TEN on the promotion of the crime prevention of the licensing objectives
 - Is made by the metropolitan police
 - Has not been withdrawn
 - Are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
35. If a relevant objection notice is received then the sub-committee must have regard to it in determining whether it is necessary for the promotion of the prevention of crime prevention and the prevention of public nuisance licensing objectives of the Licensing Act to:
- Issue a counter notice by adding to, omit, and/or alter the conditions of the licence or
 - Reject the whole or part of the application for TEN.

Conditions

36. The sub-committee may attach conditions on the carrying on of permitted licensable activities. The sub-committee's function is to determine whether a counter notice should be issued.
37. Members are also referred to the Home Office revised guidance on conditions.

Reasons

38. The sub-committee must give reasons for its decision to issue or not to issue a counter notice.

Hearing procedures

39. Subject to the licensing hearing regulations, the licensing committee may determine its own procedures. Key elements of the regulations are that:
- The hearing shall take the form of a discussion led by the authority. Cross examination shall not be permitted unless the authority considered that it is required for it to consider the objection.

- Members of the authority are free to ask any question of any party or other person appearing at the hearing.
 - The committee must allow the parties an equal maximum period of time in which to exercise their rights to:
 - Address the authority
 - If given permission by the committee, question any other party.
 - In response to a point which the authority has given notice it will require clarification, give further information in support of their submission.
 - The committee shall disregard any information given by a party which is not relevant:
 - To the particular submission before the committee
 - To the licensing objectives prevention of crime and disorder.
 - The hearing shall be in public, although the committee may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in private.
 - In considering the objection and notice the authority may take into account documentary or other information produced by a party in support of their objection or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.
40. This matter relates to the determination of a notification for a temporary event notice under section 105 of the Licensing Act 2003. Regulation 26(1) (c) requires the sub-committee to make its determination at the conclusion of the hearing.
41. Members should note that the licensing sub-committee is meeting on this occasion solely to perform the role of licensing authority. The sub-committee sits in quasi-judicial capacity, and must act impartially. It must offer a fair and unbiased hearing of the application. In this case, members should disregard the council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the licensing law, guidance and the council's statement of licensing policy.
42. As a quasi-judicial body the licensing sub-committee is required to consider the temporary event notice on its merits. The sub-committee must take into account only relevant factors, and ignore irrelevant factors. 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. The licensing sub-committee must give fair consideration to the contentions of the police objection.
43. Members will be aware of the council's code of conduct which requires them to declare personal and prejudicial interests. The code applies to members when

considering licensing applications. In addition, as a quasi-judicial body, members are required to avoid both actual bias, and the appearance of bias.

44. Under the Human Rights Act 1998, the sub committee needs to consider the balance between the rights of the applicant and those making the objection to the application when making their decision. The sub-committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the borough.
45. Where the relevant counter notice under section 105(3) is given the premises user may appeal against that decision. Where a counter notice is not given, the chief officer of police may appeal against that decision. The appeal must be made to the Magistrates' Court within a period of 21 days beginning with the day on which the applicant was notified by the licensing authority of the decision to be appealed against. No appeal may be brought later than five working days before the day on which the event begins.

Guidance

46. Members are required to have regard to the Home Office revised guidance in carrying out the functions of licensing authority. However, guidance does not cover every possible situation, so long as the guidance has been properly and carefully understood, members may depart from it if they have reason to do so. Full reasons must be given if this is the case.

Strategic Director of Finance and Governance

47. The head of regulatory services has confirmed that the costs of this process over and above the application fee are borne by the service.

REASONS FOR URGENCY

48. The TENs process is time limited, and due to legislative time constraints it would not be possible to wait for a further meeting to be held to consider this report.

