

MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 SUB COMMITTEE

MINUTES OF THE MEETING HELD ON MONDAY 29 JULY 2013

Present: Councillor Mrs Grigg (Chairman), and
Councillors B Mortimer and Mrs Parvin

Also Present: Councillor Munford (observing the public
part of the meeting).

1. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

2. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

3. EXEMPT ITEMS

RESOLVED: That the Items on the Agenda be taken in public as proposed.

4. APPLICATION FOR A PREMISES LICENCE TO BE GRANTED UNDER THE LICENSING ACT 2003, MADE BY SOLAR COLLECTIVE LTD, IN RESPECT OF THE PREMISES GRID REF : TQ76730 48721, OPEN GRASS FIELD-LAND, WITH ATTACHED WOODLAND, OFF LOWER FARM LANE, BOUGHTON MONCHELSEA.

The Chairman requested those present to introduce themselves, explained the procedures and Members confirmed that they had read all the papers.

Mrs Bolas explained that the hearing was regarding an application for a new premises licence made by Solar Collective Limited in respect of the premises Grid Ref: TQ76730 48721, open grass field/land, with attached woodland, off Lower Farm Lane, Boughton Monchelsea. Objections had been received from 26 other persons and initial representations had been received from the Police and Environmental Health, but subsequently withdrawn following the proposed addition of conditions to the licence accepted by the applicant for inclusion in the operating schedule.

Mr Townsend, on behalf of the applicant, stated in his opening remarks that his family had lived and worked on the Farm since 1947 and have been a part of the local community for many years, his father having been Chairman of the Parish Council in the past. He stated that, although it is a working farm, they do need to diversify and holding events is a way for them to do this. They are environmentally conscious and promote solar power and all events will be powered this way. A successful event was held in September 2012 under a TEN and he had been advised to apply for a premises licence for the future. Although the application looks like it

is for all year events can only be held during a certain time of the year as the field is too boggy in the winter and hay is grown there in the first part of the year. Their main wish is for a 3 day event annually but also for a number of one day events and camping, including weddings.

Mr Townsend then submitted his evidence in support of the application. Having read the objections received, he stated he would address the areas of concern in turn.

Traffic - He stated that the traffic will be directed down the A229 on to Butt Green Lane and then Lower Farm Road. The route will be signposted with encouragements to drive slowly and these roads have many passing places and the verges are firm in the summer months. The only house along this route is on the junction of the A229 and Butt Green Lane and is currently unoccupied. They have a traffic management plan to ensure the roads do not get blocked and the car park area will be managed by traffic marshalls. All emergency vehicles will be taken to the farm entrance which provides clear and easy access to the site.

Noise – There is a noise management plan which is similar to the one used for last year’s event. The plan will be further amended to accommodate the conditions proposed by Environmental Health should the licence be granted. He felt that these conditions are fair.

Crime – All events are family friendly and SIA Security will be on site. They will work with the police should the need arise, but this is not expected and there were no incidents last year.

Protection of Children – They have a policy in place and have a dedicated team who work purely for the children’s area which is separate to the main event.

All other persons were then given the opportunity to ask questions of the applicant’s representative.

In response to those questions, the applicant’s representative stated that the hay is cut at some point between late June and late July, depending on weather conditions, and the field gets boggy by November. He responded that last year they had a telephone number for people to call with any queries regarding the event and they posted 36 letters to properties in the area, the list having been provided by Environmental Health at the Council. He did not believe that conditions had been breached last year, the Police attended after a complaint but did not find a problem.

Miss Thurgaland responded to a question about child protection by stating that all staff working with children are DBS checked, they have a Child Welfare Policy and all staff know how to deal with children who are lost or in need of anything by referring them to the checked staff.

Mr Townsend then responded to further questions:-

- 300-400 people attended the event last year
- They have 9,100 sq m of car parking area which can accommodate up to 500 cars
- The land is split 1/3 car parking, 1/3 camping and 1/3 event
- Following the meeting at the parish council, they had reduced the number of events applied for to 1 x 3 day event and 8 x 1 day events per year.
- The maximum number of ticket sales they wish to get currently is 500 but they want flexibility to grow.

