

LICENSING SUB-COMMITTEE

Minutes of the meeting held at 10.00 am on 6 February 2024

Present:

Councillor Nicholas Bennett J.P. (Chairman)
Councillors Kira Gabbert and Melanie Stevens

1 APPOINTMENT OF CHAIRMAN FOR THE MEETING

Councillor Nicholas Bennett was appointed as Chairman.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 APPLICATION FOR TO VARY THE PREMISES LICENCE AT MOON LOUNGE BAR & RESTAURANT 59-63 HIGH STREET BECKENHAM BR3 1AW

The Application

The application sought to vary the current licence by extending the licensed hours for the sale of alcohol on the premises from 00.30 to 02.00 hours, recorded music and the provision of late night refreshment from 01.00 until 02.00 hours on Friday and Saturdays. For both recorded music and the provision of light entertainment, the application envisaged a reduction of 30 minutes in the permitted times on Sundays. The application sought to add the provision of live music on Mondays to Wednesdays, between 12.00 to midnight, on Thursdays between 12.00 to 01.00 hours, on Friday and Saturdays between 12.00 to 02.00 hours and Sundays between 12.00 to 23.30 hours. The application stated "We request the additional hour for the main bar only. Terrace operation hours will remain the same. No change to rear of Premises Garden operation / times".

The Case for the Applicant

The Applicant's solicitor explained that the intention was for last orders on Friday and Saturdays to be given at 1.30 hours with a winding down period thereafter, and the premises closing at 02.00 hours. After contact with the police his client sought to address the possibility that his customers may leave the premises and walk along the High Street to other venues with later opening hours. The intention of the application is that customers will be able to remain on the premises until 2am on Fridays and Saturdays and there will

be no extra journey through the Town Centre. Conditions had been agreed with the police including a requirement that there be a last entry time to the premises of 00.30 hours.

It had been agreed with the Council's Environmental Health Officer that triple glazing would be installed on the High Street elevation. For financial reasons this could be undertaken within 6 months of the grant of permission. With reference to the objection from the planning department, the applicant had not applied to vary the planning condition or apply for a certificate of lawfulness. However, the planning and licensing regimes were separate. With respect to the Council's Special Policy of Cumulative Impact, due to the last admission time there would be no additional customers in the premises and therefore no further detrimental impact on licensing objectives. The intention was to reduce the number of people journeys and customers could remain in the premises and not move uphill along the High Street to another premises with later hours. In response to a question, it was confirmed that the noise complaints since July 2023 had not been made in respect of later hours. The business had direct contact with residents living either side of the premises. The number of external smokers would be limited to three persons who would only smoke in a position where a door supervisor was positioned. The premises had operated using TENS in December and January. The premises had engaged a DJ on Fridays and Saturdays, either to the current permitted hours or to the hours permitted by the TENS.

The Case for the Objectors

The Council received two written objections from residents. The first representation expressed a concern that there was already significant late night noise from revellers leaving the Bridge Bar and that extending the opening times at the premises would have a detrimental effect to many residents both on the High Street and the surrounding roads. The second representation also referred to the area being severely affected by the noise from the High Street bars being open so late and expressed a concern that moving the opening time to 2am would set a precedent for other bars to follow. The local area was already severely affected by noise from High Street bars and pubs.

A representative from the Council's planning department advised that the premises were subject to a planning condition which only permitted opening hours to 00.30 hours. There had been no application submitted by the business to extend these permitted hours or submit an application for a certificate of lawfulness (if it was claimed there has been a longstanding breach of the planning condition).

Reasons for Decision

Members considered the amended application, the written and oral representations, the Council's Statement of Licensing Policy and statutory guidance. They concluded that the application should be refused.

The Council's statement of licensing policy at paragraph 22.1 provided that:

*There should be a clear separation of the planning and building control functions and the licensing regimes. Licensing applications should not be a re-run of the planning application process. The Licensing Authority **will not grant** an application for a new Premises Licence or Club Premises Certificate unless it is satisfied that all relevant planning permissions are in place where necessary.*

.....When considering representations to the granting of a new Premises Licence or Club Premises Certificate or a variation of an existing licence or certificate, which is not subject to any planning conditions, the Licensing Sub Committee may request information as to any planning conditions attached to similar premises in the locality. The Sub Committee may consider the reason for the implication of such conditions and consider those in relation to the application being determined.

Although it was accepted that the policy could be more clearly worded, the committee concluded that the intention of the policy could not be to exclude considerations of planning conditions on a variation application, where a current planning condition on the application premises would be breached, but allow consideration of planning conditions on similar premises in the locality where no condition existed on the application premises.

The committee noted the submission for the Applicant's solicitor that licensing and planning were separate regimes, but also noted that the Applicant had taken no steps to resolve the planning situation, either by way of an application to vary the planning condition or by an application for a certificate of lawfulness. Taking everything into account, it was concluded that the application was premature in advance of any progress being made to resolve the planning position and some weight should be given to the objection raised by the planning department.

The premises were located in an area subject to a Special Policy of Cumulative Impact. That policy stated:

In any area declared to be subject to a Special Policy of Cumulative Impact it would be the Licensing Authority's intention to refuse to grant new premises/club licences or variations, unless the application is such that the grant of the licence would have no further detrimental impact on the area and the promotion of the licensing objectives. This policy applies to all new premises licences and club premises certificates, including but not limited to night clubs, wine bars, pubs, restaurants, take-away premises, supermarkets, shops, theatres and cinemas and leisure services which include licensable activities e.g. Sports centres.

The Applicant's solicitor said there would be no further detrimental impact on licensing objectives, as the intention was to reduce the number of people journeys and customers could remain in the premises and not move up the High Street to another premises with later opening hours.

We considered the closing times of premises in the High Street and Southend Road, as attached to the agenda papers. We noted that the only premises with licensed closing hours on Fridays and Saturdays at 2pm and beyond were Patricks, Bridge Bar and 10 Below. These premises were located in the section of the High Street north of Albemarle Road. The Committee considered if it were to allow the application, it would encourage other licensed premises in the vicinity of the application site to apply for extended hours. Rather than reducing the number of people journeys, the eventual outcome would be to encourage patrons to stay in this section of the High Street in the early hours of the morning, contributing to issues of cumulative impact that the licensing policy sought to prevent. For these reasons it was considered that the application would alter the character of the area with a detrimental impact on the character of the area and the licensing objectives relating to prevention of public nuisance and the prevention of crime and disorder.

Decision:

That the application be REFUSED.

**4 NEW PREMISES LICENCE APPLICATION FOR FESTIVAL
REPUBLIC LTD CRYSTAL PALACE PARK, THICKET ROAD,
PENGE, LONDON SE20 8DT**

The Application

The application sought a premises licence to supply alcohol at Crystal Palace Park, to provide regulated entertainment including live and recorded music, to provide films, plays and performance of dance. The hours for regulated entertainment and alcohol are Monday to Sunday 11:00hrs to 22:30hrs. The opening hours stated on the application are 10:00 to 23:00 every day.

The proposed conditions submitted with the application stated that the Premises Licence should authorise licensable activity for up to six event days at a maximum capacity 29,999 persons and a further 2 event days at a maximum capacity of 5,000 persons each calendar year between 1st May and 30th September.

A copy of the application form and plan were attached to the agenda in Appendix 1. The application included the area shown red on the plan but excluding the grey shaded area which was the National Sports Centre. During the public consultation, the Council received a total of nine valid objections which were attached to the agenda in Appendix 2.

The Case for the applicant

The Committee was addressed by the Applicant's solicitor. The Applicant had previously been granted a licence for events in the park which had been held between 2021 and 2023. The current application reflected the experience

gained. In particular the maximum capacity sought had been reduced from the previous permitted capacity of 49,999. A change had also been introduced from holding events for a three day festival to a series of individual events.

The Applicant called expert evidence. The earlier events had generated some concern that nearby residential property was being adversely affected by vibrations from the events. It was identified that the source of the vibration was not air based but caused by the audience dancing together in response to the music. This had been difficult to predict and would last for only a few seconds. A solution was achieved by reducing the numbers attending the events and also by repositioning the stage. The result has been a marked reduction in the number of complaints.

In terms of noise issues, the Committee was advised that an improved sound system had been introduced in 2023 which was designed to limit noise spillage from the events. The size of the stage was also reduced and reorientated for this reason also. The events were monitored in terms of noise. The result was a marked reduction in complaints concerning noise over the preceding years since 2021. The conditions required a noise management plan to ensure this progress was maintained.

A successful transport plan with necessary road closures had been implemented in 2023 with information being circulated to affected properties. In terms of social behaviour, anti-social behaviour measures, a drugs policy, and a security plan with stewards agreed with the police would be secured by condition.

The Applicant had considered the Council's Licensing Policy that discouraged multiyear applications for large scale events. The application for an indefinite premises licence had been reduced to a 5 year licence. The Applicant felt a licence could be granted for this timescale given the experience to date and all the measures as detailed above. A considerable financial investment would be necessary to hold the events and some level of reassurance about the longevity of the licence was needed.

