

Report for: Special Licensing Sub Committee - 4th May 2021

Title: Application for a New Premises Licence for The Open Arms-Finsbury Park, London N4.

Report authorised by : Daliah Barrett-Licensing Team Leader – Regulatory Services.

Ward(s) affected Haringay

Report for Key/ Non Key Decision: Not applicable

1. Describe the issue under consideration

- 1.1 An application has been submitted by Assembled Gala Ltd, Jonny Edwards is a director and part owner/founder of Assembled Gala Limited. We Are The Fair Ltd, act for Assembled Gala Ltd in relation to all health and safety matters in respect of this proposed event. The application states that a Mr Mason will be the proposed designated premises supervisor. The application is for a time limited licence between May 19th and September 19th 2021 – Wednesday to Sundays of this period. The Bank Holiday Monday falling within this period is also included. The application can be seen at Annex 1. The LSC's attention is drawn to the fact that the applicants have made a change to their application in relation to alcohol sales which will now be for on sales only in the defined licensed areas proposed.
- 1.2 The applicant offers this description for the event "This application relates to a service point and entertainment area as shown on the accompanying site plan and will be defined by low level picket fencing. This application is to facilitate a food and beverage offering at the park whilst persons are able to enjoy entertainment which will be made available from the performance area. The sale of alcohol is provided with other beverages, including non-intoxicating beverages, including drinking water and tea/coffee from the concession/ kiosk shown on the plan accompanying the application. There is also a food concession/kiosk shown on the drawing, together with the location of the performance space and the toilet facilities, which are being provided by the applicant at the park for the duration of the time limited premises licence"
- 1.3 The application seeks the following:
- 1.4 Capacity- the application is silent on this and gives no indication on expected capacity. The applicants have paid £100 for the Premises licence as it is the statutory fee set within the Licensing Act 2003 and therefore could potentially allow for up to 4999 capacity.
- 1.5 As of 22nd April the applicant advised that they will be catering for a 700 capacity event within the defined area. Their Security Event Management Plan was also updated to reflect this position. The Licensing Service understands that the original park hire application that was submitted stated 150. It was increased to 200 in the park hire report, which received members sign off in March 2021. Social distancing requirements will still be a requirement at the proposed start date. The proposed event area consist of benches etc. for the public and it is unclear that a capacity of 700 could be safely managed in this area or that such a capacity would be in step with the Parks hire position. The applicants have advised that the initial capacity figure provided in the Park application was based on the application for the Premises Licence being for ON and OFF sales of alcohol. However, as the

application has been amended and the flexibility around alcohol sales has been removed, the capacity of 700 patrons is required and can be accommodated safely with Covid compliant measures in place. The expected capacity has been raised in a number of representations and remains an ongoing issue as the figure of 700 was not mentioned previously. The Responsible Authorities await the risk assessment and updated Event Management Plan that will provide information as to how this proposed figure could be safely accommodated in the defined space. The LSC's discretion is engaged on this matter.

1.7 Licensable activities to take place -namely, the sale of alcohol and regulated entertainment between Wednesday to Sunday (inclusive) between the hours of 12:00 – 21:00.

1.8 The following licensable activities, times and dates:

Regulated Entertainment: Plays, Films, Live Music, Recorded Music, Performance of Dance & Anything of a Similar Description

Wednesday to Sunday	1200 to 2100 hours
Bank Holiday Mondays	1200 to 2100 hours

Supply of Alcohol

Wednesday to Sunday	1200 to 2100 hours
Bank Holiday Mondays	1200 to 2100 hours

For consumption **ON** the premises – (as of 21st April 2021)

Hours open to the public

Wednesday to Sunday	1200 to 2130 hours
Bank Holiday Mondays	1200 to 2130 hours

1.9 The proposal is for a non ticketed, non fenced event albeit a low level picket fence will be used to define the licensed area with alcohol for on sales so that alcohol can only be sold to those attending the event and remaining within the defined space.

1.10 Each of the Responsible Authorities were consulted in respect of the application. The application consultation period ran from 12th March to 8th April 2021. The LSC are advised that due to an error on the Licensing consultation page the end date was altered to 12th April. The error was realised and corrected, but the date was in the public domain and the Licensing Authority has therefore accepted all valid representations from residents received up to midnight on 12th April 2021. The applicants were informed of the error and notified of all the representations received.

