

<b>Item No.</b> 6.	<b>Classification:</b> Open	<b>Date:</b> 19 May 2022	<b>Meeting Name:</b> Licensing Sub-Committee (Urgency)
<b>Report Title</b>		Licensing Act 2003: Peckham Rye Park and Common, Peckham Rye, Peckham, London SE15 3UA	
<b>Ward(s) of group(s) affected</b>		Peckham Rye	
<b>From</b>		Strategic Director of Environment and Leisure	

## RECOMMENDATION

1. That the licensing sub-committee considers an application made by We Are The Fair Limited for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as, Peckham Rye Park and Common, Peckham Rye, Peckham, London SE15 3UA.
2. Notes:
  - a) This application is for a premises licence and has been submitted under Section 17 of the Licensing Act 2003. The application is subject to representations submitted by responsible authorities and by 'other persons' and is therefore referred to the licensing sub-committee for determination.
  - b) Paragraphs 8 to 18 of this report provide a summary of the application. Copies of the application, the floor plan submitted with the application and documents in support of the application are attached to this report as Appendix A
  - c) Paragraphs 19 to 35 of this report deal with the representations submitted in respect of the application. Copies of the representations are attached to this report in Appendices B and C. A map showing the location of the premises is attached to this report as Appendix E.
  - d) A copy of the council's approved procedure for hearings of the sub-committee in relation to an application made under the Licensing Act 2003, along with a copy of the hearing regulations, has been circulated to all parties to the meeting.

## BACKGROUND INFORMATION

### The Licensing Act 2003

3. The Licensing Act 2003 provides a licensing regime for:
  - The sale of and supply of alcohol
  - The provision of regulated entertainment
  - The provision of late night refreshment.

4. Within Southwark, the licensing responsibility is wholly administered by this council.
5. The Act requires the licensing authority to carry out its functions under the Act with a view to promoting the four stated licensing objectives. These are:
  - The prevention of crime and disorder
  - The promotion of public safety
  - The prevention of nuisance
  - The protection of children from harm.
6. In carrying out its licensing functions, a licensing authority must also have regard to:
  - The Act itself
  - The guidance to the act issued under Section 182 of the Act
  - Secondary regulations issued under the Act
  - The licensing authority's own statement of licensing policy
  - The application, including the operating schedule submitted as part of the application
  - Relevant representations.
7. The premises licence application process involves the provision of all relevant information required under the Act to the licensing authority with copies provided by the applicant to the relevant responsible bodies under the Act. The application must also be advertised at the premises and in the local press. The responsible authorities and other persons within the local community may make representations on any part of the application where relevant to the four licensing objectives.

## **KEY ISSUES FOR CONSIDERATION**

### **The premises licence application**

8. On 16 February 2022 We Are The Fair Limited applied to this council for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Peckham Rye Park and Common, Peckham Rye, Peckham, London SE15 3UA.
  9. The hours applied for are summarised as follows:
    - **Plays, films, live music, recorded music, performances of dance and anything similar to live or recorded music (both indoor and outdoor):**
      - Thursday to Saturday: 11:00 to 22:30
      - Sunday and Monday: 11:00 to 22:00
      - Sundays preceding Bank Holiday Mondays: 11:00 to 22:30
- N.B.** Plays may be performed in open air or within tented structures. Plays may be stand-alone entertainment or performed as part of a wider programme. Plays may be accompanied by amplified music.

Films may be shown in open air or within tented structures. Events and performances may be filmed and shown on screens. Screens may also show artist supporting material. Short films, live visual/video performances, feature films and may be accompanied by amplified music.

Live music may be performed in open air or within tented structures. Live performances of both amplified and un-amplified music on stages

Recorded music may take place in open air or within tented structures. Performances of recorded music by artists. Recorded music may also be played between other entertainments and may also accompany other entertainments.

Dance may be performed in open air or within tented structures. Dance may or may not be performed as part of the events. Other entertainments may encourage the audience to participate in dance. Dance may be accompanied by amplified music.

Anything of a similar to live music, recorded music and dance to the type of entertainment that will be provided has been described as “Funfair, comedy, MC, host, compere and the like” to take place both inside and outside.

