

**From:** George Domleo

**Sent:** 10 March 2023 16:27

**To:** Phil.S.Graves@met.police.uk; Legister, Linda <Linda.Legister@brent.gov.uk>

**Subject:** RE: The Arch - 324 Harrow Road Wembley HA9 6LL - Police Reps 27115

Hello Phil and Linda

To assist, I attach a document outlining the existing conditions and those conditions, highlighted in yellow, which are agreed.

**Phil** - Set out below are the outstanding requested conditions. My counter proposal and thoughts on these are in red -

21. Subject to the updated and future risk assessment the maximum number of persons allowed on the premises will be:-

Internal – On non-event days the total capacity, not including staff shall not exceed 250 people as detailed in the licensable area plan submitted to Brent Council. On Wembley stadium event days, when internal seating for 80 persons is removed, the total capacity (not including staff) shall not exceed 330 persons.

External – The outside seating area / garden shall not exceed 50 persons on any day. This includes those using the area to smoke.

The internal part of the above proposed condition mirrors the wording of the existing condition on the licence. However, the existing external capacity part of the condition reads –

*“Outside seating area at any time shall not exceed 50 at any time (in line with the plans submitted with the application [but no more than a maximum of 100 provided the overall combined occupancy of 300 on normal trade days and 380 on football event days is not exceeded”*

I submit that based on this wording the premises could have a max of 100 persons in the outside seating area / garden on any day provided the overall capacity is not exceeded. The actual capacity of the outside seating area / garden is 150 persons.

My client’s proposed condition for both the internal and external capacity is –

*“The total capacity (not including staff) for both internal and external shall not exceed 350 on non-event days at Wembley stadium . On Wembley stadium event days, when internal seating for 80 persons is removed, the total capacity (not including staff) for both internal and external shall not exceed 430 persons. On any day there shall be no more than 150 persons in the outside seating area / garden at any time”.*

Effectively my client is happy to reduce the internal capacity overall by 50 persons to allow an increase in capacity of 150 persons outdoor. We’re not increasing the overall capacity.

24. The outside drinking areas shall cease at 00.00 hours (midnight), except for customers using this area to smoke. This shall not exceed ten people including staff and SIA.

My client would accept the following –

*“No customer shall be permitted to use the outside seating areas / garden after midnight, except for customers permitted to temporarily leave the premises to smoke.*

28. The playing of live or recorded music shall not be permitted in any garden or external area

In respect of music, live & recorded music has been deregulated so that it is not considered to be regulated entertainment under para.12A of Schedule 1 of the LA03 where the requirements of section 177A are made out. These requirements are: (a.) "music takes place on premises which are authorised by a premises licence....to be used for the supply of alcohol for consumption on the premises."; (b.) at the time, premises are open for purpose of selling alcohol for consumption on the premises; (c.) audience not more than 500 persons (if music amplified); (d.) music takes place between 08:00 and 23:00.

Live and recorded music is permitted on the premises licence indoors only meaning that due to the deregulation in any event the premises is permitted to have live and recorded music in any garden or external area between 8am and 11pm as long as the above criteria are complied with. As such, placing this condition on the licence would be redundant so it is not required.

34. The premises will not show live domestic or international televised football matches on football event days.

I understand from our conversations that with this condition you are seeking for the premises to not broadcast football matches taking place at Wembley Stadium. My client is unable to comply with this condition, they do want the facility to be able to show football matches taking place at Wembley Stadium. I appreciate your stance is that this is something you have no room to negotiate on however, I would advise that under the deregulation the showing of a live broadcast is not an actual licensable activity and therefore cannot be conditioned. Furthermore, under guidance issued under paragraph 16.5 this deregulation can be noted, as well as Schedule 1, Part 2, Paragraph 8 of the Licensing Act 2003 which clearly states this as well.

*Paragraph 16.5 of the Revised Guidance issued under section 182 of the Licensing Act 2003 –*

*Overview of circumstances in which entertainment activities are not licensable 16.5 There are several exemptions that mean that a licence (or other authorisation<sup>18</sup>) under the 2003 Act is not required. This Guidance cannot give examples of every eventuality or possible entertainment activity that is not licensable. However, the following activities are examples of entertainment which are not licensable:*

- *Television or radio broadcasts – as long as the programme is live and simultaneous.*

*Schedule 1, Part 2, Paragraph 8 of the Licensing Act 2003 –*

*8 The provision of any entertainment is not to be regarded as the provision of regulated entertainment for the purposes of this Act to the extent that it consists of the simultaneous reception and playing of a programme included in a programme service within the meaning of the Broadcasting Act 1990 (c. 42).*

If this point is still in dispute, I would respectfully request that you refer this to your solicitor for their view.

I hope this helps you both and @Phil I'm happy to discuss once you've had a chance to review and I hope we can move forward to a position to resolving these outstanding conditions and having my client's variation granted without the need for the hearing scheduled for the 29<sup>th</sup>.

Regards

George