1.11 To further support the application, the applicant has submitted an Event Management Plan which is attached in Annex 2, and also a plan showing the location and layout of the event space. The A draft site plan shows an approximate area and layout of The Open Arms. It consists of a small performance area, picnic bench seating and a structure encasing a bar servery and food traders. The document also mentions a similar event in Clissold Park but we have not received any information on this matter. There will be a toilet block in the area also. The EMP also advises that the 'pop up' would run on a daily schedule between Wednesday and Sunday every week and bank holiday Monday's until the end of the series. Bank Holidays and other public holidays will be considered on a case per case basis and reviewed alongside Haringey Events and friends of the park groups. Site Plans Annex 3. A risk assement that incorporates the applicants Covid secure measures was reeived at the end of the consultation period and is attached at Annex 3A.

2 RELEVANT REPRESENTATIONS:

- 2.1 **Other Persons:** Representations have been made, against the application, by over 100 local residents, resident groups and park groups, neighbouring boroughs and elected members and are referred to as Annex 4 and 4a respectively. Annex 4 represents the objections received up until 8th April. Annex 4a represents those received between up to 12th April. One representation in support of the application can be found at **Annex 4C**.
- 2.2 The grounds of representation received speak to the prevention of crime & disorder; the prevention of public nuisance: public safety and the prevention of children from harm. Residents refer to a wide range of concerns about the proposed event ranging from it being a non ticketed event, no specific capacity number mentioned in the Premises Licence application but some have mentioned the capacity stated in the Member signing report. The use of the park space for a pub, the duration of the occupation for this event the loss of the park space for a number of months, the crime and ongoing issues taking place in the area and in the park in general day to day. Some representations raise concerns over the fact that we are still in a pandemic and encouraging more people to attend the park is not a welcome prospect in terms of public health. Concerns are also raised about the message that allowing a pub in the park for 4 months and the impact of this on children and the vulnerable. Safety of women in the park and surrounding area is also mentioned in the representations. The likelihood of noise nuisance and increased anti social behaviour is also a concern throughout the representations received.
- 2.3 Representations were also received from Haringey Councillors, Islington Licensing Authority and Islington Councillor. These can be found at Annex 5, 5a and 5b.
- 2.4 **Annex 5 - Cllr Brabazon –Haringey** - Raises concerns as to how the event will be managed and supervised, and concerns that the application involves provision of alcohol for nine hours per day in the park, which is a public open space. The background information seen spoke of a varied art, music and cultural events planned for the period. How will the applicant manage noise, crowds and ensure public safety for this period?
- 2.5 **Annex 5a – Cllr Heather- Islington** – Are these events in the park fenced off? We note the events are non-ticked, open to the general public regardless of age. If the space is unsecured, with free access to the alcohol bar/s, how will the Licensing Authority check that there is no sale to minors? Also, how will crowd control be managed in such a lightly regulated environment? Who will police access to the events to ensure people’s behaviour is conducive to public safety?
The events provide the potential for hundreds of extra people roaming around park during the day-time and into the evening. Many of whom will be likely to consumed alcohol, increasing the risks of crime and anti-social behaviour both inside and outside the park in the surrounding area.
- Finsbury Park is unfortunately already a crime and ASB hotspot, with a long and persistent history for drug dealing and violence (including a murder) towards people, including harassment and sexual assault of women and girls, which despite police and local authority interventions, still persists.
- 2.6 **Annex 5b – Islington Council Public Protection-** The primary concern for Islington is that this application for “The Open Arms” will be free to all attendees with no restriction on where they can go within the vicinity. Through the pandemic, we have seen the issues caused by gatherings in the park and this application would

be encouraging them, with no safe space reserved for those who do not want to be impacted.

The application also indicates that they are considering a similar venture in Clissold Park. This is in very close proximity and if they were to happen together, the impact would be great with both being on our boundaries.

This application should be refused:

If the application was to be granted it should be limited to as follows:

- The site enclosed by a fully secure, staffed and gated perimeter fence so the site can be managed with all the current Covid guidelines; and
- Alcohol must not be taken off the premises
- Islington would be consulted on the detail of access and egress from the event

3. Responsible Authority Representations:

3.1 The Metropolitan Police made representations in respect of this application. The Police Licensing Team representation is at Annex 6.

The Police have requested that the applicant provide the following information:

- Security Policy,
- Risk assessment for artists,
- Daily risk assessment
- Expected capacity of the event.
- The Police have also requested that the premises do not show any televised sporting events during the event
- That staff are trained in ACT-E (Terrorism training) and Welfare and Vulnerability Engagement (WAVE)

Due to the above the Police don't believe that they can consider this application in its entirety, until there is sufficient information provided in writing by the applicant. As such the Metropolitan Police will be objecting to this application under the prevention of crime and disorder and public safety licensing objectives.

