

GUILDFORD BOROUGH COUNCIL

LICENSING ACT 2003 RECORD OF HEARING AND DECISION TAKEN BY THE LICENSING SUB-COMMITTEE	
DATE OF HEARING	Wednesday 29 September 2021
SUB-COMMITTEE MEMBERS PRESENT:	Councillor David Goodwin (Chairman) Councillor Ted Mayne Councillor James Steel
OFFICERS PRESENT:	Sophie Butcher, Democratic Services Officer Delwyn Jones, Litigation Lawyer Clive Uzoho, Litigation Lawyer (observing) Mike Smith, Senior Specialist, Licensing and Community Safety
DISCLOSURES OF INTEREST BY MEMBERS PRESENT:	None.
PREMISES:	Stoke Park, Guildford
TYPE OF APPLICATION:	Application for a new Premises Licence.
DETAILS OF APPLICATION SOUGHT:	A new premises licence to allow the following licensable activities: <ul style="list-style-type: none"> • The provision of films, • The provision of live music, • The provision of recorded music • The provision of performance of dance • The provision of late night refreshment • The supply of alcohol for consumption on the premises.
APPLICANT:	Mr Neil Roberts in attendance on behalf of Bavaria Events Ltd, Larch House, Parklands Business Park, Denmead, Hampshire, United Kingdom, PO7 6XP

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DETAILS OF DECISION TAKEN

In arriving at its decision, the Sub-Committee took into account the relevant representations submitted verbally and in writing. The Sub-Committee was also made aware that the following sections of the Licensing Policy were relevant:

- Section 4: (Fundamental Principles)
- Section 11: (Licensing Hours)
- Section 12.1: (Prevention of Crime & Disorder)
- Section 12.2: (Public Safety)
- Section 12.3: (Prevention of Public Nuisance)
- Section 12.4: (Protection of Children from Harm)
- Section 17: (Licence Conditions)

The following sections of the Guidance issued in April 2018 by the Secretary of State under Section 182 of the Licensing Act 2003 were also relevant:

- Paragraph 1.16 – Licence conditions – general principles
- Paragraph 1.17 – Each application on its own merits
- Paragraphs 2.1-2.6 – Crime and Disorder
- Paragraph 2.7-2.14 – Public Safety
- Paragraphs 2.15-2.21 – Public nuisance
- Paragraphs 2.22-2.32 – Protection of children from harm
- Paragraphs 9.31-9.41 – Hearings
- Paragraphs 9.42-9.44 – Determining actions that are appropriate for the promotion of the licensing objectives
- Paragraphs 10.1-10.66 – Conditions

The Sub-Committee received a report from the Senior Specialist for Licensing and Community Safety, Mike Smith. An application for a new premises licence had been received from Bavaria Events Ltd to stage an annual event called Oktoberfest, starting 8-9 October 2021. Oktoberfest had been held in Stoke Park and other areas previously. No representations had been received from Responsible Authorities. However, two objections had been received from neighbouring residents in relation to concerns regarding noise, potential for disorder and the fact that the application was required in perpetuity. The Sub-Committee was reminded that if they were minded to grant the licence, they could also call it in for review.

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The Sub-Committee noted the following submission made on behalf of the Applicant's Agent, Mr Neil Roberts:

- He was the Operations Manager for Bavaria Events Ltd.
- Bavaria Events Ltd was planning to hold 15 events this year throughout the UK.
- The previous event held at Stoke Park in 2019 used the same promotor but a different organising team was in place at the time.
- The company used a set of procedures and made them fit to local conditions.
- The company hosted a UK version of Oktoberfest which was light-hearted and included a traditional German Oompah Band.
- In response to concerns raised by the local residents, the site was designed to scale with noise mitigation measures built into its fabric.
- The site was located 220 metres away from Nightingale Road and faced away from it.
- The application had been submitted in accordance with the Noise Practice Code 1995.
- A full Noise Management Plan had been submitted to the Council and had signed off by Environmental Health.
- Via the Safety Advisory Group, some amendments to the exit arrangements were required by the Police to ensure the safe egress of people.
- The licence had been applied for in perpetuity and was a common practice for companies to seek as Bavaria Events Ltd.
- If the Licensing Authority did have issue with the way in which the event was run, the Council in the first instance could stop leasing the land to Bavaria Events Ltd. The company was also very happy to submit application documents and plans for 2022, three months in advance of the event.
- Bavaria Events Ltd was a responsible operator. The first year of any event was always risky and any troubles caused by noise nuisance or social disorder would compromise the company's ability to hold such an event again. It was therefore very much in their interest to ensure that Oktoberfest was managed well. Bavaria Events Ltd would also welcome meeting with local residents who had raised concerns.

The Sub-Committee asked how many people were anticipated to attend the event. Mr Roberts confirmed that the site had a total capacity for 1724 people. The Saturday evening session had sold out and Saturday afternoon and Friday evening equated to 1300 people per session currently and was likely to increase. In response to concerns raised regarding the safe egress of people off and on to the site, between the daytime and evening session, it was confirmed that the Security company used was very good at encouraging people to leave the site promptly. Bavaria Events Ltd had also recently organised an event at Chelmsford for 3,500 people with no problems incurred. With regard to concerns raised by the Sub-Committee regarding drug use, it was noted that Oktoberfest was an event attended by an older clientele aged 32-35 who did not generally take drugs and would be more typical of dance related events which this was not. The number of toilet facilities provided also exceeded that recommended by the Purple Guide.

The Sub-Committee received confirmation that the annual event was anticipated be held in October. Ticket costs ranged on a sliding scale from £10 for a standing ticket, £20 for seating on benches and £350 for a table of x10 people which was known as the VIP ticket and included waitress service and free beers. Strictly no under 18's would be allowed onsite. The site was screened with perimeter fencing and the footprint was gated so that people had to enter a big top that was located in the centre of the site.

