

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.

THE MEETING WAS CONCLUDED AT 3.00 PM

CHAIRMAN