REASONS FOR LATENESS

49. The TENs process is time limited and there was not sufficient time to prepare and clear the report in time for the main agenda dispatch.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Licensing Act 2003 Home Office revised guidance Secondary Regulations Statement of Licensing Policy Various papers from the premises file.	Licensing Unit Hub 2 Third Floor 160 Tooley Street SE1 2TZ	Kirty Read (020 7525 5748)

APPENDICES

No.	Title
Appendix A	The temporary event notice
Appendix B	Environmental protection team representation
Appendix C	Notice of decision from 8 June 2016
Appendix D	Premises licence
Appendix E	Map of local area

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Environment and Social Regeneration		
Report Author	Mark Orton, Licensing Enforcement Officer		
Version	Final		
Dated	8 May 2017		
Key Decision?	No		
CONSULTATION WITH OTHER OFFICERS/DIRECTORATES/CABINET MEMBER			
Officer Title	Comments sought	Comments included	
Director of Law and Democracy	Yes	Yes	
Strategic Director of Finance and Governance	Yes	Yes	
Cabinet Member	No	No	
Date final report sent to Constitutional Team		8 May 2017	

02/05/2017

Business - Temporary events notices

Ref No. 811240

Before completing this notice please read the guidance notes at the end of the form.

You should keep a copy of the completed notice for your records. You must send at least one copy of this notice to the licensing authority and additional copies must be sent to the chief officer of police and the local authority exercising environmental health functions for the area in which the premises are situated. The licensing authority will give to you written acknowledgement of the receipt of the notice.

I, the proposed premises user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry on a temporary activity at the premises described below.

1. Your name

Title	Miss
If other, Please state	
Surname	Evans
Firstname(s)	Charlotte

2. Previous names

Title	
If other, Please state	
Surname	
Firstname(s)	

3. Your date of birth

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4. Your place of birth

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5. National Insurance Number

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6. Your current address (We will use this address to correspond with you unless you complete the separate correspondence box below)

Address Line 1	
Address Line 2	
Town	

County	
Post code	

Note 1

A temporary event notice may only be given by an individual and not, for example, by an organisation or club or business. The individual giving the notice is the proposed "premises user". Within businesses, clubs or organisations, one individual will therefore need to be identified as the proposed premises user. If you include an e-mail address in section 1(7) or 1(9), the licensing authority may send to this the acknowledgement of receipt of your notice or any notice or counter notice it is required to give under sections 104A, 106A or 107 of the Licensing Act 2003.

7. Other contact details

	Telephone numbers:
Daytime	
Evening (optional)	
Mobile (optional)	
Fax number (optional)	
E-Mail Address	

8. Alternative address for correspondence (If you complete the details below, we will use this address to correspond with you)

Address Line 1	Bala Baya
Address Line 2	Arch 25 Union Yard Arches 229 Union Street
Town	London
County	London
Post code	SE1 0LR

9. Alternative contact details (if applicable)

	Telephone numbers:
Daytime	
Evening (optional)	
Mobile (optional)	
Fax number (optional)	
E-Mail Address	

Please give the address of the premises where you intend to carry on the licensable activities or if it has no address give a detailed description (including the Ordnance Survey references) (Please read note 2)

Address Line 1	Bala Baya Arch 25 Old Union Yard Arches
Address Line 2	229 Union Street
Town	London

County	
Post code	SE1 0LR

Ordnance Survey grid reference

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If there is no recognised Post code, please enter the address for the premises

Address Line 1	
Address Line 2	
Town	
County	

Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)? If so, please enter the licence or certificate number below.

Premises licence number	851909
Club premises certificate number	

If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below. (Please read note 3)

--	--

Please describe the nature of the premises below. (Please read note 4) *

	Bi-level Tel-Aviv style eatery and bar for Israeli dishes in both casual and upscale dining areas.
--	--

Please describe the nature of the event below. (Please read note 5)

	Bala Baya Late Night - offering entertainment, drinks and dancing to our customers
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If the event is situated in a park or in part of a larger premises, please upload the site location plans. Other documents such as risk assessments can also be uploaded here

Document 1	
Document 2	
Document 3	
Document 4	
Document 5	

Note 2

For the purposes of the Licensing Act 2003, “premises” means any place. Premises will therefore not always be a building with a formal address and postcode. Premises can include, for example, public parks, recreation grounds and private land.

If a premises licence or club premises certificate has effect in relation to the premises (or any part of the premises) which you want to use to carry on licensable activities, it is possible that any conditions which apply to the licence or certificate may be imposed on the temporary event notice if certain pre-conditions are met. These pre-conditions are that the police or the local authority exercising environmental health functions object to the notice and the licensing authority decides:

- not to give a counter notice under section 105 of the Licensing Act 2003;
- the conditions apply to the licence or certificate; and
- the imposition of the conditions on the notice would not be inconsistent with the carrying on of the licensable activities under the notice.

