

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Wednesday 20 May 2020 at 10.00 am at Online/Virtual: please contact andrew.weir@southwark.gov.uk for a link to the meeting and the instructions for joining the online meeting

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Maria Linforth-Hall
Councillor Kath Whittam

OFFICER SUPPORT: Debra Allday, legal officer
Andrew Heron, licensing officer
David Franklin, licensing responsible authority officer
Paul Newman, environmental protection officer
Andrew Weir, constitutional officer

1. APOLOGIES

Apologies for absence were received from Councillor Charlie Smith. Councillor Kath Whittam attended as the reserve member.

2. CONFIRMATION OF VOTING MEMBERS

The voting members were confirmed verbally, one at a time.

3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

There were none.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003: PUB IN THE PARK, DULWICH PARK, COLLEGE ROAD, LONDON SE21 7EB

The legal officer advised all parties that the representations must be focussed on the issues contained within the consent order from the Magistrates' Court.

The licensing officer presented their report. The licensing officer also highlighted conditions which were either repeated, unenforceable or vague and advised that these conditions be deleted. The applicant's legal representative advised that they agreed with this. Members had no questions for the licensing officer.

The applicant and their legal representative addressed the sub-committee. Members had questions for the applicant and their legal representative.

The licensing officer representing the council as a responsible authority addressed the sub-committee. Members had no questions for the licensing responsible authority officer.

The environmental protection officer addressed the sub-committee. Members had no questions for the environmental protection team.

The licensing sub-committee heard from two local residents, one of whom was a representative from the Dulwich Society, who objected to the application. Members had no questions for the local residents.

The parties had nothing to add for summing up.

The meeting adjourned at 10.53am for the sub-committee to consider its decision.

The meeting reconvened at 11.25am and the chair advised all parties of the decision.

RESOLVED:

That the application made by Brand Events TM Limited for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Pub in the Park, Dulwich Park, College Road, London SE21 7EB be granted.

Conditions

1. That the premises licence be granted in perpetuity.
2. That the capacity of the event for the first year be limited to 4999.
3. That the capacity of the event for the second year onwards be limited to 5999.
4. That the final version of the event management plan be sent to all responsible authorities as soon as practicable.
5. That the final version of the layout plan forms part of the event management plan.
6. That the conditions from the notice of decision dated 21 January 2020 be removed as follows:

- a. Condition 15 as this is a repeat of existing legislation.
- b. Condition 16 as this unenforceable.
- c. Condition 17 as this is vague and unenforceable.
- d. Condition 19 as this is not relevant to a licensing objective.
- e. Condition 41 as this is already a mandatory condition.
- f. Condition 42 as this is a repeat of existing legislation.
- g. Condition 57 as this is unenforceable.
- h. Condition 59 as this is unenforceable.
- i. Condition 61 as this is a repeat of existing legislation.
- j. Condition 70 as this is not relevant to a licensing objective.
- k. Condition 76 as this is a repeat of existing legislation.
- l. Condition 84 as this is too vague and unenforceable.
- m. Condition 86 as this conflicts with condition 69.

Reasons

The reasons for the decision are as follows:

The licensing sub-committee heard from the licensing officer who presented his report and advised that there were a number of conditions in the Notice of Decision dated 21 January 2020 (many of which formed part of the operating schedule of the application) that should be removed due to unenforceability and repetition of existing legislation.

The representative for the applicant confirmed that he was content with the suggested amendments to the conditions. His presentation was limited to his additional representations set out in his letter of 13 May 2020.

Following the decision made on 21 January 2020, the applicants appealed to the Magistrates Court and with the Court's agreement, the case had been remitted back to the licensing sub-committee for reconsideration on three issues: the revision of some of the proposed conditions which was now agreeable to the applicant, the terminal hour granted in respect of the third day, which was no longer in dispute and finally, the limitation to the duration of the premises licence.

The representative for the applicant submitted that the decision to grant a probationary or one year licence was contrary to the Licensing Act 2003. Section 18(4) of the Act provides four options available to a licensing sub-committee, considered appropriate for the promotion of the licensing objectives: to grant a licence or grant a licence modified with conditions; exclude a licensable activity applied for; to refuse to specify a designated premises supervisor and finally, to reject the application.

In the very unlikely event of any issues arising during the festival, the statutory review procedures within the Licensing Act 2003 (of by Section 51 (a responsible authority or other person) or Section 53(A) (an expedited review by the police) would address any issues, in the unlikely event that they should arise.

The applicant's representative submitted that the licensing sub-committee granted a premises licence on 21 January 2020, satisfied that the imposition of 90-conditions was appropriate. In the circumstances, the premises licence should have been granted in perpetuity.

The licensing sub-committee then heard from licensing as a responsible authority who advised the sub-committee that they were agreeable to the amended conditions and as

set out by the licensing officer and author of the report. The officer representing licensing as a responsible authority did request that any changes to the final version of the event management plan should be sent to all responsible authorities and that the final version of the layout plan form part of the wider event management plan.

The licensing sub-committee then heard from the environmental protection officer who had no objection to the issues that had been remitted back, but stressed the importance of the retention of the condition concerning significant buried services as this identified where electrical cable, drainage and other items were planted under the site, which would need to be identified in case of emergency.

A representative from the Dulwich Society advised that it would be impossible for an event with a capacity of 4999 to achieve social distancing and that no conditions could be added to that would address the residents concerns of noise, nuisance, crime and disorder.

A further other person (a local resident) addressed the licensing sub-committee. They reiterated the concerns that they had raised at the original meeting in January 2020. They advised that the Dulwich Village area was too small to host an event of the size proposed. The demographic of Dulwich Village was largely over the age of 65 and residents would be highly inconvenienced and distressed of the noise the event.

This licensing sub-committee very carefully considered the representations of all the parties and scrutinised the 21 January 2020 notice of decision. At the meeting on 21 January 2020, the committee had determined that it was appropriate to grant a premises licence with conditions attached. In making that decision, the licensing sub-committee were satisfied that the conditions were necessary for the promotion of the licensing objectives. Neither the Licensing Act 2003 Act nor the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018) refers to probationary licences. This committee accepts that sub-committee erred in law in making the decision of 21 January 2020.

The local residents' concerns of disturbance is acknowledged. If any of the licensing objectives is undermined, then an application for a review of the licence, can and should be made.

Finally, the licensing sub-committee recommended that no single use plastics should be used during the course of the festival, where possible, which the applicant agreed with.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate.

Appeal Rights

The applicant may renew the appeal against any decision under case number 2000858807:

- a. To impose conditions on the licence.
- b. To exclude a licensable activity or refuse to specify a person as premises supervisor.

Any person who made relevant representations in relation to the application who desire to contend that:

- a. The licence ought not to be granted; or
- b. That on granting the licence, the licensing authority ought to have imposed different or additional conditions to the licence, or ought to have modified them in a different way.

may appeal against the decision.

Any appeal must be made to the Magistrates' Court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

The meeting ended at 11.30am.

CHAIR:

DATED: