

Subject: FW: Boomtown Licensing submissions - version 2

Dear Committee,

This submission is aimed at assisting the Winchester City Council Licensing Sub Committee and the local resident representors, who are parties to the above matter, in respect of the determination of this Licensing review, which is now listed for 30 January 2025. In essence it summarises the submissions that the Licensee will make to the Licensing Committee at the Hearing and references the documents that will be before the Committee at that time.

Papers before the Licensing Committee

The papers produced by the Licensee, that will be before the Licensing Committee include the following (summarised below each heading).

1. **Statement of Adrian Coombs** - Whilst Mr Coombs is not available to attend the Licensing Review Hearing he has produced a Statement setting out his background and involvement and engagement with the festival and the Hampshire Constabulary. He provides updating commentary on the collaborative and cooperative dialogue and discussions that have taken place with senior Police Officers following the withdrawal of the application.
2. **Statement of Kevin Instance** - Mr Instance provides commentary about crime management policies and procedures in respect of the festival.
3. **Event Management Plan Index** - A comprehensive Event Management Plan Index is provided, with a list of appendices. This document, we submit, clearly sets out the professional, and very significant, preparation and delivery that goes into each festival.
4. **F1 Acoustics commentary on representations** - Robert Miller provides a commentary on the representations, as regards the issues of noise.
5. **F1 Acoustics commentary about Glastonbury and Boomtown stage closing times** - Whilst, of course, each application must be considered on its individual merits the Licensing Committee will note Mr Miller's evidence that the representors suggestions about the Glastonbury Festival are in fact incorrect. Like similar events, Boomtown operates a graduated stage closing through the course of the nighttime as set out in his materials.
6. **Boomtown commentary on ecology issues** - Shula Rael from the festival has submitted a statement in respect of ecology issues. This touches on obligations to assess impact on biodiversity, highlights a range of work undertaken to provide evidence reporting to The South Downs National Park Authority as regards discharge of this obligation, the appointment of Environmental Planning and Research (EPR) Limited in support of the planning application by undertaking a full ecological study of the land at the Matterley Estate. This covers safeguarding of protected species and their habitats, the layout and design of the festival site, avoidance measures, mitigating measures and enhancement measures. The penultimate paragraph concludes these mitigation enhancement and compensation measures adhere to environmental policies, compliance with legislation and fulfilment of the obligations related to biodiversity net gain.

As this is a somewhat unusual hearing (the application having been withdrawn) it may be of assistance to the Licensing Committee to have a little context in what can only fairly be described as an unusual review and subsequent hearing.

Police application

The local Licensing Police Officer, submitted an application for review in October 2024. This application for review was submitted without any prior dialogue and discussion with the Premises Licence holder nor, as far as we are aware, with any of the Responsible Authorities.

The application sought to attach two conditions to the Licence.

Through the course of the 28 day consultation period a number of residents (17) submitted supporting representations.

No responsible authorities submitted representations.

On the Thursday before the Hearing listed for the Monday (in December) the Hampshire Constabulary withdrew the application, in total.

The matter came before the Winchester Licensing Committee on the appointed date, where the matter was adjourned.

Legitimacy to proceed

In the intervening period between the adjournment and today it is right to highlight that I made enquiry of the authority's Legal Team as to the legitimacy of the matter to proceed. I understand that the authority's view is that it is perfectly proper for the representations that have been submitted to be considered, absent the application that originated the representation. This is a point that the Licence holder accepts, although fair to also flag that neither the Licensing Act 2003, the National Guidance nor Winchester City Council's Licensing policy appears to anticipate a review's withdrawal, which perhaps confirms the earlier observation about the unusual circumstances that arise in this matter.

TLT have been conducting Licensing reviews since the outset of the reform of the legislation in 2005. I have been Head of the Team throughout that time and cannot think of any analogous situation where a review has been withdrawn, let alone where the submitted representations are then considered. Proper for me to observe that I do recall, a review application being withdrawn, but that was where a minor variation had been submitted, and granted, attaching conditions the subject or the review. I highlight this not in any way to undermine or challenge the decision to proceed but to provide context to the Committee.

The parties involved

- The applicant in this licensing review was the Hampshire Constabulary. The applicant is not Boomtown Festival.
- The premises licence holder is the Boomtown Festival.
- The representors are local residents (and two parish councils).
- The premises licence holder is the respondent to the application, and now to the representations.
- No Responsible Authorities submitted representations

Licensing Objectives.

It is important I suggest to remember that the licensing Objectives are the focus of the committee's considerations, there are: The Prevention of Crime and Disorder, the Prevention of Public Nuisance, Public Safety and the Protection of Children From Harm.

Paragraph 11.9 of the National Guidance makes clear representations "*must be relevant (i.e. relate to one or more of the licensing objectives)*".

Paragraph 2.32 of the Winchester City Council licensing policy states "*The council can only review a licence where it is alleged that the licensing objectives are not being met. The council will hold a review hearing to consider the merits of an application or licence where the representation is considered relevant. In order to be relevant it must relate to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives*".

Responsible Authorities

That the responsible authorities have not seen fit to serve a representation is, when considering paragraph 9.12 of the National Guidance, of particular note. That states:

Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the Licensing authority's main source of advice in relation to a particular Licensing objective.

The Police should usually therefore be the Licensing Authorities main source of advice on matters relating to the promotion of the Crime and Disorder Licensing objective.

However, any responsible authority under the 2003 Act may make representations with regard to any of the Licensing objectives if they have evidence to support such representations.

Licensing Authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of the particular objective may not be immediately apparent

Safety Advisory Group

It is also of significance that the Safety Advisory Group engagement is, all but, year round. The Safety Advisory Group which comprises a variety of Officers, including the responsible authorities, but also including a number of other Officers (such as the Ambulance Service and Highways) acts as a secondary lockstep to ensure the delivery of the event and the delivery of the Licensing objectives. That dialogue and discussion will continue (and is continuing) each and every year. No members of the wider Safety Advisory group have seen fit to serve representations.

Application

As the Committee will note, most of the representations make an initial brief comment supporting the original application. A number appear to support the attachment of the originally proposed conditions. However because of the change in circumstance, namely the withdrawal of the Police application and therefore the request for conditions, we would respectfully suggest that that part of each representation is not appropriately considered.

Representations

It is clear that the representations take a very similar approach and format and in a number of cases offer identical wording. It appears that there are a number of common themes, which are illustrated by the identical or near identical paragraphs.

We would summarise these as follows:

- **Planning permission**
- **Previous planning application in 2020**
- **National Park purposes**
- **Request for revocation arising from the above**
- **Prevention of public nuisance**
- **Diminution in hours of operation and licensable activities**
- **Ecological/nesting Bird concerns**

Dealing with the representors themes I have sought to follow and address the committee in the broad order in which the representations (collectively) make their various points. I have addressed each of the primary points, although the committee will note that for a number I submit that the points made are not relevant to the licensing committee's determination.

Planning Permission

The expiration of Boomtown's temporary planning permission is not relevant to the issues at hand. The expiration of a planning permission does not put the premises licence holder in conflict with the council's licensing policy. Whilst paragraph 1.4 of the Statement of licensing policy advises applicants for premises licences to have planning permission in hand, prior to the submission of an application, the licensing policy makes no such comment, nor any analogous comment, about an already licensed premises, where a temporary planning permission has expired.

Paragraph 1.8 of the licensing policy states *the council recognises there should be a clear separation of the planning and licensing systems and licensing applications will be viewed independently of planning applications. The licensing application is not a re-run of the planning application and should not cut across planning decisions (whether these are taken by planning officers under delegated powers, the planning committee, SDNPA or an inspector following an appeal against the decision of the planning authority).*

Whilst it is correct that both a licence and a planning permission will be required, for the event to proceed, this is not an issue that attends to a licence review, which should be focussed primarily, if not entirely, on the promotion of the licensing objectives.

The committee will note that the South Downs National Parks Authority (SDNPA), who are the Responsible Authority as regards planning matters, have not themselves submitted a representation.

For completeness I should add that a planning application has been submitted (reference (SDNP/24/05303/FUL) and will in due course come to be determined by the Planning Authority, namely the SDNPA.

Previous planning application in 2020

The comments of the director of planning in respect of an application in December 2020, to the SNNPA, considering different legislation, is not relevant for current purposes.

Furthermore the assertion that "*nothing has changed since December 2022*" made by some of the representors, is respectfully wrong. Events have taken place at this site through 2023 and 2024.

Of additional significance it is proper to note that a number of the residents do not quote the officer fully. As is set out in the Cheriton Parish Council representation, the officer in fact made reference to, *the absence of sufficient*

ecological evidence, gathered over a meaningful period, covering a number of festivals". What the officer did not say was that the ecological evidence was then or is, some years later, either conclusive or determinative of the position.

National Park Purposes

Whilst I recognise the legislation and the commentary within the licensing policy, the assertions made by the representors that this is a compelling point in the context of a licensing review is, respectfully misplaced.

Paragraph 1.5 of the Statement of Licensing policy highlights the purposes of the South Downs National Park namely:

- to conserve and enhance the natural beauty, wildlife and cultural heritage of the area (purpose one).
- to promote opportunities for the understanding and enjoyment of the special qualities of the national park by the public (purpose two)

and the (SDNP) duty

- "to seek to foster the social and economic wellbeing of the local communities within the national park in pursuit of our purposes".

