

Re. Application for temporary license of Brockwell Park, Dulwich Road SE24 9BJ, made by James Dutton on behalf of Waxarch Ltd (the "Application")

Following discussions within the local community, including a minuted meeting hosted on Thursday 8th of February, this letter represents a summary of the key objections to this Application on behalf of local residents.

1. PRELIMINARY MATTERS

1.1 The Application is invalid and should be rejected:

We believe that the Licensing Committee must decline the opportunity to consider the Application because the Application itself is invalid and does not comply with the minimum standards set out in the relevant statutes and decisions of the Courts. For the Licensing Committee to continue to consider the Application would be to misapply the Law and may lead to a decision which is itself invalid.

1.1 (a) The current Application that is being considered, and available on the website, does not match the Application that was advertised or displayed on the site boundaries, or that is available to those who visit the Licensing Department at International House (not Blue Star House, as advised on the site notices). The original Application was for multiple years rather than a single year and four days rather than three. Although reductions in terms these are material changes, so the Application should properly have been withdrawn and a fresh one submitted and advertised, with a full 28 days to respond. Currently residents are unclear what proposal they are commenting on.

1.1 (b) The Application as submitted was displayed without a site plan, as required by the Licensing Act 2003. The site plan separately circulated to a small number of residents on specific request falls short of the requirements:

- The Application, under the Licensing Act 2003 Section 17, must be accompanied by a plan of the premise *to which the Application relates*. The map of Brockwell Park that has been used is at least 5 years out of date (the locker rooms are still included, and it shows the Herne Hill boundary prior to the junction development). Therefore, the plan does not relate to the proposed premises and indicates, contrary to Lambeth's Licencing Policy Section 5.3, the applicant does not have a knowledge of the physical environment of the premises
- The Regulations 2005 that accompany the 2003 Licensing Act state plans submitted should show a number of details that have not been included. 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 should be shown. Fixed structures (including furniture) or similar objects temporarily in a fixed location which may impact on the ability of individuals on the premises to use exits or escape routes should be shown. The plan should include a legend that illustrates these features by use of a key. As this has not been provided it is not possible for people to make an adequate assessment of whether the applicant has made sufficient safety provisions
- The 2005 regulations also state that 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 should be provided

If the Licensing Committee fails to ensure compliance with the statutory requirements for a valid application it may cause the Council to have committed an abuse of statutory process. We appreciate that the Licensing Committee will understand the particular importance of compliance with statute in a position where the Council itself will benefit commercially from the application under consideration and has chosen to keep details of that commercial arrangement secret and therefore not open to public scrutiny (a decision responded to separately). In such a situation the risk of a conflict of interest within the decision-making process will be extremely high, a fact we are sure the Licencing Committee's own risk analysis will already have concluded.

1.2 Conflict of Interest

We request that the Licensing Committee provides details of how it has protected itself against the risk of being influenced by the Council. In this context the Council is the commercial counterparty to the contract through which the proposed activities to which the Application relates will be delivered. In particular:

1.2 (a) Please accept this letter of objection as our Freedom of Information request for copies of all and any communications received by any member of the Licensing Committee from any member or officer of the Council in relation to this Application, including written notes of all telephone contacts. We appreciate that the Licensing Committee members will have ensured written notes of any telephone communication due to the perceived risk of the Licensing Committee being influenced by a conflict of interest in relation to this Application.

1.2 (b) Please confirm that no member of the Licencing Committee has had any dealings whatsoever with the granting of the Event Licence, or any internal consultations that have led to the Council's decision to enter into a commercial contract with the party submitting the Application or its associates by which the Council will profit from the event that is the subject of the Application. To the extent that any member of the Licensing Committee has had any such dealings please confirm their name and confirmation that they will recuse themselves in respect of consideration of the Application.

1.3. Council representations

1.3 We are aware that the Council will have made representations in respect of the Application. This is because the Application interacts with a number of the Council's statutory obligations including its obligations as holder of the legal title to the public space which is the subject of the Application, that legal title being held on trust for the benefit of the residents of the borough of Lambeth. The Council is not permitted to make confidential representations and we require that the Council's representations are made public in full. Please accept this letter of objection as our Freedom of Information request for sight of those representations, although we are sure the Committee will be publishing those representations in the normal course of its business in any case due the risk of a conflict of interest in respect of the Application.

2. OBJECTIONS

Our objections on the substance of the partial and invalid Application are as follows. We reserve our right to make further objections as and when the defects are corrected, and the Application re-submitted. Clearly the statutory time periods will re-start once the Application is re-submitted with the relevant deficiencies corrected.

We would remind the council that the applicants are asking for a capacity which is 200 percent that of the O2 300 percent that of Wembley Arena. The population of the three Lambeth wards surrounding the Park is 45,000, a bare 5001 more than the 39,999-attendance applied for. This is a mammoth capacity, and as such the application should be of the highest standard. The Application as it stands is remarkably scant on detail for a proposal of this scale.

Previous, significantly smaller festivals, such as Sunfall and Found, resulted in such high levels of crime, disorder and nuisance that the council was unwilling to re-stage them. There is therefore no logic in granting a license for the same site, with the same activities, to the same type of company, but for a much larger and longer event. The evidence is that this type of license for this site does not meet the aims of either the Licencing Act 2003 or Lambeth's Licencing Policy. Specific objections under the core aims of the Licencing Act are as follows:

2.1 The prevention of crime and disorder

The premises in question, Brockwell Park, has seen significant issues with crime and disorder when used for similar events in the recent past. The premises for the previous Sunfall festival and the premises for Field Day are the same. Comments have been made to locals that the issues arising with Sunfall, and less recently with the Found Festival, were to do with those particular events. However, no details have been provided on specific steps the organisers of this event have taken to ensure the same issues do not arise again. It might be worth adding, the drug dealers weren't employed by Sunfall, and it's likely they will persist unless material changes in approach are made.

In addition, while the Application deals in detail with how crime and disorder issues will be addressed behind the festival fences, it does not acknowledge that the Application is for Brockwell Park in totality and details are not given of what will be done to prevent crime and disorder elsewhere in the Park. The fence is simply there to prevent un-ticketed entry, rather than marking the boarder of the premise to be licensed, and in fact issues outside the fence will

have the greatest impact on residents. Added to this, the reality of these events is that they affect a far bigger area than is the case with a traditional, fixed venue. Ticket holders have an expectation that the whole area will be part of the 'party zone'. This is a point the applicant themselves highlighted in order to suggest there will be an economic boost for some local traders. It is therefore not unreasonable to expect the applicant should provide some support, alongside the Police, for issues caused by their activities but outside the immediate premises. Specific issues that have been witnessed with previous, similar events hosted at this premises:

2.1 (a) Drugs and related problems

- Drug related crime in Lambeth is 272% higher than the national average. These large events provide a 'captive' audience in what is already a high-risk area. Other events of a similar nature were targeted by local drug dealers as an opportunity. For the Found Festival residents reported an SUV simply pulling up and openly selling drugs as ticket holders filed past. Brixton Splash was cancelled in part due to high levels of drug taking. Whilst Splash was not in Brockwell Park this event will see a larger number of revellers go through the same streets on the way there. For Sunfall, locals' front gardens were used to take drugs. Rigorous searches at ticket gates mean it is now the norm for festival goers to take drugs before entering
- Nitrous Oxide was banned within Lambeth in 2015. However, the Sunfall Festival resulted in the grass being littered with broken glass from canisters. While preventing use of the drug within the fences should be relatively straight forward it is difficult to see how the applicant intends to enforce Lambeth's regulations on Nitrous Oxide outside the fence

2.1 (b) Alcohol related crime and anti-social behaviour

- According to Lambeth's Statement of Licensing Policy Lambeth are 7th worst for alcohol related crime, 8th worst for alcohol related sexual offences and 12th worst for alcohol related violent crime. The statement goes on to say "*There is a definite correlation between areas of high crime and areas with a larger concentration of licensed premises. Indeed, there are clear links between levels of serious violence being generated directly from the night time economy and alcohol.*"
- If granted the Application will result in a huge influx of people to the area, the majority of whom will be planning to drink heavily. No cap has been placed on the number of drinks any individual can order inside the compound, and even if one were put in place it is common for ticket holders to simply buy cheaper alcohol to drink before entering, to ensure they can get drunk at a lower cost
- Festivals such as Found and Sunfall saw significant levels of alcohol related anti-social behaviour. At Sunfall fights broke out as people queued while drinking, requiring the Police to be called
- The above is in addition to general drunken behaviour. Again, according to Lambeth's Statement of Licensing Policy 36.4% of residents feel that drunk and rowdy behaviour is already a problem
- The majority of alcohol related violence in Lambeth occurs between 21:00 and 02:00. The license for the sale of alcohol on the site should therefore be limited to well before this time

2.1 (c) Vandalism

- Previous festivals on the site have seen significant instances of vandalism, including damage to the miniature railway and the fouling of the Park toilets. During the night after Sunfall the Park fence near the Lido gate was broken, taking many months to fix. Park memorial benches were also damaged
- The Application makes no reference to how such instances of vandalism will be prevented, for example with registered security guards (rather than general stewards), or security fences put in place around facilities such as toilets, huts and the bowling club house
- Many of the tickets on sale are for attendance of both event days and the Application gives no details of what will be done to prevent ticket holders from sleeping in the Park, a crime under the vagrancy act of 1824

2.2 Public Safety

The licensing guidelines deal in detail with what is expected of an applicant with regards to ensuring public safety, yet this is not dealt with in any depth in the Application. The lack of depth around safety, particularly with regards to crowd management, is worrying given the scale of what is proposed.

As mentioned, the applicants are not only asking for a capacity significantly larger than that of previous events held on the premises, but significantly larger than that of most purpose-built arenas. In stark contrast to those arenas (and the out-of-town sites of most outdoor festivals), this will see crowds coming through a small residential neighbourhood and then crowding into a suburban park with entry points designed for dog walkers and joggers. Wembley Arena and the O2 have dedicated high capacity pedestrian access to a purpose built high-capacity tube station, which is fairly quiet outside event times. In stark contrast, the event organisers are proposing to send 2x as many people through a station that is very busy at all times, and often at capacity, and then along a narrow path along a very busy road, or alternatively through residential streets, massively increasing the risk of a road traffic/pedestrian accident. Should an accident or crush occur the Council could hardly argue such a risk was not foreseeable.

2.2 (a) Entry and exit from Brockwell Park

- The Brixton Water Lane gate, understood to be the entry/ exit point that those coming from Brixton will be directed towards (although the plans are not clear), is only 3.75m wide. It also comes at the end of a long bottle neck, hence why both the fireworks and Sunfall Festival saw huge crowds at the gate. As above, the length of queues for Sunfall resulted in fights, while crowds at the fireworks created a dangerous crush
- The gate exits onto a bus lane, and for the fireworks display local residents witnessed people being pushed forward by the crowd behind into the path of oncoming busses. Herne Hill Gate, which has also been mentioned as a possible entry and exit point, also opens onto a bus route and major road
- Crowds require management from behind, with groups behind held back until congestion at the front clears. No details have been provided on where crowd management staging points will be between the Park perimeter and the festival fences in order to ensure crushes are avoided
- The Application provides no calculations for exit times from the Park in event of an emergency, or details on which gates will be used for egress at the end of the event. 39,999 people moving at average walking speed (not drunk speed) would take over 2 hours to exit safely via the Brixton Water Lane gate

2.2 (b) Women's Safety

- Lambeth statement of policy on licensing requires applicants to have considered, and where appropriate adopt, the conditions outlined in the Women's Safety Charter. The policy highlights the correlation between consumption of alcohol and instances of sexual assault
- Brockwell Park has recently seen an increase in reporting of sexually motivated problems, ranging from a rape to female park users being subjected to harassment. How the high concentration of people under the influence of alcohol in the Park until late at night will affect this issue has not been addressed

2.3 Prevention of Public Nuisance

Once again, we would stress that the Application is for 39,999 people for each of the three days. This represents a near-doubling of the local population which in-and-of itself will result in significant nuisance for residents. We would remind the committee that public nuisance is a wide concept and does not mean risk of an event generating criminal behaviour. Public nuisance has a much lower bar, including noise pollution, light pollution, odour etc. It is almost impossible to see how an event that doubles the area's population will not result in intolerable levels of nuisance.

2.3 (a) Noise Levels

The environs surrounding Brockwell Park are considered residential areas in Lambeth's licencing policy, have high-density housing, such as Meath House, and high-rise blocks more effected by noise, such as the adjacent towers. There are known vulnerable people living in the area, who will be susceptible to detrimental health impacts from noise levels such as lack of sleep. These include children, shift workers, and for example residents of Fannon House. Noise should therefore be considered a significant nuisance factor and no license should be granted unless strict conditions are imposed which reflect the nature of the location. As stated in Lambeth's Licensing Policy: "*Proximity to residential accommodation is a general consideration with regard to the prevention of public nuisance [...] stricter conditions will generally be imposed on premises licences in areas that have denser residential accommodation or residential accommodation in close proximity to them.*"

Specific grounds for rejection of the Application or imposition of stricter conditions are as follows:

- The borough-wide noise maximum for events is 75 dBLAeq and the applicants have indicated it is their intention to use this. However, noise nuisance is linked to the prevailing background noise levels; additional noise should not create levels well above the background level for prolonged periods. This is backed up by both the Sturges V Bridgman case and the Code of Practice on Environmental Noise Control at Concerts by the Noise Council ¹. Freedom of information response IR218024 indicates a noise survey of Brockwell Park was recommended by the council's acousticians but this has not been carried out. However, Defra noise maps indicate the noise levels surrounding Brockwell Park could be 10 dB quieter than Clapham Common, and so, using Clapham as a benchmark, a lower threshold for nuisance should be set in Brockwell Park
- In terms of what a suitable level for Brockwell would be, the Code of Practice on Environmental Noise Control at Concerts states 4-12 event days per calendar year are planned (as in Brockwell Park, which hosts the Lambeth Country Show), music noise levels should not exceed the background noise level by more than 15dBA over a 15 minute period to avoid nuisance. Measurements taken close to the park indicate the background noise levels can be as low as 50 dBLA90, indicating noise targets should be 65 dBLAeq. **If levels above this are required, the Application is unsuitable for the site and should be rejected**
- The concert noise levels will have an impact on sleep. An openable window typically gives rise to a 12 dB reduction in noise levels. A 75 dBA external noise level could therefore give rise to an internal noise level of 63 dBA. The world health organisation recommends noise levels of 45 dBA for restful sleep
- The proposed event is the weekend before exams, and any children seeking to sleep before the music finishes will have sleep disrupted in a critical part of their education. This is counter to Lambeth's licencing policy principle "A Caring Borough" which requires "a high-quality education for every child and young person in a safe and supportive environment"

2.3 (b) Curfew Times

The curfew times are extremely late and bare no relation to precedents set by previous events in the Park. They should be rejected on the following grounds:

- They are not compatible with what was presented to Councillors during sign off of the 2020 events strategy. This states "*curfew times – it is likely that these will be in line with events currently taking place in the parks or open spaces*"²
- Based on events such as Sunfall and calculations of the time required to move the proposed number of people, it is likely that it will take 2 hours for customers to vacate the premises, followed by up to 2499 staff which are allowed for in the proposal. With a music finish time of 23:00 this means disturbance from crowd dispersal as late as 01:00. Night time is defined as being 23:00-06:00
- As a comparison, the Lambeth Country show finishes significantly earlier (20:00), and dispersal is much more gradual, as highlighted in a recent FOI demonstrating the peak of occupancy in 2017 was between 3pm and 5pm, 3 hours before curfew

The 23:00 curfew is not compatible with Lambeth's licencing policy, and should be rejected, with an 8pm curfew proposed as compatible with the Event Lambeth 2020 consultation.

2.3 (c) Litter

- Councillor Peck of Tower Hamlets stated large festivals in Victoria Park (this event's previous location) generated "A HUGE volume of rubbish along the ingress/ egress routes that required constant clearing"

¹ http://www.cieh.org/uploadedFiles/Core/Policy/Environmental_protection/Noise/NoiseCouncilCodeonNoiseControlatConcerts.pdf

² noise engagement issues,

- At previous events in the location, large amounts of litter have been left in the park and the surrounding streets. Shattered nitrous oxide canisters have been left, which are almost impossible for litter pickers to collect when broken. Cigarette butts have been ground into the soil. Those cigarette butts are toxic and picked up and played with/eaten by children and pets playing in the park. It is simply impossible for the organisers to prevent thousands of cigarette butts and glass shards being ground into the Park and impossible for them to remove them after the event

2.3 (d) Loss of amenity

- 39,999 people arriving at the festival over 3 hours is equivalent of 220 people per minute. The infrastructure in Brixton and Herne Hill is not designed for this many people. Most of the shops, streets, crossings, etc will be swamped. It's likely locals will not be able to gain access to services such as supermarkets, cash machines, chemists etc, and are likely to stay away. Apart from pubs, many businesses will lose business. The argument that increased footfall is good for business falls down, when considering the number of people likely to buy artisan homewares, children's toys, sausages or DIY materials to take into a festival
- Transport is likely to be severely affected, possibly requiring the closing of Herne Hill station outbound, and road closures disrupting bus routes which will severely disrupt those commuting for shift work
- The events cause significant loss of amenity of the park itself. In addition to loss of the park during the festival, there is a significant risk of damage and subsequent closure of large areas of the Park due to wet weather. The applicant cannot guarantee that, should the weather be wet, areas of the Park will not have to remain closed off, with resultant loss of amenity well after the period allowed for in their Application

2.3 (e) Public urination and defecation

- The Field Day representative admitted at their initial public meeting that they could not prevent people peeing in the streets or in gardens and would jet wash. Many areas around Brockwell Park are green and cannot be jet washed. There is very little public infrastructure in place in Brixton and Herne Hill for toilets, let alone for an additional 39,999 people. This will cause significant distress in a residential area and will set bad examples to many children in the area, potentially resulting in long running degradation to the local area
- Brockwell Park is materially different from flat open commons such as Clapham Common. To be blunt, there are many bushes in the park, which present opportunities for make shift toilets. It is likely this will be a particular problem for the strip of bushes between the Lido and Herne Hill gate, which would make a perfect outdoor toilet while queuing for the festival

2.3 (f) Lighting

- Lighting from the event will cause significant nuisance, from two sources; flashing lights from the event stages itself, and from lighting needed to safely escort people off the premises of Brockwell Park
- Properties such as Park View House and Meath house, that have a direct view over the main stage, will be particularly liable to intrusive lights. As with noise, light intrusion, particularly rapidly changing light, affects sleep. This will be a particularly critical health issue to vulnerable groups living around the park, and also for children studying for exams the weekend before GCSEs
- The Application also references lighting at egress points. This would need to be in place until possible 01:00 creating significant disturbance for nearby residents, during a period clearly designated for sleep

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In conclusion, the Application as it stands is not only scant on detail for such a major proposition but contrary to the aims of the Licensing Act and at odds with Lambeth's own licensing policy.

All evidence from previous events on the same site is that even significantly smaller capacities cannot be hosted without issues around crime, disorder and nuisance so severe the events were not permitted to return. The conditions required to reduce these issues to an acceptable level (a reduction in capacity to under 20,000, noise limits of 65 dBLAeq, curfew of 20:00, security and crowd management throughout the whole Park, no lighting effects) would likely make the event commercially unviable. The Application should therefore be rejected as unsuitable for the site.