

Item No. 6.	Classification: Open	Date: 27 May 2021	Meeting Name: Licensing Sub-Committee
Report Title		Licensing Act 2003: GALA Festival, Peckham Rye Park, Peckham Rye, London SE15 3JA	
Ward(s) of group(s) affected		Peckham Rye	
From		Strategic Director of Environment and Leisure	

RECOMMENDATION

1. That the licensing sub-committee considers whether an application made by We Are The Fair Limited for a time limited premises licence be granted under the Licensing Act 2003 in respect of the premises known as Peckham Rye Park, Peckham Rye, London SE15 3JA.
2. Notes:
 - a) This application is submitted under Section 17 of the Licensing Act 2003 and is for a time limited premises licence. The application is subject to representations submitted by 'other persons' and is therefore referred to the licensing sub-committee for determination.
 - b) Paragraphs 9 to 12 of this report provide a summary of the application. Copies of the full application, and a plan showing the event area, are attached as Appendix A.
 - c) Paragraphs 13 to 21 of this report deal with the representations submitted in respect of the application. Copies of a representation submitted by the licensing responsible authority, and related correspondence, are attached to this report as Appendix B (please note that this representation is not under consideration and has been included for information only). Copies of the representations submitted by 'other persons', and related correspondence, are attached to this report as Appendix C. A map showing the location of Peckham Rye Park is attached 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 12 March 2021 We Are The Fair Limited applied to this council for the grant of a time limited premises licence in respect of Peckham Rye Park, Peckham Rye, London SE15 3JA.
9. 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'. The application is summarised 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
 - Proposed 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
 - The application seeks to allow up to 9999 people to attend the premises at any one time.
10. The premises licence application form includes an '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 operational control measures in full with reference to the four licensing objectives. Should a premises licence be issued in respect of the application then 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. Copies of the application and a plan showing the event area are attached to this report as appendix A.
11. **NB** - Please note that permission for the specified location to be used by the applicant to facilitate an event, as may be provided under the terms and conditions set out in this application, has already been granted by this council's events team. Permissions for the use of any of this council's parks and open spaces are subject to a separate consultation process administered wholly by the council's events team. The 'other persons' have been informed of this. The sub-committee are invited to consider the application in the above context.

Designated premises supervisor

12. The proposed designated premises supervisor (DPS) is Robert James Dudley.

Representations from responsible authorities

13. This council's licensing responsible authority submitted a representation.
14. The licensing responsible authority's representation requested that copies of the event management plan and a dispersal policy be provided to the licensing responsible authority, that the applicant provide an accommodation limit in respect of the premises (i.e. the maximum number of customers to be permitted on the premises at any one time) and that the applicant clarify the proposed times for the provision of live music on Mondays.
15. The applicant provided the requested documents and clarification regarding the provision of live music, and also agreed to amend the application to include conditions pertaining to the event management plan, dispersal policy and accommodation limit, which will become licence conditions of any licence issued subsequent to the application. The licensing responsible authority subsequently withdrew their representation.
16. Copies of the representation submitted by the licensing responsible authority, and related correspondence, are attached as Appendix B.

Representations from other persons

17. Three representations objecting to the application were submitted by 'other persons', the other persons being two local residents and a local stakeholder group.
18. The representations submitted by the other persons are concerned with a number of issues. They contend that allowing events to take place under the proposed licence will deny access to members of the public to a section of the park (effectively 'privatising' that section of the park), that antisocial behavior will be engaged in by attendees of any events held under the proposed licence and that there will be a risk of increased transmission of COVID-19 at any events held under the proposed licence.
19. They are also of the view that the terminal hours proposed in the application are too late, that events held under the proposed licence will lead to noise nuisance in the locale and that such events will have a deleterious effect on the fabric of the park. The representations were also concerned that the public notices displayed at the park, to notify members of the public of the application, were not suitable.
20. **NB** – The licensing sub-committee can only consider matters pertaining to the four licensing objectives and therefore the parts of the representations concerned with the possible deleterious effect that events taking place under the proposed licence may have on the fabric of the park, and the concerns that denying access to members of the public to a section of the park effectively 'privatises' that section of the park cannot be considered. Further, 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.