- **The sale of alcohol to be consumed on the premises:**
  - Thursday to Saturday: 11:00 to 22:00
  - Sunday and Monday: 11:00 to 21:30
  - Sundays preceding Bank Holiday Mondays: 11:00 to 22:00
- **Opening hours:**
  - Thursday to Saturday: 11:00 to 23:30
  - Sunday and Monday: 11:00 to 23:00
  - Sundays preceding Bank Holiday Mondays: 11:00 to 23:30
- **Non-standard timings for Plays, films, live music, recorded music, performances of dance and anything similar to live or recorded music:**
  - The extension of the terminal hour by 15 minutes on any given day in accordance with condition 7 as stated in part ‘M’ of the application form.

**N.B.** Condition 7 in part ‘M’ of the application form states: “The premises licence holder (PLH), where agreed in advance with the licensing authority, police and environmental protection team, will have the ability to extend the terminal hour of regulated entertainment by an additional 15 minutes to assist with a safe and controlled egress of attendees. This extension will only be used by the PLH in exceptional circumstances following risk assessment.”

10. The premises, and the intended operation of the premises, are described in the application as follows:

“Victorian park and common with formal gardens, woodland, a lake, sports areas and a scenic cafe. This application will apply to the entire park and common, however the specific area of the park or common to be used will be identified on a site plan to be agreed with the Local Authority in advance.

This application will permit one event consisting of a three day electronic dance music festival and one or two events (lasting no more than three days in total) of a concert type (consisting of live and recorded music).”

11. The application seeks to allow up to 19999 attendees at events at any one time.
12. Proposed licence conditions offered in the application allow for the following:
13. That the proposed licence will permit a maximum of six event days per year (Thursdays, Fridays, Saturdays, Sundays or Mondays only).
14. That Thursdays and Mondays would only apply to Bank Holidays (i.e. where each Thursday and / or Monday were recognised Bank Holidays).
15. That events will take place over a maximum of three occasions throughout the year with the maximum duration of a single event being four days\*.

**\*N.B.** At the hearing to determine this application paragraph 15 above will be clarified by the applicant because it doesn't seem to be congruent with the information provided by the applicant as per paragraph 10 above.

16. The proposed designated premises supervisor of the premises is Mr. Robert James Dudley. Mr. Dudley is a director of We Are The Fair Limited.
17. The applicant provided the following documents in support of the application:
  - Crowd management plan
  - Event safety management plan
  - Sustainability report
  - Noise management plan
  - Site layout plan 2022
  - Consultation timeline.
  - Positive information relating to GALA festival
  - Letter of support from Southwark Day Centre For Asylum Seekers
  - Letter of Support from councilor Barrie Hargrove

18. Copies of the application, the floor plan submitted with the application and documents submitted in support of the application are attached to this report as Appendix A.

### **Representations from responsible authorities**

19. Representations have been submitted by the Metropolitan Police Service, by this council's environmental protection team and by this council's licensing service in its role as a responsible authority (referred to hereafter as the 'licensing responsible authority').
20. The Metropolitan Police Service's representation states that the applicant has provided a comprehensive operating schedule with a number of control measures to promote the licensing objectives, and that these control measures are welcomed by Metropolitan Police Service. However, the Metropolitan Police Service are concerned that the significant increase in event days, operating hours and

audience capacity (as compared to prior licences applied for by the applicant regarding the premises) are likely to have a negative impact on the prevention of crime and disorder licensing objective.

