

From: Belfield, Peter
Sent: 16 September 2022 17:31
To: Licensing <licensing@trafford.gov.uk>

Subject: New Premises Licence Application - Beyond the Trees, Ashburton House, Trafford Park Road, Trafford Park, Manchester M17 1BN

Dear Licensing Team,

With reference to the above Application for a new Premises Licence, on behalf of a responsible authority (Environmental Health – Pollution and Housing Team), I wish to provide the following Representation detailing an objection to the proposed scope and operating schedule of the Licence in view of it potentially not being consistent with the Licensing Objective for the Prevention of Public Nuisance. My role in this matter primarily relates to issues of noise and nuisance that may arise from the proposal.

I note that the application proposes a New Premises Licence providing for the provision of plays, films, live music, recorded music, performances of dance, and anything of a similar description to live music, recorded music and performances of dance, both indoors and outdoors, with supply of alcohol, on any day at any time (24 hours) to facilitate an internal events space (first floor of Ashburton House) and an external events space (car parks) with an associated smoking area (the decking area for 'Six Trees').

Residential accommodation to the north (apartment blocks of Salford Media City) have a direct view of the premises above intervening buildings. A number of complaints have been made over the spring and summer this year by residents of these apartments about excessively loud music, including prominent low frequency bass, from regular outdoor music events taking place on the premises through the day and evening, and over consecutive days. These complaints have been supported by recordings indicating the receipt of loud intrusive music and bass at the complainants' premises.

It is envisaged that licensable activities taking place indoors can be managed appropriately such as by keeping doors and windows closed to minimise the escape of amplified sound from the building and by ensuring that internal sound levels are kept to a reasonable level.

Indeed the complaints received from Salford residents only relate to music from the outdoor sound systems that have operated through the

day and evening time. Licensable activities for such events have taken place to date under Temporary Event Notices (TENs) which specified a curfew for outdoor entertainment at 22:30 with indoor entertainment continuing thereafter, typically to 06:00.

The proposed scope of the licence would enable outdoor music events to take place on the outside car parks in an unrestricted fashion, with no limits on the time, duration and curfew of the event and numbers of events per year.

Clearly outdoor music events continuing into the night hours would be unacceptable due to the substantially increased risk of adverse impact, should residents not be able to rest or sleep as they may reasonably wish to do at that time.

I emailed the applicant Mr Oliver on 2 September 2022 to advise of a complaint about music noise from outdoor events on his premises and request that action is taken to control music levels, particularly low frequency bass, this being the main issue of the complaint. I subsequently installed a noise monitoring and recording device within the resident's apartment over the weekend of 10 and 11 September to cover an outdoor event taking place on both those days. The resident advised that compared to prior events, bass levels had reduced, and on assessment of the recordings made I concluded that music noise levels were audible, characterised by bass beat, but not especially prominent over the residual ambient noise environment.

Outdoor events authorised by TEN have been taking place as frequently as every 2 or 3 weeks, often over consecutive days e.g. both Saturday and Sunday, which is considered an unreasonable number, bearing in mind that bass beat from such events is audible at residential receptors. It would appear that the regularity of events and scheduling of events over consecutive days has resulted in cumulative impacts and a reduced tolerance to the audibility of noise emanating from the premises.

The accompanying Operating Schedule to the application details a number of conditions with the intention of restricting the duration and curfew of outdoor events taking place within the external events space, but not in relation to the scheduling of such events in terms of numbers of event days through the year.

Should the external events space be licensed for alcohol ‘on’ sales, then such conditions would not be enforceable, in view of the Live Music Act 2012 and subsequent amendments deregulating all licensing requirements for live and recorded music being played for an audience of no more than 500 and no later than 23:00, providing an alcohol ‘on’ licence has been obtained for the premises.

Furthermore, the operating schedule suggests a number of general conditions relating to the prevention of noise and vibration nuisance that wouldn’t also be enforceable until 23:00 for this reason, thus any outdoor music event previously authorised by a TEN would not be subject to any music noise related requirements, should the Licence be granted as applied for.

I would therefore object to any granting of an alcohol ‘on’ licence to the proposed external events space unless the Licensing Authority can make a determination that conditions on the premises licence relating to live or recorded music will apply between 08:00 and 23:00 i.e. no deregulation under the aforementioned Act and amendments would apply. If this can be arranged, then I would be supportive of the operating schedule with the addition of two conditions to address the matters explained below.

Applicable guidelines (Noise Council’s Code of Practice on Environmental Noise Control at Concerts, 1995) provide recommendations on appropriate noise limits for any outdoor premises holding up to 12 concert days per year. It is therefore considered that, having regard to this Code of Practice, a limit of 12 event days per year should be applied to outdoor events involving live and/or recorded music as regulated entertainment under the proposed Licence.

A Noise Management Plan (NMP) should be prepared detailing how outdoor sound systems, including low frequency noise and bass beat, are to be managed in order to ensure that music noise does not cause nuisance at residential positions, having regard to the advice of the Code of Practice. The application is not supported by a detailed NMP, therefore any granting of the applied for Licence must be subject to a condition to require it to be submitted and approved by the Licensing Authority.

The schedule of conditions relating to the prevention of public nuisance that is supportable would appear as follows, with my additional requested conditions in **bold**.

A. General

Use of the external event space

- 1. Outdoor regulated entertainment consisting of live and/or recorded music shall take only place for a maximum of 12 event days per calendar year**
2. On the occasion that the external event space of the licensed premises is being used to host an event, it shall open no earlier than 11:00hrs and close no later than 23:00hrs Monday to Sunday.
3. All licensable activities (the sale of alcohol and regulated activities) taking place in the external event space may start at 11 :00hrs and shall terminate 30 minutes before its close, Monday to Sunday.
4. On New Year's Eve, the external event space may also operate licensable activities (the sale of alcohol and regulated activities) from the end of its standard permitted hours until 01:00hrs on the morning of New Year's Day, plus thirty minutes for dispersal.

D. The Prevention of Public Nuisance

General noise and nuisance

- 37. Regulated entertainment shall be conducted in accordance with a Noise Management Plan (NMP) that has been approved in writing by the Licensing Authority**
38. All external windows and internal doors must be kept shut at all times when regulated entertainment is being provided. Doors may be opened for normal entrance and egress of people but must be shut immediately thereafter.
39. Noise from amplified music or voices shall not be such as to cause a noise nuisance to occupants of nearby premises.
40. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

41. The exterior of the premises shall be cleared of litter at regular intervals.
42. The emptying of bins into skips and refuse collections will not take place between 11pm and 7am.
43. The external events space, smoking and dispersal
44. A Dispersal Policy will be implemented and adhered to in relation to the operation of the premises and will be amended as necessary on an event-by-event basis.
45. A Management of the External Area and Smoking Policy will be implemented and adhered to in relation to the operation of the premises.
46. There shall be a delineated designated smoking area/areas available whilst the premises is being used.
47. Patrons permitted to temporarily leave and then re-enter the premises to smoke will be restricted to a delineated designated smoking area.
48. Patrons will not be permitted to remove from the premises any alcoholic drinks supplied by the premises except for consumption in any delineated external smoking area.

[I have attempted to renumber the conditions to accommodate the additional requested conditions but appreciate the final numbered list may be different].

I have copied in the applicant's agent for their information and would invite them to agree for the proposed amendments to the Operating Schedule conditions detailed above, in which case I can then be supportive of the application, subject to the determination for Live Music Act 2012 and amendments to dis-apply to the Licence.

At this stage however, I would request that you accept this formal objection and refer the matter for consideration at a forthcoming hearing of the Licensing Sub Committee. Please advise me of the arrangements in due course.

Regards,

Peter Belfield

Environmental Health Officer
Pollution & Housing Team, Regulatory Services, Trafford Council, Trafford Town Hall, Talbot Road, Stretford, Trafford M32 0TH.