

Item No. 5.	Classification: Open	Date: 1 June 2023	Meeting Name: Licensing Sub-Committee
Report Title		Licensing Act 2003: Southwark Park, Gomm Road, London, SE16 2ET	
Ward(s) of group(s) affected		Rotherhithe	
From		Strategic Director of Environment, Neighbourhoods and Growth	

RECOMMENDATION

That the licensing sub-committee considers an application made Assembled Gala Limited for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as, Southwark Park, Gomm Road, London SE16 2ET.

1. 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 9 representations submitted by 'other persons' and is therefore referred to the licensing sub-committee for determination.
- b) Paragraphs 7 to 14 of this report provide a summary of the application. Copies of the application and the floor plan submitted with the application are attached to this report as Appendix A
- c) Paragraphs 17 to 23 of this report deal with the representations submitted in respect of the application. Copies of the representations from other persons objecting to and supporting the application are attached as Appendix B. A map showing the location of the premises is attached to this report as Appendix C.
- 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

2. 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.
3. Within Southwark, the licensing responsibility is wholly administered by this council.

4. 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.
5. 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.
6. 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

7. On 5 April 2023 Assembled Gala Limited applied to this council for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Southwark Park, Gomm Road, London SE16 2ET
8. 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 23:00
- Sunday and Monday: 11:00 to 22:30
- Sundays preceding Bank Holiday Mondays: 11:00 to 23:00.

- The wider park is generally open to the public from dawn to dusk. Public access to the area of the park that this licence specifies during build and break periods, access will be restricted. Sound checks may take place in advance of the event with permission from the local authority.

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

“Southwark Park is located in Rotherhithe and covers an area of 25ha. It features a bandstand, a bowls club, playground and cafe. This application will apply to a specific area of the park and will be identified on a site plan to be agreed with the Local Authority in advance of events taking place. This application will permit a maximum of 3 days of events per year.”

10. The application seeks to allow up to 14999 attendees at events at any one time.
11. Proposed licence conditions offered in the application allow for the following:
12. That the proposed licence will permit a maximum of three event days per year on Thursdays, Fridays, Saturdays, Sundays or Bank Holiday Mondays (only when Monday is a recognised Bank Holiday).
13. The premises licence application form provides the applicant’s operating schedule. Parts A, B, E, F, G, H, J, K, L, and M of the operating schedule set out the proposed licensable activities, operating hours and operating control measures in

full, with reference to the four licensing objectives as stated in the Licensing Act 2003. Should a premises licence be issued in respect of the application the information provided in part M of the operating schedule will form the basis of conditions that will be attached to any licence granted subsequent to the application.

14. A copy of the application and the floor plan submitted with the application are attached to this report as Appendix A.

Designated premises supervisor

15. The proposed designated premises supervisor is Robert Dudley who holds a personal licence issued by Birmingham City Council.

Representations from responsible authorities

16. There are no representations received from responsible authorities.

Representations from other persons

17. Representations have been submitted by nine other persons. One of the other person objects to the application, and another eight other persons support the application.
18. The other person in objection to the application is referred to as other person 1 in this report.
19. The other persons in support of the application are referred to as other persons 2 to 8 elsewhere in this report.
20. In summary, the other person objecting to the application contend that they live in a very quiet and peaceful cul-de-sac and mention a previous concert whereby the noise level was unbearable with mental torture for 10 hours. That the music was so loud that they had to keep all their windows closed all day when it was hot outside. The other person does not want the park to turn into a place to listen to loud music all day and take drugs. That the premises will not benefit the park and or the animals' wildlife, but destroy it. The place for festivals is fields and unused farm land and not public parks which the community enjoy on their weekends off.
21. In summary, the other persons supporting the application contend that the events held at the premises by the applicant are beneficial for local businesses in the area, and will be beneficial to charities and are an important cultural event. The event will bring attention and people to the borough, bring people together and be an incredible occasion to discover new artists. RALLY will be also supporting the Bermondsey Carnival, allowing it to run after lack of funding in 2022. Rally aims to involve local residents, schools, art groups, charities in the Bermondsey area via employment onsite as well as opportunities to contribute to artworks & installation. That cultural events like this one contribute to the development of the borough and offer a different set of entertainment and experiences of a young demographic which is growing ever more in Southwark. That the area needs something for the young people to get involved in.
22. **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 or wildlife 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.