21. The Metropolitan Police Service contends that the proposed number of event days is too excessive for the area and further states that the finish times for events exceed those recommended for outside areas by Southwark's statement of licensing policy.
22. The Metropolitan Police Service notes that they have not seen an event management plan or dispersal policy. Further to this, the Metropolitan Police Service seek clarification of a number of matters pertaining to the application. The Metropolitan Police Service suggest that, until an event management plan, dispersal policy and clarification of certain matters pertaining to the application are provided, the application be refused.
23. The environmental protection team objects to the application. Their objection has been submitted in respect of the prevention of public nuisance licensing objective. The environmental protection team states that this council received noise complaints as a result of events operated by the applicant, taking place at the premises on May 2019 and July / August 2021.
24. The environmental protection team states that they are required to review the noise management plan for future events, in the event of substantiated noise complaints, and also to consider other measures which could ensure that events taking place under any premises licence granted in respect of the premises would not cause nuisance in the locale. The environmental protection team are currently reviewing the applicant's noise management plan. The Environmental Protection Team notes that that section 10 of this council's statement of licensing policy 2021-2026 recommends a finishing time of 22:00 hours for outdoor events, and that an earlier finish time may be requested, subject to local circumstances.
25. The licensing responsible authority's representation seeks that the opening times in respect of the application be amended as follows: (i) Thursday to Sunday 11:00 hours to 22:00 hours, (ii) all licensable activities to cease at 21:00 hours daily. The licensing responsible authority requests that the applicant provides a copy of the event management plan, an accommodation limit and provides a copy of the dispersal policy regarding the premises. The licensing responsible authority also seeks clarification of various aspects of the application, that additional control measures be included in the application, and that these control measures become conditions of any premises licence granted subsequent to this application.
26. Copies of the representations submitted by responsible authorities are attached to this report in appendix B.

### **Representations from other persons**

27. Representations have been submitted on behalf of 120 other persons. 35 of the other persons (including three ward councilors) object to the application, and the other 85 other persons support the application.
28. The other persons in objection to the application are referred to as objectors 1 to 35 elsewhere in this report.

29. The other persons in support of the application are referred to as supporters 1 to 85 elsewhere in this report.
30. In summary, the other persons objecting to the application contend that the proposed operation of the premises will give rise to significant crime and disorder, anti-social behavior and nuisance in the locale and that the proposed operation of the premises could risk the health, safety and mental well-being of children in the locale. There are also concerns that the access and egress to and from the site of up to 19999 attendees could pose a risk to public safety.
31. Further concerns are that the fabric of the park will be severely damaged, that the area of the park / common used to host events held under the proposed licence will not be available to members of the public for up to 19 days a year and that the flora and fauna of the park / common will be negatively affected by the proposed use of the park / common. It is alleged that prior events held at the park by the applicant have given rise to all of the problems stated above, and that such problems will only be exacerbated by a licence that allows for events with longer operating times and higher audience capacities.
32. In summary, the other persons supporting the application contend that prior events at the premises operated by the applicant have not given rise to crime and disorder, anti-social behavior or nuisance, that prior events have been well operated, that attendees at prior events have conducted themselves in an orderly manner and that there have been no child safeguarding issued at prior events. Additionally, the supporters contend that prior events held at the premises by the applicant are beneficial for local businesses in the area, have been beneficial to charities and are an important cultural event.
33. **NB** The licensing sub-committee can only consider matters pertaining to the four licensing objectives. The parts of the representations that are concerned with the possible deleterious effect that events taking place, under the proposed licence, may have on the fabric & flora and fauna of the park, the denial of access to the park / common to members of the public, the benefits of events held under the proposed licence to local businesses or charities and the cultural importance of events to be operated under the proposed licence cannot be considered.
34. Further to this, public notices were displayed at the premises and it is the licensing unit's opinion that the public notices displayed were suitable. Therefore, any issues regarding public notices should not be considered by the licensing sub-committee. All other concerns should be given full consideration.
35. Copies of the representations submitted by other persons are attached to this report in Appendix C.

## **Conciliation**

36. All of the representations were sent to the applicant. The applicant subsequently provided a document outlining amendments to the application. The document was provided to all of the objectors. As a result of the amendments to the application the Metropolitan Police Service withdrew their representation. Objectors 11, 25, 27 and 29 have provided further comments which are provided in appendix C.
37. At the time of the writing of this report, aside from the representation withdrawn by the Metropolitan Police Service, all of the representations objecting to the

application remain outstanding and so must be considered by the licensing sub-committee in their determination of the application.

38. The licensing sub-committee will be apprised as to any conciliation, whether partial or full, of any of the responsible authorities / other persons.
39. The applicant offered to facilitate a meeting on 7 April 2022 with parties who objected to the application, to try and address the objector's concerns. The applicant informed the licensing unit that no objectors attended the meeting.

### **Premises licensing history**

40. Southwark Council currently holds a premises license in respect of Peckham Rye Park (not the common). The premises licence allows for the provision of licensable activities as follows:

- **The provision of films, live music, recorded music, performance of dance, anything similar to live music, recorded music or performances of dance:**
  - Monday to Thursday: 10:00 to 21:00
  - Friday and Saturday: 10:00 to 22:00
  - Sunday: 11:00 to 21:00

The licence will operate concurrently with any other premises licence issued in respect of the park and is used to facilitate Southwark Council's own events at the park. The licence would allow for events for up to 4999 attendees and for the park to be open 24 hours a day.

41. On 22 November 2017 We Are The Fair applied to this council for the grant of a time limited premises licence to have effect on 27 May 2018 and 28 May 2018, for up to 9999 attendees at any one time, in respect of Peckham Rye Park, Peckham Rye, London SE15 3JA. The application was to facilitate music festivals, known respectively as the 'GALA Festival' and the 'Jam on Rye' festival.

42. The application was for a specific event area, not the whole of the park and common. The application was subject to representations submitted by other persons and was determined at a licensing hearing by the licensing sub-committee on 29 January 2018. The licensing sub-committee granted the application, but with a maximum of 8000 attendees permitted at any one time. The premises licence allowed for the provision of licensable activities as follows:

- **The provision of films, live music, recorded music, performance of dance, anything similar to live music, recorded music or performances of dance:**
  - Sunday: 11:00 to 22:30
  - Monday : 11:00 to 22:00
- **The sale of alcohol for consumption on the premises:**
  - Sunday: 11:00 to 22:00
  - Monday: 11:00 to 21:30

- **Opening hours of the premises:**
    - Sunday: 11:00 to 23:00
    - Monday: to 11:00 to 22:30.
43. Copies of the notice of decision and subsequently issued premises licence regarding this decision are attached in Appendix D.
44. On 26 November 2018 We Are The Fair applied to this council for the grant of a time limited premises licence to have effect between 25 May 2019 and 31 May 2021, for up to 9999 attendees at any one time on one weekend per year, in respect of Peckham Rye Park, Peckham Rye, London SE15 3JA.
45. The application was to facilitate music festivals, known respectively as the 'GALA Festival' and the 'Jam on Rye' festival. The application was for a specific event area (the same event area as per paragraph 33 above). The application was subject to representations submitted by other persons and was determined at a licensing hearing by the licensing sub-committee on 7 February 2019. The licensing sub-committee granted the application allowing for a maximum of 9999 attendees permitted at any one time, as was applied for. The premises licence allowed for the provision of licensable activities as follows:
- **The provision of plays, films, live music, recorded music, performance of dance, anything similar to live music, recorded music or performances of dance**
    - Saturday: 11:00 to 22:30
    - Sunday: 11:00 to 22:30
    - Monday: 11:00 to 22:00
  - **The sale of alcohol for consumption on the premises**
    - Saturday: 11:00 to 22:00
    - Sunday: 11:00 to 22:00
    - Monday: 11:00 to 21:30
  - **Opening hours of the premises**
    - Saturday: 11:00 to 23:00
    - Sunday: 11:00 to 23:00
    - Monday: 11:00 to 22:30
46. Copies of the notice of decision and subsequently issued premises licence regarding this decision are attached in Appendix D.
47. On 12 March 2021 We Are The Fair Limited applied to this council for the grant of a time limited premises licence to have effect between 7 July 2021 & 31 December 2025, for up to 9999 attendees at any one time, in respect of Peckham Rye Park, Peckham Rye, London SE15 3JA.
48. The application was to facilitate the 'GALA' music festival. The application was for a specific event area (the same event area as per paragraph 33 above). The application was subject to representations submitted by other persons and was

determined at a licensing hearing by the licensing sub-committee on 27 May 2021. The licensing sub-committee granted the application allowing for a maximum of 9999 attendees permitted at any one time, and a longer time limited duration, as was applied for. The premises licence allows for the provision of licensable activities as follows:

- **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.

49. Below is a table of complaints received by the licensing unit, regarding events operated by the applicant, in respect of the licences outlined in paragraphs 36 and 37 above. The complaints were received from six separate complainants. Partial addresses are provided to preserve anonymity, but show proximity to the premises.

