

## **MAIDSTONE BOROUGH COUNCIL**

### **LICENSING ACT 2003 SUB COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON MONDAY 31 MARCH 2014**

**Present:**            **Councillor Mrs Joy (Chairman), and  
Councillors Mrs Gibson and Newton**

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 VARIED UNDER THE  
LICENSING ACT 2003 - SOLAR COLLECTIVE LTD, 1 BOUGHTON BOTTOM  
COTTAGES, LOWER FARM ROAD, BOUGHTON MONCHELSEA, MAIDSTONE,  
KENT, ME17 4DD.

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 to vary three conditions of a Premises Licence granted on 29 July 2013 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. Representations had been received from 8 other persons and no representations had been received from responsible authorities.

It was noted that a revised copy of Appendix D to the original papers had been re-circulated prior to the meeting as two conditions had been missed off the original.

Mr. Townsend, on behalf of the applicant, stated in his opening remarks that he was a Director of Solar Collective Ltd which had been set up to run events and his family had lived and worked on the Farm since 1947.

Mr. Townsend then submitted his evidence in support of the application to vary the conditions of the Premises Licence. He stated that he and another colleague had monitored the noise levels at the event last year and at no time were the levels above those agreed. The monitoring

equated to 6 hours off site each day and they had travelled 67 miles over the weekend in the course of the monitoring.

He stated that they were aware that sound does travel and there were some concerns from the Parish Council and local residents that the noise levels were going up the hill. To address those concerns, he intended to change the direction of the stage to the south for the next event and use objects to deflect sound up. It was hoped that this would lessen the effect of the noise for those locals to the north of the site. However, he did not want this to be a condition as it needed to remain flexible to take account of conditions. He would like to reduce the monitoring periods to 5 minutes except for inside the yard of the farm to remain at 15 minutes, (which is level with the nearest noise sensitive property and can be checked frequently).

Mr. Townsend stated that at last year's hearing his Company suggested that each position should be monitored for noise levels at least three times a day. As the readings that were undertaken were all well under the required levels, they felt that the frequency of monitoring the noise levels at all the locations were excessive and could be decreased to at least once during an event instead of at least three times during each day of an event. EHos have not objected. There is no change to the event itself or to the music noise level condition.

Mrs Evans, representing the views of Boughton Monchelsea Parish Council, questioned the applicant.. The Parish Council had concerns that should the proposal to move the stage not reduce the noise levels and the conditions were varied by this Committee, then where did this leave matters. They felt that this should be trialled first at the next event and then, following receipt of the data of the noise levels, it should come back to this Committee for consideration.

Mr. Townsend, in response, stated that he felt his Company had done everything in its power to try and deal with local residents' concerns regarding the noise levels and felt that continued noise monitoring at this level is excessive.

Mrs Evans invited Mr. Townsend to withdraw his application to vary the conditions of the Premises Licence and enter into dialogue with Boughton Monchelsea Parish Council.

Mr. Townsend added that these events had been held for two years in a row and not one complaint of excessive noise had been received by his Company. As the noise levels were within the acceptable levels, even if the stage is not moved, it would not be breaking any conditions.

Mrs Evans asked the applicant how he could demonstrate that his Company were monitoring the event.

In response, Mr. Townsend advised that Mr. Gershon from the Parish Council had visited him on site last year during the event and witnessed the monitoring taking place. He also advised that he would provide the

data if anyone had made a complaint.

Mr. Walker then asked the applicant why it cannot be made a condition for the stage to be turned around.

Mr. Townsend stated that if the stage was turned and confirmed as a condition and then it was found that the noise levels were such that a flood of complaints were received, they would need to come back to the Committee for a change in the conditions to move the stage again.

Mr. Walker stated that he did not have any confidence in the fact that the Company would monitor the noise levels if it was not made a condition of the Licence.

Mr. Townsend advised that prior to an event taking place the Council's Safety Advisory Group meet to discuss the event management plan. They could, of course, determine where they would want the stage set. Coupled with this, as the process is fairly lengthy, it would not be prudent to come back every year to change the conditions.

Mr. Walker had concerns about the frequency of monitoring and in particular on a Saturday night not in the afternoon.

Mr. Townsend confirmed that his Company would continue to monitor the noise sensitive property in the East twice a day. However, it should be noted that all the noise levels monitored at the last event were under the required limits.

Mr. Roome asked the applicant to agree that sound is louder downwind, which is south west prevailing, and the properties to the north and north east would be affected by the noise levels more.

Mr. Townsend stated that the process had been very open with the Parish Council and local residents. He also stated that many local residents had enjoyed the event last year. He felt that they needed to have the flexibility to manage the event subject to change on the night. Especially as there had not been any breach of the conditions at the previous event.

