

LICENSING SUB-COMMITTEE No. 1

Thursday 17 February 2012

Membership: Councillor Audrey Lewis (Chairman), Councillor Andrew Havery and Councillor Tim Mitchell

Legal Adviser: Peter Large

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Present: Mr David Matthias QC (representing Applicant – Environmental Health), Mr Andrew Ralph and Mr Phil McIlwain (Environmental Health), Ms Hayley Davies (Licensing Appeals Manager), Councillor Heather Acton and Councillor Jean-Paul Floru (Members for Hyde Park Ward), Councillor Glenys Roberts (Member for West End Ward), Ms Karen Scarborough (Hyde Park Estates Association representing Ms Asquith, Mrs Laura Levy, Mrs Susan Balgarnie, Mr Mark Davison, Mrs Joy Houston and Ms Jennifer Sheridan), Mr John Zamit (South East Bayswater Residents Association and Bayswater Residents Association), Mr Mike Dunn (Mayfair Residents Group), Mr Keith Stuart Smith (The Marylebone Association), Mr Cohen (representing his mother Ms M Cohen), Mr Steve Sonnis, Ms Jennifer Sheridan, Ms Julia Thayer, Mrs Saunders (local residents in support of review application), Mr Steven Walsh QC and Mr Alun Thomas (Representing Licence Holder, Royal Parks Agency), Mr Colin Buttery (Acting Chief Executive, Royal Parks Agency), Mr Adam Farrer (Head of Events, Royal Parks Agency), Mr Gerald Gouriet QC (representing Live Nation), Mr John Probyn (Chief Operating Officer, Live Nation), Sir Edward Lister (Greater London Authority), Mr John Giddings (Managing Director of Solo Promotions), Mr Bernard Berry, Mr Jim Griffiths and Mr Brian Grant (Acousticians acting as witnesses for Licence Holder).

Hyde Park, Serpentine Road, W2

11/12334/LIREVP

An application for review of the Premises Licence for Hyde Park, Serpentine Road, London W2 2UH, was received by the Licensing Authority on the 15th December 2011. A review of the premises licence was sought on the grounds of public safety and the prevention of public nuisance.

Between June 2011 and September 2011, the Westminster City Council Noise Team received a large number of complaints in relation to Hyde Park. These complaints were from local residents and all complaints concerned the music emanating from live music events.

A total of 109 complaints have been made in 2011 to date. 106 of these related to the

summer concerts and 3 related to other park events.

Guidance issued under section 182 of the Licensing Act 2003 (Para 11.2) states that at any stage following the grant of a premises licence, a responsible authority, such as the Police or Environmental Health, or an interested party such as a resident living in the vicinity of the premises, may ask the licensing authority to review the licence of a matter arising at the premises in connection with any of the four licensing objectives.

As such, in accordance with section 52(2) of the above-mentioned Act, the Licensing Authority must hold a hearing to consider the application and any relevant representations.

The current activities permitted under the premises licence 11/07745/LIPDPS are:

- **Performance of Dance**
- **Provision of facilities for Dancing**
- **Provision of facilities for making Music**
- **Performance of Live Music**
- **Provision of facilities for entertainment of a similar description to making music or dancing**
- **Anything of a similar description to Live Music, Recorded Music or Performance of Dance**
- **Performance of a Play**

Monday to Saturday: 10:00 to 22:30

Exhibition of a Film

Monday to Thursday: 10:00 to 23:30

Friday to Saturday: 10:00 to 00:00

Sunday: 10:00 to 22:30

Sundays before Bank Holidays: 10:00 to 00:00

Playing of Recorded Music

Monday to Sunday: Unrestricted

Sale by Retail of Alcohol

Monday to Sunday: 12:00 to 22:30

13 Major Events per annum

30 minor Event (not defined as major) per annum 18:00 to 22:00

The Environmental Health Service brought the Review and requested the Licensing Sub Committee to add new conditions and amend existing conditions on the licence as follows which are to have immediate effect:

1) **To amend condition 54(d) to read:**

Throughout the duration of the events (including sound checks, rehearsals and concert performances) the Music Noise Level (MNL) shall not exceed 73 dB (LAeq 5 minute) at semi-permanent fixed monitoring

positions prescribed by Westminster City Council Environmental Health.

2) **To amend condition 64 to read:**

The Licence Holder shall make arrangements, to the satisfaction of Westminster City Council, for the cleansing of litter and waste in the vicinity of Hyde Park during and after events.

3) **To amend condition 20 to read:**

Unless the prior consent of the Environmental Health Consultation Team has been obtained, the premises may only hold Major Events on a maximum of **6 days** per year. These to be held in two blocks of no more than four consecutive events with a minimum of 2 months between each block.

4) **To amend condition 21 to read:**

Unless otherwise agreed with the City Council, the premises may hold Major events on no more than **four** days in any calendar year where the number of persons attending the event (excluding security, staff, performers and employees) exceeds **49,999**.