Note 3

A temporary event notice can be given for part of a building, such as a single room or a plot within a larger area of land. You should provide a clear description of the area in which you propose to carry on licensable activities. This is important as any licensable activities conducted outside the area of the premises protected by the authority of this temporary event notice would be unlawful and could lead to prosecution. In addition, when holding the proposed event, the premises user would need to be able to restrict the number of people on the premises at any one time when licensable activities are taking place to less than 500.

If more than 499 are on the premises when licensable activities are being carried on, the licensable activities would be unlawful and the premises user would be liable to prosecution. The maximum figure of 499 includes, for example, staff, organisers, stewards and performers.

Note 4

A description of the nature of the premises assists the chief officer of police and local authority exercising environmental health functions in deciding if any issues relating to the licensing objectives are likely to arise. You should state clearly that the premises to be used are, for example, a public house, a restaurant, an open field, a village hall or a beer tent.

Note 5

A description of the nature of the event similarly assists the chief officer of police and local authority exercising environmental health functions in making a decision as to whether or not to make an objection. You should state clearly that the event taking place at the premises would be, for example, a wedding with a pay bar, the supply of beer at a particular farmers' market, a discotheque, the performance of a string quartet, a folk group or a rock band.

Please state the licensable activities that you intend to carry on at the premises (please check next to the licensable activities you intend to carry on). (Please read note 6)

	<input type="checkbox"/> The sale by retail of alcohol <input type="checkbox"/> The provision of regulated entertainment <input type="checkbox"/> The provision of late night refreshment
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Please state the dates on which you intend to use these premises for licensable activities. (Please read note 8)

	Friday 30th June - Saturday 1st July
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Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock). (Please read note 9)

	23:30 - 4:00
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Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 10)

	250
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If the licensable activities will include the supply of alcohol, please state whether the supplies will be for consumption on or off the premises, or both (please check next to the appropriate box). (Please read note 11)

	On the premises only
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Note 6

The licensable activities are:

- the sale by retail of alcohol;
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of a club;
- the provision of regulated entertainment; and
- the provision of late night refreshment.

Please refer to Schedules 1 and 2 to the Licensing Act 2003 for fuller details of the definitions and exemptions relating to regulated entertainment and late night refreshment.

Regulated entertainment, subject to specified conditions and exemptions, includes:

- a performance of a play;
- an exhibition of a film;
- an indoor sporting event;
- a boxing or wrestling entertainment;
- a performance of live music;
- any playing of recorded music;
- a performance of dance;
- entertainment of a similar description to that falling within (e), (f) or (g).

Regulated entertainment also includes the provision of "entertainment facilities" for:

- making music;
- dancing; and
- entertainment of a similar description to that falling within (a) or (b).

If you are uncertain whether or not the activities that you propose are licensable, you should contact your licensing authority for further advice.

Note 7 (not including the date that the form is submitted and the date of the Event)

Late notices can be given no later than 5 working days but no earlier than 9 working days before the event in relation to which the notice is given. A late notice given later than 5 working days before the event to which it relates will be returned as void and the activities described in it will not be authorised.

The number of late notices that can be given in any one calendar year is limited to 5 for personal licence holders and 2 for non-personal licence holders. These count towards the total number of temporary event notices (i.e. 50 temporary event notices per year for personal licence holders and 5 temporary event notices for non-personal licence holders).

If there is an objection from either the police or local authority exercising environmental health functions, the event will not go ahead and a counter notice will be issued.

Note 8

The maximum period for using premises for licensable activities under the authority of a temporary event notice is 168 hours (seven days).

Note 9

You should state here the times during the event period, for example 48 hours, when you intend to carry on licensable activities. For example, you may not intend to carry on licensable activities throughout the entire 48

hour event period, and may intend to sell alcohol between 8.00 hrs and 23.00 hrs on each of the two days.

Note 10

No more than 499 may be on the premises for a temporary event at any one time when licensable activities are being carried on. If you intend to have more than 499 attending the event, you should obtain a premises licence for the event. Your licensing authority should be able to advise you. The maximum figure of 499 does not just include the audience, spectators or consumers and includes, for example, staff, organisers, stewards and performers who will be present on the premises.

