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LICENSING & APPEALS SUB-COMMITTEE

Minutes of a Meeting held on Wednesday 15th April 2015 in the Committee Room, Town Hall, Matlock at 10.30am

PRESENT

Councillor Mr Tony Millward - In the Chair

Councillors Mike Ratcliffe and Tom Donnelly
Councillor Cate Hunt attended as a substitute member.

Katie Hamill (Solicitor), Eileen Tierney (Licensing Officer), Hayley Gower (Corporate Support Assistant)

Persons making representations

Simon Bell – Environmental Health Officer
Mr Loeber – Solicitor at Potter & Co. representing Mr and Mrs Slater
Mr Gerald Slater
Mrs Jean Slater

Applicant

Mr Chris Grunert – Solicitor at John Gaunt & Partners representing Britannia Events UK Ltd

Witnesses for the Applicant

Mr Christopher Hurst – Acoustician
Mr Simeon Aldred
Ms Jo Mulvey
Mr Nicholas Cotton

331/14 – ELECTION OF CHAIRMAN

It was moved by Councillor Tom Donnelly, and seconded by Councillor Mike Ratcliffe

RESOLVED

(Unanimously)

That Councillor Mr Tony Millward be elected as Chairman of the Sub-Committee

332/14 – LICENSING ACT 2003: APPLICATION FOR A PREMISES LICENCE FOR EROICA BRITANNIA FESTIVAL EVENT – THE SHOWGROUND, BAKEWELL, DERBYSHIRE DE45 1AQ

The Sub-Committee considered an application for a premises licence.

The Chairman invited the participants to introduce themselves, asked whether any party wished the Committee to consider the application in private and confirmed that the Committee was quorate.

The Licensing Officer gave an outline of the application.

Those who wished to make representations and had given notice within the required time of their intention to do so, were invited to state their case. The Committee heard oral evidence against the application from:

Mr Simon Bell – Environmental Health Officer
Mr Loeber – Solicitor at Potter & Co. representing Mr and Mrs Slater
Mr Gerald Slater
Mrs Jean Slater

Chris Grunert, the applicant's solicitor, spoke in support of the application and called Mr Christopher Hurst and Mr Simeon Aldred to give evidence in support of the application.

The Committee had an opportunity to question all parties. All parties were invited to seek clarification of points that had not been sufficiently explained.

333/14 – DECISION

The Sub-Committee resumed in public session.

It was moved by Councillor Donnelly and seconded by Councillor Millward.

RESOLVED That, having considered the facts and representations made to the
(Unanimously) Sub-Committee its decision is that the licence be granted subject to the conditions which are set out in the decision notice below.

Reason for Decision

The Sub-Committee felt that, with the conditions put forward by the applicant being attached to the Licence, the four licensing objectives would be satisfied.

Full Decision Notice is attached below.

Meeting Closed 1.15pm

LICENSING & APPEALS COMMITTEE DECISION

(Licensing Act 2003)

Record of proceedings of Derbyshire Dales District Council's Licensing & Appeals Sub-Committee held on Wednesday 15th April 2015

Full name of Applicant: **Britannia Events UK Ltd**

Premises Address **The Showground, Bakewell, Derbyshire DE45 1AQ**

("the Premises")

Reason for attendance at the Sub-Committee: To determine the application for a Premises Licence

CONSTITUTION OF COMMITTEE

Councillor Tony Millward (Chair)

Councillor Mike Ratcliffe

Councillor Tom Donnelly

Councillor Cate Hunt (Substitute Member – not used)

APPLICANT

Britannia Events UK Ltd – Represented by Chris Grunert (present)

NAMES OF OTHERS PRESENT (WRITE "NONE" WHERE APPROPRIATE)

Katie Hamill – Solicitor

Eileen Tierney – Licensing Officer

Hayley Gower – Corporate Support Assistant

APPLICANT'S WITNESSES

Mr Christopher Hurst – Acoustician

Mr Simeon Aldred

Ms Jo Mulvey

Mr Nicholas Cotton

OBJECTORS

Mr Simon Bell – Environmental Health Officer

Mr Loeber – Solicitor at Potter & Co. representing Mr and Mrs Slater

Mr Gerald Slater

Mrs Jean Slater

OTHERS

1. The meeting was conducted in public, with the agreement of all parties.

The Sub-committee withdrew into private session to consider its decision and were advised by the Sub-Committee legal representative that Members must note that in making their determinations it should be evidence based, justified and appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. Members should also have regard to the Council's licensing policy and the guidance issued under s.182 Licensing Act 2003.

2. Chairpersons note of evidence (ie concise details of all oral and written details put before the Committee)

Report of the Licensing Officer, including details of representations received

Representations submitted by the Environmental Health Officer

Personal evidence given by the objectors

Personal evidence given by the applicant and witnesses

3. Findings of the Sub-Committee on questions of fact material to the decision (ie the relevant facts accepted from the evidence available)

- The Sub-Committee noted that local residents and the Environmental Health Officer were concerned about the potential noise nuisance emanating from the Premises and the control of the volume of music following last years' event.
- The Sub-Committee accepted that there were issues with noise emanating from the tannoy system and that this was not a regulated activity under the licensing regime.
- The Sub-Committee accepted Mr and Mrs Slater's evidence that there were issues of noise nuisance at their address last year on the final day of the event and that complaints to this effect were not directed to the organisers during the event.
- It was also accepted that the levels of noise on Friday and Saturday of the event last year were at a tolerable level.
- The Sub-Committee noted that Mrs Slater had made complaints in respect of an unrelated event held at the same venue 6 weeks earlier and issues of noise nuisance were not resolved on that occasion. The Sub-Committee further accepted the comments of Mr Aldred that the organisers of the event had not been aware of the noise issues last year and had now sought to put protective measures in place through a noise management plan.
- The Sub-Committee noted that noise recordings had been taken at the previous event, however that these recordings had not been presented as evidence to the

Committee for consideration and as such, a determination could not be made on the dB level of noise recorded at the noise sensitive premises referred to.

- The Sub-Committee accepted the reasons provided by the applicant for the requirement for recorded music to remain on site until 23:00 hours particularly on a Sunday.
- The Sub-Committee considered the Code of Practice on Environmental Noise Control at Concerts provided, and concluded that a condition to restrict the music noise level to 65dB measured at noise sensitive premises would be both reasonable and proportionate to promote the licensing objectives provided suitable conditions were in place to monitor the noise levels and put in place adequate complaint handling measures if this level is exceeded.
- The Sub-Committee noted the conditions outlined by the Licensing Officer on behalf of the police and that these conditions had been agreed by the applicant prior to the hearing.

4. Full text of unanimous decision

That having considered the facts and representations made to it the Sub-Committee determined that a Premises Licence is granted:

- For licensable activities to take place at one event per year. The event shall commence on a Friday for a duration of 3 days to conclude on Sunday between the 1st June and 31st July each year.
- The Sale of alcohol (for consumption on the premises only) shall take place on Friday, Saturday and Sunday 12:00 – 23:00 hours
- The Exhibition of Films (indoors and outdoors) shall take place on Friday 12:00 – 23:00 hours, Saturday 10:00 – 23:00 hours and Sunday 10:00 – 23:00 hours
- The Provision of live music (indoors and outdoors) shall take place on Friday 12:00 – 21:30 hours, Saturday 10:00 – 21:30 hours and Sunday 10:00 – 21:30 hours
- The Provision of recorded music (indoors and outdoors) shall take place on Friday 12:00 – 23:00 hours, Saturday 10:00 – 23:00 hours and Sunday 10:00 – 23:00 hours
- The Performance of Dance shall take place on Friday, Saturday and Sunday 12:00 – 23:00 hours
- The Premises shall be open to the public on Friday 12:00 – 23:00 hours, Saturday 10:00 – 23:00 hours and Sunday 10:00 – 23:00 hours

Conditions to be attached to the licence

- The Licence Holder shall comply with the measures contained in the document titled – Britannia Events UK Ltd – Premises Licence Application Appendix 1, except where these conflict with any conditions attached after a Hearing by the Licensing Authority, listed below.
- A Wristband System of ticketing will be used – not date-stamping attendees.
- The Event Security Plan and the Event Management Plan shall be submitted to the Licensing Authority and approved no later than 6 weeks before the event each year, for circulation to the other Responsible Authorities.
- *The control limits set at the mixer position/s shall be adequate to ensure that Music Noise Level (MNL) shall not at any noise sensitive property; exceed 65dB(A) over a 15 minute period throughout the duration of the event and/or rehearsal or sound check.*

For the purposes of clarity the following locations have been agreed with the Environmental Health Authority:

- *MP1 Coombs Rd /Brooklands Bank*
- *MP2 Granby Croft*
- *MP3 WyeBank*
- No later than 28 days prior to the event a Noise Management Plan shall be submitted to the licensing Authority, this will include as a minimum:
 - Timings for all regulated entertainment performances, rehearsals and sound checks.
 - Details of noise control procedures, compliance monitoring and intervention actions for all regulated entertainment performances, rehearsals and sound checks
 - Details of comments line should members of the public wish to register comments relating to music noise, including where this will be advertised and how residents will be made aware of the number, and how these will be logged and responded to.
 - Details of compliance reporting
 - Details of a complaint handling procedure and the steps to be undertaken to resolve those complaints.
- The Licensee shall comply with the measures set out in the agreed final noise management plan.

