

LICENSING SUB-COMMITTEE

MINUTES OF THE MEETING HELD ON TUESDAY, 16 NOVEMBER 2021

Councillors Present: Rick Jones, Tony Linden and Graham Pask

Substitute:

Also Present: Brad Timm (Public Protection) and Beth Varcoe (Solicitor), Gordon Oliver (Corporate Policy Support) and Gillian Steele

PART I

13 Election of Chairman

It was agreed prior to the meeting that Councillor Rick Jones would chair this sub-committee meeting.

14 Declarations of Interest

Councillors Graham Pask and Tony Linden *declared a personal interest in Agenda item 3 by virtue of the fact that they had known the license holder when they worked for West Berkshire Council. As their interest was personal and not prejudicial they were permitted to take part in the debate and vote on the matter.*

15 Application No. : 21/00812/LQN - Newbury Real Ale Festival, Northcroft Lane, RG14 1RS

Councillor Rick Jones, Chairman of the Sub-Committee, welcomed everyone to the meeting and explained the hybrid meeting process. Those participants who had joined the meeting via Zoom confirmed they had heard and understood the introduction.

Councillor Jones proposed to suspend a procedure rule in accordance with rule 7.7.1 of the constitution and proposed that the Licence Holder was also given an opportunity to address comments made and would do this after the Applicant. This was motioned and seconded.

The Sub-Committee considered a report (Agenda Item 3) concerning Licensing Review Application 21/00812/LQN in respect of Newbury Real Ale Festival, Northcroft Lane, RG14 1RS.

In accordance with the Council's Constitution, Brad Timm (Licensing Officer, West Berkshire Council) and Andrew Wyper (Applicant) addressed the Sub-Committee on this application.

Councillor Martha Vickers (Ward member for Newbury Central) and Russell Davidson (Environmental Health) addressed the sub-committee in support of the review.

Miss Sara Dufield (License Holder), John Payne, Melissa Hughes and Tim Polack addressed the sub-committee in support of the event.

Mrs John Payne, the License holder's representative, provided some additional material in the form of suggested additional conditions for the license. These were accepted and circulated.

Mr Timm, in addressing the Sub-Committee, raised the following points:

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- West Berkshire Council received an application on 20th September 2021 for a review of the premises license under section 51 of the Licensing Act 2003 for the Newbury Real Ale Festival on the land near Northcroft Lane RG14 1RS.
- The grounds for review covered all four of the licensing objectives.
- The 28 day consultation period ran from the 24th September to the 22nd October 2021.
- The Ward members, Parish Council and Responsible Authorities were advised of the application by email on the 24th September 2021 and a blue notice was displayed at the Council offices on Market Street and on the Public Protection Partnership website.
- During the consultation period the Licensing department received a representation from one of the responsible authorities, Environmental Health. No other responsible authorities responded.
- 232 responses to the consultation were received from organisations and individuals who are not responsible authorities.

All parties confirmed they had heard the presentation by Brad Timm.

Mr Andrew Wyper, in addressing the Sub-Committee, raised the following points:

- The event has been running for several years and gradually increasing in size, he and others in the area feel that it has now outgrown the site and had become a music festival rather than a local ale festival.
- The organisers seemed keen to see the event get bigger and bigger; it no longer feels like a local event.
- The line of people waiting to get in to the festival was very long, extending down Northcroft Road.
- While he accepted only a small proportion might drink to excess, but he noted that a small proportion of a very large crowd can still be a lot of people.
- The atmosphere changes between the daytime portion of the event and the evening; loud and aggressive behaviour was observed among those walking away from the festival at 10pm.
- Any event which encourages heavy drinking cannot be good for public health.
- The site is too small for the size of event and the music breached the noise restrictions set down by Environmental Health.
- Mr Wyper suggested perhaps an earlier finish or not having the live music element as possible solutions. He also suggested that the showground might be a more appropriate venue.
- He also pointed out that the Environmental Health officer was unable to access the site on the night and that the recorded noise levels had reached near hazardous levels.
- Mr Wyper expressed a lack of confidence that the conditions could be enforced as they stood.

All parties confirmed they had heard the presentation by Andrew Wyper.

Councillor Tony Linden made reference to the licensing objectives. He noted that no reports of public nuisance had been received from the police and that the types of behaviour mentioned were found in many settings outside of the festival. He asked if

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there were any logs of the anti-social behaviour. Mr Wyper described the large numbers of people leaving the site at 10pm, shouting and banging on fences of local residences. He was unable to give an idea of the numbers involved.

Councillor Graham Pask asked if there was much traffic congestion resulting from the festival and what actions Mr Wyper took on the night of the event. Mr Wyper was not aware of any traffic issues linked to the festival. He hadn't taken any action on the night as he didn't feel there was anything he could do other than approached official channels the next day.

Councillor Jones noted that many people felt that the disturbance was acceptable as it was limited to one night and asked for Mr Wyper's response to that. Mr Wyper accepted that it was just one day but felt the levels of disturbance were too great and increasing year on year. He was not against the event happening, he simply felt the site was not appropriate for the size it had grown to.

Councillor Jones noted that beyond the noise issue, there were few who recognised the other issues raised. Mr Wyper said that he felt children being unable to sleep due to the noise was harmful. He also felt that it was not an appropriate event for children to attend, particularly in the evening.

Ms Sara Duffield and her representative John Payne, in addressing the Sub-Committee, raised the following points:

- Mr Payne began by noting that the License holder did not deny that there had been issues on the night and that they apologised for the disturbance, there had been no intent to disturb local residents.
- The festival took measures to manage the impact, including a management plan which was approved by the Safety panel.
- He denied that the event promoted crime and disorder or caused harm to children and noted there was no evidence provided to show otherwise.
- Ms Duffield gave some background to the event, informing the panel that the Newbury Hockey Club had been running it for 18 years as a volunteer run, family event. The only people paid by the organisers to run the festival were specialists such as first-aid, security and sound staff.
- There have never been issues requiring police intervention at the festival.
- No children under the age of 18 are permitted to enter the festival unaccompanied.
- Beer is sold in half pint measures only and the average volume of alcohol consumed is just three pints of beer.
- The capacity of the festival has not increased over the last ten years and they usually have about 1500 visitors on site at the end of the evening out of a permitted 5000.
- Mr Payne discussed the topic of noise management and pointed out that the monitoring levels agreed with Environmental Health are not a part of the license conditions but are based on a code of practice. Section three of the code of practice allows for music between 9am and 11pm. The event finishes before then.
- The agreed decibel limit was 65 decibels and it was regrettable that Environmental Health's message about the excess noise could not get through on the night. The council did have a number for the site manager.
- Mr Payne referred to page 81 of the agenda pack where the noise restrictions were listed. He also noted that different measures in the logs were taken from different locations on site and near local residences.

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- Mr Payne proposed that in future additional measures be taken to ensure all local residents are able to contact the organisers directly on the night of the festival. He felt the whole issue on the night could have been resolved with a phone-call getting through to the right person.
- The proposed additional conditions were:
 1. Where a resident living with a 1 mile radius of the premises notifies the licence holder in writing that they wish to receive details of the times and dates of events at the premises, the licence holder shall include such a person in the notification of events circulation as set out within the Event Management Plan.
 2. The licence holder shall make available a telephone number that shall be attended and answered whilst an event is in progress. The telephone number shall be clearly displayed on the event website and contained within the event information that is circulated to local residents. Calls received on the telephone number in relation to any of the licensing objectives will be logged and investigated. Where action is taken to resolve a reported matter, this action will be noted in a log book that shall be retained for a period of not less than 6 months after the event takes place.

Councillor Graham Pask noted that when considering the discussion of decibel levels, people should remember that it is a logarithmic scale and a small increase makes a big difference at high volumes, especially when the music is of a type with very loud drums and base music. He asked the license holder and her representative why the stage had been oriented differently to previous years and for their views on what caused the communication failures during the event. It was explained that it had been necessary to reposition the stage as part of arrangements to ensure the site was compliant with covid safety regulations. It was acknowledged that the type of music played was drum heavy but this was accounted for in the noise management plan. The license holder pointed out that this year is the first where they have received significant complaints and that they hope to return the stage to its usual position next year. With reference to the communications issue, it was pointed out that there is a hotline for complaints but nobody made use of it on the night; there is a structure to get messages through but the right numbers were not called.

