

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Tuesday, 22 March 2022 at 10.00 am.

Present:

Sub-Committee:

Chairman: Councillor P D Jull

Councillors: D G Beaney (as substitute for Councillor T A Bond)
P M Brivio (as substitute for Councillor D G Cronk)

Officers:

Legal Adviser: Principal Lawyer - Litigation and Regulatory

Licensing Officers: Licensing Manager
Licensing Enforcement Officer
Licensing Officer

Administrator: Democratic Services Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2022/0004A(V3)).

44 ELECTION OF A CHAIRMAN

In the absence of the Chairman of the Sub-Committee, the Democratic Services Officer called for nominations for the Chairman. It was proposed by Councillor P M Brivio and duly seconded, and

RESOLVED: That Councillor P D Jull be elected as Chairman for the duration of the meeting.

45 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors T A Bond and D G Cronk.

46 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillors D G Beaney and P M Brivio were appointed substitutes for Councillors T A Bond and D G Cronk respectively.

47 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

48 LICENSING ACT 2003 - APPLICATION FOR THE GRANT OF A PREMISES LICENCE IN RESPECT OF BARFRESTONE COURT FARM, BARFRESTONE ROAD, BARFRESTONE, DOVER

The Sub-Committee considered an application for the grant of a premises licence in respect of Barfrestone Court Farm, Barfrestone Road, Barfrestone, Dover for the following

Live Music (indoors)

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| <u>New Year's Eve</u> | <u>23:00 – 02:00 hrs</u> |
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Recorded Music (indoors)

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|----------------|-------------------|
| Every Day | 23:00 – 00:00 hrs |
| New Year's Eve | 23:00 – 02:00 hrs |

Supply of Alcohol (for consumption ON and OFF the premises)

| | |
|----------------|-------------------|
| Every Day | 12:00 – 00:00 hrs |
| New Year's Eve | 12:00 – 01:30 hrs |

The following documentary evidence and/or other information was taken into account by the Sub-Committee:

- (i) The Licensing Manager's report including, the options available to the Sub-Committee.
- (ii) Application from Barfrestone Court Farms Ltd for the grant of a premises licence (appendix A of the agenda)
- (iii) Plan of the venue submitted by the applicants (appendix B of the agenda)
- (iv) Map of the area (appendix C of the agenda)
- (v) Representations from Other Persons (appendix D of the agenda)
- (vi) Various photographs of the venue and entrance and an email from Eythorne Parish Council submitted by Mr and Mrs Abbott and presented by Miranda Foad which were accepted by all parties present at the Hearing. It was however, noted that the Parish Council had not made a representation.

On the basis of the representations of the applicants, their representatives and other persons, the Sub-Committee found the following facts to be established:

- (i) The application from Barfrestone Court Farms Ltd, represented at the hearing by Douglas and Chelsea Ledger (owners) and Steven Harris (premises supervisor), was for the grant of a premises licence at Barfrestone Court Farm, a 2,800 square foot barn plus courtyard area and garden. The application sought to permit the serving of drinks at events, such as parties and weddings, to cater for campers staying on the site, and for on and off sales of alcohol for customers to consume away from the premises for example, in their own homes, every day from 12:00 – 00:00 hrs and New Year's Eve from 12:00 – 01:30 hrs. In addition, the applicant sought permission for Live Music (Indoors) on New Year's Eve from 23:00 – 02:00 hrs and Recorded Music (Indoors), every day from 23:00 – 00:00 hrs and New Year's Eve from 23:00 – 02:00 hrs.
- (ii) The premises was a working farm and had an existing area for campers and a licence for up to five caravans on the site. Private events, such as weddings, had previously taken place at the premises.

- (iii) During the consultation process sixteen representations objecting to the application were received from Other Persons and across the objections all four licensing objectives had been cited as being undermined. The Sub-Committee had regard to and gave equal weight to those written representations and those who presented their objections at the hearing.
- (iv) The Sub-Committee was advised by the Licensing Manager that Jennifer Wadley had intended to present her objection at the hearing but had since given her apologies. Having considered the report, and specifically paragraph 6.4, it was the view of Jennifer Wadley that there were no conditions that could overcome her objection and she would urge the Sub-Committee to reject the application.
- (v) There were no representations made by any of the Responsible Authorities. Discussions had taken place during the consultation process between the applicant, Kent Police and Environmental Health and resulted in the applicant amending the operating schedule to include some additional conditions and reduced hours for recorded music.
- (vi) The objectors raised concern that the peace and tranquillity enjoyed by residents of Barfreestone would be lost if the licence was to be granted. Representations were made stating that noise from the premises had disturbed residents during previous events and objectors' concerns were that more frequent events with regulated entertainment and large gatherings of people would increase the regulatory of disturbances for residents.
- (vii) Residents wanted to clarify why the applicants were wanting a licence rather than serving Temporary Event Notices. The applicants advised that this was to lessen the administrative burden.
- (viii) Representations were made that the barn would not be able to practically contain the noise generated by regulated entertainment, particularly when the north facing doors were open. The barn by its very nature was not soundproofed and had ventilation slats, concerns were expressed that during previous events the noise could be heard throughout Barfreestone.
- (ix) The claims by the applicant that the recorded music would be of a low level beyond 23:00 hrs were disputed on the grounds that the size of the barn would require a louder volume of music to be adequately heard by attendees at the events.
- (x) The premises was a large brick barn with heavy wooden doors at the north entrance that could not be easily opened and closed by one person and photographs of the barn and doors were shown to those present. It was the view of an objector that the condition regarding the opening and closing of the doors to prevent noise escaping during regulated entertainment was impractical due to their size and weight and that the condition could not be satisfied. There were also concerns that the doors represented a health and a safety concern in windy conditions.
- (xi) The applicant advised that the barn had two-foot-thick brick walls which would contain much of the noise generated by events. Although not a matter for the Licensing Sub-Committee it was stated that a noise survey would be conducted as part of the planning application for change of use, which was to be submitted shortly

- (xii) Representations were received in respect of a potential change of use for the premises in planning terms. The Regulatory Lawyer advised that this was not a matter for the Licensing Sub-Committee to consider and would need to be dealt with through the planning process.
- (xiii) There were a number of representations received relating to the environmental impact of events at the venue. These included the light pollution that would be caused by the installation of additional lighting at the premises and the impact on the local bird population through additional light and noise (the objectors were reminded of the licensing objectives). Concerns were also raised regarding the potential impact of litter generated by the venue and its guests entering and exiting the premises was also a concern.
- (xiv) It was stated that the lack of pavements in Barfrestone would represent a safety risk for those guests entering and exiting the premises on foot in the dark. The agricultural environment and pond were also safety risk concerns for those guests who had been consuming alcohol.
- (xv) In respect of concerns expressed over the increased traffic, blockages on the road, and where vehicles would park for events the applicant stated that there would be no parking on the roads. There were concerns expressed that there was not adequate provision for taxis to pick up and drop off guests at events. All parties were shown a map of the premises that set out the proposed parking provision, which included an overflow parking area if required.
- (xvi) The representations received in respect of silage were not relevant to the matter before the Licensing Sub-Committee. The applicants stated that the muck on the roads leading from the premises was caused by tractors and was not silage.
- (xvii) The Regulatory Lawyer advised in response to a question concerning whether a site visit had been conducted, that it was not usual for the Sub-Committee to attend any premises which had applied for a premises licence, not least because it was a public process and therefore the evidence and decision should be taken accordingly in the presence of all parties.
- (xviii) The Regulatory Lawyer stated for the avoidance of doubt that the planning and the licensing regimes were separate and distinct, and that the granting of a premises licence did not allow a business to operate in the absence of any relevant planning permissions and that it was a matter for the applicant to satisfy themselves of.
- (xix) The Sub-Committee had heard a number of concerns that included litter, lighting, parking and increased traffic in Barfrestone. A number of these concerns were considered to be speculative and under case law should be disregarded unless supported by previous facts as evidence. The applicant had set out their plans for parking and the annotated map shared at the hearing.
- (xx) The Sub-Committee noted all concerns regarding noise and those referenced to previous events, although not formally complained about. In this regard, the Sub-Committee noted the volunteered conditions in the agenda papers and would impose an amended condition with regard to the doors facing the courtyard which will be amended to

'During events the doors facing the courtyard (north facing) shall remain closed other than for access and egress from 9pm to mitigate noise escape.'

- (xxi) The Sub-Committee would accept all other conditions as proposed in the operating schedule and those proposed following discussions with Kent Police and Environmental Health and as shown at page 37 of the agenda.

In reaching its findings the Sub-Committee considered the following:

- (i) Dover District Council's Licensing Policy
- (ii) The Licensing Act 2003 and in particular the guidance given under Section 182 of the Act
- (iii) Article 6 of the Human Rights Act (Right to a fair trial)
- (iv) Section 17 of the Crime and Disorder Act 1998 (Duty to consider crime and disorder implications).

RESOLVED: That the application for a premises licence in respect of Barfrestone Court Farm, Barfrestone Road, Barfrestone, Dover be GRANTED as follows:

- (a) Live Music

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| New Year's Eve | 23:00 – 02:00 hrs |
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Recorded Music (indoors)

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|----------------|-------------------|
| Every Day | 23:00 – 00:00 hrs |
| New Year's Eve | 23:00 – 02:00 hrs |

Supply of Alcohol (for consumption ON and OFF the premises)

| | |
|----------------|-------------------|
| Every Day | 12:00 – 00:00 hrs |
| New Year's Eve | 12:00 – 01:30 hrs |

- (b) With the addition of all conditions offered in the operating schedule and those proposed at page 37 of the agenda with the following amendment to the condition regarding the north facing courtyard doors as follows

'During events the doors facing the courtyard (north facing) shall remain closed other than for access and egress from 21.00 hours to mitigate noise escape'.

The meeting ended at 12.00 pm.