Members were then given the opportunity to ask questions. Mr Townsend responded that entry to the events is by ticket only and that they have the email address of all attendees should any event need to be cancelled; noise levels were monitored last year even though the event was held under a Temporary Event Notice and, therefore, had no requirement to do so.

The Objectors were then given the opportunity to state their case. Mrs Walker read out a statement on behalf of Mrs Evans who was unable to attend the meeting. The statement explained her concerns regarding noise, in that the area is rural so sound travels a long way and that the event last year was thought to be a one-off so many people did not make a formal complaint. It was stated that the roads are single track, with no lighting and no passing room, are constantly used by dog walkers and horse riders and therefore traffic congestion and accidents were likely. Mrs Evans expressed the opinion that the application, if granted, would allow too many events, but she would accept the 1 x 3 day event with silence after 11pm, the lighting facing downwards and notification 3 months in advance.

Mrs Walker stated that she felt the applicants had taken the lack of formal complaints last year as acceptance by the community and this is not the case. Last year was thought to be a "one off" and people would not complain. She was also concerned that there was no start time shown on the application. She stated that due to the topography of the surrounding land, sound travels up Church Hill. She was concerned that there was nothing in the proposed environmental health conditions that recommended when the sound monitoring should take place – it was highlighted that monitoring at midday would be different to 8pm as there would be no other ambient noise at this time. Mrs Walker felt a limit of 500 people was appropriate as she did not think the roads could cope with more than that.

There were no questions from the Applicant or Members.

Mr Harrison addressed the Hearing on behalf of Mrs Harrison stating that he does applaud the enterprise and is sad to be objecting to it, however, he owns the largest fishery with disabled angling facility and is very close to the site, 375 metres on the other side of the river, with no buildings in between. They have up to 300-400 children fishing at the site and a music event will spoil the peace and quiet that many people come to them for. The roads are unsuitable.

There were no questions from the Applicant.

In response to questions from Members, Mr Harrison said that people come fishing because it is a tranquil sport and anglers love the fact that it is very quiet. It would affect their business as a whole as people would not want to come if there was a festival going on. They have over 1,000 children attend over the year and up to 200 a night. They are open all year round, all day and night.

Mrs Sayers then addressed the Hearing. She stated that she would not oppose this if she could see any benefit to the community, but she could not see any. She felt it was more damaging to the environment, to the lanes, wildlife and residents peace and quiet.

The applicant asked if the traffic in Church Hill last year was excessive and was she affected by the traffic. Mrs Sayers responded that a wedding or funeral at the Church causes a backlog but she cannot remember whether there was a problem due to the event last year.

There were no questions from Members.

Mr Walker then addressed the Hearing. He stated that traffic and noise are the major concerns. He felt that 500 was too many and the appropriate limit for this type of event in this location is 300. With regard to noise, there is a suggested condition by environmental enforcement to limit the noise level to 65 decibels and that the number of events be 1 x 3 day event and 8 x 1 day events.

He mentioned that the World Health Organisation guidance on noise levels says that 55 decibels is a serious annoyance, yet the proposed level is 10 decibels higher than this. They also say that the noise level should be 5-10 decibels lower in the evening. If the proposed limit of 65 decibels is kept, that would mean serious annoyance all day and all evening for the local area. He did not feel there was any justification for creating that much noise on that many occasions and that it was contradictory to the licensing objectives.

Mr Walker also referred to the Noise Council's Code of Practice and felt that Environmental Health had not followed this. He stated that the code recognised three specific factors – i) way sound travels, ii) nature of the sound and lower frequency sound, and iii) the weather and topography. He stated that certain types of noise cause greater annoyance – e.g. noise which is tonal, which links in to lower frequency noise. Lower frequency noise travels up hill and is much more intrusive than normal sound and can be louder further away from the venue.

He does not believe there are any social or cultural benefits from these events. He feels there should only be the 1 x 3 day event, the noise level reduced and monitoring should be much more specific.

The applicant was then given an opportunity to ask questions of Mr Walker. In response to those questions, he said that the local shops would not be used as everything would be brought in to the site and that there has been no thought for the local community.

