

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 27 May 2021 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 Jane Salmon
Councillor Ian Wingfield

OFFICER SUPPORT: Debra Allday, legal officer
Wesley McArthur, licensing officer
Jayne tear, licensing responsible authority officer
Richard Earis, environmental protection officer
P.C. Graham White, Metropolitan Police Service
Andrew Weir, constitutional officer

1. APOLOGIES

This was a virtual licensing sub-committee meeting.

The chair explained to the participants and observers how the virtual meeting would run. Everyone then introduced themselves.

There were no apologies for absence.

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 no late and urgent items of business.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

Councillor Hamvas advised that she was a ward Councillor in relation to item 6 on the agenda. She advised that she had attended the Friends of Peckham Rye Park AGM but left the AGM before the GALA Festival item was discussed.

Councillor Wingfield advised that he was a member of Friends of Peckham Rye park but this would not influence him in relation to the decision of item 6 regarding GALA Festival.

5. LICENSING ACT 2003: VICTORY SPORTS BAR, 1ST FLOOR, 516 OLD KENT ROAD, LONDON SE1 5BA

The licensing officer presented their report. Members had no questions for the licensing officer.

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

The licensing responsible authority officer addressed the sub-committee. Members had questions for the licensing responsible authority officer.

The meeting adjourned at 12.21pm for a comfort break. The meeting reconvened at 12.30pm.

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

The Metropolitan Police Service officer addressed the sub-committee. Members had questions for the police officer.

The local residents, objecting to the application, addressed the sub-committee. Members had questions for the local residents.

The licensing sub-committee also noted the written representations of the local residents, objecting to the application, who were not present at the meeting.

All parties were given five minutes for summing up.

The meeting adjourned at 1.16pm for the sub-committee to consider its decision.

The meeting reconvened at 1.50pm and the chair advised everyone of the decision.

RESOLVED:

That the application made by N1 Bar Ltd for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as is Victory Sports Bar, 1st Floor, 516 Old Kent Road, London SE1 5BA be refused.

Reasons

This was an application made by N1 Bar Limited for the grant of a premises licence in respect of the premises known as Victory Sports Bar, 1st Floor, 516 Old Kent Road, London SE1 5BA.

The licensing sub-committee heard from the applicant and his solicitor who advised that the application was for a sports bar and, contrary to the objections raised, it would not be a nightclub. They advised that the applicant had been served with a notice to quit at 1 Duke Street Hill due to redevelopment of the Duke Hill Street site.

They informed the sub-committee that 516 Old Kent Road already had a nightclub until 04:00 hours and there was also a 24 hour McDonald's. They advised that late night pool was popular and was largely a dying breed. It would be a family and child friendly venue. There was no provision for a dance floor on the plans. The old K-Che was an intense nightclub that operated over two nights a week. If a licence was permitted, as a sports bar there would be no mass ingress/egress.

The applicant advised that they aspired for the premises to be for over 25 year olds. There would be no penetrating music with a heavy bass played. A noise limiter could be set with the assistance of the environmental protection team. Food would be offered until early morning. Because there would a gradual dispersal, as opposed to a mass exodus, parking and late night food vendors would no longer be an issue for local residents.

The licensing sub-committee heard from licensing as a responsible authority, whose objection was submitted with regards to promoting the prevention of crime and disorder and prevention of public nuisance licensing objectives, having regard to Southwark's statement of licensing policy 2021–2026.

The licensing responsible authority advised that the licensed premises previously at this location operated as a nightclub with similar hours and licensable activities being requested within this application. That premises seriously impacted on the crime and disorder and public nuisance licensing objectives and was subject to several reviews, the most recent of which was an expedited review which resulted in the premises licence being revoked by the licensing sub-committee in 2020.

They further added that the premises are situated in a residential area and under the Southwark statement of licensing Policy 2021 - 2026 the appropriate closing times in this area for public houses, wine bars or other drinking establishments is 23:00 daily. Nightclubs are not considered appropriate for this area. This applicant

sought opening hours in excess of that which is recommended in the policy for this area. In their view, the application did not provide reasons that should convince the licensing sub-committee to divert from the recommended hours in the policy.

The licensing sub-committee then heard from an officer representing Southwark's environmental protection team who advised that that the premises that previously operated at this location (K-Che) had a long history of noise and anti-social behaviour complaints, primarily relating to people externally, patron's vehicles, parking and night time food stalls having a significant impact on the local community. There are residential housing blocks opposite the site with many more residential properties likely to be constructed in the area through regeneration. They advised that the applicant sought hours well in excess of those recommended in Southwark's statement of licensing policy.

The licensing sub-committee then heard from an officer from the Metropolitan Police Service who objected to the application in its entirety. The police advised that the premises are in a designated residential area under Southwark's statement of licensing policy, which indicates nightclubs are unsuitable for this residential area. The hours applied for far exceed those recommended in the policy and are more akin to a nightclub. They advised that opposite the premises there is residential sheltered accommodation for the elderly and vulnerable, who along with other local residents would be greatly disturbed by the premises as described in the application.

