

LICENSING SUB-COMMITTEE

DETERMINATION NOTICE

Date of Hearing	21 July 2021 at 12:00pm
Sub-Committee Members	Councillors Nockolds (Chairperson), Don Tyler and David Whitby
Legal Adviser	Hema Patel
Licensing Officers	Vicki Hopps, Environmental Health Manager (covering the licensing function) Johanna Riches, Licensing Officer (observing)
Democratic Services Officer	Rebecca Parker
Applicant's Name	Urban Hydro Ltd Rachel White, Nick Curtis & Jack Tripp Represented by Tim Cary of Leathes Prior Solicitors
Responsible Authorities	Chris Smith – LPC Inspector for Downham Market Chris Brooks – Licensing Officer, Norfolk Constabulary Nathan Reed – Community Safety & Neighbourhood Nuisance Joanne Reed - Community Safety & Neighbourhood Nuisance
Other Persons present	Lesley Randall (representing Hockwold Cum Wilton Parish Council) Toni Cobbold (representing self, Pamela Cobbold and Mr & Mrs Brown) Mr Dennis Pountney Mrs B.D. Pountney
Portfolio holder for licensing	Councillor Paul Kunes
Premises Address	Paradise Gardens Hydro & Urban Lifestyle Show, The 100 Acres, Cowles Drove, Hockwold Cum Wilton, IP26 4JQ
Application	Application for a Premises Licence

APPLICATION

The Borough Council of King's Lynn & West Norfolk ('the Council'), being the relevant licensing authority, received an application for a Premises Licence for Paradise Gardens Hydro and Urban Lifestyle Show, The 100 Acres, Cowles Drove, Hockwold Cum Wilton, IP26 4JQ.

During the 28 day representation period, the Council received representations from the following:

RESPONSIBLE AUTHORITIES

Norfolk Fire & Rescue Service. Details of the representation were attached to the Licensing Officer's report at Appendix 2.

OTHER PERSONS

There were 16 representations from 'Other Persons' to consider. All 16 representations received were objections to the application. Details of the representations were attached to the Licensing Officer's report at Appendix 3.

HEARING

On 21st July 2021, a hearing was held to consider the application for the premises licence. The Sub-Committee determined the application with a view to promoting the four licensing objectives. It considered the application on its own merits. In reaching its determination, the Sub-Committee had regard to the following matters:

- The relevant parts of the written and oral evidence before them;
- The Council's Licensing Policy;
- Statutory Guidance issued under the Licensing Act 2003.

The Sub-Committee listened to all the evidence and submissions. It heard from:

- The Environmental Health Manager (covering the licensing function);
- The Applicant and the Applicant's representative;
- Lesley Randall (representing Hockwold Cum Wilton Parish Council);
- Toni Cobbold (representing self, Pamela Cobbold and Mr & Mrs Brown);
- Mr Dennis Pountney;
- Mrs B.D. Pountney.

SUMMARY OF EVIDENCE

The Environmental Health Manager presented the Licensing Officer's report and outlined the application which had been submitted. A copy of the application was attached to the report at Appendix 1. There were no questions surrounding the Licensing Officer's report.

The Applicant's representative presented the Applicant's case. The Applicant's representative submitted that the event is not primarily a music festival and is not comparable to an illegal rave. On the contrary, it is a properly controlled festival. The Applicant's representative referred the Sub-Committee to the Event Management Plan ('EMP') and explained that the same deals with every issue that could arise for an event of this nature. The Applicant's representative acknowledged that the prospect of a festival is disconcerting but repeated that it would be a properly run and managed festival by operators who have experience of running such events.

The Applicant has engaged, at significant expense, a raft of experienced contractors to assist them with what is proposed including, stewards, medical services and traffic management. Furthermore, there will be properly licensed security staff on site and in the immediate area. The Applicant's representative noted the concerns raised by local residents about the behaviour of attendees away from the site and submitted that the Council's licensing policy provides that this is not the licence holder's responsibility. Nevertheless, the Applicant feels that it is their responsibility. The Applicant has no wish to cause difficulties or problems to their neighbours and is taking steps to ensure the surrounding area is properly controlled and managed in so far as they can.

A specialist traffic company has been engaged and a detailed proposal has been put forward to manage the traffic. Properly accredited traffic marshals will be positioned at the junction with Station Road and further down Cowles Drove. Furthermore, stewards will be placed along Cowles Drove to ensure attendees do not litter the highway and do not park vehicles along the road.

The Applicant's representative highlighted that there are restrictions on the hours of alcohol sales, entertainment and late night refreshment. In terms of the hours of music, the Applicant is taking various steps as identified in the EMP to limit noise exposure at the boundary of the site. The restrictions in place will be monitored to keep nuisance to near neighbours to a minimum.