5) **To amend condition 11 to read: (*additional condition requested for amendment by EHS*)**

Unless otherwise agreed with the City Council, the total number of people to be accommodated for the purposes of this Licence, in any event site at any one time shall not be more than **64,999** (excluding security, staff, performers and employees)

In addition it was sought to add the following conditions to the licence:

- Throughout the duration of the events (including sound checks, rehearsals and concert performances) the Music Noise Levels (MNLs) shall not exceed 15dB (LAeq 5 minute) above background (Representative L_{A90} obtained on a number of equivalent days during the last 4 hours of the proposed concert time without the event running) or 65dB (LAeq 5 minute) whichever is the lowest). The MNL shall be assessed at measurement points greater than 1km to the north and 750 metres to the east (distance measured from the main stage mixer position). These measurement points will not be situated on trunk roads. All measurement points will be prescribed in the Noise Management Plan.
- Throughout the duration of the events (including sound checks, rehearsals and concert performances) the control limits set at the mixer position shall be adequate to ensure that the 63 Hz and 125 Hz octave frequency bands shall not exceed 75 dB (LZeq 15 minutes) as a result of Music Noise Level (MNL) beyond a 2Km radius (distance measured from the main stage mixer position). The 63 Hz and 125 Hz octave frequency bands shall be

assessed in a free field position at measurement points prescribed by Westminster City Council Environmental Health.

- At events of 30,000 capacity or less, any unnecessary delay towers will be switched off upon the reasonable request of the Environmental Health Consultation Team.
- The Licence Holder shall employ sufficient numbers of stewards/marshals as required by the size of the event to ensure that patrons leave the premises safely.
- Unless otherwise agreed, the Licensee must ensure an Egress Management Plan is presented to and agreed by the Hyde Park Licensing & Safety Advisory Group, or their authorised representative, no later than 28 days prior to the event. Please note: The Egress Management Plan may require the closure of Park Lane or other surrounding roads with the approval of the relevant authorities.

The Authority must have regard to the application and the representations, take such steps (if any) as it considers necessary for the promotion of the licensing objectives. The steps are:

- (a) to modify the conditions of the licence (modify, delete or add conditions);
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence.

Where the authority modifies the conditions or excludes a licensable activity from the scope of the licence it may provide that the modification or exclusion is to have effect permanently or for a period not exceeding 3 months.

The licensing authority's determination of this application does not have effect until the 21 day appeal period has expired or if the decision is appealed the date the appeal is determined and / or disposed of.

The Sub-Committee was initially addressed by Mr Matthias QC representing the Applicant, Environmental Health. Mr Matthias stated that the grounds for the review were primarily the prevention of public nuisance but also involved public safety. He took Members through the report and commented that there had been 109 noise complaints received as a result of Hyde Park events and 106 of these had been as a result of the concerts. 30 of these complaints had been received by The Royal Parks. The concerts were creating an unacceptable level of noise nuisance to residents in the vicinity of Hyde Park. Environmental Health were proposing conditions as part of the review application. The first of these was to reduce the level of the music at the concerts from a maximum of 75dB to 73dB (LAeq 5 minute) at the two semi-permanent fixed monitoring positions prescribed by Environmental Health. These monitoring positions were Grosvenor House Hotel and Odeon Cinema. Mr Matthias stated that 73dB was still exceedingly loud but that it was Environmental

Health's experience from previous events at Hyde Park that when the noise was between 70 to 73dB there were no complaints or very occasional complaints. 74 to 75dB on the other hand gave rise to multiple, synchronised complaints around the borough at the same time.

Mr Matthias informed Members that the Licence Holder had agreed Environmental Health's second proposed condition regarding the cleansing of litter and waste in the vicinity of Hyde Park during and after events. The third proposed condition, that 'unless the prior consent of the Environmental Health Consultation Team has been obtained, the premises may only hold Major Events on a maximum of 6 days per year. These to be held in two blocks of no more than four consecutive events with a minimum of 2 months between each block' had not been agreed by the Licence Holder'. The purpose of the condition was if events were reduced and had a gap between them residents would be more willing to tolerate the concerts. The Licence Holder was proposing a reduction to 9 events per year.

The fourth proposed condition to hold Major events on no more than four days in any calendar year where the number of persons attending the event (excluding security, staff, performers and employees) exceeds 49,999 was only acceptable to the Licence Holder if it was introduced in 2013 after the Olympic period and the concerts which had already been scheduled in the calendar. Environmental Health sought this condition being attached to the licence immediately. The fifth condition would reduce the capacity from 79,999 to 64,999. This was also acceptable to the Licence Holder providing it was introduced in 2013. Again Environmental Health was seeking for this condition to be attached to the licence immediately. There were five other conditions which had been agreed by the Licence Holder. These were designed to alleviate Environmental Health concerns including the monitoring of noise in side streets and ensuring that people left the concerts safely. Mr Matthias stated that there was footage of confusion for traffic caused by problems with people crossing busy roads when leaving the Park. Mr Walsh QC representing the Licence Holder confirmed briefly that Mr Matthias' description of his client's position regarding the conditions was correct apart from the fact that amendments were sought to the cleansing condition which would clarify where this should take place. A condition was agreed later in the meeting between Leith Penny, and Mr Adam Farrer of the Royal Parks Agency and was acceptable to the various parties (condition 64 listed below).

Mr Matthias added that in addition to there being an unacceptably high level of complaints, Environmental Health had recorded 24 occasions where the set music noise level of 75dB had been significantly breached. He took Members through the summary of events at Hyde Park listed in the report, including the number of complaints received for the events and the instances where the 75dB limit was breached. One of his key points was that residents were making complaints, having experienced noise nuisance, even when there had been no measured breaches, including at The Proms. This in his view demonstrated that the limit of 75dB was still too high.

