

Array

Questions and Answers

12 MAY 2023 ISSUE

1) What exactly is the compromise offer put forward by Array?

The licence holder is willing to accept all conditions imposed at the Review Hearing along with the reduction in hours on a Friday and Saturday. They are proposing a compromise on the reduction in hours between Sunday and Thursday. They request all licensable activity will cease at 23:30 with the venue closing at 00:00, rather than licensable activity cease at 23:00 and venue close at 23:30, which was imposed at the Hearing.

This will allow the venue to remain open for an additional 30 minutes from Sunday to Thursday beyond the hours deemed acceptable by the Licensing Committee.

In contrast to the existing licence (the licence against which the review was brought), Array would still lose their licensable hours by 30 minutes on Sundays to Wednesdays and 60 minutes on Thursday.

2) Does the close time cited above mean that the premises have to be fully vacated?

All patrons must be clear from the inside part of the venue by closing time. These times are stated on the premises licence.

3) What is the Council's decision on this offer?

Following legal advice from the Council's own Legal Team, the Council has accepted the proposal offered by the Licence Holder. This is an Officer decision.

4) Which officers have been involved in this decision?

Helen Oakerbee, the Assistant Director of Planning and Public Protection has led the discussions informing this decision, with input from the Licensing Team and the Council's Legal Team. The Council's Legal Team has engaged directly with Array's Legal Representative.

5) How will the offer be formalised?

The offer is formalised by way of a Consent Order, this is legally binding document.

The Consent Order has been checked by the Council's Legal Officer to ensure the agreement between both parties is correct. The Order has also been reconciled against the original decision notice to ensure it accurately reflects the adoption of the conditions imposed at the Review Hearing and reduction in hours at weekends. It will then be signed by both parties and go before the Court to be approved.

6) Will the Consent Order be a public document?

Yes, the Consent Order will be a public document.

7) What has the Council taken into account in reaching this decision? What is the benefit in taking this decision?

If the Council rejected this offer and proceeded with the appeal hearing, there is no guarantee the Court will find in the Council's favour. We believe the Licensing Committee made a reasonable decision, but Licensing Appeal Hearings are fresh hearings and all parties are able to introduce new evidence. This means that the Court could make an entirely different decision to the Licensing Committee. By proceeding to defend the decision, the Council are at risk of losing the additional conditions imposed and the reduction of hours secured at the weekend

By accepting the proposal, the Council has a guarantee that the licensing hours are reduced Monday to Sunday along with additional conditions that will be attached to the licence.

8) Did the Council considered alternative times licensable activities could cease, say at 11.15pm, which would be 15 minutes earlier than the offer made by the premises license holder?

The Council did not consider alternative times due to the fact that the offer put forward would only provide an additional 30 minutes which is still 30 minutes less than the original decision. We also factored in that all conditions added at the Review Hearing were not contested, nor was the reduction in hours at weekends.

9) Why hasn't this offer returned to Licensing Committee for consideration?

This is due to the respondent in the appeal being the Council's Licensing Team, as the Licensing Authority, rather than the Licensing Committee itself. The Licensing Team is the decision maker in the scenario that a compromise offer is made.

10) Is there a requirement to publically advertise the new hours?

There is no legal requirement for hours to be publicised however, the hours are stated on the premises licence. The amended hours will come into effect once the Consent Order has been signed by the Court.

11) Condition no. 11 of the Licensing Committee Decision states 'All outside areas, including barriers or gates to the premises, must be closed and cleared of customers 30 minutes after the premises' closing times. Adequate notices shall be displayed to inform patrons of this requirement'. Does this mean that the venue has another 30 minutes after closing time to clear the premises?

There is an additional time period for patrons to be cleared from all outside areas which is separate to the closing time of the inside part of venue. There is an additional 30 minutes for patrons to vacate the site fully.

For the avoidance of any doubt, due to Condition no. 17, the Bayou must be closed to the public by 23:00.

12) Will a review/probationary period be included in the Consent Order to ensure that Array meet all the licensing conditions imposed by the Committee?

There is no legal basis for a review/probationary period once the consent order has been agreed.

13) What is the effective date of the Consent Order for all the conditions to be adhered to?

Once the Order has been signed by the Court, the Licensing Authority will then be notified. The licence will be amended to reflect the new hours and additional conditions and sent to the Licence Holder. They must then adhere to all terms and conditions.

14) What can the Council do to ensure that the premises operate in a way that does not adversely impact upon neighbours?

Once the Consent Order is signed, the licensing review and appeal process will draw to a close. This enables the Council to have more direct dialogue with the venue directly without the risk of prejudice to an ongoing process. Where neighbours raise concerns, the Council can inform the venue of the nature of those concerns - initially offering advice and guidance to find a solution and pursuing enforcement action where necessary.

As a first step, the Council will seek to meet with the licence holder to discuss the additional conditions that are being to the licence and make clear their responsibility to ensure compliance under the terms of the licence.

15) How will the Council monitor the conditions attached to the licence?

Licence conditions are usually monitored if a complaint is made against a venue, alleging there has been a breach of condition(s). This approach taken across the borough with all licensed venues. If you have any ongoing concerns about the venue which relate to the licensing conditions which will be in force, these can be raised via Licensing Team licensing@havering.gov.uk

We also address/look at compliance through our programmed inspections. This is where we will look at specific types of licensed premises. For a premises like Array, we would visit the site to check the premises plan matches the licence, check the Designated Premises Supervisor is up to date and that the Licence Holder is still in charge of the site. We also complete checks against the conditions to ensure the Licence Holder is compliant with the terms of their licence.

16) The current licence refers to non-standard timings, this allows Array to have their permitted hours extended for an additional hour on Bank Holidays and Occasion Days. With the compromise offer, do the new revised hours supercede this or will this clause remain?

The revised hours do not replace the hours for non-standard timings as these are used for specific days or holidays throughout the year. The licence holder will be able to make use of these should they wish to.

17) Condition no. 3 of the Licensing Committee Decision states that ‘No amplified sound or other music shall be played via external speakers, or within the part of the premises currently known as Bayou after 23:00 hours’. Does this condition remain in force irrespective of the change in hours Sunday to Thursday?

Condition 3 will remain in force, irrespective of the change in hours.

18) Condition 17 of the Licensing Committee Decision requires the closing of the Bayou area to customers at 11pm. Will this condition still be in force irrespective of any changes to the closing times on Sunday to Thursday?

As per condition 17, the Bayou must be closed to the public by 23:00, irrespective of the change in closing times.

19) Will residents be informed if there are any changes to the dispersal order document? Has Version 1 been updated since the Licensing Committee and where can we see a copy of this?

Residents will not be informed of any updates to the dispersal policy as this is a private document. This can only be made available to a Responsible Authority. No updates have been made to current version nor will it be made public.

20) What happens if poor behaviour continues at Array despite the licence conditions and reduced hours? Can another licence review be called?

Where responsible authorities (ie. the Licensing Team) have concerns about problems identified at premises, it is good practice to give licence holders early warning of concerns and the need for improvement, and where possible the licence holder will be given advice regarding the steps they need to take to address those concerns. A failure by the holder to respond to such warnings could lead to a decision to apply for a review.

In Array’s case, an application for review can be made provided it is neither frivolous, vexatious nor repetitious. This specific wording and benchmark is out within [Paragraph 11.12 of the revised guidance issued under Section 182 of the Licensing Act 2003](#), which states;

A repetitious ground is one that is identical or substantially similar to:

- *a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or*
- *representations considered by the licensing authority when the premises licence or certificate was granted; or*
- *representations which would have been made when the application for the premises was first made and which were excluded then by reason of the prior issue of a provisional statement;*
- *and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.*

21) Who is able to call another licence review?

A review may be brought by any of the Responsible Authorities such as the Licensing Authority, Environmental Health and Police. Any person may also make an application to review a premises licence. This includes interested parties such as residents. The guidance cited above provides some additional detail as to what should be taken into account by the Licensing Authority if a review is called by somebody other than a Responsible Person.

22) What ongoing role do the Police have in relation to the premises?

The Police will continue to be the lead on all matters that relate to crime and disorder that may occur. This includes instances of anti-social behaviour. This is due to the fact ASB would be considered a public order offence which the Council do not have the powers to take action against.

For anti-social behaviour, allegations of drug use and criminal behaviour please call 999 if an emergency or 101 if a non-emergency.

You can also report to the Met via their online portal:

<https://www.met.police.uk/ro/report/ocr/af/how-to-report-a-crime/>