

LICENSING SUB-COMMITTEE

16 February 2021

Title: Application for a 10-year Time-Limited Premises Licence - Springmerch Ltd, WeAre Music Festival, Central Park, Dagenham	
Report of Operational Director of Enforcement and Community Safety	
Open Report	For Decision
Wards Affected: Heath	Key Decision: No
Report Author: Theo Lamptey, Service Manager Public Protection, Regulatory Services	Contact Details: Tel: 020 8227 5655 E-mail: theo.lamptey@lbbd.gov.uk
Accountable Director: Andy Opie, Operational Director, Enforcement Services	
Accountable Strategic Director: Fiona Taylor, Director of Law and Governance and Deputy Chief Executive	
Summary An application for a 10-year time limited premises licence has been made by Springmerch LTD in respect of the We Are Music Festival (WEAREFSTVL), at Central Park, Dagenham RM10 7EJ. The application seeks consent to hold a single 2-day music festival in Central Park every year for each of the next 9 years. Three representations have been received from responsible authorities under the Licensing Act 2003. These are from the Metropolitan Police Licensing Officer; the Barking & Dagenham Council Licensing Responsible Authority Officer; and the Barking & Dagenham Council Community Safety Officer. The application was originally set down for hearing by the Sub-Committee on 14 July 2020. Consideration of the matter was deferred, however, in the light of the impact of the Government's covid-19 operating restrictions on the then proposed first festival date scheduled for September 2020. The matter is now returned to the Sub-Committee for determination at a public hearing, accordingly.	
Recommendation That the Sub-Committee considers the content of this report and appendices, together with any oral submissions given at the hearing, and determines the application.	
Reason(s) Under the Licensing Act 2003, the Council as Licensing Authority, has a duty to consider and determine each valid application submitted.	

1. Introduction and Background

1.1 The Licensing Act 2003 (the “Act”) established the national licensing regime for

- The sale and supply of alcohol
- Regulated entertainment
- Late night refreshment

1.2 Under the Act, any person wishing to use any premises to provide one or more of the above licensable activities must firstly obtain a premises licence from the local licensing authority for the area. If the licence is intended to include the sale and supply of alcohol, then the licence must name a ‘Designated Premises Supervisor’ (DPS) who holds a personal licence issued by the local licensing authority for the area within which they live.

1.3 Applications for premises licences are made subject to public consultation. During the consultation period, it is open to any ‘responsible authority’ or ‘other person’ to make representations concerning the application. Representations must relate to one or more of the four licensing objectives. These are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

1.4 Where representations are received, and are neither conciliated or withdrawn, then the local licensing authority must hold a public hearing to determine the application.

1.5 On the 19 May 2020, Springmerch LTD submitted an application for a premises licence to hold a 2-day music festival in Central Park, Dagenham, each year for the next ten years, with the first scheduled festival to take place on the weekend of 12 Saturday and Sunday 13 September 2020. Formal representations were received from 3 responsible authorities and the matter was referred to the Licensing Sub-Committee for determination at a public hearing on 14 July 2020.

1.6 At that hearing, following advice from the Council’s Legal representative, the Sub-Committee decided that ‘the proposed September 2020 event could not take place given the current Government Guidance and therefore to adjourn consideration of the application to a date on or before 11 September 2020, thereby allowing the applicant to have further discussions with the Licensing Team. With regard to the request to vary the application to remove the 2020 event and the proposed conditions contained therein, the Sub-Committee took the view that any such request should, in the first instance, be made in writing to the Council’s Licensing Officer. All parties were reminded that they have the right to appeal against the decision to the Magistrates Court within 21 days”.

1.7 The proposed 2020 event therefore did not take place and as there had been little movement in the situation regarding covid-19 operating restrictions by 11 September 2020, the matter was not returned to the Sub-Committee at that time. Provisional arrangements were made for the matter to be returned to the Sub-

Committee in December 2020, but following discussions between all parties, it was agreed to put the matter back further. Following further discussions between all relevant parties it is now considered appropriate for the matter to be returned to the Sub-Committee for determination.

