



Meeting	Licensing & Regulation Committee
Date and Time	Thursday, 19th September, 2019 at 6.30 pm.
Venue	Walton Suite, Guildhall, Winchester

## AGENDA

- 1. Apologies and Deputy Members**  
To record the names of apologies given and Deputy Members who are attending the meeting.
- 2. Disclosures of Interests**  
To receive any disclosure of interests from Members and Officers in matters to be discussed.

*Note: Councillors are reminded of their obligations to declare disclosable pecuniary interests, personal and/or prejudicial interests in accordance with legislation and the Council's Code of Conduct.*

If you require advice, please contact the appropriate Democratic Services Officer, prior to the meeting.

- 3. Minutes** (Pages 5 - 8)  
Minutes of the previous meeting held on 6 June 2019.
- 4. Public Participation**  
To receive and note questions asked and statements made from members of the public on issues relating to the responsibility of this Committee.
- 5. Review of Hackney Carriage and Private Hire Licensing Policy - Phase 1 - Tip Top Taxi Consultation** (Pages 9 - 16)  
(Report Reference LR527)
- 6. Review of Private Hire Operator Licence Conditions** (Pages 17 - 26)  
(Report Reference: LR526)



7. **Minutes of the Licensing Sub Committee held on 6 June 2019** (Pages 27 - 32)
8. **Minutes of the Licensing Sub Committee held on 10 June 2019** (Pages 33 - 38)
9. **Minutes of the Licensing Sub Committee held on 30 July 2019** (Pages 39 - 62)
10. **Minutes of the Licensing Sub Committee, 21st August, 2019** (Pages 63 - 68)

**Lisa Kirkman**  
**Strategic Director: Resources and Monitoring Officer**

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11 September 2019

Agenda Contact: Matthew Watson, Democratic Services Officer  
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*\*With the exception of exempt items, Agenda, reports and previous minutes are available on the Council's Website [www.winchester.gov.uk](http://www.winchester.gov.uk)*

**MEMBERSHIP:**

Councillors

**Chairperson:** Bentote (Liberal Democrats)  
**Vice Chairperson:** Green (Liberal Democrats)

**Conservatives**

Clementson  
 Cook  
 Gemmell  
 Mather

**Liberal Democrats**

Achwal  
 Fern  
 Gordon-Smith  
 Laming  
 Williams

**Deputy Members**

McLean and Read

Clear and Power

Quorum = 4 members

### **PUBLIC PARTICIPATION**

A public question and comment session on the general procedure of the Committee is available at the start of the meeting for a 15 minute period. There are a few limitations on the questions you can ask. These mainly relate to current applications, personal cases and confidential matters. Please contact the Democratic Services Officer in advance for further details. If there are no members of the public present at the start of the meeting who wish to ask questions or make statements, then the meeting will commence.

### **FILMING AND BROADCAST NOTIFICATION**

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# Public Document Pack Agenda Item 3

## LICENSING & REGULATION COMMITTEE

6 June 2019

Attendance:

Councillors

Bentote (Chair)

Achwal

Clementson

Gemmell

Gordon-Smith

Green

Laming

Mather

Williams

Apologies for Absence:

Councillors Cook and Fern

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### 1. APPOINTMENT OF VICE CHAIRMAN FOR THE 2019/20 MUNICIPAL YEAR

RESOLVED:

That Councillor Green be appointed as Vice-Chairman of the Committee for the 2019/20 Municipal Year.

### 2. TO NOTE THE TIME OF FUTURE MEETINGS OF THE COMMITTEE

RESOLVED:

That the meetings of the Committee commence at 6.30pm in accordance with the published timetable of meetings for 2019/20, as set out on the agenda.

### 3. MINUTES

In response to questions, the Licensing Manager updated the meeting on the case of Mr Ferham Khan and the driver and vehicle that had been licensed by the City of Wolverhampton Council. It was noted that both Wessex cars (and Wintax) had not renewed their operation with Wolverhampton following the conviction of Mr Khan.

RESOLVED:

That the minutes of the previous meeting of the Committee, held on 21 February 2019, be approved and adopted.

4. **PUBLIC PARTICIPATION**

There were no questions asked or statements made.

5. **REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY - PHASE ONE TIP TOP TAXIS (REPORT LR520 REFERS)**

The Committee considered the Report which reviewed the Statement of Licensing Policy with respect to Hackney and Private Hire Drivers, Vehicles and Operators.

In response to Member's questions, the Licensing Manager and the Senior Licensing Officer who was the lead for the Tip Top Taxi project made comment and clarified the following:

The majority of Hackney Carriage Drivers had undertaken safeguarding training, which was classroom based and wide ranging in its content including, for example, raising awareness of human trafficking. The possible future use of closed circuit television (CCTV) in cars remained under consideration.

In Section 1 – 1.1 the information to provide guidance on the licensing requirements in the Winchester City Council district were available to view on the Council's website, or were signposted to be available elsewhere on-line. If it was required, paper copies could be provided. Information was not provided in a range of languages, and a good understanding of English was expected for drivers to communicate with clients.

Section 5.4 – the "M1" specification referred to the classification within the DVLA V5 registration document. A Member suggested that Section 5.4 of the policy would also benefit from a sentence break being included.

Section 7.10 – A Member suggested that the wording of this section required further clarification in respect of the granting of a licence for one or five years.

Section 8.2 – the references to the European Union etc. would be reviewed following Brexit.

Section 11.3 – it was clarified that it was not automatic that penalty points were applied if a case was brought before the Licensing Sub Committee.

Penalty Points Table – Point 20 – it was not deemed necessary to carry a fire extinguisher and this approach had been confirmed following discussion with the Hampshire Fire and Rescue Service. A warning triangle (as deemed compulsory in some foreign countries) was also not required as it was not in any advice or in the Highway Code.

On a general point it was requested that the Licensing Manager consider the layout of the Policy document, perhaps changing the font of the headings to add clarity to the document and to highlight the distinction between Hackney and Private Hire where relevant.

It was also suggested that the Working Party might consider renaming the Tip Top taxi project, with the title of the Taxi Service Improvement Project put forward as a suggestion.

RESOLVED:

1. That the amended version of the Statement of Licensing Policy with respect to Hackney and Private Hire Drivers, Vehicles and Private Hire Operators be approved for consultation with the hackney carriage and private hire trade.
2. That if no comments are received following consultation, the Policy is referred for consideration of adoption by Cabinet.

6. **MINUTES OF THE LICENSING SUB COMMITTEE HELD ON 18 MARCH 2019**

RESOLVED:

That the minutes of the Licensing Sub-Committee held on 18 March 2019 be received and noted (attached as Appendix A to the minutes).

The meeting commenced at 6.30 pm and concluded at 7.15 pm

Chairman

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REPORT TITLE: REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE  
LICENSING POLICY – PHASE ONE – CONSULTATION RESPONSE

19 SEPTEMBER 2019

REPORT OF CABINET MEMBER: Cllr Lynda Murphy, Cabinet Member for  
Environment

Contact Officer: Graham Wren Tel No: 01962 848188 Email  
gwren@winchester.gov.uk

WARD(S): ALL

PURPOSE

The consultation has now ended for Phase one of the review of the hackney carriage and private hire Policy. This report seeks to make a minor amendment to the Policy following comments received during the consultation period.

RECOMMENDATIONS:

1. That Licensing and Regulation Committee approve the proposed amendment to the Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Drivers, Vehicles and Private Hire Operators. The reason for this change is outlined in section 12 of the report.
2. That Licensing and Regulation Committee approve the removal of the words underlined and highlighted in red from the previously proposed wording of the revised Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Drivers, Vehicles and Private Hire Operators at paragraph 8.6 Safeguarding below:
- 3) That Licensing and Regulation Committee agree to refer the amended Statement for consideration of adoption by Cabinet.

## **8.6 Safeguarding**

- a All Operators licensed before 25 February 2019 and their employees who act as an operator on their behalf must pass the Council's approved safeguarding training no later than 31 October 2019. Failure to do so will result in their Licence being suspended or revoked or not being renewed. The pass certificate must be provided with the application to renew a hackney carriage and/or private hire driver's licence.
- b All Drivers, Operators and their employees who act as an operator on their behalf will be required to update their safeguarding training upon the Council's request using a Safeguarding Training Provider/assessment approved by the Council.

IMPLICATIONS:

1 COUNCIL STRATEGY OUTCOME

- 1.1 This report relates to ensuring the safety of the public using taxis and private hire vehicles licensed by the Council.

2 FINANCIAL IMPLICATIONS

- 2.1 The changes to the policy and implementation do not require any additional resource implications. The cost of implementation will be covered by the existing 'Tip Top Taxi' project budget.

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 The basis for determining the Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Drivers, Vehicles and Private Hire Operators is set out in Part 3.3 of the Council's constitution at paragraph 3.ii); Delegation of functions and Table D which provides that the Licensing and Regulation Committee is the correct forum for recommendation to Cabinet of Hackney Carriage and Private Hire policies. Legal Services has reviewed the draft policy and amendments in the recommendations.

- 3.2 Statutory consultation is required and has been carried out with all stakeholders.

- 4 Whilst a Judicial Review challenge is a possibility where there has been a lack of meaningful consultation; irrelevant information has been taken into account or relevant information has not been considered, as there has been full compliance with the correct procedures, the risk of a successful challenge is considered minimal.

5 WORKFORCE IMPLICATIONS

- 5.1 Two members of the licensing team have been seconded to the Tip Top Taxi project to undertake the review of the Policy

6 PROPERTY AND ASSET IMPLICATIONS

- 6.1 None

7 CONSULTATION AND COMMUNICATION

- 7.1 All licence holders were consulted on the proposed changes to the Policy with the consultation period held from 17 June 2019 to 31 July 2019.

- 7.2 One comment was received.

8 ENVIRONMENTAL CONSIDERATIONS

- 8.1 The Council's Clean Air Policy will be considered as part of phase 2 of the Policy review which will propose to reduce the size of vehicles and offer incentives to licence environmentally friendly vehicles.

9 EQUALITY IMPACT ASSESSEMENT

- 9.1 The Council is committed to offering a range of vehicles for all customers. The current Policy requires all new hackney carriage vehicles to be wheelchair accessible; there is no proposal to change this.

10 DATA PROTECTION IMPACT ASSESSMENT

- 10.1 Information and personal details of licensed drivers and operators are kept on a secure system and no changes are proposed.

11 RISK MANAGEMENT

<b>Risk</b>	<b>Mitigation</b>	<b>Opportunities</b>
<i>Property</i>	N/A	
<i>Community Support</i>	There is a working party involving the Portfolio Holder for Environment and the Chairman of the Licensing and Regulation Committee.	
<i>Timescales</i>	The reviewed Policy will take effect once adopted by Cabinet.	
<i>Project capacity</i>	N/A	
<i>Financial / VfM</i>	N/A	
<i>Legal</i>	The Policy could be challenged by Judicial Review, but as the Council's decision-making process is believed to be lawful, a challenge is considered to be unlikely.	
<i>Innovation</i>	N/A	
<i>Reputation</i>	The Council's paramount consideration is to protect the public. This Policy sets out what is required of new applicants and current licence holders in line with relevant legislation.	
<i>Other</i>	N/A	

12 SUPPORTING INFORMATION:

- 12.1 Following Members' approval of the recommendations in committee report LR520 on 6 June 2019, a consultation exercise was undertaken from 17 June 2019 to 31 July 2019. This resulted in one representation from a private hire operator licensed by the Council.

- 12.2 Officers are required to bring this representation to the attention of committee Members before a decision is made on whether to implement the proposed amendments. As part of the consultation exercise the project officers agree with the consultation response that an amendment is required and are therefore bringing this to the attention of the Licensing Committee for their approval.
- 12.3 The background to this proposed amendment is as follows; Driver safeguarding training was successfully delivered to all hackney carriage and private hire drivers. Some Operators' ancillary staff (phone call takers) attended voluntarily. This was possible as there were spare places available and it was considered to be beneficial.
- 12.4 National guidance suggests that ancillary staff should be required to have a basic DBS check and officers added to this proposal a requirement that ancillary staff should also receive Safeguarding training in the belief that this was beneficial generally. However, during the consultation period, the responder expressed his concern that this would delay Operators' ability to recruit staff if it was required as a condition of their operator licences.
- 12.5 Officers have considered this representation and have reviewed this proposed condition. Officers conclude that because the particular safeguarding training is designed for hackney carriage and private hire drivers and not Operators, officers now recommend the removal of this proposed condition.
- 12.6 However, should Members agree to the recommendations in this report, all ancillary operator staff will now be required to provide a basic DBS check in accordance with best practice and national guidance.

### 13 OTHER OPTIONS CONSIDERED AND REJECTED

- 13.1 To acknowledge but reject the request to amend the Policy in view of the responders comment and continue with the version of the Policy as approved at the Licensing and Regulation Committee on 6 June 2019. This is not the recommendation of officers.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

[LR520](#) Review of Hackney Carriage and Private Hire Licensing Policy - Phase One  
Tip Top Taxis – 6 June 2019

[LR 495](#) - Review of Statement of Licensing Policy with respect to Hackney Carriage  
and Private Hire Vehicles, Drivers and Private Hire Operators – consultation  
comments – 16 March 2017

[LR 490](#) - Review of Statement of Licensing Policy with respect to Hackney Carriage  
and Private Hire Vehicles, Drivers and Private Hire Operators – 19 January 2017

[LR 454](#) - Review of Statement of Licensing Policy with respect to Hackney and  
Private Hire Vehicles, Drivers and Private Hire Operators – 8 October 2015

Other Background Documents:-

Report of the Task and Finish Group on Taxi and Private Hire Vehicle Licensing.

Institute of Licensing Guidance of determining the suitability of applicants and  
licensees in the hackney and private hire trades – April 2018

APPENDICES:

None

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REPORT TITLE: REVIEW OF PRIVATE HIRE OPERATOR LICENCE CONDITIONS

19 SEPTEMBER 2019

REPORT OF CABINET MEMBER: Cllr Lynda Murphy, Portfolio Holder for Environment

Contact Officer: Carol Stefanczuk Tel No: 01962 848 188 Email: cstefanczuk@winchester.gov.uk

WARD(S): ALL

PURPOSE

This report is to consider proposed changes to the Private Hire Operator's Licence Conditions in relation to where bookings can be taken by a licensed Private Hire Operator, following a change in the interpretation of the law.

RECOMMENDATIONS:

1. That the amended Private Hire Operator's Licence Conditions at Appendix 1 be agreed and approved for consultation with the taxi and private hire trade.
2. Where comments are received following consultation, that these are considered by Members at the Licensing and Regulation Committee on 5 December 2019.
3. If no comments are received following consultation, that Members delegate to the Service Lead for Public Protection power to implement the amended Private Hire Operator's Licence Conditions within a reasonable time.

## IMPLICATIONS:

### 1 COUNCIL STRATEGY OUTCOME

- 1.1 This report relates to ensuring the safety of the public using taxis and private hire vehicles through private hire operators licensed by the Council.

### 2 FINANCIAL IMPLICATIONS

- 2.1 The changes to the conditions and implementation will be covered within the existing budget.

### 3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 The basis for determining the licence conditions is set out in Part 3.3 of the Council's constitution at paragraph 3.ii); Delegation of functions and Table D which provides that the Licensing and Regulation Committee is the correct forum for approval of standard conditions of licence. Legal Services has reviewed the draft conditions at appendix 1.
- 3.2 Statutory consultation is required and has been carried out with all stakeholders.
- 3.3 Whilst a Judicial Review challenge is a possibility where there has been a lack of meaningful consultation; irrelevant information has been taken into account or relevant information has not been considered, as there has been full compliance with the correct procedures, the risk of a successful challenge is considered minimal.

### 4 WORKFORCE IMPLICATIONS

- 4.1 The changes and implementation will be covered in the daily workload of the existing staffing.

### 5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 None

### 6 CONSULTATION AND COMMUNICATION

- 6.1 All current private hire operator licence holders affected by this change were formally notified in writing on 16 July 2019. Two different letters were sent depending on when the private hire operator's licence is next due for renewal. Further details can be found at paragraph 13 below.
- 6.2 Following approval by Members, all licence holders will be directly consulted. The consultation will be held from 1 October 2019 to 10 November 2019.
- 6.3 Where comments are received following consultation, these will be considered by the Licensing and Regulation Committee on 5 December 2019.

7 ENVIRONMENTAL CONSIDERATIONS

7.1 Not applicable.

8 EQUALITY IMPACT ASSESSEMENT

8.1 Not applicable.

9 DATA PROTECTION IMPACT ASSESSMENT

9.1 Information and personal details of licensed drivers and operators are kept on a secure system and no changes are proposed.

10 RISK MANAGEMENT

10.1

<b>Risk</b>	<b>Mitigation</b>	<b>Opportunities</b>
<i>Property</i>	N/A	
<i>Community Support</i>	To ensure that all private hire operators are making the provision for the invitation and acceptance of bookings within the Council's district.	
<i>Timescales</i>	The amended conditions of licence will be implemented as soon as possible following Member approval.	
<i>Project capacity</i>	N/A	
<i>Financial / VfM</i>	N/A	
<i>Legal</i>	The amended conditions of licence could be challenged by Judicial Review, but as the Council's decision-making process is believed to be lawful, a challenge is considered to be unlikely.	
<i>Innovation</i>	N/A	
<i>Reputation</i>	The Council's paramount consideration is to protect the public, whilst ensuring that licence holders comply with the law.	
<i>Other</i>	N/A	

## 11 SUPPORTING INFORMATION:

### Introduction

- 11.1 A District Council may attach conditions to private hire operator licences under Section 55 of the Local Government (Miscellaneous Provisions) Act 1976.
- 11.2 On 14 January 2016, the Licensing and Regulation Committee resolved to approve the Private Hire Conditions of Licence to come into effect from 1 February 2016.
- 11.3 Recent changes in the legal interpretation of the current law governing 'Private Hire Operators', mean that such operators can only invite or take a booking from a physical location inside the district of their Licensing Authority. In practice this means that any operator who takes bookings inside another other local authority area or areas must be licensed by that local authority.
- 11.4 Private Hire Operator Licences have been issued to premises located within the County of Hampshire, not restricted to the Winchester district, until the Council became aware of the change in legal interpretation.
- 11.5 A separate report relating to the review of the Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Vehicles, Drivers and Private Hire Operators has addressed this change for all new private hire operator licence applications.
- 11.6 Members are asked to consider the amendments to the conditions as shown at Appendix 1.

### 12 Amendments

- 12.1 The Council has a duty to amend the Private Hire Operators conditions of licence to reflect the proper interpretation of the legislation.
- 12.2 The proposed change to the conditions is to remove paragraph 17 and replace it with the following condition placed under paragraph 2;

*Any premises at which the licence holder operates **must** be in the Winchester district and the address provided to the Council. If an operator does not have premises, all provision for inviting and the acceptance of bookings must be undertaken in the Winchester district and the licence holder shall provide evidential records to show that such bookings are taken whilst inside the Winchester City Council district.*

- 12.3 It is also proposed to add an additional requirement for operators to record the exact location of where the booking was accepted within the Council district. This has been included at paragraph 4(h) of the conditions.

12.4 Both amendments can be found in the conditions attached at Appendix 1 [shown as tracked changes].

### 13 Consultation

13.1 All current private hire operator licence holders affected by this change were formally notified in writing on 16 July 2019. Two different letters were sent depending on when the private hire operator's licence is next due for renewal.

13.2 Following legal advice, the Service Lead for Public Protection and Licensing Manager agreed that there should be a reasonable amount of time to allow a transitional period for current private hire operators affected by this to make changes to their working practice.

13.3 The changes required are for the current Private Hire Operators to provide an operating address from inside Winchester City Council's district, from where provision is made to invite or accept bookings, **or** as may be the case, provide evidential records that show that all such bookings are taken whilst inside Winchester City Council's district. Alternatively, the operator may apply for a Private Hire Operator's Licence from their home local authority.

### 14 OTHER OPTIONS CONSIDERED AND REJECTED

14.1 Not applicable.

#### BACKGROUND DOCUMENTS:-

##### Previous Committee Reports:-

[LR461](#) – Review of Private Hire Operator Licence Conditions – 14 January 2016

[LR455](#) – Review of Private Hire Operator Licence Conditions – 8 October 2015

##### Other Background Documents:-

Article by Gerald Gourier QC in the Local Government Lawyer - 22 June 2018

#### APPENDICES:

Appendix 1 Draft Private Hire Operator Licence Conditions – September 2019

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## DRAFT

# Private Hire Operator's Licence Conditions

These conditions are made under section 55(3) Part II of the Local Government (Miscellaneous Provisions) Act 1976.

The holder of a Private Hire Vehicle Operator's licence shall observe and carry out the requirements of the Local Government (Miscellaneous Provisions) Act 1976, Part II, and any orders or regulations made thereunder and the requirements of any other Act of Parliament or orders, regulations or byelaws made thereunder relating to the operation of the motor vehicles.

Any obligation in these conditions not to do any act or thing shall be deemed to include an obligation not to cause or permit that act or thing to be done.

Any reference to any statute or subordinate legislation shall be deemed to include a reference to any amendment or re-enactment.

### Interpretation

In these conditions

**"Assistance Dogs"** means as defined in Section 37A(2) Disability Discrimination Act 1995.

**"Authorised Officer"** means any officer of the Council authorised in writing by the Council for the purpose of these conditions.

**"Private Hire Vehicle"** means a motor vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers.

**"the Act"** means Local Government (Miscellaneous Provisions) Act 1976.

**"the Council"** means Winchester City Council.

**"the Driver"** means a person licensed to drive a hackney carriage and private hire vehicle under Section 51 of the Act.

**"the Operator"** means the person to whom the Council has granted the Private Hire Operator's Licence to which these conditions apply. In the case of a partnership these conditions apply to each of the partners and in the case of a company to each of the company directors.

**The Operator shall be familiar with the conditions and apply them at all times.**

1. Any vehicle employed or used by the Operator shall be licensed by Winchester City Council before it is used as a private hire vehicle.

2. Any premises at which the licence holder operates must be in the Winchester district and the address provided to the Council. If an operator does not have premises, all provision for inviting and the acceptance of bookings must be undertaken in the Winchester district and the operator shall provide evidential records to show this.

### Records to be kept by the Operator

3. The records required to be kept by the Operator under Section 56(2) and (3) of the Act shall be kept in a book, electronic file or other form approved by the Council, and produce on request to an Authorised Officer for examination.
4. The Operator shall record before the commencement of each journey, the following particulars of every booking of a private hire vehicle accepted:-
- a) the name and pick up point of the hirer
  - b) the time and date of the booking
  - c) the time and date of the pick up and the call sign of the vehicle used
  - d) the name and licence badge number of the Driver dispatched
  - e) how the booking was made (i.e. by telephone, personal call, etc)
  - f) the destination
  - g) fare quoted or to be charged by the meter and in either case to include call out or return fee
  - h) exact location of where the acceptance of booking was taken (where the operator does not invite or accept bookings from a premises
5. The Operator shall keep copies of all hackney carriage and private hire driver and vehicle licences operated.
6. The Operator must inform the Council of the names and licence badge number of all drivers operated by him/her within 7 days of the arrangement.
7. The Operator shall keep a record of all vehicles and their call signs.
8. The Operator shall keep a copy of the letter of exemption issued by the Council of all private hire vehicles that are exempt from displaying a licence plate.
9. The Operator shall keep all records for a period of at least 12 months following the date of the last entry.
10. If the telephone number of the operating company is diverted to a person outside of the operating premises at any time, that person must record all bookings as in 3 above. These records must be added to the full record within 48 hours.

### Standard of service

11. The Operator shall provide a prompt, efficient and reliable service to the public at all reasonable times, in particular shall ensure that the hirer is aware of the fare for the journey, or whether it is to be metered and in either case to include any call out or return fee.



12. The Operator shall ensure that when a private hire vehicle has been booked the Driver attends at the appointed time and place punctually, unless delayed or prevented by sufficient cause.
13. Any premises to which the public have access, whether for the purpose of booking or waiting, the Operator shall keep clean, adequately heated, ventilated and lit premises which the Operator provides.
14. The Operator shall notify the customer if their booking is to be sub-contracted to another Private Hire Operator and provide the sub-contracted Operator's name and telephone number to the customer.

### **Fares**

15. If a minimum fare is to be charged, the Operator shall ensure that each customer is informed at the time of booking. If no fare is quoted, the meter shall be used to calculate the fare and the Driver shall not demand more than the fare shown on the meter. The meter shall not be started until the customer is seated in the vehicle.

### **Provisions regulating signs on vehicles**

16. The Operator shall ensure that any licensed private hire vehicle shall not display any advertisement that includes the words 'taxi', 'cab' or words of a similar meaning.

### **Conduct of the Operator**

17. The Operator shall immediately upon receipt notify the Council in writing of any complaints concerning the conduct of a driver or the cleanliness/condition of a vehicle.
18. No Operator shall change the operating address without prior agreement in writing from the Council.
19. The Operator shall notify the Council in writing of any change of operating address during the period of the licence within seven days of such change.
20. The Operator shall provide details to the Council in writing within seven days of the date of any caution or conviction he/she receives.
21. The Operator may only sub-contract any accepted booking to another licensed private hire operator.
22. The Operator shall not refuse any booking made for carrying wheelchair bound passengers without reasonable cause and shall ensure that each of these bookings is carried out.
23. The Operator shall not refuse any booking nor apply any additional charge for carrying Assistance Dogs without reasonable cause and shall ensure that each of these bookings is carried out.

## Appeals

24. The Operator may appeal against the imposition of any of these conditions.
25. The Operator/applicant may appeal against the refusal to grant or renew a licence, or the suspension or revocation of a licence.
26. Any appeal should be made to the Magistrates Court within 21 days of the refusal to grant or renew a licence, or the suspension or revocation of such a licence.

DRAFT

# Public Document Pack Agenda Item 7

## LICENSING SUB-COMMITTEE

Thursday, 6 June 2019

Attendance:

Councillors

Mather (Chair)

Green

Laming

Others in attendance who did not address the meeting:

Councillor Pearson

Officers in attendance:

Miss B Appletree – Licensing Officer

Miss C Stefenczuk – Licensing Manager

Mrs A Toms – Environmental Health Manager

Ms C Tetstall – Licensing Solicitor

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1. **NEW PREMISES LICENCE - HOLYWELL HOUSE, HOLYWELL, SWANMORE, SOUTHAMPTON, SO32 2QE (LR522)**

(LR522)

The Chairman welcomed to the meeting:

The Applicant

George Edward Laurence Clarendon, Earl of Clarendon  
Bryonie Victoria Lowther Clarendon, Countess of Clarendon

Other Interested Parties:

- Richard Lampitt (on behalf of Susan Lampitt)
- Leon Maschner

Miss Appletree introduced the Report which set out the details of the application. In summary, she explained that an application for a new premises licence for Holywell House, Holywell, Swanmore had been made under Section 17 of the Licensing Act 2003. The application was to licence specific areas of the Holywell Estate, namely the main house, the summer garden, the walled garden and the park (as shown in Appendix 3 of the Report) and the purpose of the application was for the provision of regulated entertainment, the provision of late night refreshment and the supply of alcohol.

Miss Appletree explained that the notice of application had initially been improperly advertised; therefore the application was resubmitted with

amendments by the applicant on 18 April 2019 and re-advertised correctly for a period of 28 days until 16 May 2019.

It was noted that on the revised application the licensable hours had reduced to minimise disturbance to local residents. All parties who had submitted representation to the application were informed of these changes and advised to reconsider their response to the application accordingly. Representations received before 18 April 2019 were still accepted as valid. The amendments were also published on the Council's website. The application was set out in Appendix 1 to the report.

Representations had initially been received by Hampshire Constabulary with regards to the prevention of crime and disorder and the prevention of children from harm licensing objectives, and by Environmental Health in respect of the prevention of public nuisance licensing objective. However, both responsible authorities had since withdrawn their representations following discussion with the applicant to agree a number of conditions and amendments to the application, as set out in Section 5 of the report.

It was reported that Environmental Health had received four noise complaints to the premises over the last ten years. All of these complaints related to shooting activities in the countryside, which are not licensable under the Licensing Act 2003 and therefore outside of the licensing authority's control.

93 valid representations had been received from local residents and other members of the public, all of which had raised objections to the application. The representations related primarily to the licensing objectives of public safety and the prevention of public nuisance, as set out in Appendix 2 to the report.

No further representations had been received from any other responsible authorities (and those from Hampshire Constabulary and Environment Health had since been withdrawn).

In response to questions, Mrs Toms clarified that the application had now been amended to one event per year for more than 500 people (but less than 3000), and that this one larger event would not occur on a Sunday. A condition had been agreed to seek the applicants to focus attention on the speaker orientation and monitoring noise on the boundary of the premises. In addition, Mrs Toms stated that a further 27 events (mainly for hosting wedding events) per year for a maximum of 500 people were proposed. However, due to the smaller scale of these events and the distance to residential properties, Environmental Health were satisfied that there would be no detrimental impact or public nuisance caused as a result of these.

At the invitation of the Chairman, Lord and Lady Clarendon addressed the Sub-Committee and outlined the background to the application for a new premises licence. Lord Clarendon clarified that they had made a number of amendments to the application, had agreed conditions with Hampshire

Constabulary and Environmental Health and worked with the community preparing letters and attending Parish Council meetings to set out the intentions of the application. He stated that, although they had applied for 27 smaller events per year, this was to allow for the flexibility of events throughout the year without the need to apply for individual Temporary Event Notices (TENs) and the constraints these provided before event bookings could be formalised.

In response to questions, Lady Clarendon advised that not all of these events would focus specifically on the summer months and that it was not proposed that the full 27 events requested would all occur in any given year.

Lord Clarendon confirmed that events on the Holywell Estate had previously been licensed under Temporary Event Notices. These events had taken place with assistance from the applicants' estates team by managing and monitoring noise and traffic and had run smoothly with no complaints received.

In respect of the one larger event of up to 3000 people per year, Lady Clarendon clarified that this would provide the opportunity to introduce an event such as a charity classical spectacular (or similar) once a year. It was noted that at the present time there was no event of this nature planned but that the licence would allow for this to be a consideration in the future. Lady Clarendon confirmed that if such an event was to occur in the future, it would take place on a Saturday and would finish by 10pm.

In summing up, Lord Clarendon stated that with the agreed conditions in place this would ensure that music was kept to an acceptable level for the hours that had been proposed, would alleviate any impact on neighbouring properties and promote the licensing objectives.

At the invitation of the Chairman, Richard Lampitt and Leon Maschner, both interested parties who had submitted relevant representations to the application, addressed the meeting. A summary of their comments are outlined below.

Professor Lampitt stated that he considered the application contradicted the definition of peaceful tranquillity and the defined principles of the South Downs National Park and would create a significant public nuisance in this quiet countryside location.

In response to the points raised by Professor Lampitt, Miss Appletree reminded the Sub-Committee that the South Downs National Park Authority were notified of the application as a statutory consultee but had not submitted a representation.

In addition, Ms Tetstall clarified that there was a duty placed on local authorities to have regard to the statutory purposes of the South Downs National Park but also to the competing interests of the rights of the

landowner regarding the use of their land and as a result of this, a balanced judgement was necessary.

Mr Maschner stated that he had objected on the grounds of public nuisance due to the noise that would be generated from the events as he believed residents were entitled to the peaceful tranquillity of the area. He made reference the conditions that had been put in place by the applicant with Environmental Health, in respect of noise management and community liaison, which he welcomed.

In response to the points raised by the interested parties, Lord Clarendon stated that it was not their intention to exacerbate noise at any event and that the running of the events was necessary for income generation. He stated that there was an estates team to assist the applicants in the running of the events on the premises, and that as landowners they also wished to protect and enhance the countryside. Lady Clarendon confirmed that she would be present when all events occurred and reiterated that the premises licence would allow a greater flexibility to control, manage and structure events in the future.

The Sub-Committee retired to deliberate in private.

In her closing remarks, the Chairman stated that the Sub-Committee had carefully considered the application and the representations made by interested parties, particularly those relating to the prevention of public nuisance. 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 and had regard to the purposes of the National Park.

The Sub-Committee considered that the measures offered by the applicant, in agreement with Environmental Health and Hampshire Constabulary would minimise the potential for disturbance.

The Sub-Committee concluded that the application should be granted, with the additional conditions set out in Page 15, Section 5 of the Report.

The Chairman thanked all those present for attending the meeting and explained to all parties that they would be formally notified of the decision in writing in due course and of their right to appeal to the Magistrates' Court within 21 days from the date of the decision letter.

