



## THE FRIENDS OF ST KATHARINE DOCKS

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3<sup>rd</sup> October 2022

Dear Sir/Madam

### Licensing Act 2003

**Premises: Oceandiva, Dolphin 1, Fishguard Way, London E16 2RG**

I am writing on behalf of the Friends of St Katharine Docks (**FOSKD**) to make representations regarding the application for a premises licence for the Motor Vessel OCEANDIVA London (**the vessel**) for the reasons advanced below, FOSKD believes that the application fails to promote the licensing objectives.

### **The Friends of St Katharine Docks**

FOSKD is a residents association operating under a constitution drawn up in 2011. The aims of FOSKD are to promote, protect and enhance the area known as St Katharine Docks (**the Dock**) and its surrounding areas to the benefit of the community that lives in, works in and visits the Dock. FOSKD is managed by an Executive Committee with a subscription-based residential membership currently in the region of 430 members. Details about FOSKD and the Dock are to be found on our website at: [www.foskd.org](http://www.foskd.org).

FOSKD has been recognized by the London Borough of Tower Hamlets in its Cabinet decision dated 5<sup>th</sup> February 2014 regarding the establishment of Neighbourhood Planning Areas and Forums as the representative group for the St Katharine Docks area.

### **FOSKD and the Licensing Act 2003**

Licensing involves an evaluative judgment as to what is to be regarded as reasonably acceptable in a particular location (*Hope & Glory (CA)* [42]). This evaluative judgment involves the weighing of a variety of competing considerations (*Hope & Glory (CA)*[42]) of which the interests of the wider community are paramount (see s 182 Guidance, paras 1.5, 9.38 and 11.26). The key crucial concepts are ‘balance’, ‘location’ and ‘community interest’. The key aim of this balancing exercise is to determine the likely effects of the grant of the premises licence on the promotion of the licensing objectives (s 18(6)(a), Licensing Act 2003).

This balance is recognised by the London Borough of Newham in its Statement of Licensing Policy 2020-2025 (see paras 1.4 and 1.5). The s 182 Guidance recognises that the balance is weighed in favour of the wider public interest and local residents (see paras 1.5, 9.38, and 11.26).

In the present circumstances the relevant location is the entire riparian route which is proposed to be operated by the vessel. It is currently envisaged that the vessel will at the upmost operate from the Royal Docks in Newham to London Bridge. We have been told by the applicant that the Port of London Authority will assess whether or not it is safe for the vessel to transit further up-stream from London Bridge once the vessel is operational.

### **Licensing Act 2003: Neighbouring Licensing Authorities**

The effect of the legislation is that a vessel such as this is licensed by the licensing authority for the area in which it is usually moored or berthed (s 189(1), Licensing Act 2003 and s 182 Guidance, para 5.10). Given that the span of the vessels operating area covers a significant portion of the River Thames and it will therefore impact many residents of different London Boroughs, including the London Borough of Tower Hamlets, regard ought to be had to the policies and concerns of the neighbouring London licensing authorities. By way of comparative example the s 182 Guidance (at para 8.1) considers the circumstances where a premises is situated in two or more licensing areas, the Guidance states that ‘it is important that each of the licensing authorities involved maintain close contact.’

FOSKD submits that that Guidance is equally apt and applicable to riparian operations. The licensing authority is put on notice that FOSKD will be asking the licensing authority for a detailed outline of how the Newham licensing authority has maintained contact with

its neighbouring authorities in respect of this application. It is suggested that the Newham Licensing Authority might want to detail this 'close contact' in the report to the licensing sub-committee as part of the context to this application.

### **Our Particular Location**

The Dock is situated on the north side of the river immediately downstream of Tower Bridge and immediately opposite Butler's Wharf pier which is in the borough of Southwark and is understood to be one of the piers to be used for embarkation and disembarkation of guests of the vessel. A significant number of the members of FOSKD live in residential accommodation immediately facing Butler's Wharf and a further significant number of members (approximately 180) live along the north bank of the river stretching east from the entrance into the Dock down to Canary Wharf, all of whom would be directly impacted by this application as many of their main living rooms and bedrooms are on the river side.

