

## WESTERN AREA LICENSING SUB COMMITTEE

---

### **DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 9 APRIL 2015 AT COUNCIL CHAMBER - COUNTY HALL, TROWBRIDGE BA14 8JN IN RESPECT OF AN APPLICATION FOR A PREMISES LICENCE - THOULSTONE PARK, THOULSTONE, CHAPMANSLADE, BA13 4AQ**

#### **Present:**

Cllr Trevor Carbin, Cllr Ernie Clark and Cllr Dennis Drewett

#### **Also Present:**

Cllr Jeff Osborn, Clare Adkins (Public Protection Officer), Roy Bahadoor (Public Protection Officer), Teresa Bray (Public Protection Officer), David Parkes (Democratic Services Officer), Kieran Elliott (Senior Democratic Services Officer), Paul Taylor (Senior Solicitor), Phillip Day (Applicant's Representative), Alex Lepingwell (Applicant), Holy Streeter (Designated Premises Supervisor).

Persons who made a representation and representatives: Chris Da Costa, David Holmyard, Vanessa Emery, Phil Jefferson, Mary Medhurst, Michael Brake, Julian Bower, Chris Coles, Phil Spencer, James Bruce, Dennis Barnard.

---

#### **1 Election of Chairman**

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

#### **Resolved:**

**To elect Councillor Ernie Clark as Chairman for this meeting only.**

#### **2 Procedure for the Meeting**

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".

#### **3 Chairman's Announcements**

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

#### **4 Declarations of Interest**

There were no interests declared.

## 5 **Licensing Application**

The Public Protection manager introduced the report detailing the application for a premises licence and the options available to the Sub-Committee.

Mr Phillip Day, the Applicant's Solicitor, on behalf of and with contributions from Mr Alex Lepingwell, the applicant, and Mrs Holly Keeter, the proposed Designated Premises Supervisor, presented the case in support of the application. Mr Day raised points including but not limited to the following:

- None of the events held on the site in 2014 had required a full premises licence, and those which required specific permissions had been covered by Temporary Event Notices (TENs). The applicants could continue to operate in such a manner, which would permit among other things the use of amplified music between 8am and 11.00 p.m. so long as the audience was less than 500 people, and free alcohol events, but they wished to have more flexibility with the range of days on which events could be held and what would be permitted on those days, including the provision of late night refreshment.
- Mr Day emphasised that with TENs applications no conditions applied if there was not a premises licence of some kind on the site, it was either granted or not. The regulatory mechanism of a licence and its conditions would ensure the applicants were restricted to specific uses, mitigate any negative impacts from use of the site more effectively, and be punished in the event of breaches more easily.
- At present, although there was an abatement notice still extant on the site arising from noise problems in the past, there had been no breaches of that notice, which would need to be at the level of statutory nuisance. A licence would be more restrictive, as previously stated.
- It was acknowledged there had been problems on the site with the Sunrise Festival in 2013, but the licence as applied for would not permit such a large event, with a focus on smaller, community events of around 500 people. A new management team was also in place from that of the Sunrise Festival, and no objections had been received from any responsible authority to the new application for the site.

Members of the Sub-Committee then asked questions of Mr Day. In response to a query as to how the applicants intended to give the police 28 days notice of a proposed event, as was suggested as a condition, given the licence had not been granted and some events planned would be sooner than that, it was stated that a list of planned events had been supplied to the police for their information, to allow them to prepare for such events should permission be granted by the Sub-Committee.

It was also confirmed that the noise abatement notice had been served on the current applicants as well, but that the person who had been primarily in charge

of the site at the time the abatement notice had been served was no longer involved with the business or the current licence application.

Questions were then received from those who had made a relevant representation in objection to the application, as listed above. Mr Day on behalf of the applicants was permitted to respond to each person making a representation in turn. Questions and points raised included but were not limited to:

- The lack of objection from responsible authorities was noted by those making representations, but they felt this was not as significant as the level of objection from those with local knowledge of the area and personal living experience of the impact of events on the application site.
- Several points were raised about whether the local community had been involved in discussing the application or wished for there to be events on the site. Mr Day stated that a multi-agency group of responsible authorities had been consulted, although there was no statutory list of bodies that needed to be contacted, and that representatives from the parish councils had been invited. If people did not choose to visit any of the events on the site, that would be their own choice.
- Several questions were asked about how consumption of alcohol would be restricted on the site late at night, and Mr Day reiterated that alcohol would not be sold at such times as the licence applied for would not permit such a sale.
- Several questioners argued that the increased noise on the site would be injurious to health, and it was stated in response that the conditions agreed to mitigate noise levels would minimise such a risk to an acceptable level.
- In response to queries it was confirmed that the applicants were primarily operating a commercial business, but they wished extra flexibility on conditions for community non-profit events. It was also stated they had wide experience of what events worked on such sites and so were confident of the viability of their plans.
- A specific additional condition agreed with Environmental Health officers regarding drumming was queried, and it was confirmed while the law permitted such activity, following complaints from previous events surrounding percussive instrumentation, the additional condition had been agreed to mitigate concerns in that area. Some questioners questioned the enforceability of the proposed condition.
- One questioner disputed Mr Day's statement that there had been no breach of the extant abatement notice on the site, but Mr Day restated that there had been no such breach.

- Reference was made to previous events on the site and the applicant's level of involvement, but it was confirmed the management team was not the same as previous events.

There being no further questions for those making a representation, each of the parties was given the opportunity to summarise their positions.

None of those who had made a relevant representation wished to offer a further summary.

Break from 1205-1210

Mr Day on behalf of the applicants stated that a continuing issue with disturbance over a scraping gate had now been fixed, and there had been no complaints regarding daytime events in the past year. He emphasised that refusing the application would not prevent events on the site, but merely limiting the control measures designed to mitigate concerns, given events could be sought under Temporary Event Notices. Concerns regarding the applicant or the designated premises supervisor would only be relevant in the event of concerns regarding the prevention of crime and disorder, neither of which was the case. Finally, it was highlighted that events would not be happening every day, but that greater flexibility was sought by the applicants as to the number and type of event that could be held, within an acceptable framework of conditions.

The Sub-Committee then retired with the Democratic Services Officer and Solicitor for the Council until 1330.

No specific legal advice had been given in closed session.

**Resolved:**

The Western Area Licensing Sub-Committee resolved to GRANT the premises licence for Thoulstone Park, Thoulstone, as detailed below.

<b>Licensable Activity</b>	<b>Timings</b>	<b>Days</b>
<u>Provision of regulated entertainment</u>		
Plays	08.00 – 23.00 08.00 – 22.30 Community Events	Daily
Films	12.00 – 02.00 12.00 – 22.30 Community Events	Daily
Live music	08.00 – 02.00 08.00 – 22.30 Community	Daily

Recorded music	Events 08.00 – 02.00 08.00 – 22.30 Community Events	Daily
Performance of dance	08.00 – 23.00 08.00 – 22.30 Community Events	
Provision of late night refreshment	23.00 – 05.00	Daily
Sale by retail of alcohol (on site and off site)	08.00 – 02.00 On Sales 08.00 – 22.30 On and Off sales for Community Events	Daily
<p>A “community event” is defined as: An event involving licensable activities taking place on the licensed premises at which all the following apply:</p> <p>1)The event shall not be run for the private benefit of any individual, company or other organization</p> <p>2)Any and all profit from the event shall be applied for charitable purposes or good causes</p> <p>3)The event shall be held for the primary benefit of the local community, meaning residents and organizations living or based within a 5 mile radius from the premises.</p> <p>Attendance at any event involving licensable activities taking place at the premises, other than Community Events shall be limited to 500 persons at any one time. Community Events shall be restricted to 5000.</p>		

Subject to the conditions submitted by the Applicant in the revised Operating Schedule as attached , together with the following additional condition:

*“The premises licence holder shall ensure that save as may be permitted by the Live Music Act (as amended) and any other exemption provided under the same and/or the Licensing Act, no performance of live music consisting exclusively or mainly of drumming, whether amplified or not, shall take place on the premises outside the hours of 14:00 to 19:00 and the use of drums as part of any regulated entertainment shall not be permitted later than 23:00 hours each night or before 14:00 hours each day”.*

**Reasons**

After taking into account the written representations from all parties and the oral arguments received at the hearing, the Sub-Committee carefully considered the concerns raised by those who had made representations regarding the application. In particular the Sub-Committee considered whether the conditions put forward by the Applicant, in consultation with relevant authorities and including the additional condition agreed with the Council's Environmental Control and Protection Team, would appropriately address those concerns and satisfy the licensing objectives

Regarding concerns over the possibility of larger events, it was noted that a condition had been agreed limiting the capacity of non-community events to 500 persons.

Regarding concerns over public nuisance, it was noted that a condition for a noise management plan, sound control measures and a complaint hot-line, which the Sub-Committee expected to be staffed and answered, had been agreed with the applicants. It was also noted that arrival and departure times at the site were conditioned.

As such, the Sub-Committee considered appropriate conditions were in place 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 guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

### **Right to Appeal**

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this decision. Any person has the right to request a Review of the Licence, in accordance with the provisions of section 51 of the Licensing Act 2003.

### **Conditions attached to premises licence for Thoulstone Park, Thoulstone, Chapmanslade, BA13 4AQ**

#### **a) General – all four licensing objectives**

##### **Mandatory Conditions**

The relevant mandatory conditions shall apply.

##### **Periods during which the Licence will have effect**

The licence will only authorise licensable activities on the premises between 1<sup>st</sup> April and 30<sup>th</sup> September each calendar year.

##### **Definition of “Community Event”**

In this licence “Community Event” means an event involving licensable activities taking place on the licensed premises at which all the following apply:

1. The event shall not be run for the private benefit of any individual, company or other organisation.
2. Any and all profit from the event shall be applied for charitable purposes or good causes.
3. The event shall be held for the primary benefit of the local community, meaning residents and organisations living or based within a radius of 5 miles from the premises.

**Capacity Limits**

Attendance at any event involving licensable activities taking place at the premises, other than Community Events shall be limited to 500 persons at any one time. Community events shall be restricted to 5000 persons

**Restrictions on the sale of alcohol**

With the exception of Community Events, alcohol shall only be sold for consumption on the premises.

During Community Events, stall holders will be permitted to sell alcohol in sealed containers for consumption off the premises but only between the hours of 08:00 and 23:00.

**Other Restrictions on Community Events**

Community Events shall only take place on a maximum of 4 days each calendar year and shall only be open to the public between 08:00 and 23:00 hours. All licensable activities shall end no later than 22:30 hours. For the avoidance of doubt, this will not prevent any person from camping on the premises outside those hours, provided that no other licensable activities take place before 08:00 hours or after 22:30 hours on the day of the event nor before 08:00 hours on the day following the Community Event.

**Restrictions on the provision of Late Night Refreshment**

Hot food and drink provided as Late Night Refreshment shall be provided for consumption on the premises only and will only be supplied to persons temporarily resident overnight on the site. "Take-away" provision of Late Night Refreshment is not authorised under this Licence.

**b) The prevention of crime and disorder****Restrictions on admission to events other than Community Events**

Admission to any event involving licensable activities (other than any Community Event) shall be restricted to staff (including temporary staff) employed in connection with the management of the event and either:

1. The person, persons or organisation who has pre-booked the premises for the purpose of the event and his/her or its bona fide guests or
2. To persons who have pre-booked tickets to the event.

Persons who do not fall into these categories shall not be admitted to the premises during the relevant event.

