



Meeting	Licensing Sub-Committee
Date and Time	Wednesday, 10th April, 2024 at 10.00 am.
Venue	Walton Suite, Guildhall, Winchester and streamed live on YouTube at www.youtube.com/winchestercc

SUPPLEMENTARY AGENDA 5

Agenda Item.

3. Application for New Premises Licence - Brockwood Festival, Sheep Dip, Hinton Ampner, Alresford, Hampshire, SO24 0LF (LR585) (Pages 3 - 20)

(LR585 Appendix 5G (Updated skeleton on behalf of the Krishnamurti Foundation Trust))

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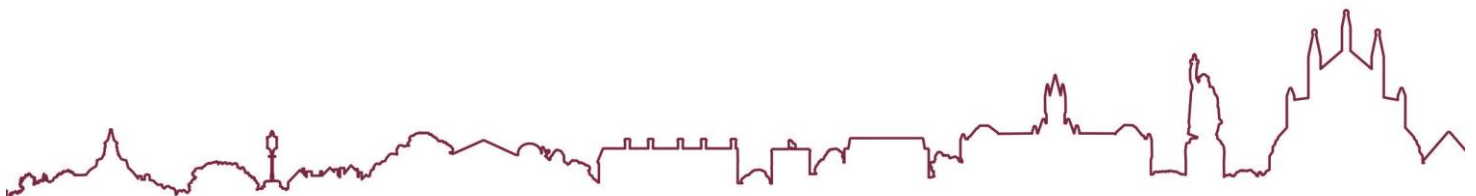
Laura Taylor
Chief Executive

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09 April 2024

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IN THE MATTER OF:

APPLICATION TO WINCHESTER CITY COUNCIL

MADE BY BROCKWOOD ENTERTAINMENT LTD FOR A NEW PREMISES LICENCE FOR PREMISES AT
BROCKWOOD FESTIVAL, SHEEP DIP, JOANS ACRE LANE, HINTON AMPNER, ALRESFORD, HAMPSHIRE,
SO24 0LQ

SUBMISSIONS ON BEHALF OF KRISHNAMURTI FOUNDATION TRUST LIMITED

1. Background

The LSC is referred to the witness statements of Gary Primrose (a trustee of the Krishnamurti Foundation- "The Trust"); Andrew Bamber (a regulatory consultant); and the acoustic report provided by Sustainable Acoustics and Tom Power. The case for the trust is straightforward. It is a registered Trust which was set up in 1969, it is located in the parkland of Brockwood, and it operates the following areas under the Trust: Brockwood Park School (a primary day school) and Inwoods Small School (primary day school), Krishnamurti Centre (retreat centre) and

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Foundation. The Trust is run and staffed by around 25 people who live on site (residential staff) and form part of the community.

2. The school started in 1969 and is the first of four areas of activity occurring at Brockwood that the Trust is now responsible for, and the school remains the only one of its kind in Europe. The Trust's approach to education ensures that students have regular contact with nature, spending time working in gardens and on the grounds and in quiet reflection in peaceful surroundings. Teenagers are bombarded by the noise of modern life and the school endeavours to moderate that and keep it at arm's length.
3. In 1987, the Trust completed construction of the Krishnamurti Centre on the grounds of Brockwood. It is a purpose-built international retreat and study centre with 20 ensuite guest rooms. The Centre appeared in King Charles' book 'A Vision for Britain', which championed traditional approaches to design and building. The Centre receives a constant stream of guests who can stay for up to two weeks, and who are there to retreat and study the work of the philosopher, educator, Jiddu Krishnamurti, in a tranquil and conducive setting. When not studying, guests often go for quiet walks on the estate or on some of the many public footpaths in the area. The Centre is also the only one of its kind in Europe and is open seven days a week, throughout the year, except for January.

4. The application site for a new premises licence in respect of the premises at Brockwood Festival, Sheep Dip, Joans Acre Lane, Hinton Ampner, Alresford, Hampshire, SO24 0LF (“the Premises”) is on the land next to the driveway of the Trust’s site and in front of one of their member of staff’s accommodation at the main gate. Organisers have already begun to sell tickets despite the licence not having yet been granted. This was done within the consultation period.
5. There have been two similar events run at this site.
6. For the avoidance of doubt, the Trust makes it clear that its representation is made upon the crime and disorder and public nuisance licensing objectives, together with the public safety licensing objective and paragraph 1.5 of WCC’s SLP.
7. In 2021, the event was described as a ‘private party’. However, around 500 people attended. The music was very loud before 11pm, and after 11pm the event moved closer to the school and the volume, especially of bass frequencies, became significantly louder. The walls of The Lodge (staff accommodation) were vibrating with the music, and the windows of the school buildings rattled. This continued until 3am.
8. In 2022, the event was held over two days (9th and 10th July) and it is understood that a premises licence was granted. It caused significant trouble. Around 600 people attended. There was excessive noise before and after 11pm, trespassing onto the school site, littering, and traffic issues.