Councillor Floru addressed the Sub-Committee. He stated that as the Ward Councillor for Hyde Park, this had been the issue where he had received most mail and been asked most questions. He requested that the Sub-Committee take further steps than those matters which had been agreed between the Applicant and the

Licence Holder. If an application was to be submitted now for music for 65,000 people it would not have received planning permission or a licence. Hyde Park had moved from small events to becoming a cheaper alternative to the O2. The events in Hyde Park had created a situation where the Royal Parks obtained all the benefits and the Council and residents were responsible for the costs including cleaning and loss of amenity. He agreed that the Royal Parks should be self-financing but only Hyde Park was used of the Royal Parks. There were a number of good proposals in the conditions but there were also a number of omissions. The cleansing condition needed to state the full area involved not just one or two streets. There also needed to be a condition for portaloos in the vicinity of Hyde Park as urination was a big problem. The number of events should be less than 6 and if the Licence Holder wanted more events than that, it should apply for a variation rather than it being at the discretion of Environmental Health. Councillor Floru also took the view that four events on consecutive days were too much as it affected young children. There should be no more than two consecutive events with at least a Sunday in between. A capacity of 65,000 was too much as it meant that Park Lane was closed off which was a main artery of the city and this should not be closed off every time there was a concert. He also proposed a reduction in the timings for sound checks, that any conditions be implemented immediately after the Olympics in September 2012, that they Hyde Park Safety Group.

Councillor Acton stated that it was not just residents but visitors to Hyde Park who suffered, including as a result of the barriers for events. She was requesting that there were no more than 5 events per annum. The 65,000 capacity being proposed had only been exceeded once in the past year. There was possibly some merit in having three different categories for attendance with a 65,000 capacity for some events, a 50,000 capacity for others and then one below 5,000. The proposal to reduce the noise limit to 73dB would be a minimal change as was shown in DEFRA research. 95dB at the mixing desk was excessive. Egress from the Park had been a problem after events with people leaping the fence, shouting and litter dropping in adjoining areas. Loos, recycling bins and keep quiet notices were required in these areas. Councillor Acton agreed with Councillor Floru that there should be no more than two consecutive days of events.

The Sub-Committee heard from Mr Cohen. He represented his mother who lived on the corner of George Street and Marylebone High Street. He thanked the Council for the review as did a number of residents. He did not have concerns about one off events such as the Olympics or the Queen's Jubilee celebrations but asked that the problems with the Hyde Park concerts be addressed. He requested a limit of 70dB for the concerts and that the timing of rehearsals were minimised. His mother had particular concerns about people finding their way into Jacob Wells Mews to the rear of her premises where they fought or even urinated. It was wrong that the licensees were profiting from the concerts and the Council was footing the bill for issues that arose from the concerts. Football costs were paid by the clubs themselves. Four consecutive days of concerts was unacceptable and Sundays should be sacrosanct.

Mr Sounis stated that he lived just off Harley Street over a mile away from Hyde Park but was still inconvenienced by the noise of the concerts. There should be a defined limit on how far the noise was permitted to travel. Ms Thayer stated that 70dB should be the maximum level permitted and that there should be a reduction in the number

of concerts. Camden residents were also affected by the noise. Mr Stuart Smith stated he had been inundated with complaints from the members of the Marylebone Association. There was urination and anti-social behaviour after the events at Hyde Park took place and the organisers should be responsible for paying the full costs of the events they organised.

Mr Dunn considered that the review conditions did not go far enough. He was of the view that the maximum levels for the music should be 72dB based on the evidence at the Live Nation Sub-Committee hearing in December 2011 that there would be no discernible difference to the human ear until it was reduced by 3dB. He believed that the number of complaints was the tip of the iceberg and that sound checks should not be allowed after 6.30pm. Music should not be permitted at the Park when the 9/11 Memorial Service was taking place. Ms Scarborough stated that 70Db or less was acceptable. Hyde Park was not suitable for rock concerts. Residents could not access Marble Arch underground station during the evenings of the events. The Licence Holder should look at other ways of generating income. Mr Zamit stated that Hyde Park was the wrong venue for concerts and that litter, noise and traffic issues were adversely affecting residents. The capacity should be no more than 50,000 and there should be only one off concerts held there.

Councillor Roberts addressed the Sub-Committee on the nuisance to local residents caused by the events. Local residents' summers were adversely affected with public disorder and street closures and the Serpentine had also been polluted. She took the view that each of the events should independently come before the Sub-Committee before they were permitted to proceed. The Council should not be required to cover the costs of clearing up after the concerts. There were lots of venues for concerts. Occasional opera performances at the Park would be fine.

The Sub-Committee asked the Applicants if they could provide further evidence regarding Mr Matthias' assertion that public nuisance was reduced at 73dB. Mr Matthias referred to evidence of 6 concerts, 3 of which he stated were mainly in the 70-73dB range during the performances, Eric Clapton, Morrissey and Neil Young and these had resulted in very few complaints. The Kings of Leon, The Killers and Pearl Jam had been more in the 74-75 dB range and had received significantly more complaints.