21. Copies of the representations submitted by the other persons, and related correspondence, are attached as Appendix C.

Conciliation

22. The applicant was sent copies of all the representations. The applicant was advised to contact the licensing responsible authority directly. The applicant was also advised that they could respond, via the licensing unit, to the representations submitted by the other persons.
23. The licensing responsible authority have now conciliated and have withdrawn their representation.
24. The applicant provided responses to the other persons' representations. The responses were sent to the other persons, however at the time of the writing of this report the representations submitted by the other persons remain outstanding and so must be considered by the licensing sub-committee. At the hearing to determine this application the licensing sub-committee will be apprised as to any conciliation of any of the other persons.

Premises history

25. 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.
26. The application was to facilitate music festivals, known respectively as the 'GALA Festival' and the 'Jam On Rye' festival. The application was for the same event area as per the application to which this report relates. 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: 11:00 to 22:30.
27. Copies of the notice of decision and subsequently issued premises licence regarding this decision are attached in Appendix D.
28. 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 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.
29. The application was to facilitate music festivals, known respectively as the 'GALA Festival' and the 'Jam On Rye' festival. The application was for the same event area as per the application to which this report relates. 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.
30. Copies of the notice of decision and subsequently issued premises licence regarding this decision are attached in Appendix D.
31. 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.

Map

32. A map showing the location of Peckham Rye Park is attached to this report as Appendix F.

Southwark council statement of licensing policy

43. Council assembly approved Southwark's statement of licensing policy 2021 - 2026 on 25 November 2020. The policy came into effect on 1 January 2021. 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.

34. The statement of licensing policy states that the premises are located in a residential area. Below are closing times for various types of premises in residential areas in Southwark as suggested in the statement of licensing policy.

- Restaurants, cafes and takeaway establishments:
 - Monday to Sunday: 23:00
- Public houses, wine bars or other drinking establishments:
 - Monday to Sunday: 23:00
- Event premises/ spaces where sale of alcohol is included in, and ancillary to, range of activities including meals:
 - Monday to Sunday: 23:00
- Night clubs:
 - Not considered suitable for residential areas

Resource implications

35. A fee of £1100.00 has been paid by the applicant in respect of this application, that fee being the statutory fee payable for premises within non-domestic rateable value band 'A' and where the additional fee in respect of 5000 to 9999 people being in attendance at the premises at any one time applies.

Consultation

36. 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.

Community impact statement

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

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Governance

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

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

Principles for making the determination

40. The sub-committee is asked to determine the application for a premises licence under section 17 of the Licensing Act 2003.
41. The principles which sub-committee members must apply are set out below.
42. 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.
43. 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.
44. 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

45. 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.

46. The four licensing objectives are:
- The prevention of crime and disorder
 - Public safety
 - The prevention of nuisance
 - The protection of children from harm.
47. 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.
48. 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.
49. 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

50. 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

51. 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.
52. 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

53. 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.
54. 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.
55. 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.
56. 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.

57. 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.
58. 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.
59. 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.
60. 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

61. 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

62. 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 related documentation
Appendix B	Copies of the representations submitted by the licensing responsible authority, and related correspondence
Appendix C	Copies of the representations submitted by an 'other persons', and related correspondence
Appendix D	Copies of Notices Of Decision relating to licensing sub-committee hearings of 29 January 2018 & 7 February 2019 and subsequently issued premises licences
Appendix E	Map showing the location of Peckham Rye Park

AUDIT TRAIL

Lead Officer	Caroline Bruce, Strategic Director of Environment and Leisure	
Report Author	Wesley McArthur, Principal Licensing Officer	
Version	Final	
Dated	17 May 2021	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional Team		18 May 2021