3.2 The Local SNT designated ward officer also made representation, this can be found at **Annex 6a**. Representation with regards to the consumption of alcohol and the potential for anti-social behaviour and drunk and disorderly offences occurring.

Finsbury park is also a hotspot for theft from person, knife point robberies and violent offences. I understand it says that it ends at 9pm but realistically there will always be people loitering until 11 or 12 every night after, especially at weekends. This means these will all be potential victims to violent crime.

3.3 The Licensing Authority made representation in respect of this application, this can be found at **Annex 7** – Finsbury park itself is part of an ongoing police operation within the area to tackle Crime and ASB. There have always been issues of drug dealing, rough sleeping, youth crime (including gang related issues) and alcohol related offences. We have concerns that the application submitted for the ongoing event like Open Arms may attract these issues to merge and cause increased crime and ASB with patrons being potential victims or exacerbating the situation due to alcohol consumption.

3.4 The Building Control Team made representation with regard to public safety matters and technical specifications. The representation and associated correspondence is included in the report at **Annex 8** for context and information as the Team have now withdrawn their representation.

3.5 The Public Health RA have made representation at **Annex 9** stating the following

concerns: After reviewing the application, we believe there is further protection/security needed to protect the public from alcohol-related harm and COVID and ensure the licensee is promoting the licensing objectives, crime and disorder, public safety and the protection of children from harm. The Public Health team cannot consider this application in its entirety until we have reviewed the COVID risk assessment to ensure public events are not contributing to further infection rates in the community and further information is submitted as requested by the Police, therefore, we object to this application.

- 3.6 As such, in accordance with the legislation the Licensing Authority must hold a hearing to consider the application and any relevant representations.
- 3.7 The applicants Assembled Gala have held a mediation meeting with residents to explain the concept and proposed management of the proposed operation.

4 PROPOSED LICENCE CONDITIONS:

- 4.1 The applicant has offered measures in the operating schedule of the application that address the promotion of the Licensing Objectives. If there were no representations, the Licensing Authority would have deemed the licence granted under the legislation, with conditions consistent with the operating schedule, which are relevant, proportionate and enforceable. To assist the LSC the proposed conditions offered by the applicant are attached as **Annex 10**.
- 4.2 Additional conditions proposed by each RA and neighbouring Islington are attached at **Annex 11**. Members are asked to consider the schedule and are asked to incorporate any conditions as appropriate if minded to grant the application in order to address the licensing objectives, it is possible that no additional conditions are required.

5 BACKGROUND

- 5.1 There are two distinct and separate processes that need to be followed when a promoter signals an interest in hosting an event in Finsbury Park. Firstly, an operator must gain permission from the Haringey Council Parks Service for the hire of the land for the proposed event. The Member signing report that was discussed on 23rd March 2021 advises of the following process in terms of the hire and agreement given for the use of the space:
[Agenda for Cabinet Member Signing on Tuesday, 23rd March, 2021, 4.00 pm | Haringey Council](#)
- 5.2 3.1b - "Authorise the Director – Environment & Neighbourhoods, to approve conditional in-principle agreement to hire Finsbury Park to the event promoter for the event and dates detailed in this report as set out in paragraph 6.4, BUT also (1) subject to the event being permissible under the then prevailing government legislation and guidance in relation to the Covid-19 pandemic, (2) with the agreement of the Council's Interim Director of Public Health and (3) subject to the required permissions detailed at paragraphs 6.14 and 6.15 of the report being obtained" These sections refer to the need for a Premises Licence and Planning permission being considered and granted.
- 5.3 The Member signing report goes on to say at section 6.4- "In December 2020, the Council received an application from Assembled GALA Ltd (the Applicant) to hire the Park to stage a performance led pop-up venue – as detailed at paragraph 6.11 and 6.12 below - to be open between May and September 2021, with up to 200 attendees at any one time.
- 5.4 At section 6.10 it advises "The location provides the perfect central space for infrastructure, including a temporary pavilion, with outside seating and bar and food areas. A number of temporary toilets will also be available. Access to the

event will be free of any charge, and the site will be unfenced, allowing it to become an addition to the existing Park attractions and encouraging free-flow movement in and around the venue”

- 5.5 At section 6.18 the report clarifies “ Due to the low numbers within the venue at any one time (200), it is anticipated that any noise levels emanating from the onsite performances will be kept to a minimum, with minimal effect on park users, and local residents.
- 5.6 Secondly, a premises licence from the Licensing Authority is required for the licensable activity that the promoter wishes to offer under the Licensing Act 2003.
- 5.7 No licence can be put to use unless the holder of the licence has the permission from the Parks Service to book the park in the first instance. Once events are agreed, parks officers work in conjunction with the organisers and licensing officers to ensure the event is managed in a safe way. This includes managing the various competing needs and opinions of stakeholders. The Licensing Authority will also arrange a Safety Advisory Group meeting to discuss and ensure oversight on conditions being upheld and promoted by the licence holder.

5.8 Other planned events during the same period:

The LSC are advised that during the proposed duration of open Arms there are other events proposed to take place in various areas of the park, there are:

- 1) Adventure Cinema- 22th to 25th July 2021- City park- The licence is for an open-air film & food festival. This will include bars, hot food traders and films displayed on a large screen. There will be no off-sales of alcohol. The event is planning for 1500 capacity, the premises licence process expires on 27th April 2021.
- 2) Krankbrothers - 7/8 August and 14/15 August. 6000 capacity event. There is an existing premises in place for this promoter that has previously hosted Sink The Pink in the park in 2018 & 2019.
- 3) La Clave Fest- 21st August- this a South American festival offering food, alcohol, dancing football and cultural shows across the park.

5.9 Residents meeting:

5.10 The applicants invited residents to take part in a virtual mediation meeting on 20th April 2021, so they could explain in more details the concept of the event and their intentions to manage and deliver an arts based cultural event in the park. Prior to this a letter detailing the concept was distributed to all parties that had made representation, this is at Annex 12. Eleven residents that had made representation joined the hour long meeting. The main concerns raised related to the following:

- Alcohol being for off sales to anyone in the park.
- Duration of the event
- Capacity limit
- Why a non ticketed event
- Length of time per day for alcohol sales
- Security measures that will be in place
- How will the area be defined?
- A noise management –how will noise be managed
- Safeguarding of children in the park
- Covid measures
- Crime prevention and safety

5.11 The applicants notified of changes to the application following the residents meeting that took place on 20th April 2021. Residents sent further information after receiving the letter and taking part in the residents meeting, these are at Annex 13. from participating in the residents meeting.

5.12 The applicants have submitted two documents on 22nd April listing conditions they have accepted from Police, Public Health and Licensing Authority. These are attached at Annex 14 – 14a respectively.

6 RELEVANT LAW, GUIDANCE & POLICIES:

6.1 The paragraphs below are extracted from either:

- i) the Licensing Act 2003 ('Act'); or
- ii) the Guidance issued by the Secretary of State to the Home Office of April 2018
or
- iii) the London Borough of Haringey's Licensing Policy Statement of January 2016

General Principles:

6.2 The Licensing Sub-Committee must carry out its functions with a view to promoting the licensing objectives [Act s.4(1)].

6.3 The licensing objectives are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; &
- the protection of children from harm [Act s.4(2)].

6.4 In carrying out its functions, the Sub-Committee must also have regard to:

- i) The Council's licensing policy statement; &
- ii) guidance issued by the Secretary of State [Act s.4(3)].

6.5 Sections of Statement of Licensing Policy:

16.1 All applications for new premises licences or variations need to be supported by operating schedule. The schedule must clearly establish the steps the Applicant proposes to promote the licensing objectives.

16.10 Location and other relevant considerations

In considering applications for new licences, variations of existing licences and licence reviews, this Authority will take the following matters into account:

- The type and mix of premises in the local area;
- The location of the premises and their character;
- The views of the Responsible Authorities and other persons;
- The past compliance history of the current management;
- The proposed hours of operation;
- The type and numbers of customers likely to attend the premises;
- Whether the Applicant is able to demonstrate commitment to a high standard of management for example through the level of consideration given to the promotion of the licensing objectives; by active participation in the Responsible Retailer Scheme or safety schemes such as Ask For Angela.

The physical suitability of the premises for the proposed licensable activities i.e. in terms of safety, access, noise control etc.

This Authority will need to carefully balance the conflicting needs of residents, patrons

and businesses in relation to the introduction of premises and flexible opening hours for the sale and supply of alcohol

20.14 Outdoor events

Haringey hosts a number of major commercial events; these events add to the vibrancy of the Borough and are enjoyed by both residents and visitors alike. It is important that such events are organised and managed so as to ensure that minimum disturbance is caused to people living and working nearby.

21.9 Where its discretion is engaged following the consideration of relevant representations the licensing authority will consider attaching relevant conditions to licences permissions to promote public safety where these are not provided for within other legislation and are necessary for the promotion of the public safety licensing objective. This may include additional site specific controls relevant to the planned activities and their timing.

