

LICENSING SUB-COMMITTEE

Wednesday, 10 April 2024

Attendance:

Councillors:
Cunningham (Chairperson)

S Achwal

Laming

Other Councillors in attendance who addressed the meeting:

Councillor Neil Bolton
Councillor Jerry Pett

Officers in attendance:

Carol Stefanczuk – Licensing Manager
Claire Humphreys – Licensing Officer
Daniel Lucas – Senior Planning and Litigation Lawyer
Jodie Gibson – Planning Lawyer

Phil Tidridge – Chartered Environmental Health Practitioner (in attendance to address technical questions of the Sub-Committee)

[Full audio recording](#)

1. **TO CONFIRM A CHAIRPERSON FOR THE MEETING**

RESOLVED:

That Councillor Cunningham be confirmed as Chairperson for the meeting.

2. **DISCLOSURE OF INTERESTS**

There were no disclosure of interests made at this meeting.

3. **APPLICATION FOR NEW PREMISES LICENCE - BROCKWOOD FESTIVAL, SHEEP DIP, HINTON AMPNER, ALRESFORD, HAMPSHIRE, SO24 0LF (LR585)**

The Chairperson welcomed all those present to the meeting:

Applicant (and on behalf of the Applicant who addressed the Sub-Committee or were present to answer questions of the Sub-Committee):

- John Payne – Licensing Lawyer (representing Brockwood Entertainment Ltd)



- Alistair Morton – Brockwood Entertainment Ltd
- Gareth Gwynne-Smith – Designated Premises Supervisor, Brockwood Entertainment Ltd
- Oliver Toomey – Brockwood Entertainment Ltd
- Patrick Morton - Brockwood Entertainment Ltd
- Matthew Morton – Landowner




Other Persons who made written representations and addressed the Sub-Committee:

- Brendan Gibbs on behalf of Bramdean & Hinton Ampner Parish Council (representation on Pages 141 & 142) and also on behalf of Sir Michael Snyder (representation on Pages 59 & 60) and Anthony Jones (representation on Pages 62 & 63)
- Councillor David Pain on behalf of Cheriton Parish Council (representation on Page 67)
- Councillor Jerry Pett (representation on Page 149)
- Councillor Neil Bolton (representation on Page 150)
- James Rankin, Counsel on behalf of Krishnamurti Foundation Trust (representation on Pages 124 – 127) and also speaking behalf of:
 - Nasir Shamim (representation on Pages 131 – 134);
 - Raman Patel (representation on Page 91);
 - Emma Birt (representation on Pages 87 – 90);
 - Robert Beddow (representation on Pages 116-119);
 - Eva Booth (representation on Pages 78 & 79);
 - Charline Sowa (representation on Page 120);
 - Charley Lee (representation on Pages 107-111);
 - Javier Jurado (representation on Page 143);
 - Thomas Lehmann (representation on Page 102); and
 - Andrew Bamber (representation on Page 27 of Supplementary Agenda 2)
- Gary Primrose (also spoke on behalf of Krishnamurti Foundation Trust) (representation on Page 59)
- Peter Rogers (also spoke on behalf of Krishnamurti Foundation Trust)
- Tom Power (also spoke on behalf of Krishnamurti Foundation Trust) (representation on Pages 71-74)

The Licensing Officer introduced the report which set out an application for a new premises licence under section 17 of the Licensing Act 2003 for Brockwood Festival, Sheep Dip, Joans Acre Lane, Hinton Ampner, Alresford, SO24 0LF which was situated within the South Downs National Park (SDNP).