9. Whilst the school would be closed in July, the operation of the Krishnamurti Centre will be severely impacted should the festival go ahead. The purpose of the Centre as a place for quiet contemplative study is made impossible by the arrival of a music festival at the Centre's backdoor.

10. The charity was founded in quiet countryside which is now part of the South Downs National Park. Being in nature and quiet surroundings is one of the main factors contributing to meeting the charity's objectives in the different areas of its operation. The event would also cause significant disturbance to the residential staff.

11. Running a retreat centre next to this event would be impossible. If the licence is granted, then Trust has two options: the first is to continue with the operation of its retreat (with all of the concomitant disruption and fall out); the second is to close the retreat altogether during the period of the licence sought. Both courses would result in significant reputational damage as well as cost to the Foundation.

12. It should be remembered that the disruption will continue for 4 days and will include the setting up and taking down of the stages and associated equipment; noise escape (including sound checks); vehicular traffic to and from the site; trespass and criminal damage to the Trust's property by patrons of the festival; together with the littering of this unique location. There are concerns about vandalism to cars in the car park; and the risk of trees being carved; and there has been public urination.

13. The Trust is concerned about the impact on crime and disorder that the event will have in the locality. When large crowds gather in close proximity and in an alcohol fuelled environment, crime and disorder are more likely to occur. When the event last ran, the Trust encountered very real trouble with trespass on its land. The festival has been advertised on their website as 'inhibition free' or as a 'legendary party', and the objectors are concerned that some people take this as permission to abuse drugs and alcohol. They had experience of this last time and have yet to receive concrete plans or any reassurance to show how this will not be repeated.

14. Paragraph **2.24** of the Statement of Licensing Policy states that:

“where applications are submitted for new premises seeking to open between 23.00 and 08.00, applicants will be expected to either demonstrate that the hours of operation will have no adverse effect on the achievement of the licensing objectives, or set out the steps which they propose to take to secure these objectives.”

15. The application does not set out enough detail to demonstrate that sufficient measures are indeed in place. It is understood that the applicant wishes to permit camping in the vicinity and therefore even when the event ends, large numbers of people will still be present and will continue to cause noise interference to residents as in previous years. There is a concern that large crowds of people leaving the venue will cause noise disturbance and create potential crime and disorder as well as concern for the state the neighbourhood will be left in and the potential littering.

16. It should also be remembered that the festival proposes an attendance of 2,000 for this year (over 3 times the size of 2022). In 2025 the number of 3,000 is proposed (a five-fold increase),

but at a recent public meeting the organisers have proposed the number of 5,000 (an increase of over 8 times the size of 2022). It goes without saying that an increase in the numbers proposed will bring with it an increase in the disruption and nuisance already experienced.

17. This objection is not speculative but is based upon the recent history of the impact of this Festival.

18. The applicant has engaged in some consultation with local residents but that has failed to resolve the issue. A significant number of representations have been submitted.

19. If the event is allowed to go ahead, it would be operating 100m from Tom and Kate Power's living room window. They live on property owned by the Trust who are their employers. Brockwood Park School and The Krishnamurti Foundation are located only 260m-350m from the main stages.

20. The position of the objectors is that this is not the correct place to run this type of event and the applicant, and organisers do not have the ability to promote the licensing objectives. The noise management plan which has been prepared by the applicant fails to adequately promote the licensing objective of preventing public nuisance.

21. The Noise Management Plan

This has been prepared by F1 Acoustics. It is a matter of some irony that F1 have been involved in the Boomtown Festival which, despite being sited over 9km away, can distinctly be heard by employees of the Trust and its residents. The report is lamentably lacking in important detail.

An acoustic report has been prepared in response by Sustainable Acoustics ("SA"). A summary of the failings of the applicant's noise management plan are contained at p.1 of the report:

- No noise impact upon wildlife has been undertaken, despite endangered bat species being present in the area
- No regard for protecting the enjoyment of the relative tranquillity of the area, which is medium to high according to SDNP, and confirmed by us to be a very quiet area, has been undertaken
- The technical robustness of the report is poor, not providing much of the information that would be expected, including background measurements, instrumentation, weather conditions of survey work etc. It read more like a desktop noise management statement, than an acoustic impact assessment.
- Cumulative impacts of noise from 'Boomtown' and the regularly occurring Motocross nearby have not been considered.