Mr. Roome felt that people would not complain unless they knew what the data readings were but that one test was not enough.

Mr. Townsend stated that all readings were under 65 decibels and the organisers did not hold an event with the intention of it being loud.

Mrs Walker asked if I was correct that Mr. Walker had walked down to the event in 2013 and the Police had attended in 2012. The applicant replied that the Police came out but the complaint about the noise was not substantiated. Mrs Walker stated that she had spoken to Mr. Gershon about the monitoring of the 8 sites, and asked which sites ha the highest levels.

Mr. Townsend stated that some of the places they monitored on the side

of the road had peaked due to vehicles going past at the time.

Mrs Walker then asked the Applicant if this emphasised the need to monitor for 15 minutes rather than 5 minutes.

Mr. Townsend stated that if noise makers such as planes and cars were taken out of the 15 minute monitoring, then 5 minutes would give the same as 15 minute monitoring.

Mrs Walker responded that by the same token, if 5 minutes monitoring were to take place, if the planes and cars were taken out of that, would that then give one minute of monitoring.

Mr. Townsend felt that his Company had done everything in their power to ensure that noise levels were not exceeded at the last event and had done nothing to suggest that they were not trustworthy.

Members were then given the opportunity ask questions. Mr Townsend responded by stating that his Company proposed to monitor four positions off site and would travel by car to those sites. These were as follows:-

Stilebridge Lane – outside the kennels  
Church Hill – at the Peens Lane Junction and near the Church  
Staplehurst Road at the entrance to Hertsfield Farm  
Eel House Farm entrance

The applicant confirmed that a copy of last year's data had been given to Mr. Gershon on the understanding that this be passed to the Parish Council.

The applicant advised that there was a procedure already in place for deadening sound from the event. The event is surrounded by Woodlands, together with large Marquees and a Shop which are directly in front of the stage. This will act as a wall to dissipate the sound travelling past if it is put up to the south side.

Other physical barriers could be put out to stop the sound travelling up the hill, such as haystacks or vehicles.

Also those camping would be encouraged to stay on site to reduce the amount of vehicular movement. It will also be prohibited to play their own music.

In response to a question of whether the applicant was confident that the same quality of monitoring could be achieved in 5 minutes as opposed to 15 minutes. The applicant stated that this was something they were looking into.

The applicant indicated that he had met with Mr. Gershon after the event but not before. He was aware that he was on the Parish Council but did not know what his position was. During the meeting with Mr. Gershon the applicant advised that his Company would be putting in a variation to the

conditions to the Council.

The objectors were then given the opportunity to state their case. Mrs Evans, on behalf of Boughton Monchelsea Parish Council, stated that the conditions imposed were for the protection of the local residents . The Parish Council was not anti-Festival but felt that the conditions were necessary and they did not feel there was any merit in varying the conditions at this stage. To take away the monitoring would give no protection to the residents and to reduce it would give the Licensee an unfair degree of control.

The Parish Council would like to work with the Licensee prior to the next event, including discussions on moving the stage around.

The Parish Council felt that local residents who did not attend the event should be able to enjoy their home and gardens and not be disturbed by a noise nuisance.

In response to a question from a Member Mrs Evans stated that they would welcome a commitment for the monitoring to take place in the evening.

In responding to a question Mrs Evans confirmed that Mr. Gershon was a Parish Councillor.

Mr. Walker expressed his concern that taking into account the way sound travels uphill, the stage was pointing up the hill so those at the top of the hill would suffer most with the noise level.

He added that if the Committee allowed the variation, this would give the applicant a lot more freedom. A 65 decibel limit does not mean that it cannot be heard, it just puts a cap on the noise. He felt that evidence should be forthcoming of the monitoring exercise and the Licensee should accept the burden of doing this. He also added that he did not feel the Company were using experts to carry out the monitoring and it was therefore done on an unprofessional basis and there was no independent check.

Mr. Walker asked the Committee to decide on the impact of the event on local residents and felt that some of the monitoring points, particularly Point 3 at the bottom of the hill does not reflect the impact of those people at the ridge. He felt that an alternative list should be agreed with residents and the Parish Council. He also felt that the applicant was trying his luck by coming back to the Committee with a variation to the monitoring conditions at this early stage.

The applicant responded by asking Mr. Walker if he understood the definition of a noise consultant. Mr. Walker confirmed that he did not.

The applicant advised Mr. Walker that their Company had over 20 years experience of monitoring noise levels at events and questioned if Mr. Walker was saying that they were not capable of monitoring.

Mr. Walker confirmed that he did not feel they were incapable of monitoring.

Councillor Newton asked Mr. Walker how long he had lived at his present address. Mr. Walker responded by saying that he had lived there for 3 years.

Councillor Newton asked if other events had occurred during that time in the area. Mr. Walker confirmed that there had been but nothing like on this scale.

Mr. Roome felt that the applicant was coming back too soon to the Committee before changes had been made for the next festival such as moving the stage direction.

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

Mrs Evans, on behalf of the Parish Council, expressed the fact that what she had said was representative of the Parish Council's Planning Committee's views and they were disappointed that they were not consulted over the proposed variation by the applicant prior to him submitting it to the Council. She emphasised that the Parish Council would very much like to work with the applicant for the next event.

Mr. Bartlett, for the applicant, stated that they wanted some flexibility in the conditions so if the repositioning of the stage does not work next time then something else can be tried without having to come back to the Licensing Committee again and again.

Mr. Bartlett emphasised that the Premises Licence was for the farm not for the benefit of the family to allow events to be held such as weddings etc. He also confirmed that in regards to a Noise Consultant, it was immaterial whether the person was independent or not, it would have to be approved by the Safety Advisory Group and that person (or company) should be in a position to be able to change the sound level as detailed within the guidelines.

Mr. Bartlett also advised the Committee that the Company had not previously refused to enter into any dialogue with local residents or the Parish Council. He advised that the festivals were a green event and it was the intention of the Company to get Schools involved in green events for the future, not just hosting music festivals. He also stated that some residents had approached them to say how nice it was to have events going on in the countryside.

Councillor Gibson asked if the Company had consulted with other organisers of local events. The applicant advised that they had spoken to the organiser of the Headcorn events and others. Some were surprised at the level of monitoring they had been undertaking.

Jayne Bolas advised the Committee at this stage that each event will have differing conditions dependent on the type of event.

In response to a question from a Member, Mr. Bartlett advised that he had been involved in and managed many events over the years but the music festival was the first one that he and the applicant had organised solely. He also advised that he had been a musician all his life, playing with some very high profile bands. He had been one of the co-ordinators of a event at Bassetlaw and been a Steward at the Small World Festival so felt he had a good understanding of how an event should be run.

The applicant responded to a question on whether local residents had attended the event, that there were about 10 or 15 families. Mrs Evans, on behalf of the Parish Council, was not aware of actual numbers.

There were no further questions of clarification.

The Committee then retired to consider the application and

**RESOLVED:** That the application for a variation to the Premises Licence be granted, subject to modified conditions appropriate for the promotion of the licensing objectives

**The revised conditions were as follows:-**

**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),(monitored (Laeq 10mins) save at the location, entrance to the yard of Eel House Farm, (Laeq 15 mins)), at the façade of of the nearest noise sensitive premises 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)monitored (Laeq 10 mins) save at the location, entrance to the yard of Eel House Farm, (Laeq 15 mins).**

**Monitoring will be carried out at the following locations and levels will be recorded and supplied to MBC 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  
Entrance to the yard of Eel House Farm  
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 twice during each day of the event, during music on site. At least one monitoring at each site to be between 19:00 hrs and close of the event.**

## **Reasons for determination:**

### **Prevention of nuisance**

Reasons (state in full):

#### Conditions and Reasons:-

Members of the Sub-Committee having carefully considered all the evidence available at the hearing, contained in the application and representations received have balanced the need for residents in the area to maintain their residential lifestyle without disproportionate nuisance and have confidence that conditions set to secure this are met and for the applicant to be able to manage the event without undue burden. Members' view was that variation of conditions in the manner set out above would secure that balance in an appropriate and proportionate manner.

Having considered that monitoring has so far taken place for one 3 day event and data was not available for a selection of conditions, in view of the particular nature of the area, Members were not yet persuaded to reduce the locations for monitoring or the time Laeq to below 10 mins. However, on balance Laeq 10 mins and monitoring twice per day at all locations is considered appropriate to promote prevention of public nuisance. Members were not satisfied that only one monitoring event at each location in the afternoon was sufficient to provide data with a full picture of compliance and required two monitoring sessions at each location, at least one to be in the evening, when ambient noise is less and impact of noise, therefore, more significant.

Informative:- Members wish to indicate to both applicant and objectors that they have not conditioned the stage direction as this would be variable according to wind direction and other matters on site and should be considered as part of the Event Management Plan. However, they would consider it responsible for the Applicant to adjust this to secure least noise impact at any given event.

#### 5. DURATION OF MEETING

11.30 a.m. to 2.45 p.m.