2. Proposal and Issues

The application under consideration

- 2.1 As stated in the previous section, on 19 May 2020 an application was received from Springmerch Ltd for a premises licence allowing a 2-day (WEAREFSTVL) music festival to be held each year for 10 years at Central Park, Dagenham. The first festival date was originally scheduled for weekend of Saturday, 12 September 2020 and Sunday, 13 September 2020. Dates for the festivals in subsequent years were to be agreed between the applicant and the Council's Events team with an agreed notice period provided. A Copy of the application is attached as **Appendix A** and Plan attached as **Appendix B**. The application contains the full proposed operating schedule at page 18.
- 2.2 The premises are a public access park. The proposed annual festival is intended to comprise an outdoor arena within a fenced perimeter with multiple performance locations including stages, marquees and self-contained structures. While the maximum number of people attending the first of the festivals in September 2020 was intended to be set at 23,500, including 1000 staff and performers, the capacity for future events will be set at a lower level dictated by future scheduled works at the park and other relevant considerations.
- 2.3 The application now seeks to permit the following licensable activities at one event comprising two days in each of the next 9 years;
 - Live Music, recorded music and the supply of alcohol between 11:00hrs to 22:30hrs.
- 2.4 The Designated Premises Supervisor (DPS), intended to hold overall responsibility for authorising alcohol sales made at the festival, is Dan Wilson, who holds a personal licence issued by Brighton & Hove Council.
- 2.5 The application acknowledges that, in the event of the licence being granted, an Event Safety Management Plan (ESMP) will be submitted to and considered by the partnership Safety Advisory Group (SAG).
- 2.6 On 18 November 2020, the applicant requested that the following additional condition be added to any licence that may be granted "Should Covid-19 Directives issued by Government or the London Borough of Barking and Dagenham direct that an event or part of an event authorised by this premises licence should not take place then the premises licence holder shall cancel the event or part of the event as directed".

The representations

- 2.7 Three representations have been received. The first representation has been received from the Metropolitan Police Licensing Officer made under all four Licensing Objectives, the Prevention of Crime & Disorder, Public Safety, Prevention of Public Nuisance and The Protection of Children from Harm>A copy is attached as **Appendix C**.
- 2.9 The second is from the Licensing Authority Responsible Authority Officer on behalf of the London Borough of Barking and Dagenham also made under all four Licensing Objectives, The Prevention of Crime & Disorder, Public Safety, Prevention of Public Nuisance and The Protection of Children from Harm. A copy is attached as **Appendix D**.
- 2.10 A third representation is received from the Community Safety Operations Manager on behalf of the London Borough of Barking and Dagenham as **Appendix E**.
- 2.11 Two representations in support of the application were also received. These were from one member of the public who had previously attended a festival and a transport provider, Ensign, who have previously been engaged and provided transport relating to festivals for the past 7 years. Copies of the representations I support of the application are attached as **Appendix F**.
- 2.12 Ward Councillors were consulted and there were no objections received.
- 2.13 Applicant letters sent to each representor in response to the representations are attached as **APPENDIX G**.
- 2.14 Conciliation meetings have been held with Responsible Authorities who submitted objections, namely with the Metropolitan Police on Monday, 29 June 2020; with the Licensing Authority Responsible Authority Officer on Wednesday, 1 July 2020; and with the Community Safety Operations manager on Tuesday, 7 July 2020. While discussions were constructive all three representations remain for consideration.
- 2.15 Potential concerns raised by the Council's Environmental Protection team on possible noise nuisance caused by the events have been conciliated. This has resulted in an agreed condition and shall be added to any licence that maybe granted.
- **A music noise level of $L_{Aeq, 15 \text{ minutes}}$ 70 dB and $L_{eq, 15 \text{ minutes}}$ 84 dB in the 63Hz octave band both measured 1 metre from the façade of any noise sensitive premises.'**

Previous operating history

- 2.16 The applicant has been associated with a previous event held in Central Park in September 2019 under the 'Defected' banner, albeit with a different DPS on that occasion. That event passed largely without incident and there are no relevant issues to raise relevant to this application.

