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FIELD DAY FESTIVAL, MERIDIAN WATER
LONDON BOROUGH OF ENFIELD LICENSING SUB-COMMITTEE

HEARING 8 MAY 2019

OUTLINE SUBMISSIONS

(on behalf of Tottenham Hotspur Limited & Tottenham Hotspur Football Athletic Co. Ltd)

Note:

These outline submissions have been drafted specifically to address the applicant's written submissions of 30 April (in particular paragraphs 35-38), in order to ensure that the sub-committee has an advanced view of both sides of the issues raised in those paragraphs before the hearing on Wednesday 3 May. Tottenham Hotspur's detailed representations are set out in its letter of 12 April. Appendix 2 to those representations particularises why the application is contrary to the Licensing Act and Regulations, Home Office Guidance and the Council's own Licensing Policy. Nothing in this document is intended to detract from those particulars.

Introduction and summary of issues

Summary of issues

1. The issues central to these submissions are:
 1. whether the plans accompanying Broadwick Venue's application for a premises licence comply with The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, ("the 2005 Regulations").
 2. whether the licensing sub-committee ("LSC") is able to fulfil its function of promoting the licensing objectives without the benefit of plans which *do* comply with the 2005 Regulations.
 3. whether the applicant is in effect asking the LSC to delegate its function of promoting the licensing objectives to external (i.e. unaccountable) bodies and/or individuals.
 4. (without prejudice to submissions as to the inadequacy of further details for the event in June 2019 provided on 30 April) whether the LSC can properly grant a licence authorising events in 2020 and beyond, the details of which are not known – nor yet decided by the applicant.

Submissions

2. The 2005 Regulations require that an application for the grant of a premises licence must be accompanied by a plan showing the areas intended to be used for each of the licensable activities for which application has been made. The plan attached to Broadwick Venue's application are outline only and do not even attempt to show the areas intended to be used for each of the licensable activities applied for.
3. The failing is fundamental and has the following consequences –
 - (a) The application is not in accordance with section 17 of the 2003 Act, because it is not accompanied by "a plan of the premises... in the prescribed form": section 17(3)(b).
 - (b) Accordingly, the LSC has no jurisdiction to grant a premises licence: section 18(1)(a). Jurisdiction to grant a premises licence arises where a licensing authority "receives an application... made in accordance with section 17".
 - (c) In any event, because the number, size and location of the areas intended to be used for each of the licensable activities are unknown to the LSC, it is not possible for it to make a rational determination as to the steps it is appropriate to take for the promotion of the licensing objectives: section 18(3)(b).

The statutory provisions

4. It is an offence under section 136 of the 2003 Act to carry out a 'licensable activity' on or from any premises otherwise than under the authority of a premises licence.
5. Section 1 of the 2003 Act provides that the following are licensable activities –
 - (a) the sale by retail of alcohol,
 - (b) [the supply, etc., of alcohol to a club]
 - (c) the provision of regulated entertainment (as defined by Schedule 1),
 - (d) the provision of late night refreshment.
6. Section 17(4) of the 2003 Act provides that application for a premises licence must be accompanied by a plan of the premises in the prescribed form.
7. Regulation 23 of the Licensing Act 2003 (Premises Licences etc.) Regulations 2005 provides -
 - 23 (1) An application for a premises licence under section 17... shall be accompanied by a plan of the premises to which the application relates and which shall comply with the following paragraphs of this regulation.
 - (2) [Plan to be drawn in standard scale]
 - (3) The plan shall show –

- (a) the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises.
 - (b) & (c) [points of access and escape routes]
 - (d) **in a case where the premises is to be used for more than one licensable activity, the area within the premises used for each activity.**
 - (e) – (j) [fixed structures, stages or other raised areas, steps, stairs, etc., public conveniences, fire safety equipment, location of kitchen.]
8. Regulation 23 applies to all applications for premises licences. The regulation does not say “except in the case of applications for large-scale events”.

Delegation of licensing responsibilities

9. In *R (Hope & Glory Public House Limited) v City of Westminster Magistrates Court*¹ the Court of Appeal emphasised the importance of democratic accountability in licensing decisions. Toulson LJ said: “... *Parliament had chosen to make the local authority central to the promotion in its area of the licensing objectives set out in the Act, because local councillors are accountable to the local electorate and are expected to be sensitive to the needs and concerns of the local populace.*”
10. In its operating schedule and in the written submissions served on 30 April, Broadwick Venues proposes that “a detailed layout plan showing positions of temporary structures such as stages, bars, food concessions, ... [etc.] will be provided and agreed through the SAG process.” That is impermissible. Responsibility for the promotion of the licensing objectives is that of the licensing authority. Decisions relating, for example, to the number/location/size/style of proposed licensed areas – in particular, but not limited to areas for the sale of alcohol – are the functions of the democratically accountable councillors who sit on the licensing sub-committee, and may not be delegated to a SAG committee.

Conclusions

11. An application to licence large-scale event-premises with a capacity of tens of thousands requires *greater* scrutiny by a licensing sub-committee than does a bar or nightclub - not less scrutiny: self-evidently, large-scale events of the kind envisaged are significantly more vulnerable to compromising the licensing objectives. Large scale events have no special privileges or entitlements to by-pass the licensing regime.
12. What has been called ‘the SAG process’ and the development of an ‘Event Safety Plan’ are not substitutes for the decisions of a licensing sub-committee: they are additional measures necessitated by the sheer scale of what is proposed. Public safety is, in any event, only one of the licensing objectives.

¹ [2011] EWCA Civ 31

13. In order for a licensing sub-committee to assess whether or not to grant, and if it grants what conditions it is appropriate to put on the licence, it is necessary for it to be given the detail, not the outline, of the application it is considering: that is why Regulation 23 requires the application to be accompanied by a detailed plan which sets out each of the particulars itemised in the Regulation.
14. The sub-committee's attention is respectfully drawn to the full text of Regulation 23, attached to these submissions.

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1 May 2019

The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005

Previous: Provision Next: Provision

Plans

23.—(1) An application for a premises licence under section 17, or a club premises certificate under section 71, shall be accompanied by a plan of the premises to which the application relates and which shall comply with the following paragraphs of this regulation.

(2) Unless the relevant licensing authority has previously agreed in writing with the applicant following a request by the applicant that an alternative scale plan is acceptable to it, in which case the plan shall be drawn in that alternative scale, the plan shall be drawn in standard scale.

(3) The plan shall show—

- (a) the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
- (b) the location of points of access to and egress from the premises;
- (c) if different from sub-paragraph (3)(b), the location of escape routes from the premises;
- (d) in a case where the premises is to be used for more than one licensable activity, the area within the premises used for each activity;
- (e) fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
- (f) in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- (g) in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- (h) in the case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
- (i) the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment; and
- (j) the location of a kitchen, if any, on the premises.

(4) The plan may include a legend through which the matters mentioned or referred to in paragraph (3) are sufficiently illustrated by the use of symbols on the plan.