

**LICENSING SUB – COMMITTEE**

Monday 31 January 2022 10:00 Guildhall Winchester

Report of the Service Lead for Public Protection

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Application: Application for Review of Premises Licence

Premises: Foodies Festival, North Walls Recreation Ground, Gordon Road, Winchester, Hampshire

**Part A. Report**

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## **Part A.**

### **1. Application**

**Applicant:** Mr Philip Tidridge, Environmental Protection, Winchester City Council

**Premises:** Foodies Festival, North Walls Recreation Ground, Gordon Road, Winchester, Hampshire

- 1.1 This is an application to review the premises licence for the above premises, submitted in accordance with section 51 of the Licensing Act 2003.
- 1.2 The application was submitted on 14 December 2021 by Mr Philip Tidridge on behalf of the Environmental Protection Team at Winchester City Council, a Responsible Authority as defined under section 13 of the Licensing Act 2003.
- 1.3 The application relates to the prevention of public nuisance licensing objective, and cites incidents from an event held under the premises licence in 2021 as evidence to support the applicant's view that this licensing objective was not promoted. The application can be seen at Appendix 1.
- 1.4 The application proposes the imposition of conditions on the premises licence in order to promote the prevention of public nuisance licensing objective.
- 1.5 The Media Company Publications Ltd have held the premises licence since it was granted in May 2021.
- 1.6 The premises licence authorises the provision of live music and the supply of alcohol (for consumption on and off the premises), for a maximum of 3 consecutive days per calendar year. Full details of the operating schedule and conditions can be seen at Appendix 3.
- 1.7 Notice of the application to review the premises licence was displayed at the premises for a period of 28 days until 11 January 2022. It was also published on the Council's website.
- 1.8 No representations have been received from Responsible Authorities.
- 1.9 Representations have been received from four 'Other Persons', including two Ward Councilors. These are shown at Appendix 2.
- 1.10 Notice of the hearing was sent to all parties on 18 January 2022.

## **Designated Premises Supervisor**

Jeremy Hitchen.

## **Relevant Representations**

### **2. Responsible Authorities**

All of the Responsible Authorities have been served with a copy of the application. The representations received are as follows:

#### **Environmental Health**

Applicant, as the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health.

#### **Hampshire Constabulary**

No representations received.

#### **Hampshire Fire and Rescue Service**

No representations received.

#### **Child Protection Team**

No representations received.

#### **Building Control**

No representations received.

#### **Head of Trading Standards**

No representations received.

#### **Public Health Manager**

No representations received.

#### **Home Office**

No representations received.

#### **Licensing Authority**

No representations received.

#### **Planning**

No representations received.

### **3. Representations from Other Persons**

Representations have been received from four 'Other Persons'. These are shown in Appendix 2.

#### **4. Observations**

The Sub-Committee is obliged to determine this application with a view to promoting the Licensing Objectives:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

In making its decision, the Sub-Committee is also obliged to have regard to the National Guidance and the Council's Licensing Policy.

The Sub-Committee must have regard to all of the representations.

The Sub-Committee must take the following steps it considers appropriate to promote the Licensing Objectives:

1. Modify the conditions attached to the premises licence either permanently or temporarily for a period not exceeding three months;
2. Exclude a licensable activity from the premises licence either permanently or temporarily or for a period not exceeding three months;
3. Remove the designated premises supervisor from the premises licence;
4. Suspend the premises licence for a period not exceeding three months;
5. Revoke the premises licence.

In deciding which of these powers to invoke, it is expected that the Sub-Committee should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

#### **Licensing Objectives**

##### **Crime and Disorder**

The Sub-Committee should consider any appropriate conditions to prevent crime and public disorder relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy 1.9, 2.9 - 2.11, 2.17, 2.19 – 2.21 and Part 4 Section A)

### Public Safety

The Sub-Committee should consider any appropriate conditions relating to public safety having regard to the relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, B2, B3)

### Public Nuisance

The Sub-Committee should consider any appropriate conditions to prevent public nuisance caused by noise pollution from the premises relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, Section C)

### Protection of Children

The Sub-Committee should consider any necessary conditions for the Protection of Children relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, D6, D7)

### **Human Rights**

It is considered that Articles 6 (right to a fair trial) 8 (right to respect for private and family life) and Article 1 of the First Protocol (right to peaceable enjoyment of possessions) may be relevant. As there is a right of appeal to the Magistrates' Court, it is considered that there would be no infringement of Article 6. Article 8 is relevant, insofar as the nearby residents could claim that this right would be infringed by disturbance from customers. This should be balanced against the applicants' right to use of their premises under Article 1 of the First Protocol. Interference with these rights is permitted, where this interference is lawful, appropriate in a democratic society, and proportionate. Likewise, the residents may argue that their rights under Article 1 of the First Protocol would be infringed. If conditions are imposed, there should be no interference with any convention rights. To the extent that any interference may occur, it would be justifiable in a democratic society, and proportionate.

### **Public Sector Equality Duty**

The Public Sector equality duty must be taken in to consideration with all decision making. The duty is stated in section 149 of The Equality Act 2010. This application raises no considerations under this Act.

## **5. Conditions**

### **Existing Conditions**

All existing conditions on the premises licence can be seen at Appendix 3.

### **Possible Conditions**

The Sub-Committee may wish to consider the following conditions, as suggested by Mr Tidridge in the application:

- PN5: All noise levels from the music shall not exceed 55dB LAeq (15 minutes) at monitoring locations agreed in writing with the Licensing Authority.
- PN6: The monitoring locations shall be agreed in writing with the Licensing Authority no later than 28 days before any event commences. These locations shall be representative of the noise levels experienced at the nearest domestic premises and shall be measured in free field conditions in the absence of other significant local noise sources.
- PN7: The premises licence holder shall appoint a competent noise consultant to monitor and record on site and off site music noise throughout the event to ensure compliance with noise level required under PN5. All monitoring performed shall be made available to the Licensing Authority upon request. Such records shall be kept for a minimum of 3 months after any event finishes.

## **6. Other Considerations**

### **Council Strategy Outcome (Relevance To:)**

This report relates to the fourth Strategic Outcome; 'Improving the quality of the District's environment' by working with partners and using powers available to us to make Winchester a safe and pleasant place to live, work and visit.

### **Resource Implications**

No fee is applicable for this application. In regulating the activities it is anticipated that an appropriate level of officer attendance will be provided within the existing budget.

### **Appendices**

1. Application by Mr Philip Tidridge, Environmental Protection, Winchester City Council
2. Representations by Other Persons
3. Premises Licence