22. The report concludes:

"The application fails to meet the expectations of local and national licensing regulation and policy allowing the special characteristics of the national park to be harmed for those using the nearest noise sensitive receptors."

23. The professional view of SA is that in order to comply with WCC's SLP the following music noise levels ("MNL") would have to be achieved:

- Daytime (07:00 – 23:00) LAeq,15mins 46dB(A)
- Nighttime (23:00 – 02:00) LAeq,15mins 28dB(A).

24. The SA report has this to say about F1's predicted noise levels:

"F1 has suggested a MNL of 60dB(A) daytime and 45dB(A) nighttime. In some recognition of the rural nature of the area, for music continuing they propose would continue up to 02:00 for two consecutive nights. It is understood that two stages are proposed to operate at levels of 95dB(A) at 10m from the mainstage, with 102dB at 63Hz. This would be 14dB above the daytime targets proposed in Table 2 and 17dB above at night in overall and 26dB at 63Hz, and would be expected to result in a significant adverse impact that could seriously impact on the ordinary daytime use of the land as a retreat and on the guest and boarding school dormitories (which will still be in use). The objective of CPEPC is music being inaudible inside at night – this would be not achieved due to the low noise levels in the area (which local policy C2 identifies as a reason for more strict conditions)."

25. The SA report also criticises F1 Acoustic's over reliance on the guidelines contained in The Code of Practice on Environmental Noise Control at Concerts ("CPENCC"). The SA report has this to say:

"In light the age of this guidance, which was 1995 and the current efforts from both the Institute of Acoustics and the Association of Noise Consultants to update this guidance to the modern concert practices and community response, the commonly referred Pop code has become a starting point reference that needs to be complemented with up-to-date standards, guidance and field experience to adequately conform to current legislation and policy, and in this particular case to the extra protection required within a National Park. Its sole use is not considered to be appropriate for this situation in the professional opinion of the author. It has been considered as F1 Acoustics' assessment relies heavily on it."

26. SA point to a number of fundamental omissions and failings in the F1 report and then make a number of conclusions including:

*“At proposed levels we conclude that there is **a serious risk of the event causing material interference to ordinary use of the land as a retreat and to house overnight accommodation for staff and guests, which could provide sufficient evidence that it would constitute a nuisance in advance of it taking place. There is evidence that is a complaints history from the previous time the event was held.***

27. It should also be noted that the noise levels noted above are only in respect of **music**. No operator, indeed, no condition, can ever seek to suppress the collective noise of 2,000 plus young people enjoying their leisure hours very late at night. The music may be scheduled to end at 2am, but late-night refreshment will continue until 4am and campers and their associated noise and parties will remain on site. No condition can regulate the intrusive shouts and sounds that these people will generate.

Commented [TP1]: Not sure where this has come from?
There is clearly a likelihood that revellers will continue to play music, drink alcohol etc. after the music ends at the stages but I don't know of formal plans to serve late-night refreshment until 4.

28. The SDNP and Paragraph 1.5 WCC's SLP

The Premises falls within the South Downs National Park (“SDNP”) as does the Trust’s premises. The Statement of Licensing Policy adopted in February 2024, states that the SDNPA has the following purposes: -

Purpose 1 - ‘To conserve and enhance the natural beauty, wildlife and cultural heritage of the area’.

Purpose 2 - ‘To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public’.

The SDNPA also has a duty *'To seek to foster the social and economic well-being of the local communities within the National Park in pursuit of our purposes'*.

Where there is a conflict between the purposes and/or duty then Purpose 1 must have priority.

29. It is the Trust's view that **paragraph 1.5** of the SLP imposes on the applicant an obligation to promote a "fifth" Licensing Objective and one which clearly the Licensing Authority must have regard to when determining the application. This is a matter which the applicant has singularly failed to address.

30. **Paragraph 1.7** of the Licensing Policy obligates the licensing authority, stating that it will seek to further the SDNP purposes when considering applications to ensure they are respected, as set out in section 11A (2) of the *National Parks and Access to the Countryside Act 1949 (as amended by Section 245 of the Levelling-Up and Regeneration Act 2023)*. It is important to stress that this legislation came into force on 26 December 2023 and thus post-dates the grant of the previous premises licence.