Note 11

If you indicate that alcohol will be supplied only for consumption on the premises, you would be required to ensure that no person leaves the premises with alcohol supplied there.

If such a supply takes place, the premises user may be liable to prosecution for carrying on an unauthorised licensable activity. Similarly, if the premises user gives notice that only supplies of alcohol for consumption off the premises will take place, he/she must ensure that alcohol supplied is not consumed on the premises. The premises user is free to give notice that he/she intends to carry on both types of supplies. For this purpose the supply of alcohol includes both of the first two licensable activities listed in note 6 above.

Do you currently hold a valid personal licence?

	No
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If "Yes"; please provide the details of your personal licence below.

Issuing licensing authority	
Licence number	
Date of issue	
Date of expiry	
Any further relevant details	

Note 12

The holder of a valid personal licence issued under the Licensing Act 2003 may give up to 50 temporary event notices in any calendar year subject to the other limitations in the 2003 Act. A proposed premises user who holds such a licence should give the details requested.

Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice?

	Yes
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If answering yes, please state the number of temporary event notices you have given for events in that same calendar year

	1
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Have you already given a temporary event notice for the same premises in which the event period:

a) ends 24 hours or less before; or	No
b) begins 24 hours or less after	No

Note 13

As stated under Note 12, a personal licence holder (issued under the Licensing Act 2003) may give up to 50 temporary event notices (including 5 late notices) in any calendar year. An individual who does not hold a personal licence may only give 5 temporary event notices (including 2 late notices) in England and Wales in any calendar year. A calendar year is the period between 1 January to 31 December inclusive in any year. If an event straddles two calendar years, it will count against the limits on temporary event notices (12 for each premises, 21 days for each premises, 50 per personal licence holder and 5 for non-holders) for each year, however, only one notice needs to be given.

For the purposes of determining the overall limits of 50 temporary event notices per personal licence holder (in a calendar year) and of 5 for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count towards those totals. Note 14 below sets out the definition of an "associate".

If a temporary event notice has been given for the same premises, by the same premises user, and would have effect within 24 hours before the start of the event period under the current proposal or within 24 hours after the end of that period, the temporary event notice given would be void and any licensable activities carried on under it would therefore be unlicensed.

For the purposes of determining whether or not the required gap of 24 hours is upheld, temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count as if they had been given by the premises user himself. Note 14 below sets out the definition of an "associate".

Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?

	No
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If answering yes, please state the total number of temporary event notices your associate(s) have given for events in the same calendar year

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Has any associate of yours already given a temporary event notice for the same premises in which the event period:

a) ends 24 hours or less before; or	No
b) begins 24 hours or less after	No

Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?

	No
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If answering yes, please state the total number of temporary event notices your business colleague(s) have given for events in the same calendar year.

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Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period:

a) ends 24 hours or less before; or	No
b) begins 24 hours or less after	No

Note 14

An "associate" of the proposed premises user is:

- a. the spouse of that person;
- b. a child, parent, grandchild, grandparent, brother or sister of that person;
- c. an agent or employee of that person; or
- d. the spouse of a person within (b) or (c).

For these purposes, a person living with another as that person's husband or wife is to be treated as that person's spouse.

These provisions will be subject to amendment by the Civil Partnerships Act. These amendments are due to take effect from 5th December 2005.

I shall

	<p>If the premises are situated in one or more licensing authority areas, send at least one copy
 of this notice to each additional licensing authority</p> <p>If the premises are situated in one or more police areas, send a copy of this notice
 to each additional chief officer of police</p> <p>If the premises are situated in one or more local authority areas, send a copy of this notice to each additional
 local authority exercising environmental health functions</p>
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Note 15

It is a requirement that you send at least one copy of this notice to the licensing authority at least ten working days (not including the date that the form is submitted and the date of the Event) (or five working days for a late notice) (not including the date that the form is submitted and the date of the Event) before the commencement of the proposed licensable activities.

The authority will give you written acknowledgement of the receipt of the notice. This will be important proof that you gave the notice and when you gave it for the purposes of the Act. Some premises may be situated in two licensing authority areas, for example, where a building or field straddles the local authority boundary.

Where this is the case, at least one copy of the notice must be sent to each of the licensing authorities identified, together with the appropriate fee in each case. In such circumstances, you will receive acknowledgements from all the relevant licensing authorities.

One copy must be sent to each of the chief officer of police and the local authority exercising environmental health functions for the area in which the premises is situated at least ten working days for a standard notice (or five working days for a late notice) before the commencement of the proposed licensable activities. Where the premises are situated in two police areas or environmental health areas, a further copy will need to be sent to the second police force and local authority exercising environmental health functions.

The information contained in this form is correct to the best of my knowledge and belief.

I understand that it is an offence:

- (i) to knowingly or recklessly make a false statement in connection with this temporary event notice and that a person is liable on conviction for such an offence to a fine up to level 5 on the standard scale; and

(ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on conviction for any such offence to a fine not exceeding £20,000, or to imprisonment for a term not exceeding six months, or to both

I agree to the above statement

	I agree
PaymentDescription	Bala Baya Arch 25 Old Union Yard Arches, 229 Union Street, SE1 0LR
PaymentAmountInMinorUnits	
AuthCode	
LicenceReference	
PaymentContactEmail	

Note 17

It is an offence knowingly or recklessly to make a false statement in, or in connection with, a temporary event notice. (A person is to be treated as making a false statement if he produces, furnishes, signs or otherwise makes use of a document that contains a false statement). To do so could result in prosecution and a fine not exceeding level 5 on the standard scale.

The information you provide will be used fairly and lawfully and Southwark Council will not knowingly do anything which may lead to a breach of the Data Protection Act 1998.

From: [Regen, Licensing](#)
To: [Orton, Mark](#)
Cc: [McCarthy, Debbie](#)
Subject: FW: TEN objection - Bala Baya, Arch 25 Union Street
Date: 05 May 2017 15:37:57
Attachments: [811240.pdf](#)

From: Prickett, Mark
Sent: Friday, May 05, 2017 3:33 PM
To: Regen, Licensing
Cc: [REDACTED]; Mills, Dorcas; Orton, Mark
Subject: TEN objection - Bala Baya, Arch 25 Union Street

Dear Licensing,

The Environmental Protection Team (EPT) have reviewed TEN application for Bala Baya, Arch 25 Old Union Yard Arches, 229 Union Street, SE1 0LR.

The event is for “Bala Baya Late Night - offering entertainment, drinks and dancing to our customers”, seeking the sale by retail of alcohol, provision of regulated entertainment and provision of late night refreshment between Friday 30th June 23:30 – 04:00 Saturday 1st July 2017.

EPT **raise objection** to this TEN application.

Site context

The arch was granted A3 class (restaurant) planning permission in October 2014 through planning application number 14/AP/1935.

Condition 5 of the planning permission restricts the use of Arch 25 to between the hours of 07:00 – 23:30 on any day, in order to safeguard the amenity of neighbouring residential properties.

Details of the planning application can be found here:

http://planbuild.southwark.gov.uk:8190/online-applications/applicationDetails.do?activeTab=summary&keyVal=_STHWR_DCAPR_9555112

The premises licence for Arch 25 was granted under licence number 851909 in June 2016. The opening times sought of the licence mirrored the hours agreed through planning (as stated above). The licence also restricts recorded music to be played indoors until 23:00 on Thursdays to Saturdays.

Reasons for objection

Southwark's Noise & Nuisance received a noise complaint from a residential neighbour at 22:58 on Thursday 30/3/2017 regarding loud audible music being emitted from the Bala Baya premises.

A Noise & Nuisance Team officer visited the complainants property at 00:10 on Friday

31/3/2017 and witnessed a statutory nuisance being caused due to the level of intrusion from music and people noise being emitted from the Bala Baya premises. The noise officer visited the premises at 00:30 to discuss through with the manager.

In summary, the noise officer witnessed the premises open and the playing of recorded music beyond the permitted times stated on the premises licence which subsequently caused a statutory noise nuisance.

Taking into account the above, EPT have strong concerns that if this TEN event were to be granted then further noise nuisance will be caused and therefore object to this application with regards to the prevention of public nuisance licensing objection. The hours stipulated on the premises licence (and the planning application) are relevant considering the location of the arch premises and the proximity of residential neighbours.

