

# Licensing Sub-Committee Report

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## Review: Newbury Real Ale Festival, Land between Northcroft Leisure Centre & Newbury Cricket Club, Northcroft Lane, Newbury, RG14 1RS (21/00812/LQN)

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<b>Type of Application:</b>	Application for the review of a premises licence under the Licensing Act 2003
<b>Parish:</b>	Newbury Central
<b>Ward Member:</b>	Councillor Andy Moore and Councillor Martha Vickers
<b>Case Officer:</b>	Emilia Matheou (Licensing Officer)
<b>Portfolio Holder:</b>	Councillor Hilary Cole
<b>Service Director:</b>	Eric Owens

### 1. Purpose of the Report

- 1.1 To set out the background information pertaining to this application for the review of a premises licence under the Licensing Act 2003.

### 2. Recommendation

- 2.1 Members are asked to decide, on consideration of the application and representations, whether further steps are required and appropriate in relation to premises licence 15/01127/LQN, to promote the licensing objectives. If not, the existing licence and conditions would remain in place as granted.
- 2.2 If Members consider that action is appropriate, Members are asked to decide whether or not to:-
  - (a) Issue an informal written warning to the licence holder and/or to recommend improvement specific to the licensing objectives within a particular period of time (this is an informal step outside of specific statutory powers, but can be considered in accordance with Statutory Guidance);
  - (b) Modify the conditions of the licence;
  - (c) Exclude a licensable activity from the scope of the licence;
  - (d) Remove the "Designated Premises Supervisor" (DPS) from the licence where one exists;
  - (e) Suspend the licence for a period of up to three months;
  - (f) Revoke the licence.

Members of the Licensing Sub-Committee are asked to make a decision at the end of the hearing after all relevant parties have been given the opportunity to speak and the hearing has been brought to a close. Members must give full reasons for their decision.

### 3. Background

- 3.1 Every premises that provides one or more of the licensable activities has to firstly obtain either a premises licence or a club premises certificate from the local licensing authority. That licence or certificate sets out the extent of the premises operation including the permitted times for the licensable activities and the established licence conditions.
- 3.2 Newbury Real Ale Festival has a premises licence, see Appendix 1, for the following licensable activities:

Performance of Live Music	<p>Friday: 15:00 to 19:30 Saturday: 12:00 to 22:00</p> <p>Activity will take place both indoors and outdoors.</p> <p>Further Details: Live bands/ individuals will perform within 2 dedicated areas:</p> <ul style="list-style-type: none"><li>• a sound stage located between the former nursery building and the cricket club: and</li><li>• a marquee to the south of the site (which will be fully enclosed).</li></ul> <p>The sound levels for both will be controlled by the onsite sound engineer who will be present throughout the event and will ensure that the levels are appropriate, do not compete with each other and therefore do not give rise to any noise pollution or nuisance to local residents.</p> <p>Licence limited to a single consecutive Friday and Saturday in September for the purposes of the Real Ale Festival.</p>
Recorded Music	<p>Friday: 15:00 to 19:30 Saturday: 12:00 to 22:00</p> <p>Activity will take place both indoors and outdoors</p> <p>Further Details: Recorded music will potentially be played between music acts.</p> <p>Licence limited to a single consecutive Friday and Saturday in September for the purposes of the Real Ale Festival.</p>

Supply of Alcohol	<p>Friday: 15:00 to 19:30 Saturday: 12:00 to 22:00</p> <p>Activity will take place both indoors and outdoors</p> <p>Further Details: Recorded music will potentially be played between music acts</p> <p>Licence limited to a single consecutive Friday and Saturday in September for the purposes of the Real Ale Festival.</p>
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3.3 The hours the premises is open to the public under the licence are listed as:

Saturday: 12:00 to 23:30

Further Details: Licence limited to a single consecutive Friday and Saturday in September for the purposes of the Real Ale Festival.

3.4 In addition to the relevant mandatory conditions under the Licensing Act 2003 and secondary legislation a number of additional conditions were attached to the licence when the licence was issued in August 2015. These conditions are included in Appendix 1 to this report.

3.5 The conditions include:

- A register of door staff will be completed and an incident register shall be provided to record all notable instances occurring at the premises.
- The organisers of the event (the committee) will also be on site at all times.
- An acoustic consultant will be available throughout the event to undertake regular checks on the perimeter of the site to ensure that the music levels are within an acceptable level and are not causing a potential nuisance to local residents.
- The performance / playing of live and recorded music will cease at 10:30pm at the latest.
- 7 — 10 days prior to the event, a leaflet drop to the surrounding local residents will be undertaken to provide them with information on the event (including the finishing time) and providing contact details for a member of the organising committee both before and during the event.
- All staff shall be trained in the requirements of the Challenge 21 policy.
- Entrants to the event will be given a coloured wristband and different coloured wristbands will be given to Under 18's.
- Any person under the age of 18 shall be accompanied by a person over the age of 18 years whilst at the licensed premises.

- The sale of alcohol is to take place through the pre-purchase of tokens (at the event only).
  - The Premises Licence Holder shall produce an initial Noise Management and Community Liaison Plan (NMP) at least 56 days prior to the commencement of the event. The final NMP shall be submitted to the Licensing Authority for agreement no later than 14 days prior to the commencement of the event. No alteration to the NMP after this date shall be made by the Premises Licence Holder except with the written consent of the Licensing Authority.
  - The final NMP shall contain the methodology which shall be employed to control sound produced on the premises, in order to comply with the premises licence. The NMP must include all of the arrangements for preventing public nuisance and consultation with the local community and shall include:
    - a) An inventory of all sound systems to be used on the site.
    - b) A schedule of contact details for those who are responsible for the sound systems.
    - c) A list of stages together with, a schedule of their location, orientation and shut down times.
    - d) Management command and communication structure /methods for ensuring that permitted noise levels and finish times are not exceeded.
    - e) Publication and dissemination of information to the public and arrangements for provision and staffing of a hotline number for dealing with complaints
    - f) Action to be taken by the Event Organiser following complaints.
  - At least 7 days prior to an event the Premises Licence Holder shall provide to the licensing authority a telephone number for contacting the licence holder or a nominated representative during the course of an event.
  - Noise levels from music and assessment methods shall be agreed in writing with the Licensing Authority no later than 14 days in advance of the event.
  - Noise levels from music shall be assessed at locations to be agreed in writing with the Licensing Authority no later than 14 days in advance of the event.
- 3.6 Once granted the licence exists for the life of the business or operation concerned. There is no regular review or renewal of these licences. However, should any particular premises operation give rise to cause for concern in relation to the licensing objectives then a review of the premises licence or club premises certificate can be sought.
- 3.7 Members of the Licensing Sub-Committee are asked to determine this application as the Licensing Authority has received a valid application for the review of a premises licence under section 51 of the Licensing Act 2003 for this premises.
- 3.8 The application states that the review relates to the licensing objectives: the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm.
- 3.9 The Licensing Authority may only consider aspects relevant to the application that have been raised in these representations.

- 3.10 Where an application for a review has been received and accepted by the Licensing Authority, and the concerns have not been resolved through mediation between all parties, leading to the withdrawal of the application, the Licensing Act 2003 requires that these applications should be determined by the Licensing Authority's Licensing Committee. The Licensing Act 2003 allows for applications such as this one to be delegated to a Sub-Committee.

#### **4. Application**

- 4.1 The Licensing Authority had received an application to review the premise licence for Newbury Real Ale Festival from Mr Andrew Wyper.
- 4.2 A copy of the application is attached as Appendix 2.
- 4.3 The licence 15/01127/LQN was granted to the licensee Newbury and Thatcham Hockey Club in August 2015. As above, the original licence is attached at Appendix 1.
- 4.4 A plan showing the location of the premises is included in Appendix 1. This year the Newbury Real Ale Festival took place on Saturday 11<sup>th</sup> September 2021. Licensable activities took place under the premises licence, namely live and recorded music and supply of alcohol. The stage faced Newbury town centre this year. The weather was bright, sunny with little wind. Following the event five complaints were received by Environment Health regarding the elevated noise levels from the event. Prior to this, since the premises licence was granted in 2015 Environmental Health received two other complaints about noise arising from this event. These two complaints occurred in 2015.