Other Licences

- 2.17 There is currently another premises licence in existence relating to the use of Central Park. This is issued to the Council's Events Team. It permits.
- The licensable activities of the live music; recorded music; dance; and facilities for dancing, together with the supply of alcohol; to be provided at specific events between the hours of 11.00 and 23.00 on any day Monday to Sunday with an earlier general opening hour of 09.00 permitted.
- 2.18 However, the licence has certain restrictions placed upon it. These require that,
- No more than 8 days of regulated entertainment are to be held in Central Park in any calendar year with all events taking place under the auspices of the Council's licence.
 - The permitted 8 days are to be allocated as follows,
 - A single event held over 4 consecutive days.
 - A total of 4 days of regulated music entertainment comprising either one or two days.
- 2.19 The application under consideration made by Springmerch Ltd is made with the consent of the Events Team. As the existing licence held by the Council's Events Team places restrictions on the wider use of the Park, the Events Team have stated that, in the event of a licence being granted to Springmerch Ltd, a consequent application for a variation of the Council's own licence will follow seeking an appropriate reduction in its use.

Covid-19

- 2.20 The Health Protection (Coronavirus restrictions) Regulations 2020 set out the national restrictions on movement; gatherings; closure of and restrictions on business; together with the enforcement options, including the offences and penalties for failure to comply. They are subject to update and change at any time. Any entertainment event that takes place in the time of the covid-19 pandemic must not only be appropriately licensed but may only be held in accordance with the current regulations that exist at the scheduled date of the event.
- 2.21 The London Borough of Barking & Dagenham Public Health Department have provided the latest update issued by the World Health Organisation (WHO) relating to Mass Gatherings, dated 28 January 2021, attached as Appendix **H**.

3. Options Appraisal

- 3.1 The Sub-Committee is advised that the hearing is of a quasi-judicial nature and representations from all parties, both written and verbal, will form part of the matters that are to be considered.
- 3.2 The Sub-Committee is required to consider each application on its own individual merits with all relevant matters taken into account. Findings on issues of fact should be on the balance of probability.

- 3.3 Having considered the application, the representations and all relevant submissions, the Sub-Committee must decide what action is appropriate to promote the licensing objectives.
- 3.4 Any licence granted must be made subject to the mandatory licence conditions established by the Act and to conditions consistent with the measures proposed by the applicant to promote the licensing objectives (as amended by any conciliation process).
- 3.5 Any licence granted may be subject to additional conditions considered appropriate by the Sub-Committee to promote the licensing objectives.
- 3.6 In reaching its decision, the Sub-Committee must have regard to:
- The Act.
 - Secondary regulations.
 - The Guidance issued to Local Licensing Authorities by the Home Office (current version April 2018); and
 - The Barking and Dagenham Statement of Licensing Policy for 2017-2022.
- 3.7 The options open to the Committee are:
- To grant the application.
 - To refuse to grant the application; or
 - To grant the application subject to additional conditions.
- 3.8 In the event that any party is aggrieved by the decision of the Sub-Committee, they have the right to appeal the decision to the Magistrates Court. Appeals must be made within 21 days of notification of the Sub-Committee's decision.

4. Consultation

- 4.1 The application has been subject of public consultation in accordance with the statutory provisions. The application has been advertised by way of public notices placed in a local newspaper, displayed at the premises and published on the Council website. Notifications have been provided to all responsible authorities and ward councillors.

5. Legal Implications

Implications completed by Deirdre Collins, Prosecution Barrister, Law and Governance

- 5.1 The London Borough of Barking and Dagenham, must have regard to:
- The Licensing Act 2003
 - Subordinate Legislation
 - S.182 Guidance
 - Case Law
 - LBBD Statement of Licensing Policy

5.2 In addition, the Government has published and updated guidance relating to various business sectors throughout the pandemic. The latest guidance directed to the performing arts can be found at <https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/performing-arts> .

Public Background Papers Used in the Preparation of the Report: None

List of appendices:

- Appendix A – Premises Licence Application
- Appendix B – Plan
- Appendix C – Metropolitan Police Licensing Representative
- Appendix D - Licensing Responsible Authority Representation
- Appendix E – Community Safety Operation Representations
- Appendix F – Ensign in support and previous festival attendee email
- Appendix G – Applicant response letters to representators
- Appendix H – WHO and Public Health advice document