RESOLVED:

1. That the application for a new Premises Licence for Holywell House, Holywell, Swanmore, be granted subject to the additional conditions agreed by the applicant with Environmental Health and Hampshire Constabulary, set out in Page 15, Section 5 of the Report.

REASON

The applicant had addressed the licensing objectives and taken reasonable steps to mitigate the concerns of persons making relevant representations, including the prevention of public nuisance licensing objective.

The meeting commenced at 10.00 am and concluded at 11.15 am

Chairman

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# Public Document Pack Agenda Item 8

## LICENSING SUB-COMMITTEE

Monday, 10 June 2019

Attendance:

Councillors

Green (Chair)

Laming

Mather

Officers in attendance:

Miss B Appletree – Licensing Officer

Ms C Tetstall – Licensing Solicitor

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1. **VARIATION TO PREMISES LICENCE - NORTON PARK HOTEL,  
BULLINGTON ROAD, NORTON, WINCHESTER, HAMPSHIRE, SO21 3ND  
(LR523)**

(Report LR523 refers)

The Chairman welcomed to the meeting:

Representing the Applicant – Norton Park Hotel

- Karen Cochrane – Flint Bishop LLP (Solicitor for the Applicant)
- Debbie Paggett (Premises Manager)

Miss Appletree introduced the Report which set out the details of the application. In summary, she explained that an application for a variation to the premises licence for Norton Park Hotel, Bullington Road, Sutton Scotney under Section 34 of the Licensing Act 2003. The application proposed to amend the following condition from the Premises Licence 'Licensable activities shall take place in the Barn only between the hours of 1100 and 2200', to extend the hours until 0000 (midnight). In addition, the applicant proposed to add two new conditions, as set out in Section 5 of the report. These conditions proposed that noise nuisance may be prevented by the use of a noise limiting device and ensuring that the patio doors are closed save for emergency exit.

The Committee noted that the current Premises Licence allows the provision of regulated entertainment, provision of late night refreshment and supply of alcohol. Full details of the Premises Licence were set out in Appendix 3 to the report.

One valid representation had been received from an interested party raising concerns regarding the public nuisance licensing objective, as set out in Appendix 2 to the Report.

The Sub-Committee were advised that the representation referred to the planning consent granted in 2004 and were reminded that matters relating to planning were governed under the separate planning regime, did not form part of licensing and were not relevant for consideration of this application.

No further representations had been received from any responsible authorities or interested parties.

In response to questions, Ms Tetstall clarified that, at the present time, it had not been established whether the planning condition relating to the barn was still extant and as no definitive response had been received, this currently remained a moot point at this time. The applicant was informed to seek planning and legal advice from the Council on this matter under separate cover.

At the invitation of the Chairman, Ms Cochrane, speaking on behalf of the applicant, Delta Norton Park Op Co Limited, addressed the Sub-Committee and outlined the background to the variation of the premises licence to amend the hours for licensable activities to take place in the barn only to 0000 (midnight), in order to facilitate functions in the barn area. Ms Cochrane outlined the further conditions that had been proposed as set out in Section 5 of the report which had been imposed to satisfy the application.

In summing up, in addition, Ms Cochrane advised that the applicant intended to implement further conditions to support the public nuisance licensing objective, as follows:

- (i) That fire tabs be placed on the barn doors from 10pm to prevent access to the garden; only to be broken in the event of an emergency;
- (ii) That no amplified bands be permitted in the barn;
- (iii) That smoking bins be relocated to an area which is less likely to cause noise disturbance;
- (iv) That signage be installed to ask patrons to leave the area quietly; and
- (v) That bottle bins were not to be emptied after 10pm.

The Sub-Committee retired to deliberate in private.

In his closing remarks, the Chairman stated that the Sub-Committee had carefully considered the Application and the representations made by the applicant, relating to the prevention of public nuisance. 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 concluded that the application should be granted, with the conditions as set out in Section 5 of the Report and the additional conditions offered by the applicant at the hearing in order to promote the prevention of public nuisance objective, as follows:

- (i) That fire tabs be placed on the barn doors from 10pm to prevent access to the garden; only to be broken in the event of an emergency;
- (ii) That no amplified bands be permitted in the barn;
- (iii) That smoking bins be relocated to an area which is less likely to cause noise disturbance;
- (iv) That signage be installed to ask patrons to leave the area quietly; and
- (v) That no bottle bins be emptied after 10pm.

The Chairman thanked all those present for attending the meeting and explained to all parties that they would be formally notified of the decision in writing in due course and of their right to appeal to the Magistrates' Court within 21 days from the date of the decision letter.

**RESOLVED:**

1. That the application for a variation to premises licence to extend the terminal hour to 0000 (midnight) in the barn only be granted to Norton Park Hotel, subject to the conditions set out in Section 5 of the Report and the further conditions offered by the application, as set out in (i) to (v) above.

**REASON**

The applicant had addressed the licensing objectives and taken reasonable steps to mitigate the concerns of the interested party making relevant representation, including the prevention of public nuisance objective.

2. **VARIATION TO PREMISES LICENCE - OLD HOUSE HOTEL, THE SQUARE, WICKHAM, FAREHAM, PO17 5JG (LR524)**

(Report LR524 refers)

The Chairman welcomed all those present to the meeting:

**Representing the Applicant – G A Gourmet Ltd**

Laura Small (Premises Manager)

Tom Hopkins (Operations Director for GA Gourmet Ltd)

**Interested Parties**

Rebecca Jones, also on behalf of Annie Shipwith

Miss Appletree introduced the Report which set out the details of the application. In summary, she explained that the application was for a variation to the premises licence under Section 34 of the Licensing Act 2003 for the Old House Hotel, The Square, Wickham, Fareham, PO17 5JG. The application proposed to add Live Music (indoors and outdoors) and Recorded Music (outdoors) to the Premises Licence as Licensable activities. The proposed hours shown on the application for Live Music were 1100 to 2300 Monday to Sunday. The proposed hours for Recorded Music were 0700 to 0000 Monday to Saturday, and 0700 to 2300 on Sunday. Members were advised that full details of the application could be read in sections E and F of the Operating Schedule in Appendix 1 and full details of the current permitted licensable activities and hours could be found in Appendix 3 of the officer's report.

In addition, the Committee was advised that Environmental Health had made a representation against this application with regards to the prevention of public nuisance licensing objective. This was withdrawn following an agreement of conditions between Environmental Health and the applicant. These conditions were described in Section 5 of the officer's report. Further, that eleven valid representations had been received from 'Other Persons', all of which were against the application. These representations were set out in Appendix 2 and primarily relate to the prevention of public nuisance licensing objective. One representation, from Councillor Evans had been withdrawn since the publication of the report, leaving ten valid representations. The committee was advised that the withdrawn representation should not be considered in the determination of the application.

At the invitation of the Chairman, Ms Small, speaking on behalf of the applicant, addressed the Sub-Committee and outlined the background to the variation of the premises licence. Ms Small also outlined a number of

points that she felt dealt with the concerns that had been raised within the representations from interested parties.

The Chairman then invited any interested parties to address the Committee. Mrs Jones addressed the committee. In summary, Mrs Jones, whilst wishing the Hotel business well, did have a number of concerns regarding the application and asked the Committee to consider these prior to the determination of the application. The key matters she raised related to:

- the proximity of neighbouring properties to the Hotel and the resulting noise disturbance.
- the impact to the Conservation area status.
- the disturbance to wildlife.
- issues around parking of vehicles.
- general disturbance as a result of increased footfall.
- the number and timing of events being applied for.

Following discussion, Miss Appletree clarified that a licence was not required for a performance of unamplified, live music on any premises between 0800 and 2300 on any day. It was also confirmed that no Licence was required for Recorded Music that was set at a 'background level', above which normal conversation can be heard. After further debate the Committee agreed to adjourn in order to enable a discussion between the applicant and the interested parties to see if an alternative, suitable arrangement could be agreed that could then be proposed to the Committee.

The Sub Committee reconvened and a further discussion took place regarding the frequency of live amplified music indoors. . It was further proposed by the applicant that they would be willing to consider holding events at a less frequent interval than that previously put forward and suggested a limit of six events per year, at a frequency of no more than every other month The applicant also agreed to remove the proposal to add Recorded Music outdoors as a licensable activity, and they would only ever play 'background level' recorded music outdoors and thus this is not licensable.

The Sub Committee retired to deliberate in private.

The Sub Committee reconvened and in his closing remarks, the Chairman stated that the Sub-Committee had carefully considered the Application and the representations made by the applicant and the interested parties, relating to the prevention of public nuisance. 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 concluded that the application should be granted, with the conditions as set out in Section 5 of the Report (as amended below) in order to promote the prevention of public nuisance objective, as follows:

- i. Condition PN1 was no longer relevant and should be removed.
- ii. Condition PN2 was no longer relevant and should be removed.
- iii. Condition PN3, The final sentence only of this condition to be removed so that the condition now reads "*The Premises Licence Holder shall ensure that nearby residents are aware of events and provide them with a telephone 'hotline' number in case they wish to make a complaint.*"
- iv. Condition PN4 to remain as set out in the officer's report
- v. The Premises Licence Holder shall ensure that Live Music occurs on no more than six occasions per calendar year, at a frequency of no more than once every other month.

The Chairman thanked all those present for attending the meeting and explained to all parties that they would be formally notified of the decision in writing in due course and of their right to appeal to the Magistrates' Court within 21 days from the date of the decision letter.

#### RESOLVED:

1. That the application for a variation to premises licence only be granted to G A Gourmet Ltd, Old House Hotel, The Square, Wickham, subject to the conditions set out in Section 5 of the Report and the further conditions offered by the applicant, as set out in (i) to (v) above.

#### REASON

The application as amended represents a balance between minimising the potential for public nuisance and the rights of the applicant to use their premises to generate an income.

The meeting commenced at 10.00 am and concluded at 11.50 am

Chairman

# Public Document Pack Agenda Item 9

## LICENSING SUB-COMMITTEE

Tuesday, 30 July 2019

Attendance:

Councillors

Mather (Chairman)

Bentote

Green

Officers in attendance:

Miss C Stefanczuk - Licensing Manager

Ms C Tetstall – Licensing Solicitor

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1. **APPLICATION FOR PREMISES LICENCE - MATTERLEY BOWL,  
ALRESFORD ROAD, WINCHESTER (BOOMTOWN)**

Report LR525 refers)

The Chairman welcomed to the meeting:

- Mr Stephen Walsh QC – Counsel for the Applicant
- Mr Matthew Phipps – Solicitor for the Applicant
- Mr Christopher Rutherford – Co-Director of Boomtown UK Festival Ltd
- Mr Tom Ferris – CTM, Traffic Management for Boomtown
- Mr Rob Miller – F1 Acoustics, Noise Management for Boomtown
- Mr Adrian Coombs – Major Events Boss Ltd, Strategy Lead for Boomtown
- Ms Cassandra Frey-Mills – Licensing Co-ordinator for Boomtown
- Mr Brendan Gibbs (representing Tichborne Parish Council) – Interested Party
- Mr Robert Fox – Interested Party
- Mr Graham Tarbuck (on behalf of Mr David Templeman) - Interested Party
- Mr David Pain (also speaking on behalf of Ms Jane Ives and Cheriton Parish Council, Dr & Mrs Silvester, Ms Sue Herdman, Mr & Mrs Curwen-Bryant and Victor Ient (Friends of South Downs Society) – Interested Party
- Mr Martin Hendry – Interested Party

Miss Stefanczuk introduced the application to the Sub-Committee. In summary, she explained that an application for a new premises licence had been made under Section 17 of the Licensing Act 2003 for an area of land known as the 'Matterley Bowl', and surrounding land where the event

'Boomtown' takes place annually. The application was seeking to provide licensable activities as set out in pages 4 and 5 of the Report.