7 Licensing Officer comments

7.1 The following information is intended to advise Members of the relevant aspects of the Statement of Licensing Policy, guidance issued by the Secretary of State, legislation and good practice. Members may depart from the Councils Policy and or Section 182 Guidance provided they consider it appropriate to do so and provide clear reasons for their decision.

7.2 Committee will also wish to be aware of the guidance issued under section 182 of the Licensing Act 2003. Licensing is about regulating the provision of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Licensing Act 2003. The terms and conditions attached to various permissions are focused on matters which are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places.

7.3 The objective of the licensing process is to allow for the carrying on of retail sales of alcohol and the prevention of public nuisance, prevention of crime and disorder, public safety and protection of children from harm. It is the Licensing Authority's wish to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.

7.4 In considering licence applications, where relevant representations are made, this Licensing Authority will consider the adequacy of measures proposed to deal with the potential for public nuisance and/or public disorder having regard to all the circumstances of the case.

7.5 Where relevant representations are made, this authority will demand stricter conditions with regard to noise control in areas that have denser residential accommodation, but this will not limit opening hours without regard for the individual merits of any application. This authority will consider each application and work with the parties concerned to ensure that adequate noise control measures are in place. Any action taken to promote the licensing objectives will be appropriate and proportionate.

7.6 Also The Licensing Authority may not impose conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of the hearing that it is appropriate to impose conditions to promote one or more of the four licensing objectives. Therefore, conditions may not be imposed for the purpose other than promoting the licensing objectives and in some cases no additional conditions will

be required.

- 7.7 The Licensing Act 2003 permits children of any ages to be on the premises which primarily sells alcohol provided they are accompanied by an adult. It is not necessary to make this a condition.
- 7.8 In cases Members should make their decisions on the civil burden of proof, that is the balance of probability.
- 7.9 Members should consider in all cases whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.
- 7.10 The Government has advised that conditions must be tailored to the individual type, location and characteristics of the premises and events concerned. Conditions cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff.
The Councils Licensing policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 7.11 Should the licence be granted the licensing service will ensure that a Safety Advisory Group (SAG) meeting is arranged to ensure conditions imposed are adequate

8 Decision:

- 8.1 As a matter of practice, the Sub-Committee should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas [Guide 9.37].
- 8.2 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the Sub-Committee must give appropriate weight to:
- the steps that are appropriate to promote the licensing objectives;
 - the representations (including supporting information) presented by all the parties;
 - the guidance; and
 - its own statement of licensing policy [Guide 9.38].
- 8.3 Having heard all of the representations (from all parties) the Sub-Committee must take such steps as it considers appropriate for the promotion of the licensing objectives. The steps are:
- to grant the application subject to the mandatory conditions and such conditions as it considers necessary for the promotion of the licensing objectives;
 - to exclude from the scope of the licence any of the licensable activities to which the application relates;
 - to refuse to specify a person in the licence as the premises supervisor;
 - to reject the application [Act s.18].
- 8.4 For the purposes of the Licensing Act 2003 the conditions of the licence are modified if any of them are altered or omitted or a new condition added.
- 8 The Licensing Authority's determination of this application is subject to a 21 day appeal period or if the decision is appealed the date of the appeal is determined and /or

disposed of.

9. Other considerations

Section 17 of the Crime and Disorder Act 1998 states:

“Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that it reasonably can to prevent crime and disorder in its area”.

9.1 Human Rights

While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 8 – Right to respect for private and family life.
- Article 1 of the First Protocol – Protection of Property
- Article 6(1) – Right to a fair hearing.
- Article 10 – Freedom of Expression

10 - Use of Appendices

Annex 1 – Application form

Annex 2 – Event management Plan

Annex 3 – Proposed plan/layout

Annex 3a – Risk assessment and Covid secure measures

Annex 4 – Residents representation up to 8th April

Annex 4a- Residents Rep up to 12th April

Annex 4c – letter of support

Annex 5 – Cllr Brabazon Rep - Haringey

Annex 5a – Cllr Heather –Rep - Islington

Annex 5b- Islington Public Protection Rep

Annex 6 - Metropolitan Police Rep

Annex 6a – Local SNT Officer –Police Rep

Annex 7 - Haringey Licensing RA Rep

Annex 8 – Building Control Rep – (Withdrawn)

Annex 9 - Public Health Rep

Annex 10 – Proposed condition- applicant.

Annex 11 – Proposed conditions –RAs & Islington

Annex 12 – Letter to residents.

Annex 13 – comments following residents engagement.

Annex 14 – AG accepted conditions Pol/PH

Annex 14a – AG accepted condition LA

Background papers: Licensing Act 2003

Section 82 Guidance

Haringey Statement of Licensing policy