Paragraph 1.7 of the statement of licensing policy highlights that the *"licensing authority will seek to further the SDNP purposes when considering applications to ensure they are respected..."* we do not accept it can fairly be suggested, that the festival fails to deliver to those purposes.

The planning statement that accompanies the current planning application runs to some 88 pages. That statement forms part of a suite of documents, submitted in support of the planning applications which includes (but is not limited to: Application Form, Perimeter Plan, Design and Access Statement, Heritage Statement, Ecosystem Statement, Ecological Mitigation and Management Plan (EMMP), Information for Habitats Regulations Assessment, Outline Biodiversity Gain Plan and a Statement of Community Engagement.

The following extracts from the planning statement merit reference here:

2.38 Since the submission of and determination of planning application 18/06249/Ful, the festival has been held a further 4 times (2020 and 2021 were non festival years due to Covid-19). This passage of time has allowed the applicant to gather ecological evidence over a meaningful period of time covering a number of festivals. This information is submitted as part of the current planning application.

6.11 ..this application demonstrates that the proposal does not have any lasting significant impact on the environment, landscape and recreational opportunities. It also demonstrates that allowing the use of the land for a short time for the well-established, respected and enjoyed Boomtown festival is in the wider public interest. It is also consistent with the two statutory purposes of the SDNP designation set out below.

6.14 In respect of the first bullet point, a variety of conservation and landscape enhancements are proposed.. Whilst it is accepted that's there is a short term temporary impact with noise, traffic and works on site affecting the wider amenity of those living, working and visiting a small part of the wider SDNP, the steps embedded in the application will ensure the conservation and long term enhancement of the natural beauty and wildlife. Cultural heritage is preserved and sustained so far as DHA are concerned and cultural heritage is enriched by large numbers attending the park as part of the festival.

6.16 In respect of the second bullet point, a key public interest is in relation to the second purpose of the park specifically relating to the opportunity provided for over 40,000 people to increase their understanding and enjoyment of the special qualities of the park.

6.17 There is also a duty to foster economic and social well-being of the local community in pursuit of these purposes

6.18 (extract) Total expenditure supported by Boomtown within the SDNP equates to over £17 million for each event as set out in the below table taken from the Economic and Social Benefits Study. (not quoted here)

6.46 As detailed in the Environmental statement, the EMMP will include mitigation measures (including the provision of off Site Skylark plots) which will ensure ground nesting birds such as Skylark will be absent from the Site at the start of construction works. Overall, effects of reptiles and ground nesting birds, whilst adverse, are not significant....

6.51 Submitted with the application is a full suite pf ecological surveys and reports.

Breeding Birds (covered in paragraphs 6.59 to 6.67) includes the following:

6.60 42 Skylark plots provided at a ratio of three Skylark plots for every territory lost.

6.62 Monitoring of the new Skylark plots will be undertaken for a period of 10 years to ensure the mitigation measures are effective.

6.64 The location of these are to confirmed within the detailed EMMP, which will be submitted by way of condition, should planning permission be granted. Discussions are already underway with the Hampshire and Isle of Wight Wildlife Trust (HIWWT) to collaborate effectively in delivery of those plots.

6.65/6.67 Installation of bird boxes

6.66 Annual checking and as appropriate replacement

Barn Owls (covered in paragraphs 6.72-6.72 have similar provisions)

That the Licensee respects the purposes is we submit clear from the above, which is in and of itself a modest extract from the full suite of materials provided to the SDNPA.

A licensing review is by its very definition concerned with whether a licensed premises has been promoting or has been failing to promote one or more of the licensing objectives. Whilst of course the licensing authority will seek to ensure that the purposes of the South Downs National Park are “respected”, as the policy sets out, in our submission it is impossible for this licensing committee determining this review to make conclusions about whether there are conflicts between these purposes in the delivery of this event.

The purposes and duties issue is clearly a legitimate consideration for the SDNPA, when considering a planning application. No doubt something they will turn their minds to in due course, when they consider the planning application.

When considering applications, (my emphasis) the licensing authority must consider whether the purposes of the SDNP are respected. The application in this case, of course, is the application of the Hampshire Police, now withdrawn.

It is perhaps being suggested by the representors that the mere existence of an event in the SDNP is in some way contrary to the purposes or duties of the SDNPA. However the guidance document produced by the SDNPA, quoted in the statement of licensing policy at paragraph 1.6 entitled “Guidance for Organisers of Large Scale Festivals and events clearly indicates that such events are perfectly legitimate within the SDNP. Furthermore the introduction to the Guidance states: *The South Downs National Park Authority (SDNPA) wishes to work positively with organisers planning large-scale events such as festivals and sporting events within or close to the boundary of the National Park to ensure that events are managed successfully.* This statement needs little additional comment.