In summary, the application sought an increase in numbers to a maximum of 75,999 persons, including staff and guests, over a maximum period of six consecutive days from Wednesday to Monday with public arriving on the Wednesday limited to 27,500 persons, and allowed for 1,000 additional tickets for local residents on a Sunday. This was an increase of 11,000 persons (consisting of an additional 10,000 public and 1,000 staff and guests) from the current premises licence PREM 741, previously granted in January 2018. There was also an increase in the number of public arriving on the Wednesday of 7,500 people, in comparison to the 2019 event.

It was noted that the application proposed that the Sub-Committee grant the licence to take effect in 2020, subject to a satisfactory Boomtown event in 2019. This was to be determined by the police silver commander for the event, following input from the responsible authorities and Boomtown, at or shortly after a Safety Advisory Group (SAG) debrief. As a result, an amendment to condition A1(a) had been between Hampshire Constabulary and the applicant. In addition, the Sub-Committee noted that the application did not seek to increase the noise levels from the current application. However, Environmental Health, as a responsible authority, had agreed with the applicant an amendment to condition PN11(b). These amendments were set out in paragraphs 1.3(i) and 1.5 of the report respectively and a copy of the consultation response by Environmental Health was circulated at the hearing.

Miss Stefanczuk clarified that no formal representations had been submitted by any of the responsible authorities.

It was noted that 20 letters of representation had been received from other persons (18 in objection; two in support). The majority of comments related to traffic and congestion as a public nuisance to people who live and work in the surrounding area and to the premises being situated in the South Downs National Park. There were also references to the decision by the Council to declare a Climate Emergency. Copies of the representations were set out in Appendix 3 of the report. Of those interested parties who had submitted letters of representation, the following persons also addressed the Sub-Committee:

- Mr Brendan Gibbs (representing Tichborne Parish Council) – Interested Party
- Mr Robert Fox – Interested Party
- Mr Graham Tarbuck (on behalf of Mr David Templeman) - Interested Party
- Mr David Pain (also speaking on behalf of Ms Jane Ives and Cheriton Parish Council, Dr & Mrs Silvester, Ms Sue Herdman, Mr & Mrs Curwen-Bryant and Victor Ient (Friends of South Downs Society) – Interested Party
- Mr Martin Hendry – Interested Party



The Sub-Committee were reminded that although declaring a Climate Emergency was a Council priority, this was not a relevant consideration under the Licensing Act 2003 for this application.

It was reported that letters from the Butterfly Conservation and A Greener Festival had been included as representations, set out on Pages 122 and 126 of the report respectively. However, these should be considered as additional information submitted by the applicant.

The Sub-Committee were reminded of their responsibility to have regard to the duty and purposes of the South Downs National Park (SDNP) when giving consideration to the application, as outlined on page 8 of the report. Miss Stefanczuk clarified that the SDNPA, as planning authority, were consulted on the application and made comments but did not submit a formal representation and as such had confirmed their awareness that comments would not be included within the report as they did not make a representation accordingly.

Member's attention was drawn to the section 182 guidance which stated that 'Planning and Licensing regimes involved consideration of different (albeit related) matters. Licensing Committees were not bound by decisions made by a planning committee, and vice versa.' This was acknowledged by the SDNPA. In light of this, the Sub-Committee were required to balance promoting the provision of entertainment whilst addressing concerns relating to the four licensing objectives.

The applicant had provided a list of conditions reflecting the operating schedule, also containing the agreed changes with Hampshire Constabulary and Environmental Health (as set out on pages 137 to 149 of the supplementary agenda).

Miss Stefanczuk reported that queries had been raised of a possible conflict of interest as a current Councillor had recently been employed by Boomtown to act as a Community Liaison Officer. However, the Sub-Committee were advised that it was a matter for the Chief Executive and the Monitoring Officer to determine the position and was not a relevant consideration for the Sub-Committee to take into account at the hearing.

In conclusion, Miss Stefanczuk stated that, if the Sub-Committee were minded to grant the application, the current premises licence PREM741 would be surrendered by the licence holders.

In response to questions from Members regarding the timing of the application coming before the 2019 event and the ability to delegate the decision making to the police silver commander following a satisfactory 2019 festival, Ms Tetstall clarified that the timing of the application was dependant on its submission by the Applicant and that decision making was the sole duty of the Licensing Authority and therefore it was pertinent for the Sub-Committee to consider the proposed conditions further.

It was noted that, although there was no deadline on the surrender of the current premises licence PREM 741, it was expected that this would be after the 2019 event had taken place and time for any appeal had passed.

Mr Walsh then presented the applicant's case. He introduced the principal points contained within the documents submitted by the Applicant, as set out in Appendix 5 of the report and addressed the issues raised, as summarised below:

Mr Walsh confirmed that, if the application was granted, this would not come into effect until PREM 741 was surrendered and there would not be two licences in force at any given time.

As reflected in the proposed amended condition A1(a), approval of the licence would also be subject to a satisfactory 2019 event which had been given an extra level of control with the agreement made between the Applicant and Hampshire Constabulary that this matter be determined by the police silver commander for the event. Although, taking into account the concerns previously raised regarding this specific wording, the Applicants recognised that the Sub-Committee may not consider this appropriate for inclusion within the decision. In any event, due to their close working relationship with the Police, Mr Walsh advised that the Applicant would still seek to privately honour their agreement with Hampshire Constabulary on this matter,

Mr Walsh outlined the reasons for the applicant seeking changes to the current premises licence PREM 741, which included the following as summarised below:

- The application proposed to extend the capacity of the 2020 event, this built upon the increased development of the festival over the previous years, continued compliance with the Purple Guide to Health, Safety and Welfare at Music and Other Events, close liaison with the responsible authorities at all stages and a continued commitment to engage with local residents, Parish Councils and groups through meetings etc.
- Boomtown Festival was a highly regulated temporary event held on an annual basis. After each festival extensive de-briefs and groups were held with the involvement of all responsible authorities. Following this a SAG meeting would take place to give consideration to the feedback from the event and to make recommendations for future events.
- Mr Walsh made reference to the recognition that no representations had been received from any responsible authorities which he considered carried great significance due to the intense scrutiny of Boomtown by all authorities.
- Mr Walsh outlined the extra commitment to cultural and artistic innovation which set Boomtown apart from other festivals and the extent of the preparation of the site prior to the commencement of the

event. It was recognised that the delivery of the event came at a significant cost which Mr Walsh stated was the primary reason for the increase in capacity from 2020 with an additional numbers expected to generate a revenue increase of £2.5m which was required for the festival to maintain its high standard of complex infrastructure, artistic innovation and commitment to quality.

- Mr Walsh indicated that other than the proposed principal changes to capacity as set out in the report, there would be no changes to extend the licensable activities or the hours from the current licence PREM 741.
- In respect of condition A2(a), it was noted that public access on the Wednesday would be limited to 27,500 persons from 2020. This represented an increase of 7,500 persons arriving on the Wednesday, compared to that set out in PREM 741. This allowed for a softer opening on the Wednesday and it was considered that this change would impact on the number of ticket holders wishing to leave the event on Sunday rather than Monday which would further improve the on site management of arrivals and departures.
- In respect of condition PN2, it was agreed that at least 30% of all public tickets would only be permitted to access the site by coach, which had increased from the 25% currently set out in PREM 741 and it was noted in Appendix A to the report that an additional 1,000 staff were proposed to introduce a Welfare and a Sustainability Team and to increase staffing in the majority of other departments.
- Expert evidence had been provided by F1 acoustics that noise levels would not increase and the responsible authority had made no representation on this matter either. It was recognised that the Boomtown Festival was a legitimate concern for residents and particular concerns relating to traffic and congestion were noted but the Applicant had a robust plan to tackle the traffic challenges any increase would bring. Residents' concerns had also been addressed by CTM with the provision of a closely devised traffic management plan, as set out on page 160 of Appendix 5 to the report
- Mr Walsh advised of three amendments to Table 4.1.1, as set out on page 160 of Appendix 5, as follows:
  - (i) Table heading should read (i) 2020 Wednesday/Thursday split;
  - (ii) Cars Vehicles should read 5,946 and not 5,205; and
  - (iii) Vehicles Total should read 8,814 and not 8,073.

At the conclusion of Mr Walsh's submissions, the Sub Committee asked a number of detailed questions in respect of the number of coaches on site during peak hours, the increase in the number expected to travel by car and the closure of laybys surrounding the site.

In response, Mr Ferris of CTM confirmed that the maximum increase of additional vehicles would be 3,000 (figure based on the worst case scenario). 24 coach bays were available with a half an hour turnaround expected resulting in approximately 48 coach trips per hour. Mr Ferris also confirmed that the aim was to achieve higher than the licence condition of 30% arrivals by public transport, through incentives for coach and train travel.

The Chairman reminded those present that it was inadmissible to submit any new information at the Hearing without the prior consent of all parties.

Interested parties who had submitted relevant representations within the statutory timescale were then invited to speak. Their representations are summarised below:

In summary, Mr Brendan Gibbs (page 89 refers) raised the following points:

- Timing of the application prior to the 2019 event taking place;
- The appointment of a police silver commander;
- Concerned that notes of SAG meetings and other meetings between Boomtown and the responsible authorities are not available in the public domain;
- Considered that the Licensing Act gave an 'uneven' process in that written representations submitted by interested parties carried little weight;
- Reference was made to the difference between the licensing and planning regimes, with separate decisions being made;
- Recognised declaration of Climate Emergency was not a licensing condition but suggested that the licence may be amended as a result of this.

In summary, Mr Robert Fox (page 96 refers) raised the following points:

- Numbers of people and days have steadily increased since the event began;
- Noise levels and hours have also increased in that time resulting in noise until 4am;
- The incremental increases make the event intolerable for local residents;
- Traffic increases along A272 are horrendous when Boomtown takes place;
- Suggested that there be a cap on the number of persons permitted to attend this event going forward;
- Ticketholders do not stay on site and there has previously been some spillage into the nearby villages;
- Absurd to think that all those attending the festival behave in an appropriate manner resulting in issues before and after the festival takes place;

In response to Members questions, Mr Fox confirmed that traffic and blockages along the A272 lasted for approximately 10 days as a result of the event but were severe during this period. During the 2-3 days prior to the event, an additional 10-15 minutes delays were experienced on the A272.

