

**LICENSING SUB – COMMITTEE**

Tuesday 22 March 2022 14:00 at Guildhall Winchester

Report of the Service Lead for Public Protection

Contact Officer: Claire Humphreys

Tel: 01962 848188

Email: [licensing@winchester.gov.uk](mailto:licensing@winchester.gov.uk)

Application: Application for the Grant of a New Premises Licence

Premises: Brockwood Festival, Sheep Dip, Joans Acre Land, Hinton Ampner, Alresford, Hampshire, SO24 0LF

**Part A. Report**

- 1 Application**
- 2 Responsible Authorities**
- 3 Other Representations**
- 4 Observations**
- 5 Conditions**
- 6 Other Considerations**

**Part B. Appendices**

**Appendix 1 Application**

**(a) Site Plan**

**(b) Location Map of Premises**

**Appendix 2 Representations from Responsible Authorities and Other Persons**

**Part A.****1. Application**

**Applicant:** Brockwood Entertainment Limited

**Premises:** Brockwood Festival, Sheep Dip, Joans Acre Land, Hinton Ampner, Alresford, Hampshire, SO24 0LF

- 1.1 This application is for the grant of a new premises licence under section 17 of the Licensing Act 2003 for Brockwood Festival, Sheep Dip, Joans Acre Land, Hinton Ampner, Alresford, Hampshire, SO24 0LF
- 1.2 The premises is described on the application form as two fenced fields designed for sheep grazing, eight hectares total site.
- 1.3 The application proposes the supply of alcohol for consumption on the premises only, and the provision of regulated entertainment. Full details of the proposals are outlined in Section 5 of this report.
- 1.4 Colin Pollard, on behalf of Hampshire Constabulary, made a representation against this application in relation to all four licensing objectives.
- 1.5 Abigail Toms, on behalf of Environmental Health, made a representation against this application in relation to the prevention of public nuisance and public safety licensing objectives.
- 1.6 Robert Beddow, on behalf of the Brockwood Park School, made a representation against this application in relation to public nuisance licensing objective. Conditions were agreed between Robert Beddow and the applicant. The representation has subsequently been withdrawn. These conditions are reflected in Section 5 of this report.
- 1.7 Bramdean and Hinton Ampner Parish Council proposed conditions to the applicant which were agreed. These conditions are reflected in Section 5 of this report.
- 1.8 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 7 March 2022, and advertised in the Mid Hampshire Observer on 10 February 2022.
- 1.9 Notices of the hearing were sent to all Parties on 9 March 2022

**Designated Premises Supervisor**

Rosebie Morton

**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**

Abigail Toms, on behalf of Environmental Health, made a representation against this application in relation to the prevention of public nuisance and public safety licensing objectives.

#### **Hampshire Constabulary**

Colin Pollard, 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**

No representations received.

#### **Planning**

No representations received.

#### **South Downs National Park**

No representations received

**3. Representations from Other Persons**

Robert Beddow, on behalf of Brockwood Park School, made a representation against this application in relation to the prevention of the public nuisance licensing objective. Conditions were proposed by Robert Beddow and agreed by the applicant. The Representation has subsequently be withdrawn.

#### **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 Bramdean and Hinton Ampner Parish Council and Brockwood Park School and subsequently agreed with the applicant.

Operating Hours

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

Live Music	Saturday	12:00 to 23:00
------------	----------	----------------

Recorded Music	Saturday	21:00 to 04:30
----------------	----------	----------------

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

Sale of Alcohol	Saturday	12:00 to 03:00
-----------------	----------	----------------

The supply of alcohol is for consumption on the premises only

3. The hours the premises may be used for late night refreshment shall be:

Late Night Refreshment	Saturday	23:00 to 03:00
------------------------	----------	----------------

***Conditions proposed by Bramdean & Hinton Ampner Parish Council and agreed by applicant***

***All Licensing Objectives***

- A1. *The licence be conditioned restricting it to only one event per year.*
- A2. *The licence should initially only be granted for a period of 1 year.*
- A3. *The licence be renewed each year as required, in order that the applicant can demonstrate that the event can take place without causing disturbance*

***Conditions proposed by Brockwood Park School and agreed by applicant***

***Public Nuisance***

- PN1. *Volume restriction: the music will be capped at a volume of 65 dB before 11pm, after 11pm it will be capped at 50 dB. To ensure this level dB readings will be taken at the school the day before the event. Once we have the level, the dedicated sound engineer (present for the entire event) will know the 2 max levels allowed at the 2 relevant times, these will not be exceeded.*

- PN2. Sound insulation: The late night stage (past 11pm) is situated in a 4m deep bowl surrounded by trees, this acts as natural sound insulation. On top of this we will add straw bales 2.7m high around the entire bowl with particular attention to the direction of the school. This is a very effective method to insulate sound and widely utilised at outdoor music events. With the bales at 2.7m high and the natural depth of the bowl at 4m the speakers will be facing a 6.7m high sound barrier that will block the majority of the noise.*
- PN3: Speaker Positioning: speakers will be positioned lower down into the natural 'bowl' where the stage is, and pointed into the ground and away from the school.*

## **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 Brockwood Entertainment Limited
  - 1(a) Site Plan
  - 1(b) Location Map of Site
2. Representations by Responsible Authorities and Other Persons