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LICENSING SUB-COMMITTEE

30 JANUARY 2019

(6.00 pm - 11.09 pm)

PRESENT Councillors (in the Chair), Councillor David Simpson, Councillor Paul Kohler and Councillor Aidan Mundy

Elizabeth Macdonald – Licensing Officer
Guy Bishop – Senior Solicitor – Litigation and Licensing
Amy Dumitrescu – Democratic Services Officer

1 APPOINTMENT OF CHAIR (Agenda Item 1)

RESOLVED: That Councillor David Simpson be appointed Chair of the meeting.

2 APOLOGIES FOR ABSENCE (Agenda Item 2)

There were no apologies for absence.

3 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 3)

There were no declarations of interest.

4 BLUE FOX EVENTS LTD - MORDEN PARK, LONDON ROAD, MORDEN, SM4 5QU (Agenda Item 4)

The Chair opened the meeting and outlined the procedure to be followed during the meeting as detailed in the main agenda pack.

The Applicant's Barrister, Michael Bromley-Martin stated that:

- The first application for this event in this location had been in 2017 when the event was for one day. This application received a number of representations from Responsible Authorities. However the Premises Licence was granted with a capacity of 17,000 persons. It was the applicant's view that the 2017 event was a success.
- The second application for this event in the location was granted in 2018. It was accepted that the 2018 event had seen considerable difficulties. The event was two days with a capacity of 19,999 on both days.
- Although the Applicant accepted that the 2018 event had not been a success, in terms of the number of complaints and issues that arose, this was despite no breaches of any of the licence conditions having occurred.
- There had been extraordinary co-operation and consultation with the Responsible Authorities and the application submitted at the end of 2018, which was considered at this hearing, had been subsequently amended as a result of this. The Responsible Authorities are content with the application in its amended form.

- A number of conditions have now been offered to deal with the three aspects of noise, security and litter/sanitation that were principle issues in 2018, as well as other aspects of concern.
 - o Noise: whilst it was accepted that the noise limits in 2018 had been fully complied with, it was felt that those limits were too high and had therefore been reduced for this application. These limits were now the lowest of any comparable festival and were below the “Pop Guide” (“Guidance on the Control of Environmental Music Noise and its Impact on Communities Close to the Events” provided in the Noise Council Code of Practice on Environmental Noise at Concerts 1995 Chartered Institute of Environmental Health) levels although that Guide is now withdrawn and was only an unofficial guide of EHOs and acoustic specialists.
 - o Security and Stewarding: the security would now be split between two companies – one for the inside of the event and one for outside the event. This had been agreed with the SAG (Safety Advisory Group). Within that was a commitment to provide wrap around security and provide security at all transport points i.e. tube, rail stations.
 - o Litter and Sanitation: all the conditions had been complied with in 2018. However, it was clear that more toilets were required. This had been reassessed by the applicant and this would be split between two companies one for the interior and one for the exterior of the event.
 - o In respect to the offered condition relating to ID scanning, the Metropolitan Police were happy that not all persons should be scanned and the condition would be removed.
- The Applicant was not complacent and still conscious of the potential for disturbance. The applicant believed they had done everything necessary and more to ensure the event would be nuisance free, safe and successful.

Responding to questions from Interested Parties, the Applicant advised that:

- With respect to the paddling pool, it would be 800mm deep (approximately knee height) in a secure area, with a number of lifeguards and with SIA staff monitoring the area. The pool would be situated in an area with its own capacity control and the pool would not be in use for the duration and would be restricted from 7pm.
- There had been no breaches of conditions in 2017 or 2018.
- In relation to the issues with Anti-social behaviour, in an area with large numbers of people there would always be some disturbance and there had been issues identified in 2018 which required addressing.
- The event would take place on the first weekend in August each year.
- The company providing security for the event in 2018 had not provided welfare for their staff and in future there would be a number of companies providing external security. The Applicant advised these companies would be providing welfare for their staff including toilet facilities and breaks.
- There would be separate companies providing cleaning for the internal and external areas and there would be the facility to send cleaners to particular areas if concerns were raised.

- There is a handover with the Council Parks team once the event is complete and the park cannot be handed over until the Parks team are satisfied with the condition of the park.
- Representations had been factored into the plans for external security.
- The Applicant worked closely with the Council Parks and Ecology teams and included a statement within the Supplemental Agenda advising that trees cut down were not as a result of last year's festival. The Applicant advised there were large areas of the park where trees were fenced off during the event to protect both the trees and attendees. The site plans took into account areas of wildlife.