#### **5. Outline of the Grounds for Review**

- 5.1 The reasons given for applying for a review are set out in full at Appendix 2. The applicant has, in summary, commented that the event encourages criminal behaviour and disorder. It constitutes a public nuisance because of excess and continuous noise levels throughout the day and late into the evening. The applicant states that he believes the event is potentially harmful to children because of excess alcohol intake around the children in attendance, and abusive language being used within earshot of children resident in the area. He states that the noise emanating from the event also disrupts the sleep of younger children in the vicinity of the event.
- 5.2 The applicant is also concerned that the event is bigger than it used to be when it first started a few years ago and has also become louder, with live and recorded music being played for long and continuous periods. The applicant has provided a comment about the future expansion of the event which was included in a Newbury Weekly News article (see Appendix 2b) in support of the representations he has made.
- 5.3 He reported that a resident of Bewicks Reach had discovered an individual urinating next to the communal bin rooms at around 5.30pm on the 11<sup>th</sup> September 2021. The individual claimed to have attended the beer festival and been desperate for the toilet.
- 5.4 The applicant checked noise levels from the boundary between his property and the event on the day of the event. He found that typical levels were around 60-80 dE but were sometimes higher which he believed could constitute a potential risk to the hearing of residents and an even greater risk to the hearing of those closer to the source.

- 5.5 He also commented that in addition to the potential damage to hearing, continuous noise levels of this type were disruptive to the lives of residents during the event and interfered with residents' rights to enjoy their properties.
- 5.6 The applicant noted that children also attended the event and he was of the opinion that the excess alcohol consumption of some attendees, along with language used, was inappropriate for children.
- 5.7 He commented that attendees leaving the event could be heard shouting aggressively and sometimes using inappropriate language in earshot of his children (aged seven and nine) in their own living room. He stated that his children had been unable to fall sleep until the event had finished.
- 5.8 The applicant had contacted the organisers by email on Friday 10 September 2021 asking when music would be expected to cease and was informed that the last song was expected to finish at 9.30pm with everyone to have left site by 10.30pm. However, the music did not finish until 10.00pm. He noted that he had received an apology by email on the Sunday morning about this.
- 5.9 He was concerned about the large numbers of inebriated people in a residential area and he therefore believed that Northcroft Park is no longer a suitable venue for an event. The applicant stated that although the event is billed as a family event, it is an event dedicated to consumption, often in excess, of alcohol.
- 5.10 The applicant included an email relating to a previous event to his application (see appendix 2a).

## **6. Notification to Premises Licence Holder**

- 6.1 A copy of the review and enclosure(s) were sent by the applicant to the registered address of the premises licence holder on 19 September 2021. Licensing Officers also sent the application to the licence holder via email on the 24 September 2021. Licensing Officers also forwarded the information on to the responsible authorities on behalf of the applicant. A copy of the notice attached at Appendix 1a was placed at the site.
- 6.2 The Licensee has put together a bundle of documents that they would rely on during their presentation and these are attached at Appendix 3.

## **7. Consultation**

- 7.1 The 28 day consultation period inviting representations about the application ran from 24 September 2021 to 22 October 2021. Responsible Authorities, Ward Members and the Parish Council were advised by email on the 24 September 2021. The application has been advertised in accordance with the regulations, with the required notices displayed by the Licensing Authority at the premises subject to review, and at the Council Offices in Market Street, Newbury and on the Public Protection Partnership website.
- 7.2 The Council received 232 responses to the consultation from persons/organisations who are not Responsible Authorities. Of those responses received, 193 were valid "relevant representations" in the context of the review application and in accordance the Licensing Act 2003 and Statutory Guidance. Only these 193 written representations can be considered when determining the application.

- 7.3 The representations have been broadly grouped into support for the review and support for licence holder respectively.
- 7.4 There are 16 representations in support of the review which are included in full at Appendix 4. The supporters for the review are all local residents. The supporters for the review's comments were varied. They were concerned that the event was turning into more of a music festival than a beer festival, the noise level was in excess of previous years, they had concerns about the amplification of the music and the location of the stage, the music had overrun, people leaving the event had been seen urinating in nearby properties, concerns about accessibility of emergency services should residents need them, impact on sleeping patterns of local children, it was not an appropriate event for a residential area and some of the lyrics from the musicians were not acceptable for a family event.

There are 177 representations in support of the licence holder which are included in full at Appendix 5. The supporters for the licence holder are a mixture of local residents, individuals who attended the event, individuals who have worked at the event and representatives of organisations who are associated with the event including charity, sponsors, security provider. The reasons for respondents supporting the event were also varied. Supporters commented they had not witnessed any anti-social behaviour or disorder, it was a family friendly, safe and secure environment, volunteer staff are well briefed, there were sufficient numbers of security personnel, they had no issues with excessive noise or any disturbances and the clean up on the following day was effective.

- 7.5 In addition the Licensing Team also received some information from one of the supporters of the licence holder in the form of a survey generated and disseminated by Community Matters which asked people to put forward their response to the application to the Council to review the license for the Real Ale Festival. As well as responses to the points made in the application, the survey also included a request for ideas on how to improve the festival for the local community.
- 7.6 The survey generated 285 responses and the full document is attached at Appendix 5a. Of those that responded 83% had attended the event at least twice, 53% had taken children to the event, 96% stated that they did not think the event was harmful to children, 97% did not think the noise emanating from the event constituted a public nuisance and 98% did not think the event encouraged criminal behaviour.
- 7.7 Suggestions for improvement included having toilets at the exit and more toilets available in general, printing information on the tickets about being considerate when leaving and make announcements about that during the event, giving consideration to the orientation of the stage, an earlier finish to the music, having quieter music towards the end of the event programme, return to being a beer festival and not a music festival, more lower alcohol beer on offer, only allow over 18s into the event and have family friendly areas away from the beer tent.
- 7.8 A representation was also received from Environment Health which supported the review of the licence. The comments from Russell Davidson, Environment Health Officer, on behalf of Environmental Health as a Responsible Authority, are set out in Appendix 6. He noted that there were specific conditions set out in the existing licence to limit noise and reduce disturbance to neighbouring properties.

- 7.9 He had met with the licensee and sound crew on the day before the event and noticed that the stage this year was facing Newbury town centre which was different to the previous event in 2019 and different to what was detailed in the previously submitted and accepted 2021 Noise Management Plan (NMP) which he had reviewed. During the visit he was also introduced to the person (James Hollamby) responsible for sound and stage arrangements which was not the person specified in the NMP.
- 7.10 A noise limit of 65dB (A) Leq 15 minutes was agreed with James Hollamby with the compliance point being the façade of a block of flats known as Bewicks Reach, Northcroft Lane, around 238 m opposite the main stage. In addition someone from Mr Hollamby's staff would be monitoring the noise levels from the rear boundary of the event site.
- 7.11 Noise monitoring took place from 6.30pm to 10pm on the day of the event. Readings taken during the music set starting at 6.30pm were continuously above the agreed noise limit with a maximum noise level of 71 dB(A) Leq being monitored. Following contact with James Hollamby the noise levels were reduced but the noise limit was not reached.
- 7.12 During the final act, which started at 9pm noise monitoring at the compliance point indicated a Leq level of 77dB(A) and James Hollamby was contacted again by text. Russell Davidson then tried to access the site to speak with the DPS but was unable to. Noise monitoring therefore continued at the compliance point until the set finished at 10pm. This was different to what was detailed in the NMP which had specified that although the Premise Licence permits music to 10pm a target finish time of 9.15pm, latest 9.30pm was given. Noise level was continuously above the agreed noise limit with noise levels being measured at 9.35pm of 73 dB(A) Leq15mins and at 9.50pm of 69.6 dB(A) Leq15mins.
- 7.13 Russell Davidson contacted Sara Duffield after the event and the content of those discussions are detailed in his report.

## 8. Responses Received from Responsible Authorities:

Fire Authority – None

The Chief Officer of Police Thames Valley – None

Environmental Health – see paragraphs 7.8 to 7.13

The Local Enforcement Agency for the Health and Safety at work etc. Act 1974 – None

The Weights and Measures Authority/Trading Standards – None

Children's Safeguarding Board - None

Public Health - None

Home Office Immigration - None

Planning – None

The Licensing Authority – None

## 9. Options

- 9.1 The Home Office's Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018) must be taken into account when determining this Application.
- 9.2 Members are asked to consider, after taking all the relevant representations both oral and written into account, and having due regard to the licensing objectives, whether or not it is appropriate to take any action in relation to the premises licence (and conditions attached thereto), and, if so, whether or not to revoke or amend the existing licence in accordance with the options available to them as set out at paragraph 2.2 above.
- 9.3 Members will need to provide the reasons for their decision(s) in the decision notice.

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### Background Papers:

- (1) The Licensing Act 2003, appropriate Regulations, Statutory Revised Guidance issued under section 182 of the Licensing Act 2003
- (2) The Council's Statement of Licensing Policy Licensing Act 2003
- (3) The Council's Constitution

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## 10. Appendices

Appendix 1 –	The current premise licence
Appendix 1a –	The Notice
Appendix 2 –	Application to Review the Premise Licence
Appendix 2a –	email about previous event
Appendix 2b –	Information about future events
Appendix 3 –	Licensee's Bundle
Appendix 4 –	Supporters of Review
Appendix 5 –	Supporters of Licence Holder
Appendix 5a –	Survey
Appendix 6 –	Environment Health Submission