

LICENSING SUB COMMITTEE

17 September 2007

MATTERLEY BOWL PREMISES LICENCE - APPEAL

REPORT OF HEAD OF LEGAL SERVICES

Contact Officer: Howard Bone Tel No: 01962 848552

RECENT REFERENCES:

LR222 – Matterley Bowl, Matterley Estate – 21 May 2007

EXECUTIVE SUMMARY:

This report gives details of an appeal received from Mr. Peveril Bruce, concerning his application for a premises licence for Matterley Bowl. The application (which was for ten occasions per year of up to 14,999 people) was granted by the Licensing Sub-Committee at its meeting of 21 May 2007, although only two events each year were permitted for 14,999. The other eight events allowed were subject to conditions restricting the numbers who could attend to two bands below this level (four events for 5,000, and four for 2,000).

The appeal will be heard by the Magistrates' Court at Andover. Discussions have taken place with a view to settling the appeal without a hearing, and the proposed compromise is set out in the report. The appellant proposes that he be allowed to hold six events per year, rather than the ten originally requested, with other licensed events being taken into account in this figure, and limitations on the number of events past midnight.

RECOMMENDATIONS:

- 1 That Members consider whether or not to settle the appeal on the basis of the proposed compromise agreement.
- 2 That Members formally approve the addition of the reasons for the decision on 21 May 2007 (as set out in Appendix 2 to this report) to be incorporated within the minutes of that meeting.

## LICENSING SUB COMMITTEE

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### MATTERLEY BOWL PREMISES LICENCE - APPEAL

#### REPORT OF HEAD OF LEGAL SERVICES

#### DETAIL:

##### 1 Introduction

- 1.1 At its meeting of 21 May 2007, this Licensing Sub-Committee considered an application from Mr. Peveril Bruce for a premises licence for the Matterley Bowl, Matterley Estate, Ovington, Winchester. The application sought permission for holding up to ten events per year, for up to 14,999 people. Representations from the Head of Environment, the Police, and a number of Interested Parties were received and considered by the Sub-Committee.
- 1.2 The Sub-Committee decided to grant the application (i.e. allowing the ten events sought), but for eight events, the permitted numbers were further limited (four events for up to 5,000 people, and four for up to 2,000). The reasons are set out in Appendix 2, although these have not yet been formally incorporated into the draft minutes for the meeting.
- 1.3 The applicant has appealed against the decision, and discussions which have taken place between the Head of Legal Services and the applicant's solicitors have indicated that it might be possible to settle the appeal by agreement.

##### 2 Decision by Licensing Sub-Committee

- 2.1 The minutes of the Sub-Committee are set out in the Appendix to this report.
- 2.2 The application was granted, but Members decided to impose attendance limits on the events (lower in the case of eight of the ten events allowed) in view of the licensing objectives and the representations received.
- 2.3 The conditions imposed on the licence therefore included the following provisions:-
  1. *This licence shall authorise the relevant licensable activities for a maximum of 14,999 persons on no more than two occasions per calendar year, a maximum of 5,000 persons on no more than four occasions per calendar year and a maximum of 2,000 persons on no more than four occasions per calendar year.*
  2. *This licence may be used for a maximum of 10 events in any one year which shall include any other event with a premises licence which takes place in the same calendar year.*
  3. *No more than two events shall be permitted to operate after midnight in any one calendar year.*

### 3 Details of Appeal

- 3.1 The applicant has appealed against this decision, and the appeal is due to be heard by the Magistrates Court at Andover with a pre trial review hearing set for 9 October 2007.
- 3.2 The appeal hearing would be by way of a “de novo” hearing, i.e. the Magistrates would hear the matter afresh. If they decided to allow the appeal, they could grant the application as originally applied for, i.e. ten events, each for up to 14,999 people.

### 4 Details of Proposed Compromise Agreement

- 4.1 Discussions have taken place with the applicant’s solicitors, to establish the basis behind the appeal and explore whether there is a way of settling the appeal. As a result of these discussions, the applicant has indicated that he would be prepared to settle the appeal (thus avoiding the hearing and saving costs).
- 4.2 The basis of the settlement would be that the number of events permitted would be six, and not ten, per year. Where an event took place on the premises by virtue of another premises licence (e.g. that granted to Mean Fiddler for the Homelands event), the total number of events permitted under Mr. Bruce’s premises licence would be correspondingly reduced.
- 4.3 The principle of only two of the events under this licence continuing after Midnight has also been agreed, although events under other premises licences (such as Homelands) which would be permitted to continue under these other licences past Midnight would not count towards the limit of two under Mr. Bruce’s licence. It would therefore be possible for a Homelands event to take place (which is permitted after Midnight), and for a further five events to take place under Mr. Bruce’s licence, two of which could be after Midnight, making three post-Midnight events in the year.