Members were then given an opportunity to ask questions of Mr Walker. In response to those questions, Mr Walker stated that it is not just the level of noise but the type of noise and that the number of additional events should be reduced.

Mr Hitch then addressed the Hearing. He stated that he applauded the applicant for what he is doing and has known the family for many years. He has lived at Wierton Hill for 37 years. He explained that the two hills encompass Wierton and that the area has about 30 residents. He pointed out that Wierton is a natural amphitheatre and over the years has experienced events in the area and the noise is multiplied coming up the hill. He mentioned events that have been held in the past and noise at Stilebridge, which is further from the proposed site, has been heard in Wierton. Therefore, the noise level is his main objection and litter.

The applicant was then given an opportunity to ask questions of Mr Hitch. In response, Mr Hitch said that following the event last year he did not notice a particular litter problem and that with regard to traffic he did not know what day the festival was on.

Mr Gershon addressed the Hearing on behalf of the Parish Council. He stated that if the Panel feel consent would be granted, then he asked that the conditions be very clear and specific. He said there was concern over monitoring of noise level and the number of 1 day events requested would mean an event every other weekend in the time period that the field was available. He said he was pleased to hear that they will be directing traffic along the A229 but still had some concerns about traffic congestion at the site. Noise does have a major impact and the topography of the local area can exacerbate this and that it was important to avoid light pollution and all lighting should be directed downwards.

Mr Gershon stated that, although the applicant has accepted conditions with regard to protecting children from harm, it is felt more needs to be done as the events go on for long hours, the proximity to loud noise, alcohol being sold, potential damage to hearing in young children and proximity to local water.

Mr Gershon added that the visitors come to this area specifically for the peace and quiet and that the area has a site of special scientific interest as it has one of the last remaining clay river beds. He asked that the number of events held should be limited and be part of the conditions and that they should not be held on consecutive days/weekends, residents should be given plenty of advance notice and the Parish Council would be happy to be an additional conduit for that.

The applicant was then given the opportunity to ask questions. In response to those questions, Mr Gershon felt the amount of noise and

light could affect the wildlife and, although he cannot be sure whether there was any effect last year, he is concerned that with the increased number of events this is now more likely to occur.

Members were then given the opportunity to ask questions. In response Mr Gershon stated that the sound goes through a clear area and up the hill and there is no vegetation to restrict the noise.

The objectors were then given the opportunity to put forward proposed conditions. These consisted of:-

- 1 x 3 day event only
- noise monitored in a number of proposed locations
- Maximum of 500 ticket sales
- No more than 3 x 1 day events
- Start time of midday
- Noise level limited to 55 decibels
- Early notification of events and telephone number to call if any problems
- Lighting – to protect residents and the environment
- Requirement for an independent noise consultant
- Litter picking and removal of waste from site by contractors
- Controls in place to discourage visitors away from the sensitive areas

The applicant then stated they would be willing to:-

- monitor the noise level 3 times during the day in 5 or 6 different locations;
- have a start time of midday
- Send out letters of notification and have telephone number on the website
- They use a local contractor for waste and recycle on site
- Accept a lower number of 1 day events – e.g. 5 or 6
- Limit of 1,000 ticket sales for the 3 day event

With regard to the locations for noise monitoring, all parties would be happy with the following:-

Peens Lane – East of the dip in the road
Stilebridge Lane – outside the kennels
Church Hill – at the Peens Lane Junction and near the Church
Lower Farm Road
Staplehurst Road at the entrance to Hertsfield Farm
East Hall Hill near East Hall
Wierton Hill near Wierton Oast

All parties were then given the opportunity to give their closing speeches.

Objectors stated that a limit of 6 x 1 day events was still too high and there was concern that there were no specific plans for the 1 day events or what type of events they would be.

The applicant stated that there would be a business plan for all 1 day events. They are environmentally friendly and anyone is welcome to come to the festival and would encourage local residents to attend and they welcome the conditions put forward by the responsible authorities.

There were no questions of clarification.

The Committee then retired to consider the application and

RESOLVED: That the application be granted, subject to modified conditions appropriate for the promotion of the licensing objectives

Reasons for determination:

■ **Prevention of Crime and Disorder**

Reasons (state in full):

■ **Public Safety**

Reasons (state in full):

■ **Prevention of nuisance**

Reasons (state in full):

■ **Protection of children from harm**

Reasons (state in full):

Conditions and Reasons:-

Members of the Sub Committee have carefully considered the application, all representations on the committee papers, all representations from the applicants and the other persons attending who wished to speak. They have also considered the conditions incorporated with the applicants' operating schedule prior to withdrawal of representations by the Police and Environmental Health and noted that they have no objections provided those conditions are in place.

Members have decided to grant a conditioned premises licence for the licensable activities applied for limiting the number of events to one 3 day event and no more than four 1 day events, within the period 1 July to 31 October each year. The numbers of individual ticket holders to be maximum 750 for the 3 day event and 500 for each 1 day event.

The remaining conditions will be all relevant mandatory conditions under the Licensing Act 2003, conditions consistent with the operating schedule save where these are stated here to be amended or are superseded by specific additional conditions stated:-

These include conditions as proposed by Kent Police at Page 40 of the Agenda – amended as follows:-

- 3rd condition to read 500 and 750

- 4th condition to be deleted

Plus conditions as proposed by Environmental Health at Page 44 of the Agenda – amended as follows:-

Condition 1 – to incorporate inform local residents of noise sensitive premises on a list supplied by Environmental Health Officers (“EHOs”) in writing at least 3 months prior to a 3 day event and 6 weeks before a 1 day event, notify Boughton Monchelsea Parish Council at the same time for them to publish as they wish and include the public contact number in promotional material on the event website.

Condition 2 - Add prior to each event. A generic plan being agreed for 3 day and 1 day events and being confirmed together with any changes prior to each event.

Condition 3 - Add for any 3 day events. The Music Noise Level (MNL) for 1 day events to be considered by EHOs against the Code of Practice of the Noise Council where these are concert/music events and set at a level appropriate for the events in that year which may be lower but not to exceed 65 dB(A) (Laeq15 min) at the façade of the nearest noise sensitive properties.

Condition 5 – All events up to 500 people 6 weeks before the event and over 500 3 months prior to the event. Delete reference to 1000+

Condition 9 – delete and replaced as previously stated.

Condition 11 – Monitoring sites will be:-

Peens Lane – East of the dip in the road
 Stilebridge Lane – outside the kennels
 Church Hill – at the Peens Lane Junction and near the Church
 Lower Farm Road
 Staplehurst Road at the entrance to Hertsfield Farm
 East Hall Hill near East Hall
 Wierton Hill near Wierton Oast

At least 3 times during each day of an event

Additional conditions:-

- Any litter produced from the event left in the vicinity of the event site to be collected and appropriately disposed of within 3 days of the close of the event
- All tickets and the promotional website for the events should encourage attendees to respect the SSSI and keep away from the river
- Adequate parking for all attendees vehicles to be provided and maintained on site for the period of events and there should be no event parking in nearby lanes

- No generators to be used on site without prior agreement with Environment Health at Maidstone Borough Council
- No sales of alcohol or music, live or recorded, shall commence before midday on each event day
- The 1 day events to be spaced at no more than one per month in the permitted period and no two consecutive weekends

Reasons:-

Members of the Sub Committee have amended proposed conditions and added conditions relating to the public safety and public nuisance objectives, in order to reduce impact in terms of noise (music and general) and disturbance from attendee numbers and vehicles attending the site. They have taken note of the specific rural nature of the area, its quietness generally, the topography of the land, number of residences and use of the area by riders, cyclists, walkers and others.

These conditions are considered both appropriate and proportionate to promote the licensing objectives and to secure a balance between the applicant company's wish to hold successful events to diversify from a farm business and the wish of the community to maintain their residential lifestyle without disproportionate nuisance and negative impacts on public safety. The reduction in numbers of events will reduce the impact of nuisance and vehicle numbers as will spacing of events during the only period of the year when it was confirmed events could be held. Notice to residents and contact availability will allow arrangements to be made to reduce any impacts.

Informative:- Should any issues arise at any time during the licence any party can seek a review of the licence and its terms.

CONDITIONS FROM THE OPERATING SCHEDULE AS AMENDED.

1. An event management plan is to be drawn up for each event. This plan will be based upon the Purple Guide and cover each heading as listed in the guide.
2. A maximum number of persons attending each event will be determined in advance of the event.
3. Any event which is expected to attract between 500 and 750 people is to be brought to the attention of Kent Police and Maidstone Borough Council's Safety Advisory Group at least 3 months before the event.
4. The Challenge 25 scheme is to be in operation at all bars where alcohol is sold and appropriate signage on display.
5. Liquid refreshment including alcohol is only to be sold or supplied in polycarbonate containers, plastic or waxed paper cups except when previously agreed by Kent Police.

6. Kent Police (Licensing Dept) shall be notified at least 7 weeks in advance of any event where alcohol is to be sold. If an event is booked within 7 weeks of the proposed start date then the provision to sell alcohol will be agreed by Kent Police prior to the event.
7. Kent Police (Licensing Dept) shall be notified as soon as practicable of any event at which overnight camping is anticipated.
8. A personal licence holder will be present on site at all times that alcohol is being offered for sale.
9. The Premises Licence Holder will inform local residents of noise sensitive premises on a list supplied by EHOs, in writing, at least 3 months prior to a 3 day event and 6 weeks before a 1 day event, notify Boughton Monchelsea Parish Council at the same time for them to publish as they wish and include a telephone number or numbers, staffed continually throughout the duration of events, (this person to be on located on site), for members of the public to contact, in order for concerns relating directly to the event to be addressed immediately, the public contact number to be included in promotional material on the event website.
10. Assessments of sound levels with details and proposals for monitoring and controlling noise will be agreed with Maidstone Borough Council prior to each event. A generic plan being agreed for 3 day and 1 day events and being confirmed, together with any changes prior to each event.
11. The Music Noise Level ("MNL"), as described in section 3 of the Noise Council Code of Practice on Environmental Noise Control at Concerts, should not exceed 65dB(A) (Laeq 15min) at the façade of the nearest noise sensitive properties for any 3 day events. The MNL for 1 day events to be considered by EHOs against the Noise Council Code of Practice where these are concert/music events and set at a level appropriate for the events in that year which may be lower, but not to exceed 65 dB(A) (Laeq 15min) at the façade of the nearest noise sensitive properties.
12. At least one contact telephone number must be provided to Maidstone Borough Council's Environmental Enforcement Team in advance of the event so that if complaints of noise nuisance, including those outside normal office hours, are received during any stage of the event, including the installation, appropriate instructions can be given to reduce noise levels to that at or below the music noise level described above.
13. A Noise Management Plan (incorporated within the Event Management Plan) will be drawn up for all events by the Premises Licence Holder and submitted to the Safety Advisory Group. If up to 500 people then will be submitted 6 weeks prior to the event and over 500 3 months prior to the event.

14. Any lighting associated with this event should be installed and operated in such a manner so as not to cause a nuisance to residents.
15. Provision/maintenance of adequate toilet facilities will be detailed in the Event Management Plan and shown on the Event Site Plan and supplied and maintained throughout the event.
16. The camping area will be staffed when in use and all amplified music equipment will be banned within the camping area. The ban of amplified music equipment will be made clear in the T&Cs literature when tickets are purchased.
17. Any noise associated with the event will be inaudible at the façade of the noise sensitive dwellings after 23:00 hours.
18. Monitoring will be carried out at the following locations and levels will be recorded and supplied to Maidstone Borough Council officers if requested:-

Peens Lane – East of the dip in the road
Stilebridge Lane – outside the kennels
Church Hill – at the Peens Lane Junction and near the Church
Lower Farm Road
Staplehurst Road at the entrance to Hertsfield Farm
East Hall Hill near East Hall
Wierton Hill near Wierton Oast

All locations must be monitored at least 3 times during each day of an event.

19. A waste management plan will be adopted which will include litter clearances during and after each event. A waste contractor who is registered with the Environment Agency to handle waste will be used to remove the waste off the site. Appropriate waste containers will be provided for people attending the events.

5. DURATION OF MEETING

10 a.m. to 3.15 p.m.