The Sub-Committee's attention was drawn to the five supplementary agendas that had been issued following the publication of the agenda pack, which contained information submitted by the Applicant and by/or on behalf of the Krishnamurti Foundation Trust, listed as follows:

- (1) [Supplementary Agenda 1 - LR585 Appendix 3 \(Local Plan of Reps Received\) and LR585 Appendices 4 and 4a \(Supplementary Information submitted by the Applicant\)](#)  PDF 52 MB
- (2) [Supplementary Evidence submitted by the Legal Representative for the Krishnamurti Foundation Trust](#)  PDF 4 MB

- (3) [Further Supplementary Evidence submitted by the Legal Representative for the Krishnamurti Foundation Trust](#)  PDF 671 KB
- (4) [Supplementary Agenda 4 - LR585 Appendix 4b \(Supplementary information submitted on behalf of the Applicant\)](#)  PDF 1 MB
- (5) [Supplementary Agenda 5 - LR585 Appendix 5G \(Updated skeleton on behalf of the Krishnamurti Foundation Trust\)](#)  PDF 567 KB

The premises had been described on the application as 'private arable land with a small, wooded area encompassed by fencing'. The application proposed the supply of alcohol for consumption on the premises only, and the provision of regulated entertainment for one event for no more than five consecutive days each calendar year. Public notices had been displayed at the event location, albeit due to its location, no notices had been displayed on the highway due to the permitter of the site not abutting the highway. The full application was set out in Appendix 1 of the main report.

The Sub-Committee were advised that 50 written representations had been received from 'Other Persons'; 34 against the application and 16 in support of the application, eight of whom addressed the Sub-Committee, and/or also spoke on behalf of others, as set out in the attendance above. These representations were set out in full in Appendix 2 and related to the prevention of crime and disorder, public safety and the prevention of public nuisance licensing objectives.

The South Downs National Park Authority (SDNPA), as the planning authority, were consulted on the application as a Responsible Authority. They did not wish to submit a formal representation, but supplied comments which could not be taken into consideration as their officer had stated that SDNP did not have an objection to the issuing of a licence based on licensing considerations. The Sub-Committee must seek to further the SDNP purposes, to ensure they are respected, as set out in section 11A(2) of the National Parks and Access to Countryside Act 1949 (as amended by Section 245 of the Levelling-Up and Regeneration Act 2023) and referred in paragraphs 4.5 and 4.6 of the report. The absence of representation does not negate the duty of the licensing authority.

It was recognised by SDNPA that the planning and licensing regimes were separate. Whilst licensing was defined legislation, planning had broader considerations and therefore the two regimes may not come to the same conclusion.

No representations had been received from other Responsible Authorities.

The Sub-Committee were reminded that only those 'Other Persons' who had made written representation could address the Sub-Committee and that they may only refer to comments made in their written statements, unless they have requested that they be represented, in which case the third party may speak on their behalf, but may only refer to the comments outlined in the original representation.

In conclusion, the Licensing Officer advised the Sub-Committee that, if minded to grant the application, there were conditions to consider, as set out in Section 5 of

the report, which the Sub-Committee could consider and amend as appropriate to promote the licensing objectives.

At the invitation of the Chairperson, the Applicant's Solicitor, John Payne, Matthew Morton, representing the Applicant and Gareth Gwynne-Smith, the Designated Premises Supervisor responsible for running the event, addressed the Sub-Committee to set out the application and the supplementary information submitted.

The Sub-Committee noted that a revised plan had been submitted by the Applicant as part of supplementary agenda 4 on 9 April 2024, to address questions relating to an area of land that was subject to a covenant with the intention of removing any licensable activities from this particular parcel of land. The Sub-Committee noted that the revised plan omitted to include a red boundary line indicating the perimeter of the premises and the area to which the covenant applied.

In response, James Rankin, Counsel on behalf of Krishnamurti Foundation Trust and the Council's Senior Planning and Litigation Lawyer addressed the Sub-Committee on this matter. In response to regulation 23, the Applicant was asked to clarify which plan they wished to be determined; the revised plan or the original plan previously submitted as set out on Page 55 of the main report which incorporated a red boundary line. The Applicant's Solicitor referred to the provisions within regulation 23, the proposed conditions of the event in respect of the moveable structure arrangements within the licensed area and confirmed that the Applicant wished to proceed with the original plan set out on Page 55 of the main report.

The Chairperson announced that the Sub-Committee would adjourn briefly to seek legal advice on the matters raised.

The meeting adjourned at 10.30am and re-convened at 10.35am.

Upon reconvening the meeting, the Chairperson confirmed that the Sub-Committee would proceed with the determination of the application based on the original plan submitted and set out on Page 55 of the main report which identified the licensed area for consideration.

John Payne, Matthew Morton and Gareth Gwynne-Smith proceeded to present the application to the Sub-Committee and responded to questions thereon. The Applicant and their representatives set out the background and previous history of events at the site and outlined details of the Safety Advisory Group (SAG) that had recently taken place. The group was attended by representatives from the various Responsible Authorities including Environmental Protection and Hampshire Constabulary, whereby the detailed proposals including noise control and traffic management had been reviewed with no comments made through this process. In addition, it was reported that the Applicant had received limited feedback from residents following previous events that had taken place on site.

The Chairperson then invited eight 'Other Persons' who had made relevant written representations, those speaking on behalf of others and Counsel on

behalf of Krishnamurti Foundation Trust who had made written representations to address the Sub-Committee.

Brendan Gibbs spoke on behalf of Bramdean and Hinton Ampner Parish Council and also addressed the Sub-Committee to make representations on behalf of Sir Michael Snyder and Anthony Jones, speaking in relation to these written representations raising concerns in respect of public safety and the prevention of public nuisance licensing objectives.

In addition, Brendan Gibbs made reference to the following points and responded to questions thereon:

- Concerns regarding the intended rapid growth of the festival from 2,000 people in 2024; 3,000 people in 2025 and up to 5,000 people thereafter.
- The detrimental impact on residents of Brockwood, including the adjoining school and Krishnamurti Foundation Trust.
- Not in keeping with the principles of purposes 1 & 2 of the SDNPA, the Dark Night Skies Supplementary Planning Document, or the Council's Licensing Policy as revised in December 2023.
- If minded to approve the application, the Parish Council sought evidence to confirm the event complies with purpose 1 of the SDNPA principles.
- Concern that the licence application proposed to be in perpetuity which was regarded as unwise.
- The increased volume of traffic and level of noise during the event.

Councillor David Pain spoke on behalf of Cheriton Parish Council in relation to the written representation raising concerns in respect of the prevention of public nuisance licensing objective, failure to comply with the Council's revised Licensing Policy and failure to comply with relevant Government legislation.

In addition, Councillor Pain made reference to the following points:

- Concerns regarding the expansion growth rate of the festival going forward and the detrimental impact on residents of Cheriton largely due to low frequency or bass music noise, with no background noise level measurements taken in this area.
- Omissions in the noise management plan.
- Concerned that noise levels proposed for the Brockwood Festival were identical to those applied to the Boomtown Festival, as suggested at the public meeting held at Bramdean Village Hall in February 2024.
- If minded to approve the application, the Parish Council sought an additional condition that amplified music noise cease at 23:00 hours and suggested the use of silent discos after this time.
- Would contravene purpose 1 of the SDNPA principles as it fails to conserve or enhance the natural beauty, wildlife and cultural heritage of the area.
- Non-compliance with relevant government legislation: referenced section 245 of the Levelling-up and Regeneration Act 2023.
- Urged the Sub-Committee to reject the application.

During the representation, the Council's Senior Planning and Litigation Lawyer reminded Councillor Pain that as he was addressing the Sub-Committee on behalf of Cheriton Parish Council, he could only represent the points and parameters that the Parish Council had resolved, as set out in their written representation, and could not raise any additional points that were not included within their submission.

Councillor Jerry Pett, spoke representing the Upper Meon Valley ward which included the festival site and addressed the Sub-Committee speaking in relation to his written representation raising concerns in respect of the prevention of public nuisance licensing objective.

In addition, Councillor Pett made reference to the following points:

- Served as the Council representative on the South Downs National Park Authority
- Expressed significant concerns about potential public nuisances from music played after 23:00 hours, comparing it to disturbances documented at the nearby Boomtown festival.
- Highlighted the "Pop Code" industry standard, which stated that music noise should not be audible within noise-sensitive premises between 23:00 hours to 09:00 hours the following day.
- Noted previous instances from Boomtown where late-night music negatively affected residents in nearby towns despite similar sound limits proposed for this festival.
- Advocated for including a condition in the festival's licence to cease music at 23:00 hours to prevent similar disturbances.
- Referenced a recent amendment in the Levelling-up and Regeneration Act 2023, now Section 245, imposed stricter licensing conditions affecting land within national parks.
- Emphasised that this legislative change should guide the licensing decision to reflect the broader responsibilities and obligations newly imposed on the authority.
- Urged the Council to take these points seriously in their assessment of the licensing application.
- Stressed the importance of prioritising community peace and legal obligations over the interests of the festival.
- Thanked the Council for considering these critical aspects in evaluating the potential impacts of the festival on the community and the environment.

Councillor Neil Bolton, also spoke representing the Upper Meon Valley ward and addressed the Sub-Committee speaking in relation to his written representation raising concerns in respect of the prevention of public nuisance licensing objective.

In addition, Councillor Bolton made reference to the following points:

- Expressed significant concerns from constituents regarding the proposed Brockwood Festival.

- The SDNPA mandates early consultations for large events, integrating conservation into licensing decisions.
- Established a critical fifth objective: Ensuring events were consistent with the park's purposes:
 - Purpose 1: To conserve and enhance the area's natural beauty, wildlife, and cultural heritage and
 - Purpose 2: To promote public enjoyment of these qualities.
 - Note: When conflicts arise, the conservation purpose takes precedence.
- The guidance emphasises the control of large events that could harm the park's special qualities.
- Discussion on the cumulative impact of multiple events was crucial, given the busy schedule and high traffic volumes expected this summer on the A272.
- Local Impact and Business Concerns:
 - Highlighted are the traffic and noise from scheduled events, impacting residents and the local environment.
 - Specific concern from the Krishnamurti Centre at Brockwood about the festival's impact on their retreat business which relies on area tranquillity.
 - Urged consideration of the aggregate effect of multiple events on community well-being and environmental sustainability.
- Encouraged the committee to balance festival approvals with broader community and conservation goals, questioning the sustainability of adding another large-scale event.
- Requested that the committee deliberate on when the cumulative event impacts become excessive, advocating for a cautious approach to licensing that prioritises natural beauty and local community needs.

James Rankin, Counsel, representing Krishnamurti Foundation Trust, and also speaking on behalf of the employees and residents of Krishnamurti Foundation Trust named under the attendance set out above) spoke in relation to their written representations raising concerns in respect of the public safety and the prevention of public nuisance licensing objectives.

During his submission, Mr Rankin called upon the following witnesses and experts who responded to specific questions thereon:

- Peter Rogers (Managing Director, Sustainable Acoustics) addressed the Sub-Committee in respect of the F1: Acoustics report submitted by the Applicant (Supplementary Agenda 1) and the Sustainable Acoustics noise report submitted on behalf of the Krishnamurti Foundation Trust (Supplementary Agenda 2).
- Tom Power addressed the Sub-Committee on behalf of Krishnamurti Foundation Trust providing a testimony as a local resident and employee who lives (approx. 250 metres from the location of the festival stage) of the history and disruption caused by the events held in 2021 and 2022, social media feeds and inaccuracies in ticket sales by third party promoters (Supplementary Agenda 2, page 51 refers)
- Gary Primrose to address the Sub-Committee as trustee of the Krishnamurti Foundation Trust for 12 years and previously worked at Brockwood from 1977 and 1993 as Head Gardener and spoke in respect the history of the

site, the landscape of the parkland features and the ecology as a bat priority habitat.

James Rankin made reference to detailed points, including those in relation to the following matters and responded to a number of questions thereon:

- The history and background of the charity, Krishnamurti Foundation Trust, that had been running since 1969 when the schools were first established, with the foundation following in 1987, underpinned by the peaceful tranquillity of the area where they are located.
- Expressed concerns about the failure by the Applicant's acoustic expert to address the Sub-Committee to give evidence.
- The impact and repercussions of previous smaller scale events operated by the Applicant at this site, four times smaller than the proposed application, had resulted in behaviour including patrons carving names into ancient oak trees, drunken/drugged revellers of the festival trespassing on the grounds of the centre, school and residential areas in the early hours of the morning and loud music vibrating the windows of residents situated 100metres from the site. He therefore urged the Sub-Committee to refuse this application.
- Stated that many of the late submissions of the Applicant's Solicitor had no basis in law, with no reference made to specific policies (i.e. search or drug policies etc) to address concerns or to uphold the licensing objectives and solely relied on reference to the Safety Advisory Group.
- The proposal was not about two days, but five days, including the disruption during the setting up and dismantling of festival stages etc
- Referred to criticism of the Krishnamurti Foundation Trust and inaccurate reference to the Uttlesford District Council v English Heritage (2007) case within the Applicant's submission, as set out in Supplementary Agenda 4. Proposals suggested that the common ground and co-existence established historically between both parties over many years be removed, with the foundation faced with refusing repeated guests as they could not offer the peaceful tranquillity expected at the retreat and would therefore endure financial loss as a result.
- Questioned the content, omissions and inaccuracy of the F1: Acoustics report submitted by the Applicant (Supplementary Agenda 1 refers). Peter Rogers of Sustainable Acoustics on behalf of Krishnamurti Foundation Trust addressed the Sub-Committee to provide technical detail in relation to this matter.
- Noise level deemed incompatible with the daytime use of a retreat and in terms of intrusion from a nuisance perspective it would materially interfere and cause nuisance to the multiple activities of the trust, including the school and the retreat.
- Concern for wildlife habitats and the long-term impact on the health of ancient tree lands: Pipistrelle and rare barbastelle bat species breeding in The Grove, the existence of rare birds on site including fire crests and invertebrates that live on the decaying old ancient trees.
- Ticket Sales: Expressed concern that via alerts a third-party promoter had registered the address of the Brockwood Festival as Brockwood School.
- Social Media posts encouraging alcohol consumption on site and continuing at the campsite, currently located adjacent to The Grove.

- The Trust has 21 full time residential premises on site.
- Traffic Management Plan and Event Management Plan: The Sub-Committee had not had sight of a number of the necessary policies and plans for the premises.
- The specific duty of Purposes 1 & 2 of the SDNPA policy adopted in the Council's Statement of Licensing Policy.
- Permission has not been authorised by the Krishnamurti Foundation Trust for use of the school access for emergency vehicles to enter/exit the site.
- In conclusion, Mr Rankin stated that the application could not be considered as reasonably acceptable in this particular location, in which the interest of the wider community were paramount and urged the Sub-Committee to refuse the application.

In response to questions, the Council's Chartered Environmental Health Practitioner addressed the Sub-Committee to clarify noise level receptor locations, setting out details of how measurements were taken and confirmed that Boomtown Festival did not have residential dwellings as close to the site as those in the proposed application.

In his closing statement, the Applicant's Solicitor stated that, subject to the conditions set out in the report, no objections to the application had been submitted by any of the statutory Responsible Authorities, including the South Downs National Park as planning authority, the policies had been provided to the Safety Advisory Group and had not indicated any issues or concerns for change in this respect. If disturbance was caused, as referred within written representation by 'Other Persons', there was a process to seek a review of the licence and urged the Sub-Committee to approve the application.

To assist with the concerns of residents and the Sub-Committee, if minded to approve the application, the Applicant's Solicitor proposed additional conditions for consideration by the Sub-Committee, as follows:

- (i) That a post festival meeting take place with Parish Council's and local residents to address any concerns that may arise;
- (ii) That overall noise assimilation levels at both stages combined be submitted to Environmental Health and the Licensing Authority prior to the event taking place; and
- (iii) Background noise levels to be taken when no licensable activities are in operation, prior to the event taking place.

For clarification, following questions of the Sub-Committee, that Applicant's Solicitor was asked to confirm the exact number of days and hours that were being applied for within the application for the provision of live and recorded music and the supply of alcohol.

The Chairperson announced that the Sub-Committee would adjourn briefly to allow Mr Payne the opportunity to clarify the number of days and hours of the licensable activities with the Applicant.

