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LICENSING & APPEALS SUB-COMMITTEE

Minutes of a Meeting held on Wednesday 11th June 2014 in the Committee Room, Town Hall, Matlock at 2.30pm

PRESENT

Councillor Mrs Jean Monks - In the Chair

Councillors Steve Flitter and Tom Donnelly

Councillor Mike Ratcliffe attended as a substitute member.

Katie Hamill (Solicitor), Caroline Hill (Licensing Officer), Chris Laver (Democratic Services Team Leader) and Helen Brookes (Democratic Services Assistant)

Persons making representations

Suzanna Monteith – Atlow Parish Council

Boyd Potts – Hulland Ward Parish Council

Applicant

Mr David Petty – Northern Green Gathering

Ms Paula Kershaw – Northern Green Gathering

Witnesses for the Applicant

Jerry Wilde – owner of Bradley Nook Farm

30/14 – ELECTION OF CHAIRMAN

It was moved by Councillor Steve Flitter, and seconded by Councillor Tom Donnelly and

RESOLVED

(Unanimously)

That Councillor Mrs Jean Monks be elected as Chairman of the Sub-Committee

31/14 – LICENSING ACT 2003: APPLICATION FOR A PREMISES LICENCE FOR BRADLEY NOOK FARM, HULLAND WARD, ASHBOURNE DE6 3EL FOR NORTHERN GREEN GATHERING LTD

The Sub-Committee considered an application for a premises licence.

The Chairman invited the participants to introduce themselves, asked whether any party wished the Committee to consider the application in private and confirmed that the Committee was quorate.

The Licensing Officer gave an outline of the application.

Those who wished to make representations and had given notice within the required time of their intention to do so, were invited to state their case. The Committee heard oral evidence against the application from:

Suzanna Monteith – Chairman Atlow Parish Council

Mr Boyd Potts – Vice Chairman Hulland Ward Parish Council

David Petty, the applicant, spoke in support of the application and called Jerry Wilde to give evidence in support of the application.

The Committee had an opportunity to question all parties. All parties were invited to seek clarification of points that had not been sufficiently explained.

32/14 – DECISION

The Sub-Committee resumed in public session.

It was moved by Councillor Donnelly, seconded by Councillor Flitter and

RESOLVED
(Unanimously)

That, having considered the facts and representations made to the Sub-Committee its decision is that the licence be granted subject to additional conditions and the conditions set out in Appendix 2.

Reason for Decision

The Sub-Committee felt that, with the conditions put forward by the applicant being attached to the Licence, the four licensing objectives would be satisfied.

Full Decision Notice is attached below.

Meeting Closed 3.52pm

LICENSING & APPEALS COMMITTEE DECISION

(Licensing Act 2003)

Record of proceedings of Derbyshire Dales District Council's Licensing & Appeals Sub-Committee held on Wednesday 11th June 2014

Full name of Applicant: **Northern Green Gathering Ltd**

Premises Address Bradley Nook Farm, Hulland Ward DE6 3EL ("the Premises")

Reason for attendance at the Sub Committee: To determine the application for a Premises Licence

CONSTITUTION OF COMMITTEE

Councillor Jean Monks (Chair)

Councillor Steve Flitter

Councillor Tom Donnelly

Councillor Mike Ratcliffe (Substitute Member – not used)

APPLICANT

Northern Green Gathering Ltd – Represented by Dave Petty (present)

NAMES OF OTHERS PRESENT (WRITE "NONE" WHERE APPROPRIATE)

Katie Hamill – Solicitor

Caroline Hill – Licensing Officer

Christine Laver – Democratic Services Team Leader

Helen Brookes – Democratic Services Assistant

APPLICANT'S WITNESSES

Mr Jerry Wilde, owner of Bradley Nook Farm

Ms Paula Kershaw – Northern Green Gathering

OBJECTORS

Cllr Suzanna Monteith – Chair Atlow Parish Council

Cllr Boyd Potts – Vice Chair Hulland Ward Parish Council

OTHERS

Two members of the public

1. The meeting was conducted in public, with the agreement of all parties.

The Subcommittee withdrew into private session to consider its decision and were advised by the Sub-Committee legal representative that only evidence that was relevant to the four licensing objectives could be taken into consideration and that it was important that any conditions attached to a licence should be to promote the licensing objectives.