31. **Paragraph 1.6** of the SLP says this:

"Applicants are encouraged to make contact with the SDNPA at the earliest opportunity where their premises are within the SDNP area and to consider any guidance issued by the SDNPA to further promote the licensing objectives."

32. The Trust has seen no evidence that there has been any such engagement with the SDNPA and puts the applicant to strict proof that he did so.

33. The applicant may say that the SNDPA has not made a representation. This does not mean that the LSC cannot have regard to paragraph 1.5. Nor does it mean that the applicant is relieved of the burden of satisfying the LSC that this application will not fall foul of the paragraph.

34. The Trust is very concerned about the disruption this festival event will have on the surrounding wildlife. Parkland areas often host diverse wildlife and large events can disrupt their habitats, causing stress and potentially leading to long-term negative impacts on local ecosystems. The location in which the applicant is proposing to host this event is no exception. For example, the applicant has not considered the negative impact this festival could have on Barbastelle Bats. There are very few breeding sites, but the objectors believe there is one at Hinton Ampner. They have also been known to feed in The Grove, an old arboretum on their property which lies directly adjacent to the proposed festival site. ***Females give birth to one or two pups in July.*** The proposed festival in the summer would clearly negatively impact this nationally scarce species.

35. In respect of the festival having an impact on wildlife and, in particular, these rare Barbastelle Bats, such bats are protected by the ***Wildlife and Countryside Act 1981*** and ***the Conservation of Habitats and Species Regulations 2017 (as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019)***. It is an offence pursuant to Section 9 of the ***Wildlife and Countryside Act 1981 and Regulation 43 of the Regulations*** to disturb the animal's roosting sites. The question arises as to whether the relevant surveys to establish if Barbastelle, or other bats, are resident on the festival site and if so whether steps have been taken to mitigate any effect on the animals. The Trust has been provided with no evidence that any Environmental Impact Assessments have been undertaken. The Trust reserves the

right to bring the presence of the bats to the attention of Natural England and the Department for Environment, Food and Rural Affairs.

36. There is also the concern, as detailed above, about vandalism (the carving of trees, damage to cars in the carpark, urinating in public areas due to limited facilities and littering).

37. There is a footpath that crosses the land to be used by the festival. The footpath will be effectively barriered off and the footpath closed during the period of the event. It is impossible for the applicant to argue that this action "*promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public*". This nuisance to ramblers using the footpath in the week that the festival is set up, operates, and then dismantles has not been addressed in the licensing objectives or the Traffic Management Plan.

38. Public Safety

There are concerns about the impact the festival will have on public safety in terms of the traffic conditions and safe use of the A272. The addition of so many vehicles on the public road, will make it impossible for the residents in the vicinity to access local amenities.

39. Additionally, the Traffic Management Plan submitted by the applicant relies on the use of Brockwood Park School's drive, which exits onto Brockwood Road, for Campervans and Emergency Vehicles during the festival. No agreement for such use exists and use and access will be denied.

40. **Paragraph 2.24** of the Statement of Licensing Policy states that:

“where applications are submitted for new premises seeking to open between 23.00 and 08.00, applicants will be expected to either demonstrate that the hours of operation will have no adverse effect on the achievement of the licensing objectives, or set out the steps which they propose to take to secure these objectives.”

41. The application does not set out sufficient detail to demonstrate that sufficient measures are in place. It is understood that the idea is to permit camping in the vicinity and therefore even when the event ends, large numbers of people will still be present and will continue to cause noise interference to residents as in previous years. There is a concern that large crowds of people leaving the venue will cause noise disturbance and create potential crime and disorder as well as concern for the state the neighbourhood will be left in and the potential littering.

42. **Paragraph 3.21** of the SLP states:

*“As recommended in the statutory Guidance, applicants for new premises licences (or major variations to premises licences) should undertake a thorough **risk assessment** with regard to the licensing objectives, which should then be used to prepare the required operating schedule”.*

43. No such risk assessment has been forthcoming.

44. No detailed operating schedule has been provided. Reference is made to a number of policies that have not been provided by the applicant in support of this application. The LSC will have no opportunity to scrutinise their thoroughness or efficacy. The applicant has chosen instead

to delegate the scrutiny of these policies to the Safety Advisory Group ("SAG"). It should be for the Licensing Sub-Committee to determine whether the policies are relevant to the application and that they are fit for purpose and aligned to deliver on the 4 licensing objectives as highlighted in Part 4 of the council's policy, not the SAG.

