

Our ref 303L/MP01/CS03/082378/000007
Your ref

Mr J Myall
Head of licensing
Winchester City Council
City Offices
Colebrook Street
WINCHESTER
SO23 9LJ

Direct tel

[REDACTED]

Date

5 February 2014

Direct fax

[REDACTED]

Email

[REDACTED]

Dear Sir

**Our client: Mr Peveril Bruce
PREM500 Licensing review (Matterley Bowl)**

We act for Peveril Bruce, the premises licence holder for the above and in anticipation of the licensing review now listed for determination on 11 February serve the following by way of representation on Mr Bruce's behalf.

Whilst we recognise that it is somewhat unusual for a premises licence holder to serve a representation, (they are by their very nature a party to proceedings in any event), we thought that it would assist in identifying those matters that are the subject of some ongoing discussion and those that may more conveniently agreed.

Dealing with the application

Background

Whilst it is true to say that a written warning was issued to the premises licence holder following the 2012 event it is right to point out that in law that is very far removed from either a criminal conviction (following prosecution) or even a formal caution. The warning is no more than an observation that concerns have been articulated about the event and future conduct will be monitored and observed thereafter.

As regards the 2013 Boomtown event it is clearly encouraging and positive to note, and we are grateful to Ms Toms for articulating that there were "many improvements to the running of the event in 2013 including a new management structure, better arrangements for public safety, appointment of a new acoustic consultant and an extensive sound insulation used to line the walls of principle stages.

Furthermore, we are pleased to see that there were fewer noise complaints in 2013 compared to 2012 "with 12 being received during the event from 8 separate individuals. An additional 5 noise complaints were received after the event had finished.

We understand that is reflective of the debrief.

Whilst the application indicates that 1 officer "witnessed that regulated entertainment did not cease until 0405hrs on the morning on Saturday 10 October and that the event organisers attributed this to equipment brought on site, by a trader, our understanding is slightly different

Whilst the explanation given may be entirely legitimate we also understand that a TEN had been issued by the authority in favour of the event organisers for their staff (crew) bar.

We understand that at 0400hrs all sound generating devices (save for this single source) had ceased operation and so whilst it may be right that this single sound source was equipment brought on site by traders we do question whether it might equally have been sound emanating from the staff (crew) bar?

We additionally query whether it is legitimate to categorise this sound as regulated entertainment?

However, all of these comments are Boomtown specific and this review is in relation to the PREM500 licence and its suitability.

Proposed amended/additions to the licence

Whilst we are grateful to note that there are no proposed changes to the hours of operation we do have some concerns about the proposed amendments/additions to the licence.

Capacity

Whilst 29,999 persons may be the legitimate capacity to cover all persons present at the premises including ticket holders, performers, guests and staff it is not our view that officials should be included.

For the premises licence condition to be effective it must be something that the premises licence holder has control over and can "deliver". Officials (which we take to mean licensing and responsible authority officers as well as officers from other agencies) are in blunt terms an unknown quantity and it would be wholly inappropriate for a premises licence holder or event organiser to prohibit access to the site by such an officer at any time. Additionally officials do not tend to stay on site, nor do they contribute to campsite capacity nor do they impact on crowd movements. Therefore it is hard to see that any of the licensing objectives could be undermined by removing them from the new proposed condition.

Better we would suggest that the condition read "this licence should authorise the relevant licensable activities for a total capacity of 29,999 persons on the site at any one time and no more than 6 occasions in the same calendar year (which shall include any other event where the premises licence which takes place in the same calendar year). The total capacity of 29,999 limit covers all persons present namely ticket holders, performers, guests and staff.

The amendment to condition PN1 (the 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" is agreed.

PN1 (B) The premises licence holder generally agrees with this proposed condition but would suggest minor amendments to make the condition both practical and achievable. First of all the full details might not be known at the beginning of the process and therefore the condition should refer to the final NMP, containing all of these details. In simple terms it is unlikely that a first draft will contain all of the detail.