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The Sub-Committee noted that an additional half an hour had been proposed for late night refreshments until 11:30pm. The rationale for which was that given the entertainment stopped at 11pm it provided an opportunity for customers to buy food and hot drinks such as tea or coffee and encouraged a responsible approach to the post-effects of consuming alcohol. The extra half an hour also slowed down egress from the site and therefore helped with managing people exiting safely in a controlled manner.

The Sub-Committee wanted reassurance that local residents could contact Bavaria Events Ltd if they had any concerns whilst the event was being held. Mr Roberts confirmed that security would be onsite from 8am on a Monday until the following Monday and available to talk to if needed. In addition, residents could contact the Event Organisers on their website or via Facebook. A contact telephone number would be provided and active when the event was live, and details advertised on the perimeter fence. Two telephone numbers would be given to Environmental Health, one of the Event Director's telephone number and the public telephone number.

The Senior Specialist for Licensing and Community Safety, Mike Smith, and the Litigation Solicitor, Delwyn Jones confirmed that they did not have any other comments to make.

Having considered the submissions made by the applicant, the Sub-Committee:

RESOLVED to grant the new premises licence for Bavaria Events Ltd at Stoke Park, Guildford for the staging of Oktoberfest on 8 and 9 October 2021 and to operate for two days a year in perpetuity. The Sub-Committee agreed to the following licensable activities and requested hours:

(1) Films							
Indoors					18:00 – 23:00	12:00 – 17:00	
						18:00 – 23:00	
(2) Live music							
Indoors					18:00 – 23:00	12:00 – 17:00	
						18:00 – 23:00	
(3) Recorded music							
Indoors					18:00 – 23:00	12:00 – 17:00	

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					18:00 – 23:00		
(4) Performances of dance							
Indoors					18:00 – 23:00	12:00 – 17:00 18:00 – 23:00	
(5) Late night refreshment							
Outdoors					23:00 – 23:30	23:00 – 23:30	
(7) Supply of alcohol							
On premises					18:00 – 23:00	12:00 – 17:00 18:00 – 23:00	
Times premises are open to public							
					18:00 – 23:30	12:00 – 17:30 18:00 – 23:30	

The conditions consistent with the operating schedule and following mandatory conditions applied:

Mandatory condition - Sales of alcohol

1. No supply of alcohol may be made under the premises licence –
 - a. at a time when there is no designated premises supervisor in respect of the premises licence, or
 - b. at a time when the designated premises supervisor does not hold a personal licence, or the personal licence is suspended
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence

Mandatory condition - Age verification policy

1. The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

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2. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
3. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - a. a holographic mark, or
 - b. an ultraviolet feature.

Mandatory condition - Irresponsible promotions

1. The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
2. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - a. games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - i. drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - ii. drink as much alcohol as possible (whether within a time limit or otherwise);
 - b. provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - c. provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - d. selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - e. dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

Mandatory condition - Free potable water

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

Mandatory condition - Smaller measures

The responsible person must ensure that—

- a. where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - i. beer or cider: ½ pint;
 - ii. gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - iii. still wine in a glass: 125 ml;

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- b. these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- c. where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

Mandatory condition - Permitted price for alcohol

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1—
 - a. “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - b. “permitted price” is the price found by applying the formula $P=D+(D \times V)$, where—
 - i. P is the permitted price,
 - ii. D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - iii. V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - c. “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
 - i. the holder of the premises licence,
 - ii. the designated premises supervisor (if any) in respect of such a licence, or
 - iii. the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - d. “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - e. “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Mandatory condition - Film exhibitions

- a) Subject to subsection (b) below, the admission of children to the exhibition of films on the premises shall be restricted in accordance with any recommendation made by the British Board of Film Classification (BBFC)
- b) If the licensing authority does not agree with the category of any film as recommended by the BBFC, it may alter the category of the film. On notice of alteration of category being given by the licensing authority to the holder of the licence, the film shall thereafter be treated as being in the altered category and admission of children to the exhibition of the film shall be restricted accordingly

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Mandatory condition - Door supervision

Where at specified times one or more individuals must be at the premises to carry out a security activity, all such individuals must be licensed by the 'Security Industry Authority (SIA).

REASON FOR DECISION:

In reaching their decision to grant the application, the Sub-Committee considered both written and oral representations from the applicant and other persons.

The Sub-Committee was mindful of the concern that the application had caused to other persons in terms of the potential for noise and public disorder and was sympathetic to their concerns. The Sub-Committee was however satisfied that sufficient noise mitigation measures had been put in place by ensuring that the Oktoberfest site was located some 220 metres away from Nightingale Road as well as being orientated to face away from residential properties with screening in place. The potential for public disorder had also been successfully addressed via the Event Management Plan which included the employment of a security firm who would ensure the general public's safe and efficient entry and exit onto the site between afternoon and evening sessions. In addition, egress had been slowed at the end of an evening to encourage the public to buy food, teas, and coffees prior to going home that would counter the effects of drinking alcohol in a responsible way.

In terms of resident's concerns regarding the licence being granted in perpetuity, the Sub-Committee agreed that should any public nuisance issues occur as a result of the event, they had the powers to review the licence in the future. In addition, the applicant had offered to submit their plans to the Licensing Authority, three months in advance of the 2022 event so to ensure that they and other Responsible Authorities were content that sufficient mitigation measures had been put in place to minimise the risk of a public nuisance being caused in terms of noise or disorder. The Sub-Committee therefore agreed that the new premises licence was granted for Oktoberfest to operate for two days a year in perpetuity.

Signature of Chairman:

Dated: