

LICENSING SUB-COMMITTEE

4 August 2011

Attendance:

Councillors:

Izard (Chairman) (P)

Mason (P)

Read (P)

Officers in attendance:

Mr J Myall – Licensing Manager

Mrs C Tetstall – Licensing Solicitor

Mr D Ingram – Environmental Protection Manager

1. **REVIEW OF PREMISES LICENCE PREM500, MATTERLEY BOWL,
ALRESFORD ROAD, WINCHESTER**
[\(Report LR364 refers\)](#)

The Chairman welcomed to the meeting the Licence Holder (Mr Bruce) and his representatives (Mr Malcolmson and Mr Phipps). The applicant for the review was Hampshire Constabulary (a responsible authority) and it was represented by PCs Miller and Wey and Mr Trencher. The Chairman also welcomed to the meeting Mr and Mrs Barker, who were two interested parties with regard to the review and Mr Belderson from the Southdowns National Park Authority.

Mr Myall introduced the review application to the Sub-Committee. In summary, he 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 Hampshire Constabulary. The basis of the review was on the grounds of the prevention of crime and disorder, public safety, and the protection of children from harm. The application was set out at Appendix 1 to the Report. Mr and Mrs Barker had submitted representations as interested parties in support of the review. Their concerns related to the public nuisance objective and this was set out at Appendix 2 to the Report.

In respect of Report LR364, the Sub-Committee noted a further representation received from the Police. The Sub-Committee also noted addendums to the Report: Appendix 4 and a new page 17A (that should be inserted after page 17 of Appendix 1). These had both been circulated in advance of the meeting, as they had been omitted in error from the published 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.

During his presentation, Mr Myall referred to a previous review of the premises licence and an associated licence (PREM 548) as heard at a Licensing Sub-Committee held on 30 April 2010. That hearing had concluded that amended conditions be imposed, but those were only valid when the two licences were used in conjunction with each other. As PREM 548 had been latterly surrendered, the amended conditions were no longer imposable. An event held at the Matterley Bowl on 17 June 2011 was performed under a separate licence.

Mr Myall also drew attention to some conditions drawn up in consultation between the police and the licence holder and those were set out in the Report at Appendix 4. Should they be accepted by the Sub-Committee, he recommended that they be further amended to have regard to the Licensing Authority retaining its full decision making powers, as opposed to those being delegated in part to the Police, when dealing with the matters contained within the amended conditions. He therefore drew attention to their slightly amended wording at pages 10 – 15 of Report LR364 and, in particular, to include the underlined wording.

Mr Myall also referred to the representations submitted by Mr and Mrs Barker at Appendix 2 and, in particular, references to the South Downs National Park Authority (SDNPA) in which the Matterley Bowl was located. He clarified that the SDNPA was a responsible authority as the Local Planning Authority for the area. The Authority had been consulted but had not submitted any representation.

The representation submitted by Mr and Mrs Barker referred to the effect on the 'purposes' of the National Park. Mrs Tetstall advised that this should be disregarded as, although the Sub-Committee had a duty to have regard to the purposes of the National Park where appropriate, the Licensing Act 2003 stated that representations submitted with regard to review applications must specifically be relevant to one or more of the Licensing Objectives. However, if representations had been submitted that related to a licensing objective and also to the impact on a National Park purpose, then the issue raised would be likely to have more weight where the Licensed Premises were situated on land within a Park.

Mr Trencher addressed the Sub-Committee as the representative of Hampshire Constabulary, the applicant for the review.

In summary, Mr Trencher explained that the proposed revised conditions on pages 10 -15 of the Report had come about from positive negotiations between Hampshire Constabulary and the Licence Holder. He also referred to Appendix 4 as Hampshire Constabulary's response to the Licensing Authority's concerns that the implementation of the revised conditions required agreement of the Police and / or the Safety Advisory Group (SAG).

In response, Mr Myall advised that the expertise of the Police in crime and disorder matters was recognised. However, meetings of SAG (which were attended by the Police) made licence holders aware of what measures might be required of them as part of the planning of events, including the

implementation of specific conditions. That informal arrangement should remain and there should be no formal delegation of Licensing Authority decisions to the Police.

The Chairman invited Mr Belderson (SDNPA) to address the Sub-Committee. In summary, Mr Belderson reported that the SDNPA recognised that it was not in a position to submit a formal representation in support of the review of the licence; albeit it had some concerns and that there should be a duty of regard to the 'purposes' of the Park. However, the SDNPA was unable to allocate resources at this time to make a full assessment.

Mrs Barker, an Interested Party for the Review, addressed the Sub Committee.

Mrs Barker stated that the Licensing Authority had a 'duty of regard' to the purposes of the National Park when dealing with noise and nuisance. She drew attention to a case study related to the Dartmoor National Park, as set out in the representation at Appendix 2 to the Report.

Mrs Barker also stated that there should be a post 2300 hours inaudibility condition attached to the licence and she drew attention to evidence submitted, as part of her representation at Appendix 2. That demonstrated that unacceptably loud base level readings had occurred after 2300 during the 2009 Glade Festival event at Matterley Bowl. Reference was made to Mendip District Council successfully imposing post 2300 licence conditions for the Glastonbury Festival.

Mr Barker also addressed the Sub-Committee as an Interested Party for the Review.

Mr Barker requested that, in addition to the reasons for the review application of PREM 500 as submitted by the police, the review should also have regard to the prevention of public nuisance objective. Since the previous review of 30 April 2010 (where reinstatement of the post 2300 inaudibility conditions had been rejected), new evidence had become apparent of unacceptable post 2300 noise levels, notably related to the 2009 Glade Festival.

Mr Barker suggested that the Licensing Authority should take a more objective view of post 2300 noise, by having regard to prevailing weather conditions etc and by observing whether base levels were audible in the vicinity of events. He reminded the Sub-Committee that the Winchester City Council Licensing Policy stated that post 2300 inaudibility was a requirement within the Winchester town area and he questioned why this should not also be the case in rural areas.

Mr Ingram (Head of Environmental Protection) addressed the Sub-Committee in response to Mr and Mrs Barker's representation, as a representative of Winchester City Council.

Mr Ingram advised that the Council had set post 2300 noise levels in line with national guidelines. The Noise Council's guidelines had recommended that bass noise up to 70dB linear was acceptable at bass frequencies, and the existing conditions go further to limit this level to 65db. That was likely to achieve the World Health Organisation Standard of the acceptability of 30db in bedrooms. However, it had become apparent that the desired post 2300 inaudibility had not been readily achieved; however there was a balance to be struck between inaudibility and acceptability. A review of the guidance for the control of noise from outdoor concerts was currently being undertaken at a national level and that would have regard to regularity of events taking place.

With regard to Mendip District Council's imposition of post 2300 conditions for the Glastonbury Festival, Mr Ingram explained that those specified that noise should not be audible or discernable from the boundary of specific locations in the vicinity to the event. However, it had been recognised that some noise from the event was inevitable after 2300, but that it should not be discernable above the general 'hub bub' of the event. The noise levels set within those conditions were higher than of the standard applied by Winchester City Council.

He recognised that whilst reducing the 'master' volume after 2300 was likely to reduce noise levels, that was not always readily achieved, especially with regard to bass noise. The type of music and the prevailing metrological conditions would also have an impact and he advised that each individual's sensitivity to noise was also likely to be different. He concluded that, as there were practical difficulties in defining inaudibility, the Council's noise standard was required to be reasonably objective.

Mr Phipps (on behalf of the Licence Holders) addressed the Sub-Committee in response to the representation from interested parties. Mr Phipps reminded the Sub-Committee that the previous application for a review of the licence (as heard on 30 April 2010) had concluded that it was not necessary to revise conditions related to noise. Therefore, there could not be any reinstatement of post 2300 conditions as they had never existed within the licence. Furthermore, as there had not been an event utilising the licence during the intervening period, he was concerned that the interested parties were raising similar matters to those previously discussed and dismissed at the 2010 hearing.

