

## Melton Borough Council Licensing Sub-committee

### Licensing Act 2003

#### **Notice of Decision: Review of Premises Licence for Noisily Festival**

On 4 March 2024, a Licensing Sub-committee comprised of Councillors Jim Adcock, Mike Brown (Chair) and Allen Thwaites met to consider an application for review of premises licence number MMA0324 issued to Noisily Festival Limited.

The application for review was submitted by Stathern Parish Councillor Cherry Underwood.

A total of 19 representations had been received in relation to the review application. Of those making representations, the following were present:

Councillor Ian Lowther, Chair of Barkestone, Plungar and Redmile Parish Council.

Councillor Ian Goff, Stathern Parish Council.

Andrew Gurr.

Duncan Shores.

Kelly Davies – My Melton.

Borough Councillor Christopher Evans.

Robin Marston – Environmental Health Noise Consultant.

In addition, the following Council Officers were present:

Clive Tobin – Assistant Director Governance and Democracy, Legal Advisor.

Joanne Belcher – Regulatory Services Team Leader.

Sarah Flower – Licensing & Compliance Officer.

Simon Greensmith – Licensing & Compliance Officer.

Adam Green – Senior Democratic Services & Scrutiny Officer.

Sarah Evans – Democratic Services Officer.

On behalf of the Licence Holder, the following were present:

Will Hazlerigg.

Lisa Gilligan – Solicitor.

Chris Beal – Noisily Sound Consultants.

Stuart Southwick – Noisily Security & Traffic Management.

Sarah Flower presented the report and summarised the background to the issue of the licence and the receipt of the review application.

The parties made submissions which can be summarised as follow:

Cllr. Underwood:

There are four key pillars to her application, namely the licence holder failed on traffic management, public nuisance on noise, death of a worker, lack of security on site.

Many residents suffered anxiety as a result of noise, there were two road traffic accidents connected to the festival, traffic management was poor, the event went on until 5.00 a.m. on two nights and the site was not fully secured. This was the first year of the event and there were many problems and there had been issues when the event was held at its previous location. Melton Borough Council lacked the resources to monitor and take enforcement action in relation to the noise nuisance.

Ian Lowther:

All four licensing objectives had been breached. Press reports stated that a festival worker had died of an ecstasy overdose. Traffic signage was poor leading to two traffic accidents. The site was not fully fenced off meaning that children could access the site. Noise nuisance was the biggest single issue, and the licence holder did not react to complaints made by residents. An independent consultant had looked at the noise data provided and concluded that a nuisance was caused but could not comment further since the raw data had not been provided. There should be a truly independent expert appointed to monitor noise at any future event. The whole site should be fenced.

Andrew Gurr

The noise complaints line was unhelpful and ineffective. He would support the event if it ended at 11.00 p.m. He and other residents had 72 hours with no sleep. The noise in his house was the equivalent to having the television on loud when he was trying to sleep, even though his property is approximately 1.4 miles away.

Duncan Shores

He lives two miles from the event and was still affected. The curfew for the event should be earlier. The event should either be moved or conditioned better to prevent nuisance. Independent noise monitoring would be better.

Kelly Davies

There had been six deaths at other festivals last year. The licence holder could do more to promote awareness of drugs risks for festival goers, such as the policy adopted by Bristol City Council. Public transport could be better used to prevent congestion and risks of nuisance or to public safety.

Cllr Chris Evans

The festival takes place in my ward and the residents have lost trust in the licence holder. Residents had been in tears as a result of four days of nothing but a thumping bass beat. All festivals should have a fully fenced perimeter and no noise at night. Sniffer dogs should be used for detecting drugs.

## Robin Marston

I am experienced in monitoring noise levels at festivals and outdoor events as an Environmental Health Officer working for local authorities. It is quite common to expect lessons to be learned during the first year that an event is held. The geography of this site means that the effects of noise will travel further. It has become clear that moving one of the stages at the event will reduce the impact of noise on local residents. Monitoring and noise mapping plans have been improved as could a local weather station to detect and react to changes in wind direction which can have a significant effect on the likelihood of noise nuisance.

Last year only daytime and evening monitoring took place and this year MBC will also be monitoring through the night and place measuring equipment in peoples' homes if they will agree to this. New monitoring locations should be added for this year. There are other options such as a silent disco or ending all music earlier. The only Code of Practice on this type of event was written in 1995 and is therefore considerably out of date; a new version is currently being developed which will assist in limiting the impact of events such as this. Measurement using the DBC Beats indices would allow a reduction of the peak beat noise which is the major nuisance factor for events such as this. Noise levels such as 40 DB are subjective and do not take account of all sound frequencies meaning that that bass noise is not necessarily identified. It is not possible to state a single noise level which should apply to the event due to the varying factors I have referred to.

The following submissions were made by and on behalf of the Licence Holder:

### Ms Gilligan

The event is much more than just a music festival including wellness, food, comedy, forest regeneration work and other things benefiting the community. The first SAG meeting has been held in relation to this year's event. The licence holder works closely with the SAG and engages with residents to minimise the impact on the community.

The event has very robust security which was signed off by the police and there were no issues with the presence of under 18-year-olds. There are allegations of this but no evidence. Similarly, despite press reports to the contrary, the person who died was not an employee and the licence holder works hard to ensure that drugs are not brought into the event, including searching attendees. An inquest has been concluded and the organiser has not been found to be responsible for the death. If the licence holder had been at fault, it is very likely that the police would have made a representation in relation to this review regarding the issue; it is notable that there is no police representation on any matter whatsoever. Only one arrest was made at the event for the offence of possession of drugs with intent to supply.

Mr Beale stated that it is not appropriate to compare this event with Glastonbury and, contrary to what has been said, not all performances end at 11.00 p.m. at Glastonbury. That festival has approximately 250,000 attendees, whereas Noisily has around 5000. Glastonbury has 250 stages and only the main stages end at 11.00 p.m.

Ms Gilligan also stated that a huge amount work goes into such events, and they are by their nature an evolutionary process from which lessons should be learned and implemented year on year. The licence allows music until 5.00 a.m. each day but last year we closed at 2.00 a.m. on Thursday, 4.00 a.m. on Friday and Saturday, and 12 midnight on Sunday.

Two road sweepers had been present and had not broken down; it was necessary for them to rotate and empty their loads at an appropriately licensed site. The storm caused issues which could not have been anticipated and which were outside the licence holder's control.

Mr Beale also stated that he had attended two meetings with residents meaning that the suggested lack of engagement was unfounded. Although one party referred to a noise expert reviewing the data, no report had been provided and there was insufficient detail to explain the basis for the submissions made. It is also inappropriate to use that as a basis for saying that if one noise level was exceeded at Woodside Farm that this indicates a breach throughout the event since this does not take account of the variables referred to by Mr Marston. Using DBC Beats indices would allow the impact of bass components to be addressed.

The measurements at Woodside Farms had been complicated by the presence of a dog which barked regularly and an alarm which sounded every time the dog moved, leading to peaks in the sound levels which could not be distinguished from noise from the event. As indicated by Mr Marston, specifying a single sound level is subjective and will not take account of different frequencies and will not therefore provide a solution to the issue.

Mr Southwick stated that the issues identified in the debrief last year have all been integrated into the traffic management plan for this year, hence the highway authority has not made a representation. Highways England refused permission for signage on the A1 as Noisily is not considered a large enough event to justify this.

Mr Hazlerigg stated that Noisily was a late night music event and that was the reason that people bought tickets. Changing to a silent disco alter the nature of the event and may not make it commercially viable. The complaint at the previous location were during the early years of holding the event and the issues raised had been addressed in subsequent years.

All parties then made closing speeches.

Members received **legal advice** which can be summarised as follows:

1. The first issue is to determine whether what you have heard demonstrates that any of the licensing objectives have been undermined.
2. If so you should then consider whether the Licence Holder's proposals to address this issue this year will address those issues.
3. If not, you should consider what should be done to address the issues; which should be appropriate and proportionate.
4. It is not appropriate to make a comparison with earlier complaints to Harborough District Council since that amounted to a different event, at a

different time in a different place. In any event, there was no detail before you relating to those complaints.

5. Any conditions which you choose to add to the licence must be clear, enforceable and within the power of the Licence Holder.
6. One party had suggested that the event should target particular age groups in the area and use local traders however, these are not licensing objectives.
7. The reference to the Noise Act 1996 by one party was misleading since this did not require all noise to stop at 11.00 p.m. but instead allowed local authorities to take specified steps to deal with complaints.
8. The Statutory Guidance states that the police should be the main source of advice on crime, but not the only source.
9. The Sub-committee could not force police and parish councils to hold meetings since this is not in the power of the Licence Holder.
10. Although one party had suggested that the Council should adopt a cumulative impact policy in relation to festivals, that was not within the power of the Sub-committee in relation to this application and would have to be considered separately.
11. Even though some of those who made representations had chosen not to attend, Members should still have regard to what is said in their representations.
12. The available powers are set out in the report.

Members then retired with the legal advisor for more than an hour to deliberate.

### **Decision**

Members returned to the Council Chamber at which time several of the parties had left. The Chair asked the legal advisor to read out the decision.

- A. It was hard to identify any specific issues regarding the protection of children which justify any specific conditions or restrictions on the licence.
- B. Similarly for crime and disorder, the Sub-committee were unable to say that there was sufficient evidence of incidents and / or culpability on the part of the Licence Holder to justify amending the conditions or taking other action. Even though there was one arrest and a death on site, both of which were serious matters, there was no material linking this to breaches of the existing licence or failures which require addressing.
- C. In relation to public safety, members noted the revised highways and traffic management plan which should address concerns raised in relation to last year. To reinforce this however, the traffic management plan that has now been agreed shall be treated as forming part of the current licence and must therefore be followed.
- D. Members were however concerned about the noise levels from the event and the widespread impact on residents of nearby villages and farms, a number of whom had made representations and attended today. The material before the

Sub-committee included both first-hand accounts of the impact of noise from the event and some, limited, technical evidence. It was also important to note that two acoustics experts were present who had given valuable guidance on the complexity of measuring and dealing with the consequences of noise from such events. The comments of the Environmental Health Officer regarding the subjectivity of noise nuisance, which were largely agreed by the Licence Holder's expert, makes clear that both technical evidence and first hand evidence of the impact carry significant weight in showing the extent to which the licensing objectives have been undermined. It was noted that the experts were not able to agree a single measurement or set of measurements which could be incorporated into the licence to mitigate the impact of noise on residents.

Accordingly, the Sub-committee consider it is necessary to address the risk of further noise nuisance by modifying conditions of the licence. The following steps are an appropriate and proportionate means of doing so:

1. The noise plan submitted by the Licence Holder in accordance with the first requirement under the heading 'The prevention of public nuisance' on page 9 of the current licence must take into account the matters in the document from Hydroc dated 18 February 2024 which has been submitted by the licence holder in relation to this review.
2. The noise plan and the modelling in that Hydroc document shall be approved by the Council's EHO or appointed expert.
3. During the event, if the Council's Environmental Health Officers and/or appointed noise consultant determine that the levels set out in the licence and/or noise plan are exceeded at any time, the Licence Holder shall take appropriate action and make such adjustments to the equipment used at the event as that officer or consultant may require.
4. There shall be no amplified music after 12.00 midnight on any night during the event.
5. The Vale Group of Parishes are to be consulted in relation to noise monitoring, security, and highways matters at least 6 weeks prior to the event. A further debriefing shall be carried out with the Vale Group within 4 weeks after the event.

## **Reasons**

The Sub-committee was satisfied that the event caused considerable disruption to local residents in 2023, specifically causing widespread noise nuisance over a wide area. This included negatively affecting their quality of life, making sleep difficult or, in some cases impossible, and affecting a number of businesses including the farming community at a busy time of year.

The Sub-committee noted the absence of any objectively agreed noise level that could be adopted to ensure that the event did not cause such widespread noise nuisance in future years. For that reason, in the absence of any other agreed measure which could be used members determined that the only method of minimising the impact was to do so by setting a terminal hour for regulated entertainment, namely playing of

amplified music, therefore allowing local residents the certainty that they would be able to sleep beyond that time without intrusive noise.

*C. H. Tobin*

C. H. Tobin, Assistant Director Governance & Democracy

for and on behalf of Councillor Mike Brown

Chair of Licensing Sub-committee on 4 March 2024.

Dated 8 March 2024

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