

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Wednesday, 28th July, 2021

Present: Cllr H S Rogers (Chairman), Cllr Mrs J A Anderson and Cllr N G Stapleton

Together with representatives of the Licensing Authority, Kent Police (Responsible Authority), the applicants and other interested parties.

PART 1 - PUBLIC

LAP 21/13 DECLARATIONS OF INTEREST

There were no declarations of interest made in accordance with the Code of Conduct.

DECISION TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION

LAP 21/14 APPLICATION FOR A NEW PREMISES LICENCE FOR MATTS BBQ 2021, WINGS OF THE MORNING FIELD, WROTHAM HILL, WROTHAM

The Panel gave careful consideration to an application for a premises licence in respect of Matts BBQ 2021, Wings of the Morning Field, Wrotham Hill, Wrotham which had been made under section 17 of the Licensing Act 2003.

The Panel gave careful consideration to the written report of the Director of Central Services and Deputy Chief Executive, together with the application and written representations received during the statutory consultation period. It also considered the oral representations made to it by the applicant's representative and other interested parties during the Hearing.

At the outset of the hearing Stansted and Wrotham Parish Council made a submission that BJP Productions had failed to follow the correct procedures in advertising the event and that it would be unlawful for the Panel to continue with the hearing. The Panel considered the submissions from Stansted and Wrotham Parish Council and BJP Productions and, having carefully considered the case law that they were referred to, particularly the case of ex p Jeyeanthan, decided that it was lawful to proceed with the hearing.

At the outset of their application, BJP Productions made it clear that they were now just applying for a premises licence on Saturday 14 August 2021 and a reduced attendance of 7,000 people.

In addition to the representations from Stansted and Wrotham Parish Council, there were representations from the Police, the responsible authority for Environmental Health and 32 other persons (one of which was in support of the application). There was also an email from Kent County Council in their capacity as a Highways Authority.

Both the Police and Environmental Health indicated that their objections would have been much reduced if they had known that BJP Productions were just going to pursue their application for 14 August 2021.

The Police said that their view of the application had substantially changed now the application was for one day and for over 18's only. They still had concerns relating to crime and disorder following a previous event with which BJP Productions were associated where there had been open drug use, a hostile crowd and abandoned vehicles. The Police had concerns regarding the number of security staff to be employed and the use of sniffer dogs.

Environmental Health's main concern was over noise and, bearing in mind that the event was for one day only and was due to finish at 22:00 hours, felt that their concerns could be resolved by the imposition of appropriate conditions. This view was supported by Mr Gosling, a sound consultant, advising Stansted and Wrotham Parish Council.

The email from Kent County Council dealt with two issues:-

- (1) traffic issues regarding the golf event at the London Club due to be held on 14 August, the event at Brands Hatch on 15 August and Matts BBQ on 14 August; and
- (2) the closure of public rights of way over the Wings of Morning Field.

As far as the traffic was concerned, Kent County Council stated that their requests had been agreed and they felt confident with BJP Production's proposals. As far as the public right of ways were concerned, it was too late now for these paths to be lawfully closed.

There were also a large number of written representations objecting to the granting of this application on the basis that it would not be possible to grant the application and promote the licensing objectives at the same time.

The panel felt that the objections could be summarised as follows:

- Public nuisance created by the noise that would inevitably be emitted from the premises.

The panel read and heard evidence from the Applicant, Mr Rankin and the expert advising Stansted and Wrotham Parish Council on the potential nuisance which may be caused by noise and the mitigation and control processes. Much reference was made to the Noise Management Plan submitted as part of the application.

- Dangers posed to public safety by traffic issues created by festival traffic beyond the curtilage of the premises and by the topography of the site (which could be exacerbated by adverse weather conditions).

Both Mr Rankin and Mr Phillips were asked if, as a matter of law, these traffic issues fell within the ambit of the public safety licensing objective or were capable of falling within it. Mr Phillips' view was that the traffic issues outside the premises were relevant to the promotion of public safety and referred the Panel to the case of Luminar Leisure Ltd on p.350 of Paterson's 2021, which he felt could be relied upon to support that point of view.