Sir Edward Lister stated that there were 2 aspects for the Sub-Committee to take into consideration. The first was the licence itself and the second was the effect on the Olympics. The Mayor had enormous sympathy for the residents objecting to the licence and understood the problems they faced. It was hoped that a reasonable compromise could be found. The events were an important factor for businesses and the music industry in the capital. The Royal Parks Board had local government representation. The Parks were a jewel in London's crown and the number of licensed events was a significant factor in funding the Royal Parks. The Hyde Park concerts were crucial to raising money for free concerts during the Olympic period.

Mr Gerald Gouriet, representing Live Nation, stated that the decision taken by the Sub-Committee needed to be necessary and proportionate. Both he and Mr Probyn reiterated the point made by Sir Edward Lister that the free concerts during the Olympics were dependent on the funding from the July concerts. Live Nation barely

made a profit from the concerts taken together. If the number of events were reduced to below 9 this would mean the concerts would not take place. There was an entitlement in the contract to walk away if there was a reduction in the number of concerts. Mr Probyn and Mr Giddings in cross-examination both informed the Sub-Committee that 95dB was the accepted level at the mixing desk in the music industry and top performers would not appear if the music was below that level.

Mr Steven Walsh for the Licence Holder, stated that a balance needed to be achieved. It was a common misconception that the Royal Parks obtained all the benefits and the Council and residents bore the costs. The Parks was reliant on Central Government funding and self-financing activities including the concerts. The Central Government grant had been reduced significantly and therefore money needed to be found to maintain standards.

Mr Walsh explained that in order to be maintained and available free of charge to residents 365 days a year, it had to be paid for. The Licence Holder was proposing 9 days of concerts in order to provide this service. As had been stated by the Live Nation representatives, the 73dB level or a reduction of the mixing desk level would not be sufficient to engage the sort of live acts which would generate the required income. It would affect not just the Olympics events but all Royal Parks concerts. Evidence from Mr Bernard Berry was that the 73dB level was so close to the ambient level of 68dB in the area that it would not make any discernible difference to the human ear.

Mr Walsh stated that from 2007-2010 the number of complaints had been relatively low and there had been no suggestion of a review during that period. The analysis was clear from the acoustics that there had been a spike in complaints as a result of a 1 day event at Hyde Park which had involved acts who played low frequency music with repetitive beats. The Chemical Brothers performance had received 30 complaints. The solution was not to reduce the recorded levels from 75dB to 73dB which would not have a significant effect and would mean the concerts were discontinued but to address the low frequency problems. There was a proposed condition to deal with this issue. The low frequency music travelled further affecting residents some distance away from Hyde Park. There were also proposed conditions to prevent side streets from being as adversely affected. A reduced capacity to 64,999 was acceptable to Mr Walsh's clients after the Olympics and a reduced number of events and consecutive number of events were proposed.

Mr Colin Buttery, the Acting Chief Executive, addressed the Sub-Committee on the funding of the Royal Parks and added that the Royal Parks was 17% of the borough of Westminster. It was incorrect to say that the concerts were a massive part of the expenditure. There were other significant income streams including filming at St James's Park. All income received was spent on the Royal Parks including maintenance of roads and monuments. It was recognised that the concerts caused some disruption to people. The Royal Parks advised other Parks around the world on event management.

Mr Jim Griffiths provided evidence on behalf of Royal Parks that complaints had been limited prior to 2011 as a result of effective engineering solutions such as delay towers. The complaints had escalated in 2011 in particular due to the day of bass

low frequency music and an increase in the number of events in 2011. He explained that people did not simply complain due to the overall noise level. There were a number of factors involved such as low frequency, number of events, whether there were events on a number of consecutive days, whether residents were aware the concert was taking place and how they felt at the time. Mr Griffiths described the effect of low frequency sound and stated that the proposed condition would address any problems with this issue. Noise monitoring in the side streets would assist. If there were higher readings in these areas then the option would be to reduce some of the delay towers. A reduction from 75dB to 73dB was imperceptible. He described the concept of two 50dB amplifiers being heard in the same area resulting in a 53dB sound even though this considerably added to the energy levels. A 5dB drop however to 70dB would adversely affect the public's appreciation of the concert. He considered that Environmental Health's evidence regarding the 6 concerts including Eric Clapton and The Kings of Leon was selective. The Bon Jovi and Arcade Fire concerts for instance had received few complaints but had been in the 75dB range. He also disputed Environmental Health's claim that there had been 24 breaches of the 75dB level. It was in his opinion only 6.

Mr Bernard Berry concurred with the evidence of Mr Griffiths including that the reduction of 75dB to 73dB would be a minimal perceptible change. Lessening of the low frequency levels would be of considerable benefit.

Councillor Havery asked why Live Nation in their application for the duration of the Olympic period had been prepared to accept a number of concerts at Hyde Park with a 73dB limit. Mr Gouriet responded that the music was ancillary to the Olympic events. There would be a multiplicity of screens in various zones in the Park with different sets of audiences and stages. They did not wish the various zones to impact on each other.

Mr McIlwain was asked to speak on behalf of the Applicant in response to the points made by Mr Griffiths and Mr Berry. Mr McIlwain informed Members that he had proposed the 'side streets' and low frequency conditions to reduce noise nuisance. The low frequency condition would protect premises some distance away from Hyde Park. In his opinion there was evidence that there were multiple synchronised complaints when the music levels exceeded 73dB. Below 73dB there was individual annoyance but not a significant number of complaints which would suggest public nuisance. He agreed that 3dB was a minimal perceptible change. He stated in response to Mr Griffiths earlier point disputing the number of breaches of the 75dB level that there had been 110 breaches but the 24 figure was of significant breaches of 75 + 1dB. He had conducted scientific analysis of the noise measurements and removed background noise so that in his view the background noise was not responsible for the breaches.