In summary, Mr Graham Tarbuck (speaking on behalf of Mr David Templeman, page 79 refers) raised the following points:

- Under Winchester City Council's revised Licensing Policy, requiring stricter controls of noise levels in the SDNP should mean that noise levels for amplified music are reduced to pre-2016 levels;
- Higher noise levels have been permitted until 4am with nothing to address the Council's or the SDNP statutory Policies. Noise should be inaudible after midnight;
- Considered that Boomtown was contrary to national policies and should not be allowed to continue in this manner;
- Suggested that the increase in the numbers of attendees in 2018 and 2019 could not be regarded as satisfactory and asked what criteria this was comparable to;
- Application requires over 1,000 coach movements over a two day period and can cater for 48 coach trips an hour with the same number of coach and bus movements exiting the site on the Monday but that there was no consideration for the number of coaches leaving the site empty;
- In conclusion, Mr Tarbuck stated that the Licensing Sub Committee were being asked to grant a licence on the basis of a satisfactory 2019 event without hard evidence and figures where it would lose control of the outcome on an application that was adverse to policies and the SDNP Local Plan.

In summary, Mr David Pain (page 91 refers) raised the following points:

- Speaking in respect of three of the Licensing Objectives – Public safety, the prevention of public nuisance and the prevention of crime and disorder;
- He considered the site plan unbeneficial and queried why the written representations of Environmental Health and Hampshire Constabulary were not made available in the public domain;
- In respect of public safety, Mr Pain queried the reason for the increase in the number of persons proposed in the application and made reference to Conditions PS1 to PS4. It was noted that these specific conditions remained unchanged from the current premises licence PREM 741;
- He referred to the ratios of public ticket sales against non-public tickets of other similar events tending to be 2.5/1 as they grow in size and suggested that the proposed changes could result in a ratio at the Boomtown event of 9.2/1 which must place public safety at risk;

- Mr Pain made reference to what the local planning authority had advised in the planning statement with a new planning condition that no more than 48,000 could be public tickets and suggested that there had been no specified total number of public tickets referred to within the application and made reference to the proposed 75,999 persons (including 6,000 staff and guests) which would result in 69,999 persons holding public tickets which he stated would contravene the temporary planning permission by 44%;

In response, Ms Tetstall reminded the Sub Committee that planning and licensing were separate regimes and it was not relevant for the licensing application to take into account the planning application. However, the applicant would need to ensure that planning permission was in place for the number of people at the event or planning enforcement could result. Mr Walsh confirmed that 6,000 were non public tickets.

- Mr Pain suggested that the Applicant could not ensure compliance with condition A1 and considered that this could jeopardise public safety;
- In respect of public nuisance, Mr Pain stated that he supported the comments of Mr Tarbuck; queried the management of traffic congestion on the Monday when the festival ended ; raised the concerns of Mrs Herdman that some people leave the site on foot along the A272 and in response to the Council's new Leader's appeal for suggestions for mitigating the declared climate emergency, urged that the number of attendees should be reduced, not increased;
- In respect of the prevention of crime and disorder, Mr Pain reiterated concerns regarding proposed condition A1(a) and questioned the legality of the proposed condition being subject to the completion of a satisfactory 2019 festival, to be determined by the police silver commander for the event, as he considered that the licensing authority was expected to come to a decision based on the evidence and believed that this could not be delegated to any other authority or person. Therefore, he queried how the licensing authority could reasonably make this assessment when there was no evidence that the 2019 event had been satisfactory and suggested that as such, the matter would be open to appeal;
- He expressed concerns regarding the SAG meetings which were held in private and not open to the public with no published minutes available to detail the outcome of these meetings.
- For these reasons, Mr Pain stated that the Application should be refused.

In summary, Mr Martin Hendry (page 127 refers) raised the following points:

- Mr Hendry stated that there was profound widespread concern for the avoidance of the duty to have regard to the National Park Purposes

when considering applications within the South Downs National Park as this is an overarching statutory duty;

- He stated that the Licensing Authority needed to have regard to the two statutory purposes of the SDNP and he considered that this duty had not been complied with and that therefore the licence should be refused.

Ms Tetstall clarified for the Sub Committee that Natural England guidance provided a practical guide for local authorities in relation to their duty of regard and it was for the local authority to consider the potential impacts on the National Park purposes with the expectation that adverse impacts be avoided or mitigated where possible; that provided this was done, the duty would be met, whether or not the decision ultimately taken conflicted with National Park purposes.

In summing up, Mr Walsh advised that the guidance given was accepted and that, in respect of the duty of regard to the National Park purposes, positive representations had also been received from the Butterfly Conservation and A Greener Festival stating how Boomtown supports their wildlife and conservation work. He reminded the Sub-Committee that the South Downs National Park Authority were a statutory consultee who had not submitted any representation to the application.

In respect of noise levels, Mr Walsh confirmed that Boomtown did take into account the tranquil nature of the South Downs National Park and that this matter was closely monitored via SAG, the South Downs National Park and the Licensing Authority, as well as 'in house', with robust measures in place to ensure complete adherence.

It was recognised that traffic was a major issue and in the absence of a representative from the Highway Authority, expert evidence had been submitted by CTM, who also controlled traffic congestion measures at Glastonbury and Reading, which provided a realistic approach with evidenced data to address these concerns to ensure traffic disruption was as limited as possible.

In conclusion, Mr Walsh stated that there was a balance to strike between the promotion of cultural and artistic innovation and any disruption to local residents which would be heavily managed over a 5-6 day period annually.

Mr Walsh reiterated that he understood the concerns expressed in respect of delegating the decision to the police silver commander and was therefore content with the removal of this wording from condition A1(a) but clarified that the applicant would honour this commitment with Hampshire Constabulary in any event.

The Chairman thanked all those for attending and providing their representations to the Sub-Committee and announced that the Sub-Committee would retire to deliberate in private.

## **DECISION**

In reaching its decision, the Sub-Committee has carefully considered the application, the representations made by the interested parties and the Applicant's evidence provided at the hearing. It has taken into account the duties under the Crime and Disorder Act 1998, the rights set out in the Human Rights Act 1998 and its duty to have regard to National Park Purposes.

Members supported the application subject to the conditions set out in Appendix 5 of the report (supplementary agenda) as amended in the Resolution set out below.

### **RESOLVED:**

1. That the Sub-Committee did not consider it appropriate to delegate its decision making to responsible authorities, as set out in Condition A1 (a) to Appendix 5 of the report, therefore the words highlighted in bold below are removed:

**'subject to completion of a satisfactory 2019 festival, that has been determined as such by the police silver commander for the event (following input from the Licensing Act listed responsible authorities and Boomtown Festival at (or shortly after) the Safety Advisory Group debrief)'**

2. That, subject to the amendment set out in (1) above, the application for a new premises licence for the Boomtown Festival at Matterley Bowl, Alresford Road, Winchester be granted with the conditions set out below and attached to the licence.

### **REASONS:**

The reasons for the decision are:

- The 2018 event did not cause any major concern for the responsible authorities.
- This application differs from PREM741 in that it requests an increase in number of people by 11,000 and the Sub-Committee considers that the proposed conditions will minimise the potential for further nuisance arising from the increase in numbers.
- There have been no representations submitted by the responsible authorities.
- The Sub-Committee recognises that its role is to promote the four Licensing Objectives and considers that the proposed conditions, set out in Appendix 5 of the report, strike a balance between the



competing interests of the Applicant to hold the event and the impact of the event on those that live and work in the area.

### Operating Hours

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

**Plays and Films\*** (indoors and outdoors)

- (i) Wednesday 1100 to 2300
- (ii) Thursday 1000 to 0000
- (iii) Friday 1000 to 0400 Monday

**Live music and Recorded Music\*** (indoors and outdoors)

- (i) Wednesday 1100 to 2300
- (ii) Thursday 1000 to 0000
- (iii) Friday and Saturday 1000 to 0400 the next day
- (iv) Sunday 1000 to 0000.

\* condition PN17 refers.

**Performance of Dance** (indoors and outdoors)

- (i) Wednesday 1100 to 2300
- (ii) Thursday 1000 to 0000
- (iii) Friday to Sunday 1000 to 0400 the next day

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

**Late Night Refreshment** (indoors and outdoors)

- (i) Wednesday to Sunday 2300 to 0500 the next day

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

**Supply of alcohol\*\*** (for consumption on and off the premises)

- (i) Monday to Sunday 0000 to 0000
- (ii) Sale of alcohol to the public Wednesday to Monday only.
- (iii) Crew bar only, for 21 days before commencement of the event and 14 days after the event

\*\*condition A2 refers.

4. The hours the premises may open for other than Licensable Activities shall be:

- (i) Wednesday 0000 to Monday 1700 inclusive.

## **5 Mandatory Conditions**

### **Supply of Alcohol:**

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.

### **Door Supervision:**

Where individuals are required on premises to carry out security activities, they must be licensed by the Security Industry Authority.

### **Exhibition of Films:**

Admission of children to the exhibition of any film is restricted in accordance with:

- (1) Where the film classification body is specified in the licence, unless subsection (2)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
- (2) Where:
  - (a) the film classification body is not specified in the licence; or
  - (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question;admission of children must be restricted in accordance with any recommendation made by that licensing authority.

In this section: 'children' means persons aged under 18; and 'film classification body' means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 9(c 39) (authority to determine suitability of video works for classification).

### **The Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014**

***– effective from 1 October 2014***

1. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
  - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
    - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
      - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the

- cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
- (ii) drink as much alcohol as possible (whether within a times limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carried a significant risk of undermining a licensing objective;
  - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
  3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
    - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
    - (3) 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 either—
      - (a) a holographic mark, or
      - (b) an ultraviolet feature.
  4. The responsible person must 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: 25ml or 35ml; and
      - (iii) still wine in a glass: 125ml;
    - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
    - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

**Licensing Act 2003 (Mandatory Licensing Conditions) Order 2014**  
**– effective from 28 May 2014**

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1-
  - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
  - (b) “permitted price” is the price found by applying the formula-  **$P = D + (D \times V)$**   
where-
    - (i) **P** is the permitted price,
    - (ii) **D** is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
    - (iii) **V** is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
  - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence-
    - (i) the holder of the premises licence,
    - (ii) the designated premises supervisor (if any) in respect of such a licence, or
    - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
  - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
  - (e) “valued added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4.
  - (1) Sub-paragraph 2 applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
  - (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Conditions consistent with the operating schedule

## **All Licensing Objectives**

- A1. a) *This licence shall authorise the relevant licensable activities for a maximum of 75,999 persons, which shall include all persons present at the premises in whatever capacity including ticket holders, performers, guests and staff.***
- b) At least 6,000 of these must be staff, artists and their bona fide guests in accordance with the breakdown at Appendix A attached.
- c) 1000 additional tickets to the event may be provided to local residents on Sunday.
- A2. The premises licence shall authorise the licensable activities:-
- a) for the public for a maximum period of six consecutive days from Wednesday to Monday on one occasion in a calendar year. Public access on Wednesday to be limited to 27,500 from 2020.
- b) the crew bar is authorised for the sale of alcohol only to crew members and not more than 12 bona fide guests of senior crew managers at any one time for 24 hours per day for the period commencing twenty one days before the start of the public event and ending fourteen days after the end of the public event.
- A3. The Premises Licence Holder shall give notice to the Licensing Authority and Hampshire Constabulary of the dates of the event no later than six months before the start of the event.
- A4. The Premises Licence Holder 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.
- A5. The final EMP shall be supplied to the Licensing Authority no later than 28 days prior to each event. No alteration to the EMP shall be made after this date by the Premises Licence Holder except with the written consent of the Licensing Authority.
- A6. A schedule of stewards and security personnel shall be made available to the Licensing Authority and Hampshire Constabulary no later than 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. No amendments to the schedule shall be made after this date except by agreement with the Hampshire Constabulary and with the written consent of the Licensing Authority.
- A7. The 'Event Director' or his nominated deputy shall be available on site at all times that the licensed site is open to ticket holders.

