

Re: SUNRISE FESTIVALS 2013 Ltd

Application no. 201-303-551

Hearing Monday 22/4/13

OUTLINE LEGAL ARGUMENT

SECTION ONE

SEE WILTSHIRE COUNCIL'S NOTES FOR GUIDANCE : APPLICATION FOR PREMISES LICENCE, PAGE 6.

I RAISED THIS POINT IN MY REPRESENTATIONS PAGE 69 OF COUNCIL DOCUMENT.

Failure to give proper Notices of License Application

Where premises exceed 50 square metres notice is to be displayed every 50 metres abutting highway where it can be conveniently read for a period of no less than 28 consecutive days.

I inspected boundary on 28/3/13 (21 days after publishing) and again on Monday 8/4/13.

On 28/3/13 I inspected perimeter of Golf Course from boundary of Brake's Farm along the A3098, A36 slip road, the A36, the Thoulston Lane to Club entrance, and then along THE DROVE, a track capable of taking traffic and used by riders/cyclists/walkers.

From the Brake Farm boundary to first Notice opposite Short Street junction I measured, with surveyor's tape, 109/110 meters of fencing clear of any Notices. The first Notice was displayed on the very point of bend making it highly dangerous to read.

From First notice to Second Notice there was a gap of approximately 102/103 meters.

From Second Notice to Third Notice there was a gap of 68.5 meters.

From Third Notice to Fourth Notice, opposite Turnpike Cottage, there was a gap of 219/220 meters.

OF THESE NOTICES ON A3098, only the Fourth could be read safely. From the Fourth Notice to the gates to the Club no notice was displayed at all.

On 28/3/13 the Fifth Notice was displayed near entrance gates of Club.

On 8/4/13 this Fifth Notice had been removed, or I could no longer see it. This was outside the 28 day period.

I suggest, with respect, that the failure to post Notices every 50 meters round the boundary fence and to continue to display them for 28 days, is sufficient to justify a dismissal of the application.

There are plenty of points along the boundary where notices could be displayed safely, including from Brake Farm boundary to the first Notice, from the fourth Notice to the slip road, and on the slip road itself. All were safe to allow inspection.

OUTLINE LEGAL ARGUMENT SECTION TWO

I RAISED THE FOLLOWING POINTS IN MY WRITTEN REPRESENTATIONS, SEE PAGES 69/70 OF THE COUNCIL'S BUNDLE.

Breaches of Natural Justice and Article 6 Right of a Fair Trial Human Rights Act 1998 (see Procedural Rules Page 2 section 3)

1. Section 3 Human Rights Act 1998 gives a Statutory general requirement that all legislation must be read or given effect wherever possible in a way compatible with the Conventions of Human Rights unless prevented from doing so by statute.
2. The Licensing Act 2003 (c 17) requires a Licensing Committee to act in a QUASI-JUDICIAL capacity.
3. Fair Hearing Article 6
Parties must be given equal and reasonable opportunities to present case. There should be equality of arms, i.e. one party should not be placed at a procedural advantage over the other.

The system presently hampers access to a tribunal and creates inadequate time limits.

Common Law breach of Natural Justice, in that parties affected are given inadequate opportunity both to state their case and consider issues to be raised.

See R-v- Chief Constable of North Wales ex p Evans 1982 1WLR 1155 (HL)
R-v Secretary of State for the Home Department ex parts Doody 1994 AC 531
R-v Army Board of the Defence Council ex p Anderson 1992 QB 169
R-v Paddington Rent Tribunal ex-parte Bell Properties Ltd 1949 1 K.B 666

(a) ISSUE ONE

Text of Notices is inadequate. An ordinary member of the public not familiar with Licensing jargon would not understand the implications. No times of activities are given. It is not reasonable to expect citizens to understand the legalistic terminology, to telephone the Council to make a special appointment, to travel to Council offices, and then wade through a Management Plan of 280 pages, plus license application, in the presence of an officer.

Presuming Blue Notices were posted early on 7/3/13, an objector would only have 18 working days to inspect the application and supporting document. This year, the Easter holiday intervened.

(b) ISSUE TWO

I repeat argument in Section One as to failure to display Notices every 50 meters on boundary. It is not sufficient to rely on a citizen noticing the advert being placed on a Council's website. Firstly, there are still a considerable number of people who do not have an internet connection or who could be expected to visit the website as a matter of general course. Only one Notice was advertised in one newspaper, 'The Wiltshire Times'. This particular publication covers the whole county and many people just purchase their local newspaper or rely on a free newspaper.

(c) ISSUE THREE

The Management Plan lodged with Application and available for inspection contained insufficient information to enable a person to make a reasoned judgement. For example, Noise Management Statements were dated previous year. Some possible objectors might have accepted the plan at face value, not realised implications, and failed to lodge Representations within tight time schedule expiring on 4/4/13

(d) ISSUE FOUR

The Applicant's Noise Management Statement has still not been lodged with the Council as at date of drafting, Tuesday 16/4/13. Objectors are not being given adequate notice or information to enable them to respond. Most people work.

R.E. BAILEY