

## **Licensing & Appeals Sub-Committee – 18 June 2019**

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Minutes of the meeting of the **Licensing & Appeals Sub-Committee** held on **18 June 2019** when there were present:-

Cllr D S Efde  
Cllr Mrs J R Gooding

Cllr Mrs J E McPherson

### **VISITING MEMBER**

Cllr Mrs C E Roe

### **OFFICERS PRESENT**

R Hurst	- Senior Solicitor
J Fowler	- Senior Licensing Officer
S Sheridan	- Senior Environmental Health Technical Officer
S Worthington	- Democratic Services Officer

### **1 APPOINTMENT OF CHAIRMAN**

Cllr Mrs J R Gooding was appointed Chairman of the Sub-Committee.

### **2 PROCEDURE FOR LICENSING HEARING**

The Sub-Committee noted the procedure to be followed during the hearing.

### **3 TEMPORARY EVENT NOTICE – LICENSING ACT 2003**

The Sub-Committee considered an application for a temporary event notice made under Section 100 of the Licensing Act 2003 in respect of Hedge Row Stables, Central Avenue, Hullbridge. Members had before them the report of the Assistant Director, Community & Housing Services setting out the details of the application and the representations received from Essex Police and Environmental Health.

The Essex Police Officer drew particular attention to appendix 1 of the Police representation on page 4.11 of the appendix pack, which was a copy of a flyer advertising a Swayne Park School after Prom party on 26 June 2019 at a cost of £25.00 per person and emphasised that this was clearly a profit-making event. He further stressed that the flyer stated that those attending must have the consent of their parents to drink alcohol. Essex Police were therefore concerned about the welfare of children on a remote site drinking alcohol. He advised that the location was accessed off a single lane track which led to fields and stables. It was remote, poorly lit, not densely populated, with some residential properties scattered in the area, with traffic accessing the site via a one way in-one way out track with a poor quality road surface off Lower Road.

The Police Officer emphasised that Essex Police considered that the application undermined all of the licensing objectives. He made the following observations in respect of the application:-

### Crime and Disorder

The flyer indicated that the expectation was for over 100 children aged between 15 and 16 years to attend an after Prom party late at night in a remote field, with some already having consumed alcohol. Social media could increase the numbers attending considerably. The flyer also indicated that the children would be searched for drugs; however, drugs could easily be hidden away. Careful searching was therefore required. It was further emphasised that some of those attending could also have sharp objects hidden.

### Public Nuisance

The event was scheduled from 2300 – 0300 hours; however, there was no plan in place for how the children would get home at 0300 hours. There was no confirmation within the application of parents collecting their children at the end of the event and there was thus the possibility of children walking along an unlit road late in the early hours while intoxicated.

### Public Safety

The event would take place in a remote field accessed via a narrow, unlit road with no pavements and a poor surface. There would be an increased number of vehicles going down such a road late at night. If the children decided to walk down the road it would be unlit, narrow and they would be unaccompanied.

### Prevention of Children from Harm

The way in which the event is advertised in the flyer suggests that children would be exposed to alcohol and possibly drugs. If any child attending was to fall ill there would be no medical treatment available and the emergency services might have to be called. The site was not secured and there was thus the potential for other children to enter the site and secrete in alcohol or drugs. It wasn't possible to confirm that a wristband entry system could be appropriately managed and to be satisfied that there would not be any instances of children remaining on site after 0300 hours or becoming lost.

The Police Officer stated that the application should therefore be rejected and further emphasised that with such a temporary event notice application it was not possible to impose any conditions that would mitigate the risks highlighted in the Essex Police representation. He made reference to paragraph 2.7 of the S.182 Guidance which set out the responsibility for ensuring the safety of those using a landowner's premises. The guidance clarified that responsibility for safety included the prevention of accidents and injuries and harms that could arise from alcohol consumption and also included fire safety concerns.

The Police Officer stressed that the Police's main concern related to the promotion of the licensing objective of the protection of children from harm. The Officer emphasised that the Sub-Committee should consider what action was appropriate to ensure that this objective was effectively enforced and

considered that this could only be achieved by rejecting the application.

In response to questions the following was noted:-

- The field was secured by way of a hedgerow, which had access points throughout, and a gate at one end that contained the horses. However, the gates would be easy for children to climb.
- A premises licence would require conditions, including an appropriate number of female and male security staff, with appropriate, enhanced DBS checks and an appropriate ratio of adults to children; however, a temporary event notice could not have such conditions applied to it.
- Although the flyer indicates that the organisers and landowner accept no responsibility for loss, damages or illness, under existing legislation covering the responsibilities of landowners, this would actually be the responsibility of the landowner.
- Legally any drugs seized should be handed over to Police officers. It was good practice for a drug safe to be used.

The Environmental Health Officer confirmed that Environmental Health had objected to the application on the grounds that the application undermined the public nuisance licensing objective. Environmental Health considered that the application could give rise to noise complaints. There were residential properties in the area that could be affected by noise from the DJ/disco that would have a negative impact on residents. It was not possible to provide any noise attenuation for marquees. Sound would travel and this would be affected by the weather, e.g., by the direction of wind; any bass-heavy music would travel further.

In addition, at the time of dispersal at 0300 hours, there would be a number of vehicles arriving and departing at the same time, with the associated noise of car doors opening and closing, people talking, people leaving in groups, potentially intoxicated.

The Officer further advised that when complaints were received within the department it was generally in respect of events similar to that proposed here, where there was not the same noise attenuation applied to licensed premises by way of double glazing, lobbies, etc.

The applicant emphasised that it was not her intention to break any laws or to put children in any danger. She stressed that the fields were enclosed by hawthorn bushes and that the fields could not be accessed other than via the main gate and one further gate at the top of the fields, which was the exit from the premises in the event of fire.

She advised that those children attending the events would be counted in and then counted out at the end. There would be 6 security officers on duty; one

would be on duty at the entrance gate, with the others mingling with the children making sure that they were safe. The field, which extended some five acres, would be monitored at all times.

The owner had lived at the site for some 32 years. She had spoken to all her neighbours about the proposed events; none of them had raised any concern about it. The music that would be played would be normal dance music, without a heavy bass element. The level of the music would be monitored regularly during the events. The music would be slowed down at 0230 hours. If it was deemed necessary for the children to be collected at the end of the events then she would comply with such a requirement. She advised that if any drugs were found on any of the young people a steel box would be used to store them in and could be dropped off to Rayleigh Police Station the next day. It was confirmed that there were two toilets, one for girls (up to 150) and one for boys (up to 150); there would be no more than that attending each event. The youngsters would be safe during the events and would have an enjoyable time.

A risk assessment had been completed. If there were any accidents the parents of the youngsters would be contacted and asked to collect them; contact details would be requested of the parents of all youngsters attending for that purpose. There would be two women and four men on duty at the events so that all youngsters attending could be searched for drugs, alcohol or sharp objects. Food would be supplied to the youngsters via a burger van on site. The events did not make a profit as there were considerable expenses associated with running them including, for example, the hire of a marquee, employment of staff, hire of DJ and disco, food costs, etc. She emphasised that this was a safer option for the young people after their prom than if they were congregating in parks, etc. She stressed that she had received around 40 emails from parents supporting the events.

The following responses were noted to questions:-

- In the event of an emergency the young people could be accompanied by 12 adults up a lane at the middle of the site with paddocks on either side up the end paddock where they would be counted.
- There were flood lights within the application site where the marquee would be set up.
- Parents would be required to complete a consent form which would include contact information for them.
- The organisers could not be blamed for the condition of the road leading to the application site or for the lack of lighting in the road late at night.
- Similar events had taken place at the site in previous years without any incidents occurring.

- In the event of a parent not arriving to collect their child, organisers would telephone the parent or would ask another parent to drop them off home.
- The organisers had telephoned the insurance company who had confirmed that the insurance cover for the stables would provide appropriate cover for these events.
- The youngsters would enter the site via the main gate and would be directed away from the stables and would be monitored at all times to minimise any potential fire risk from cigarettes, etc.
- Water would be provided to the youngsters at the events.
- The adults on duty during the events would have radio microphones. If these were to fail the area that would be occupied by the parties was a small one; the DJ could relay messages via microphone and adults could also use mobile phones,
- If there was an incident in Lower Road the site could be entered or exited via Central Avenue.
- Emergency vehicles would be able to access the site via the main gate and would be able to drive straight up.
- If there were extreme weather conditions or other issues that required the event to be cancelled at short notice parents and young people could be notified via social media groups.
- The youngsters would be searched on entry for alcohol. If anyone was clearly struggling to stand or was rowdy they would not be allowed to enter the site. Parents dropping them off would be asked if they had been drinking. Parents would be expected to disclose any medical conditions to the organisers in advance of their children attending the events.
- There would be 3 to 4 adults out on the road monitoring traffic. There were passing places along the road at intervals but there was no two-way traffic given the narrow width of the carriageway.
- If any children were intoxicated they would sit with adults on duty just inside the gate until their parents arrived to collect them.
- SIA accredited staff would search the youngsters for sharp objects and would take any cigarettes or alcohol off them.
- Emergency vehicles would be able to access the site from either of the two entrances into the farm; cars would be able to pull over onto the grass verge to allow them passage, as necessary.

