



L I C E N S I N G S U B C O M M I T T E E

Tuesday 28 November 2023 at 2.00 pm

Supplementary Papers

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Published on: 22 November 2023
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Licensing Sub Committee E

Tuesday 28 November 2023

Order of Business

- 6 Variation of a Premises Licence: Earth, 15-17 Stoke Newington Road
London N16 8BH (Pages 3 - 44)**

LICENSING ACT 2003

APPLICATION TO VARY A PREMISES LICENCE

EARTH, 15-17 STOKE NEWINGTON ROAD N16 8BH

APPLICANT SUBMISSIONS

	Document	Page Number
1.	Applicant Submissions	1 - 9
2.	Witness Statement of Auro Foxcroft	10 - 18
3.	EarthH Overview Document	19 - 33
4.	Technical Noise Memo – Big Sky Acoustics	34 - 36
5.	Dispersal Policy	37 - 40

LICENSING ACT 2003

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APPLICANT SUBMISSIONS

Introduction

1. The premises historically operated as a down-market wedding/banqueting venue, a problematic snooker hall and a dilapidated art deco cinema, the latter of which had not been in use for decades.
2. The applicant transformed the premises into an inclusive multidisciplinary arts and cultural venue which has attracted over 250,000 people to Hackney to enjoy a broad spectrum of theatre, comedy, grassroots live music, LGBTQI+ events, cultural performances and internationally renowned artists. The premises is also home to Studio 36, a music studio run by a charity giving young people facing life challenges an opportunity to train and start a career in the music industry.
3. The premises is called Earth – *Evolutionary Arts Hackney*, with a deliberate emphasis on *Hackney*.
4. The applicant takes its responsibilities in Dalston seriously and is a committed participant in local schemes, such as the Hackney Nights scheme, the Hackney Nights Accreditation scheme and the Women’s Safety Charter.
5. The applicant is grateful to the Licensing Sub-Committee for granting the original premises licence application in 2017. Since this time, the applicant has faced numerous and wide-ranging challenges, including major structural works, unanticipated construction costs, the Covid-19 pandemic and more recently the cost-of-living crisis. The application is made to safeguard the longer-term viability of Earth. This can be achieved by an extension of hours in the Area 2 first floor Kitchen and Bar area (previously the troublesome snooker hall), facilitating improved artistic, cultural and music event programming in this area.
6. The application proposals will also contribute to new employment opportunities for local people in Hackney: (a) more shifts for existing and new workers generated during the proposed hours;

(b) better programming opportunities for emerging artists and their crews; and (c) a more secure foundation for Studio 36 – giving young people in Hackney a platform to start their careers in the music industry.

7. Licensing decisions inevitably and should take into account the wider economic impact of a proposal made by a local business. This was recognised by the Court of Appeal in the leading case of *Hope and Glory* [2011] EWCA Civ 31, when Toulson LJ observed [at 42]:

“Licensing decisions often involve weighing a variety of competing considerations: benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on.”

8. The Licensing Sub Committee should therefore consider the disproportionality high adverse impact Covid-19 had on the applicant’s businesses and the continuing challenges presented by the cost of living crisis.
9. The applicant refers further to the supporting material submitted to the Licensing Authority, in particular the EarthH overview document and witness statement of Mr Auro Foxcroft.

The Application

10. The application proposes the following:

PART A

Regularise changes to the premises layout as shown on the plans appended to the application. The changes include general improvement works and upgrading the sanitary accommodation.

PART B

The addition of non-standard timings to allow for extended hours on New Years’ Eve only.

PART C

Vary the terminal hour for licensable activities on Friday and Saturday nights to 3:30am (the morning following) in the first floor Area 2 Café, Restaurant & Bar (EarthH Kitchen) to allow for grass roots live music, multi-disciplinary arts and cultural performance programming in this area of the premises. There are no proposed changes to the existing permitted hours on Sunday – Thursday, or for any other areas of the premises, which will remain the same.

11. The applicant understands that there are no objections to parts A and B of the application proposals. In relation to part C, the proposed extension of hours can be summarised as follows:

	Area 1 Hall Event Space	Area 2 Kitchen/Bar	Area 3 Theatre	Venue Latest Closing Time
Existing	10:00 – 03:30	10:00 – 01:00	10:00 – 03:30	10:00 – 04:00
Proposed	No Change	10:00 – 03:30	No Change	No change
Change	<u>No Change</u>	<u>Additional 2hours 30mins</u>	<u>No Change</u>	<u>No change</u>

12. Importantly, the proposal will not result in an extension to the existing latest closing time of Earth. This means that closing and dispersal will remain consistent with the existing closing and dispersal time, albeit the applicant is seeking permission for the Area 2 Kitchen and Bar area to close at this time, as well as the Area 1 Hall event space.

13. The Area 2 Kitchen & Bar is significantly smaller than the Area 1 Hall and Area 3 Theatre:

- a. Area 1 Hall capacity: 1200
- b. Area 2 Kitchen & Bar capacity: 300
- c. Area 3 Theatre capacity: 700

14. If granted, the comprehensive schedule of existing licence conditions would continue to apply throughout the premises. In addition, the applicant has volunteered additional conditions. The licence conditions are wide ranging and robust. They ensure the promotion of all four Licensing Objectives and safeguard key operational management controls, such as noise control, dispersal, local area consultation and SIA registered supervision.

Statement of Licensing Policy and Cumulative Impact Assessment

15. Earth is a prime example of the type of premises identified in paragraph 1.11 of the Statement of Licensing Policy (“the Policy”) that contributes positively to the London Borough of Hackney:

“The vibrant mix of entertainment and leisure activities in the borough makes Hackney attractive to visitors and an exciting place to live, not only at night but in the daytime and early evening too. It is an example of how diverse attractions can coexist and compliment one another. This greater

choice encourages people to travel into the borough to enjoy their leisure time, generating jobs and business opportunities”.