The parties to the hearing were permitted to sum up prior to the Sub-Committee considering the evidence. Mr Brown addressed Members at this stage on the point that the word 'balance' had been used by those opposing the review. However, the Sub-Committee needed to take into account the promotion of the licensing objectives. The higher the music volume, the greater the capacity and the more events there were, the greater the severity of the public nuisance there would be. Local residents sought lower music levels, a reduced capacity, and a reduction in the

number of events.

Mr Gouriet in his summing up reiterated that Live Nation's position was that if the 9 concerts in July 2012 were reduced or the capacity or sound levels reduced during 2012 the company would not be able to make enough profits to subsidise the free concerts at the Olympic events. Live Nation had no obligation to operate the concerts in 2012 at a loss. Mr Gouriet requested that measures were not taken which would fundamentally change the position from when Live Nation had signed the contract in good faith to promote the concerts in 2011. If any action was to be taken by the Sub-Committee, it should not happen until after the Olympics.

Mr Walsh stated that 'balance' also meant the value of Hyde Park as a tourist attraction and amenity to Westminster and London as a whole. There was a significant package of changes in the form of proposed conditions that were addressing the licensing objectives particularly public nuisance. While there was some impact on residents, this was only for a few weekends per year. Those who had written opposing the review included Green-Space, Friends of Hyde Park, Trustees of the Park and the London Mayor's office. They recognised that in order for the Park to be enjoyed by as many people as possible it had to be paid for and the Central Government funding had reduced.

Mr Matthias concluded with the points that residents' needs were being sacrificed in order to benefit promoters, pop stars and income for the Park. The promotion of licensing objectives did not include ensuring income for the Royal Parks. The concerts would continue to cause public nuisance and the Sub-Committee was tasked to prevent public nuisance. Two acousticians would argue all day but the Sub-Committee should rely on the empirical evidence regarding noise levels that had been observed by Environmental Health. When the levels were above 73dB there were an unacceptable number of complaints and public nuisance was caused.

Decision (including reasons):

The Chairman, in announcing the decision, stated that it was acknowledged by all the parties that public nuisance had been experienced as a result of the concerts at Hyde Park. The Sub-Committee considered that the Licence Holder was committed to take a number of steps to mitigate noise nuisance including offering to reduce the number of events at the Park from 13 to 9 from the beginning of 2013 and agreeing to Environmental Health conditions to reduce the capacity to 64,999 and introduce additional noise monitoring in streets in the vicinity of the Park. The Licence Holder would be required to control low frequency noise which had appeared to have contributed very significantly to public nuisance in the past. The Licence Holder was also committed to improving safety at the conclusion of the concerts and had agreed to more extensive cleaning arrangements which would have to meet the requirements of the Council. The Sub-Committee considered that this was a measured stepped approach and Members wished to see if these arrangements made a significant difference in reducing public nuisance. In the event that these measures did not succeed a further review of the licence would be expected.

At this stage Members decided not to impose the condition suggested by

Environmental Health that the noise level should be reduced from a maximum of 75dB to 73dB (LAeq 5 minute) at the two semi-permanent fixed monitoring positions prescribed by Environmental Health. Members had noted the matters raised by the Royal Parks Agency, Live Nation and Sir Edward Lister as to the viability of the concerts and also its subsequent effect on the Royal Parks including Hyde Park if the noise level was reduced below 75dB. Members also did not consider that evidence had been produced by the Applicant which established that this recommended reduction in the noise levels would result in a consequent reduction of the level of public nuisance.

The Sub-Committee decided to reduce the proposed number of events from 13 to 9 and reduce the capacity from 79,999 to 64,999 from 1 January 2013. These measures would therefore not impact on the concerts in Hyde Park in Olympic year including those in July and the free concerts which would be taking place during the Olympics. The Sub-Committee gave careful consideration as to whether to prescribe that the 9 events should be held over 3 weeks with a 10 day gap between each of the weeks. Members, however, took on board the advice from the Royal Parks that it would not be economically viable for promoters including Live Nation to operate with this condition due to the cost of maintaining the build site. An example was given of a London Borough which had looked to attach such a condition and had not been able to attract any promoters for specific concerts.

The Conditions of the licence, including those amended and added to the licence at the hearing were as follows (amended conditions are underlined):

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person shall take all reasonable steps to 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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—
 - (a) games or other activities which require or encourage, or are designed to require or 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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - (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;
 - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
 - (e) selling or supplying alcohol in association with promotional posters 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.
- 5. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
- 6. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
- 7.
 - (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
 - (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

8. 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: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

9. Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by this licensing authority as appropriate.

10. All persons guarding premises against unauthorised access or occupation or against outbreaks of disorder or against damage (door supervisors) must be licensed by the Security Industry Authority.