<b>Complainant</b>	<b>Date received</b>	<b>Partial address</b>	<b>Complaint details</b>
1	26/05/2019	Brookstone Court, SE15 3UN	Music being played at the festival disturbing the resident
2	28/05/2019	No address provided	Music being played at the festival disturbing the resident
3	02/08/2021	Dragonfly Place, SE4 2FH	Music being played at the festival disturbing the resident
4	02/08/2021	Colyton Road, SE22 0NE	Music being played at the festival disturbing the resident
5	02/08/2021	Limes Road, SE15 3BX	Music being played at the festival disturbing the resident
6	08/08/2021	Frome House, SE15 3JF	Music being played at the festival disturbing the resident

## Map

50. A map showing the location of Peckham Rye Park and Common is attached to this report as appendix E.

## Southwark Council statement of licensing policy

51. Council assembly approved Southwark's statement of licensing policy 2021-2026 on 25 November 2020 and it came into effect on 1 January 2021.
52. Sections of the statement that are considered to be of particular relevance to the sub-committee's consideration are:
  - Section 3 - Purpose and scope of the policy. This reinforces the four licensing objectives and the fundamental principles upon which this Authority relies in determining licence applications
  - Section 5 – Determining applications for premises licences and club premises certificates. This explains how the policy works and considers issues such as location; high standards of management; and the principles behind condition setting.
  - Section 6 – Local cumulative impact policies. This sets out this authority's approach to cumulative impact and defines the boundaries of the current special policy areas and the classifications of premises to which they apply. To be read in conjunction with Appendix B to the policy.
  - Section 7 – Hours of operation. This provides a guide to the hours of licensed operation that this Authority might consider appropriate by type of premises and (planning) area classification.
  - Section 8 – The prevention of crime and disorder. This provides general guidance on the promotion of the first licensing objective.
  - Section 9 – Public safety. This provides general guidance on the promotion of the second licensing objective.
  - Section 10 – The prevention of nuisance. This provides general guidance on the promotion of the third licensing objective.
  - Section 11 – The protection of children from harm. This provides general guidance on the promotion of the fourth licensing objective.
53. The purpose of Southwark's statement of licensing policy is to make clear to applicants what considerations will be taken into account when determining applications and should act as a guide to the sub-committee when considering the applications. However, the sub-committee must always consider each application on its own merits and allow exceptions to the normal policy where these are justified by the circumstances of the application.

## **Cumulative Impact Area (CIA)**

54. The premises are not situated in a cumulative impact area.
55. The premises are situated in a residential area.
56. Under the Southwark's statement of licensing policy 2021 - 2026 the following closing times are recommended as appropriate within this residential areas for the categories of premises stated:
  - Public houses, wine bars, or other drinking establishments and bars in other types of premises, event premises / spaces where sale of alcohol is included in, and ancillary to, range of activities including meals:
    - Monday to Sunday: 23:00.
57. However, please note that paragraph 278 in section 10 of the statement of licensing policy 2021 – 2026 recommends a finish time of 22:00 for outdoors events, though an earlier finish time may be requested subject to local circumstances.

## **Climate change implications**

58. Following council assembly on 14 July 2021, the council is committed to considering the climate change implications of any decisions.
59. Climate change is not a legal factor in the consideration of a grant of a premises license under the current licensing objectives, however members can make enquiries and request an agreement from applicants to promote the reduction of the impact of climate change that may be caused by the operation of the premises.
60. Examples of such agreements may be:
  - Not use single use plastics, such as disposable plastic glasses, when selling alcohol at the premises.
  - Encourage patrons not to drive to venues by providing details of public transport on their webpages/tickets.
61. The council's climate change strategy is available at:  
<https://www.southwark.gov.uk/assets/attach/48607/Climate-Change-Strategy-July-2021-.pdf>

## **Community, equalities (including socio-economic) and health impacts**

### **Community impact statement**

62. Each application is required by law to be considered upon its own individual merits with all relevant matters taken into account.

### **Equalities (including socio-economic) impact statement**

63. This report does not result in a policy decision and each application is required to be considered upon its own individual merits with all relevant matters taken into account. In considering the recommendations of this report, due regard must be

given to the public sector equality duty set out in section 149 of the Equality Act 2010. This requires the Council to consider all individuals when carrying out its functions.

64. Importantly, the council must have due regard to the need to eliminate discrimination, harassment, victimisation, or other prohibited conduct; advance equality of opportunity and foster good relations between people with protected characteristics and those who do not. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. The public sector equality duty also applies to marriage and civil partnership, but only in relation to the need to eliminate discrimination, harassment, victimisation, or other prohibited conduct.
65. The equalities impact statement for licensing decisions is contained within the Southwark statement of licensing policy 2021 – 2026:  
<https://www.southwark.gov.uk/business/licences/business-premises-licensing/licensing-and-gambling-act-policy>.
66. The equalities impact assessment is available at:  
<https://moderngov.southwark.gov.uk/documents/s92016/Appendix%20F%20-%20Equalities%20Impact%20Assessment.pdf>

### **Health impact statement**

67. Health impacts cannot be considered by law when making decisions under the Licensing Act 2003.

### **Resource implications**

68. A fee of £4100.00 has been paid by the applicant company in respect of this application being the statutory fee payable for premises within non-domestic rateable value E.

### **Consultation**

69. Consultation has been carried out on this application in accordance with the provisions of the Licensing Act 2003. A public notice was published in a local newspaper and similar notices were exhibited outside of the premises for a period of 28 consecutive days.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Director of Law and Governance**

70. The sub-committee is asked to determine the application for a premises licence under Section 17 of the Licensing Act 2003.
71. The principles which sub-committee members must apply are set out below.

### **Principles for making the determination**

72. The sub-committee is asked to determine the application for a premises licence under section 17 of the Licensing Act 2003.

73. The principles which sub-committee members must apply are set out below.
74. The general principle is that applications for premises licence applications must be granted unless relevant representations are received. This is subject to the proviso that the applicant has complied with regulations in advertising and submitting the application.
75. Relevant representations are those which:
- Are about the likely effect of the granting of the application on the promotion of the licensing objectives
  - Are made by an interested party or responsible authority
  - Have not been withdrawn
  - Are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
76. If relevant representations are received then the sub-committee must have regard to them, in determining whether it is necessary for the promotion of the licensing objectives to:
- To grant the licence subject to:
    - The conditions mentioned in section 18 (2)(a) modified to such extent as the licensing authority considers necessary for the promotion of the licensing objectives
    - Any condition which must under section 19, 20 or 21 be included in the licence.
  - To exclude from the scope of the licence any of the licensable activities to which the application relates.
  - To refuse to specify a person in the licence as the premises supervisor.
  - To reject the application.

## **Conditions**

77. The sub-committee's discretion is thus limited. It can only modify the conditions put forward by the applicant, or refuse the application, if it is necessary to do so. Conditions must be necessary and proportionate for the promotion of one of the four licensing objectives, and not for any other reason. Conditions must also be within the control of the licensee, and should be worded in a way which is clear, certain, consistent and enforceable.
78. The four licensing objectives are:
- The prevention of crime and disorder
  - Public safety
  - The prevention of nuisance
  - The protection of children from harm.
79. Members should note that each objective is of equal importance. There are no other licensing objectives, and the four objectives are paramount considerations at all times.

80. Conditions will not be necessary if they duplicate a statutory position. Conditions relating to night café and take away aspect of the license must relate to the night time operation of the premises and must not be used to impose conditions which could not be imposed on day time operators.
81. Members are also referred to the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 on conditions, specifically section 10.

### **Reasons**

82. If the sub-committee determines that it is necessary to modify the conditions, or to refuse the application for a premises licence application, it must give reasons for its decision.

### **Hearing procedures**

83. Subject to the licensing hearing regulations, the licensing committee may determine its own procedures. Key elements of the regulations are that:
- The hearing shall take the form of a discussion led by the authority. Cross examination shall not be permitted unless the authority considered that it is required for it to consider the representations.
  - Members of the authority are free to ask any question of any party or other person appearing at the hearing.
  - The committee must allow the parties an equal maximum period of time in which to exercise their rights to:
    - Address the authority
    - If given permission by the committee, question any other party.
    - In response to a point which the authority has given notice it will require clarification, give further information in support of their application.
  - The committee shall disregard any information given by a party which is not relevant to the particular application before the committee and the licensing objectives.
  - The hearing shall be in public, although the committee may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in private.
  - In considering any representations or notice made by a party the authority may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.
84. This matter relates to the determination of an application for a premises licence under Section 17 of the Licensing Act 2003. Regulation 26(1) (a) requires the sub-committee to make its determination at the conclusion of the hearing.

## **Council's multiple roles and the role of the licensing sub-committee**

85. Sub-committee members will note that, in relation to this application, the council has multiple roles. Council officers from various departments have been asked to consider the application from the perspective of the council as authority responsible respectively for environmental health, trading standards, health and safety and as the planning authority.
86. Members should note that the licensing sub-committee is meeting on this occasion solely to perform the role of licensing authority. The sub-committee sits in quasi-judicial capacity, and must act impartially. It must offer a fair and unbiased hearing of the application. In this case, members should disregard the council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the licensing law, guidance and the council's statement of licensing policy.
87. As a quasi-judicial body the licensing sub-committee is required to consider the application on its merits. The sub-committee must take into account only relevant factors, and ignore irrelevant factors. The decision must be based on evidence, that is to say material, which tends logically to show the existence or non-existence of relevant facts, or the likelihood or unlikelihood of the occurrence of some future event, the occurrence of which would be relevant. The licensing sub-committee must give fair consideration to the contentions of all persons entitled to make representations to them.
88. The licensing sub-committee is entitled to consider events outside of the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for the same to be relevant. However, if such events are not properly attributable to the premises being open, then the evidence is not relevant and should be excluded. Guidance is that the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activity in the area concerned.
89. Members will be aware of the council's code of conduct which requires them to declare personal and prejudicial interests. The code applies to members when considering licensing applications. In addition, as a quasi-judicial body, members are required to avoid both actual bias, and the appearance of bias.
90. The sub-committee can only consider matters within the application that have been raised through representations from other persons and responsible authorities. Interested parties must live in the vicinity of the premises. This will be decided on a case to case basis.
91. Under the Human Rights Act 1998, the sub-committee needs to consider the balance between the rights of the applicant and those making representations to the application when making their decision. The sub-committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the borough.
92. Other persons, responsible authorities and the applicant have the right to appeal the decision of the sub-committee to the magistrates' court within a period of 21 days beginning with the day on which the applicant was notified by the licensing authority of the decision to be appealed against.

## Guidance

93. Members are required to have regard to the Home Office guidance in carrying out the functions of licensing authority. However, guidance does not cover every possible situation, so long as the guidance has been properly and carefully understood, members may depart from it if they have reason to do so. Full reasons must be given if this is the case.

## Strategic Director of Finance and Governance

94. The head of regulatory services has confirmed that the costs of this process over and above the application fee are borne by the service.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Licensing Act 2003 Home Office Revised Guidance to the Act Secondary Regulations Southwark statement of licensing policy Case file	Southwark Licensing, C/O Community Safety and Enforcement, 160 Tooley Street, London SE1 2QH	Mrs Kirty Read Tel: 020 7525 5748

## APPENDICES

Name	Title
Appendix A	Copies of the application, the floor plan submitted with the application and documents submitted in support of the application
Appendix B	Copies of the representations submitted by responsible authorities, and related correspondence
Appendix C	Copies of the representations submitted by 'other persons', and related correspondence
Appendix D	Copies of prior notices of decision and premises licences regarding the premises and the applicant
Appendix E	Map showing the location of the premises

## AUDIT TRAIL

<b>Lead Officer</b>	Caroline Bruce, Strategic Director of Environment and Leisure	
<b>Report Author</b>	Wesley McArthur, Principal Licensing Officer	
<b>Version</b>	Final	
<b>Dated</b>	6 May 2022	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments sought</b>	<b>Comments included</b>
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
<b>Cabinet Member</b>	No	No
<b>Date final report sent to Constitutional Team</b>	9 May 2022	