16. Furthermore, not only do cultural entertainment venues have a positive impact in terms of culture, jobs and business opportunities, independent venues have also been identified as promoting the Licensing Objectives and helping to reduce local problems in the London Borough of Hackney’s recent Cumulative Impact Assessment (“CIA”):

“The findings show common acknowledgement amongst the stakeholders that Dalston does not present the same issues as Shoreditch, where overall there is a lower number and severity of crimes. It was suggested that “much of the crime in ASB is not linked to the NTE, rather that they are historic and persistent issues” (council representative). Some stakeholders felt that reduced diversity and a loss of independent venues (due to the cost of pursuing a licence application), served to increase crime, as corporations are less concerned about welfare or community.”¹

“Dalston has a more diverse offer than Shoreditch and contains a good mix of restaurants, bars, pubs and clubs, as well as live music, electronic music and LGBTQI+ venues. This undoubtedly helps reduce the amount of problems in its NTE.”²

17. The CIA’s findings indicate that Dalston is not currently suffering from negative cumulative impact.³ There are issues in Dalston, although a lot of problems are associated with central Dalston, in particular Gilette Square. The evidence suggests that it is not on-licence premises contributing to these problems.⁴ Instead, problems are more likely associated with street drinking (off-licence premises) and general ASB not linked to bars, restaurants or music venues.
18. There is evidence that Dalston has improved in recent years, with a decline in ambulance call outs⁵ and minimal public nuisance in Dalston⁶. Notwithstanding, paragraph 470 of the CIA (cited above) and paragraph 491 suggest that local stakeholders feel it is important to support responsible operators as a way of tackling local issues:

¹ Paragraph 470 CIA

² Paragraph 577 CIA

³ Paragraph 65, 66, 141, 142

⁴ Paragraph 523 and 578 CIA

⁵ Paragraph 263 CIA

⁶ Paragraph 471 CIA

“The interviews reflect a general desire for a more relaxed, flexible approach within the [Dalston] area, with a particular focus on nurturing and supporting responsible operators, making reference to the good work of venues in their diverse offerings and their inclusivity.”⁷

19. The CIA recognised EarthH as one of those responsibly operated premises when observing a controlled dispersal of the venue:

*“It was also observed that whilst some venues clearly encourage their door teams to also manage the civic space outside of the venue and have staff maintain a certain level of cleanliness (e.g., Dalston Superstore, **EarthH**), many did not with drinkers spreading out in the street mixing with those who were sideloading”.* ⁸*[emphasis added]*

20. The applicant makes the following general submissions in respect of the Policy:

- a. **LP1 General Principles:** the application is made in accordance with the *“Council’s aspiration to diversify the offer, whilst at the same time promoting the licensing objectives”*.
- b. **LP2 Licensing Objectives:** the applicant has risk assessed the proposals. The comprehensive schedule of robust licence conditions will continue to promote all four Licensing Objectives.
- c. **LP3 Core Licensing Hours:** the existing permitted hours are already beyond the Core Hours as the Licensing Authority have previously determined it appropriate to grant later hours. The proposals will not result in an overall extension of hours – the main premises closing times will remain the same. The LP3 hours are not absolute and the Policy states that *“The Council supports the principle of flexibility in its approach to licensing hours and will consider the merits of each individual application”* and *“Later hours may be considered where the applicant has identified any risk that may undermine the promotion of the licensing objectives and has put in place robust measures to mitigate those risks”*.

⁷ Paragraph 491 CIA

⁸ Paragraph 768 CIA

Support

21. The applicant has been overwhelmed by the wide-ranging and voluminous support for the proposals from hyper-local residents, businesses, wider Hackney residents and cultural institutions. Indicative examples of supporters' comments include:

"EarthH plays a pivotal role in enriching the cultural landscape of Dalston, Hackney and London. Extending their hours is not just a means of survival in these trying times for independent venues, but it also promotes a social environment for patrons to leave the venue gradually and responsibly."

"As someone who resides locally in the flats right next to the venue, I can personally attest that EarthH's operations have not caused any public nuisance, crime or disorder in our neighbourhood. I wholeheartedly support their application and encourage you to consider the positive impact that extending their licence can have on safeguarding both the venue and their commendable social enterprise initiatives".

"I live at N16 7TX, overlooking the main street, practically metres from EarthH. They bring a varied entertainment and musical line up which is unmatched in his quality and diversity in London which brings great value to the area ... their current crowd and noise management of the venue has never impacted me as a resident and I would be confident in their ability to manage this later into the night".

"I am a hyper-local resident ... I have never once experienced any public nuisance, crime or disorder from the venue's operations. They can be trusted to operate a safe event at night and therefore have proved that they can extend their hours. It would not create an adverse impact on Dalston but also guests to egress in a more controlled and phased manner."

"I live on Pellerin Road and count myself very lucky to live near such an incredible venue that appeals to my broad music taste. I frequently walk past the venue (down Trumans Road) and I have never experienced any disorder and as a regular attendee of events there, the staff have always made me feel incredibly safe entering and exiting the building".

"I live on Salcombe Road, seconds from EarthH. I have never had any issues with the way the venue is run. If anything, the friendly security and staff know my face and always say hello when I pass

by or come to a show, which makes the venue feel like part of our local community. I have had some incredible experiences at Earth's beautiful art deco theatre. From witnessing international legends like the Sun Ra, Arkestra in action to engage in conversations with cult heroes like Irvine Welsh and Jim Jarmusch, and even enjoying performances by emerging UK talents like Self Esteem and Griff, Earth is truly a hidden gem, offering a diverse and enriching cultural and artistic experience. These moments and performances at Earth have added to its reputation as a unique and valuable cultural hub in the heart of east London".

"Over the past 20 years, 35% of grass roots music venues (GMV's) have closed in the UK and this is still ongoing; at the start of 2023 Music Venue Trust reported that the UK was continuing to lose GMV's at an average of one a week. In order for Hackney to maintain its reputation as "the creative heart of London" with a "cultural and creative economy central to the success of the borough" (Hackney Council Arts and Cultural Strategy 2019 – 2022) we urge the council to support successful business operators who are working to drive the market, taking risks on grass roots musicians and developing the talent pipeline. The opening of Earth, a new GMV in the Dalston area of Hackney which has over recent years lost many key sites, was welcomed by music venue trust, as it worked to address the ongoing loss of provision both nationally and locally".

Objections

22. The applicant consulted with the Licensing Authority, Police and local residents in advance of submission. The consultation was positive and the feedback received was helpful.
23. The objections highlight area-wide problems. The researchers undertaking the CIA also observed similar problems, not necessarily related to licensed premises or Earth⁹. As above, the applicant submits that well-managed inclusive cultural venues can help to reduce area-wide issues.
24. Some of the objections also cite historical noise outbreak from Earth. During recent meetings with residents their helpful feedback has resulted in the following new measures:
 - a. An enhanced dispersal policy to safeguard the controlled and quiet exit of customers from the Area 2 first floor Kitchen & Bar.

⁹ Paragraph 578 CIA

- b. Following advice from a leading independent noise consultant, improvements to the sound system to ensure local residents are not disturbed by the use of the Area 2 first floor Kitchen & Bar area during the existing and proposed hours.
- c. The installation of a new sound limiting equipment in the Area 2 first floor Kitchen & Bar area, fixed at a level agreed with the Hackney Environmental Health Team and an independent noise consultant.
- d. Stricter licensing requirements on the number of SIA registered supervisors on duty when the first floor Kitchen & Bar area is in use to ensure the safe and controlled management of customers inside and outside Earth.

Additional Conditions

25. As well as the enhancements to sound attenuation and operational management procedures outlined above, the applicant has agreed the following additional conditions with the Police:
- a. Except for pre booked private functions to which general members of the public are not admitted entry, at least 1 SIA registered supervisor shall be employed per 100 customers in the 1st floor bar/Kitchen area whenever licensable activities are provided after 01:00hrs in the 1st floor bar/Kitchen area.
 - b. If the premises licence holder intends to operate under the permitted non-standard timings for New Years' Eve the premises licence holder shall notify the Police and Licensing Authority no later than 10 working days before the New Years' Eve event.
 - c. Licensable activities shall be extended to 05:00hrs (the morning following) on New Years' Eve with a closure of the premises at 06:00hrs.

Conclusion

26. The applicant is well aware of, and grateful for, the support the Licensing Sub-Committee has given in establishing the Earth operation. It is hoped that the Licensing Sub-Committee accepts that the applicant has done exactly what it promised to do: to create an important cultural hub

of which the borough and its residents can be proud, and at all times promoting the Licensing Objectives.

27. This application has not been made lightly. It is made to safeguard the long term viability of Earth in a backdrop of relentlessly difficult external challenges. The applicant invites the Licensing Sub-Committee to please grant the application. In doing it will help to bolster the foundation of Earth, allowing the continued provision of a culturally important programme of arts and diverse music in Hackney, as well as more employment opportunities and a platform for young people in Hackney to launch their careers.

20 November 2023

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WITNESS STATEMENT OF AURO FOXCROFT

I **AURO FOXCROFT** of 15-17 Stoke Newington Road, London N16 8BH will say as follows:

1. I am a director of Village Underground Holdings Limited. My company has made an application to vary the premises licence in respect of EarthH situated at 15-17 Stoke Newington Road, London N16 8BH ("EarthH").
2. I have prepared a separate "Earth Overview" document which provides further information about EarthH, our events, the social enterprise, our community projects and our core objectives that underpin everything that we do.

Personal Background

3. I have almost 30 years' experience in producing cultural events locally, nationally and internationally. In 2004 I founded Village Underground to support young artists in Hackney through a not-for-profit creative workspace and a mixed-arts venue, which has developed into an award winning and internationally regarded success, with one of the most international programmes in London. I work with artists and creatives from around the world. As well as EarthH in Dalston, I have engaged in establishing cultural centres in Berlin and Barcelona. I have also run cultural projects across the UK. This work has attracted global media coverage across TV, radio, internet and print.

4. I speak and consult internationally on the creative industries and the development and operation of cultural centres, as well as the subject of social enterprise. I have been runner-up as the New Statesman Young Social Entrepreneur of the Year.
5. I have been a board member and President of *Trans Europe Halles*, Europe's leading, longest standing and largest network of independent cultural centres, representing organisations across more than thirty countries and managing major EC funded multimillion Euro cultural projects, some of which has brought direct benefits to the people of Hackney.
6. In 2014 I was approached to help set up and participate in the Mayor of London's Music Venue Taskforce, whose research into the decline of grass roots music venues in the capital was widely reported across the media. The Taskforce's findings were debated in the House of Commons and House of Lords and the work was instrumental in changing UK law to better protect our grass roots music venues. The Mayor of London also adopted our report's recommendations, including the Night Czar, a London Music Board and Night time Commission into his cultural policy. I continue to have a close working relationship with Amy Lame and the wider Culture Team in Mayor's Office, who have written in support of this application.

Village Underground & Earth

7. Over the last two decades Village Underground, and more recently Earth, have grown to be two of London's most important grass roots music and arts venues, with an international reputation based on their high quality delivery of performances by artists from across the globe. Our work is regularly supported by the Arts Council and other major arts funders. We present some of the world's most influential artists through partnerships with organisations such as the Barbican, NESTA, Sadlers Wells, English National Ballet, Spitalfields Music and more. These partnerships and events require first class production expertise, skills and experience that run through the organisation and the delivery of all our events. This reliably high calibre of venue and event operation is also at the core of Earth.
8. Village Underground has been a successful local business for over 15 years. This is built on our understanding of the important responsibility we have to our neighbourhood's businesses and residents, with whom we maintain strong relationships and communication. We take our licensing commitments extremely seriously, are an active member of our local Pubwatch and

make regular contributions to the late night levy, which funds night wardens. These important commitments have ensured long-standing and positive working relationships with Hackney's Licensing Police.

9. EarthH and Village Underground have an excellent health and safety track record and great relations with the local police and fire officers. We have a highly trained and experienced team who support numerous initiatives and training programmes, for example were early adopters of 'Good Night Out' - a London-wide campaign to tackle harassment in venues, pubs, bars and clubs. Good Night Out. We also train our teams in Ask For Angela, WAVE and Counter Terrorism Training with LBH Licensing Police. All of these are alongside more industry standard First Aid and Fire Marshal training and Mental Health First Aid training. EarthH was the first official affiliated venue in the Council's Hackney Nights scheme. We put much emphasis on safeguarding to ensure the protection of potentially vulnerable people attending EarthH and Village Underground.
10. Our regular street clean-up team ensures there is no negative impact of our events on the surrounding area. Taking these responsibilities seriously brought us the award of recognition by the Hackney Business Charter. The Charter's principle aim is to encourage businesses to invest back into local areas of need, providing employment opportunities for local people, supporting and strengthening communities, and bringing in new and established businesses, as well as further associated opportunities to Hackney.

Social Enterprise, Education and Training

11. Both venues operate as a social enterprise with ethical business practices, including having received a silver medal from Attitude is Everything, the leading organisation working in partnership with audiences, artists and the music industry to improve deaf and disabled people's access to live music.
12. In 2023 we launched Studio 36, a suite of professional music studios and teaching facilities based at EarthH. This new project has been designed built and equipped with money donated by EarthH, crowd-sourced from the local community and granted by the Arts Council.

13. Studio 36 is part of our commitment to engaging meaningfully with the wider community and supporting aspiring young music makers.
14. Hackney is full of talented musicians. We want them to have a place to develop their skills unimpeded by their background, access to equipment or financial status. Studio 36 aims to remove those barriers that Hackney's young artists might face. Alongside free access for young people to the facilities, we also work with other groups of diverse young people, including those in Pupil Referral Units or at risk of exclusion from mainstream education, offering training, mentoring, artist development programmes and direct employment opportunities in the music and arts sector.
15. We have received the following messages from some of the young musicians using Studio 36:

"Studio 36 is a place and chance for you to grow as an artist and performer. I'm not just speaking for myself when I say how important it is to have access to a studio for free and to be surrounded by a talented, passionate and kind team. Being a young black creative living in Hackney with lack of opportunity to have the opportunity to create music and perform free of charge is a blessing."

"Studio 36 offers me a high quality recording space free of charge with the added benefit of being able to build a network through programmes with other young creatives. Working in a busy studio environment inspires me to push the quality of my music as far as I can."

Covid-19, the Cost of Living Crisis and its Impact on the Arts and Music

16. The Covid-19 pandemic had a catastrophic impact on Village Underground and Earth. The venues have not properly recovered. The company, and myself personally, took on very significant additional debt in order to stay afloat and continue the social enterprise projects, with Earth taking on over £1m in new debt to get through the pandemic. This is in addition to debt we have as a result of the extensive and ongoing works, including soundproofing, to the Earth building since 2017. We are now in debt of around £3.8m, including funds owed to the Council in respect of their generous Covid-19 rent deferral. It is a critical time for us financially.

17. These financial concerns are not unique to us, most Grass Roots Music Venues in the UK are face similar challenges post Covid and as a result of the current cost of living crisis - 10% have already closed down this year, which is a tragic loss to our cultural life in the UK and the communities that those venues served. Our industry is further beset with problems relating to inflation and BREXIT, which has severely damaged the international touring circuit, leading to less events in general a large number of cancelled events: Last year we lost 45% of our events to such cancellations.
18. While audiences are finally returning to venues, we continue to struggle alongside them, as few people have disposable income to spend on food and drink during their visit. We have also found that audience, artist and event producers' behaviour has significantly changed, customers are more cautious about buying tickets, either booking late or not at all. In turn artists and producers are more hesitant to book events at venues. These are extremely challenging times for us, our sector and hospitality at large, and increasing our trading hours is a critical opportunity to weather the current times.

The Purpose of Earth's Events in the First Floor Room

19. While the proposed extension of hours is key to our financial survival, it is also invaluable to our *purpose*. Later hours will enable us to further establish Earth as a leading London venue for cultural events and, importantly, cutting-edge new artists. The first floor space is much smaller and provides a more intimate setting for new, or 'emerging', artists, who need a platform to showcase their talent before stepping up to the bigger stages in our other spaces, or venues across London and the UK.
20. Playing a key role in supporting the development of Emerging Artists is of great importance to our team and organisation, as well as to our funders especially from the Arts Council, NESTA and The Big Issue. Our venues work with and provide employment for over 5000 artists each year, so we rely on the national pipeline of new artists coming up. We must and do play a role in keeping that pipeline alive and healthy, through supporting emerging artists with performance opportunities - this application will enable us to offer much more of this critical support. It is important to note that so many of the emerging Artists that we do and will support are from Hackney and the surrounding boroughs. It is a source of great pride to our team that our programming over the years has supported hundreds of artists that have since grown to become international successes, many now headlining large festivals and stadiums.

The Purpose of Our Customer's Visits

21. As a consequence, persons attending the first floor event space are highly likely to be music enthusiasts who have booked tickets in advance to see a specific music show or new music artist. This allows us to differentiate EarthH from nightclubs or other late-night premises centred around alcohol. Instead, EarthH will continue to be increasingly renowned as an arts venue centred around nurturing high quality artists and performances, not a venue where the primary purpose of visiting is to consume alcohol.
22. Unlike nightclubs, our primary source of income does not come from bar sales. The emphasis is on a carefully curated programme of art, culture and entertainment. Customers do not enter EarthH motivated to drink alcohol and spend money at the bar. They are music and arts enthusiasts who feel privileged to visit a cultural venue to experience shows performed by nationally and internationally renowned, talented artists. Purposefully, EarthH does not look like a nightclub - there are no neon signs advertising club nights or bar deals aimed at attracting passers by. Almost all of our customers have bought a ticket for a show and have planned their visit for some time.
23. As a result of all this, EarthH is, to a degree, self-policed. We do not experience some of the concerns and issues usually associated with alcohol-led commercially operated non-arts venues, with a more generic music offering.
24. Our average bar spends across Village Underground and EarthH are very low. I have prepared a spreadsheet setting out average bar spends. This demonstrates that we do not operate alcohol-led venues. Our average customer is a music/culture lover, who on average only buys 1.25 drinks during the week, and 2.5 alcoholic drinks at the weekend, over a visit lasting 5-6 hours.
25. In simple terms, later hours in our bar and kitchen area will allow us to programme more events and attract a more diverse flow of new artists, through which we can better support Hackney's diverse local communities. This will allow us to evolve, while generating revenue to survive the current challenges and safeguard the long term viability of the social enterprise.
26. An alternative, and perhaps simpler, business strategy would be to focus on alcohol led events and run the event space as a typical nightclub. This would help to generate more income to

recover lost revenue during the pandemic and help to safeguard the longer-term viability of EarthH. However, this is not our intention and would conflict with our underlying principles and core values. Importantly, we have demonstrated through previous license applications that we have stayed true to these principles.

EarthH's Event Programming

27. We consciously and continually strive to curate events for a broad church of diverse audiences with a wide-ranging spectrum of cultural backgrounds, beliefs, interests and ages. Hackney is one of the most diverse neighbourhoods in the UK, possibly the world, and we strive to reflect that in our programming to attract as many different groups of people through EarthH's doors as possible. This ranges from small community groups attending cultural events, music enthusiasts attending a show performed by a world class artist, retired persons attending a range of arts performances, or young people attending educational programmes. The age range of persons attending shows at EarthH is mainly between 20 – 40 years of age, while many events attract older audiences. Our venue, programmes and audiences are very different to a typical bar or nightclub and their customer base.

Local Resident Objections

28. As well as running businesses in Hackney for almost 20 years, I have also lived in Hackney for most of the last 25+ years. I am very aware of issues arising from the night time economy in the local area. I want to work with local residents and business owners to ensure that EarthH continues to bring its many benefits to the neighbourhood without exacerbating current problems.
29. We engaged with local residents before we submitted the application, individually and publicising two consultation evenings. This resulted in really helpful dialogue, meetings and sound tests. We have since started implementing adjustments to our first floor sound system (including the installation of a new sound limiting equipment) and made changes to our operational management procedures.
30. I have written to the local resident objectors and carefully considered their concerns. I have also engaged with the Hackney Senior Environmental Protection officer. I remain committed to operating EarthH sympathetically alongside the local Dalston community. I am confident that a

combination of this partnership working, our management controls, enhanced dispersal policy and sound limiter will ensure that local residents are not disturbed by an extension to our hours.

31. I hope that EarthH has represented a positive change in Dalston to help bring up general standards locally. This is a long-term project meaning the area-wide improvements can continue if given a chance to flourish.
32. I have read the objections to our application. Some general and area-wide concerns have been raised by some of the objectors, for example *“anti-social behaviour, crime, vandalism, and disorder”, “drunk people”, “alcohol linked to fatal cancers”, “drug dealing”, “vomiting, noise and detritus”* and *“public urination, and defecation, graffiti, drug use and dealing, flights and alcohol litter including broken glass and other disturbances of the peace”*.
33. In the past I have witnessed some of this type of behaviour myself. I have also observed some general improvements in the area over the last couple of years. This may be linked with Dalston’s evening and night time economy getting quieter. In any event, it is not EarthH’s customers that are engaging or contributing to this behaviour. Our customers simply do not behave in this way.
34. We have management systems in place to ensure that EarthH does not contribute to this type of concerning activity. Our team help to supervise the immediate vicinity to discourage general members of the public engaging who may behave badly. We provide a supervisory function. We hope that this can be extended later to help bring about improvement.
35. Some of the objectors have cited concerns about noise outbreak from EarthH to neighbouring properties. Following our helpful dialogue I am grateful for the opportunity to work with local residents to implement the measures outlined above to help address the concerns that they have raised.
36. I have also been overwhelmed by the significant and wide ranging support from local people, businesses, stakeholders and cultural institutions. This includes a number of letters from ‘hyper-local’ residents, living within 150m radius of EarthH, who say that they are not negatively affected.

Summary

- 37. A few years ago, the premises consisted of a dilapidated cinema that had been left to fall into a state of disrepair, a troublesome snooker hall and an underused banqueting hall. With a lot of hard work and help from the Council, the Arts Council, London’s leading cultural organisations and the local community we have transformed the venue into a world class cultural venue and social enterprise that Hackney can be proud of.

- 38. With the permission of the Sub-Committee, we would like to have the opportunity to continue providing a cultural venue with the local community at its heart. The proposals will not result in an overall extension of the venue’s hours but will help ensure the first floor event area can contribute to our underlying objectives. This will provide EarthH with a lifeline to survive and a platform to safeguard our social enterprise for the future. In doing so, we can continue making a positive impact in Dalston and ensure the promotion of all four licensing objectives.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true.

Signed:

Auro Foxcroft

Dated:



EVOLUTIONARY ARTS HACKNEY - EARTH – SUPPORTING INFORMATION

About EarthH

EarthH (Evolutionary Arts Hackney) is one of London's leading Grass Roots Music and Arts venues, home of contemporary music in Hackney, and the borough's largest art centre. EarthH's programme is multidisciplinary, presenting music, visual art, theatre and other performing arts. We are recognised internationally for making major contributions to the international reputation of UK music and art through our incubating of emerging music scenes & artists that often go on to achieve international acclaim. EarthH is also the venue of choice for big name arena filling artists to play very special intimate shows – Sting, Ed Sheeran and Will Young all performing in this season's re-opening programme, the some of the biggest indie rock bands in the UK today, including Idles and Fontaines DC, choose EarthH for intimate album release shows.

We work in partnership with major cultural institutions who produce new work in our informal space while receiving new work in their venues curated by us, including Barbican, BBC, Sadlers Wells, Serpentine Gallery and Tate Modern. In this way we bring some of the very best global culture and art to Hackney audiences. We also have a leadership position, having collaborated on the Mayor of London's Music Venue Task Force, Mayor of London's London Music Board, Mayor of London's Nighttime Commission, and an ongoing close working relationship with Music Venue Trust.

Our schedule looks to be increasingly balanced, inclusive and reflective of the way in which great cities like London thrive on variation, integration and forward thinking. To this end, we are signatory of Keychange and have pledged to work towards a 50/50 gender split in our programming. We are also signatories of Good Night Out and the Mayor of London's Woman Night Safety Charter. We undertake WAVE training, run Ask for Angela and were the first venue to sign up to the Council's Hackney Nights scheme, to ensure that anyone who attends our venue has the best time in the safest and most supportive environment that we can provide.

The Venue

The premises were previously licensed as Efes Snooker Hall (now Area 2 – event space with ancillary café & bar) and the Magnolia Banqueting Hall/aka Epic (now Area 1 – Event Space). In addition, the premises included a hidden and delapidated art deco cinema (now Area 3 – Theatre), which was in need of significant restoration.



We were extremely grateful to the Licensing Sub Committee for granting a new premises licence covering all 3 areas in 2017. This allowed us to finalise important fundraising which meant that we could commence a long process of sympathetically bringing the premises back to life as a 21st century arts centre and theatre for Hackney.

EarthH launched gradually in 2018 as a social enterprise and now operates with 3 multi-disciplinary areas as follows:

Area 1 Events Space – a 1200 capacity event space at lower ground floor/basement level. This area is the subject of the current application and is primarily used to host cultural and cutting edge live music performances. The permitted hours are 22:30 Sunday, 00:00 Monday to Thursday and 03.30 Friday and Saturday. This area previously operated as a large scale and dilapidated banqueting and events venue. This area is not subject to the current application.

Area 2 – a 300 capacity event space, with ancillary bar and food. The primary use of this space is to help service and provide an attractive place for persons visiting the theatre (Area 3) and the events space (Area 1) to eat and drink. The current permitted hours are 00:00 00:00 Sunday to Wednesday and 01:00 Thursday to Saturday. This area previously operated as a snooker hall and licensed crazy golf venue.

Area 3 – a 700 capacity theatre used as a multidisciplinary arts, music and theatre venue. The current permitted hours are until 00:00 7 days a week. This area historically operated as an art deco cinema, where I understand the last film shown was Scarface in the 1980s. This area is not subject to the current application.

The Needs We Address

Dalston is one of the most diverse areas in the UK, with 38% born outside the country and some 200 languages spoken in the borough, Dalston has a high representation of Black or Black British African, Caribbean and many other under-represented groups. Additionally Hackney also has a particularly young population, with 85% being below 50 yrs.

In response to this EarthH's mission is to present artists from around the globe to cater for the cultural needs of the borough.



International artists playing at EarthH this season include the enigmatic Syrian singer, Omar Souleyman, the hypnotic Malian guitarist Vieux Farka Touré, Zambian 70's legends WITCH, Taiwanese's rock band No Party For Cao Dong and Turkish Psychedelia form Derya Yildirim + Grup Simşek, to name just a few.

This year Spanish, Finish and Indian comedians have performed at EarthH alongside the best in popular world music including Congolese-Belgian singer Lous and the Yakuza, Japanese folk singer Ichiko Aoba, Romanian rappers Azteca and Rava, Brazilian funk lord Marcos Valle, Indian rock band Farhan and the Egyptian rock band Cairokee. The most important and famous Mexican groups La Sonora Santanera, performed in the UK for the very first time at Earth as did

legendary Argentine percussion ensemble La Bomba de Tiempo, Palestini independent record label BLTNM showcased at Earth, as did Chennai Tamil singing group Motta Maadi Music, while The Whirling Dervishes, a traditional Sufi ceremony from Istanbul and Tibetan chanting monks performed only a few days apart. EarthH's Global programming brings the world to East London.

In particular we have a focus on programming relevant to younger people, alongside having recently launched a comprehensive music education facility, with training programmes, aimed at Hackney's young people, particularly those from challenging circumstances.

This licence application is in part a request to the council to help us increase our ability to meet these aims. Many of our local communities from various backgrounds have cultural norms that do not fit easily with our current hours – for example South American, African and Southern European audiences generally arrive for events at around 12, after family time in the early evening and later meal times.

Importantly, from a financial perspective, the extra hours of trading per week will not only help the social enterprise survive but also help us to fund the education programmes that we are committed to and which form the basis of the fundraising that we have achieved to date. Such programmes are the cornerstone of the Arts Council's new five year plan.

Creative and Cultural Opportunities For All

The Arts Council have heavily funded EarthH because we deliver on their main aim: Creative and Cultural Opportunities For All. We do this by programming a broad spectrum of music and culture for diverse local audiences, through our five core activities:



1. Diverse music programming – We support Hackney and London by booking important, internationally acclaimed acts, recently including The Last Dinner Party, Griff, Self Esteem, Jarvis Cocker, Kae Tempest and Jose Gonzales - bringing major international artists to local Hackney audiences is a major part of our purpose.
2. Youth Education and Training – We are funded by the Big Issue, which has KPIS for education and training of local young people, often from challenging backgrounds or ‘hard to reach and teach’. We have built new on-site training facilities with programmes aiming to inspire the creativity of young people, and routes into sustainable creative employment. – This leads into:
3. Developing Grass Roots Artists – EarthH is also funded through the Arts Impact Fund (Arts Council and Nesta), which includes ambitions KPIS of supporting 701 grass roots artists in 2022, growing year on year. This is an investment made by EarthH into supporting new talent, often local artists. To achieve this we work with local partners, for example, ‘ComposHER’, Gal Dem x Intelligence Squared, Black Pride, The Glory (MAN UP), LICK, DLT, Jason's Closet. This leads into:
4. Springboarding Emerging Artists – We take the risk on moving Emerging or Grass Roots Artists onto their first major stage. This creates sustainable long term careers, underpins the development of new local, London and UK genres and scenes and sets them onto the road for global success. Recent examples include Little Simz, Kindness, Poppy, Adjudha, Steflon Don, Alfamist, Shabaka Hutchins, Black MIDI, Nilifur Yanya.
5. Cultural Crossroads – We work to cross-pollinate music audiences with other cultural activities eg Boilerroom’s black cinema project with Janelle Monae or Robin Ince followed by Little Simz. This multi-faceted approach to programming creates more relevant cultural opportunities for local audiences and builds on Hackney’s reputation for incredible cultural provision.

Local Significance and Local Benefits

Employment

- Our core team is 22 FT staff, our Front of House and freelance team is 150 people, the majority are local young people.
- We also employ over 2800 artists PA



- Increasing our licensed hours will increase the amount of employment we can provide for local people and artists alike

Training

We have formed a consortium of Hackney's leaders in youth music education with Hackney Empire and Progression Sessions – focusing on NEET, or 'hard to reach and teach' young people, often from disadvantaged backgrounds – this is important to us because Hackney is England's 11th most deprived local authority area.

- Our long term aim is to work with them in every school in the London Borough of Hackney.
- Example training includes music production, song writing, recording and stage craft, promoting & event management, digital/Social Media.
- We also cross-train and up-skill some of our FOH staff in technical/production skills and use our networks to help them find roots into creative industries employment
- Distributing free tickets to those facing economic barriers to high quality events, which is also a vital part of one's music education. Distributed locally and through Tickets for Good - Everyone should have the right to art and culture.

Economic Impact

We estimate that our business makes a contribution to the local economy of c.£6,232,377 PA, through for example music tourism and ancillary spending of our audiences.

Increasing Accessibility

We have a long term partnership with Attitude is Everything, the UK's leading organisation for disabled access to cultural events. Our reputation brings a high number of disabled visitors, with much positive feedback, such as this recent message:

"Hi Josh, I wanted to write to thank you and your staff for last night. Apart from the fact that the band were great, the staff at the venue were outstanding. From the moment we arrived until leaving the venue. I cant thank you enough. I love the venue - we've been to at



least a half dozen gigs at Village Underground, and i didn't want to miss out, so to have such a great experience last night was really special. I hope you can pass on my thanks to all the staff for doing such a great job.

We hope to come back again soon, and i'm sure i'll be in touch unless my health improves hugely. kind regards"

Green Business

- Renovated this historic Art Deco building, investing approximately £3M to bring it back from dereliction and saving it from being demolished for other purposes.
- 2nd prize in TfL's London Cycle Challenge for companies encouraging 100% of their staff to cycle to work.
- A member of and funded by Hackney's Zero Emissions Network.

Other Initiatives

- We continue our partnership with Key Change, aiming for gender parity in our sector, particularly promoting female artists.
- An early adopter of Good Night Out – A London-wide campaign to tackle harassment in venues, pubs, bars and clubs, an initiative of Hollaback UK - similarly, we also run the Ask for Angela scheme.
- Awarded recognition by Hackney Business Charter.
- Active member of Dalston Pubwatch.
- Great relations with local police and fire officers.
- Regular contributions to the voluntary late night levy which funds night wardens.

- WAVE and Counter Terrorism Training with LBH Licensing Police
- EarthH was the first official affiliated venue in the Council's Hackney Nights scheme. We put much emphasis on safeguarding to ensure the protection of potentially vulnerable people attending EarthH.

Health, Wellbeing, Social Outcomes

- Zero Emissions Network member.
- Anti harassment training.
- Anti discrimination training.
- Public speaking/advocacy eg GLA, London Music Board, Nighttime Commission.