EPT also object based on the crime and disorder licensing objective, whereas granting the TEN application will be in breach of planning law. The event will exceed the hours stipulated on the planning application, furthermore the event planned is for drinking, dancing and entertainment which is considered to be contrary to a A3 (restaurant) use class.

Kind regards,

Mark Prickett
Principal Enforcement Officer
Environmental Protection Team
Tel: 020 7525 0023

Postal address: Southwark Council, Environmental Protection Team, Regulatory Services, 3rd Floor Hub 1, PO Box 64529, London, SE1P 5LX

Office address (By appointment only): Southwark Council, 160 Tooley Street, London, SE1 2QH

visit: <http://www.southwark.gov.uk/air-quality>

<http://www.llecp.org.uk/> - London Low Emission Construction Partnership



Please consider the environment - do you really need to print this email?



NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 8 JUNE 2016

LICENSING ACT 2003: BALABAYA, 25 OLD UNION ARCHES, 229 UNION STREET, LONDON SE1 0LR

1. Decision

That the application by Sefardi Limited for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Balabaya, 25 Old Union Arches, 229 Union Street, London SE1 0LR is granted as follows:

Licensable Activity	Hours
Films (indoors)	Thursday to Saturday from 21:00 to 23:00
Recorded music (indoors)	Thursday to Saturday from 21:00 to 23:00
Supply of alcohol (on the premises)	Monday to Friday from 12:00 to 23:30 Saturday and Sunday from 10:00 to 23.30
Opening hours	Monday to Sunday from 07:00 to 23:30

2 Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operation schedule highlighted in Section M of the application form and the conditions conciliated with the responsible authorities and the following additional condition:

1. That the supply of alcohol at the premises shall only be to persons seated taking a table or bar meal and for consumption by such persons as ancillary to their meal.

3 Reasons

The reasons for the decision are as follows:

The licensing sub-committee heard from the applicant who stated that this was a food led establishment and provided details of the business concept. He explained that this was a modern take on a Middle-Eastern restaurant and that the dishes served would adopt a sharing concept. They had made very substantial investments into the kitchen and used this to set out their commitment to follow their business plan.

They advised that due to the nature of the food being served that some flexibility would be required in order for them to ensure compliance with conditions that may be applied to the licence. The applicant acknowledged that the premises fall within a cumulative impact zone and demonstrated a commitment to maintaining the safety of both his patrons and the general public.

The licensing sub-committee noted that the police had conciliated with the applicant prior to the hearing.

The licensing sub-committee heard from this council's licensing responsible authority who stated that the premises were situated in a cumulative impact zone. They added that they felt that a condition relating to alcohol being served with a table meal was required in order that the premises did not turn into a vertical drinking establishment in the future.

The licensing sub-committee having heard the evidence from both parties considered that the above condition would properly address the concerns of the licensing authority and make sure that the licensing policy had been properly considered and administered. The licensing sub-committee would like to emphasise that snacks such as olives, nuts or crisps do not constitute a meal.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate.

4 Appeal rights

The applicant may appeal against any decision:

- a) To impose conditions on the licence
- b) To exclude a licensable activity or refuse to specify a person as premises supervisor.

Any person who made relevant representations in relation to the application who desire to contend that:

- a) The licence ought not to be been granted; or
- b) That on granting the licence, the licensing authority ought to have imposed different or additional conditions to the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the Magistrates' Court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

Issued by the Constitutional Team on behalf of the Director of Law and Democracy

Date: 8 June 2016

Licensing Act 2003 Premises Licence

23

APPENDIX D



Regulatory Services
Licensing Unit
Hub 1, 3rd Floor
PO Box 64529
London, SE1P 5LX

Premises licence number

851909

Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description	
Balabaya Arch 25, Old Union Yard Arches 229 Union Street London SE1 0UR	
Ordnance survey map reference (if applicable), 179976531845	
Post town London	Post code SE1 0UR
Telephone number	

Where the licence is time limited the dates
--

Licensable activities authorised by the licence
Films - Indoors Recorded Music - Indoors Sale by retail of alcohol to be consumed on premises

