

LICENSING SUB – COMMITTEE

Monday 14 March 2022 10:00 at Guildhall Winchester

Report of the Service Lead for Public Protection

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Application: Application for the Grant of a New Premises Licence

Premises: Wickham Ideas Festival, Blind Lane, Wickham, Hampshire
(field - grid reference SU56912459)

Part A. Report

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Part A.**1. Application**

Applicant: Mr Richard Davey

Premises: Wickham Ideas Festival, Blind Lane, Wickham, Hampshire
(field - grid reference SU569124)

- 1.1 This application is for the grant of a new premises licence under section 17 of the Licensing Act 2003 for Wickham Ideas Festival, Blind Lane, Wickham, Hampshire.
- 1.2 The premises is described on the application form as a farmer's field adjacent to Blind Lane. The field will have large circus style tents erected for the event.
- 1.3 The application proposes the supply of alcohol for consumption on and off the premises, and the provision of regulated entertainment. Full details of the proposals are outlined in Section 5 of this report.
- 1.4 PC Brian Swallow, on behalf of Hampshire Constabulary, made a representation against this application in relation to all four licensing objectives.
- 1.5 Philip Tidridge, on behalf of Environmental Health, made a representation against this application in relation to the prevention of public nuisance and public safety licensing objectives. Conditions were proposed by Environmental Health and agreed by the applicant. The representation has subsequently been withdrawn. The proposed conditions are reflected in Section 5 of this report.
- 1.6 Briony Appletree, on behalf of the Licensing Authority, made a representation against this application in relation to all four licensing objectives. Conditions were proposed by the Licensing Authority and agreed by the applicant. The representation has subsequently been withdrawn. These conditions are reflected in Section 5 of this report.
- 1.7 Notice of the application was displayed outside of the premises and every 50 meters around the perimeter of the premises for a period of 28 days until 14 February 2022, and advertised in the Mid Hampshire Observer on 19 January 2022.
- 1.8 Notices of the hearing were sent to all Parties on 18 February 2022.

Designated Premises Supervisor

Richard Davey

Steps to promote the Licensing Objectives

Please see Section M Appendix 1.

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

Philip Tidridge, on behalf of Environmental Health, made a representation against this application in relation to the prevention of public nuisance and public safety licensing objectives. Conditions were proposed by Environmental Health and agreed by the applicant. The representation has subsequently been withdrawn.

Hampshire Constabulary

PC Brian Swallow, on behalf of Hampshire Constabulary, made a representation against this application in relation to all four licensing objectives.

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

Briony Appletree, on behalf of the Licensing Authority, made a representation against this application in relation to all four licensing objectives. Conditions were proposed by the Licensing Authority and agreed by the applicant. The representation has subsequently been withdrawn.

Planning

No representations received.

South Downs National Park

No representations received

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 such of the following steps it considers appropriate to promote the Licensing Objectives:

1. Grant the licence subject to conditions in accordance with the operating schedule (modified to such extent as the authority considers appropriate for the promotion of the licensing objectives) and the mandatory conditions;
2. Exclude from the scope of the licence any of the licensable activities to which the application relates;
3. Reject the application.

Terminal hours

The Sub-Committee should take account of the National Guidance and the Council's Licensing Policy with regard to terminal hours and take such steps as it considers appropriate to promote the Licensing Objectives.

(Licensing Policy 2.22 Part 4, A8, C4)

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

Mandatory Conditions

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.

Where the Licence Authorises 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.

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.

Possible Conditions

If the Sub-Committee were minded to grant the application, it may wish to consider the following conditions to reflect the Operating Schedule:

Conditions in italics are those that have been proposed by the Licensing Authority and Environmental Health and subsequently agreed with the applicant.
Operating Hours

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

Amended times in italics as agreed by Environmental Health and Applicant

Live Music (indoors only)	<i>Wednesday</i>	<i>18:00 to 22:30</i>
Films	Wednesday	09:00 to 22:00
	Thursday	09:00 to 17:00
Plays	Wednesday	09:00 to 22:30
	Thursday	09:00 to 17:00
Anything of a similar description to live music, recorded music or performance of dance	Wednesday	12:00 to 22:30

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

Supply of Alcohol	Wednesday	12:00 to 23:00
	Thursday	12:00 to 17:00

The supply of alcohol is for both consumption on and off the premises.

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

Wednesday	09:00 to 23:30
<i>Thursday</i>	<i>09:00 to 16:00</i>

Conditions agreed by Licensing Authority and Applicant

All Licensing Objectives

A1: This premises licence shall authorise relevant licensable activities for one event, running for no more than two consecutive days, each calendar year.