The police further added that the applicant company and director already holds a premises licence to N1 Sports Bar and Nightclub at 1 Duke Street Hill, London SE1 and that premises has had problems with violence associated to alcohol consumption. In the 18 months prior to the lockdown in March 2020, 61 crimes were recorded either inside or immediately outside the venue. Nineteen of these crimes were violent, including four incidents of grievous bodily harm (GBH), eight incidents of actual bodily harm and one sexual assault inside the premises. In October 2017 police were called to 20 people fighting outside the premises and that three people were stabbed during this incident. A GBH was also recorded during the pandemic on 7 September 2020 at 00.15 at the premises. No1 Bar has constantly been monitored by police and licensing unit due to the number of violent incidents and intoxicated customers, with a view to reviewing the licence.

The licensing sub-committee then heard from other persons, being two local residents. Party 4 represented six other local residents (parties 1, 2, 3, 6, 10 & 14). They informed the sub-committee that both he and the residents, who he represented, objected to the application in the strongest possible terms based on the prevention of crime and disorder, prevention of public nuisance and promotion of public safety licensing objectives.

The area surrounding the premises was heavily residential, including the John Penry House over 55's single occupancy residential property. Residents had been plagued by the disturbances caused by late night venues at the same address for approximately 12 years. Since pandemic and subsequent lockdowns, there had

been no instances of violence, drug taking, and anti-social behaviour that the premises usually attracted.

They advised that the applicant has a premises similar to that described in the application (1 Duke Street Hill, London SE1) and reviews on-line express violence, anti-social behaviour and breaches of COVID regulations.

The previous premises licence held at the 1st floor, 516 Old Kent Road location was revoked in 2020, following a police expedited review for serious violence and public nuisance associated with the premises. The general level of volume of the music played in the club was far too high for the level of sound proofing in the club. Music could always be heard outside on the street, in their garden and in their flat and their neighbours' flats when the club was open. In addition the resonance and vibration from the volume levels and base levels of the music are quite intolerable. Late night activity caused noise and disturbance including hooting of car horns, furious revving of engines, loud shouting and general noise nuisance to residents. If a premises licence were granted, it would simply transfer a problem premises at 1 Duke Street Hill, to 516 Old Kent Road.

The licensing sub-committee also heard from party 16 who reiterated the view of the Metropolitan Police that, based on what they had heard, there would be no material change in the style of operation to the premises that had previously operated at this location.

In determining this application, the licensing sub-committee considered very carefully its discussion with the applicant and his solicitor. The applicant was insistent that the premises would not be a nightclub, but it was highlighted that the application requested provision for regulated entertainment including live and recorded music, in addition to dance. This was despite being able to utilise the same under the Live Music Act.

The applicant stated he did not want to utilise temporary event notices and informed the sub-committee that some patrons, particularly ladies, liked to stay by the side and dance, as they tended not to like to play pool. A large DJ booth was also detailed in the plans and when asked whether this could be dispensed with, the applicant was not agreeable. The applicant advised that if there was no music and dancing, it would be very difficult to operate in accordance with the business model.

The kitchen on the plans was extremely small (approximately three metres by three metres). The applicant stated that this was more than sufficient to offer small tapas style food. There were also two rooms, which were described as "chill-out" rooms. This was also questioned as such rooms were usually only required when patrons wished to escape from intense music being provided for in a club. When asked about the single use plastics policy detailed in Southwark's statement of licensing policy, the applicant stated that he would address this with the designated premises supervisor and that he felt that it was safer and more hygienic for disposable cups to be used.

Paragraphs 94 and 95 of Southwark's statement of licensing policy concerns the practice of transfer applications following a review applications being submitted. Similar concerns could be said about fresh applications being submitted following the revocation of a premises licence. The applicant stated he had not bought the lease to the premises and would not do so until a premises licence had been granted. It was for this reason that the applicant was unable to furnish the licensing authority with any necessary documentation.

This applicant failed to satisfy the licensing sub-committee that the operation style at the premises would be anything other than a nightclub. The applicant frequently contradicted himself in his oral submissions (including, but not limited to): the premises would not be a nightclub, but still required music and dance, that there would be a large DJ booth and that the applicant would be the DJ despite the applicant also stating that there would be a playlist. Further issues were that the applicant said that the premises would be a family/child friendly premises versus the aspiration of having an over 25 year old policy, having the "chill out" rooms and the inability to provide substantial meals.

The applicant's operational history at the 1 Duke Street Hill site was terrible and demonstrated their inability to properly manage the premises. As such, the licensing sub-committee refused this application.

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 appeal against any decision:

- 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 been 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.