Immediately in front of the Dock is St Katharine's Pier (also known as Tower Bridge Quay) which FOSKD is concerned may at some time in the future be used by the vessel for embarking and/or disembarking. Additionally, the Tower Millenium Pier is within the proximity of the Dock.

### **The Current Application**

The second application filed by the applicant (which the applicant refers to as "the revised application" dated 5<sup>th</sup> September 2022) is for a licence to carry on licensable activities Mondays to Sundays 11:00 am until 02:00 (the following day), to permit late night refreshment indoors Mondays to Sundays 23:00 - 02:00 (the following day), to permit opening hours Mondays to Sundays 11:00 until 02:30 (the following day) and to permit the premises to extend all licensable activities on 6 days until 03:00 the following day (closing time 03:30 the following day) for an events vessel which is 86 meters in length & 17 meters in breadth with 10 meters airspace. The vessel is comprised of three decks, two of which offer large open outdoor deck areas, which can accommodate up to 1500 people (500 on the outdoor deck areas) and which will host both pre-booked and ticketed events on the river, calling at various embarkation and disembarkation points along the river. We are told that the seated capacity, indoors, is in the region of 500 - 550 passengers (not counting crew, staff, SIA and stewards).

Although the application is for licensable activities indoors, the application, press releases and public presentations have also prominently featured the use of the outdoor deck areas. In any event the application is for the entire vessel. The likely impacts must be assessed considering the entire operation of the vessel. The particular use of a premises licence is, in our view, the most important factor when assessing the likely impacts of an application. It is for this reason that a fully determined and particularized operation plan needs to be submitted.

Representatives of FOSKD met with the applicant and operator on the 26<sup>th</sup> September 2022 (see below). At that meeting it became clear that the operation of the vessel has still to be fully determined. Unless and until the vessel has a clear fully determined operational plan, the risk assessment and the likely impacts cannot be properly or effectively assessed. At the meeting on the 26<sup>th</sup> September 2022 the applicant and operator offered some key amendments and limitations to the application – these are set out below. We await formal written confirmation of these matters – we will provide further comment as required either in writing or by way of submissions at the hearing.

A key uncertainty is the number of piers for which the vessel has permission to use. At the meeting on the 26 September it was confirmed that only two/three of the proposed piers have given permission to the vessel. One of these is Butlers Wharf. The operator has proposed that the impact in terms of embarkation and disembarkation can be ameliorated by the use of multiple piers with staggered times – in the absence of agreement, the impact on fewer piers will be that much greater.

On the 26 September it was stated that the Dixie Queen boat, (owned by the Thames Luxury Charters Company which is now owned by the Oceandiva team) would be moved from its regular mooring at Butlers Wharf sometime in 2023 to allow for greater use of the Butlers Wharf Pier by the vessel. It was emphasized that the Butlers Wharf Pier had to be cleared by 23:00 to comply with the regulations enforced by the owner of the pier and that the operator proposed that the pier would be cleared by 22:30 stating that this could be a condition incorporated into the operating schedule.

It will be noted that the premises licence holder and the proposed operator are two separate legal entities. FOSKD understands that there is some contractual relationship between the two which includes the apportionment of responsibilities (including the promotion of the licensing objectives) between the parties. At the meeting on the 26 September the operator and applicant offered to provide a redacted version of the agreement between the parties as to their respective responsibilities.