**Notification of proposed events**

The holder of the licence, shall by no later than 15<sup>th</sup> March each calendar year, provide the Wiltshire Council and Police Licensing officers for the area with a list of all events planned to take place during the following 7 months with a brief description of the nature of the event, the date(s), timings, anticipated attendance and the nature of any licensable activity scheduled to take place. Any significant changes to planned events (including cancellations, new bookings or substantial changes in anticipated attendances) shall be notified to the Police and Council Licensing officers as soon as reasonable practicable. All such notifications may be made by e-mail.

Within 28 days of the issue of the licence and thereafter no later than 15<sup>th</sup> March each year, the holder of the licence will write to the occupiers of each residential property situated within the area shown on the plan attached hereto and marked "Notification Area Plan." The letter will assert that it is being sent by the holder of the licence in order to comply with licensing conditions and will contain details of the dates and times of any proposed "community events" scheduled to take place at the premises that calendar year or any other event which might be open to the public (as opposed to a purely private event). The letter will also invite the addressee to provide the holder of the licence with an email address so that if there are any changes to the proposed events, the addressee can be informed of the change by email. Any subsequent changes will then be notified to any person responding, at least 14 days before the event is scheduled to take place. The letter will also contain details of the 'Complaint Hot-line'

**Recording of Incidents**

An incident book shall be maintained on site and used to record any criminal (or suspected criminal) offence or accident resulting in injury known to the premises licence holder or the DPS as occurring on the premises or as a direct result of any licensable event taking place on the premises. The record shall include full details of the nature of the incident, any witnesses, the names of those involved (or description of the identity of those concerned if not known) and what action was taken following the incident. If an event takes place and no incidents occur, the incident book shall be noted accordingly. The incident book shall be made available for inspection by police and other authorised officers (as defined by the Licensing Act) on request.

**Recording the deployment of SIA staff**

If SIA registered security staff are deployed at the premises during any licensable event, their names, SIA registration numbers and the dates and times of their deployment shall be recorded in the incident book.

**Staff training – sale of alcohol – Events other than Community Events**

If alcohol is being sold on site other than during a Community Event or under the authority of a Temporary Event Notice, all staff involved in the sale of that



alcohol shall receive appropriate training regarding the premises licence conditions, the laws relating to the sale of alcohol to persons under the age of 18 and to persons who are drunk. A refusals register shall be kept at each point of sale and used to record any and all instances when a sale of alcohol has been declined, the reason for the refusal, the name of the person refusing the sale and either the name of the person being refused, or, if not known, a description of that person provided that there shall be no requirement for persons selling alcohol in sealed bottles or containers at Community Events to keep a refusals register.

#### **Sale of alcohol at Community Events**

The holder of the licence shall require that when alcohol is being sold at a Community Event (other than under the authorisation of a Temporary Event Notice), the alcohol seller has in place adequate policies and procedures in place to ensure that alcohol is not sold in contravention of the Licensing Act 2003 (as amended).

#### **Security and Stewarding at Events**

The holder of the licence shall ensure that there is a risk assessment in place in respect of all types of events that might take place on the premises involving licensable activities to determine whether and, if so, to what extent SIA registered security staff and/or crowd or other stewards should be deployed during events (or parts thereof). A security and stewarding plan will be formulated for events based on the outcome of the risk assessments and security and/or stewarding staff shall then be deployed in accordance with the plan. Copies of both the risk assessments and security and stewarding plans shall be made available for inspection by authorised officers on request.

### **c) Public safety**

#### **Inter-reaction with Safety Advisory Groups**

The holder of the licence and the DPS shall liaise fully with any Safety Advisory Group established by or on behalf of the Licensing Authority (currently known as the Multi Agency Group (“MAG”)) and shall attend all relevant meetings either in person or by a duly authorised agent when requested to do so.

#### **Health and Safety**

Health and Safety risk assessments (including Fire Risk Assessments as required under the Regulatory Reform (Fire Safety) Order) will be undertaken in accordance with the advice contained in the “Purple Guide to Health, Safety and Welfare at Music and Other Events” and an overall Event Management Plan (“EMP”) for the premises will be formulated and implemented on the basis of those risk assessments. Copies of the EMP shall be made available for inspection by authorised officers on request.

#### **Traffic Management**

The holder of the licence will formulate and thereafter implement a traffic management plan to ensure the safety of persons arriving at or leaving events

at the premises and other road users, including pedestrians.

#### **d) The prevention of public nuisance**

For each event a Noise Management Plan will be put in place and will comply with the appropriate code of practice, currently found here :

[http://www.cieh.org/policy/noise\\_council\\_environmental\\_noise.html](http://www.cieh.org/policy/noise_council_environmental_noise.html)

The noise management plan will make reference to the outstanding Noise Abatement Notices and the maximum noise levels contained therein and will include :

Basis of Noise Management Strategy

Noise Monitoring on and off site

Noise Levels

Noise Sensitive Locations - including map

Responsibility and Reporting

Complaints Handling

Any noise management plan will be in addition to the following conditions and shall include any or all of these conditions.

#### **Control of Car Parking Area**

The holder of the licence shall ensure that whenever any licensable event is taking place at the premises, a steward (or SIA registered security person) is deployed at the gate entrance to the car park to ensure that people arriving at or departing from the event are properly marshalled and instructed to arrive or depart quietly so as not to cause a nuisance to occupiers of residential premises adjacent to the entrance to the licensed premises. Appropriate signage requesting that people leave quietly shall be prominently displayed in the car park area.

#### **Sound Control Measures – Amplified Music**

No person attending any event at the premises (other than a Community Event) shall be permitted to bring onto the premises or use on the premises any sound amplification equipment that has not been supplied or approved by or directly on behalf of the Premises Licence holder. The only exception to this will be in respect of equipment (such as an iPod or MP3 player) intended to be used only for the personal entertainment of the person concerned.

Other than at Community Events and as may be permitted by the Live Music Act or other legislation/regulations, the holder of the Licence shall ensure that it

maintains overall control of sound amplification equipment used on the premises in conjunction with the provision of regulated entertainment and shall nominate a senior member of staff to have responsibility for compliance with this condition.

Noise levels from regulated entertainment involving amplified music and or speech shall be controlled to ensure that at no time is a statutory noise nuisance caused at any residential property situated within a mile radius of the premises and that after 23:00 hours, noise from regulated entertainment is only barely audible at the boundaries of any such properties so as to be inaudible inside.

The holder of the licence shall employ a suitable qualified acoustic engineer or consultant to advise on maximum levels of amplification so as to ensure compliance with these conditions.

#### **Limitation on “Film nights”**

The premises shall not be used on more than 6 occasions in each calendar year for the provision of regulated entertainment in the form of showing films outdoors.

#### **Sound Control Measures – Acoustic Music**

The holder of the licence shall ensure that no drums are played or used after 23:00 hours on the premises

#### **Complaint “Hot-line”**

The holder of the licence will publish on its website and provide the licensing authority and other responsible authorities, the Parish Council and the occupiers of all residential properties within the area defined on the Thoulstone Park Notification Area Map with a telephone number to report any complaint of noise nuisance. The telephone number will be a direct number to the management who are in control during the event.

#### **Complaint Log**

The holder of the licence shall, on receiving any complaint about excessive noise from the premises, record the same in a complaint log, including the time, date and information of the caller and shall take action to investigate and resolve the complaint and record the action taken.

#### **Arrival and departure times**

Persons attending licensable events at the premises shall not be permitted to enter the premises before 08:00 hours. Save for emergencies, persons attending events will be instructed not to leave the premises after 23:00 hours.

**e) The protection of children from harm**

A "Challenge 25" policy shall be applied whenever alcohol is available for sale at the premises and signs to that effect shall be displayed at all points of sale.

No person under the age of 18 shall be permitted to attend any event at the premises involving licensable activities (other than a Community Event) unless accompanied by his/her parent or guardian or an adult of at least 25 years of age.

(Duration of meeting: 10.00 am - 1.35 pm)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504 , e-mail [kieran.elliott@wiltshire.gov.uk](mailto:kieran.elliott@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115