(ii) The Case for the Objectors

The written representations submitted by local residents were set out in the agenda. The Committee noted in particular, a concern that the measures taken to reduce vibrations and noise may not be sufficient and concerns as to whether the park was a suitable venue for large events even with the reductions in attendance. It was felt that poor security and crowd control had caused issues at the previous events and that the festival line for residents had not dealt with the complaints received by it. Large sections of the park were being closed off during the summer. It was not explained how the events would relate with events being provided by other organisers. Noise and air pollution from heavy machinery used to transport equipment and stages was significant. There was a potential impact on wildlife.

In addition to the written representations the Sub-Committee also received verbal representations. Councillor Simons of the London Borough of Southwark spoke on behalf of Mr Bernstein. He asked that vibration monitoring take place at Princess Court and indicated residents would prefer a shorter licence period of 3 years to encourage a dialogue with the event organisers. He was particularly concerned to ensure that residents got notification in advance. He pointed out the difficulties in delivering communications to residences in blocks with door entry systems.

Councillor Thompson welcomed the offer of a 5 year rather than an indefinite licence. He felt a condition was needed to ensure vibration monitoring and that the impact on health should be considered. Councillor Jeal (for Councillor Brooks) asked for better engagement with ward councillors and consultation with local residents and businesses to be strengthened. He asked for a one year licence only given the size of the licensed area applied for and that it was envisaged the event might be moved to other areas of the park as a result of refurbishment works.

Reasons for Decision

Members considered the amended application, the written and oral representations, the Council's Statement of Licensing Policy and statutory guidance. They concluded that the application with conditions could be permitted without harm to the licensing objectives, but only if the licensable area was reduced.

The Committee considered the Council's licensing policy at paragraph 16.1 concerning large scale events which provides that they *"are generally dealt with on a time limited premises licence. They are not granted on a multi-year basis"*. Both the Health and Safety and Public Health Nuisance Teams referred to this policy as part of their concern.

The Applicant had now amended their application so as to seek a 5 year licence. Members accepted that the Applicant had gained experience of managing events at the Park since 2021 and made significant amendments to the management of the licensed events so as to reduce the impact of them. The maximum capacity of the events was now reduced. Steps had been taken to reduce the impact of the events in terms of vibration and public nuisance from sound by relocating and reducing the stage. More sophisticated sound equipment designed to reduce noise spillage had been purchased. An extensive list of conditions were proposed including a requirement for a draft event management plan to be submitted at least 5 months before the first event. The plan would be subject to approval by the Safety Advisory Group. The police confirmed that from their perspective they would accept a 5 year licence. It was because of these changes that we felt the events could be permitted with the safeguarding conditions for a longer than annual time period.

When considering which time scale for the licence was appropriate, the Committee noted that the intention may be to move the stage to another

section of the park to enable refurbishment works to take place. The evidence given indicated that the position of the stage was of crucial importance. New assessments would need to be made, were the stage to be moved to a different area. The outcome of those assessments and impact of a relocated event was unknown. For these reasons, the Committee felt it could agree to a five year licence but only for the smaller area that had previously been licenced.

The Committee considered all the representations from nearby local residents. However, the expert evidence indicated that those concerns could be addressed by conditions and in particular the condition requiring an event management plan.

The Committee considered the proposed conditions as set out in the Agenda to be necessary. It was felt an amendment to proposed condition 113 was needed to make clear the monitoring report was required for each event. It was also felt that more detail was required in condition 130 concerning the extent of the public consultation.

Decision

That the application for the grant of a premises licence at Crystal Palace Park, Thicket Road, Penge, London SE20 8DT be GRANTED, subject to the imposition of a condition that the licensable area will be identical to that approved under premises license reference 20/00398/LAPRE, that the licence shall run until 30th September 2028 and subject to the conditions agreed with the Police and set out in Appendix 3 of the agenda with the following amendments:

Condition113: A monitoring report, demonstrating compliance with the relevant Licensing Conditions shall be submitted by the Acoustic Consultant to the London Borough of Bromley's Environmental Health Department within 14 days of each event day.

Condition 130: The PLH will make all reasonable efforts to ensure that effective communication will be undertaken with local residents. A meeting will be held for members of the local area which will be attended by members of the PLH. LBB will also be invited to attend. Details of the meeting will be circulated to local residents, businesses and councillors for all of the local government election wards that are adjacent to the park in advance of the meeting.

Chairman