23. Copies of the representations submitted by other persons are attached to this report in Appendix B.

Conciliation

24. All of the representations were sent to the applicant.
25. At the time of the writing of this report representations to the application remain outstanding and so must be considered by the licensing sub-committee in their determination of the application.
26. The licensing sub-committee will be apprised as to any conciliation, whether partial or full, of any of the other persons.

Premises licensing history

27. Southwark Council currently holds a premises license in respect of Southwark Park (Hawkstone Road, SE16 2PE). 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:**
 - Monday to Thursday: 10:00 to 21:00
 - Friday and Saturday: 10:00 to 22:00
 - Sunday: 11:00 to 21:00.
28. 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 allows for events for up to 4999 attendees and for the park to be open 24 hours a day.
29. Magic Sound Ltd also currently holds a premises licence in respect of Southwark Park (South Section Hawkstone Road, SE16 2PE). This licence is time-limited from 1 June 2021 to 30 September 2023. The premises licence allows for the provision of licensable activities as follows:
- **The provision of plays, films, live music, recorded music, performance of dance (indoors and outdoors):**
 - Friday and Saturday: 12:00 to 22:00
 - **Sale by retail of alcohol to be consumed on premises:**
 - Friday and Saturday: 12:00 to 21:30

- **Opening times:**
 - Friday and Saturday: 12:00 to 22:15.

Map

30. A map showing the location of Southwark Park is attached to this report as Appendix C.

Southwark Council statement of licensing policy

31. Council assembly approved Southwark's statement of licensing policy 2021-2026 on 25 November 2020 and it came into effect on 1 January 2021.
32. 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.
33. 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)

34. The premises are not situated in a cumulative impact area.
35. The premises are situated in a residential area.
36. Under the Southwark's statement of licensing policy 2021 - 2026 the following closing times are recommended as appropriate within this residential area 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.
37. 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

38. Following council assembly on 14 July 2021, the council is committed to considering the climate change implications of any decisions.
39. 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.
40. 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.
41. 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

42. 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

43. 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.
44. 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.
45. The equalities impact statement for licensing decisions is contained within the Southwark statement of licensing policy 2021 – 2026 at:
<https://www.southwark.gov.uk/business/licences/business-premises-licensing/licensing-and-gambling-act-policy>.

46. The equalities impact assessment is available at:

<https://moderngov.southwark.gov.uk/documents/s92016/Appendix%20F%20-%20Equalities%20Impact%20Assessment.pdf>

Health impact statement

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

Resource implications

48. A fee of £2100.00 has been paid by the applicant company in respect of this application being the statutory fee payable for premises within non-domestic rateable value A.

Consultation

49. 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

Assistant Chief Executive – Governance and Assurance

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

51. The principles which sub-committee members must apply are set out below.

Principles for making the determination

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

53. The principles which sub-committee members must apply are set out below.

54. 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.

55. 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.

56. 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

57. 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.

58. The four licensing objectives are:

- The prevention of crime and disorder
- Public safety
- The prevention of nuisance
- The protection of children from harm.

59. 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.

60. 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.

61. 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

62. 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

63. 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.
64. 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

65. 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.
66. 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.
67. 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.
68. 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.
69. 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.
70. 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.

71. 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.
72. 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

73. 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, Finance

74. 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 and the floor plan submitted with the application.
Appendix B	Copies of the representations submitted by 'other persons'.
Appendix C	Map showing the location of the premises

AUDIT TRAIL

Lead Officer	Caroline Bruce, Strategic Director Environment, Neighbourhoods and Growth		
Report Author	Jayne Tear, Principal Licensing Officer		
Version	Final		
Dated	15 May 2023		
Key Decision?	No		
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER			
Officer Title	Comments sought	Comments included	
Assistant Chief Executive – Governance and Assurance	Yes	Yes	
Strategic Director, Finance	No	No	
Cabinet Member	No	No	
Date final report sent to Constitutional Team		18 May 2023	