

## LICENSING HEARING

Minutes of the meeting held on 31 May 2019 commencing at 10.30 am

Present:	Cllrs. Abraham. Esler and Pett	
Also Present:	Jason Springham Mark Kirby Stephanie Harrison Charlotte Ball Natasha Williams Geoff Kirby	Applicant/founder Applicant/consultant Breast Cancer Care Ellenor English Heritage Eynsford Parish Council
	Andrew Baker Andrew Perman Jon Ward Richard Wells Katrina Hudecova	Resident Resident Resident Resident Resident
	Councillor Carroll Councillor Cheeseman Councillor Clack Councillor Hunter Councillor McArthur	Councillor Councillor Councillor Councillor Councillor
	Nick Chapman Annie Sargent	Assistant Environmental Health Manager (SDC) Environmental Health Manager (SDC)
	Sharon Bamborough David Lagzdins Michael Moss Holly Phillips-White	Head of the Licensing Partnership (SDC) Legal Advisor (SDC) Licensing Officer (SDC) Democratic Services Officer (SDC)

1. Appointment of Chairman

Resolved: That Cllr Esler be appointed Chairman of the meeting.

(Councillor Esler in the Chair)

2. Declarations of interest

There were none.

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3. Report to Licensing Sub-Committee following receipt of representations in relation to an application for a New Premises Licence made under The Licensing Act 2003 For the Food Fest LTD At Lullingstone Castle, Lullingstone Lane, Eynsford, Kent DA4 0JA -19/00660/LAPRE

Before the meeting a [Supplementary Agenda \(3\)](#) had been circulated.

The Chairman welcomed everyone to the meeting.

The Legal Advisor addressed the hearing and drew the meeting's attention to the legal requirement that a premises licence application be advertised by the display of notices around the premises for a period of no less than 28 days. There had been several concerns raised with the Council about whether this requirement had been met, and the Legal Advisor suggested that the panel first consider a preliminary issue of whether they considered that the application was valid for them then to determine.

The Chairman agreed to examine the validity of the application and invited the objectors and applicants to consider if the correct advertisement requirements had been met for the licence. It was also acknowledged that some parties to the hearing had questioned the position of the Legal Advisor in the application however; it was advised that the Advisor had been in correspondence with those for and against the application and the primary correspondence had been disclosed within the supplementary agenda.

The resident objectors to the application informed the panel that they had intended to have legal representation at the hearing; however due to uncertainty relating to the validity of the application and status of the hearing, they had been unable to find someone at short notice. The objectors voiced their concerns relating to the notices for the application, which they said had been put up on the 17 April 2019 and had been placed at ground level outside Lullingstone House and at the entrance to the A225. Images detailing the siting of these notices and their erection dates taken by the resident objectors and taken from social media had been provided as supporting evidence in the Supplementary Agenda 2. The objectors present at the hearing felt the placement and late installation of the notices had affected the interested parties' abilities to provide comments.

The applicant said that signs had been displayed for 21 days. The applicant expressed the opinion that the festival organisers had been in communication with local residents ahead of the event and had been working to accommodate their requests.

The objectors raised concerns that the application had been advertised in the Friday Ad and questioned whether this met the requirements of a newspaper under the legislation. They noted it was not in a public Notice section. The Applicants informed the hearing that they had been advised by the Licensing Officer that an advertisement in the Friday Ad did meet the advertisement requirements.

An objector wanted the panel to note his opinion that the hearing was prejudiced due to it taking place the day before the event was scheduled and the late display

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of the notices. The Chairman advised that the local elections in May had prevented the scheduling of an earlier hearing. The Chairman reminded those in attendance that the license was for the selling of alcohol and the performance of live music, not to determine whether the festival itself could go ahead.

At 11:04 a.m. the Hearing Panel Members withdrew to determine the preliminary issue of validity of the application accompanied by the Council's Legal Advisor and Clerk to the Hearing and the Head of the Licensing Partnership for the purpose of providing advice only.

At 11.42 a.m. the Hearing Panel Members, Council's Legal Advisor and Clerk to the Hearing returned to the Chamber.

The Chairman advised that the advertisement for the application had met the necessary legal requirements as a local paper, not exclusively for ads and easily available for those wishing to obtain a copy. The panel considered that the notices had been available for 21 days rather than 28; however this was not necessarily a rigid requirement and did not have any material effect. It was considered that the public had reasonable opportunity to make representations, reflected in the number, nature and content of representations.

It was acknowledged that regardless of the outcome of the hearing, the event would go ahead with the hearing only considering the licensable aspects of the event. The Chairman advised that the panel had noted the concerns raised by the objectors at consultation stage including those relating to access, the movement of people, the event location not being specified and the noise nuisance from music. She explained that the panel had decided to continue the hearing to determine the application, which would allow those present to address some of the issues raised, and if minded to grant the license, to include suitable conditions to help meet the licensing objectives and mitigate concerns.

The hearing gave consideration to the report by the Licensing Officer giving details of an application for a new time limited premise license under the Licensing Act 2003. He provided a brief overview of the application and gave details of when and what supplementary information had been received following the report being published including a corrected site plan. He explained that the application had not been valid on receipt and had been validated on 10 April 2019. The late validation paired with District Council elections had delayed the hearing for the application.

The Chairman explained that the panel would consider if the licensing objections were being met. With the agreement of the objectors, the applicant tabled a [presentation](#), which outlined the measures taken to meet these objectives. The applicant advised that although 2,500 guests were expected over the course of the event, it was anticipated that most would only stay for a limited time and under 1,000 tickets had been sold at the time of the hearing.

The objectors questioned the toilet arrangements for the event, to which they were advised by the applicant that two trucks of portable toilets had been hired

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for the festival and although these had originally been sited near a resident's property, the resident had been reassured that they would be relocated.

The objectors raised concerns with the information supplied by the applicant relating to the direction of the speakers. The applicants were questioned on the sound levels expected for this event and explained the music would be mainly 'folk' in style and sound engineers would be on site to monitor the levels. With reference to high sound levels a previous year at a different site, the panel were advised by the applicants that the previous location was not in close proximity to any residential properties.

The Environmental Health Officer had advised that his team had provided no comments after their initial review of the application however acknowledged that the information provided since by the applicant had given them cause for concern. He advised that the noise from live music should be limited to 65 decibels and noted the proximity of the location of speakers from residential properties.

The Chairman voiced concerns relating to public safety and emergency access. The applicant informed the panel that they had been advised by the venue that the main gate could provide emergency access for 2,500 people. They would also be installing additional netting and barriers on the footbridge to address safety concerns. The panel were advised the emergency access would be via Sparepenny Lane.

At 12:25 p.m. the Hearing was adjourned due to technological difficulties with the microphone system in the Chamber.

At 12.36 p.m. the Hearing was resumed.

The panel raised concerns on the suitability of Sparepenny Lane as an emergency access route as its traffic flow would be affected by any congestion on Lullingstone Road. It was raised that the applicant was advertising paid parking on site however the location of this parking was not advertised and it was suggested by the panel that parking at the site should not be encouraged further. The applicants advised that free spaces would be available in the Lullingstone Park Carpark and Anthony Roper School Carpark with limited parking closer to the event. The Chairman requested that the applicants update their website to include clear information and instruction relating to public transport, parking, the shuttle service and the location of the event. The applicants were also asked to provide arrange for signage and marshalls at the train station to guide the guests. The applicant agreed to these amendments and offered to send this information in an email to those who had purchased tickets for the event. In response to the panel's requests, the applicant also confirmed their plans to remove the overnight 'glamping' advertisement from their website, which they had confirmed would be for staff and their families only. It was suggested that the roads leading to the venue could be monitored by traffic marshalls however; the Legal Advisor reminded the hearing that the applicant had limited control over public highways. It was noted by objectors that the crowd management plan did not refer to residents.

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An objector drew the hearing's attention to the proposed location for the food stalls and their proximity to the hedge of a residential property. This was highlighted as a health and safety risk as flammable substances may be stored behind the hedge. The Environmental Health Manager informed that she would be on site on the Saturday of the event to ensure health and safety requirements were being met. The Chairman highlighted that only six representations of objection were made by residents and was advised by residents that Lullingstone Castle housed twelve apartments, with other consulted residents living further from the proposed event's location.

An objector drew the hearing's attention to the omission of recorded music from the application and were advised by the applicant that recorded music would only be played within the bar area. Questions were raised around the discrepancies in the name of the applicant, which was confirmed to be 'Kent FoodFest Limited'. The Chairman asked if the speakers wished to address any further issues.

At 13:10 a.m. the Hearing Panel Members withdrew for refreshments and to consider the representations made accompanied by the Council's Legal Advisor and Clerk to the Hearing for the purpose of providing advice only.

At 14.05 a.m. the Hearing Panel Members, Council's Legal Advisor and Clerk to the Hearing returned to the Chamber.

The Chairman addressed the hearing and explained how during the adjournment an objector entered the panel's deliberation room, without consent contrary to licensing hearing procedures. He informed the panel that the objectors intended to withdraw as he considered their concerns were not being addressed, and expressed his view that the hearing should not have taken place.

The Chairman stated that the panel believed they had given considerable opportunity for the objectors to raise concerns and request responses from the applicants. She noted that, as the applicant did not need a license to sell food or hold the festival, the granting of a license, if the panel were minded to do so would allow them to mitigate some of the concerns raised by Officers and objectors. Some of the issues raised were acknowledged as beyond the control of the Licensing Hearing however it was recognised that the applicant had agreed to make some compromises voluntarily in response to concerns.

The Environmental Health Officer proposed some additional conditions to limit negative noise impact from the event, if the panel were minded to approve the application. He advised the applicants that they would be required to ensure that sounds levels did not exceed 65 dB at 1 meter from the nearest residential property and 70 dB 2km from the source. The Officer advised that reports would need to be provided by the applicants' sound engineer to the council following the event, detailing the findings of hourly sound tests. Limiting device installation would also be required with sole access granted to the sound engineer. The applicants were advised that it would be necessary to install a phone line for resident complaints and separate line for the Council if it were to receive complaints. The Environmental Health Officer explained that they were looking for an opportunity to install a noise monitor inside one of the residential properties.

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He explained that if the application were to be granted he wanted to ensure the applicant was aware of the conditions relating to noise and how they could be met.

The Chairman asked if the representatives had any further comments.

At 14:14 p.m. the Hearing Panel Members withdrew to consider the issues raised, accompanied by the Council's Legal Advisor and Clerk to the Hearing for the purpose of providing advice only.

At 14.55 p.m. the Hearing Panel Members, Council's Legal Advisor and Clerk to the Hearing returned to the Chamber.

The Chairman informed the Hearing that the Sub-Committee had considered the representations made by the Applicant and interested parties, the Licensing objectives, the Statutory Guidance issued under Section 182 of the Act and the Council's Statement of Licensing Policy and was therefore granting the application subject to additional conditions where appropriate to address potential undermining of the licensing objectives of prevention of public nuisance and public safety.

She explained that a main consideration of the Panel while questioning the validity and determining the outcome of the application had been the opportunity to influence the applicant and festival. Following the representation of considerable concerns, the Chairman highlighted the compromises offered by the applicant. These including toilet and food stall relocation, marshalls placed to aid traffic and people flow, website updates to reflect traffic and people movement arrangements, the removal of 'glamping' advertisements. Additional conditions were suggested for the license, to include protective barriers on the footbridge and the proposed conditions relating to noise from Environmental Health. The Panel noted their concerns relating to the proposed use of Sparepenny Lane as an Emergency Vehicle route is given the nature of the road.

Resolved: That a Time Limited Premises Licence in respect of The Food Fest, Lullingstone Castle, Lullingstone Lane, Eynsford, Kent. DA4 0JA subject to mandatory conditions and additional conditions contained in the notice of determination attached as an appendix to these minutes, be granted.

Notice of Determination for a Premises Licence

THE MEETING WAS CONCLUDED AT 3.00 PM

CHAIRMAN

## LICENSING ACT 2003 - Section 23

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### Notice of determination for application premises licence

**To:** The Kent Food Fest LTD

**of:** Lullingstone Castle, Lullingstone Lane, Eynsford, Kent. DA4 0JA

**Ref:** 19/00660/LAPRE

Sevenoaks District Council being the licensing authority, on the 21 February 2019 received an application for a premises licence in respect of premises known as The Food Fest, Lullingstone Castle, Lullingstone Lane, Eynsford, Kent. DA4 0JA

On the 31 May 2019 there being valid representations which were received had not been withdrawn, a hearing was held to consider these representations, and having considered them the Licensing Sub-Committee determined as follows:

#### To grant the Premises Licence:

Section E: To allow Live music outdoors on

01 Jun 12:00 to 21:00

02 Jun 12:00 to 18:00

Section M: To allow the supply of alcohol for consumption on the premises on

01 Jun 12:00 to 21:00

02 Jun 12:00 to 18:00

Section O: To allow the premises to be open to the public on

01 Jun 11:00 to 21:00

02 Jun 11:00 to 18:00

#### To add the conditions on the Licence as follows:

**Mandatory conditions** - the following conditions will be added to the premises licence when it is issued.

#### 1. The supply of alcohol

- Where a premises licence authorises the supply of alcohol, the licence must include the following conditions:-

No supply of alcohol may be made under the premises licence -

- (a) at a time where 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.

- Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

## 2. Mandatory conditions in force from 28 May 2014

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
  - (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) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
  
4.
  - (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
  - (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### **3. Mandatory Conditions in force from 01 October 2014**

1.
  - (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) In this paragraph, 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).
2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 3.
- (1) 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.
  - (2) 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.
  - (3) 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—
    - (a) a holographic mark, or
    - (b) an ultraviolet feature.
4. The responsible person must 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."

**The following additional Conditions:**

1.

- (1) marshalls in high-vis jackets be sited at the railway station, Antony Roper School car park and Lullingstone Park car park to advise members of the public that a shuttle bus is available to take them to the venue and to protect them from the safety risks arising from walking along the highway to the venue.
- (2) netting or other suitable protective barriers be installed along the footbridge to protect those pedestrians who use the footbridge, especially in the event of an emergency evacuation.
- (3) adoption in full the following conditions from Environmental Health
  - (a) The following Music Noise Levels shall apply to the event.

Day	Time	LAeq (15 minute) measured at 1 meter from noise sensitive premises	Noise levels in the 63Hz and 125Hz octave frequency bands (at noise sensitive premises more than 2km away from the Licensed Premises Only)
Saturday	11:00 to 21:00	65dBA	70
Sunday	12:00 to 18:00	65dBA	70

- (b) The licensee shall nominate, in writing, a suitably qualified and experienced sound engineer who throughout the course of the event shall be in control of the Music Noise Level (MNL). This sound engineer shall operate independently of any DJ, or artiste in all music areas within the licensed site.
- (c) The organisers operate a policy that the sound system must be designed to ensure that the lowest amount of acoustic power is used to achieve satisfactory entertainment sound levels.
- (d) The design of each loudspeaker system will be undertaken by a competent person with an understanding of environmental noise issues.
- (e) The system will be designed with consideration to the directivity and scope of coverage of the loudspeaker systems.
- (f) The sound systems will be equipped with a suitable limiting device.
- (g) Access to the limiting device shall be permitted to authorised

persons only.

- (h) System design shall be conducted with reference to any special characteristics of the topography or geography of the site.
- (i) A sound propagation test will take place immediately prior to the event and noise levels will be fixed at the mixing desk or similar to ensure that the specified levels cannot be exceeded at noise sensitive properties.
- (j) At an interval of at least once per hour the acoustic consultant shall undertake measurements, 1m from the façade of the nearest noise sensitive premises or locations as agreed by the Environmental Health Team.
- (k) The music noise level shall be measured using an integrating-averaging sound level meter complying with type 2 of BS6698. Time weighting F (fast response) should be used.
- (l) The Licensee shall ensure that adequate communications methods (site radios/ designated mobile phone channels) are in place to enable the appointed acoustic consultant to communicate quickly and effectively with relevant sound engineers from offsite monitoring locations.
- (m) All measurements shall be provided to the District Council within 5 working days following the event.
- (n) The licensee shall maintain a complaint telephone line throughout the event. The licensee shall ensure that where a mobile telephone is to be used, that an appropriate network provider is selected to ensure good network service during the course of the event. A telephone number shall be provided to the Environmental Health Team.
- (o) During the event the licensee shall ensure that calls are answered and responded to within 15 minutes. A schedule of persons responsible for monitoring the complaint telephone will be supplied to the licensing authority.
- (p) Where anonymous complaints are received, the licensee shall make reasonable effort to investigate the details of the complaint and take action as appropriate. Public information will ask callers to provide a postcode in order to locate complaints, however they will not be required to supply names or telephone numbers.
- (q) Where calls are received in respect of the MNL, the licensee shall visit the area in focus and undertake noise measurements to ascertain the validity of the complaint. Where MNLs are found to exceed those in condition 3, immediate steps will be taken to reduce the MNL to the levels agreed.

- (r) All calls shall be logged. The Environmental Protection Team shall have online view of the event noise log at all times.

This licence granted at the Hearing is effective from the 31 May 2019.

Dated: 31 May 2019.

Please address any communications to:

Licensing Partnership

Sevenoaks District Council

Council Offices

PO Box 182

Argyle Road

Sevenoaks

Kent TN13 1GP

**Note:** Pursuant to Part 1 of Schedule 5 of the Licensing Act 2003 as amended, any party eligible to appeal must appeal to a magistrates' court within 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

