

Western Area Licensing Sub Committee

MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 16 OCTOBER 2023 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN IN RESPECT OF AN APPLICATION FOR A PREMESIS LICENCE AT THOULSTONE PARK, CHAPMANSLADE, WESTBURY MADE BY MR AND MRS HUGHES-HALLETT.

Present:

Cllr Kevin Daley (Chairman), Cllr Trevor Carbin and Cllr Ruth Hopkinson

Also Present:

Applicants

Mr Hughes-Hallett
Mrs Hughes-Hallett

Those who made a relevant representation

Nine individuals that had made a representation were in attendance, including Cllr Bill Parks.

Wiltshire Council Officers

Carla Adkins (Public Protection Officer – Licensing)
Roy Bahadoor (Public Protection Officer – Licensing (observing))
Frank Cain (Legal Representative – Consultant Barrister)
Jonathan McLaughlin (Solicitor (observing))
Gary Tomsett (Team Leader Environmental Control and Protection (observing))
Vicky Brown (Senior Environmental Health Officer (observing))
Lisa Pullin (Democratic Services Officer)
Matt Hitch (Democratic Services Officer (observing))

1 **Election of Chairman**

Nominations for a Chairman of the Licensing Sub Committee were sought and it was

Resolved:

To elect Councillor Kevin Daley as Chairman for this meeting only.

2 **Apologies for Absence/Substitutions**

No apologies were received. There were no substitutions.

3 Procedure for the Meeting

The Chairman notified all those present at the meeting that it was not being recorded by Wiltshire Council, but that the meeting could be recorded by the press or members of the public.

The Chairman reminded those present that any speakers that wished to remain and make a statement to the Sub Committee would be giving consent to there being the possibility that they would be recorded presenting this.

It was noted that those that had made a representation would not be identified by name within the minutes.

The Chairman then asked if anyone present wished to withdraw from the meeting. All parties confirmed they wished to remain in and take part in the Sub Committee hearing.

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 5 to 10 of the agenda refers).

4 Chairman's Announcements

The Chairman gave details of the exits to be used in the event of an emergency.

5 Declarations of Interest

There were no interests declared.

6 Licensing Application

Application by Mr and Mrs Hughes-Hallett for a premises licence in respect of Thoulstone Park, Champmanslade, Westbury

Licensing Officer's Submission

The Sub Committee gave consideration to a report (circulated with the agenda) in which determination was sought for an application for a premises licence, for which 30 relevant representations had been received. Carla Adkins (Public Protection Officer – Licensing) introduced the report about the application which was for the following licensable activities:

- Plays and films (indoors and outdoors)
- Live and recorded music (indoors and outdoors)
- Performance of dance (indoors and outdoors)
- Sale by retail of alcohol

It was noted by the Sub Committee that there were four options available to them:

- i) To grant the licence subject to such conditions as are consistent with those included in the operating schedule submitted with the application, modified to such extent as the Sub Committee considers appropriate for the promotion of the Licensing Objectives, together with any mandatory conditions required by the Licensing Act.
- ii) To exclude from the scope of the application any licensable activity.
- iii) To refuse to specify a person as the Designated Premises Supervisor.
- iv) To reject the application.

The Public Protection Officer (Licensing) then highlighted that the Applicants had agreed to the changes proposed by the Senior Environmental Health Officer, as listed in Appendix 2 of the report, including a stipulation that live and recorded music would cease on the site by 23:00 each day. It was noted that it would be for the Sub Committee to determine whether these amendments should form part of the conditions were the license to be granted. It was clarified that The Legislative Reform (Entertainment Licensing) Order 2014 permitted live and/or recorded music to be played at a licensed premises for on-sales of alcohol under certain circumstances. As long as music was played between 8am and 11pm, to an audience of fewer than 500 people, then it would not be subject to licence conditions.

The following parties attended and took part in the hearing:

On behalf of the Applicants

- Mr Hughes-Hallett - Applicant
- Mrs Hughes-Hallett - Applicant

Relevant Representations

- Seven local residents in objection to the application
- One local Councillor in objection to the application
- One Parish Council in objection to the application

Responsible Authorities

There were no responsible authorities present.

