

**South Somerset District Council**

**Draft Minutes** of a special meeting of the **Licensing Committee** held on **Monday 19 April 2010** in the Council Chamber, Council Offices, Brympton Way, Yeovil.

(10.00 a.m. – 12.00 a.m.)

**Present:**

**Members:** Nigel Mermagen (In the Chair)

Tony Fife	Peter Roake
John Hann	Keith Ronaldson
Roy Mills	Linda Vijeh

**Officers:**

Lynda Creek	Fraud & Data Manager
Anne Herridge	Committee Administrator
Paul Huntington	Senior Environmental Protection Officer
Anita Legg	Licensing Officer

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**31. Committee Agreement to hear application (Agenda Item 1)**

The Committee agreed to hear the application.

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**32. Apologies for absence (Agenda Item 2)**

Apologies for absence were submitted on behalf of Councillors Simon Bending, David Recardo, Alan Smith and Martin Wale.

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**33. Declarations of Interest (Agenda Item 3)**

There were no declarations of interest.

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**34. Procedure to be followed (Agenda Item 4)**

The Committee noted the agreed procedure to be followed when considering Licensing Applications.

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**35. Representation following the Application for a New Premises Licence for Natural Communities CIC at Gilcombe Farm, Bruton (Agenda Item 5)**

In accordance with the agreed procedure the Chairman introduced the members of the Committee and the officers present. All parties confirmed that they had received the necessary documents relating to the application.

The Licensing Officer then presented her report including a summary of the representations made by the Responsible Bodies and Interested Parties. She confirmed that the advertisement notices at the site and in the local press had been displayed correctly and, all the Responsible Authorities, (namely the Police Authority, Health &

Safety and Environmental Protection Service) had withdrawn their representations because the Operating Schedule had been amended by the applicant to meet the issues identified.

The Licensing Officer said there had been representations from 8 Interested Parties, (local neighbours); one of the Interested Parties (who lived the closest to the site) had withdrawn their representations as a result of an agreement by the applicant. This left 7 relevant representations to be considered by the Licensing Committee. Requests had been made to each of the remaining Interested Parties, for further information about the matters referred to in their representation.

The Licensing Officer then explained the matters to which the Committee needed to have regard to and the options open to them.

The Chairman asked the officer from the Environmental Protection Service to explain to the Committee the arrangements made to ensure noise nuisance was minimised. The officer told members that he was on site last year and all conditions had been largely complied with, however it was found that music noise was audible some distance from the site because of a number of factors: -

- The low background noise levels in the area, so that there was no other noise sources which could help off set the noise from the festival;
- The elevation of the site and nature of the low bass frequency meant that noise was audible outside the site because it 'hugged the contours' and the noise was thus funnelled into the valley;
- There appeared to be a weakness in management and resolution of complaints, and not a strong chain of command to deal with such incidents as they arose.

The Environmental Protection Officer explained that the majority of conditions were the same as last year with the addition of:-

- Condition 13 regarding the appointment of a suitably experienced Production Manager for the event and how they would expect noise complaints to be handled;
- Conditions 16 and 17 with which the Production Manager would be responsible for complying and;
- Condition 2, which restricted the times at which repetitive beat or bass music could be played.

The Officer explained that as the site was in a particularly quiet area of the countryside, the repetitive nature of the bass music caused particular problems. The condition agreed reduced the hours when the bass type music could be played and required that a more 'ambient' type music to be played, instead, at those times

Awareness of that condition (Condition 2) needed to be raised early with the musicians who would be performing at the festival, as it was difficult for them to change their music sets at short notice, as, normally, the music order and backing music was pre-entered on the computer

There would be an EP officer on site monitoring noise at the event but the Officer's role was not to resolve issues, personally, but only to make the Production Manager aware of any problems. The Production Manager would be the key link to resolving any nuisance complaints as the role commanded sufficient 'muscle' to ensure problems identified were dealt with as soon as they arose.

The Environmental Protection Officer had approved the application as the venue and location of the site were perfect for the viability of the event, the main issue to be controlled was the nature of the noise and the repetitive bass beat but these matters should now be controlled by the proposed conditions.

The Officer admitted there was some difficulty in wording a condition adequately to meet the anticipated issue but 'repetitive bass had seemed the best 'fit'.

The Chairman invited the Interested Parties to address members:-

Mr Gary Butler who owns the lease for the Batcombe Valley Campsite commented that, last year, half of the weekend visitors to his campsite were kept awake by the music from the festival, and once they found out the festival was to be held over several nights left the site. He also felt that security was bad on the site and unlawful entry was not sufficiently challenged.

Liz Hollis, who lived in Batcombe, explained that the festival was to be held in a beautiful part of the country and on a site that had, normally, very low background noise. Although she lived 1 ¾ miles away from the site she could hear lyrics from the music that was playing late on the Friday night. It was not realistic to expect residents to keep all their windows closed to try to reduce the noise when the nights had been so hot.

After she complained, last year, some changes were made during the remainder of the weekend but as it was a family friendly event she could not understand why the music had to be so loud and played so late, she did not want to prevent the event from taking place but wanted to find a suitable balance.

Anne Page lived at Boards Farm Batcombe which was in the direct line of Gilcombe Farm as the crow flies, she had had tenants in the holiday cottage last year who were not happy hearing the loud music late at night. There had been very little information given to residents of Batcombe last year, as it appeared to have just been geared to residents of Bruton, there did not appear to be any liaison between Mendip DC and SSDC. She appreciated that the event times had altered slightly but did not like the music being allowed to play until midnight on the Sunday. She also raised concerns about on road parking and questioned the reasoning behind charging an extra fee for the parking of vehicles on site and she wanted to ensure the noise was monitored better this year.

Mrs J Henry spoke on behalf of representative Mr G Williams who was unable to attend the meeting, he had complained last year as music was reverberating through his house all night, he felt there was a lack of communication between SSDC and Mendip DC and Batcombe residents last year, as many had been unaware that the event was to take place.

Mr D Hurring, the applicant, was then invited to address members. He explained that this was the 5<sup>th</sup> year that an application for the Sunrise Festival had been requested, but it was only the 4<sup>th</sup> time that the application had been before the Licensing Committee as, last year, the representations had all been withdrawn.

He apologised for any upset that had been caused to local residents last year and wanted to find a fine balance between the differing interests. Last year, was the first time the festival had been held at Gilcombe Farm and the organisers had not realised that Batcombe would be so badly affected by the noise from the festival; it seemed so rural that it had not featured in their plans. He told members that the event in 2009 had only been advertised in Bruton; the residents of Batcombe had not been advised of the

emergency Hotline number. He also conceded that, in hindsight, the management of the event was not as good as it should have been in relation to the Batcombe issues when they arose. They were being much more pro-active this year, a notice was to be put in the Batcombe Newsletter and flyers and notices would be posted throughout the area giving all the relevant contact details.

Mr Hurring explained that the nights' events could not, realistically, be ended any earlier as if the different music stages all had to end at the same time there would be control issues as 7500 people left wandering around the site with, suddenly, nothing to do. This course of action was likely to cause aggravation; the alternative was to manage the noise level, frequency and type of beat.

A number of performance stages were to be moved around from last year to take account of the hills and the likely audibility. Some sound systems would be turned around and the main stage, with the biggest sound system, would be moved from the top of a large hill where it was erected last year to the bottom of the hill. Similarly, the dance venue would be moved so that it backed onto Batcombe itself. These measures should act as solid acoustic barriers and the venues were sealed to reduce noise carry. The Applicant agreed to a condition that there would be a noise monitoring point at the properties of those persons in Batcombe, particularly, who had been affected by last year's festival. The only concern was whether Mendip District Council would assist as Batcombe was in their area.

The Event Controller Alex Lepingwell also apologised for the disruption caused last year, and advised that technical measures were in place for this year's festival. He would, personally, be at the centre of the event, with an assistant, and thus able to react quickly to remedy any issues as and when they arose. He would work closely with the SSDC Environmental Protection Officer and he or his assistant would respond to the 'hotline' calls. They would also have a Community Liaison Officer who would check any parking issues and visit representatives from Batcombe to see how things had gone the previous evening. He would also work closely with the Council's environmental officers if complaints were made direct to the Council.

Dan Hurring advised members that the Applicant's noise consultant could not attend the meeting today but his report was attached to the agenda. He wished members to bear in mind that no complaints at all had been received from Bruton last year, possibly because of the wind direction and the fact that they had received advance warning that the event was to take place. It was important to still include Bruton in notification procedures for this year's event.

The Chairman then invited the Interested Parties to make any further comments if they wished, and in response the following points were made

- That besides this festival there were several others held around this valley (but in MDP's area) and residents felt bombarded with noise;
- Liz Hollis asked if the noise measurements were done with the windows closed as she would want to have her window's open. It was confirmed that the measurement was to the façade of the premises;
- She also queried whether the 45dcb was the correct measure as the World Health Organisation had quoted 30 dcb. The applicant thought it would be lower than 45dcb anyway because of the measures being taken.

Members of the Committee were then asked if there were any points they wished clarified. In response to questions from members, the Applicant confirmed the following:

- the population of Batcombe parish was 400
- Last year the noise complaints related to dance and repetitive music, which was played until 4.00am, but music of that sort would end earlier this year;
- car parking charges were in place to encourage car sharing and the use of public transport;
- vehicles found parked on the nearby lanes were often vehicles that belonged to people who had illegally tried to enter the festival, as that problem was outside the area of the site their powers were very limited, but there would be patrols and liaison with the police;
- both Mendip DC and SSDC would work together to monitor activities in the area, as the site covered the boundary of the 2 areas.
- as most of the representatives lived on average 1 mile away from the site, the noise level would be far less than the 45dB stipulated, by the time it travelled that far away;
- the event was low in crime with only 6 tent thefts reported last year; it was advertised as a safe family event;
- lessons had been learnt from last year, although no conditions had been breached he was hopeful of a successful event this year without aggravating the local residents.

The Chairman then asked the applicant, representatives and Licensing Officer to withdraw whilst the Committee considered its decision on the application with the Clerk and Legal representative present.

When the meeting was reconvened with all parties present the Chairman asked the legal representative to give a summary of the advice that had been given during the private session. In summary this was that:

- The Committee could only consider the representations made by the Interested Parties on their own behalf and not the alleged views of others;
- The Council did not have a cumulative impact policy in relation to this site and so should not consider the impact of the other festivals taking place in the area when determining this application
- There were 2 pieces of legislation referred to in the revised guidance that should be taken into account: The Anti Social Behaviour Act 2003 that allowed Environmental Protection Officers to issue closure notices in the event of noise issues amounting to a public nuisance; and the Cleaner Neighbourhood and Environment Act 2005 allowing officers to issue fixed penalty notices where noise exceeds the permitted levels between 11pm and 7am;
- The committee should not impose conditions which duplicate existing legal requirements/provisions although where these provisions did not adequately meet the concerns then conditions could be added;
- Any conditions imposed must only relate to those matters within the control of the applicant and must be necessary and proportionate to address the issue raised in the representation;
- The definition of public nuisance was widely drawn (and could include low level nuisance too) and members should focus on the impact of the licensable activity where this was disproportionate and unreasonable and on the most sensitive periods;
- Conditions, if necessary should be tailored to the style, characteristics of the specific premises but, although the approach should be one of prevention of nuisance, it was important not to impose unnecessary or disproportionate conditions which might deter events of value to the community e.g. live music;

Having considered the legal advice given The Licensing Committee resolved to GRANT the application for a premises licence for land at Gilcombe Farm, Bruton, for the Natural Communities Community Interest Company (CIC) under section 18 of the Licensing Act 2003 subject to the following conditions to promote the licensing objective(s) of the prevention of crime and disorder/public safety/the prevention of public nuisance and the protection of children.

1. The days and hours for the sale by retail of alcohol, for the relevant bars, shall be as set out in the Operating Schedule as amended by the Licence Amendments and Conditions Document.
2. The days and hours for the provision of regulated entertainment, at the various venues, shall be as set out in the Operating Schedule as amended by the Licence Amendments and Conditions Document.
3. The days and hours for the provision of late night refreshment at the various venues shall be as set out in the Operating Schedule as amended by the Licence Amendments and Conditions Document.

In addition to the above, the remaining matters detailed in the applicant's Operating Schedule, as amended, the relevant mandatory conditions under the Licensing Act 2003 and the voluntary conditions agreed during negotiations (e.g. concerning noise monitoring points at the properties of those who made relevant representations), will form part of the licence to be issued.

These conditions will be formulated by the Licensing Officers in consultation with the Legal Officers so as to be consistent with the Operating Schedule as amended and the additional voluntary conditions.

All parties are reminded that there is a right of appeal against the decision of the Licensing Authority. Such an appeal is to be made within 21 days of the date of receipt of the formal Notice of Determination, and should be made to the South Somerset Magistrates' Court.

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Chairman