A2: This premises licence shall authorise relevant licensable activities for maximum of 4999 persons, which shall include all persons present at the premises regardless of their capacity, including ticket holders, performers, guests and staff. A maximum of 4999 persons may be on the premises at any one time.

A3: The premises licence holder shall ensure that an Event Management Plan (EMP), including site plan to Ordinance Survey standard, is submitted to the licensing authority at least 30 days prior to the start of any event held under this premises licence.

A4: The premises licence holder shall ensure that the arrangements details in the Event Management Plan for preventing crime and disorder, ensuring public safety, preventing public nuisance and protecting children from harm are fully implemented prior to and during the event.

A5: The premises licence holder shall ensure suitable engagement and participation with the Winchester Safety Advisory Group (SAG) prior to each event held under this premises licence, including attendance by the premises licence holder or nominated representative at meetings as deemed necessary by the chairperson of the SAG.

The Prevention of Crime and Disorder

CD1: The premises licence holder shall ensure that at least one personal licence holder is on the premises at all times that alcohol is being sold and/or supplied.

CD2: The premises licence holder shall ensure that a refusals / incident log is maintained at each bar or concession where alcohol is available for sale or supply. These records shall be retained for a minimum of 1 year after each event and made available to the police and licensing authority upon request.

CD3: The premises licence holder shall ensure that guests attending any event held under this premises licence are not permitted to bring their own alcohol into the performance area on the event site. Appropriate measures must be in place to ensure that this is prevented, with a procedure for confiscating and disposing of alcohol.

Public Nuisance

PN1: The premises licence holder shall provide the licensing authority with a telephone number, at least 7 days in advance of any event held under this premises licence, for contacting the premises licence holder or nominated representative during the event.

Protection of Children from Harm

PC1: The premises licence holder shall ensure that a Challenge 25 policy is in effect across the event site, ensuring that any individual who appears to be under the age of 25 years of age seeking to purchase or be supplied alcohol at or from the premises shall produce means of acceptable identification as proof that the individual is at least 18 years of age. Acceptable forms of identification are: passport, photo card driving licence or PASS accredited photo ID.

PC2: The premises licence holder shall ensure that, where any person seeking to purchase or be supplied alcohol at or from the premises cannot produce acceptable means of identification as proof of age, no sale or supply of alcohol shall be made to or for that person.

PC3: The premises licence holder shall ensure that at least one Challenge 25 poster is displayed at each bar or concession where alcohol is available for sale or supply.

Conditions proposed by Environmental Health and agreed with applicant

All Licensing Objectives

A6. The Premises Licence Holder shall ensure that the Event Organiser submits an initial Event Management Plan including site plan (to Ordinance Survey standard) to the Licensing Authority at least 60 days prior to each event. This event management plan shall provide specific information on how the licensing objectives will be maintained when additional demands are placed on the proposed infrastructure, car parking and traffic management arrangements through the commissioning, operating or decommissioning of other separate events on this site.

A7. The Premises Licence Holder shall ensure that the Event Organiser submits a final version of the Event Management Plan including site plan (to Ordinance Survey standard) at least 28 days before each event.

A8. Implementation of Event Management Plan – The arrangements (as detailed in the final accepted Event Management Plan) for protecting public safety, preventing crime and disorder, protecting children and preventing public nuisance shall be fully implemented prior to and during the event.

A9. The deadlines for submission of Event Management Plans in A1 and A2 may be altered in writing by the Head of Licensing following written request by the Licensee.

Public Nuisance

PN2. At locations agreed by PN3, between the hours of 18:00 to 20:00 noise levels from music shall not exceed 70dB LAeq (15 minutes) and at all other times shall be inaudible.

PN3. All noise levels from music shall be measured in free field conditions, in the absence of other 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.

PN4. All regulated live music shall be unamplified (Acoustic) except between the hours of 18:00 and 20:00

PN5. At least 7 days prior to an event the Premises Licence Holder shall provide to the Licensing Authority a telephone number for contacting the Premises Licence Holder or a nominated representative during the course of an event.

PN6. The Premises Licence Holder shall appoint a competent noise consultant to monitor live and recorded music both on and off site, to ensure compliance with noise levels detailed in PN2 and PN3. All monitoring performed shall be logged and made available to the Licensing Authority upon request.

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

A statutory licence fee of £100.00 has been received. It is anticipated that an appropriate level of officer attendance will be provided within the existing budget.

Appendices

1. Application by Richard Davey
 - 1a Plan
2. Representations by Responsible Authorities
3. Map of Premises Location