Councillor Pask asked how they communicated the hotline number to locals. Ms Dutfield explained that 1500 leaflets had been distributed through local letterboxes ahead of the event. Mr Payne recognised that the procedure could be improved, perhaps by posting the number online and ensuring that representatives of the local authority have it.

Councillor Tony Linden referred to page 328 of the agenda pack, which outlined the difficulties the Environmental Health officer had experienced when trying to get past security on the night, and asked why that has been the case. Ms Dutfield said that she had spoken to the security company and their log did not record anyone from Environmental Health trying to get in and so it was impossible to assess what had happened. Ms Dutfield clarified that she would have readily engaged with Environmental Health Officers on the night had she been notified.

Councillor Jones noted that Environmental Health had apparently contacted the site and had the sound turned down more than once but it seemed to then get turned back up afterwards and asked the License holder for comment. Mr Payne said that it was a matter of the message not getting to the right person; he reassured the panel that had the messages reached the site manager or Ms Dutfield, stronger action would have been taken.

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Councillor Jones asked if the sound engineers were aware of the restrictions put in place by Environmental Health. It was confirmed that the sound engineers had met with representatives from Environmental Health the day before the festival to go over expectations.

Councillor Jones asked if the plans had been fully implemented. It was explained that the plan was in place and the issues stemmed from the unforeseen impact of the reorientation of the stage; once it goes back to the old set-up, the problems should be resolved. Attempts were made on the day to reduce noise levels.

Councillor Jones asked if the organisers could say with certainty that there would not be similar technical issues next time. Ms Duffield said that it was impossible to guarantee there would be no technical problems in advance but that the organisers were now more aware of the potential impact and they were treating the review process as an opportunity to check their procedures and improve. She was confident that the sound could be controlled.

Councillor Pask noted that one of the loudest bands was an AC/DC tribute band, a genre of music which tends to get particularly loud. He suggested considering using less heavy types of music for the evening performances. Ms Duffield said that they try to get a mix of types of music but that they would take the noise levels in to consideration when scheduling in future.

Mr Wyper pointed out that leaflets were not put through the doors on his road as it is a gated community. He was not convinced that a phone ringing would have been audible to anyone on site over the music and thus he was not convinced that the processes in place would be sufficient. Mr Payne said that the phones were handled via headsets and that it was standard practice at music events across the country. He also emphasised the importance of reporting issues to the right person on the night in the case of events that happen just once a year.

Ms Melissa Hughes and Mr Tim Polack, in addressing the Sub-Committee, raised the following points:

- Mr Polack explained that he has attended the festival every year since 2013 apart from this year and so has plenty of experience of how the event is run. In all those years, he had never witnessed any crime or anti-social behaviour associated with the festival.
- He characterised the festival as a local, family friendly event and noted that children were well catered for by the organisers.
- He felt the issue of children seeing people drinking was not restricted to the festival as they likely also see their parents drinking at home and in other social settings.
- The festival is beneficial to the local economy as visitors often head towards the town centre on the same day for food as well as the benefits to local caterers and breweries etc who have stalls at the event itself.
- He felt that the size of the event was not too big for the site where it is held and noted that other local events produce large amounts of noise.
- Ms Melissa Hughes from Newbury BID works to promote Newbury as a destination and represented one of the sponsors of the festival. The festival promotes Newbury whilst also raising money for charity and adding to the sense of place and community.
- Hotels and restaurants in the town centre recorded a significant increase in footfall on the day of the festival.

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- It is hard to avoid being close to a residential area while remaining central and more and more spaces are being developed as housing.
- She noted that the Council's local plan seeks to encourage events in the centre of Newbury rather than having them held out of town.
- In all the years which she has attended the festival, Ms Hughes said that she had never felt unsafe.
- She noted that the event is just 10 hours long and brings significant benefits for such a short space of time.

Councillor Jones asked about the possibility of moving the event to a less central location. Ms Hughes explained that doing so would reduce the benefits to the town. An out of town location would also be harder for people to get to by foot or public transport; an event serving alcohol isn't one you want everyone to drive to, it really needs to be somewhere people can walk to.

Councillor Linden agreed that moving out of town reduces the benefits to local businesses and noted that Reading town centre sees limited benefits from the festival compared to the benefits Newbury gets from the ale festival. Ms Hughes confirmed that Newbury BID had gathered data which demonstrated the positive impact the festival had for local businesses. Mr Polack felt the three pint average consumption of visitors suggested people were just visiting the festival for a short period then heading towards town; if the festival were harder to get to then people would likely stay on site for longer and drink more.

Mr Russell Davidson (Environmental Health), in addressing the Sub-Committee, raised the following points:

- Mr Davidson explained that he was representing Environmental Health as they had concerns about the sound levels at the most recent event.
- The festival was held on 11th September 2021. Live music was permitted at the festival until 10pm.
- The day before the event, noise limits had been discussed and agreed at an on-site meeting. The final positioning of the stage and the sound company used on the day were different to those agreed in advance; the stage was turned to face the town centre. The company managing the stage was UK Stage Events, noise levels were the responsibility of Mr James Hollamby. The Orientation of the stage and the stage management company used were different to what had been previously agreed.
- The agreed compliance point was 230 meters from the stage and the limit set was 65 Decibels averaged over 15 minutes. Noise monitoring occurred from 6:30-10pm.
- The noise in the evening was consistently high and five complaints were received from as far as 2.4km away. After contacting the organisers, some noise reduction was achieved but not enough to bring it within the agreed limits.
- Historically there are very few complaints associated with the festival.
- Environmental Health felt that the noise levels should have been checked during the morning set-up rather than waiting until the complaints came in in the evening to adjust.
- The license contains sufficient conditions to control the nuisance to local residents but on this occasion the conditions were not met.

Councillor Pask asked whether Environmental Health Officers were able to attend and respond to complaints as well as whether turning the noise down was a simple task and

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whether the Environmental Health Officers had been able to contact anyone to have it turned down. Mr Davidson explained that Environmental Health's function is to monitor the noise levels and that they do not generally operate an out-of-hours service. A site visit was made on the night just after the band Hells Bells to advise of the breach and text messages were exchanged during the live sets. The sound was turned down but not enough. The texts were sent to James Hollamby and attempts were made to speak to Ms Dufield via the emergency radios as it was so loud a phone probably wouldn't be heard. The attending officer was told that Ms Dufield was busy and he was denied access. He noted that turning down the volume for a live concert was more complex than just turning a single switch but that it should be within the abilities of a professional crew.

Councillor Linden asked if Environmental Health has the right to insist on access to the site to see the organisers. Mr Davidson said yes but they chose not to enforce that right on the night.

Councillor Jones queried the discrepancies between Environmental Health's measurements and the organisers own sound measurements. Mr Davidson was not sure why they differed and said he would have expected Environmental Health's measurements to be lower as they were further from the stage.

Councillor Jones suggested that the organisers may have been unaware of the breach if their readings showed levels to be within acceptable limits. Mr Davidson suggested that the organisers may have been measuring instant levels whereas Environmental Health use an average over fifteen minutes.

Mr Payne asked whether the Environmental Health department felt the existing license conditions were sufficient. Mr Davidson said yes, they were set in 2015 and were suitable for this type of event.

Mr Payne asked if Environmental Health were happy that the conditions were achievable. Yes, if checks are properly carried out in advance.

Mr Mark Barrett asked why the Environmental Health Officers had not identified the potential issue with the stage position when they visited the site on the Friday. Environmental Health had not been informed of the changes in advance, applicants should inform them of changes to the plan fourteen days prior to the event. It is the responsibility of the sound technicians to make the necessary adjustments.

Councillor Martha Vickers, in addressing the Sub-Committee, raised the following points:

- That she lived close to the event and had many locals letting her know their views.
- She was happy to see the event returning after the Covid restrictions and the huge amount of support for the festival but also thanked Mr Wyper for instigating the review of the license.
- She noted the allegation of risk to children was a serious one but saw no evidence to support it.
- The noise had seemed louder than usual, but it stopped by 10:30pm.
- The local community page featured several suggestions from locals about how the festival organisers could improve. Some suggestions were: More toilets on site; Changing the orientation of the stage away from residential areas; Scheduling quieter bands for the end of the evening, family friendly areas and making announcements to encourage good behaviour as people move away from the festival. Some also suggested a police presence or a police liaison.

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- Councillor Vickers welcomed the review but hoped that all that was required was greater adherence to the conditions in light of the clear benefits the festival brought to Newbury.
- A statement from the Town council was read:
- “We support this event. However, we recommend a review be carried out focussing on the level of noise and public nuisance as well as on toilet facilities.”

The Applicant, Mr Andrew Wyper, had an opportunity to make closing comments. He was not fully convinced that the existing conditions were sufficient but noted his home was very close to the site and it would be hard to hold the event without impacting his residence. He felt there had not been enough discussion of the anti-social behaviour issue but thought a few extra stewards could probably manage the crowds.

The License holder, Ms Sara Dufield and her representative, Mr John Payne made their closing comments.

- Mr Payne noted the standard of evidence demanded by the relevant case law and noted there was insufficient evidence to act on claims of anti-social behaviour or harm to children.
- The main issues come down to the noise levels. The law asks for proportional action and the case law suggests the minimum action should be taken to resolve the issues. Revoking the license entirely would be disproportionate. Environmental Health say the conditions are sufficient so this is an issue of compliance.
- The Covid restrictions meant there were changes this year which created the problems. This will be accounted for in future events.
- Mr Payne proposed that the conditions on the license be amended to require better promotion of the phone-line to reach organisers on the night to ensure complaints reach the right person so that prompt action can be taken.
- No Noise abatement notices were issued as this is a one-off issue which is easily resolved.
- He noted that no other responsible authorities, such as the Police or Child Protection Services had made representations.
- The safety advisory process meant that all plans had been assessed and approved in advance.
- A commitment was made to improve the spreading of information to residents.

The Sub-Committee retired at 11:45am to make its decision.

NOTICE OF DECISION

The Licensing Sub-Committee of West Berkshire District Council met on 16 November 2021 and considered **Application No 21/00812/LQN** made by Mr. Andrew Wyper for a review of the Premise Licence issued in respect of premises known as Newbury Real Ale Festival, Land between Northcroft Leisure Centre & Newbury Cricket Club, Northcroft Lane, Newbury, Berkshire, RG14 1RS and resolved to impose new additional conditions to be attached to the Premises Licence.

In coming to their decision, the Sub-Committee had regard to the four licensing objectives, which are:

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1. the prevention of crime and disorder;
2. public safety;
3. the prevention of public nuisance; and
4. the protection of children from harm.

They also considered the Revised Guidance issued under Section 182 of the Licensing Act 2003 (April 2018) and West Berkshire District Council's Statement of Licencing Policy.

The Sub-Committee heard oral representations made by:

1. The Applicant: Andrew Wyper
2. The Premise License Holder: Sara Duffield, her representative Jon Payne (Solicitor) and Edward Henstridge
3. Supporter of the Event: Melissa Hughes Newbury BID (Business Improvement District) and Tim Polack
4. The Responsible Authority: Russell Davidson on behalf of Environmental Health
5. The Ward Member: Councillor Martha Vickers (who also spoke on behalf of Newbury Town Council)

The Licensing Sub-Committee also considered the written representations made by the Applicant, the Premises Licence Holder, Environmental Health, the responses to the Newbury Real Ale Festival Survey October 2011 Community Consultation and the written representations made in support of the review and those in support of the Premises Licence Holder. Those documents were exhibited as Appendices 2 to 6 of the agenda pack.

The Licensing Sub-Committee also considered the proposed additional conditions which the Premises Licence Holder applied to be included as part of the material and all parties agreed this could be added and introduced.

Having taken those representations into account, the Licensing Sub-Committee RESOLVED that further to **Application No 21/00812/LQN** to impose new additional conditions to be attached to the Premises Licence.

Additional Conditions:

1. Where a resident living within a one mile radius of the Premises has notified the Premises Licence Holder in writing that they wish to receive details of the times and dates of events at the Premises, the Premises Licence Holder shall include such a person in the notification of events circulation as set out within the Event Management Plan.
2. The Premises Licence Holder shall:
 - a. Make available a telephone number that shall be attended and answered whilst an event is in progress. The telephone number shall be clearly displayed on the event website and contained within the event information that is circulated to local residents.
 - b. Calls received on the telephone number identified at 2 (a) in relation to any of the licensing objectives shall be logged in a log book and investigated. Where action is taken to resolve a reported matter, this action shall also be noted in the log book and be retained for a period of not less than six months after the event takes place.

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Reasons

The Licensing Sub-Committee noted that the application for the review of the Premises Licence had been brought pursuant to all four of the licensing objectives.

The Licensing Sub-Committee did not consider that there was sufficient evidence of issues in relation to the licensing objectives of public safety, the prevention of crime and disorder and the protection of children from harm. In particular, the Sub-Committee noted that Thames Valley Police and the Local Safeguarding Children Board had not submitted a representation in response to the application. The Sub-Committee considered those Responsible Authorities were the experts in terms of commenting on such matters relating to the prevention of crime and disorder and the protection of children from harm.

The Licensing Sub-Committee considered that the primary licensing objective that was engaged was the protection of public nuisance and attached appropriate weight to the representation made by Environmental Health. The Licensing Sub-Committee considered that this representation was clear and Environmental Health considered that the conditions attached to the Premises Licence (**conditions agreed with Environmental Health on the 6 July 2015**) were sufficient in order to control noise emitted during the event. The issue was that those conditions had not been complied with in relation to the event on the 10/11 September 2021. In particular, Russell Davidson observed on Friday 10 September 2021 that the orientation of the stage was changed to face Newbury Town Centre and was therefore different to the event in 2019 and what was detailed in the previously submitted and accepted 2021 Noise Management Plan. In addition, Russell Davidson was informed UK Stage Events were responsible for the sound compliance and monitoring requirements during the event whereas the NMP stated "Livewire are responsible for the supply, maintenance and management of the sound stage and broadcast equipment. Furthermore, they are responsible for managing the sound balance of the musical acts." Environmental Health also considered that there had been a failure to control the level of noise emitted during the event.

The Licensing Sub-Committee noted that the Premises Licence Holder was very apologetic for the failures at the recent event on the 10/11 September 2021 and acknowledged that much of the problems had been caused due to the last minute decision to change the orientation of the stage. This had been due to advice received in relation to Covid-19 that this would allow better social distancing. The Licensing Sub-Committee also noted that their view was that the issue was in relation to communication and the failure to contact the Premises Licence Holder directly so that the problem in relation to the noise levels could have been remedied. The Premises Licence Holder offered additional conditions that could be attached to the Premises Licence to assist with this problem of communication and responding to and the logging of complaints relating to the licensing objectives.




The Licensing Sub-Committee attached appropriate weight to the fact there had historically been very few noise complaints received by Environmental Health since the event gained a Premises Licence for its current location on 21 August 2015. The Sub-Committee heard that this was a popular event and noted that 177 out of the 193 valid representations were in support of the Premises Licence Holder. The Sub-Committee also heard from Melissa Hughes, Chief Executive of Newbury BID (Business

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Improvement District) and Tim Polack who were in support of the event. Councillor Martha Vickers also acknowledged how popular the event was whilst also adding that there were areas where improvements could be made.

In consideration of all of the representations made, the Licensing Sub-Committee considered that the only step which was necessary to take in order to promote the licensing objectives was to impose the new additional conditions which had been offered by the Premises Licence Holder, as amended. The Sub-Committee noted the reassurances that had been made by the Premises Licence Holder as to improvements which were being considered for next year and considered that the review itself had already highlighted awareness of the issues in relation to noise.

The Licensing Sub-Committee did not hear any evidence that a warning had already been issued by Environmental Health in relation to the breach of the conditions attached to the Premises Licence in relation to the event which took place on 10/11 September 2021. Whilst the Sub-Committee were not of the view that any further action needed to be taken in addition to that already decided, the Sub-Committee was of the view that the Licensing Authority should issue an informal written warning to the Premises Licence Holder within seven days of the date of this Decision Notice in relation to those breach of conditions. It was considered that more could have been done by the Premises Licence Holder and this should be reflected by the issuing of an informal written warning.

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|  Cllr Rick Jones | (Chairman) |
|  Cllr Tony Linden | |
|  Cllr Graham Pask | |
| Date: 23 November 2021 | |

(The meeting commenced at Time Not Specified and closed at Time Not Specified)

Name

Date of Signature

Name

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Date of Signature

Name

Date of Signature