It was Mr Phillips' submission that the traffic problems that would be created by this event were the most serious issue facing the panel and that there was insufficient time to get the traffic orders made in time for this event.

Mr Rankin's view was that the traffic conditions outside of the premises were beyond BJP Production's control and were not relevant to the Panel's considerations. Mr Rankin also made the point that it was open to the highways authority to authorise the Temporary Traffic Regulation Orders under s.14 of the Road Traffic Regulation Act 1984 by way of an emergency order.

- The potential for anti-social behaviour, crime and disorder at such an event, especially in the absence of a police presence. This included the supply and taking of drugs, on and in the vicinity of the premises, littering and public order offences in the locality.
- It was also suggested that children and young people might be drawn to the premises and its environs and that they were potentially at risk of harm.

The Panel read all of the written representations that were submitted and heard from various objectors at the hearing. The Panel took all of these representations into account in reaching its decision and did not attach any more weight to a representation because it was made orally or because it was written.

The Panel took the following key factors into account in reaching its decision:-

- On the subject of traffic beyond the premises, it was the panel's view that there was no concrete evidence to conclude that this event would cause the traffic chaos anticipated by Stansted and Wrotham Parish Council or the other objectors. It was their view that the traffic for the golf competition at The London Club was unlikely to clash with the traffic for Matt's BBQ. The traffic for the golf was likely to arrive early in the morning and leave early evening and the traffic for Matts BBQ would be more likely to arrive from 11:00 hours onwards and leave from about 21:00 hours or 22:00 hours. The Panel concluded that this event was also unlikely to clash with the event at Brands Hatch on Sunday 15 August 2021. The Panel was supported in its view by the email from Kent County Council.

The Panel also had to consider the parking on the site, the picking up and dropping off of people attending the event and the queues of traffic that might build up leading to and from the site. As part of their considerations the Panel considered a large number of documents provided by BJP Productions in their Event Safety and Management Plan which included a Traffic Management Plan. On balance the Panel was satisfied that if the Traffic Management Plan was adhered to, parking on the site could be properly managed and the public safety objective would be promoted.

- Noise – The Panel concluded that any nuisance posed by noise being emitted from the premises would be controlled by any music, live or recorded, ending at 22:00 hours and by the imposition of conditions. This also appeared to be the view taken by the Police, Environmental Health and Mr Gosling.
- Crime and Disorder – The Panel felt that this could be prevented by BJP Productions agreeing to employ a minimum of 100 SIA staff (a ratio of 1:70 attendees which was in excess of the industry standard of 1:75), 40 stewards, the use of search dogs and the imposition of conditions. The Panel recognised that the supply and use of drugs was of particular concern to all the objectors and that the use of search dogs, throughout the event, would be very important in combating this particular threat.
- Protection of children from harm – The Panel (and the Police) was reassured by the fact that BJP Productions had made this an event for over 18s only. BJP Productions was also going to have all entrances manned by SIA staff and stewards.

In reaching its decision the Panel took into account the Secretary of State's most recent Guidance issued under s.182 of the Act. The Panel also took into account its own Statement of Licensing Policy

RESOLVED: That the application for the licensable activities and hours applied for be GRANTED; subject to the mandatory conditions and the following conditions (as set out on the Notice of Determination):

1. The event is to be limited to a maximum of 7000 persons, including guests but excluding staff.
2. There will be a minimum of 100 SIA staff and 40 stewards.
3. No entry to the site is to be admitted without a ticket.
4. There is to be no purchase or supply of tickets on the door.
5. By no later than 4 p.m. on Monday 9 August 2021 , the applicant to provide the licensing authority with a written statement of how it will operate and manage its pick up and drop off (“PUDO”) system.

In addition the agreed conditions below were to be attached to the premises licence.