### 5 Consideration of Compromise Proposal

- 5.1 The Council is required to appear before the Magistrates’ Court to deal with the appeal, and it will have to produce evidence (which would include evidence from Responsible Authorities and possibly other witnesses) to support its case.
- 5.2 It is possible for the parties to agree a compromise and ask the Magistrates to allow the appeal on the basis of these agreed terms. The effect of this would be to effectively grant a premises licence on the terms sought.
- 5.3 In order to formally determine the Council’s approach to the appeal in the light of the compromise proposals, this Licensing Sub-Committee has been formed from those Members who took the original decision. Although not a hearing under the relevant Licensing Act 2003 hearings regulations, it is recommended that Members hear from representatives of the Responsible Authorities, and Interested Parties who made representations on the application. The relevant parties have been notified of the meeting.
- 5.4 Legal advice will be given under Exempt Business where appropriate.

OTHER CONSIDERATIONS:

6 CORPORATE STRATEGY (RELEVANCE TO):

6.1 This report relates primarily to the objective of “Safe and Strong Communities”.

7 RESOURCE IMPLICATIONS:

7.1 Costs may be awarded against the Council if the appeal is pursued and lost.

BACKGROUND DOCUMENTS:

Letter from Applicant’s Solicitor dated 13 August 2007

APPENDICES:

Minutes of Licensing Sub-Committee 21 May 2007

**LICENSING SUB-COMMITTEE****21 May 2007****Attendance:**

## Councillors:

Mather (Chairman)

Hammerton (P)

Weston (P)

**Officers in Attendance:**

Ms S Blazdell: Environmental Protection Team Manager

Mr H Bone: Head of Legal Services

Mr J Myall: Licensing and Registration Manager

Ms C Stefanczuk: Assistant Licensing and Registration Officer

Mrs C Tetstall: Licensing Solicitor

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**1. MATTERLEY BOWL AND SURROUNDING FIELDS, MATTERLEY ESTATE, OVINGTON**

(Report LR222 refers)

The Sub-Committee met to consider an application by Mr Bruce for the grant of a new Premises Licence under Section 17 of the Licensing Act 2003, on land known as the Bowl and surrounding fields, at Matterley Estate for the provision of regulated entertainment, late night refreshment and the sale of alcohol.

The Parties (in accordance with the Licensing Act 2003 (Hearings) Regulations 2005) present at the meeting were Mr Bruce (the applicant) and Mr Pryor-Lettley (Matterley Estate). PC Miller from Hampshire Constabulary and Ms Blazdell (Environmental Health) were also present as representatives of the Responsible Authorities. Mrs Labram (Itchen Valley Parish Council), Mrs Stanley (Beauworth Parish Meeting), Councillor Baxter (representing Mr Matthews) and Mr Sparkes (local resident) were present as Interested Parties.

Mr Myall presented the application as set out in the Report. The land already had the benefit of a Premises Licence held by the Mean Fiddle Music Group, for an event in the last weekend in May each year. There was also a one off Premises Licence granted to Slammin Vinyl for a music event in June 2007 on the land. The Sub-Committee noted that the applicant had offered an extra condition that no more than two events out of the ten applied for would continue after midnight. He added that the conditions had been based on those agreed for the Homelands event at Matterley.

Mr Myall reported that there had been considerable negotiations between the applicant, the Police and the Head of Environment to come to an agreement over the conditions that would be attached to the licence. He continued that representations had been received from three parish councils, one parish meeting and six interested parties, which were mainly concerned with noise, traffic and litter.

Mr Bruce then spoke in support of the application. He explained that over the past ten years the Bowl had hosted nine music festivals. Since the first application in 1996, when there had been apprehension over the effect the event would have on the

local area, it had been proved that the site could accommodate large-scale events. The Bowl was the perfect site for this type of event and Mr Bruce commented that if all the relevant agencies worked together, then that impact on the local community would be minimal. He added that although the licence was for a maximum of 14,999 people, he expected most events to be for a smaller audience.

Responding to questions from the Sub-Committee, Mr Bruce stated that he did not know what type of events would potentially be held at the Bowl or when they would be, although he expected them to be spread throughout the year. He acknowledged however, that the majority of the events would probably take place during the summer months but that, as a cow farmer, it would not be in his interest to hold consecutive events throughout this time. The area covered by the application was approximately 100 hectares and Mr Bruce confirmed that the events would be appropriately fenced off. These fences would then be removed afterwards.

Ms Blazdell addressed the Sub-Committee as a representative of one of the responsible authorities (the City Council's Environmental Protection Team). She explained that her representations had been made because Mr Bruce had not been specific in his application as to what type of events he was envisaging on the Premises. As a result, a condition had been suggested that an Event Management Plan (EMP) should be submitted and approved at least 28 days before each event held. This would have to be adhered to in any event as it would form part of the conditions for the licence. Ms Blazdell confirmed that an EMP specific to the type of event would be required, rather than a generic one for the Premises, and that her suggested conditions should replace some of those put forward by the applicant.

Following questions from Members, Ms Blazdell stated that resources within her team would be stretched to cover all events held at the site, but that through working with the Safety Advisory Group, the impact of ten extra events should be minimal.

PC Miller addressed the Sub-Committee as a representative of one of the Responsible Authorities, the Police. A representation had been made as there had been concerns over the application. Since the representation had been made, the Police had been in contact with the applicant and conditions had been agreed between both parties. He added that although there could be occasions when alcohol above 5% ABV might be sold, this should not be permitted unless agreed with the licensing authority. Police resources should be adequate, assuming events were organised correctly. Special police services at events could be requested and paid for by the organiser. It was confirmed that officers supplied following such a request were not taken from the normal duty strength.

Mrs Labram (Itchen Valley Parish Council) spoke against the application as an Interested Party. She stated that the local residents had coped with one large event per year for the past decade, but that they were now being asked to consider up to ten more large events per year, the majority of which would be in the summer and would therefore mean more disruption to the area. The noise nuisance from the bass and loudspeakers, although affected by the wind direction, was obtrusive in the summer months and there were also concerns over light pollution, litter and drug use. Mrs Labram also commented on the A31 road closure, explaining that this was extremely disruptive to residents and local businesses.

Councillor Baxter then spoke, representing Mr Matthews, a local resident. In summary, his concerns were over the uncertainty of the application and the type of events that were likely to take place at the Bowl. Following the Motorcross event in September 2006, residents were worried that something similar would occur again. Councillor Baxter explained that disruption to the local area was not just for the

duration of the event, but also during the set up and take down periods either side of an event.

Both Mrs Stanley, of Beauworth Parish Meeting, and Mr Sparkes, a local resident, raised concerns over the number of events that could take place and gave examples of issues surrounding previous events at Matterley. They also echoed the worries over noise and security issues made in other representations.

In summary, Mr Bruce stated that he was willing to work closely with local residents and the statutory authorities in order to assure the minimum of disruption to the area. He acknowledged that the application suggested that there could be several large events taking place and that his telephone number had been made available to any residents that wanted to contact him.

The Sub-Committee retired to deliberate in camera.

In her closing remarks, the Chairman stated that the Sub-Committee had carefully considered the application, the representations made by Responsible Authorities and Interested Parties. It had taken into account the duties under the Crime and Disorder Act 1998, and the rights set out in the Human Rights Act 1998.

The Sub-Committee agreed to approve the application as set out in the Report with the amendments as set out in the Conditions which form an Appendix to these Minutes.

RESOLVED:

A. That the application be granted, subject to:

1. Mandatory Conditions

1. No supply of alcohol may be made under the Premises Licence (a) at a time when there is no Designated Premises Supervisor in respect of the Premises Licence, or (b) at a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.

2. Every supply of alcohol under the Premises Licence must be made or authorised by a person who holds a Personal Licence.

3. Where individuals are required to carry out licensable security activities under the Private Security Industry Act 2001, they must be licensed by the Security Industry Authority.

4. No film shall be exhibited unless it has received a **U, PG, 12, 15 or 18** certificate from the British Board of Film Classification, or it is a current newsreel which has not been submitted to the British Board of Film Classification. The admission of children shall be restricted in accordance with the recommendations of the British Board of Film Classification.