Mr Phipps also questioned whether the concerns raised by the interested parties were representative of all householders in the area. He also pointed out that the extent of the noise protection requested by the interested parties was likely to result in the licence being inoperable. There should be a degree of 'reasonableness' in the imposition of conditions. He suggested that reference to the 'duty of regard' to the 'purposes' of the SDNPA must be in the context of prevention of the public nuisance objective.

Mr Trenchard (on behalf of the applicant for the review, Hampshire Constabulary) referred to negotiations with the licence holder to revise conditions to address its concerns related to its application to review PREM

500. He reminded the Sub-Committee that its concerns had not related to the public nuisance objective.

Mrs Tetstall referred to negotiations between the Police and the licence holder to revise the conditions related to PREM 500. Those conditions should be further revised as set out (underlined) on pages 10 -15 of the Report. That would ensure that the Licensing Authority retained its full decision making powers, as opposed to them being delegated in part to the Police when dealing with the matters contained within the amended conditions.

Mrs Tetstall also reminded the Sub-Committee that the Council's current policy with regard to post 2300 noise was 5db below the current national standard and also that inaudibility could not be guaranteed in all circumstances. She also referred to the guidance issued as part of the Licensing Act 2003, with regard to preventing public nuisance, which explained that conditions should be avoided that deterred events being held.

The Sub-Committee retired in deliberate in camera.

In reaching its decision the Sub-Committee carefully considered the Application and the representations made by Police, the Interested Parties, the Responsible Authorities and the Licence Holders. 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 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 and that the conditions relating to Crime and Disorder, Public Safety and the Protection of Children from harm as attached to Licence PREM 500 be amended as set out in pages 10 – 15 of Report LR364, including the underlined wording.

The Sub-Committee also agreed that in response to representations received from Interested Parties, no changes be made to conditions relating to the Public Nuisance objective.

RESOLVED:

1. That the conditions relating to Crime and Disorder, Public Safety and the Protection of Children from harm attached to Licence PREM 500 be amended as set out in pages 10 – 15 of Report LR364 (and set out below), to include the underlined wording.

REASON

To promote the Licensing objectives relating to Crime and Disorder, Public Safety, and the Protection of Children from Harm and to retain the function of the Licensing Authority to make licensing decisions.

2. That in response to representations received from Interested Parties, no changes be made to conditions relating to the Public Nuisance objective.

REASON

The Licensing Sub Committee endeavoured to balance the need to protect the public from public nuisance with a need to avoid unnecessary or disproportionate measures that could deter the holding of events that are valuable to the community, such as live music (as set out in guidance issued under the Licensing Act 2003).

PREM 500 – AMENDED ADDITIONAL CONDITIONS

The following additional conditions be agreed, to include the amendments shown as underlined (e.g. the Licensing Authority)

Agreed Conditions

A.5 No event shall be open to the public for more than four days *unless agreed with the Licensing Authority after consulting with the Police*. Events shall be treated as a continuous event unless there is at least 24 hours between them.

Amend A.5 with above new wording

A.6 *The Premises Licence Holder shall produce and submit to the Licensing Authority an initial Event Management Plan at least 120 days prior to the commencement of the event. The initial Event Management Plan must include:*

- a) *Site plan showing site boundaries, entrances and exits and an outline of proposed licensable activities*
- b) *Event profile including type of event, proposed attendance figure, audience profile, proposed operating and opening times, ticketing policy*
- c) *Traffic Management Plan*
- d) *Security and Stewarding Schedules outlining the number of SIA and non-SIA staff and locations*
- e) *Management structure*
- f) *Crime and disorder prevention plan including proposed CCTV coverage*
- g) *Noise Management Plan*
- h) *Any expectation for Special Police Services that the event organiser may later request*
- i) *Major Incident Plan*

This condition may not preclude Winchester City Council Safety Advisory Group and Hampshire Constabulary from considering an initial Event Management Plan submitted less than 120 days prior to an event, but the 120 day timescale may only be waived with express written consent from both.

The final event management plan shall be supplied to the Licensing Authority and members of the Safety Advisory Group no later than 28 days prior to each event. No licensable activities for the public shall take place unless the Event Management Plan is agreed by the Licensing Authority after consulting with the Safety Advisory Group.

Delete A.6 and substitute with above new wording

A.9 The Premises Licence Holder shall prepare a Traffic Management Plan (TMP) which shall be updated as necessary and shall be inserted into the (final) Event Management Plan at least 28 days prior to each event.

Delete A.9 from licence – contained in A.6

CD.2 The Premises licence holder/Event organiser shall submit details of any CCTV system that is proposed, as part of the initial Event Management Plan (EMP), no later than 120 days prior to any event. Full details of the proposed system should include any contractor, agreed positions, installation, operation, playback facilities and retention of data. The recordings shall be retained for a minimum of 30 days. No licensable activity shall take place until the CCTV system is agreed to the satisfaction of the Licensing Authority (after consultation with the Police) in writing, no later than 28 days prior to the event. Any CCTV images must be provided to Police or Local Authority Officers on demand and must be capable of being viewed on any Windows based computer without the need for additional software.

Delete CD.2 and substitute with above new wording

CD.4 All security, stewards, traffic marshals and fire wardens shall wear high visibility tabards which shall each be uniquely numbered and shall be marked with the appropriate job title. *All SIA Registered staff shall wear a different coloured tabard to clearly identify them from other stewards and staff.* Supervisors and Team Leaders shall be identifiable by their tabards. The tabards shall be marked front and rear. Examples of the tabards shall be submitted to the Licensing Authority 28 days prior to each event.

Amend CD.4 to include new wording

CD.8 If applicable *as deemed by the Licensing Authority* a secure perimeter fence shall be erected and patrolled by security to ensure that unauthorised access cannot be gained.

Amend CD.8 to include new wording

CD.10 If applicable, *as deemed by the Licensing Authority* the campsites, (car park, and event arena) shall be patrolled by security and stewards and there shall be watch towers with CCTV cameras monitored throughout the event.

Amend CD.10 to include new wording

CD.12 If applicable *as deemed by the Licensing Authority* the event organiser shall prepare a drugs policy for the event which shall be based on three core messages:

- a) Prevention
- b) Drug dealers and users
- c) Welfare and treatment

This Policy must be submitted as part of the Event Management Plan and agreed by the Licensing Authority at least 28 days before any event.

Amend CD.12 to include new wording

CD.13 If applicable *as deemed by the Licensing Authority* random searching shall take place at all entrances to the campsites and the arena entrance for offensive weapons or drugs along with other items that are not allowed onsite. The seizure of any property shall be recorded and shall then be passed on to Hampshire Constabulary via security for evidential purposes where appropriate. Searching of persons shall be carried out by members of the same gender. The ticket conditions shall indicate that searching will be carried out and there shall be signage with this message[-] at all entrances.

Amend CD.13 to include new wording

CD.15 *All reasonable steps shall be taken to ensure that no glasses or bottles are allowed inside the event site. This would prevent the possibility of them being used as weapons. Bottle banks shall be located at the event site entrances to facilitate this rule. These must be sited away from residential properties / campers to prevent noise nuisance and plastic containers shall be available for decanting facilities. There may be certain event types where bottles are allowed onto the event site, but this is only where agreed in writing by the Licensing Authority.*

Delete CD.15 and substitute with above new wording

CD.16 If applicable *as deemed by the Licensing Authority* there shall be mobile vehicle units to patrol any volatile areas and to react quickly to reports of incidents. Covert intelligence gathering staff shall be provided to pinpoint groups of potential troublemakers.