2. Chairpersons note of evidence (ie concise details of all oral and written details put before the Committee)

Report of the Licensing Officer, including details of representations received
Personal representations on behalf of Atlow and Hulland Ward Parish Councils
Personal evidence given by the applicant, supporter and witnesses

3. Findings of the Sub-Committee on questions of fact material to the decision (ie the relevant facts accepted from the evidence available)

- The Sub Committee noted that local residents were concerned about the potential noise nuisance emanating from the Premises and the control of the volume of music
 - The Sub Committee accepted that the event proposed is different to the events previously held at Bradley Nook farm with the proposed ethos of education
 - The Sub Committee noted that the number of ticket sales would be 500 with 300 staff members in attendance.
 - The Sub-Committee noted the proposals to limit the noise nuisance submitted by the applicant and outlined during the applicant's oral submission
 - The Sub-Committee accepted the reasons given by the applicant for the hours of late night refreshments to control noise towards the end of the evening
 - The Sub-Committee noted the concerns of the residents and Environmental Health regarding the safety of the Premises and the event
 - The Sub Committee noted the applicant's proposals to liaise with the Environmental Health Officer and implement any guidance provided regarding the location of equipment and monitoring of noise levels.
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4. Full text of unanimous decision

That having considered the facts and representations made to it the Sub-Committee determined that a Premises Licence is granted for:

- The supply of alcohol on the premises between the hours of 16.00 to 00.00 Thursday to Sunday
- The provision of late night refreshments between the hours of 23.00 to 05.00 Thursday to Saturday and 23.00 to 02.00 on Sunday
- The performance of live music between the hours of 16.00 and 00.00 Thursday to Saturday and 16.00 to 21.00 on Sunday
- The performance of plays and performance of dance (indoors and outdoors) between the hours of 10.00 and 00.00 Thursday to Sunday
- The exhibition of films between the hours of 10.00 and 00.00 on Thursday and Sunday, and between the hours of 10.00 and 02.00 on Friday and Saturday
- The playing of recorded music between the hours of 16.00 and 00.00 on Thursday and Sunday, and between the hours of 16.00 and 02.00 on Friday and Saturday
- The provision of anything similar to live or recorded music or performance of dance between the hours of 10.00 and 22.00 on Thursday to Sunday
- The Premises Opening times between the hours of 00.01 to 16.00 on Monday, 16.00 to 00.00 on Wednesday and 00.01 to 00.00 on Thursday to Sunday.

Conditions to be attached to the licence

- The licence-holder will comply fully with all the requirements of the approved Event Management Plan submitted in appendix 1b of the operating schedule part of the Premises Licence application;
- The Licence Holder will submit an Event Safety Plan which should be agreed with the Licensing Authority, Police Authority and Environmental Health Section at least 28 days before the date of the event;
- The Premises Licence Holder or nominated person shall provide all local residents with a contact and telephone number of someone on site who can be contacted throughout the event. A record will be kept by management of all calls received, including the time, date and information of the caller, including action taken following the call. Records will be made available for inspection either by any relevant responsible authority throughout the trading hours of the premises;
- The Premises Licence Holder or nominated person will assess the impact of any noisy activities on neighbouring premises at the start of regulated entertainment and periodically throughout regulated entertainment and take action to reduce

noise levels. If the observation reveals noise breakout at a level likely to cause disturbance to the occupants of properties in the vicinity then the volume of music shall be reduced to a level that does not cause disturbance. A record of such observations shall be kept in a log for that purpose, such a log shall be completed immediately after the observation detailing the time, location and duration of the observation, the level of noise breakout and any action taken to reduce noise breakout. Such log must be made available at all times upon request to any relevant responsible authority; and

- The Premises Licence Holder or nominated person will liaise with the Environmental Health Section regarding reasonable noise levels and implement the advice of the Environmental Health Officer with their best endeavours

The following standard mandatory conditions

MANDATORY CONDITION: EXHIBITION OF FILMS

The admission of children to film exhibitions is to be restricted in accordance with film classification recommendations made by the British Board of Film Classification.