Additional Conditions

11. From 1 January 2013, unless otherwise agreed with the City Council, the total number of people to be accommodated for the purposes of this Licence, in any event site at any one time shall not be more than 64,999 (excluding security, staff, performers and employees)

12. Save for unanticipated occurrences or emergencies, and with the agreement of relevant officer(s) of the Hyde Park Licensing & Safety Advisory Group, the hours when the licensable activities will be carried out will be no later than the hours set out below:

Regulated Entertainment: Monday to Sunday 10:00 to 22:30

Exhibition of Films: Monday to Thursday 10:00 to 23:30
Friday to Saturday 10:00 to 00:00
Sunday 10:00 to 22:30
Sunday before Bank Holiday 10:00 to Midnight

Alcohol: Monday to Sunday 12:00 to 22:30

13. The Agency ("Licensee") shall ensure that risk assessments are produced for each event, and these shall be made available to the Environmental Health Consultation Team no less than 28 days before the event where practicable.
14. External organisers of events shall refer to the relevant Guides issued by the Royal Parks Agency, copies of which have been deposited with the Licensing Authority.
15. The Licensee shall ensure that external organisers are issued with an agreement for hire of the Park, or part thereof. This agreement shall include the conditions attached to the Premises Licence and, if relevant, those agreed as a result of meetings of the Hyde Park Licensing & Safety Advisory Group.
16. Save for events, to which condition 54 applies, the Licensee will take all reasonable steps to ensure that amplified music will not cause a nuisance.

Sale of Alcohol

17. For Major Events (as defined at condition 20), at least one Personal Licence Holder shall be present during the whole time alcohol is sold.
18. When alcohol is sold at an event the following conditions will apply to all bars, both for the public and in hospitality areas:
 - (a) Unless otherwise agreed with the relevant members of the Hyde Park Licensing and Safety Group, bars will be closed at least 30 minutes before the event finish time.
 - (b) Bars will not be permitted to run price promotions, happy hours or other promotions designed to encourage excessive drinking.
 - (c) Drinks will not be sold or served in glass vessels or containers.
19. Unless otherwise agreed by the Police, alcohol will not be sold on more than 20 days in any calendar year. For each of the 20 days the Responsible Authorities must be given a minimum of 28 days notice and the Metropolitan Police will have the right to veto the sale of alcohol at events provided they give notice of their veto no later than 7 days after being notified by the Agency.

Conditions applicable to Major Events

20. From 1 January 2013, unless the prior consent of the Environmental Health Consultation Team has been obtained, the premises may only hold Major Events on a maximum of 9 days per year, with a maximum of 7 Major events in any rolling 21 day period.

'Major Event' is an event where:

a) The playing of live and/or recorded music and/or the showing of films or recorded images, as defined by the Licensing Act 2003 is the principal reason attending the event; and

b) Where the number of persons attending the event (excluding security, staff, performers and employees) exceed 4999.

21. From 1 January 2013, unless otherwise agreed with the City Council, the premises may hold Major events on no more than four days in any calendar year where the number of persons attending the event (excluding security, staff, performers and employees) exceeds 49,999.
22. Unless the prior consent of the Environmental Health Consultation Team has been obtained, the premises may hold Major Events on no more than three days in any calendar year where the showing of films or recorded images, as defined by the Act, is the principal reason for persons attending the Event.
23. Save for Events to which Conditions 20 - 22 apply, licensable activities after 18:30 shall be restricted to no more than 30 days per annum and such activities shall cease no later than 22:00 with the exception of the showing of films where the hours above apply.
24. Any major events shall be notified to the Responsible Authorities and Hyde Park Licensing & Safety Advisory Group with a minimum 28 days notice, unless otherwise agreed. Any member of the Hyde Park Licensing & Safety Advisory Group may request a meeting for such other events not included in the definition of Major Event set out above.
25. Membership of the Hyde Park Licensing & Safety Advisory Group shall include as a minimum; the Licensee, the event organiser (where the Licensee is not the event organiser), the Licensing Authority, Environmental Health Consultation Team, Westminster Special Events & Emergency Planning, Metropolitan Police Service, LFEP, London Ambulance Service and Transport for London. Additional members will be invited as appropriate for each meeting.
26. Where alcohol is sold, the name and contact telephone number of the Designated Premises Supervisor shall be displayed in a prominent position on the premises, so that it is clearly visible.
27. An advertised 'hotline' telephone number to the Licensee shall be available to local residents.
28. Any queue which forms outside the premises shall be stewarded at all times to ensure that minimal disturbance is caused.
29. The Licensee shall encourage patrons not to congregate outside the premises after the event has finished.
30. Promotional literature and tickets will contain information regarding public

transport options and public conveniences and shall request persons to leave the area quietly.

31. The Licensee must nominate one person for each major event to act as safety co-ordinator, who is authorised by the Licensee to act on his behalf to carry out all reasonable requests made by the Hyde Park Licensing & Safety Advisory Group or their authorised representative.
32. The Licensee must provide the Hyde Park Licensing & Safety Advisory Group or their authorised representative with the particulars of the nominated safety co-ordinator.
33. Unless otherwise agreed, no later than 28 days prior to the event the Licensee must ensure an Event Management Plan is presented to the Hyde Park Licensing & Safety Advisory Group, or their authorised representative for their comment and advice. The Event Management Plan shall include, as a minimum:
 - a) Emergency and Evacuation procedures;
 - b) Crowd management and stewarding arrangements;
 - c) A detailed plan showing site layout and emergency egress points;
34. So far as is reasonably practicable the Event Organiser must ensure that the event is run in accordance with the Event Management Plan.
35. The Licensee will ensure that there are adequate means of control to ensure that only permitted numbers of persons gain access to the event site.
36. Adequate stewarding within the licensed area must be provided at all times during the licensed event.
37. Upon reasonable request, authorised enforcement officers of the Responsible Authorities: Environmental Health Consultation Team, Metropolitan Police Service and London Fire Brigade, must be provided with security passes for full and free access at all times to each and every part of the licensed area.
38. A communication system must be provided to ensure the effective operation of the site under both normal and emergency evacuation conditions. The Licensee must provide an adequate incident control centre and a rendezvous point for the Police and other emergency services.
39. Adequate rigid barriers or fences designed to adequately resist right-angle and parallel loads commensurate with probable crowd pressure must be provided around any stage and other location where it is necessary to limit crowd pressure in the interests of safety.
40. Details of all marquees, tented structures and temporary structures should be provided including emergency exits and signage, fire warning and fire fighting

equipment.

41. All fabric, including curtains and drapes used on stage for tents and marquees, or plastic and weather sheeting, shall be inherently or durably flame retardant to the relevant British Standards. Certificates of Compliance must be available upon request by the Hyde Park Licensing & Safety Advisory Group or their authorised representative.
42. Full structural design details and calculations of all and any structures to be erected within the licensed area, must be submitted to the Westminster City Council Building Control. A certificate from a competent person or engineer that a completed structure has been erected in accordance with the structural drawings and design specification must be available for inspection prior to a relevant structure being used during the licensed event.
43. Any moving flown equipment must contain a device or method whereby failure in the lifting system would not allow the load to fall. All hung scenery and equipment must be provided with a minimum of two securely fixed independent suspensions such that in the event of failure of one suspension the load will be safely sustained.
44. A sufficient number of easily identifiable, readily accessible receptacles for refuse must be provided, including provisions for concessions. Arrangements must be made for regular collection. Public areas must be kept clear of refuse and other combustible waste prior to, and so far as is reasonably practicable, during the licensed event.
45. After any event any litter remaining will be collected and removed from the site as soon as physically possible, either overnight or starting daybreak the following day if it is considered impractical to collect the litter in darkness.
46. The Licensee must maintain a regular fire patrol at all times when the public are present in the licensed area to check for and guard against possible fire hazards. The area underneath the stage to be kept clear of flammable materials.
47. A schedule detailing types and locations of fire fighting equipment must be submitted to the Hyde Park Licensing & Safety Advisory Group or their authorised representative as required.
48. The Licensee must ensure that competent persons are employed to assess the electrical requirements at the event and the compatibility of the electricity supply with the equipment to be used. Appropriate safety devices (such as 30mA Residual Current Devices at Source) must be used for electrical apparatus, particularly for any electrical equipment exposed to adverse conditions or electrical equipment to be used in association with hand held devices (e.g. microphones). The competent person must make a certificate of inspection of the electrical installation available for inspection.
49. Emergency exits and entrances to the event area must be kept clear at all

times and must be provided with clearly visible signage.

50. All parts of the licensed area intended to be used in the absence of adequate daylight and all essential safety signage shall be suitably illuminable. Details of the locations and level of illumination must be submitted to the Hyde Park Licensing & Safety Advisory Group or their authorised representative.
51. Electrical generators, where used, must be:
 - (a) Suitably located clear of buildings, marquees and structures, and free from flammable materials, save for that in the generator tank;
 - (b) Enclosed to prevent unauthorised access;
 - (c) Able to provide power for the duration of the event;
 - (d) Back up electrical generators are to be provided to power essential communications, lighting and Safety systems in the event of primary generator failure, unless otherwise agreed by LSAG.
52. All spare fuel, including LPG, must be kept and stored safely in accordance with relevant Health and Safety legislation and suitable safety signage and fire fighting equipment provided.
53. Unless otherwise agreed, details of any proposed use and storage of lasers, special effects, fireworks or pyrotechnics shall be presented to the Hyde Park Licensing & Safety Advisory Group or their authorised representative, and the Environmental Health Consultation Team 28 days in advance of the event.
54. The following noise conditions shall apply:
 - (a) The Agency shall ensure that a noise control consultant shall be appointed, who shall liaise between all parties including the Agency, promoter, sound system supplier, sound engineer and the Environmental Health Consultation Team on all matters relating to noise control prior to the event.
 - (b) For the purposes of monitoring music noise levels during the event and sound check, the noise control consultant shall contact the Environmental Health Consultation Team and agree noise sensitive locations which are to be used to monitor compliance with conditions (d) and (e).
 - (c) A noise propagation test shall be undertaken in consultation with representative(s) of the Environmental Health Consultation Team prior to each Major Event in order to set appropriate control limits at the sound mixer position. The sound system shall be configured and operated in a similar manner as intended for the event. The sound source used for the test shall be similar in character to the music likely to be produced during the event.