The Chairman advised that all of the written representations had been read and considered by the Members of the Sub Committee in advance of the meeting.

The Chairman invited the Applicants to introduce their application.

Applicants' submission

The Applicants, Mr and Mrs Hughes-Hallett, spoke in support of the application, highlighting the following points:

- The application should be considered on its own merits and not in relation to previous events held under Temporary Event Notices. It was stressed that the groups that had applied for previous Temporary Event Notices on the site, when noise pollution had occurred, had no connection with the area. Conversely the Applicants' business was focussed on community and sustainability, so it would damage their brand to cause disruption to neighbours.
- Previous events on the site had complied with a noise management plan, although it was acknowledged that this was insufficient to stop disruption to neighbours. The Applicants had learnt from these events and felt it was important to get it right in future.
- The Applicants had rehabilitated Thoulstone Park since it was a disused golf club and had enabled a considerable growth in wildlife. Previously the site had fallen into disrepair, had been vandalised and used by poachers. It was intended to build up to 30 holiday cottages and a commercial space on the site, so it was in the Applicants' interests to minimise noise pollution.
- The Applicants were only aiming for modest changes to the frequency and length of events and were happy to comply with the 11pm cut off for music as suggested by the Senior Environmental Health Officer. Most of what they were planning would not require a licence. They would not be running a night club but would be offering modest music events in the evenings as well as afternoon garden parties.
- The Applicants did not wish to support drug taking, spread litter or do anything to put children at risk. They wished to add amenity to the site and add value to the local community. They were confident that in time their neighbours would be grateful that they had become custodians of Thoulstone Park.

Sub Committee Members' questions

In response to the Members' questions to the Applicant, the following points of clarification were given:

- The Applicants did not have previous experience of running licensed events. They had used consultants when applying for the licence but not in relation to specific events.
- It would be physically possible to move the marquee around the site, but it was intended that it would remain permanently in its present location.

- The 30 proposed holiday cottages on site would be approximately 400 metres from the marquee. Six of the holiday cottages were very near completion in October 2023. There was no intention to sell the holiday cottages, as they would be let by the Applicants.
- The Applicants were talking to wellbeing organisations about the amenities they could offer to guests staying in the holiday cottages. They stressed that if they ran a film night it would be only because that was something the guests wanted to do and not because it would be imposed on them.
- Thoulstone Park had 150 tarmacked car parking spaces, a legacy of the site's time as a golf club. The former golf club's clubhouse had burnt down and was derelict.
- The Applicants intended to work with Sound Engineers on an event-by-event basis. They felt that it would be inefficient to have an overall noise management plan, as it might not be suitable for specific events. They were unable to put a figure on how many events they expected to take place but confirmed that no events would happen in 2023 and that none were currently booked for 2024.
- The Applicants had no firm plans for the former Spike Bar building close to the derelict clubhouse, but ideas being considered for the existing buildings included using them as an exhibition space, artist's studio, or commercial spaces. There were plans to open a restaurant or café but not for a permanent bar which could be used by local residents.
- Mrs Hughes-Hallett was intended to be the Designated Premises Supervisor but had yet to apply for her personal licence.
- The Applicants had owned the Thoulstone Park for a decade, planting 25,000 trees across the 150-acre site as well as enhancing numerous ponds.
- The Applicants were intending to request a licence only for the marquee area, rather than the entire 150-acre Thoulstone Park site. Their plan was to hold the events in the marquee, but they would also require some of the surrounding area, approximately 50 yards, to be licensed.

The Public Protection Officer (Licensing) clarified that the description of the site being applied for was the marquee and surrounding areas. As such, this would be taken to be the boundary of the 150-acre Thoulstone Park site as listed on page 39 of the agenda pack. Given the size of Thoulstone Park, the Sub Committee raised concerns about the possibility of approving a licence for the entire 150-acre site. The Legal Representative, Consultant Barrister Frank Cain, explained that, if the Applicants wished to revise their application, a map showing a clear boundary of the proposed licensable area would be required. If

the Sub Committee were to proceed without a plan, or it specified that one should be provided at a later date, the updated boundary would need to be put to all parties that had made representations. Following advice from Officers, the Sub Committee felt unable to continue without a clearly defined area and confirmed that they would not be comfortable negotiating a revised boundary during the meeting.

In response, the Applicants offered to amend the proposed licensable area to only the marquee in its present location, as per the map and drawings submitted as part of their application, in order that a clearly defined area could be considered. After receiving assurances that the marquee would not be extended or moved from the location listed in the application, the Sub Committee were content to consider the application as amended.

Questions from those who made a relevant representation

Details were sought by those that had made a relevant representation about the revised application, including what activity would be covered by the licence and where. The following points of clarification were given by the Sub Committee and Officers:

- The Sub Committee would only be considering the revised licensable area, so any activity, such as drinking or the playing of music, outside the marquee would be outside of their jurisdiction.
- The licence, if granted would permit events to take place for up to 499 people, with amplified music and on-sales of alcohol between the hours of 8am and 11pm, within the revised licensable area (the marquee). It would not be permitted to move or extend the marquee. Music played between these hours would be de-regulated and not subject to licensing conditions. Guests staying at the holiday cottages would count towards the capacity limit if they were in attendance.
- There would be no restriction on the number of events that could take place, as the licence would cover 8am to 11pm, 365 days a year. It was confirmed that the recommendations from the Senior Environmental Health Officer about the duration and frequency of events were not binding.
- Any loud music played outside of the marquee would not be considered by the Sub Committee. Complaints about amplified music being played outside of the marquee would instead be a matter for Environmental Health. Carrying out licensed activity outside of any premises without a licence, or without a Temporary Event Notice, would be in breach of Section 136 of the Licensing Act 2003. The prevention of public nuisance was one of the Licensing Objectives.
- A single licensed premises would be able to apply for up to 20 Temporary Event Notices a year. A personal licence holder would be

allowed to apply for more, but no more than 20 could be held at a single venue.

- The application was now only for an indoor licence.
- A private party, such as wedding with a free bar, would not be licensable. A licensable event would require either a Temporary Event Notice or a premises licence, but private events would not be enforceable under the Licensing Act 2003.

As not all of the parties that had made valid representations were aware of the amendment to the proposed licensable area, one representative, who was speaking on behalf of a number of parties, suggested that the meeting be adjourned. A Parish Council representative noted that they would welcome the opportunity to discuss their representation with their Parish Council as not all of their submission was directly relevant to the marquee.

Although concerns were raised by the changes to the area to be licensed by some members of the public that had made representations, the Sub Committee were satisfied that the representations made remained relevant given that the revised proposed licensable area fell within the boundary of the original application and had been explicitly defined. It was noted that those objections to licensable activity taking place outdoors would not be relevant, as they were no longer being applied for. The Sub Committee were content that the substantive issues raised by those objecting to the application, particularly in relation to noise pollution, were still the same.

In response to questions to the Applicant from those that had made a relevant representation, the following points of clarification were given:

- The Applicants ran Thoulstone Park Ltd.
- The Applicants had not applied for any Temporary Event Notices or specific plans for future events. They did not have a booking to host Get On Festival in 2024.

Submissions from those who made relevant representations

Representation 1 - Councillor Bill Parks

- The marquee was constructed of PVC so did not have the necessary acoustic qualities to manage noise pollution. As such, there were questions about whether it was a suitable venue for amplified music and on-sales of alcohol.
- The marquee had multiple exits and it was unclear how the Applicants would be able to prevent attendees migrating outside during events.

- The volume of objections suggested that there was a strong level of feeling in the area about the proposed licence.

Representation 2 – on behalf of 10 people that had made valid representations from Upton Scudamore

- Upton Scudamore was a rural village with no main through road in an elevated position approximately 20 metres higher than Thoulstone Park. There was no natural sound barrier between the village and Thoulstone Park, only open farmland with a public footpath between the two, which was in daily use.
- There were five substantial agricultural businesses in the area with hundreds of animals that could be disturbed by amplified music.
- Excessive noise could have physical and mental health consequences. An event held under a Temporary Event Notice at Thoulstone Park in 2013 had disturbed people in the day and kept them awake at night. The attenuation in the volume of sound passing through a marquee would be limited and it was therefore questionable whether it could be categorised as indoors. The distance noise travelled was also weather dependant.
- A Senior Environmental Health Officer working for Wiltshire Council had stated in 2013 that Thoulstone Park would not be a suitable site for a festival, but this was not noted in the report. The event in 2013 had led to a vast increase in litter, with broken glass and human excrement found near public footpaths. In addition, it had increased demand for car parking in Upton Scudamore and would have caused issues for emergency vehicle access.
- Permitting the requested licence would be an imposition on the community and cause difficulties for local businesses. Hundreds of people would have to endure permanent noise pollution in their homes and gardens.

Representation 3 – Upton Scudamore Parish Council

- An event held at Thoulstone Park under a Temporary Event Notice had caused significant noise pollution despite a noise management plan being in place, to the extent the people could not hold conversations or hear the television in their own homes.
- There would not be sufficient protection in place for residents if events for up to 499 people could be held without further permissions.
- There was a contradiction in the recommendations from the Senior Environmental Health Officer that events could not take place on consecutive days, but events would be permitted lasting up to 48 hours.

- If the licence was granted, a monitored telephone line to the Applicants should be available to allow them to be informed about complaints. There should also be a noise monitoring site in Upton Scudamore.

Representation 4 – on behalf of 11 people making representations (mainly from Chapmanslade)

- It would be dangerous to grant the licence as it was so vaguely worded, and the Applicants had not put sufficient planning into the application.
- It would be accurate to describe the application as permitting a night club as it would allow events to take place 365 days a year. In addition, they would be able to apply for Temporary Event Notices which may permit them to run music festivals until 4am on consecutive nights.
- The capacity of the marquee would be between 300 and 400 based on each attendee having half a square metre of standing room each.
- The comments from the Applicants about their intentions should be disregarded as the number of events may increase if it was commercially successful. Future proprietors may also have different intentions for the premises.
- Noise would be the primary concern and it would effectively be an open-air venue given the limited acoustic protection provided by the marquee. It would be almost impossible to meet Wiltshire Council's policy of ensuring that noise was not audible in sensitive locations if the licence was granted. The festival held on the site in August 2023 provided almost 45 decibel noise but at a low bass level. The noise mitigation measures proposed by the Applicants, such as tree planting and hay bales, would be insufficient and highlighted their lack of experience in event planning.
- Horses would be disturbed in a nearby livery.
- It was more likely to find drug taking at a pop concert than at a village fete. The Applicants had provided no evidence of a drug policy or training for staff on how to deal with drug use on site.
- The volume of people attending could cause dangerous tailbacks on the A36, given that the approach to the marquee was via a short and narrow lane.
- The application included a reference to adult content events. An event was held at Thoulstone Park in 2017 with adult only areas, at a time when the Applicants owned the land, so this could be indicative of the type of events planned.

Representation 5

- The Get On Festival in August, held under a Temporary Event Notice at Thoulstone Park, had disturbed horses at their livery business. Some customers had stated that they would not bring their horses back again were they to be subject to similar noise levels in future. They work from home, so would not be able to escape the noise. They were concerned about losing their business were the licence to be granted as it would make it harder for them to attract new customers. It was important for horses to have a calm environment.
- Festival goers had slept in their barn in August and left litter on their land. The Applicants had not specified in their application how they intended to deal with the issue of trespassing.
- Smokers would need to leave the marquee, creating a potential fire hazard for nearby agricultural land.
- As there were only 150 car parking spaces were on site it was not clear whether sufficient parking would be available for up to 400 people. The volume of traffic at previous events had meant that they were unable to access their land.
- The application did not take account of the impact on other local businesses and there would be little benefit to the local economy.
- The application was not in keeping with a countryside location and would reduce the quality of life of their children.

Representation 6

- They had not objected to the original planning permission for the marquee. However, the Applicants had provided assurance at the time that they were not planning to hold music events there as it would not be what holiday makers wanted to happen on the site.

Representation 7

- The person making a representation stated that their wife was a vulnerable person and was distressed by the noise. They felt that legal advice should be provided about the protection of vulnerable people.

Sub Committee Members' questions

There were no questions from the Sub Committee to those who had made representations. The Sub Committee did confirm that they were unable to consider any issues raised concerning parking or highway matters as they were not related to the promotion of the Licensing Objectives.

Questions from the Applicants:

There were no questions from the Applicants to those who had made representations.

Closing submissions from those who made relevant representations

In their closing submission, those that made a relevant representation in objection to the application highlighted the following:

Representation 4 – on behalf of 11 people making representations (mainly from Chapmanslade)

- The application should be treated as the application applied for. The licence would permit up to 499 people to attend but the marquee only had a capacity of 400.

Applicants' closing submission

In their closing submission, the Applicants highlighted the following:

- They recognised the concerns by those who had made representations based on experiences with events held under Temporary Event Notices but felt that many of the comments about their proposals were unfounded. They understood the discomfort created by loud noise and it was imperative for them to ensure that their neighbours were not disturbed.
- A key difference with previous events held under Temporary Event Notices was that they were run by organisers that did not have any links with the local community. As landowners, they had been naïve in the past and had presumed that the groups running these events would have cared about what they had left behind.
- The Applicants were part of the community and cared about the local wildlife and sustainability. It would damage their Thoulstone Park brand if the events held caused upset in the local community.
- Concerns raised by those making representations about the safety of children were insulting.

- They only planned to hold events within a limited area and of limited scale. They had no intention of holding pop concerts, festivals or multiple day events with bass drumming.

Points of Clarification Requested by the Sub Committee

No points of clarification of the Applicants' final submissions were requested by the Sub Committee.

The Sub Committee then adjourned at 12:10pm and retired with the Consultant Barrister and the Democratic Services Officers to consider their determination on the licensing application.

The Hearing reconvened at 1:15pm.

The Consultant Barrister advised that he gave the following legal advice to the Sub Committee

- The decision should be evidence based and in line with the Licensing Objectives.
- He had seen the proposed decision and believed it to be reasonable, evidence based and legally sound.

The Western Area Licensing Sub Committee RESOLVED:

Decision:

Arising from consideration of the report, the evidence and submissions from all parties and having regard to the Statutory Guidance, the Council's Statement of Licensing Policy and the Licensing Act 2003, the application for a premises licence in respect of Thoulstone Park, Chapmanslade, Westbury be REJECTED for the following reasons:

Reasons:

The vagueness of the application as to the purposes and events for the premises and the alteration in the licensable area during the hearing meant that the Sub Committee felt that there was insufficient evidence for them to be satisfied that the Licensing Objectives would be promoted.

Although the Sub Committee received assurances from the Applicants regarding the merits of their application, particularly in relation to their community focus and desire to limit public nuisance, they did not have confidence that the licence being requested indicated that the Applicant had put a comprehensive plan in place to promote the Licensing Objectives. This was particularly the case as that the licence, if granted, would allow events to take place 365 days a year for up to 499 people. The lateness of the changes requested to the licensable area also meant that the Sub Committee did not

have confidence that the Applicants would be able to restrict the consumption of alcohol to that area.

Having heard evidence from the representatives on behalf of parties who had made representations, including the Applicant and the Responsible Authorities, the Sub Committee did not feel there was sufficient evidence to show that the necessary requirements to ensure the Licensing Objectives would be promoted would be met.

The Sub Committee therefore concluded on the basis of the evidence presented that the application should be rejected and that such a rejection was reasonable, proportionate and necessary to promote the Licensing Objectives.

The Sub Committee also considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18); the four Licensing Objectives; the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

Right to Appeal

The Applicant, any Responsible Authorities and Interested Parties who made representations were informed that they may appeal the decision made by the Licensing Sub Committee to the Magistrates Court. The appeal must be lodged with the Magistrates Court within 21 days of the written notification of the decision. In the event of an appeal being lodged, the decision made by the Licensing Sub Committee remains valid until any appeal is heard and any decision made by the Magistrates Court.

The meeting closed at 1:20pm.

(Duration of meeting: 10.00 am - 1.20 pm)

These minutes were produced by Democratic Services, direct e-mail
committee@wiltshire.gov.uk

Press enquiries to Communications, direct line 01225 713114 or email
communications@wiltshire.gov.uk