The meeting adjourned at 3pm and re-convened at 3.10pm

Upon reconvening the meeting, Mr Payne clarified that the application be modified as follows:

- Provision of Films:

Friday and Saturday: 1400 hours to 0000 hours

- Provision of Live Music:

Friday: 1200 hours to 0200 hours on Saturday morning

Saturday: 1200 hours to 0200 hours on Sunday morning

- Provision of Recorded Music:

Friday: 1200 hours to 0200 hours on Saturday morning

Saturday: 1200 hours to 0200 hours on Sunday morning

- Provision of anything of a similar description to live music, recorded music or performances of dance:

Friday: 1200 hours to 0200 hours on Saturday morning

Saturday: 1200 hours to 0200 hours on Sunday morning

- Late Night Refreshment:

Friday: 2300 hours to 0200 hours on Saturday morning

Saturday: 2300 hours to 0200 hours on Sunday morning

- Supply of Alcohol:

Friday: 1200 hours to 0200 hours on Saturday morning

Saturday: 1200 hours to 0200 hours on Sunday morning

- Hours Premises are Open to the Public:

Hours to remain unaltered as per the application, as set out in Appendix 1 to the main report.

In summing up, the Council's Senior Planning and Litigation Lawyer, drew the Sub-Committee's attention to the requirement under Condition A1, as set out in the main report and sought the Applicant's Solicitors view on this matter. If the Sub-Committee were reminded to approve the application, it was confirmed that Condition A1 relating to licensable activities be amended to include the additional wording as highlighted in bold below:

A1: Notification:

Notwithstanding any event taking place in 2024, the Premises Licence Holder shall notify the Licensing Authority of any licensable activities proposed to take place under this premises licence, in writing, no less than six months in advance of those licensable activities commencing....

Furthermore, the Council's Senior Planning and Litigation Lawyer clarified that Section 245 of the Levelling-up and Regeneration Act 2023 relates to the duty in regards to the National Park (SDNP for the purposes of this application), as the main report refers to duty, section 11A(2), which should be amended to read duty section 11A(1A).

The Sub-Committee retired to deliberate in private.

In his closing statement, the Chairperson stated that the Sub-Committee has carefully considered the amended application as presented at the meeting and the Applicant's and Other Persons' evidence received.

It has taken into account the Council's Statement of Licensing Policy, particularly those sections which relate to the South Downs National Park, the Public Sector Equality Duty, the Home Office Guidance issued under section 182 of the Licensing Act 2003, the duties under the Crime and Disorder Act 1998, and the rights set out in the Human Rights Act 1998.

In exercising its function, the Sub-Committee also duly considered and assessed the application against the duty specified in section 11A(1A) of the National Parks and Access to the Countryside Act 1949 (as amended).

RESOLVED:

The Sub-Committee concluded that the Application should be refused, for the following reasons:

REASONS:

1. The Sub-Committee considered that the weight of the evidence against the application in relation to the prevention of public nuisance licensing objective was compelling. In particular, the report submitted by Sustainable Acoustics on behalf of the Krishnamurti Foundation Trust, provided a persuasive assessment of the tranquil and exceptional characteristics of the background noise conditions for this site and the resultant impact the grant of a premise licence, as applied for, would have. The Sub-Committee could not foresee any conditions relating to noise and its impact which would overcome or mitigate against this objection taking into account the site's exceptional characteristics. In particular, the evidence suggests that there is, on a balance of probabilities, a real risk towards interfering with the ordinary use of the land as a retreat and for those who use the overnight accommodation.
2. In forming this conclusion, the Sub-Committee had particular regard to the Statement of Licensing Policy and the duty contained at Section 11A(1A) of the National Parks and Access to Countryside Act 1949 (as amended). Despite the South Downs National Park Authority not raising an objection, the Licensing Sub-Committee has a duty to seek to further the

SDNP purposes. Consequently, the evidence submitted by the Other Persons, and particularly that of the Krishnamurti Foundation Trust, illustrates a very real risk of creating a public nuisance to those within vicinity of the proposed festival and therefore does not meet the requirements of promoting the singular licensing objective relating to the prevention of public nuisance and the duty relating to conserving and enhancing the natural beauty, wildlife and cultural heritage of the area, as expressed in the Council's Statement of Licensing Policy and law.

The Chairperson advised that all parties 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.

The meeting commenced at 10am, adjourned for lunch between 1.05pm and 2pm and concluded at 4.45pm.

Chairperson