Revocation

A number of the similar representations follows the above two themes with an invitation to conclude the review by revoking the entire premises licence. This is perhaps instructive as to the tone and ambition of the authors of these representations. It is, respectfully, wholly misplaced. The planning position, the comments of previous planning officers to previous planning applications, the planning authority’s duties and purposes do not address themselves to this review nor to the Licensing Objectives.

Prevention of public nuisance

We accept that, of course, an event of this size will have an impact on the local community. The same might equally be said of any large scale festival anywhere in England and Wales. The protection of tranquillity, as suggested within the representations is not to address the licensing objectives.

However it is important to note, touched on in the Event Management Plan Index, that there is a significant dialogue and discussion as regards the management of noise at this event. A Noise Management Plan is produced each year and there is comprehensive engagement with the Environmental Health Team, and other Officers (including the Safety Advisory Group) both in the run up to the event, the event itself and in meetings, dialogue and discussions following the event.

The Licensee strives to ensure that any noise generated, is carefully managed and delivered to the standards that have been in place at the event for many years. This includes off-site sound monitoring, both static and undertaken by individuals on the perimeter of the site, dialogue and discussion with Event Control, assessment and analysis by consultants on site and constant dialogue and discussion with those in front of the stages (at the sound desks). The festival is fully committed to delivering to the noise levels that are agreed, conditioned (and broadly nationally recognised).

Lighting and traffic management is also carefully managed on site. Traffic management is a feature of both the Event Safety Management plan and there are specific conditions within the licence attending to this issue.

Whilst no doubt it may fairly be said that there is more work to be done, as might be fairly suggested each and every year, the licensee does not accept that the licensing objective of public nuisance can be evidenced as being

undermined, nor that it was undermined by this event last year, nor do we accept that it will be undermined by this event if it is to proceed in 2025.

Diminution in hours of operation and licensable activities

Whilst we note that a number of the representations seek to persuade the Licensing Committee that a diminution in the hours of operation is appropriate, that is not a point that the licensee accepts. The operational hours have been established for a number of years, no responsible authority seeks their diminution and whilst, of course, there a number of representations raising this issue, there could not fairly be said to be a significant groundswell of public opinion supporting this conclusion. Not all the submitted representations support this proposal. It will remain incumbent on the Licensee to ensure that noise is carefully managed and delivered to the standards expected by both the Officers and as set out within the existing Licence conditions.

Ecological/Nesting Bird concerns

The extract from the planning materials referenced above make clear that birds as well as other flora and fauna are being carefully attended to and addressed. The ecology commentary, that also illustrates the commitment by the licensee to deliver to this important issue.

What cannot fairly be concluded is that the licensee is intentionally killing such birds and therefore in undermining the Licensing Objective of Crime and Disorder. Indeed the planning materials and the ecology statement make clear that the opposite is true. That discussions with Hampshire and Isle of Wight Wildlife Trust (HIWWT) are already underway is illustrative of this point. The lack of a representation from any formal organisation, or officer, including the Hampshire and Isle of Wight Wildlife Trust (HIWWT) corroborates this same point. Mr Jones makes the fair point that his representation is not more than an individual commentary, and that he is not representing any of the various organisations of which he is a member, including the Hampshire and Isle of Wight Wildlife Trust (HIWWT).

Conclusions

In our submission the following is clear

- South Downs National Park Authority is the responsible authority for Planning matters.
- South Downs National Park Authority have chosen not to submit a representation to this application.
- The licensing policy confirms that planning and licensing are separate regulatory regimes.
- The licensing policy confirms licensing applications are not to be treated as, a re-run of a planning application and licensing should not cut across planning decisions.
- The licensing policy confirms the licensing authority will respect the purposes of the SDNP, when considering applications.
- The planning materials submitted with the current planning application confirm that the application supports and promotes both purposes.
- Any assessment of the purposes and duties of a planning authority, may fairly be said to be specifically planning related and therefore appropriately determined by the planning, not the licensing, authority.
- A licensing authority review of an existing premises licence hearing is not the appropriate forum for determining a planning authority's purposes or alleged conflicts between those purposes
- Such purposes and duties are un-related to the 4 licensing objectives.
- The SDNPA expressly anticipates large scale events being held in the park
- The authority are not (in fact) considering an application. The licensee is not the applicant.
- The evidence of the representors does not allow for the conclusion that the Public Nuisance objective is being undermined. Nor that the timings of the event, nor the levels set out in the licence are appropriately amended.
- Any suggestion that the nesting bird provision generates a crime and disorder issue is illegitimate. Such suggestion is not supported by any officer, nor any organisation.

Best wishes

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