The following standard mandatory conditions

MANDATORY CONDITION: SUPPLY OF ALCOHOL

- (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.

MANDATORY CONDITION: IRRESPONSIBLE PROMOTIONS

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. 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 time 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 carries 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).

MANDATORY CONDITION: FREE TAP WATER

1. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

MANDATORY CONDITION: PROOF OF AGE SCHEME

- (a) 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.
- (b) 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.
- (c) 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:-
 - (i) a holographic mark, or
 - (ii) an ultraviolet feature.

MANDATORY CONDITION: REQUIREMENT TO MAKE SMALL ALCOHOL MEASURES AVAILABLE

The responsible person shall 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: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (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.

MANDATORY CONDITION: SALE OF ALCOHOL - DUTY + VAT

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(a);
 - (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 amount 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(a).

MANDATORY CONDITION: EXHIBITION OF FILMS

The admission of children to film exhibitions is to be restricted in accordance with film classification recommendations made by the British Board of Film Classification.

Reasons for the decision:

- The Sub-Committee noted that local residents and the Environmental Health Officer were concerned about the potential noise nuisance emanating from the Premises and the control of the volume of music, however, the Sub-Committee felt that the representations put forward by Mr Aldred in respect of managing noise levels and any complaints were genuine.
- The Sub-Committee acknowledged that Mr Aldred had a great deal of experience to organise events and accepted his representations that he was not informed of noise nuisance at the last event. The Sub-Committee accepted Mr Aldred's representations that had he been aware that there were noise issues at the previous event, he would have sought to resolve complaints and work with residents.
- The Sub-Committee acknowledged that the organisers had taken advice from a noise consultant, Mr Hurst, and had reduced the hours of live amplified music to minimise disruption to residents. Members felt that the implementation of an agreed noise management plan would ensure that there would be an appropriate balance between the rights of the residents and the individuals attending the event.
- Members acknowledged that there had been concerns raised by the Objectors regarding the level of noise to be monitored at Noise Sensitive Premises, however, felt that they did not have information as to the dB levels recorded

previously to assess whether the noise was in excess of 65dB in the previous year.

- Members noted the guidance provided by the Noise Council and noted that account should be taken of the noise impact of other events at the venue. Members considered the impact of other events at the Bakewell Showground and how some events had been tolerated. Members felt that a restriction of 65dB would be reasonable and proportionate for the promotion of the licensing objectives. Members noted that should this level cause disruption despite conditions put in place by the Sub-Committee; that the residents or Environmental Health Officer could ask for the licence to be reviewed and present supporting evidence to the committee of the impact of the agreed dB level.
- Members accepted that they could not condition noise emanating from the tannoy system as this was not a regulated activity under the licensing regime, however noted that the Applicant had sought to minimise the noise levels from the tannoy for the forthcoming event.
- The Sub-Committee accepted the reasons provided by the applicant for the requirement for recorded music to remain on site until 23:00 hours particularly on a Sunday in the HQ Marquee. Members noted that the attendees would like to celebrate following the cycling event, but noted that they must also balance those rights against the rights of the residents to promote the prevention of public nuisance. Members carefully considered the representations put forward from the objectors in respect of limiting all music to 21.30 hours, however resolved that, provided a noise management plan was submitted and controlled, it would be reasonable to allow recorded music to continue to 23.00 hours on all three nights.
- The Sub-Committee noted the suggested condition put forward by the applicant in the Noise Management Plan to submit a final Noise Management Plan to the Licensing Authority no later than 28 days prior to the event taking place and agreed that this measure was appropriate to promote the licensing objective.

CLERK A.C. MILLER (CHAIRMAN)

Date

22 April 2015

Members signature:

APPEALS TO THE MAGISTRATES' COURTS

Many of the enforcement actions and decisions made by Derbyshire Dales District Council carry the right of appeal to the Magistrates' Court. This means that if you do not agree with the decision that the District Council has made you may contact the Magistrates' Court and ask them to formally review it. For example, anyone served with a formal enforcement notice has the right to appeal against that notice within 21 days of its service.

How do I make an appeal?

The right to appeal is normally set out on the reverse of the notice or in a letter that accompanies it.

If you want to appeal against the decision of the Sub-Committee you should contact:-

- Northern Derbyshire Magistrates' Court, Tapton Lane, Chesterfield, Derbyshire S41 7TW, Tel: 01246 224040

Where can I get help?

If you think you need help we would recommend that you speak to a solicitor who would be able to assist you with the Court processes.

The District Council is not able to recommend any particular firm of solicitors but would suggest you check in Yellow Pages or a local services directory.