A8. This Licence shall come into effect upon the surrender of Prem 741.

### **The Prevention of Crime and Disorder**

CD1. The Premises Licence Holder 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 secure perimeter fence shall be erected around the site of -the event, prior to the start of the event, and patrolled by security. The type of fence shall be agreed with the Licensing Authority no later than 120 days before the event.

CD3. Crime and Drugs Management Plan

1) The Premises Licence Holder (PLH) shall submit a written Crime and Drugs Management Plan (CDMP) for approval by Hampshire Constabulary (HC) no less than 135 days prior to the commencement of each event.

2) The CDMP shall have two primary constituent elements: 1) Drugs and prohibited substances and 2) Other Crime.

3) The CDMP in so far as it relates to drugs shall address how the PLH will seek to minimise the use, consumption and supply of illegal drugs and banned psychoactive substances and in particular will address the following matters:

a) A rigorous searching regime which is designed to prevent illegal drugs and banned psychoactive substances being brought into the licensed premises;

b) The ejection of all persons found attempting to enter the event in possession of illegal drugs or banned psychoactive substances;

c) How the PLH will deal with persons found in possession of illegal drugs and banned psychoactive substances within the licensed premises;

d) The manner in which the PLH will deal with any persons found in possession of such quantities of illegal drugs or banned psychoactive substances that there are reasonable grounds to believe that they intend to supply those illegal drugs or psychoactive substances, to include:

- i) The seizure of the illegal drugs/banned psychoactive substances and the manner in which they will be labelled, retained and passed to the police for evidential purposes;
  - ii) The detention of the persons found in possession of such illegal drugs and or banned psychoactive substances.
- e) The number and role of drug expert witnesses who will be present at all gates leading into the festival at any time when searching is taking place, to provide advice regarding substances found (whether it appears to be an illegal drug or banned psychoactive substance), the volume found (whether the volume is such that it is likely to amount to possession with intent to supply), the labelling and retention of any seized substances and the continuity of evidence.
- 4) The CDMP in so far as it relates to non-drug related crime shall address the measures which the PLH will employ to deal with other potential crime at the festival, in particular: -
- a) Acquisitive crime (thefts);
  - b) Violence against the person (including a rigorous searching regime which shall be designed to prevent offensive weapons being brought into the licensed premises);
  - c) The protection of young and vulnerable people.
- 5) The CDMP shall address how the PLH will communicate crime prevention messaging to the public, in particular messaging regarding the searching regime and the ejections policy referred to at (paragraphs 1(a) to (d) above).
- 6) The provisions of the final CDMP shall be treated as though they are conditions on the face of the premises licence.

### Timings

- 7) Following submission of the initial CDMP to HC in accordance with paragraph (1) above, the PLH shall meet with HC to consider the CDMP.
- 8) The PLH shall submit a revised CDMP (adopting such amendments that will have been agreed through the course of the event planning), to HC no less than 70 days prior to the start of each event for agreement by HC.
- 9) Once the CDMP has been approved by HC, there shall be no alteration to the CDMP except with the prior written consent of the Police Commander for the event.
- 10) The PLH shall provide a written "readiness report" in writing to the HC no less than 14 days before the event, with a further update provided no less than 7 days before the event. These reports shall address whether the PLH has the human and technical resources in

place to deliver the Event Management Plan (EMP), CDMP and Security Plan.

### De-Brief

11) The PLH shall subsequently formally meet with the Hampshire Constabulary within 70 days of the conclusion of the event to debrief the CDMP and agree the key outcomes and statistics that will be recorded in a written development document which will shape the CDMP for the next event.

### Security Plan

12) The PLH shall submit an initial written Security Plan to HC no less than 85 days prior to the commencement of each event. It shall be a confidential plan to be shared with HC as to the measures the PLH will take to safeguard the safety and security of the public.

13) Following submission of the initial Security Plan to HC in accordance with paragraph (1) above, the PLH shall meet with HC to consider the CDMP.

14) Once the Security Plan has been approved by HC, there shall be no alteration to the Security Plan except with the prior written consent of the Police Commander for the event.

15) The provisions of the final Security Plan shall be treated as though they are conditions on the face of the premises licence.

### Mental Health Safeguarding

16) The PLH shall submit an initial written Mental Health Safeguarding plan to all responsible authorities with responsibility for health and to HC no less than 85 days prior to the commencement of each event. This plan shall be produced as part of the EMP. It shall be a confidential plan to be shared with the relevant responsible authorities and HC, and shall deal with the measures the PLH will take to safeguard the mental health of persons attending the festival, in particular how the PLH will deal with members of the public who are suffering from psychotic episodes, and the training which security staff will receive to train them to deal with such persons.

17) Once the Mental Health Safeguarding Plan has been approved by the relevant responsible authorities and HC, there shall be no alteration to the Mental Health Safeguarding Plan except with the prior written consent of the relevant responsible authorities and the Police Silver Commander for the event.

18) The provisions of the final Mental Health Safeguarding Plan shall be treated as though they are conditions on the face of the premises licence.



CD4. The premises licence holder shall appoint a competent crime prevention manager. Their role shall be to facilitate communication between the event organisers, the appointed security contractors and the police and to ensure compliance of CMP and SMP.

CD5. The campsites, car park and event arena shall be patrolled by security and stewards.

CD6. No glass containers or bottles shall be allowed inside the event site, with the exception of approved event traders or specific restaurant areas. Bottle banks shall be located at the event site entrances to facilitate disposal.

CD7. Save for specific restaurant areas approved by the Police in writing, 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.

CD8. A Personal Licence Holder shall be present at each bar throughout any event when alcohol is being supplied under the Premises Licence. The Premises Licence Holder shall produce details of the Personal Licence Holders to the Licensing Authority and Hampshire Constabulary no later than 28 days prior to the commencement of the event. .

## **Public Safety**

PS1. The Premises 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, assistance dogs and dogs from enforcement agencies are to be allowed onto the site unless agreed in writing with the licensing authority at least 28 days before the commencement of the event.

PS3. There shall not be any activity which involves body piercing or tattooing carried out on the site.

PS4. No legal highs shall be allowed on site, these to include any gas canisters used for that purpose.

## **The Prevention of Public Nuisance**

PN1. From 12 noon on the Wednesday preceding the event until 6pm on the Monday following the event a regular transfer bus will be available to transfer customers between Winchester Train Station and the event site. A transfer policy will be drawn up and circulated to officers no less than 28 days before the event. This policy will articulate the volume and frequency of transfers.

PN2. At least 30% of all public tickets, will only be permitted to access the site by coach (whether public transport or coach transfers from local train stations).

PN3. The premises licence holder will promote public transportation as the preferred access and egress from the event site. A policy to articulate this activity will be drawn up and circulated to officers no less than 56 days before the event but both the website, the tickets and all significant promotional activity will promote public transportation.

PN4. The Premises Licence Holder shall produce a Traffic Management Plan (TMP). The final TMP shall be submitted to the Licensing Authority no later than 28 days before the start of the event. No alteration to the TMP shall be made after this date by the Premises Licence Holder except with the written consent of the Licensing Authority.

PN5. The Premises Licence Holder shall produce an initial Noise Management and Community Liaison Plan (NMP) at least 56 days prior to the commencement of the event. The final NMP shall be submitted to the Licensing Authority for agreement no later than 28 days prior to the commencement of the event. No alteration to the NMP after this date shall be made by the Premises Licence Holder except with the written consent of the Licensing Authority.

PN6. The final NMP shall contain the methodology which shall be employed to control sound produced on the premises, In order to comply with the premises licence. The NMP must include all of the arrangements for preventing public nuisance and consultation with the local community and shall include:

- a) An inventory of all sound systems to be used on the site.
- b) A schedule of contact details for those who are responsible for the sound systems.
- c) A list of stages and cinemas together with sound power output details, a schedule of their location, orientation, and shut down times and their maximum audience capacity.
- d) Maximum permitted sound power output details for traders.
- e) Management command and communication structure /methods for ensuring that permitted sound system output and finish times are not exceeded.
- f) Publication and dissemination of information to the public and arrangements for provision and staffing of a hotline number for dealing with complaints.
- g) Action to be taken by the Event Organiser following complaints.

PN7. The Premises Licence Holder shall ensure compliance with all aspects of the Noise Management and Community Liaison Plan.

PN8. At least 21 days prior to an event the Premises Licence Holder shall provide to the licensing authority a telephone number for contacting

the licence holder or a nominated representative during the course of an event.

PN9. The Premises Licence Holder shall produce and make available a Public Information Document with details of arrangements for the event based on the EMP and NMP that might affect the local community. The contents of the document and required distribution list are to be agreed with the Licensing Authority at least 28 days in advance of each event. The final agreed Public Information Document shall be distributed to recipients as agreed at least 21 days prior to the event. The document shall also be advertised in the Local paper at least 10 days in advance of each event.

PN10. Between the hours of 1000 and 2300 on Thursday, Friday, Saturday and Sunday, noise levels from the event shall not exceed 55dB LAeq(15 mins) and between the hours of 2300 and 0400 noise levels shall not exceed 45dB LAeq (15 mins).

PN11. Noise levels from music in the octave band frequency ranges with a centre frequency of 63 Hz and 125 Hz shall not exceed at the monitoring locations:

Wednesday – As per condition PN21;

(a) Thursday – 65dB Leq (15mins) between 1000 and 0000;

**(b) Friday and Saturday – 65dB  $L_{eq(15mins)}$  between 1000 and 2100; 68 dB  $L_{eq(15mins)}$  between 2100 and 2300; and 65dB Leq (15 mins) between 2300 and 0400 (the morning following).**

(c) Sunday – 65 dB Leq (15mins) between 1000 and 0000.

PN12. All noise levels from music shall be measured as above in free field conditions and in the absence of significant local noise sources at locations to be agreed in writing with the Licensing Authority no later than 28 days in advance of the event.