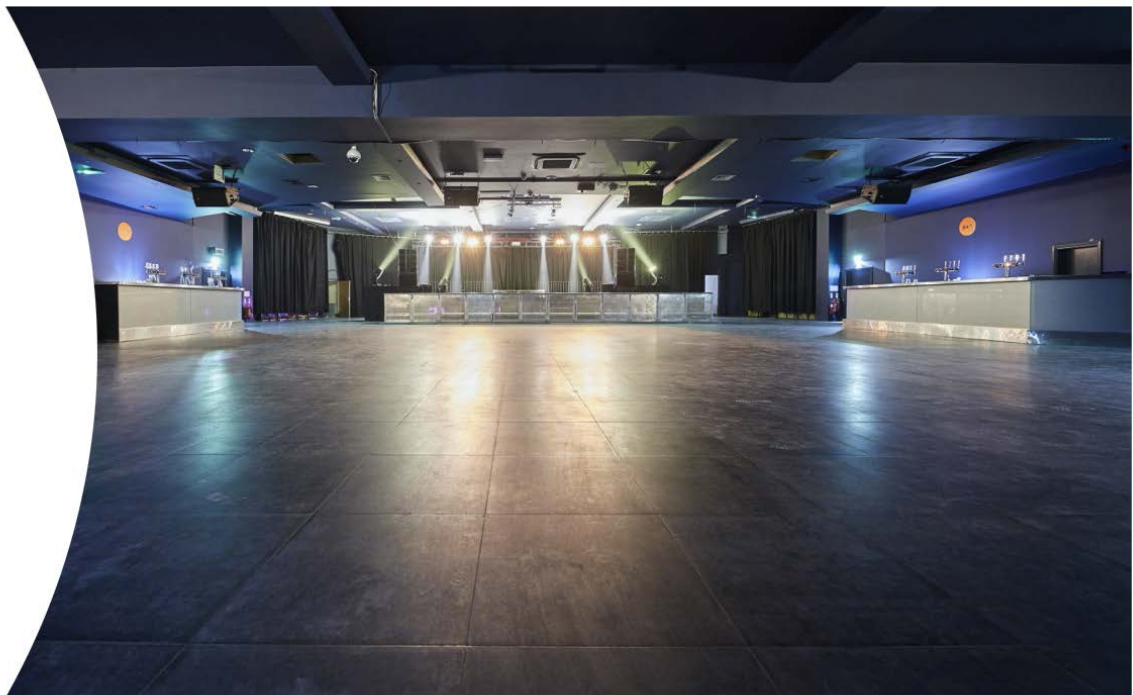












TECHNICAL MEMORANDUM			
Project:	Earth Kitchen, 11-17 Stoke Newington Road, Dalston N16 8BH - site visit report		
Reference:	23111171	Date:	19 th September 2023
To:	Jack Spiegler, Thomas & Thomas	From:	Richard Vivian

1. Introduction

The premises was visited on 19th September 2023 during the daytime and evening. I am familiar with the premises and the location of residential receptors. I have carried out a number of noise surveys in the area during the day and night.

2. Building

The building envelope of Earth Kitchen was inspected, including the existing doors to the smoking area. Recommendations were made to install an acoustic barrier to the southern edge of this smoking area so as to obscure line of sight to residential windows.

3. Sound system controls

The sound system is a professional system installed and managed by the in-house tech team at Earth. The speaker system is 2 x Martin Audio Blackline H3 configured as mid-high cabinets and 2 x Martin Audio S218 double 18" subs.

The Control System is a dbx DriveRackPA2. Gain and dynamics processing are set and locked in software within the processor.

The sound system was reconfigured with different crossover points and new maximum level settings on the limiter during my visit of 19th. This was demonstrated to reduce low frequency breakout from the room.

The sound system configuration was documented on a limiter calibration certificate that can be found at the end of this report. The system was set and locked with the following maximum operating levels:

Location	L _{Aeq,1min}	L _{Ceq,1min}	L _{eq,1min 63Hz}	L _{eq,1min 125Hz}
Central area in front of DJ	97	115	116	103

Measurements are spatially averaged sound pressure levels in the area(s) indicated. All sound pressure levels are given in dB re: 20µPa

4. Operational procedures

We discussed management of the smoking area and verified that a noise management policy and dispersal policy were in place for the premises.



Figure 1: Equipment rack with dbx DriveRackPA2 (the limiter) at the top of the rack

5. Conclusions

The building provides an envelope to contain noise. Glazing is high specification and the door to the smoking area (not used later at night) is a good fit and effective. An additional acoustic barrier has been recommended for the smoking area.

There are a large number of variables in any professional sound system allowing every element of the sound to be configurable. This site visit included a thorough audit of the sound system in Earth Kitchen and a reconfiguration and resetting of the sound system limiter in order to reduce low frequency noise breakout. In the event of a future complaint about noise my recommendation is always to go to the room where the noise is being witnessed and assess not just the level but also spectral content. With precision measurement and control the individual frequencies can be tailored to ensure that the sound system is appropriately, and precisely, controlled.

Given this location, operational controls and setting of a precise sound system limiter it is my professional opinion that the operation of Earth Kitchen does not result in an increase in average noise levels in the area around the application site and would therefore promote the licensing objective of the prevention of public nuisance.

Richard Vivian BEng(Hons) MIET MIOA MIOL
Director, Big Sky Acoustics Ltd

This is a certificate for the calibration of music noise limiter device installed on the premises as described below.

Name of premises: Earth Kitchen
 Address of premises: 13 Stoke Newington Rd, London N16 8BH
 Management details: Auro Foxcroft, Director, HAC Group Limited
 Limiter devices: dbx DriveRack PA2 Loudspeaker Management System
 Location of devices: Stage right amplifier rack
 Anti-tamper measures: Limiter configuration is locked in software

Description of music system: 2 x Martin Audio Blackline H3 and 2 x Martin Audio S218
 Amplification: 2 x QSC RMX2450; 1 x QSC RMX5050

The above equipment has been measured at maximum operating levels as shown below:

Location	L _{Aeq,1min}	L _{Ceq,1min}	L _{eq,1min 63Hz}	L _{eq,1min 125Hz}
Central area in front of DJ	97	115	116	103

Measurements are spatially averaged sound pressure levels in the area(s) indicated. All sound pressure levels are given in dB re: 20µPa

This calibration certificate is valid only for the equipment as specified above.