We would request that the condition, in contrast to the wording set out in Mrs Toms application be reworded as follows:-

PN 1 (b) The NMP shall contain the methodology which shall be employed to control sound on the premises to comply 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 operating 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) Any request to change the NMP after the 28 day deadline has to come via or at least with the express approval of the premises licence holder. It was unfortunately the case last year that the operators asked for permission, from the authority, to operate outdoor stages past 2300hrs. In the opinion of the premises licence holder this had the potential to undermine the licensing objectives and appears to have contributed to the earlier now concluded criminal investigation. We would invite the authority to amend the proposed wording as set out in the application to the following:-

"PN1 (c) the licensee 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. All changes to the NMP after this deadline shall be requested by the premises licence holder, in writing to the licensing authority, which will approve or decline these changes in writing."

PN1 (e) This is agreed.

PN1 (f) This condition may not be achievable by the 28 day deadline period. This condition seems to us to be adequately covered by condition PN1 (b) and is to our mind unnecessary but our resistance is not significant.

PN1 (g) Whilst the premises licence holder does not disagree with the principle of this condition our view is that the condition can be worded differently to specifically identify the details that are necessary. We would suggest an alternate wording as follows:-

"PN1 (g) 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 that might affect the local community. This is to include the following:-

- The times that the event is open to the public
- The operating times of entertainment
- The details of any road traffic orders or arrangements to be put in place
- The hotline number and times that this is in operation. This shall be made available at least 7 days prior to the event and published through agreed means

PN1 (h) The Licensee does not agree with this condition as it does not promote the licensing objectives.

PN2 (a) and PN2 (b) The current noise levels are not practical or favourable for outdoor events to be held at Matterley Bowl. Similar multi-event sites appear to have been granted higher levels elsewhere. The premises licence holder requests that the levels and L_{EQ} timings, particularly between 1100hrs and 2300hrs are brought into line with other licences of a similar nature and also with the Noise Council Guidelines.

Similarly the premises licence holder requests that low frequency levels are brought into line with those imposed on sites with other licences of a similar nature and also with the Noise Council Guidelines.

Public nuisance and receipt of complaints appear to us to be the result of sound being audible and discernible and are not necessarily the sound pressure levels actually emanating from an event.

Audibility and discernibility are not the same as noise nuisance which is the only consideration under the Licensing Act 2003 that is "legitimate".

After 2300hrs it is fair to consider that sound that is both audible and discernible, against other levels may legitimately be concluded as being or falling into the categorisation of nuisance. Therefore we would suggest that condition PN 2 (a) and (b) would be better worded as follows:-

Regulated entertainment generated on the licensed premises between 2300hrs and 0400hrs shall not be audible and discernible when assessed at (any) agreed locations. If the authority are minded to insist on the numerical sound pressure levels it is worth observing that the alleged breaches of the existing conditions (over 70 dB on the low frequencies), occurred without any actual complaint. That does seem to us to rather suggest that the levels themselves are not determinate of nuisance which is what they should be directed toward. We would invite the committee on that basis to amend PN2 (a) as follows:-

Between the hours of 1100hrs and 2300hrs noise levels from music shall not exceed 65dB LAeq (15mins) and between the hours of 2300hrs and 0400hrs noise levels shall not exceed 45dB LAeq (5mins).

PN2 (b) Between the hours of 1100hrs and 2300hrs noise levels from music in the 63Hz and 125Hz octave bands shall not exceed 75dB(Leq, 15 mins). Between the hours of 2300hrs and 0400hrs noise levels from music in the 63Hz and 125Hz octave bands shall not exceed 70dB(Leq, 5 mins).

PN2 (c) is all agreed.

We trust that for the short term that is satisfactory but if you have any queries then please do not hesitate to contact us.

Yours faithfully

TLT LLP