Following questions from the Licensing Sub-Committee, the Applicant stated that:

- One of the reasons why issues and complaints markedly increased in 2018 from the 2017 event, might have been because the 2018 event had a longer duration and a larger capacity. It was also noted that more people in the area were aware of the event occurring and how to make a complaint. The Applicant noted that there were other festivals with much larger numbers - therefore it did not follow that the increased attendance was the only reason why more problems ensued.
- The Applicant conceded that ultimately no one knew why there had been so many more issues and complaints in 2018.
- The requested capacity of 23,500 persons on Saturday and 15,000 persons on the Sunday for the 2019 event was a reduction of 5,000 in capacity (but a potential increase of 7000 in attendance) on the previous year for the Sunday and an increase of 3,500 for the Saturday.
- The Metropolitan Police had been on site in 2017, but the Applicant appeared to suggest that this was not the case in 2018 due to legal issues preventing the Applicant paying for such support. The Applicant confirmed they were willing to make a financial contribution to the Police to cover policing for the event if that became legally possible in the future.
- There would be an amnesty procedure for drugs - if any were found during a search, based on the type and the attitude of the individual they would be ejected or have the substance confiscated and only then be permitted to attend. A Drugs Policy would be developed in discussions with the Police. There was a ban on Nitrous Oxide.
- There would be an external fence surrounding the perimeter with a sterile area in between that and the fence surrounding the event. This would ensure that any persons attempting to throw items over the fence would not be able to throw them directly into the event and they would land in the sterile area.
- There would be a noise hotline for any complaints or concerns from local residents to contact during the event. This would have an answerphone with an automated email alert to the team. There were built in contingencies to allow for staff absence. There would also be an email address to contact and a website with live dB levels updated regularly. The Applicant had also employed a new noise consultant.
- For this application, a new area had now been included in the noise management plan to assess low frequency/bass noise, which had related to a number of the complaints in 2018. These levels would also be monitored from 2019 onwards.

- In relation to noise, an additional member of staff had now been employed, there would be better quality speakers or Public Address system and there would be a reduction in the dB levels.
- There would be an egress plan provided as part of the ESMP and this would include a phased closedown of the different areas. In terms of stewarding, there would be two dedicated teams each to separately staff the exterior and the interior. This would assist as staff would be positioned in those specific areas, not expected to cover one and then re-deploy for egress. The Applicant had identified areas off-site which required additional stewarding including at Morden station and would work with BTP on those staffing provisions.
- There would be a dedicated Uber pickup spot, with the possibility of two being looked at for 2019.
- The Applicant had now been made aware of hotspots for litter and would plan resources accordingly, including an overnight response team.

PC Russ Stevens, speaking on behalf of the Metropolitan Police representation, stated that:

- The communication with the applicant had been excellent and they had met with the Police and debriefed after each event.
- Most of the Police concerns related to outside the event.
- Contrary to what the Applicant had appeared to suggest, PC Stevens thought approximately the same number of officers had been on site in 2018 as 2017 although this was not sufficient because of the increased size of the event.
- The Metropolitan Police estimated that the event had cost something in the order of £50,000 to police.
- There had been a number of discussions to ensure the 2018 issues did not re-occur and the Police believed that these concerns had been addressed with the conditions offered that had been agreed between the Police and the Applicant.
- The Applicant had agreed to everything the Police had asked for.

Sarah Le Fevre, representing the Licensing Authority (with the assistance of Barry Croft Licensing Team Leader), stated that:

- The applicant had proved they were more than willing to engage in the planning process.
- Whilst the applicant was still a relative newcomer and there was a great deal of learning to be done, the Licensing Authority was grateful the Applicant had accepted the conditions requested by the Licensing Authority addressing its concerns.
- In response to a question from the Licensing Sub-Committee, Sarah Le Fevre advised that the Licensing Authority had considered requesting a one year licence but had noted that the event had taken place over 2 years thus far and there was the option available to ask the Licensing Sub-Committee to Review the Premises Licence, if any issues occurred at the 2019 event. The offer to reduce the application to two years was a significant reduction to the permanent Premises Licence application that they originally sought.

Andrew Pickup, speaking to his representation:

- Stated that staff from Environmental Health would be present at the event if the Premises Licence was granted, to monitor and ensure compliance and would carry out independent monitoring.
- Conceded (after a protracted discussion and interventions from both the Applicant's barrister and sound specialist) that, despite describing (in his additional memorandum) the removal of a peak level condition (included in his original report) as introducing nothing more than "some slight flexibility on noise levels", there would now be no maximum limits on peak low and high frequency sound levels.

The meeting was adjourned briefly at 21.31 and resumed at 21.24.

Councillor Pearce, speaking to his representation stated:

- he was concerned about drugs particularly in relation to sales to under 18s and felt there should be a zero tolerance policy, noting that drug taking and selling would happen in the rest of the park even if not in the event itself.

Councillor McLean, speaking to his representation questioned:

- whether the event was the right type of event for the area and whether the management team were competent to run the event. Councillor McLean stated that the original application had been overambitious and he was not convinced of their sincerity and competence.

Councillor Southgate, speaking to his representation questioned:

- whether the conditions were sufficient and expressed concern regarding the momentum of the increase in drug supply from 2017 to 2018, which could attract other gangs to the event. Councillor Southgate also queried the effect on the new Morden Leisure Centre which would be being used by large numbers of families.