- (d) The control limits set at the mixer position shall be adequate to ensure that the Music Noise Level shall not at 1 metre from the façade of any noise sensitive premises exceed 75 dB(A) over a 5 minute period throughout the duration of the concert.
 - (e) Rehearsal and sound check times shall be limited between the hours of 10:00 and 20:00. Notification of the time(s) and duration of sound checks shall be provided to the Environmental Health Consultation Team at least 24 hours beforehand.
 - (f) The Agency shall ensure that the promoter, system supplier and all individual sound engineers are informed of the sound control limits and that any instructions from the noise control consultant regarding noise levels shall be implemented.
 - (g) A communications link should be provided to enable condition (f) above to be complied with and any numbers / radios shall be made available to the Environmental Health Consultation Team prior to the event starting.
 - (h) The appointed noise control consultant shall continuously monitor noise levels at the sound mixer position and advise the sound engineer accordingly to ensure that the noise limits are not exceeded. The Environmental Health Consultation Team shall have access to the results of the noise monitoring at all times. The Environmental Health Consultation Team shall have access and facilities to enable them to carry out their own monitoring.
 - (i) No members of the audience shall be allowed within 3 metres of any speakers.
 - (j) The speakers must be located to the satisfaction of the Environmental Health Consultation Team.
 - (k) Residential properties and the relevant amenity group(s) in the immediate vicinity of the Park will be contacted as soon as reasonable practicable (and in any event no later than 28 days) prior to any Major Event advising them of the times of the Event and any sound check or rehearsal times and giving them a telephone number to contact in the event that they have any complaints.
55. Adequate medical and first aid cover and facilities appropriate to the licensed event must be provided.
56. Adequate drinking water points in suitable locations must be provided and maintained to the satisfaction of the Hyde Park Licensing & Safety Advisory Group or their authorised representative.
57. Adequate sanitary accommodation must be provided and maintained to serve

the licensed event to at least the standards contained within the "Guide to Health, Safety and Welfare at Pop Concerts and Similar Events", or as advised by the Environmental Health Consultation Team. Suitable arrangements must be made for the collection and disposal of used hand towels, sanitary towels and other refuse from the sanitary accommodation.

58. Details of the proposed location, level of provision and means of effective maintenance and servicing of sanitary accommodation must be submitted to the Hyde Park Licensing & Safety Advisory Group or their authorised representative if requested.
59. During the build up and break down of the events site, any activities that might cause noise to be audible outside the Park will be limited to the hours of 08:00 to 20:00 Monday - Friday, and 10:00 and 18:00 Saturday - Sunday.
60. Any generators, refrigerators or other machinery running overnight will be silenced, screened or sited so as not to be audible outside the Park.
61. There shall be a welfare point (or equivalent area) for the reporting and management of lost children. The welfare point will be staffed by trained (and appropriately certified by the Criminal Records Bureau) members of staff who will be in radio contact with the head steward and the safety co-ordinator.
62. The Event Organiser, contractor and any staff employed thereof shall comply with the Conditions of this Licence.
63. The Agency must ensure all reasonable endeavours to ensure that all functions relating to the setting up, the executions and dismantling of the event, the licensed area and all equipment are carried out in accordance with the Health and Safety at Work etc. Act 1974 and all related regulations, Codes of Practice and Guidance Notes. The Agency must afford all assistance for the necessary inspections relating to Health and Safety both prior to and during the licensed event. All documentation required by the Health and Safety at Work etc. Act 1974 relating to contractors and employees must be available for inspection by authorised officers at all times during the licensed event and must be kept at a location at the licensed area to the nominated by the Agency to the Hyde Park Licensing & Safety Advisory Group or their authorised representative.
64. The Licence Holder shall make arrangements, to the satisfaction of WCC, for the cleansing of litter and waste in the vicinity of Hyde Park during and after events, in general accordance with the sample resourcing plans attached to the licence at Annex 3, including dedicated flushing on all evenings, and shall secure the late opening of the three public conveniences in the vicinity of the Park (namely Hyde Park Corner, Bayswater Road and Queensway) until one hour after the closure of the events.
65. The event organiser will comply with all reasonable requirements of the Environmental Health Consultation Team, Westminster City Council, the London Fire and Emergency Planning Authority and the Metropolitan Police

Service.

Additional Conditions attached to the licence at the hearing:

66. Throughout the duration of the events (including sound checks, rehearsals and concert performances) the Music Noise Levels (MNLs) shall not exceed 15dB (LAeq 5 minute) above background (Representative L_{A90} obtained on a number of equivalent days during the last 4 hours of the proposed concert time without the event running) or 65dB (LAeq 5 minute) whichever is the lowest). The MNL shall be assessed at measurement points greater than 1km to the north and 750 metres to the east (distance measured from the main stage mixer position). These measurement points will not be situated on trunk roads. All measurement points will be prescribed in the Noise Management Plan.
67. Throughout the duration of the events (including sound checks, rehearsals and concert performances) the control limits set at the mixer position shall be adequate to ensure that the 63 Hz and 125 Hz octave frequency bands shall not exceed 75 dB (LZeq 15 minutes) as a result of Music Noise Level (MNL) beyond a 2Km radius (distance measured from the main stage mixer position). The 63 Hz and 125 Hz octave frequency bands shall be assessed in a free field position at measurement points prescribed by Westminster City Council Environmental Health.
68. At events of 30,000 capacity or less, any unnecessary delay towers will be switched off upon the reasonable request of the Environmental Health Consultation Team.
69. The Licence Holder shall employ sufficient numbers of stewards/marshals as required by the size of the event to ensure that patrons leave the premises safely.
70. Unless otherwise agreed, the Licensee must ensure an Egress Management Plan is presented to and agreed by the Hyde Park Licensing & Safety Advisory Group, or their authorised representative, no later than 28 days prior to the event. Please note: The Egress Management Plan may require the closure of Park Lane or other surrounding roads with the approval of the relevant authorities.