PN13. The sound systems of the principal stages shall be tested to ensure compliance with above levels 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.

PN14. The Premises Licence Holder shall appoint a competent noise consultant to monitor and record on site and off site noise, to ensure compliance with noise levels.

PN15. The Premises Licence Holder shall 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 'incidental' or background music to their stall or fairground attraction.

PN16. The Premises Licence Holder shall ensure that a deployment of security personnel shall patrol the site for the duration of the event 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 PN15, 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.

PN17. Between the hours of 00:00 and 04:00 on a Monday morning, regulated entertainment shall be limited to the following:

a) The playing of recorded music only in the format of a 'silent disco', defined as being 'the playing of recorded music with or without a DJ, in such a way that it shall only be heard through headsets worn by persons present'.

b) The playing of a film provided that no noise shall be heard at the boundary of the licensed area.

c) No other form of regulated entertainment shall be permitted.

PN18. There will be no stages in areas labelled B and C on the plan attached at Appendix B [the Plan].

PN19. There will be no regulated entertainment in area D on the Plan except in the crew bar.

PN20. Regulated entertainment shall be permitted on Wednesday between 11:00 and 23:00.

PN21. Regulated entertainment on Wednesday shall be inaudible at the monitoring locations.

PN22. The Premises Licence Holder shall submit a post event Noise evaluation report to the Licensing Authority no more than 28 days after the end of the event. This shall include:

a) The event complaint log including names, addresses, dates, times and details of complaint and action, taken in response to each;

b) The event noise log, including dates, times, locations of noise monitoring, to include noise readings made in accordance with the noise criteria in PN10 and PN11);

c) An explanation for any breaches of licensing conditions and any action that was taken to avoid breaching the noise criteria detailed in PN10 and 11.

d) A summary of what action can be taken to improve noise control and management, if appropriate.

### **The Protection of Children from Harm**

CH1. The Premises Licence Holder shall prominently display notices at the point of sale of alcohol 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 25' scheme with signage being displayed in all locations relevant to the sale of alcohol.

CH3. The Premises Licence Holder 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 Hampshire Constabulary 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 18 shall be permitted on the premises unless accompanied by an adult.

CH7. Any site and/or event staff having responsibility for the welfare of children on site shall be DBS checked (Disclosure and Barring Service) and their name date and place of birth made available to Hampshire Constabulary 28 days prior to the event taking place. The EMP shall include a plan to deal with all such lost and/or found children.

**The Parties will be formally notified of the decision in writing shortly. This notification will include details of the right to appeal against this decision to the Magistrates' Court which must be made within 21 days of the notification.**

The meeting commenced at 10am and concluded at 12.20pm.

Chairman

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## LICENSING SUB-COMMITTEE

Wednesday, 21 August 2019

Attendance:

Councillors

Green (Chairman)

Laming

Read

Officers in attendance:

Miss B Appletree – Licensing Officer  
Miss C Stefanczuk – Licensing Manager  
Ms C Tetstall – Licensing Solicitor

Others in attendance who did not address the meeting:

Councillor Clementson

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1. **TEMPORARY EVENT NOTICE - MIDDLE FARM, NORTH END LANE, CHERITON, HANTS, SO24 0PW**

(Report LR528 refers)

The Chairman welcomed to the meeting: Tricia Knight, on behalf of the applicant and Colin Pollard, on behalf of the Chief Officer of Hampshire Constabulary, who is a relevant person for the purposes of Temporary Event Notices.

Miss Appletree introduced the Report which set out the details of the application. In summary, she explained that an application to hold an event under a Temporary Event Notice (TEN) at the premises, Middle Farm, North End Lane, Cheriton for Alresford Young Farmers had been made under Section 100 of the Licensing Act 2003.

The notice proposed that the event would take place from 20.00 hours on 7 September 2019 until 02:00 hours on 8 September 2019, to be held within a barn at the address. However, the exact location had not been specified. This was for the sale by retail of alcohol for consumption on the premises only as a licensable activity and included details of a DJ at the event, but regulated entertainment had not been selected as a licensable activity. However, it was noted that given the details and the timings of the event set out in the

application, this activity would be licensable as regulated entertainment. The full TEN application was set out in Appendix 1 of the report.

Miss Appletree reported that Hampshire Constabulary and Environmental Health had been consulted as the relevant persons for TEN applications. Environmental Health had made no objection to the application. However, Hampshire Constabulary had made an objection to the application in respect of the prevention of crime and disorder and public safety licensing objectives. A copy of their representation was set out in Appendix 2 of the report.

Miss Appletree outlined the process to be taken in the consideration of TEN applications and reminded the Sub-Committee that there was no provision to attach conditions as there was no premises licence or club premises certificate in effect at the premises.

In response to Members questions regarding the South Downs National Park policies in respect of tranquillity and dark skies, Ms Tetstall clarified that the Licensing Sub-Committee were required to have regard to the purposes of the National Park. However, this would not prevent any event from taking place as a balanced approach was to be considered.

At the invitation of the Chairman, Colin Pollard addressed the Sub-Committee to present the objection raised on behalf of the Chief Officer of Hampshire Constabulary. Mr Pollard stated that the objection to the TEN application for this event was not a reflection of the Young Farmers Association or any other event held by them. The objection had been submitted as a result of an identical TEN event which had taken place from 20:00 hours on 1 September 2018 until 0100 hours on 2 September 2018 and was hosted by the named applicant in the same location following the Alresford Agricultural Show. The 2018 event was for 100 people and had failed to demonstrate promotion of the licensing objectives under the Licensing Act 2003.

Mr Pollard summarised the incidents that had occurred as result of the 2018 event and stated that the Police were called to attend this event by the security team and following the concerns of the neighbourhood team regarding the level of alcohol consumption. On arrival, the Police noted that a female 'heavy in drink' had witnessed a drunken male indecently touch another female. In addition, a drunken male had arrived at the event, having previously been banned from events due to his behaviour. He had become verbally aggressive when refused entry by the security team. Before the Police had arrived at the scene, the same male had attempted to gain entry again and was escorted out by the security resulting in the drunken male taking a swing at one of the security team, catching him with a glancing blow to his head.

It was reported that there was no injury sustained and that the security team member did not wish to make a statement or a formal complaint about this incident. In the process of ejection, the drunken male had tripped on the uneven car park surface and had hit his forehead on the ground resulting in a head injury. First responders were already on the scene treating a female for a suspected overdose so the drunken male was left in their care awaiting the arrival of an ambulance.



Despite numerous attempts to make contact with the TEN holder following the 2018 event, Mr Pollard stated that no communications had been received, therefore Hampshire Constabulary had been unable to address the shortcomings of the 2018 event and the incidents which raised concerns regarding the prevention of crime and disorder and public safety licensing objectives.

Mr Pollard stated that the Alresford Agricultural Show was a 20,000 person capacity event taking place on the same dates as the proposed 2019 event. By having a TEN in place with an increased number of persons to 150 and an extended terminal hour of 20:00 hours on 7 September 2019 until 02:00 hours on 8 September 2019, this event was seen as an 'after party' event taking place when alcohol would have already been consumed throughout the day at the agricultural show.

In conclusion, Mr Pollard stated that with no contact received from the TEN holder following last year's event or prior to the submission of this TEN application, Hampshire Constabulary considered that a 2019 event would see an increased level of alcohol, drunkenness and disturbance which further undermined the public safety licensing objective and urged the Sub-Committee to consider the statute and Licensing Policy and to advise the licensing authority to issue a counter notice for this TEN application to prevent the event from taking place, in order to promote the public safety licensing objective.

At the invitation of the Chairman, Tricia Knight (on behalf of the applicant) addressed the Sub-Committee. In summary, she stated that this was a party for Alresford Young Farmers club members only following the Alresford Agricultural Show and that although Alresford Young Farmers had a stand at the show to encourage the recruitment of new members, representatives of the club did not drink all day at the show when manning the stall. Ms Knight stated that the incidents that had occurred during the 2018 event were a one off, largely as a result of selling tickets on the door and occurred as a result of an ex member being refused entry. Following the submission of this TEN application, the premises user did not realise that he could submit additional information regarding management of the event to the application. Furthermore, the premises user did not know that Hampshire Constabulary had been trying to contact him regarding the 2018 event otherwise he would have been fully co-operative.

A number of control measures were suggested in conjunction with the TEN application for this year, with a stipulation that there would be no ticket sales on the door and that all attendees must be known to the Alresford Young Farmers Committee, hold a valid membership card and that the full names of members and their guests (non members to be accompanied by a member only) would be recorded when tickets were purchased. It was considered that this would significantly reduce the risk of people turning up on the door at the event. In addition, the premises user was offering additional stewards and bar staff to monitor alcohol consumption; together with bag searches and a zero tolerance policy to drugs. However, it was noted that there had never been an issue in this respect.

In summing up, Ms Knight stated that with these additional measures in place, it was considered that the 2019 event would be a fun, safe and responsible event with adequate procedures in place to prevent the unfortunate incidents that had previously occurred in 2018.

In response to questions from the Sub-Committee, Ms Knight stated that in order to provide reassurance at the 2019 event, a contact list for the premises user and the management team at the event would be made available to all relevant persons prior to the event.

Ms Tetstall and Miss Appletree clarified that whilst a contact list may be provided, it would still be the premises user who was ultimately responsible for any issues which occurred as a result of the event taking place under the TEN.

In response to the points raised by the applicant, Mr Pollard stated that whilst he welcomed and commended the measures suggested by Ms Knight, he did not consider that the applicant had appropriately addressed the concerns of Hampshire Constabulary following the incidents that had taken place at the 2018 event. He stated that Hampshire Constabulary were not satisfied that the event was taking place on the same dates as the all-day Alresford Agricultural Show where alcohol was also available and as a result they expected further issues in respect of crime and disorder to occur.

The Sub-Committee retired to deliberate in private.

In his closing remarks, the Chairman stated that the Sub-Committee had carefully considered the objection of Hampshire Constabulary, and the response of the Applicant. 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 and had regard to the purposes of the National Park.

The Sub-Committee concluded that a counter notice should be given in respect of the Temporary Event Notice. This means that the activities, as set out in the Temporary Event Notice may not take place.

The Chairman thanked all those present for attending the meeting and explained to all parties that they would be formally notified of the decision in writing in due course and of their right to appeal to the Magistrates' Court within 21 days from the date of notification of the decision .

**RESOLVED:**

1. That a counter notice be issued in respect of the Temporary Event Notice at Middle Farm, North End Road, Cheriton and the activities, as set out in the Temporary Event Notice may not take place for the following reasons:

**REASON**

1. The applicant's failure to communicate with Hampshire Constabulary, which might have resulted in the application being modified by agreement prior to the hearing, as set out in the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 at paragraph 7.3.7;

2. No measures had been provided in the application to reduce the possibility of crime and disorder, which the Sub-Committee consider likely based on the 2018 event.

The meeting commenced at 10.00 am and concluded at 11.00 am

Chairman

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