The opening hours of the premises	
For any non standard timings see Annex 2	
Monday	07:00 - 23:30
Tuesday	07:00 - 23:30
Wednesday	07:00 - 23:30
Thursday	07:00 - 23:30
Friday	07:00 - 23:30
Saturday	07:00 - 23:30
Sunday	07:00 - 23:30

Where the licence authorises supplies of alcohol whether these are on and/ or off supplies
Sale by retail of alcohol to be consumed on premises

The times the licence authorises the carrying out of licensable activities

For any non standard timings see Annex 2 of the full premises licence

Films - Indoors

Thursday	21:00 - 23:00
Friday	21:00 - 23:00
Saturday	21:00 - 23:00

Recorded Music - Indoors

Thursday	21:00 - 23:00
Friday	21:00 - 23:00
Saturday	21:00 - 23:00

Sale by retail of alcohol to be consumed on premises

Monday	12:00 - 23:30
Tuesday	12:00 - 23:30
Wednesday	12:00 - 23:30
Thursday	12:00 - 23:30
Friday	12:00 - 23:30
Saturday	10:00 - 23:30
Sunday	10:00 - 23:30

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Sefardi Limited



Registered number of holder, for example company number, charity number (where applicable)



Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Samuel Shonn



Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Licence No.

Authority

Licence Issue date 08/06/2016

Head of Regulatory Services
Hub 2, 3rd Floor
PO Box 64529
London, SE1P 5LX
020 7525 5748
licensing@southwark.gov.uk

Annex 1 - Mandatory conditions

100 No supply of alcohol may be made under the Premises Licence -

- (a). At a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or
- (b). At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.

101 Every supply of alcohol under the Premises Licence must be made, or authorised by, a person who holds a Personal Licence.

102 The admission of children to films given under this licence must be restricted in accordance with the recommendations of the British Board of Film Classification or of the licensing authority itself.

485 (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -

(a) games or other activities which require or encourage, or are designed to require, encourage, individuals to -

- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
- (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional poster or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner; and

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

487 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

489 The responsible person shall ensure that -

(a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -

- (i) Beer or cider: 1/2 pint;
- (ii) Gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) Still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available,

491 1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purpose of the condition set out in paragraph (1):

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula

$$P = D + (D \times V),$$

where-

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
 - (i) the holder of the premises licence;
 - (ii) the designated premises supervisor (if any) in respect of such a licence; or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (iv) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (v) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax; (2) the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 - Conditions consistent with the operating Schedule

288 That a CCTV system be installed at the premises and be maintained in good working order and be continually recording at all times the premises are in use under the licence. The CCTV system must be capable of capturing an image of every person who enters the premises.

289 That all CCTV footage shall be kept for a period of 31 days and shall, upon request, be made immediately available to officers of the police and the council.

316 That deliveries, collections and servicing to take place between

7am and 9pm - Monday to Saturday

9am and 8pm - Sunday and Bank Holiday

340 That the outside area will not be used outside of the following hours

7am and 9pm - Monday to Friday

9am and 9pm - Saturday, Sunday and Bank Holiday

341 An incidents log shall be maintained and details of all age related refusals or incidents of crime or disorder recorded and reported accordingly.

4AG The premises shall operate a Challenge 25 policy whereby customers purchasing alcohol who look or appear to be under 25 years of age will be asked for an approved form of proof of age to verify their age. Approved forms shall include a driving licence, passport or PASS approved proof of age card such as the Southwark Proof of Age (PAL) card.

4AB All staff involved in the sale of alcohol shall be trained in the Challenge 25 policy. A record of their training, including the dates that each member of staff is trained and refresher training provided at six monthly intervals.