Amend CD.16 to include new wording

PS.1 *The Licence Holder shall notify the Licensing Authority, Police and Safety Advisory Group of a future event at least 120 days before each event.*

Delete PS.1 and substitute with above new wording

PS.2 *At least 3 months before an event, the Licence Holder/Event organiser must seek to arrange and attend a meeting with the Licensing Authority and other appropriate bodies including the Safety Advisory Group and Police, to discuss the measures that will be put into place to uphold the licensing objectives.*

Delete PS.2 and substitute with above new wording

PS.3 *The Event Management Plan and associated documentation and any amended versions, must be clearly labelled indicating version number and date of publication, and sent to the Licensing Authority, Safety Advisory Group and Police.*

Delete PS.3 and substitute with above new wording

PS.5 The Licence holder will ensure that the final site plan(s) is submitted as *part of the final event management plan*, to the satisfaction of the Licensing Authority, at least 28 days prior to the start of each event clearly indicating the position of the following;

- a) The site boundaries and entrances and exits to the site (including those for emergency services) which must be clearly labelled;
- b) All road and track ways (including emergency routes), car parks and other vehicles compounds;
- c) The location of all structures either constructed or brought onto site (refer also to condition);
- d) The location of the campsite(s), if appropriate;
- e) The location of toilet, shower (if appropriate) and washing facilities
- f) Drinking water points and associated pipework including sampling points and soak ways
- g) The location of all lighting facilities including those for the event arena, associated walkways and vehicles routes and emergency routes

- h) Welfare tent and medical services
- i) Generators and other principle electrical connections
- j) Fuel stores (refer to condition PS.25)
- k) Fairground rides
- l) Fire fighting equipment and other associated fire fighting provision (refer to condition PS.53)

Amend PS.5 to include new wording

PCH.2 Bar staff shall ask for proof of age ID whenever the customer appears to be under 21.

Amend PCH.2 to change the age limit

PS.66 Communications:

An effective communications system shall be put in place with an identified single point of contact on site to the satisfaction of the Licensing Authority and Police to enable effective communication between the Licence holder, event organiser, event safety organiser, Licensing Authority, Emergency services and any other appropriate persons to ensure an effective and coordinated response in the event of an emergency. Details of the communication system are to be provided to the safety advisory group, police and licensing authority at least 28 days before the event.

Delete PS.66 and substitute new wording

Insert the new conditions below to the licence

CRIME AND DISORDER

1. *Male and Female SIA staff to be present on all ticketed entrances and exits throughout any event as deemed necessary by the Licensing Authority.*
2. *There will be no 'legal highs' (these are defined as any herbal or chemical based substance which when consumed create an altered state of mind and various states of euphoria, elation, rapture, exhilaration or despair, anguish, despondency, gloom or similar altered mind states associated with known controlled drugs or pseudo drugs but not Alcohol, tea, caffeine based products, tobacco or any prescription medicine,) allowed on site, these to include any gas canisters used for that purpose. (Reinforces PS 92 of original licence.)*
3. *All sales of alcohol and any other drinks to be provided in polycarbonate or similar non-glass drinking vessels and all glass bottled drinks to be decanted at point of sale.*

- 4. 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 to be provided to the police within 28 days of the commencement of the event.*

PUBLIC SAFETY

- 1. A major incident plan must be prepared as part of the event management plan for each event and briefed to Security staff and Stewards.*

THE PROTECTION OF CHILDREN FROM HARM

- 1. Adequate signage shall be displayed in relation to underage sales of alcohol and the "Challenge 21 " scheme in all locations relevant to the sale of alcohol.*
- 2. Any site / event staff having responsibility for the welfare of children on site must be CRB checked and the EMP should include a plan to deal with all such lost/found children.*

The meeting commenced at 9.30am and adjourned for a break between 11am and 11.15am and concluded at 12.45pm.

Chairman