

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 17th January, 2019, 10.00 am

Councillors: Les Kew (Chair), Rob Appleyard and Anthony Clarke

Officers in attendance: Terrill Wolyn (Senior Public Protection Officer) and Shaine Lewis (Team Leader Resources - Legal Team)

42 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer advised the meeting of the procedure.

43 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

44 DECLARATIONS OF INTEREST

Members declared that they had received emails about the applications to be heard today. They affirmed that their determination of the applications would not be influenced by the content of those emails.

45 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

46 MINUTES OF PREVIOUS MEETINGS: 6TH AND 20TH DECEMBER 2018

The minutes of the meeting of 6th December 2018 were approved subject to one amendment:

at the end of the second bullet point on page 71 (agenda page 11) to add:
"However, there was nothing to indicate where the vomit had come from."

The minutes of the meeting of the 20th December were approved as a correct and both sets of minutes were signed by the Chair.

47 LICENSING PROCEDURE

The Chair drew attention to the procedure to be followed for the next two items of business.

48 APPLICATION TO VARY THE PREMISES LICENCE FOR VALLEY FEST, DENNY LANE, CHEW MAGNA, BRISTOL

Applicant: MiniV Limited, represented by Luke Hasell (Premises Licence Holder & DPS), Chris Tarren (Production Manager), Harad Smith (Production Manager)

Responsible Authority: Education and Enforcement B&NES Council, represented by Suzanne McCutcheon (Team Manager Safety and Standards)

The parties confirmed that they understood the procedure to be followed for the hearing.

The Senior Public Protection Officer presented the report. Additional information had been submitted by the objector and the applicant, which had been circulated before the hearing. Members noted that the representation related only to the proposed variation in the capacity limit for the site, and not to any other part of the application.

Mr Tarren stated the case for the applicant. He said that Valley Fest had been going for some years, and had grown as a community event. The currently permitted maximum capacity was 4999 people. The purpose of applying for a capacity of 9999 was to allow the festival to grow over a period of years without the need for repeated variation applications. People who attend the festival are a mix of those coming from local villages for a day and those who like to stay for the weekend. There is a mix of space available to the applicant on fields owned by Mr Hasell's uncle and on land rented from two neighbouring farmers. Discussions are in progress with the two farmers about the renting of additional space in future on land that will be returned to grass. There were areas that could be used for either car parking or camping space, depending on how the festival developed in the future. There had been a review of the camping space available. If the same field was used for camping, then there would be the same number of camping spaces as last year, but on the other hand the number of spaces for camper vans might be increased, as they seem to be becoming more popular than tents. It was likely that a headline act would be booked for one day, probably the Saturday, next year, which would draw a bigger attendance while the attendances for Friday and Sunday remained similar to this year. The applicant had preferred to deal with the variation application before beginning the detailed planning for next year's event, to ensure greater clarity about the framework within which planning could take place. Booking an artist can take two years. He believed that the additional information submitted over Christmas had demonstrated that there was sufficient space available for what was planned this year, while he was aware of the need to demonstrate that there was sufficient space for later years.

Mr Hasell said that the applicant had a long-term agreement with Bristol Water allowing the use of their private road to provide access to the parking spaces. There was also land owned by Bristol Water on which additional parking could be provided in future, mainly for day visitors, but this had not been included in the applicant's current plans. Bristol Water could become a sponsor of the festival. The applicant used the services of a traffic management company, which monitors the use of the roads giving access to the festival and makes recommendations.

The Chair invited the Responsible Authority to put questions to the applicant.

Ms McCutcheon said that on the 11th January this year she had asked the applicant to clarify where cars were likely to be parked and to explain how there was enough extra parking space available. The traffic management plan identifies car park C as the staff car park and as a contingency car park for use in bad weather. However, as can be seen from the plan subsequently submitted the majority of that field has been allocated for additional car parking to deal with increasing numbers attending the event. Could the applicant explain how these conflicting demands on the available parking space could be reconciled?

Mr Tarren replied that they did not intend to use all that car parking space next year. In 2018 there had been space for 5,000 cars, but there was a maximum of 1,000 at any one time. A great many people were given lifts to the event. There is no dedicated drop-off space at Community Farm, but the person who had managed the stewarding team there had said that it had been constantly busy. It seems that an unusually high number of people from local villages preferred to be given lifts or to use taxis, so while there had been nearly 4,000 attending, there had only been 1,000 cars parked. If that trend remained the same, they would be expecting 2,000 cars in future. However, they did not assume this and felt the need to have more parking space; the national average for the loading of cars is 2.5 people. It was true that some parking space had been allocated as contingency, but he did not think all of this would be needed. He had taken into account issues raised by Ms McCutcheon in correspondence, and had further conversations with Bristol Water, who had agreed to allow access and the use of land the other side of the road. There was also land marked on the plan as available from a neighbouring farmer in 2020. In reply to a question from the Chair he said that this land was not currently available, but would be set to grass this year, after which it would need to be left for a year. Bristol Water had agreed that their land could be used this year. There is a lot more potentially available land around, including 100 acres owned by Mr Cox, who is interested in leasing land for the festival. That is to be used for ancillary purposes, such as camping and parking, and not for licensable activities. There would be no change to the licensed area.

Ms McCutcheon asked how parking would be sufficient for 9999 attendees within the existing footprint if an assumption is made of 2.5 people per vehicle. Mr Hasell said that he had a background as an organic farmer and wanted to do everything in an as environmentally-friendly way as possible. They were trying to arrange shuttle buses from Bristol and Bath and were also teaming up with a company that encourages people to ride cycles to events.

Ms McCutcheon asked about parking procedures and measures to ensure that people will be able to cross the road from the car park safely. Mr Tarren said that a one-way road system was put in place for the festival, so access was only available from the Chew Valley Lake end. The traffic management advisors had been requested to prepare a proposal for a traffic crossing between the Green Gate and the Brown Gate, so that the road could be crossed safely from the car park. They are basing the proposal on traffic coming only from one direction. The proposal is expected to be implemented this year. If the application were granted, the team dealing with parking, traffic management and the control of the one-way system would be doubled. So the current 10 car parking stewards would be increased to 20 to reflect the anticipated increase in arrivals. Once within the site there is a footpath leading into the main arena area avoiding the car park in Community Farm. Hard core roadways had been laid around the edge of the field.

Ms McCutcheon asked as the camping area is not supposed to be increased and that the only increase in camping proposed is for an additional 100 camper vans, would it not be the case that the additional people coming to the event would be likely to do so by car. Mr Tarren replied that it is likely that the additional people would arrive for the Saturday. Attendance on Friday and Sunday had been 60% of the attendance on Saturday, so most people would arrive on Friday to camp for the weekend, or on the Saturday morning. There would not be many people driving about in the small hours of the Saturday.

In reply to questions from Members the applicant stated:

- They had never reached full capacity. They had been 300 people short of capacity in 2018. Some contingency had to be factored in for the artists, who had to be included in the capacity figure, because some stayed for the weekend and some left immediately after their performance.
- They were not intending to increase attendance to 9,999 immediately, but over a period of years. The application was intended to avoid the need to have to apply for a variation every year. It was reasonable to expect that there might be an attendance of 6-7,500 in 2019, and more in 2020 and 2021. Experience showed that festivals tended to grow in small increments of 10-15% a year.
- Their intention was to be family friendly. About 1,200 children attended, who were included in the capacity figure, but did not contribute to revenue. Keeping the event financially viable by increasing the number of paying customers was one of the motives behind the application.
- A chain of stewards directed cars arriving in the car park to a particular parking space. They were considering having a team of 4 stewards to help people cross the road safely.
- Most people booked in advance, but it was possible to buy tickets at the gate. Pre-booked tickets were released in batches to allow the calculation of the infrastructure, such as toilets, that would be required. The number of tickets available for purchase at the gate would naturally decrease as attendance grew.
- The festival had begun in 2014, which had attracted about 700 people. 1500 had attended in 2015 and about 3000 in 2016. The exceptional summer of 2018 had resulted in an attendance that peaked at about 4000 on Saturday and 1500 on Friday and Sunday.

The Senior Public Protection Officer advised that if the applicants wished to extend the period of the event beyond a single weekend they could not achieve this by a variation, but would have to have to apply for a new licence.

Ms McCutcheon stated the case for the Responsible Authority. She said that after her discussions with the applicant and hearing what they had said given today, she still had considerable reservations about 9,999 being a plausible capacity figure. The majority of additional parking was located in car park C, which was also designated for staff car parking and contingency parking for wet weather. She thought that the dimensions of the parking spaces shown on the plan would make it difficult for cars to get in and out. She suggested that the majority of the additional people coming to the event would do so by car. She therefore did not think there was adequate parking space for a capacity limit of 9,999 and that a capacity limit of 7,500 would be more appropriate.

Following an adjournment, the Sub-Committee **RESOLVED** to grant the application as applied for.

Decision and reasons

Members have determined an application to vary the Premises Licence for Valley Fest, Denny Lane, Chew Magna. In doing so, they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Council's Policy, Human Rights Act 1998 and case law.

Members are aware the proper approach under the Licensing Act is to be reluctant to regulate in the absence of evidence suggesting a Premises may have a detrimental effect on one or more of the Licensing Objectives and they must only do what is appropriate and proportionate on information before them. Members are further aware that applications must be considered on merit and objections received from Responsible Authorities must be capable of withstanding scrutiny.

The Applicant

The applicant stated they have operated a successful event on this site for 5 years and as a community event it is growing. This variation is intended to allow the event to grow over time rather than an immediate increase. Those attending the festival are a mix of local people visiting for the day and those from wider afield who take advantage of the camping facilities. The applicant stated there are plans in place to add additional car parking/camping as the event grows and this application is intended to negate the need to return for further variation. The applicant believed they had demonstrated enough space is available for this year's event and in partnership with Bristol Water and adjoining farmers there are long term options in place to alleviate any negative effects and keep the event safe.

Responsible Authority

A representation was received from the Health and Safety Team on the Public Safety objective. The objector stated that despite negotiations safety concerns remained as the site was limited in size and accessible by only single track lanes.

The objector also questioned whether there was existing space within the footprint to accommodate the increase in vehicle and camping numbers or enough space to ensure sufficient vehicle/pedestrian separation to accord with the Purple Guide.

The objector was further concerned about the lack of information on the numbers of tickets and whether these would be day tickets or weekend tickets. Given the limited capacity the objector stated this would result in difficulties with vehicle movement on and off site throughout the day and night.

In short the objector stated the capacity could be increased to 7,500 although concerns remained with regard to the comings and goings on site given its limitations.

Members

Members noted that the application was to remove certain conditions and replace them with others, extend the times the premises are to be open to the public and increase the maximum capacity of persons permitted on the premises from 4,999 to 9,999. The objection, however, was limited to the capacity increase alone. Whilst Members focused on this narrow issue Members further noted the premises do not comprise of camping or parking areas but are limited to what is described as the 'Main Show Arena.' In any event capacity will necessarily include all staff, support and festival goers within this area.

In determining the application Members reminded themselves of the Statutory Guidance. This recognises the important role licensed premises play in the local community and states the Act is a permissive regime that minimises the Regulatory burden. Members further noted the Council's Events Policy which advocates the need to support and facilitate events as these contribute to economic development and vibrant sustainable communities that are active, lively and inclusive. Members also reminded themselves of their Statement of Licensing Policy which aims to facilitate a healthier economy that feels safe and reduces alcohol related crime and anti-social behaviour.

In terms of representations Members noted an absence of representation from the Police or Fire and Rescue Service. In any event Members were careful to take account of the oral and written representation and to balance the competing interests of applicant and objector. In terms of the licensed premises, Members were bound to disregard irrelevant matters, for example, public transport, parking, noise disturbance from late night traffic movement and camping arrangements. All of which constituted the broad thrust of the objection.

Whilst Members reminded themselves that each application must be determined on its merits they were mindful of other legislation and recognised that the licensing regime should not duplicate other statutory provisions, for example, the Health and Safety at Work etc. Act 1974, associated Regulatory provision and Health and Safety guidance.

Members noted that there was no information before them suggesting the operation of the premises currently has a detrimental impact on the licensing objective in question. Moreover, Members noted that whilst the objection questioned the size of the footprint for the premises licence matters such as safety risks from pushing, shoving and crushing usually associated with such events were noticeably absent.

In terms of the current licence and the objector's representation Members noted the licence requires liaison with the police, a detailed site layout plan showing ingress/egress routes, audience circulation areas, welfare and medical facilities together with an Event Safety Management Plan.

In all the circumstances Members found this event has been well planned and executed since its inception and that it was proposed to increase the event incrementally. Members noted there was an opportunity to utilise additional land as the event grows to address concerns relating to traffic movement both on and off the site as a whole. Accordingly, in light of the availability of other statutory controls, the existing conditions, the applicant's contingency plans and the need for Event Management Plan each year Members found it inappropriate, unnecessary and disproportionate to add additional conditions. Being mindful that premises licences

are always subject to Review in they adopted the light touch approach advocated by the Licensing Act and granted the variation as applied for.

Authority is delegated to the Licensing Officer to issue the licence.

49 APPLICATION TO VARY THE PREMISES LICENCE FOR THE COURTYARD CAFE, 3 LILLIPUT COURT, BATH BA1 1ND

Applicant: The Lilliput Court Café Limited, represented by Harald Bret (Director)

Other Persons: Emma Leith (representing Carol Hollis), Nici and Alan Jones, Catherine and Michael Booth, Mr and Mrs Mike Snowden, Martin Perry, Philip and Belinda Dahan-Bouchard, Marin Mackenzie, Ian Perkins (Abbey Residents' Association)

The parties indicated that they understood the procedure to be followed for the hearing.

The Senior Public Protection Officer presented the report. Members noted that the premises were located in the Cumulative Impact Area, and that there was therefore a rebuttable presumption that the application would be refused.

Mr Bret stated that he wished to withdraw the application to allow him to have further discussions with his neighbours, with whom he wished to remain on good terms. He would therefore not make a statement in support of the application.

The Team Leader (Legal) advised Members that they had to determine the application before them, which they could grant, grant with modifications, or refuse.

Representors made brief statements in support of their written representations.

RESOLVED that the application be refused.

Reasons

Whilst noting the applicant wished to withdraw the application to vary the premises licence at the Courtyard Café, Lilliput Court, Bath it was nevertheless a matter for Members to determine the application in accordance with the Licensing Act 2003, Statutory Guidance and Council's Policy.

The Applicant

The applicant did not offer any evidence in support the application. He stated he wished to negotiate with his neighbours and find a way forward with a future application.

Interested Parties

The objectors outlined their objections and noted the applicant wished to negotiate on a possible future application.

Members

Members noted the applicant did not put any information forward in support of the application in the face of the objections. Accordingly, given the presumption of refusal under the Cumulative Impact policy Members refuse the application.

The meeting ended at 12.06 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services