6. LICENSING ACT 2003: GALA FESTIVAL, PECKHAM RYE PARK, PECKHAM RYE, LONDON SE15 3JA

The licensing officer presented their report. 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 sub-committee noted the written representations of the local residents, objecting to the application, who were not present.

The applicant was given five minutes for summing up.

The meeting adjourned at 2.30pm for the sub-committee to consider its decision.

The meeting reconvened at 2.51pm and the chair advised everyone of the decision.

RESOLVED:

That the application made by We are the Fair Limited for a time limited premises licence, under Section 17 of the Licensing Act 2003 in respect of the premises known as is GALA Festival, Peckham Rye Park, Peckham Rye, London SE15 3JA be granted as follows:

The time limited premises licence shall have effect on a maximum of three event days per year (those event days being a Friday, Saturday, Sunday or Bank Holiday Monday), between 1 July 2021 and 31 December 2025, to facilitate a music festival known as the 'GALA Festival' for the following licensable activities:

- The provision of plays, films, live music, recorded music, performance of dance, anything similar to live music, recorded music or performances of dance:
 - Friday and Saturday: 11:00 to 22:30
 - Sunday (prior to a bank holiday Monday): 11:00 to 22:30
 - Sunday: 11:00 to 22:00
 - Monday (bank holidays only): 11:00 to 22:00

- The sale of alcohol for consumption on the premises:
 - Friday and Saturday: 11:00 to 22:00
 - Sunday: 11:00 to 22:00
 - Monday (bank holidays only): 11:00 to 21:30
- Opening hours of the premises:
 - Friday and Saturday: 11:00 to 23:00
 - Sunday (prior to a bank holiday Monday): 11:00 to 23:00
 - Sunday: 11:00 to 22:30
 - Monday (bank holidays only): 11:00 to 22:30
- To allow up to 9999 people to attend the premises at any one time.

Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, the conditions derived from the operating schedule highlighted in Section M of the application form and the conditions agreed with the licensing responsible authority during the conciliation process.

To Note:

- The applicant advised that they were committed to Southwark's statement of licensing policy in respect of single use plastics.

Reasons

This was an application made by We Are The Fair Limited for the grant of a time limited premises licence in respect of Peckham Rye Park, Peckham Rye, London SE15 3JA. The application is for a time limited premises licence to have effect on a maximum of 3 event days per year (those event days being a Friday, Saturday, Sunday or Bank Holiday Monday), between 1 July 2021 and 31 December 2025, to facilitate a music festival known as the GALA Festival, an independent South London festival celebrating club culture and the history of dance music. The application sought to allow up to 9999 people to attend the premises at any one time.

The licensing sub-committee heard from the solicitor for the applicants who advised that this was the third year of the GALA festival in Peckham Rye Park. The application was to cover a five year period and was not an attempt to circumvent the consultation process, but rather to save time and money.

If granted, there would 61 conditions attached to the licence. They advised that there were no outstanding objections from responsible authorities, which reflected the advice and objections made in previous applications.

During the three years the event had run, the applicants had increased the consultation with local residents, including 6083 leaflets dropped to local residents. The applicants were acutely conscious of the local residents in respect of potential noise complaints. They advised that they had engaged the services of a noise consultant who would monitor noise levels off the main festival site.

The applicants informed the sub-committee that during the 2019 event, between 35 and 45 noise complaints had been received. Residents were able to contact the noise consultant on a direct hotline (advertised both on the leaflets dropped on the festival website). The noise consultant would then attend the residents' addresses to test the noise levels to ensure that they did not exceed the levels agreed with the environmental protection team.

The festival had to be cancelled in 2020 due to COVID-19 and the applicants recognised the public's concern of potential transmission at large scale events. The applicants had engaged a public health consultant who sat on the steering group with the Department for Digital, Culture, Media and Sport (DCMS). A COVID-19 management plan was in place (but to be finalised) and if the rules relating to social distancing remained in place, the event would not proceed. All attendees would need to provide evidence of a negative COVID-19 test. The crew and contractors at the event would be subject to more robust measures and face masks would be required for all close conduct work. The applicants advised that they would be guided by the test event that took place at Sefton Park in early May 2021.

The applicants were sympathetic to the objections raised by the other persons and cared about the park fabric, flora and fauna. The ecology survey they had undertaken had been widened to include birds and bats, which confirmed that the event would have no detrimental effect. Recognising Southwark's declaration of a climate emergency, the applicants confirmed that they were committed to not using single use plastics in accordance with Southwark's statement of licensing policy.

The licensing sub-committee noted the objections raised by three other persons, namely two individual residents and the Friends of Peckham Rye Park, who were not present.

After hearing from the applicant and considering the application together with the all of the supporting documentation and agreed conditions, the licensing sub-committee were satisfied to grant the application as requested.

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 appeal against any decision:

- 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 been granted; or
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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 2.53pm.

CHAIR:

DATED: