

LICENSING SUB-COMMITTEE**11 February 2014****Attendance:**

Councillors:

Mather (Chairman) (P)

Izard (P)

Laming (P)

Officers in attendance:

Mr J Myall – Head of Licensing

Miss C Stefanczuk – Licensing Officer

Mrs C Tetstall – Licensing Solicitor

Mr D Ingram – Head of Environmental Protection

Mrs A Toms – Environmental Health Manager

1. **REVIEW OF PREMISES LICENCE PREM500, MATTERLEY BOWL,
ALRESFORD ROAD, WINCHESTER**
(Report LR429 and Addendum refer)

The Chairman welcomed to the meeting the Licence Holder (Mr Bruce) and his representatives (Mr Phipps). The applicant for the review was Winchester City Council Environmental Health (a Responsible Authority) and was represented by Mr D Ingram and Mrs A Toms. The Chairman also welcomed to the meeting Mr Belderson from the South Downs National Park Authority (a Responsible Authority) together with Mr Barker, Mr Moffatt, Mrs Thompson, Mr Sutherland and Mr White (other persons who had made representations).

Miss Stefanczuk introduced the review application to the Sub-Committee. In summary, she explained that the application for a review of the premises licence held by Mr Bruce at the Matterley Bowl, Alresford Road, Winchester (PREM 500) had been made by the Environmental Health. The basis of the review was relating to public safety and the prevention of public nuisance licence objectives. The application was set out at Appendix 1 to the Report. Various parties had submitted representations as other persons, as set out at Appendix 2 to the Report.

The Sub-Committee noted that further supporting information was received from the Premises Licence Holder (as set out in an Addendum to the Report). The documents had been received after the publication of the Report, but were still within the statutory timescale and therefore were eligible to be considered by the Sub-Committee.

Miss Stefanczuk advised that a request had been received from Mr Pain (a person who had submitted representations regarding the review), that the

meeting be adjourned as he was unable to attend. Under Regulation 12 of the Licensing Act 2003 (Hearings) Regulations 2005, the hearing could be adjourned if it was considered to be in the public interest. Alternatively, Regulation 20 permitted the meeting to be held in his absence and for the Sub-Committee to have regard to his written representations (as set out in Appendix 2 to the Report). The Sub-Committee agreed to hold the hearing, noting that under the Regulations Mr Pain would have been unable to raise any further matters at the meeting.

Miss Stefanczuk clarified that a number of corrections and minor changes were proposed to be made to the Licensing Conditions contained within the review application, and Members should therefore refer to the proposed Conditions as set out on Pages 9 – 16 of the Report.

With reference to the supporting information from the Premises Licence Holder's solicitor (as set out in the Addendum to the Report), Miss Stefanczuk advised that the request to increase noise levels by 10dB should be disregarded under Section 19(a) and (b) of the Hearing Regulations as this amounted to a variation to the conditions.

In response to questions, Miss Stefanczuk stated that the addresses of those making representations had been included in Appendix 2, and their proximity to the licence location varied between 1.5 km as the closest location and 4.5 km furthest away. She confirmed that there was no proposed increase to the number of events permitted in any one year. She advised that the South Downs National Park was the local planning authority for the licensed area (and as such a Responsible Authority) and the Sub-Committee were required to have regard to the purposes of the National Park where appropriate.

With regard to traffic issues, Mr Myall advised that any nuisance caused by traffic could be considered as part of the public nuisance licensing objectives, as far as it related to the licensable activities.

As background to the review application, Mrs Toms stated that the premises licence was first granted in 2007 and since 2011, three annual Boomtown festivals had taken place. In 2012, the Boomtown event organisers and Premises Licence Holder were issued with a written warning for breach of licensing conditions. However, in 2013 many improvements had been introduced by the event organiser and significantly fewer noise complaints had been received by the Council.

Mrs Toms explained that the purpose of the review was to make alterations to the conditions to make them more enforceable, particularly in relation to measurement of noise levels. She emphasised there were no proposed changes to hours of operation or actual noise levels as Environmental Health believed that these were currently set at the right level.

Mrs Toms and Mr Ingram advised that the following additional changes to the Conditions were proposed

- A1 – remove reference to “officials” as it was not within the power of the licence holder to prevent site access to various officials under their legal powers (e.g. Health and Safety operatives).
- PN1(b) – insert words “the final” prior to “NMP” in the second sentence; and in third bullet point, insert words “location, orientation” after “stage”.
- PN1(c) – In second sentence: insert word “Premises” prior “Licence Holder”; replace words “and/or” with “and”; replace word “approve” with “agree”.
- PN1(e) – change “28 days” to “7 days”.
- PN1(f) – delete words “through agreed means” and replace with “through means agreed by the licensing authority.”

In response to questions, Mrs Toms confirmed that in general the majority of noise complaints received in 2013 related to low frequency noise (i.e. bass). Consequentially, the conditions were proposed in PN2 a) to c) to define band frequency ranges and also enable specific locations to be defined for measuring of noise levels for each event. In response to questions highlighting that representations received had referred to differing noise levels set at other festivals, Mrs Toms emphasised that the individual locations of each different festival had to be taken into account.

Mr Belderson addressed the Committee as a representative of the South Downs National Park Authority (SDNPA), a responsible authority. He drew Members’ attention of the duty to have regard to the Park. SDNPA welcomed the proposed modifications to achieve greater clarity of monitoring. Whilst not relevant to the licensing review, he advised that the SDNPA were in discussions regarding the planning situation for the site. In addition, he requested that early discussions took place with SDNPA and the County Council regarding closure of rights of way across the site and requested this be included as an informative in the Premises Licence.

Mr Barker, Mr White, Mr Moffatt, Mrs Thompson and Mr Sutherland addressed the Sub-Committee as others persons making representations and their comments are summarised below.

Mr Barker (a New Alresford resident) stated that he was kept awake at nights because of the bass noise generating from the festivals held on these premises. He requested that the maximum noise levels be reduced by 10dB after 11pm, as at the IOW festival noise levels are reduced by 15db, and argued that the current conditions enabled the events to continue at the expense of the comfort of nearby residents. He also queried why the event organisers had not been prosecuted for the five licence breaches that had occurred in 2013.

In response, Mr Ingram advised that the 65dB level proposed was already below that recommended in the “Pop Code” and the Council did seek to achieve a balance between the requirements of the event and the local community. It was noted that the actual night time level permitted at the IOW festival was 70dB, higher than that currently permitted under the Matterley premises licence.

Mr White, Mr Moffatt and Mrs Thompson spoke endorsing their representations contained within Appendix 2 of the Report which, in summary, broadly stated that they did not experience any problems with licensable events being held at Matterley Bowl.

Mr Sutherland (Solicitor for Boomtown Fair UK Ltd) requested that the measurement period for noise levels be increased from 5 minutes to 15 minutes as the lesser period did not allow sufficient time to assess the problem, communicate back to the site and action to the reduction.

Mrs Tom advised that Environmental Health were in agreement with this proposed change (which related to PN2 (a) and (b)).

Mr Phipps (on behalf of the Licence Holder) addressed the Sub-Committee in response to the representation from interested parties. Mr Phipps conceded that any request to increase noise levels were not a matter for this hearing. He emphasised that Mrs Toms had highlighted the significant improvements made for the 2013 Boomtown event and he had no issues with the stated purpose of the review to clarify conditions and make more enforceable. He had no objection to the further proposed changes to the conditions, as outlined by Mrs Toms above. In addition, he had no objection to the proposed change to increase the monitoring period from 5 minutes to 15 minutes.

With regard to Condition PN1(g), he requested that the points outlined in the four bullet points be deleted as they contained an unrequired level of detail. Mrs Toms agreed with this proposed change, as detailed below:

PN1(g) – delete second sentence and four following bullet points. At end of first sentence, after word “event” insert words “in an agreed format”.

The Sub-Committee retired in deliberate in camera.

In reaching its decision the Sub-Committee carefully considered the Application and the representations made by the South Downs National Park Authority and other persons. It had 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 that premises licence number PREM 500 should be reviewed under Section 51 of the Licensing Act 2003, because of the issues raised by the applicant. The Sub-Committee has decided to attach to the licence the additional conditions set out on pages 9 to 15 and condition 5.4 on page 16 of the Report, with the alterations set out under the Resolution below. For the avoidance of doubt, possible additional conditions set out in Paragraphs 5.1, 5.2 and 5.3 of the Report were not agreed.

The reasons for the decision were to promote the licensing objectives by clarifying the licence conditions, thereby making them more enforceable.

RESOLVED:

1. That the Premises Licence conditions for PREM 500 be amended as set out below,

REASON

To promote the Licensing objectives by clarifying the licence conditions, thereby making them more enforceable.

PREM 500 – AMENDED CONDITIONS
(Amendments shown in bold italics)

Mandatory Conditions

Under the Licensing Act 2003, the following conditions must be imposed on the Premises Licence in any event:-

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 on premises to carry out security activities, 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.
5. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
6. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
7. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
8. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

9. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
10. The responsible person shall ensure that—
 - a. where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - i. beer or cider: ½ pint;
 - ii. gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - iii. still wine in a glass: 125 ml; and
 - b. customers are made aware of the availability of these measures.

All Licensing Objectives;

- A1 *This licence shall authorise the relevant licensable activities for a total capacity of 29,999 persons on the site at any one time, and on no more than six occasions in the same calendar year (which shall include any other event with a premises licence which takes place in the same calendar year.) The total capacity of 29,999 persons shall include all persons present at the premises in whatever capacity including ticket holders, performers, guests and staff.***
- A2 No more than two regulated entertainment events shall be permitted to operate under this licence after midnight in any one calendar year. Such events may operate after midnight as follows:
- a. Friday night and / or Saturday only, or
 - b. a Saturday night and / or Sunday night which precedes a Bank Holiday (In the case of an event taking place over a bank holiday weekend only)
- A3 No event shall be open to the public for more than four days unless agreed with the Licensing Authority after consultation with the Police. Events shall be treated as one continuous event unless there is at least 24 hours between them.
- A4 The licence holder shall ensure that the event organiser shall produce and submit to the Licensing Authority an initial event management plan (EMP) at least 120 days prior to the commencement of the event.

- a. This condition shall not preclude Winchester City Council Licensing Authority and Hampshire Constabulary from considering an initial EMP submitted less than 120 days prior to an event. The 120 day timescale shall only be waived with express written consent from both.
- A5 The final EMP shall be supplied to the Licensing Authority no later than 28 days prior to each event.
- A6 The event organiser or his nominated deputy shall be available on site at all times that the licensed site is open to ticket holders.
- A7 *The Event Organiser shall include in the TMP the requirement for signs to be placed on the A31, at least 7 days prior to the event, warning motorists of any gap closures that shall be in force for the event, so far as is reasonably practicable.***

The Prevention of Crime and Disorder

- CD1 The event organiser shall agree with the Licensing Authority in consultation with Hampshire Constabulary the number of police officers required at each event, no later than 56 days prior to the start of the event. No licensable activities shall take place unless suitable arrangements are in place to secure the provision of such numbers of police officers.
- CD2 A schedule of stewards and security personnel shall be made available to the Licensing Authority and Police 28 days before the start of licensable activities for the public. Such a schedule shall include name, date and place of birth and, if applicable, SIA number.
- CD3 A secure perimeter fence shall be erected around the site of the event, prior to the start of the event, and patrolled by security, unless agreed in writing with the Licensing Authority, in consultation with Hampshire Constabulary, at least 56 days prior to the event.
- CD4 Crime prevention advice shall be written in consultation with Hampshire Constabulary and displayed on signage around the site.
- CD5 The campsites, car park and event arena shall be patrolled by security and stewards.
- CD6 Security staff shall carry out random searching at all entrances to the event for drugs, offensive weapons and other prohibited items. Ticket conditions shall indicate that searching will be undertaken. Signage shall be displayed at all entrances indicating searches will take place.
- CD7 No glass containers or bottles shall be allowed inside the event site, with the exception of approved event traders. Bottle banks shall be located at the event site entrances to facilitate disposal. Plastic containers shall be available for decanting facilities.

- CD8 All sales of alcohol and other drinks shall be provided in polycarbonate or similar non glass drinking vessels. All glass bottled drinks shall be decanted at point of sale.
- CD9 The Designated Premises Supervisor, or nominated deputies being Personal Licence Holders, shall be present on site throughout any event when alcohol is being supplied under the Premises Licence. Details of the nominated deputies shall be provided to the Licensing Authority and Police 28 days prior to the commencement of the event.

Public Safety

- PS1 The licence holder shall ensure that farm animals are removed from the arena and the campsite at least 21 days prior to the start of any event. This shall not extend to the area used for car parking.
- PS2 No animals, other than guide dogs, helper dogs and dogs from enforcement agencies are to be allowed onto the site.
- PS3 There shall be not be any activity which involves body piercing or tattooing carried out on the site.
- PS4 There shall not be any activity which involves members of the public inhaling gases.
- PS5 No legal highs shall be allowed on site, these to include any gas canisters used for that purpose.

Public nuisance

PN1(a) The Premises Licence Holder shall ensure that the Event Organiser produces and submits an initial Noise Management and Community Liaison Plan (NMP) at least 56 days prior to the commencement of the event.

PN1 (b) The NMP shall contain the methodology which shall be employed to control sound on the premises, to ensure compliance with the Noise Management and community liaison plan and the premises licence. The final NMP must include all of the arrangements for preventing public nuisance and consultation with the local community to also include:

- ***An inventory of all sound systems to be used on the site***
- ***A schedule of contact details for those who are responsible for the sound systems***
- ***A list of stages together with sound power output details, a schedule of their stage locations, orientations, shut down times and their maximum audience capacity***
- ***Maximum permitted sound power output details for traders***

- **Management command and communication structure /methods for ensuring that permitted sound system output and finish times are not exceeded**
- **Publication and dissemination of information to the public and arrangements for provision and staffing of a hotline number for dealing with complaints**
- **Action to be taken by the Event Organiser following complaints**

PN1(c) The Premises Licence Holder shall ensure that the Event Organiser submits the final Noise Management and Community Liaison Plan (NMP) to the Licensing Authority for approval no later than 28 days in advance of the event. Any changes to the NMP after this deadline shall be requested by the Premises Licence Holder and Event Organiser in writing to the Licensing Authority, who will agree or decline these changes in writing.

PN1 (d) The Premises Licence Holder and Event Organiser shall ensure compliance with all aspects of the Noise Management and Community Liaison Plan.

PN1 (e) At least 7 days prior to an event the Premises Licence Holder shall ensure that the Event Organiser provides to the licensing authority a telephone number for contacting the licence holder or a nominated representative during the course of an event.

PN1 (f) The Premises Licence Holder shall ensure that the Event Organiser produces and makes available a Public Information Document with details of arrangements for the event based on the EMP and NMP that might affect the local community. This shall be made available at least 7 days prior to the event and published through means agreed with the Licensing Authority.

PN1 (g) The Premises Licence Holder shall ensure that the Event Organiser submits a post event Noise evaluation report to the Licensing Authority no later than 28 days after the end of the event in an agreed format.

PN2 Subject to the operational hours within the licence, noise levels from multi day events or single day events that finish after 23:00, shall comply with the following:

- Between the hours of 1100 and 2300 noise levels from music shall not exceed 55dB $L_{Aeq(15mins)}$ and between the hours of 2300 and 0400 noise levels shall not exceed 45dB $L_{Aeq(15mins)}$.**
- between the hours of 1100 and 0400 noise levels from music in the octave band frequency range with a centre frequency of 63 Hz and noise levels from music in the octave band frequency range with a centre frequency of 125Hz shall not exceed 65dB ($L_{eq, 15 mins}$).**

- c. All noise levels from music shall be measured as above (PN2 (a) and (b) in free field conditions and in the absence of significant local noise sources at locations to be agreed with the Premises Licence Holder or Event Organiser and the Licensing Authority no less than 28 days in advance of the event.***

- PN3 For single day events held only between the hours of 11:00 and 2300 hours:
- a. the noise levels from the event shall not exceed 65dB $L_{Aeq (15mins)}$ as measured at a distance of 1m from the façade of any noise sensitive dwellings,
 - b. in addition in the frequency range of 63 and 125 Hz noise levels shall not exceed 70dB (L) $(15mins)$ as measured at 1m from the facade of any noise sensitive dwelling.
- PN4 The sound systems of the principal stages shall be tested to ensure compliance with PN2 and PN3, prior to the commencement of the event. The Licensing Authority shall be notified no less than 24 hours in advance of such testing being undertaken.
- PN5 The Premises Licence Holder shall ensure that the organiser appoints a competent noise consultant to monitor and record on site and off site noise, to ensure compliance with PN2 and PN3.
- PN6 The Premises Licence Holder shall ensure that the organiser does not permit amplification equipment to be brought onto the site unless:-
- a. it is for use as part of regulated entertainment;
 - b. it is for the use of authorised traders for the sole purpose of providing background music to their stall or fairground attraction.
- PN7 The Premises licence holder shall ensure that the event organiser has a deployment of security personnel for the duration of the event to patrol the site to monitor for unlicensed events taking place or about to take place, and:
- a. Upon discovery of such activities or equipment not as described in Condition PN6, arrangements shall be made for the amplification equipment to be confiscated immediately or, if not possible, at the earliest reasonable opportunity.
 - b. Arrangements shall be made for confiscation of equipment in the case of traders where, in the opinion of the Licensing Authority, a noise nuisance is being or likely to be caused.

The Protection of Children from Harm

- CH1 The event organiser shall prominently display notices at the point of sale that state 'It is an offence to purchase or attempt to purchase alcohol if you are under the age of 18 – Section 149 Licensing Act 2003'

- CH2 The Premises Licence Holder shall operate a 'Challenge 21' scheme with signage being displayed in all locations relevant to the sale of alcohol.
- CH3 The Designated Premises Supervisor or a person on their behalf shall provide suitable training or instruction to all staff engaged in the sale of alcohol in relation to the prevention of sales to persons under the age of 18 years and to persons who are drunk. A written record shall be made of such training and be made available to the Licensing Authority or Police upon request.
- CH4 No person under the age of 18 may serve alcohol.
- CH5 Soft drinks and free drinking water shall be available on site as an alternative to alcohol.
- CH6 No person under the age of 16 shall be permitted on the premises unless accompanied by an adult.
- CH7 Any site / event staff having responsibility for the welfare of children on site shall be CRB checked and their name date and place of birth made available to Police 28 days prior to the event taking place. The EMP shall include a plan to deal with all such lost / found children.

The meeting commenced at 10.05am and adjourned for a break between 12.30pm and 1.15pm and concluded at 2.35pm.

Chairman