Date: 19th September 2023

Richard Vivian BEng(Hons) MIET MIOA MIOL
 Big Sky Acoustics Ltd
 Institute of Acoustics Membership Number: 43620

Instrumentation record: Measurements were carried out using a Cirrus type CR:171B integrating-averaging sound level meter #G056799 with real-time 1:1 & 1:3 Octave band filters and audio recording conforming to the following standards: IEC 61672-1:2002 Class 1, IEC 60651:2001 Type 1 I, IEC 60804:2000 Type 1, IEC 61252:1993 Personal Sound Exposure Meters, ANSI S1.4-1983 (R2006), ANSI S1.43-1997 (R2007), ANSI S1.25:1991. 1:1 & 1:3 Octave Band Filters to IEC 61260 & ANSI S1.11-2004.

Description	
Cirrus sound level meter	type CR:171B
Cirrus pre-polarized microphone	type MK:224
Cirrus microphone pre-amplifier	type MV:200E
Cirrus class 1 acoustic calibrator	type CR:515

The calibration of the measuring equipment was checked prior to and following the tests and no signal variation occurred. Calibration of equipment is traceable to national standards.



Dispersal Policy

Greg Phizacklea - Venue Manager - 2023

This policy is to be read and fully understood by everyone employed to work in any capacity on events held at Earth. Its purpose is to ensure safety to our customers and to also offer them the best possible experience with us, to respect our neighbours and be an upstanding member of the community, and to adhere to the licensing objectives.

Transport

Taxis

Earth is 4 doors down from a licensed taxi company which is open 24 hours a day 7 days a week (Diamond Cars)

Our security are able to direct customers to this service when they are leaving the venue and are instructed to inform unlicensed taxis to leave the area.

For any customers collecting Ubers or other pre-ordered taxis they are advised that pick up points are around the corner on Shacklewell Lane, so to not disrupt the residents on Trumans Rd.

Tube / Overground

EarthH is served by a number of local bus stops and Overground stations. For events when a TEN application has been granted and we are able to stay open until the first tube and Overground trains arrive, for those travelling from Dalston Kingsland and Dalston Junction for Overground. Liverpool Street Station is now on the 24 hour tube line and can be reached by taking 149, this will take you to Liverpool street station where night tubes are running. Alternatively 243 will take you to Old Street station where the northern line runs until approximately 00:30.

Buses

EarthH is served by a number of buses / night buses and are all accessible within minutes of the venue.

Customers arriving by car: On street local parking is widespread.

All these services are promoted on our web site under the section "FAQs". This site is accessed



by our customers every week and is our principle method of promotion within the venue. These services are also promoted through various publicity materials / social media.

Road safety

As our customers are exiting onto a busy public highway we install temporary barriers, this measure allows us to facilitate safe exit into the public domain. The barriers from the world pay phone box situated on the Stoke Newington Road to the entrance to the venue, these help with the dispersal. Stewards are employed early doors to ensure queues are tidy and organized and the street is clear with no shop or thoroughfare being blocked by customers exiting the premises.

Security inside the building are trained to not force everyone out of the venue too quickly to ensure that the outside area is manageable.

Then, stewards and security encourage the rapid and quiet dispersal of customers from the immediate area. We realize that there are local residents close by either side of the venue and directly onto Truman road, so we attempt to direct customers away as expediently as possible.

Operational

Staffing

During the course of the evening, and especially towards the end of service, the service points in each bar area are reduced and staff are relocated to collect empties and/or work in the cloakroom. This will assist quick customer departure and reduces the potential for people to attempt to carry drink out of the premises.

Bars

All bars stop the sale of alcohol at least thirty minutes before the end of the evening to ensure prompt exit at closing time and reduce noise when music stops. Bar staff begin to assist with cloakroom and floor cleaning duties.

Cloakroom

The cloakroom is set up with the purpose of swift return of coats. All staffing levels and control systems are increased prior to closing with this goal in mind. At this point staff and security are wishing people a good evening and advising them of the way out and to keep the noise down as they are leaving.

Music & Lighting

During the last hour or 2 of trading we employ some strategies designed to encourage the gradual dispersal of customers. We close areas off and gradually increase the lighting levels. The performer will typically play slower music and our sound engineer is instructed to begin to



reduce the volume as venue becomes less busy.

Minimizing Noise on Exit

A Duty Manager is always positioned in an area close to the main exit to oversee the end-of-night departure period. Customers queuing for coats and bags are reminded to be considerate upon leaving the premises by clear signage and by our team. Highly visible notices are placed at the doors requesting leaving customers to exit quietly and to respect neighbors and their property. We also occasionally provide sweets and lollipops on the exit as an additional strategy to promote harmony amongst our patrons and help reduce excessive noise.

Bottles / Glasses

None of our events serve glass products over the bar.

Customers are not allowed to leave the premises with drinks. This policy is supported by a vigilant security team, stopping and searching customers where necessary. Bins are provided at the exits for the use of customers also.

Litter

Rubbish patrols are carried out regularly during the night and at the very end of the night. They collect all cans, fliers, food wrappings etc in the immediate vicinity of the premises. As well as clearing rubbish, the patrol acts as another set of eyes and ears identifying potential disorder. The very activity of sweeping the street and pavement, along with the security team moving things along, encourages the customers to vacate the area outside the venue. We also ensure fly posting and flyers are not left outside the venue with these teams.

Security Staff

The security team plays a key role in the implementation of several aspects of our dispersal policy including the following areas:

By encouraging customers to drink-up and progress to the exit within the venue throughout the latter part of the drinking-up time.

Drawing customer attention to notices in the foyer and asking them to act responsibly, especially in regard to keeping the noise down and leaving in an orderly manner.

They will ensure the removal of all glasses from customers exiting the venue.

Actively encouraging customers not to congregate around the premises after exiting.

By directing customers toward the taxi rank and local transport links. This includes maintaining crowd control in the street, ushering away flyering teams and unlicensed drivers. The aim of these practice is to create a highly visible presence and to communicate our policy across to our customers in an effective manner.



The security also re-set up the crowd control barriers at least a half hour before the end of the event / after last new entry to walk people away from the front of the venue and down the road towards the overground stations, this also prevents customers from walking directly out into the main road.

Our dispersal policy is reviewed by the nightly management team and the DPS regularly and as a result is streamlined and effective. New and innovative approaches to problem-solving are always considered.

EarthH Kitchen

Dispersal from EarthH Kitchen will operate in the same way as EarthH Hall. We will have dedicated security (numbers risk assessed depending on attendance) who shepherd the customers away from the residential areas and towards public transport.

On nights where the Hall is also open these teams will work together as outlined above.

Events will be carefully coordinated with a phased introduction of later concurrent events in the Kitchen and Hall to ensure the dispersal policies and procedures can be fine-tuned. Any feedback from local residents and the Responsible Authorities will be carefully considered.

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