2. Other Conditions

Operating Hours

1. The hours the premises may be used for regulated entertainment shall be:

Plays, films, live music, recorded music, performances of dance, anything of a similar description to the above, facilities for making music, dancing and similar.

- (i) Monday to Thursday 1100 to 2300
- (ii) Friday to Sunday 1100 to 0400

2. The hours the premises may be used the provision of late night refreshment shall be:

- (i) Friday to Sunday 2300 to 0600

3. The hours the premises may be used for the sale of alcohol shall be:

- (i) Sunday to Saturday 0000 to 0000

### All Licensing Objectives

1. This licence shall authorise the relevant licensable activities for a maximum of 14,999 persons on no more than two occasions per calendar year, a maximum of 5,000 persons on no more than four occasions per calendar year and a maximum of 2,000 persons on no more than four occasions per calendar year.

2. This licence may be used for a maximum of 10 events in any one year which shall include any other event with a premises licence which takes place in the same calendar year.

3. No more than two events shall be permitted to operate after midnight in any one calendar year.

4. The premises user shall comply with all conditions contained in Annex 2 attached to the Premises Licence. These should be complied with to their full extent unless otherwise agreed by the Licensing Authority.

5. The Premises User shall comply with all provisions of any Event Management Plan which is for the time being in force.

6. No event shall be open to the public for more than four days unless agreed with the Licensing Authority. Events shall be treated as a continuous event unless there is at least 24 hours between them.

### 3. Additional Conditions

The conditions as set out in the document "Conditions for Premises Licence - Matterley Bowl Winchester 2 April 2007" subject to the following:-

1. The Public Safety (PS) and Public Nuisance (PN) conditions shall be replaced by the conditions attached to the memo from the Environmental Health Manager dated 13 April 2007 with the following amendments:-

PS.1 – add "unless otherwise agreed with the Licensing Authority"



PS.12 – insert “in use” after “Every gate”

PS.66 – delete “at least 60 days prior to the event” and substitute “in the Event Management Plan”

PS.70 – delete “well” and substitute “28 days”

PS.88 – add “if applicable” at end of condition

PS.90 – insert “helper dogs and dogs from enforcement agencies” after “guide dogs”

2. The Crime and Disorder (CD) conditions shall be added to by the addition of the conditions set out in the representation from Hampshire Police dated 30 April 2007 with the following amendments:-

11 – add “unless otherwise agreed by the Licensing Authority” at the end of this condition.

B. That delegated authority be given to the Head of Legal Services to settle the agreed detailed wording to the conditions attached to the Licence.

The meeting commenced at 9.30am and concluded at 12.05pm.

Chairman

Reasons for Decision – 21 May 2007

In considering the application, the Sub-Committee was mindful of the fact that there was already a premises licence in place for a large music festival over the late Spring Bank Holiday weekend, and a further premises licence for a single similar event in June 2007. The applicant was seeking 10 events per year, for up to 15,000 people, but was unable to be specific about the precise nature, frequency or likely size of these events. He did however point out that as the premises were a working farm, this would impose limitations on the use of the premises for this purpose.

The Sub-Committee noted that given the nature of the events, most would be concentrated in a period between May and September in each year. Members considered that granting the application on its face (which would potentially permit a further ten large scale music events on the site) was not acceptable, given the disruption and disturbance which would be likely to occur.

It did however consider that many of the issues raised in the representations could be dealt with by detailed conditions (as set out by the Responsible Authorities), including the submission and approval of an event management plan for each event. These conditions would ensure that the events were properly managed, and any disturbance and disruption kept to a minimum.

The Sub-Committee also noted that the applicant was only seeking two events each year to operate after midnight. It felt that this would further address the concerns raised in the representations, as this would mean that disruption until 0400 would be limited to two occasions each year under this licence.

The Sub-Committee considered that a limitation in the number and size of the events held at the premises would address the remaining concerns expressed in the representations, whilst allowing the legitimate interests of the applicant to use the premises. It considered that limiting the number of events for up to 14,999 to no more than two per annum under this licence, permitted four events per annum up to 5000 people, and a further four events for up to 2000 people, would allow the applicant to provide the types of events which he was intending to put on at the premises, whilst at the same time limiting the disruption and disturbance to local residents.

Finally, given the representations received, the Sub-Committee felt that a maximum of ten events per year should be imposed, and it therefore decided to require that in determining the total number of events permitted, any event which operates under a separate premises licence should be taken into account.