Sean Cunniffe, Head of Customer Contact and Proper Officers Representative for Registration Services, speaking to his representation advised that:

- whilst his concerns had been addressed in the conditions now proposed, it should be noted that the vast majority of complaints went through to the out of hours emergency line at the Council (MASCOT), and he requested that the applicant liaise with him with regard to the hotline.

Kim Birch, speaking to her representation:

- recounted her experience of the 2018 event in relation to men and women urinating in her road whilst children were walking past, and the hundreds of drugs canisters discarded in the area, as well as bottles. Ms Birch said that there had been no action taken following her complaint to the noise complaint line in 2018.

Elsbeth Clarke, speaking to her representation:

- stated she felt the applicant had asked for too much in the original application to then give the appearance of negotiation. She felt that the applicant had had two 'bites of the cherry' but did not deserve a third.

Suzanne Denne, speaking to her representation:

- questioned how the issues could be addressed this year if the applicant didn't understand why the issues arose in 2018.

Mr & Mrs Hamid, speaking to their representation:

- advised that there should be no discussion on drugs as they are illegal and stated that it was unacceptable to have to shut doors and windows on a hot day/evening.

Clare Heath-Whyte, speaking to her representation:

- stated that the applicants had not kept their earlier promises and they had not received a visit despite requests. She felt the noise was worse in 2018 and that there had been 'traffic chaos' on London Road. Clare advised that whilst there were toilets close by a festival goer had stated they were too dirty and refused to use them. Clare stated that Morden is a residential area and this was an inappropriate place for the event.

David Heath-Whyte, speaking to his representation:

- advised that the cars and buses were not managed safely and parked outside the Church which caused jammed roads and risks to pedestrian safety. The Uber blackout had meant that attendees were confused where to go and that having two areas would increase this problem. Mr Heath-Whyte felt that a reduction of 5dB would not make a difference and that having met all the conditions in 2018 the event had still caused issues.

Russell King, speaking to his representation:

- questioned if the applicant didn't understand what had gone wrong how could they demonstrate they could fix what went wrong. Mr King noted that Morden was a residential area and advised that there had been canisters everywhere in 2018.

Susan Liang, speaking to her representation:

- stated that the application had been reduced as a negotiating tactic and that it was against all 4 of the licensing objectives. Stewarding in previous years had meant that the behaviour had been displaced elsewhere. The Applicant had promised in 2017 to resolve the issues for 2018 and this had not happened. Ms Liang questioned whether there were sufficient toilets and how the

applicant could ensure they were used. Ms Liang felt that there needed to be more family friendly events.

Pippa Maslin, speaking to her representation:

- stated that the location was not appropriate and the event should be moved to a different location.

Liz Sherwood, speaking to her representation:

- advised that in 2017 she could hear the event but could not in 2018. In 2018 attendees had parked in their CPZ and received parking tickets. However it had not caused her inconvenience. Ms Sherwood stated that all the greenspaces in Merton required funding to sustain them and questioned where else the funding would come from. The event was one event over two days in a year and, whilst she appreciated all the concerns, the event would bring in a significant sum for the parks, and these events were vital to ensure the future of the greenspaces in Merton.

Michael Bromley-Martin advised in response to Interested Parties that the road closure in London Road had been put in as an emergency in 2018 but that a Traffic Management Order had been requested this year. Issues with the use of half of London Road and buses on diversion etc would be addressed in the planning stage not on the day of the event as had happened in 2018.

PC Russ Stevens advised that he felt that the control measures offered were the best that they could achieve for this event.

In closing, Michael Bromley-Martin stated that:

- whilst the Applicant understood the disturbance an event such as this could cause to residents the applicant had never broken promises or breached conditions and that none of the Responsible Authorities had doubted the integrity of the applicant and had congratulated its attitude of co-operation.
- The original application of 29,999 persons was a reflection of the demand for the festival and whilst it must not be an unreasonable disturbance, the applicant urged the Licensing Sub-Committee to also think of the attendees of the festival.
- Mr Bromley-Martin stated that the applicant had been willing to compromise and had now come to an agreement with the responsible authorities. 66 additional conditions had been put forward and it was clear that the 2018 conditions had been insufficient.
- Whilst there had been issues in 2018, Mr Bromley-Martin stated that whilst there was drug usage this was not a festival that suffered from a drug problem to the degree of the larger festivals and other than references to nitrous oxide the police had not expressed any concern in relation to drugs.
- The Applicant felt that in 2018 there had been too much concentration on checking compliance such that the bigger picture was missed, and that they

now knew that more conditions were needed and more would be imposed which was different to 2018.

- In relation to the Paddling Pool, the applicant was prepared for it to be remitted to the SAG for re-consideration.
- The Applicant stated that We Are the Fair and Blue Fox Events who were working on the event together had extensive experience and knowledge and they hoped that all the things that had been done in conjunction with the Responsible Authorities would ensure that disturbance was kept to a minimum.

The Chair advised that due to the late hour the decision would be postponed and provided to all parties within 5 working days.

The meeting was closed at 23.09.

The Full decision is available in the Notice of Determination document.