## 26 September 2022 amendments and limitations

- All loading and unloading (other than patrons and staff) will be at the home berth on the Royal Dock, Newham;
- Staff numbers are in the region of 75 – 80 (this does not include crew, security and additional dockside stewards);
- SIA provision daytime event 1:150 and evening events 1:100;
- Steward provision tbc;
- After 23:30 staff will be sent home in taxis (there would be very few events after 23:30)
- There will be staggered disembarkation across 6 piers (though it was acknowledged that permission for the piers was outstanding and subject to assessment only once the vessel could be viewed and tested on the Thames);
- It was stated that TfL has agreed to the use of its piers ‘in principle’ – **this is not the case** and it is to be subject to full assessment, the outcome of which has not been determined;
- The use of the piers by the vessel will be subject to the existing uses of the piers;
- It was accepted that the number of piers would impact upon the cumulative impact on those available piers;
- Disembarkation will also incorporate the use of a mini-bus shuttle service;
- It was stated that the vessel requires 30mins to disembark 500 patrons;
- Butlers Wharf Pier would not be used after 22:30 (with some discussion that 22:00 would be considered);
- Canary Wharf Pier cannot be used after midnight;
- The deck areas are claimed to be areas that have the benefit of the workplace exemption in respect of live music despite the premises application being for the whole vessel;
- The vessel had completed an acoustic report based on a 75 decibel limit as set out in the Passenger Boat Association, Guidance for Control of Charter Cruise Noise on the Tidal River Thames (2014);
- The acoustic report covers internal noise impacts, deck noise impacts, sound systems and patron arrival and dispersal (60 decibel limit for background music level on the outside decks);
- A copy of the acoustic report is to be supplied to FOSKD and other parties before a condition in this respect is agreed;

- It is proposed that no persons will be allowed on the outside decks (save for a smoking area on the lower of the two outside decks with no drinks allowed) after 22:00;
- The vessel has implemented light pollution measures which will ensure no light escapes from internal areas after dusk;
- There will be no external light shows or use of search light type illuminations;
- The six 03:00 events would be staggered and not held on consecutive days or all held in a particular season (eg the Christmas period)
- There would be no off sales and no alcohol would be permitted to be taken off the vessel;
- It was confirmed that the events could be separated into day events and evening events;
- The line between a day event and an evening events would be 18:00; tbc
- Evening and nighttime events are mostly seated and all food led;
- An evening event substantial food / seated condition was acceptable in principle;
- Seated evening events had a maximum capacity of 500 - 550;
- There would be no DJ or vertical entertainment style evening events;
- There would be no mixed party nights;
- Static events would only be held at the West India Dock, Canary Wharf and Excel; and
- There has been an ecological impact report and this would be supplied to the FOSKD and other parties.

**Further, a great deal of information was given concerning the layout and novel features of the vessel. It was agreed that these could be best understood and assessed by way of a sight visit – we think that this is a very good idea. However, we have been informed that the vessel will not be on the Thames until sometime *either in late November or early December* (e-mail of Johanthan Smith to Colin Hunt and Leo Charalambides, dated 29<sup>th</sup> September, 2022). We think that it is of the utmost importance that the Responsible Authorities, Civil Society and the Licensing Authority (Including the licensing sub-committee) have an opportunity to view the vessel. For example, it would be of considerable assistance to test the sound system, in accordance with the acoustic plan (to be provided) which up to this point must have been entirely theoretical.**

## FOSKD's Concerns

FOSKD has the following concerns:

1. The potential public nuisance caused by the embarkation and disembarkation of up to 1500 guests at piers along the river, many of which are situated in densely residential areas. There is particular concern about the use of Butler's Wharf pier which is in a densely populated area as well as opposite the lock entrance to the Dock which is a busy working marina.
2. The potential public nuisance caused to residents living alongside the river by noise emanating from the vessel while operating on the river. There is already a considerable amount of noise, disturbance and nuisance caused by party boats with loud music (both recorded and live) and DJs with microphones, the sound of which carries significantly across the span of the river and is amplified by water. Cumulative impact with existing uses both riparian and dockside has not been taken into account.
3. The pick-up/drop-off arrangements at the piers. The operator proposes to hold some events where the finish time could be up to 02:00 (or extended to 03:00 on 6 nights). The pick-up/drop-off arrangements for coaches, taxis and private hire vehicles in the vicinity of the various piers and the safety at night of women disembarking in the early hours of the morning when public transport is not available has not been addressed by the applicant in their submission. In the case of Butler's Wharf pier, vehicles cannot get close to the pier, the streets around it are narrow and difficult to access and there is concern that the surrounding streets will be clogged with vehicles awaiting the disembarking guests as bottlenecks form.
4. The light pollution from the vessel. No detailed information has been supplied by the applicant with regards to the lighting. We would be very concerned if the exterior of the vessel can be brightly illuminated. In addition to causing nuisance to riverside residents, FOSKD is concerned about the possible impact on the fish and mammals in the river from such light pollution. We are aware that this was a major consideration when the new lighting scheme for the central London bridges was installed by the "Illuminated River" team. There are significant attempts to reintroduce and support mammals back into the Thames but there is no assessment on the impact that such an additional large vessel will have on the local ecology.
5. The use of ticketed events as well as pre-booked events. The operator is highlighting that events on the vessel will be aimed at the "pre-booked" corporate