- Emergency vehicles would be able to find the site at night via sat nav. Signage could be provided from Lower Road; however, this would publicise that an event was taking place and could lead to an increase in numbers attending. Adults would guide emergency vehicles in, as necessary.
- Alcohol would not be supplied during the events; however, some parents may permit their children to drink beforehand.
- When the flyer was produced the organisers were unaware that alcohol could not be supplied to the youngsters. The organisers would publicise via Year 11 Parents Facebook groups that the events would be alcohol-free. The children would also spread the message to each other.
- The organisers were unaware of the difference between enhanced DBS checks and standard DBS checks but would check that the SIA accredited staff had the enhanced ones.
- The events were important for the young people who really wanted to attend them because the Proms did not feature dancing; they would be able to dance to the DJ music at the parties and would be able to enjoy themselves more informally with their friends.
- It was unlikely that children would forge responses to the consent forms; in addition, the organisers knew most of the parents.
- Lighting would be provided via electricity supply on site; in addition, there was a generator that could be used, if necessary.

The Police Officer, in conclusion, stated that the law was in place to protect vulnerable people; in this particular case the young people needed to be protected from potential harm. He emphasised that last year Essex Police had considered approximately 6,000 temporary event notice applications but had only objected to two of those. If the events proposed were for adults, rather than children, the Police would still have concerns because of the remote location; however, they had serious concerns because the events were for children.

In conclusion the applicants urged the Sub-Committee to allow the application. They stressed that only two people had complained at school about the events. They further emphasised that they would abide by all the rules and would provide a safe environment in which the children could enjoy themselves. They stressed that the alternative might be for large numbers of youngsters to congregate in public areas in large numbers.

The Sub-Committee retired from the Chamber with the Legal and Member Services officers to consider the application and returned in order to announce its decision to those in attendance.

The Sub-Committee had given careful consideration to the application and all written and verbal evidence presented, including the objection notices from Essex Police

and Environmental Health and the views of the applicant, supported by two parents.

The Sub-Committee noted that the proposed venue was not a licensed premises; as a result no conditions could be applied to a temporary event notice. The Sub-Committee determined that the proposed events to be held on 26-28 June 2019, namely after Prom parties between the hours of 2300 – 0300 for Swayne Park and Fitzwimarc Schools under the temporary event notice, would undermine the licensing objectives for the following reasons:-

### Crime and Disorder

The flyer originally distributed by the applicant demonstrated an expectation that children under the age of 18 would consume alcohol and become intoxicated. Although the applicant confirmed during the hearing that alcohol would not be allowed, the Sub-Committee was not satisfied that this could be prevented, without suitable conditions.

The organisers had stated that they would seize drugs at the entrance but had not adequately demonstrated how searches would be undertaken. While the Sub-Committee accepted the evidence presented by the applicant that it was their intention to employ SIA accredited staff they had no understanding of DBS certificate requirements or knowledge that enhanced certificates would be required for the search of children. The Sub-Committee was not satisfied that the applicant could ensure that effective searches would be undertaken to prevent the circulation of drugs, alcohol and sharp objects at the events.

Although the applicant clarified at the hearing that any drugs seized would be stored in a secure metal box rather than being burned, the Sub-Committee was not satisfied that the applicant could ensure that the correct procedures and safekeeping could be guaranteed in respect of seized alcohol, drugs or sharp objects at events occurring in a remote open space without licensing conditions being in place.

### Public Nuisance

Evidence was provided that there was a likelihood that this objective would be undermined as the events would be taking place outside in a marquee with no noise attenuation. The Sub-Committee accepted the applicant's assertion that she had spoken to her neighbours; however, the increased level of noise from the disco would be likely to cause disturbance within the sleeping hours to local residents.

### Public Safety

The Sub-Committee agreed with the concerns raised by Essex Police that parents dropping off and collecting children would increase vehicular movements; drivers would be unfamiliar with the road layout on a poor quality road, which would increase the risk of collision. Those who would walk the route would be at risk of harm from falls or becoming disorientated, particularly if intoxicated, and the Sub-Committee was also concerned about access to the venue for emergency vehicles. The Sub-Committee was also concerned that the evacuation procedures were not particularly detailed and did not provide sufficient detail as to how evacuation might be

effectively controlled, given the remote location, the extent of the site as a whole, as well as a lack of lighting.

### Prevention of Harm to Children

Evidence was presented to hearing that there would be a risk of exposure to drugs and alcohol as a result of how the events had been advertised by the applicant. The Sub-Committee was not satisfied that the applicant had appropriate knowledge of staffing requirements, and in particular, enhanced DBS checks, in order to protect the welfare and physical safety of children attending the events, specifically for the purposes of searching them or safeguarding them, in the event of any of them being taken ill.

The applicant relied upon contacting children's parents for collection; however, was unable to satisfactorily demonstrate to the Sub-Committee that they were able to ensure that parental information had been properly supplied.

The Sub-Committee therefore deemed it appropriate that a counter notice should be served in order to promote the licensing objectives of the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm.

### Resolved

That a counter notice be served. (ADC&HS)

The meeting commenced at 10.00 am and closed at 1.30 pm.

Chairman .....

Date .....

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