

BOROUGH OF REIGATE AND BANSTEAD

LICENSING SUB-COMMITTEE

Minutes of a meeting of the Licensing Sub-Committee held at the Town Hall, Reigate on Wednesday 6 November 2013 commencing at 10.06 am.

Present: Councillor A. Lynch (Chairman); Councillors S. Farrer and K. Foreman

28. **APOLOGIES FOR ABSENCE AND RECONSTITUTION OF THE SUB-COMMITTEE**

There were no apologies for absence and membership of the Sub-Committee was as set out in the agenda.

29. **MINUTES**

RESOLVED that the minutes of the meetings held on 3 and 15 October 2013 be approved as a correct record.

30. **DECLARATIONS OF INTEREST**

There were no declarations of interest.

31. **LICENSING HEARING PROCEDURE NOTE**

RESOLVED, to note the procedure note, to be followed at the discretion of the Chairman.

32. **APPLICATION FOR A NEW (PERMANENT) PREMISES LICENCE: ROBINS COOKE FARM, KINGSMILL LANE, REDHILL**

In attendance and speaking at the hearing:

Applicant: Mr M Nicholls and Mr D Pyatt

Licensing officer: Mr B. Murray

Responsible authorities: Mr M Hume, Surrey Police
Mr P Holliday, Licensing Authority
Mr P Long, Environmental Health

Objectors: Mrs J Cook and Mr R Rayfield

The Committee considered an application for a premises licence in order to hold a music festival (Redfest) at the above site.

Similar events had been held over the past six years, with the application on

these occasions being applied for and granted for a limited period only, to cover the weekend of the festival.

The application now before the Sub Committee was for an ongoing licence, to be effective from 21 July 2014, so that the festival could take place each year without needing to reapply for permission every time.

The report before the Sub Committee set out the application in full together with the applicant's proposed operating schedule which included:

- Event safety plan
- Emergency contingency plan
- Traffic management plan
- Noise control plan
- Contact details for the event management team

A plan of the site was also attached to the report, and it was noted that the layout of the campsite and car-parking area had been reversed from that used in previous years.

It was proposed that the schedule, subject to any amendments the Sub Committee may wish to make, should form part of the conditions if the application was approved.

The report also included copies of all relevant representations received from local residents, Surrey Police and the responsible authorities for licensing and environmental health, and Salfords and Sidlow Parish Council.

The licensing officer presented the application to the Sub Committee, following which the parties were invited to make their submissions.

The Committee adjourned at 10.48 am and resumed at 11.14 am

Following the adjournment, the Sub Committee and all parties present were given an opportunity to ask questions, before moving to their final submissions.

During the course of the hearing the following points were noted:

On behalf of the applicant:

- The festival now had a proven track record over several years, and 2013 has been the most successful and well-managed event to date.
- Feedback from Surrey Police, as well as local press coverage for the 2013 event, had been very positive with no significant issues reported.
- No complaints were made to the control centre during the event, nor to the Police or the local authority to the best of the applicant's knowledge.
- There had been a logistical issue last year, which highlighted the need for a drop-off point to be established, and this was why the layout had been changed, so that improvements could be made to traffic management.
- The main cause of noise nuisance after the cut-off time last year had

been incidental music from the stalls. A compliance manager had been appointed this year, who would be responsible for controlling and managing noise levels outside of the regulated entertainment. All stallholders would also be obliged to sign a contract agreeing to conditions of operation.

- The application was for sale of alcohol until 03h00, and for regulated entertainment until 23h30, which was in line with other festivals such as Glastonbury and Reading.
- There was always be a balance to be achieved, between the enjoyment of festival-goers, and potential disturbance to residents. The applicant believed that the measures proposed would be effective in achieving this.
- The festival would last for two days and it only occurred once a year.

In response to questions and comments made by the other parties, the applicant made the following submissions:

- There had been no traffic accidents connected to the festival on the access road to the site.
- The conditions set in 2013 allowed the licence holder to submit a finalised and detailed site plan for approval seven days before the event. Discussions about the fencing had taken place at various meetings of the safety advisory group, of which Mr Holliday was a member. The final plans submitted and approved showed the fencing as it was erected in 2013. The licence holder therefore disputed that he had been in breach of the condition.
- The reason the fencing was moved was because it would not have been possible to gain access to patrol the boundary if the fencing had been where Mrs Cook wanted it. There were no incursions onto Mrs Cook's field in 2013 so it had clearly been effective.
- There had been a misunderstanding on the part of the licence holder, at the 2013 event, as although he had offered to have dog patrols on duty, he had only ever intended this to be overnight when problems were most likely to arise. He had not appreciated that the condition was for 24 hours and by the time it was brought to his attention it was too late to employ further patrols. In any event he did not consider 24-hour dog patrols to be either necessary or proportionate to meet the aims of the licensing objectives.

On behalf of Surrey Police:

Mr Hume confirmed that the conditions set out in the police representations had been agreed with the applicant.

In response to a question, he advised that seven incidents had been recorded at the 2013 event, as follows:

- Three cases of theft involving mobile phones
- One assault related to someone trying to prevent the theft of a mobile phone
- One incident of ABH
- One indecent assault

- One public order incident with trespassers trying to gain access to the site

On behalf of the licensing authority

Mr Holliday reported that he had visited the festival during the 2013 event and noticed a number of non-compliance issues related to the conditions set by the Sub Committee:

- Noise levels exceeded the prescribed limit from 23h00 until around 23h45.
- The applicant did not abide by the condition to erect solid security fencing alongside the boundary of Mrs Cook's field and The Rookery.
- The dog security patrols only operated between 18h00 and 06h00, rather than 24/7 as agreed by condition.

In response to a question from the Sub Committee, Mr Holliday advised that the noise issue was immediately brought to the attention of the licence-holder, but that he was too preoccupied with other matters to deal with it more effectively and quickly at the time.

It had not been possible for the licensing authority to impose immediate sanctions to deal with the non-compliance, because it was the Council's policy only to take final action where there had been repeated breaches after formal warnings were given.

This had always been difficult to achieve in the past because the licence was issued annually for a one-off event. Were an ongoing licence to be granted, the licensing authority or any other interested party would be able to request a review, should conditions be breached, and an option would then be to revoke the licence.

On behalf of the responsible authority for environmental health:

Mr Long reported that the responsible authority was making representations because of the potential for noise nuisance.

The current Code of Practice on noise referred to a cut-off point of 23h00 and he was unaware of any general approach towards extending this.

Although the silent disco and silent films may not be broadcast aloud, there was associated disturbance from people singing along and generally making a noise. He believed that 02h00 was an appropriate cut-off time for these.

The consultant's report for the 2013 event highlighted a number of incidents of non-compliance, where noise went on for longer than it should, and it would be appropriate for the consultant to continue monitoring noise levels for up to 30 minutes after the cut-off time.

Mr Long also tabled a proposed amendment to expand upon Condition 5, to control future noise nuisance.

On behalf of Salfords and Sidlow Parish Council

Councillor Brown reported that the Parish Council was objecting on behalf of local residents who were adversely affected by the noise and disturbance.

If the licence was granted, the Parish Council would wish to see the regulated entertainment stopping at 23h00.

On behalf of the objectors:

- The festival had evolved from a family-friendly event to one mainly frequented by young people.
- The site was totally unsuitable for an event of this nature. There were too many footpaths and it was vulnerable to noise and intrusion.
- Access to the site was along a narrow lane, which already caused a number of accidents, and the additional volume of traffic would only accentuate this risk.
- The changed locations for the campsite and car parking would mean cars driving close to a well-used public footpath. There were no proposals for fencing in the parking area to prevent trespass or theft from cars.
- The parking area was on a grassy slope which could be unsafe if it was wet or slippery.
- If the licence was to be granted, the music should be limited to 23:00 to allow residents some respite.
- Equally so, the sale of alcohol should be limited until 02:00, in line with last year's event.
- Mr Nichols did not comply with the conditions in place for the 2013 event. The fence was not erected fully along the boundary to Mrs Cook's field, as it should have been, and the dog patrols only operated overnight, rather than throughout the day. Mr Nichols was immediately advised of the non-compliance, but nothing was done to rectify it because he said it was too late to make any changes.
- Mrs Cook did not accept the licence-holder's assertion that he would have been unable to get access to patrol if the fencing had been where it should have been. Her overriding concern was to protect her field from incursions.
- Furthermore, it was the Sub Committee that had set the perimeter boundary and it should not be for officers to allow any changes to be made.
- Fields were likely to be trespassed on, and crops damaged, unless there was adequate solid security fencing and regular security patrols throughout the duration of the festival.
- Local residents, as well as responsible authorities, should be given the contact phone numbers for the event organisers, so that they could immediately complain if there were any issues.

- The licensing authority set conditions each year, yet nothing ever seemed to get done to enforce them.
- The licence-holder did nothing to control the public footpaths or to prevent trespass.

(Note: In response to a number of comments made by residents about trespass and lack of patrolling of the public footpaths, the Solicitor advised that these were civil matters that could not be controlled by the Licensing Authority.)

(The Sub-Committee adjourned to deliberate at 1.16 pm and resumed at 1.56 pm to give its decision.)

The Licensing Sub Committee **RESOLVED** as follows,

APPLICATION FOR A PREMISES LICENCE
in respect of **ROBINS COOKE FARM, KINGSMILL LANE, REDHILL ('REDFEST')**

GRANTED IN THE FOLLOWING TERMS:

Section B - Exhibition of Films **INDOORS**

Friday: 12h00 to 23h00 *except for silent films allowed until 02h00 of the following day*
Saturday: 12h00 to 23h00 *except for silent films allowed until 02h00 of the following day*

Section E - Live Music **INDOORS AND OUTDOORS**

Friday: 12h00 to 23h00
Saturday: 12h00 to 23h00

Section F - Recorded Music **INDOORS AND OUTDOORS**

Friday: 12h00 to 23h00 *except for silent disco allowed until 02h00 of the following day*
Saturday: 12h00 to 23h00 *except for silent disco allowed until 02h00 of the following day*

Section G - Performance of dance **INDOORS AND OUTDOORS**

Friday: 12h00 to 23h00
Saturday: 12h00 to 23h00

Section J - Provision of facilities for dance **INDOORS AND OUTDOORS**

Friday: 12h00 to 02h00 *(of the following day)*
Saturday: 12h00 to 02h00 *(of the following day)*

Section L - Late night refreshment **OUTDOORS**

Friday: 23h00 to 05h00 *(of the following day)*
Saturday: 23h00 to 05h00 *(of the following day)*

Section M - Supply of alcohol **ON THE PREMISES**

Friday: 12h00 to 02h00 *(of the following day)*
Saturday: 12h00 to 02h00 *(of the following day)*

Section O - Hours premises are open to the public

Thursday: 18h00 to Sunday: 13h00

THIS LICENCE IS VALID WITH EFFECT FROM 21 JULY 2014, AS SET OUT IN THE APPLICATION.

Conditions to be attached to the licence:

1. There is to be one event per calendar year only, regulated entertainment to last no longer than one consecutive Friday and Saturday night, as set out in the operating schedule.
2. A 2.4m high solid security fence is to be erected around the perimeter to include the part of Mrs Cook's property as indicated on the attached plan (Annex 1).
3. The licence holder is to circulate to all those residents having made representations, as well as to the responsible authorities, a list of contact telephone numbers of the event's Safety Co-ordinator, Compliance Manager, Site Manager and Security Manager, as well as the three dedicated telephone numbers for the complaints control system, as specified in the operating schedule.
4. The conditions as set out in the applicant's operating schedule (**ATTACHED**), subject to the following additions and/or amendments:

i. *Pages 22-25: Event Safety Plan*

- (a) continuous during opening hours of the event the searching of all bags on all entrances into the arena with no alcohol being allowed to be taken in;
- (b) continuous during opening hours of the event intelligence-led pat-down searches of persons at all entrances into the arena in order to reduce any controlled drugs being taken in;
- (c) Best endeavours to be used to prevent any glass container being brought into the licensed premises and all drinks to be dispensed in unbreakable receptacles;
- (d) An Events Traffic Plan to be submitted to Surrey Police at least two months prior to the event;
- (e) Uniformed police officers to be employed between 18h00 and 02h00 on both days. The number of officers to be agreed by Surrey Police and the licence holder in writing.
- (f) ID checks to be carried out on persons believed to be under 21 when purchasing alcohol on the premises.

ii. *Pages 52-54: Noise Control Conditions*

- (a) Condition 5 to be expanded as follows:

“Notwithstanding the employment of a suitably qualified person for monitoring noise levels where they are specified numerically, the organiser shall also employ a suitably experienced person for monitoring the noise disturbance generally for the whole time regulated entertainment takes place (whether or not those times are covered by a numerical level) and for 30 minutes thereafter. The person must be employed specifically for that

task and no other. Further, that person's observations and any measurements made must be included in the report provided in compliance with condition 9."

Further Observation:

1. The Sub Committee has noted that the licence holder has agreed that one of the five dog patrol units, to be on duty from 18h00 to 06h00, should be stationed on Mr Rayfield's land, the precise location and timings to be agreed between the licence holder and Mr Rayfield.

Reasons for the decision

The Sub Committee considered all the evidence submitted, both in the written application and representations and during the oral submissions at the hearing.

During its deliberations it paid particular attention to the following factors and considerations in respect of the four licensing objectives:

1. The applicant's detailed Event Safety Plan.
2. The applicant's agreement to implement all the conditions set out in the Police representations. In this respect, the Sub Committee noted there were disparities between the wording of conditions in the Event Safety Plan and in Surrey Police's representations. Condition 4 clarifies that the conditions should be as set out in the Police representations.
3. The relatively low number of incidents logged by Surrey Police during the 2013 event.
4. The level of complaints following the 2013 event.
5. Trespass is a civil rather than criminal offence and not a relevant consideration for the Licensing Sub Committee.
6. The Licensing Sub Committee has no powers to impose conditions to control the use of a public footpath.
7. The employment of a Compliance Manager would assist in ensuring that regulated entertainment and noise levels complied with the conditions set.
8. The comments of Mrs Cook and the fact that the use of 2.4m solid security fencing for all the perimeter around her field had proven effective in past years.
9. The Sub Committee noted that the application requested regulated live entertainment until 23h30 but had regard to the representations made by the responsible authorities, as well as to paragraph 8.2 of the RBBC licensing policy which states that measures to prevent public nuisance are especially relevant for premises operating after 23h00. Given the open-air nature of the premises it considered that any extension to last year's hours would be inappropriate.
10. The Sub Committee further noted that the application requested the sale of alcohol until 03h00, but did not consider that the reasons given by the applicant outweighed the concerns of local residents because of the rural

nature of the location and the impact upon them. It therefore felt that any extension beyond 02h00 would be inappropriate.

In reaching its decision, the Sub-Committee also took into account the following matters:

- i. All papers and evidence relevant to their consideration of the application based upon the four licensing objectives.
- ii. The Council's own Statement of Licensing Policy, the Guidance issued by the Secretary of State under s.182 of the Licensing Act 2003, the individual merits of the case, Human Rights legislation and the rules of natural justice;

and considered that the application, as granted with conditions, met the four licensing objectives and was based upon the relevant evidence and guidance.

It is noted that the written decision hereby issued takes precedence over the drafted decision released verbally at the close of the hearing.

33. MEDIATED APPLICATIONS

It was noted that there were no mediated applications to consider.

The meeting closed at 2.05 pm.