market, but its application also mentions it will have “ticketed events” which would allow small groups of friends to join in larger parties which would potentially be more difficult to control from a security perspective. Ticketed events allowing the purchase of a single ticket are already on sale online for the vessel.

6. The use of the two large open outdoor deck areas. The Council’s Licensing Department have informed us that the applicant is applying for permission to play live or recorded music on those decks to an audience of up to 500 in the case of live or recorded music and over 500 in the case of unamplified music, which has been described as “background music.” FOSKD believes that this would be contrary to the answers to Sections 10 and 11 of the application form as submitted which states that all regulated entertainment will take place indoors. FOSKD would be concerned about this because it would increase the risk of noise from the vessel referred to at 2 above.
7. The holding of “static” events. FOSKD is concerned about “static” events, e.g. product launches, being held whilst the vessel is moored alongside piers, (many of which are in residential areas). FOSKD is concerned that this would create public nuisance due to the sound created by large numbers of people being on the outside deck with any music / sound effects adding to the disturbance.
8. The manoeuvring of the vessel. FOSKD has concerns about the risks involved in turning what it understands to be an 86 meter long vessel near to Tower Bridge and Butler’s Wharf pier and St Katharine’s Pier (Tower Bridge Quay) and the entrance to the Dock. That could be a dangerous manoeuvre given the length of the vessel and what is a very busy and reasonably narrow section of the river opposite and close to the lock gates of the Dock which is a busy working marina.
9. The licensable hours. FOSKD is opposed to the proposed hours for the licensable activities and also for the proposed hours for the late-night refreshment given the concerns about noise, disturbance and nuisance referred to at 1 and 2 above. Requesting those licensable hours 7 days a week and late-night refreshments from 23.00 – 02.00 7 days a week on a vessel operating in a built up residential central London area of the river is unreasonable and will lead to public nuisance to local residents along the route which from what little information has been supplied by the Applicant is likely to be from London Bridge downstream as far as the Excel Centre.



## **Risk Assessment**

FOSKD believes that the operation has not been properly risk-assessed. The Applicant has failed to file a Risk Assessment to support its application. The s 182 Guidance highlights the very clear and comprehensive duty upon an applicant for a new premises licence to conduct a thorough risk assessment of the proposed application (see s 182 Guidance, paras 8.41 – 8.49). This must be particularly important where an events space on a moving (or static) boat with the wide range of possible events shown in the current application is proposed in an area bordered on both sides of the river by residential accommodation and on water which has the effect of amplifying any sound created. But it is not evident from the application whether any such risk assessment has been carried out and therefore what restrictions and conditions will be necessary. In particular, no attempt has been made to provide the following:

1. A considered and particularized event management plan which would make provision for the orderly and managed embarkation and disembarkation of guests, including the control of noise and avoidance of public nuisance and disturbance, safety on the Thames Path and the pick-up/drop-off arrangements for coaches, taxis and private hire vehicles, and which would contain details of a system of open and transparent consultation with the pier owners, responsible authorities and local residents' groups;
2. An operation plan containing detailed safety measures at each of the piers and measures to protect surrounding areas from noise impacts;
3. An independent acoustic report / noise and impact assessment which demonstrates how the noise generated by the regulated entertainment and/or by guests on board the vessel will be contained and not cause nuisance to people living along the banks of the river, particularly as that noise is amplified over water;
4. A transport plan detailing how up to 1500 guests will leave the disembarkation area, potentially after all public transport in the relevant area will have stopped and, in the case of Butlers Wharf, where taxis, private hire coaches, etc. cannot access the pier and how the impacts of taxis etc. in the narrow streets around Butler's Wharf (and other areas impacted) can be minimised; and
5. A light pollution assessment of the vessel.
6. A full risk assessment and robust operating schedule is of the utmost necessity to enable a proper assessment of the application to be made.

**FOSKD believes that the application should be refused given the absence of certainty for operation and a fully informed risk assessment. Alternatively, that consideration of the application should be deferred until a fully determined operating model has been confirmed (with all the appropriate permissions in place).**

### **Conditions and Other Matters**

**FOSKD considers that the following general amendments are key considerations and would welcome further discussion with the applicant with a view to agreeing, where possible, appropriate amendment and conditions to the application:**

- There should be a terminal hour of licensable activities and hours of opening to the public that reflect Core Hours typically in the region of 23:30 and midnight;
- The outdoor decking area should not be used after 22:00 save that an area should be set aside for a limited number of smokers and those patrons that need fresh air due to motion sickness;
- For outdoor static events the decking area should not be used after 21:00 save that an area should be set aside for a limited number of smokers and those patrons that need fresh air due to motion sickness;
- PAs and loud speakers should not be used after 21:00 (save for emergencies)
- Butlers Wharf Pier should not be used for disembarkation after 22:00; and
- Evening events (those after 18:00) should be seated and food led and not exceed a capacity of 550.

**Additionally, FOSKD await confirmation that the concessions made at the meeting on the 26 September, 2022 will be formally presented in writing for further consideration and where possible agreement. For the avoidance of doubt the FOSKD are committed to ongoing discussions to reach agreement where possible.**

FOSKD are concerned that with so much outstanding information, we will need time to consider the additional information and prepare a considered response.

On the 29<sup>th</sup> September 2022 the Solicitor for the Applicant Mr Johnathan Smith wrote by e-mail to Colin Hunt (Newham Licensing Authority) and our barrister Leo Charalambides (Francis Taylor Building) setting out suggested directions by “*leading Counsel*” along the “*following lines*”:

- Hearing to be listed for 2 days, week commencing 12<sup>th</sup> December 2022.

[Agreed] if the vessel can be viewed and tested on the Thames in sufficient time for the hearing.

- 28 days before the hearing, full disclosure will be provided by the applicant to the Licensing Authority and all those who have made representations. Such disclosure to include a full operational management plan and proposed conditions.

[Agreed] additionally we request the following documents (i) a full list of the piers which have granted actual access for the vessel; (ii) the acoustic report; (iii) the light pollution report; and (iv) the ecological impact report. We were told that these reports have all been completed and are awaiting sign-off.

- 14 days after such disclosure, responsible authorities and other persons shall file any documents or evidence on which they wish to rely, including any questions regarding the applicant’s disclosure.

[Agreed] save that the list of questions (if provided) shall in no way limit the rights of FOSKD, or other parties, provided in the Licensing Act 2003 (Hearing) Regulations 2005

- 7 days before the hearing, the applicant will provide any supplemental document in reply to those served by responsible authorities and other persons.

[Agreed]

- No further documents may be admitted less than 7 days before the hearing without the express permission of the Licensing Sub-Committee.

[Agreed]

- Site visit to be arranged for the Licensing Sub-Committee within the 7 days prior to the hearing. [Agreed]

FOSKD will have a legal representative at any hearing in relation to this matter who will expand upon these representations. Given the complexity of the application and the issues raised, FOSKD will assert their right to be treated as a party to these proceedings as set out in the Hearing Regulations 2005 including the right to have an equal maximum period of time in which to exercise these rights. Please acknowledge receipt of this letter and please let us know the date, time and place of any hearing in relation to this matter.

Yours faithfully,

David Leonard  
Secretary, for and on behalf of FOSKD