MANDATORY CONDITION: SUPPLY OF ALCOHOL

- (1)** No supply of alcohol may be made under the premises licence:
 - a. at a time when there is no designated premises supervisor in respect of the premises licence, or
 - b. at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- (2)** Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

MANDATORY CONDITION: IRRESPONSIBLE PROMOTIONS

The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

An irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children :-

- (a)** games or other activities which require or encourage, or are designed to require or encourage, individuals to –
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
- (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on –
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
- (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

MANDATORY CONDITIONS: DISPENSING ALCOHOL DIRECTLY INTO THE MOUTH

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

MANDATORY CONDITION: FREE TAP WATER

The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

MANDATORY CONDITION: PROOF OF AGE SCHEME

- (a) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- (b) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

MANDATORY CONDITION: REQUIREMENT TO MAKE SMALL ALCOHOL MEASURES AVAILABLE

The responsible person shall ensure that -

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures

Mandatory Condition: Sale of alcohol – Duty + VAT

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1—
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(a);
 - (b) “permitted price” is the price found by applying the formula—
$$P = D + (D \times V)$$
where—
 - (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) “valued added tax” means value added tax charged in accordance with the Value Added Tax Act 1994(a).

and the following conditions consistent with the operating schedule

CONDITIONS CONSISTENT WITH OPERATING SCHEDULE:

1. General

- (a) This licence will not coincide with any events planned by Bearded Theory Music Festival.
- (b) The Licensing Authority and all the Responsible Authorities shall be notified of the activities covered by this Premises Licence at least two months before the event takes place.

2. The Prevention of Crime and Disorder

Please refer to the Event Management Plan submitted in appendix 1b of the operating schedule part of the Premises Licence application.

3. Public Safety

Please refer to the Event Management Plan submitted in appendix 1b of the operating schedule part of the Premises Licence application.

4. The Prevention of Public Nuisance

Please refer to the Event Management Plan submitted in appendix 1b of the operating schedule part of the Premises Licence application.

5. The protection of children from harm

Please refer to the Event Management Plan submitted in appendix 1b of the operating schedule part of the Premises Licence application.

Reasons for the decision:

- The Sub-committee noted the concerns raised by the objectors in relation to potential noise nuisance emanating from the Premises and the concerns regarding the provision of late night refreshments, however, the Sub-Committee felt that the applicant had put forward measures to limit the likelihood of these concerns being realised and accepted the applicant's account that the provision of late night refreshment can contribute to noise reduction where attendees wind down for the evening. The Sub-Committee noted the proposal for live music to be played until 9 p.m. on Sunday and felt that the provision of late night refreshments should be granted to 2 a.m. rather than 5 a.m. to prevent noise nuisance on Monday morning which is a normal working day.
- The Sub-Committee noted the type of live music which would be played and that it was not a music festival. The Sub-Committee felt that the involvement of advice from the Environmental Health Section as outlined by the applicant in their oral submissions and the proposed monitoring of noise on site would reduce the potential for noise nuisance.
- The Sub-Committee accepted the applicant's proposal for a contact number to be provided to local residents to raise any complaints and deemed it necessary for the prevention of public nuisance for a condition on licence to reflect a complaints procedure.
- The Sub-Committee noted the concerns raised by the objectors in respect of safety and the comments within the report from Environmental Health and concluded that an Event Safety Plan should be submitted 28 days prior to the event taking place.

Date 11/11/13

Members signature:

APPEALS TO THE MAGISTRATES' COURTS

Many of the enforcement actions and decisions made by Derbyshire Dales District Council carry the right of appeal to the Magistrates' Court. This means that if you do not agree with the decision that the District Council has made you may contact the Magistrates' Court and ask them to formally review it. For example, anyone served with a formal enforcement notice has the right to appeal against that notice within 21 days of its service.

How do I make an appeal?

The right to appeal is normally set out on the reverse of the notice or in a letter that accompanies it.

If you want to appeal against the decision of the Sub-Committee you should contact:-

- Southern Derbyshire Magistrates' Court, St Mary's Gate, Derby DE1 3JR, Tel: 01332 362000

Where can I get help?

If you think you need help we would recommend that you speak to a solicitor who would be able to assist you with the Court processes.

The District Council is not able to recommend any particular firm of solicitors but would suggest you check in Yellow Pages or a local services directory.