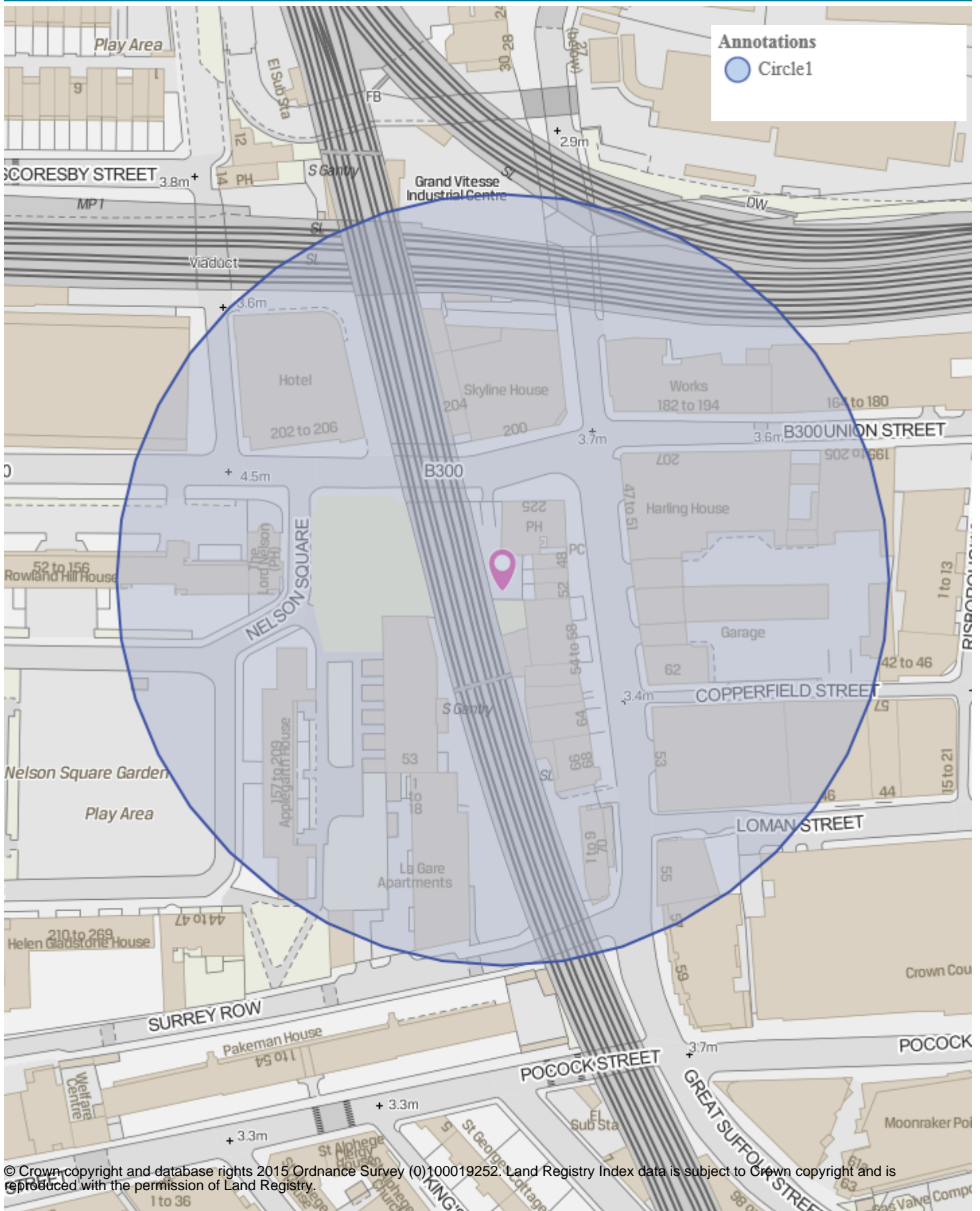
Annex 3 - Conditions attached after a hearing by the licensing authority

840 That the supply of alcohol at the premises shall only be to persons seated taking a table or bar meal and for consumption by such persons as ancillary to their meal.

Annex 4 - Plans - Attached

Licence No. 851909
Plan No. BUS_01B
Plan Date 11/04/16

Bala Baya, Old Union Yard Arches SE1



50 m

Scale = 1 : 1323.000

24-Apr-2017

Legal Services

LICENSING SUB-COMMITTEE DISTRIBUTION LIST (OPEN) MUNICIPAL YEAR 2016-17

NOTE: Original held by Constitutional Team; all amendments/queries to
Andrew Weir - Tel: 020 7525 7222

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Councillor Sandra Rhule	1	Mark Orton, licensing team	1
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Councillor David Hubber	By email		
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Councillor Lorraine Lauder	By email	Total printed copies: 8	
		Dated: 9 May 2017	