

LICENSING SUB-COMMITTEE

MINUTES OF A MEETING of the Licensing Sub-committee held on Monday, 8 April 2019 at 2.00 pm in the executive meeting room, floor 3 of the Guildhall, Portsmouth

Present

Councillor David Fuller (in the Chair)

Councillors Leo Madden
Claire Udy

12. Appointment of Chair

Councillor David Fuller was duly elected to chair this meeting.

13. Declarations of Members' Interests

There were no declarations of members' interests.

14. Licensing Act 2003 - Application for grant of a premises licence - South Central Festival, King George V Playing Fields, Northern Road, Portsmouth

Introductions were made. The applicant was represented by Neil Roberts, Simon Joynes (noise consultant) and Martin Barker.

Derek Stone, Licensing Officer, presented the Licensing Manager's report, confirmed receipt of the event safety plans for the increased size of event and set out the options available to the Sub Committee.

Questions were raised by members and it was confirmed that there were no further objections (other than Environmental Health) as a resident had withdrawn her objection after meeting with the event promoter. There were no questions raised by other parties.

The applicant's case was presented by Neil Roberts who responded to the noise condition recommended by Environment Health, and explained measures taken since 2016 Mutiny festival on the site, with the appointment of Joynes Nash noise consultants in 2017. He explained how they worked to meet the targets but due to concerns with some elements out of their control (such as wind direction and DJs sets) a condition could be breached temporarily whilst they would make adjustments based on monitoring. Simon Joynes explained the technical requirements and reiterated that they would not wish to put their client in a position of non-compliance. They strove to protect the community, and the previous year only 2 complaints had been

received. Neil Roberts reported that they publish a contact number for complaints relating to the festival.

The applicants had put together information relating to other similar events, showing what other local authorities had asked for on low frequency levels, but the sub committee members did not wish to consider this in detail but rather concentrate on the application before them. The general point was however noted.

Questions were then asked of the applicant's representatives by members, in response to which it was reported that:

- 3 events had previously been staged by the applicant at this site
- The level of complaint had been higher in 2017 due to the wind direction
- The event was already being promoted with ticket sales and acts booked
- If a condition was breached this can be a criminal offence
- Being forced to lower sound levels may lead to safety concerns on-site due to crowd movement as a result
- Drugs testing taking place on site and use of sniffer dogs and increased medical provision (but it was pointed out that these were not issues within the lodged objection as a matter of dispute)

There were no questions raised by officers.

Responsible Authority's Case (Environmental Health)

Michael Thorne, Regulatory Services, explained that of the 5 conditions proposed, 4 had been accepted by the applicant, with condition no.2 regarding music low level/ bass noise levels not being accepted. It was not a new condition (based on the Mutiny event) but the wording had been strengthened to make it enforceable. This was in line with the good guidance for local authorities, and he was mindful of Arthur Dan Court residential home being nearby. Therefore he recommended all 5 conditions be applied.

Questions were raised by members and in response the following was reported:

- If the wind goes West/South-westerly this could cause problems in controlling the noise levels
- The noise level set for Victorious is 5dB lower (at 85)
- NANR 163 does not apply strictly to festivals
- The noise consultants work to the 1995 Code of Practice, the Noise Act of 1996 related to pubs and clubs
- The 15 minute monitoring was favoured by the applicants as 5 minute was just a snapshot

Both the responsible authority and the applicant took the opportunity to sum up their cases.

Ben Attrill, the Legal Adviser, reminded the Sub Committee of its options and the need to consider what is appropriate.

On reconvening, following private deliberation, the following decision was read by the Legal Adviser (all parties would receive written confirmation of the decision and reasons):

Decision

The Sub Committee has considered very carefully the application for a premises licence at King George V Playing Fields, Northern Road for South Central Festival. It gave due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of licensing policy. The Sub Committee considered the representations, both written and given orally at the hearing, by all parties. Human Rights legislation had been borne in mind whilst making the decision.

The Sub Committee noted that there had been a single representation leading to the hearing. A residential representation had been withdrawn following negotiation. Environmental Health (Regulatory Services) had proposed five conditions, four of which had been agreed by the applicant. Determination of the wording of the disputed condition falling to the Sub Committee at the hearing.

After having heard all of the above evidence the Sub Committee determined to amend the proposed condition (set out as condition 2, page 12 of Appendix C of the report) to include the words "aim to" following the words "The control limits set at the mixer position shall".

Reasons

The Sub Committee deliberated extensively and did not find the decision an easy one. It was absolutely clear to the Sub Committee that the prevention of public nuisance is a fundamental aim of the Sub Committee and was at the forefront of its mind. The evidence highlighted concern for the impact of low level bass at residents' properties - including at a residential care home nearby. However, whilst the importance of protecting such interests was clear, the Sub Committee focussed its mind upon the evidence before it and found, on balance, that a condition setting a strict limit would not be appropriate. The Sub Committee was reassured by the candour of the applicant in outlining its position and sincere attempts to control noise escape. There had been relatively few noise complaints and a lack of residential objection or complaint on this application which tends to suggest that a stringent limit would not be proportionate at this point in time. It was noted that this is a different event, with different acts and that potential risk is therefore lowered. This twinned with previous compliance with the same or similar "aim to" requirement was persuasive.

The Sub Committee has no doubt that the applicant understands but reiterates that noise levels shall be monitored and if issues do arise as a result the licence can be subject to review proceedings and further action taken at that time, where evidence supports it.

There is a right of appeal for all parties to the Magistrates' Court. Formal notification of the decision will set out that right in full.

15. Licensing Act 2003 - Application for grant of a premises licence - Blind Pigs Bars, 18 Marmion Road, Southsea, PO5 2BA

Ben Attrill, Legal Adviser to the Sub Committee, reported that the objection to the application (by Environmental Health/Regulatory Services) had been negotiated away. Therefore the Sub Committee noted the withdrawal of the representation, so the hearing on this application was no longer necessary. The application would be granted by the Licensing Manager, with agreed conditions having been accepted by the applicant.

The meeting concluded at 4.22 pm.

Councillor David Fuller
Chair