45. The absence of a thorough risk assessment in respect of the 4 Licensing Objectives, the lack of detail in the list of respective policies, and absence of the event management plan will hinder the Licensing Sub-Committee when they are determining:

'The balance between obtaining all the benefits provided by licensed premises and events and ensuring that their less welcome impact is properly controlled and balanced against other community interests and to assess the direct impact of activities taking place at licensed premises on members of the public who are living, working or engaged in normal activity in the vicinity of the premises/place concerned.'

46. Restrictive Covenants

Whilst not strictly within the remit of the LSC, the Trust brings the question of breach of covenant to the attention of the LSC in order that the committee can fully comprehend the lack of planning and foresight that the applicant has demonstrated. Any such event held on this land will be a breach of covenant. The covenant is expressed in these terms:

...not to use (the land....)"the same or any part or parts thereof other than for purposes in connection with the practice of farming forestry sporting or any other agricultural or rural occupation and provided that no buildings shall be erected thereon of whatsoever nature".

47. From viewing the plan of the festival site at page 8 of the Traffic Management Plan, it is clear that the area which is caught by the covenant includes a large proportion of the proposed festival site including the following proposed areas (as marked on the Traffic Management Plan):

- The main entrance,
- The entire area proposed for camping and glamping.
- The 'back of house area' and
- The DJ stage and neighbouring bar.

48. The woodland proposed to house the main stage known as Godwin's Copse, is subject to a similar covenant. It states that the woodland may not be used for purposes otherwise than for: *"the growing of timber or other forest products in accordance with the rules or practice of good forestry or for purposes connected therewith"*.

49. The use of the woodland for a main stage of a festival is not consistent with the rules or practice of good forestry. The Trust reserves the right to bring the proposed use of Godwin's Copse to the attention of the Forestry Commission.

50. Mr Matthew George Everley Morton was sent a letter to Brockwood Farm House and to the Premises address by special delivery and first-class post on 26 March 2024, setting out the position with respect to the conveyances and restrictive covenants.

51. Either the applicant is unaware of these restrictive covenants, or he is wilfully ignoring them.

If the applicant is wilfully ignoring the covenants, then this is a matter of concern and demonstrates the fast and loose approach that has been adopted with previous events (as well as this one). The Trust would reserve its rights to any necessary further action which may include seeking injunctive relief to prevent the festival from going ahead on the land subject to the covenants.

52. Conclusion

Licensing involves an evaluative judgment as to what is to be regarded as reasonably acceptable in a particular location (see *Hope and Glory CA [42]* in which the interests of the wider community are paramount (see **s.182 DCMS Guidance paragraphs 1.5, 9.38 and 11.26**). This is an application which has been ill thought out and ill prepared. The grant of this licence will unquestionably cause harm and offend the licensing objectives. No conditions can guard against the inevitable impact of the grant of this licence in this location. The applicant is prepared to prioritise his commercial interests over compliance with licensing objectives and restrictive covenants, whilst clearly having a disregard for the special status of the park.

53. Addendum to Skeleton Argument

In response to the letter dated 26 March 2024, Matthew Morton on behalf of M and R Morton Ltd, emailed the Trust at 3.57pm on 8th April 2024 to advise that the festival will not be using the land covered by the restrictive covenant in favour of the Trust's land. Mr Morton enclosed a revised site plan "Rev B." There are a number of observations to make in response to this:

- The revised site plan is dated 7th February 2024. This suggests that the applicant was aware for some time of the restrictive covenant in favour of the Trust and yet determined to proceed with the original site plan in full knowledge of this fact.

- The revised plan is a significant departure from the site plan submitted with the application and has clearly not been the subject of full scrutiny, including that of the responsible authorities.
- There is no lawful basis for the applicant to substitute the site plan at this stage in the application process.
- The revised site plan does not comply with the Premises Licence Regulations in that no detail is included within it to identify the extent of the licensed area and/or where licensable activities will take place. It is therefore impossible for the Trust to comment on this in any meaningful way.
- However, what is clear is that the revised plan now references a third stage for musical entertainment and which is more likely due to its orientation to impact on the Trust. It is astonishing that the applicant, in light of the extent and nature of representations made, believes that the inclusion of a third stage will be a positive step in promoting the Prevention of Public Nuisance licensing objective and the Primary Purpose of the Park.
- The inclusion of the third stage further undermines the inadequacy of the Noise Management Plan submitted by the applicant
- The applicant continues to ignore the restrictive covenant made in favour of the Forestry Commission or provide any evidence that the Forestry Commission has consented to such use. The Licensing Sub Committee will be aware that the Forestry Commission as a non-ministerial Government Department, is itself bound by the same statutory duty to promote the primary purpose of the Park.

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9th April 2024