Kent Police

6. An Event Management Plan will be submitted for every event held, this plan will be specific to the event and not generic in nature. The plan will include, but not be limited to, traffic control, audience profiling, alcohol management, safety and security provisions etc.
7. The Premises Licence Holder shall comply with the provisions of the Event Management Plan at all times during the event to which it relates.
8. The Premises Licence Holder or their authorised representative shall attend Safety Advisory Group (SAG) meetings whenever an event to be held at the premises is on the agenda.
9. The Premises Licence Holder shall provide on request of Kent Police, Environmental Health or the Licensing Authority figures for any pre-event ticket allocation, such information to be supplied within 24 hours of any such request.
10. The Premises Licence Holder shall ensure that a means of counting the public entering and leaving the premises through any of the entries or exits is in place. The nature of the systems of counting will be agreed with Kent Police and the Licensing Authority. The Premises Licence Holder shall comply with the agreed system.
11. The Premises Licence Holder shall ensure that all Security Staff and Stewards receive a written statement of their duties.

12. All Security Staff shall wear distinctive clothing to clearly identify them as Security Staff.
13. Stewards will be easily distinguishable from members of the public and other SIA or Police personnel and shall wear reflective clothing clearly marked "Steward" or other appropriate word signifying their duties
14. For all events all Stewards will be trained in their duties prior to allowing members of the public onto the premises to ensure they have a full understanding of the operation, safety and emergency procedures applicable to the event. All training records will be kept by a responsible person and be available for inspection upon reasonable notice being given.
15. The Premises Licence Holder will provide suitable receptacles to dispose of alcohol, glass, needles, drugs and weapons upon entry to the event and such provision must be made at all entrances to the event. Placement and number of receptacles must be agreed with Kent Police prior to any member of the public being admitted to the event.
16. Ticket conditions shall indicate that searching will be undertaken. Signage will be displayed at all entrances indicating that searches will be taking place.
17. All persons attending the event will be subject to searches prior to entering
18. All vendors attending the location will be subject to person and vehicle searches to check for illicit substances.
19. Search dogs will be provided by the premises licence holder and will be utilised at all public entry points to the site at all times the site is open to members of the public (the original suggestion was that search dogs should be utilised at "peak times" but the panel felt that the condition had to be amended in order to reduce the chances of drugs being smuggled into the premises).
20. No drinks will be served in any glass receptacle within the event site.
21. A Challenge 25 scheme shall be implemented to the satisfaction of the Licensing Authority and Kent Police with signage displayed at all points where alcohol is to be sold and at entrances to the event.
22. The Designated Premises Supervisor (DPS), or a person on their behalf, shall provide suitable training or instruction to all staff engaged in the sale of alcohol in relation to the prevention of sales to persons under the age of 18 years and to persons who are, or appear intoxicated with alcohol. A written record shall be made of

such training and be made available to the Licensing Authority or Police upon request

23. Soft drinks and free drinking water shall be available on site as an alternative to alcohol.
24. A dedicated telephone line shall be set up and staffed by the Premises Licence Holder at all times during any event when reasonably required by the Licensing Authority so that members of the public can contact the Premises Licence Holder with any problems they may have. The Premises Licence Holder is to log all calls which are received and include what action has been taken, the log is to be available for inspection by authorised officers upon request. The number of this telephone line shall be publicised at least two weeks prior to the start of the event to residents likely to be disturbed by the activities at the event.

Environmental Protection

25. Background noise monitoring shall be undertaken on a schedule to be agreed with the Environmental Protection team.
26. Music Noise Levels for each monitoring location shall be agreed with the Environmental Protection team before the event.
27. Music Noise Levels (LAeq, 15min) shall not exceed 65dB(A) in any 15-minute period at the agreed monitoring point.
28. Music Noise Levels in the 63Hz and 125Hz octave bands shall not exceed LZeq,15 min 70 dB in any 15-minute period at the agreed monitoring point.
29. Noise measurement data shall be submitted to the Environmental Protection team within 28 days of the end of the event. This shall include permanent and roving data. This should be provided as 15-minute periods as per the requirements of Conditions above.
30. The Premises Licence Holder shall have ultimate responsibility via their noise consultants for meeting these licence conditions and will override the event organiser/promoter in the event of any of these conditions being breached.

Insurance

31. BJP Productions to have Public Liability Insurance for £10 million to cover the event, including set up and take down.

LAP 21/15 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 6.41 pm
after commencing at 10.00 am