The Applicant and the Applicant's representative answered questions from all parties.

The 'Other Persons' presented their case and answered the question put to them.

Lesley Randall submitted that the Parish Council's concerns largely related to access to the site from the B1112 which has a speed limit of 60mph, traffic congestion and the safety of the residents of Hockwold cum Wilton, namely, those who reside along Cowles Drove as there is no Police presence or patrol in the area, no security and no street lighting.

Toni Cobbold also raised concerns relating to street lighting along the Drove. She explained that the Drove consists of uneven surfaces with dykes running all the way down and queried whether there would be fences and barriers in place. Toni Cobbold informed the Sub-Committee of a fire which recently occurred along the Drove and explained that they were unable to enter or leave the Drove for 24 hours. During this incident, the fire service had to go into the village to fill the engines due to lack of water and the hydrant on the Drove was unable to give sufficient water. Among other things, her other concerns related to pedestrian access along the Drove, substance abuse, anti-social behaviour and trespassing.

Mr Pountney submitted that that there is insufficient room for a tractor and a car to pass safely on Cowles Drove. In addition, the question was raised as to how pedestrians will safely move along the Drove. Mr Pountney drew the Sub-Committee's attention to the fact that Cowles Drove is an unadopted road and talked in some detail regarding the Highways Act 1980. He described the condition of the road, stating that the consistency changes with the weather, and explained that when wet conditions prevail it is almost impossible to pass on foot. For the sake of public safety, it is not only relevant that people on the site are kept safe, but it is imperative that those trying to access and leave the site are just as important.

Mrs Poutney noted that the marshals would only be available until 10:00pm. She expressed her concerns about attendees wandering along an unmade road and was particularly concerned given that there are dykes along the Drove and no lighting. She also highlighted that, in the event of an emergency, there is only one bridge which gives access to and from the site. She described the bridge stating that it has no sides and is only wide enough for one vehicle.

Norfolk Fire & Rescue Service ('NFRS') were not present. The Legal Advisor explained that she had liaised with NFRS in respect of their representation. The Legal Adviser sought clarification that NFRS were not objecting to the application but simply highlighting their concerns which would be dealt with by way of the Safety Advisory Group and separate legislation, namely, The Regulatory Reform (Fire Safety) Order 2005. NFRS advised that they had considered the risk assessment and there were no issues, save for several additions which were being actioned.

While representatives from Norfolk Police and the Council's Community Safety and Neighbourhood Nuisance team were in attendance, it should be noted that they made no objections or representations and were simply present to assist with any queries.

The parties all summed up.

FINDINGS

The Sub-Committee considered the report of the Licensing Officer and the oral representations put forward at the hearing.

The Sub-Committee were of the view that the Applicant had put forward a strong case and, without any other evidence to persuade them otherwise, could not see that the licensing objectives were damaged. They felt that once on site the event will be well controlled.

R. (on the application of Daniel Thwaites Plc) v Wirral Borough Magistrates' Court [2008] EWHC 383 (Admin) recognises that significant weight should be placed on the views of Responsible Authorities because they are experts in their fields and therefore have particular responsibility in those areas. The Sub-Committee noted that no representations had been made by the Responsible Authorities (save for Norfolk Fire & Rescue Service). In the absence of representations, there was no expert information available to the Sub-Committee from which they could form a view.

The Sub-Committee considered 'the protection of children from harm' objective and whether this could be addressed further. The Sub-Committee were referred to the EMP, namely paragraph 22, 'Lost Children Policy,' and were satisfied with the protocol in place.

The Sub-Committee had regard to the concerns raised by the 'Other Persons' and wanted to ensure that the residents feel secure without being overly burdensome on the Applicant.

It is for the reasons set out above that the Sub-Committee grants the application but imposes the following conditions.

CONDITIONS

The following conditions were found to be appropriate:

1. The mandatory conditions applicable under the Licensing Act 2003;
2. The conditions consistent with the operating schedule (proposed conditions) as detailed on pages 10-12 of the Licensing Officer's report, **save for:**
 - The license shall authorise a cumulative maximum attendance of the event of up to 8,000 to include all public weekend tickets, day tickets as well as staff and complimentary performer passes (item (g)).

This condition is varied and set out in the imposed conditions below.

3. The proposed amendment to item (f) of the conditions consistent with the operating schedule (proposed conditions) as offered up by the Applicant. For the avoidance of doubt, this condition will replace item (f) and states:

- CSAS accredited traffic management staff must be present along Cowles Drove between 10am and 10pm Thursday to Sunday and from 9am to 2pm on Monday to assist with the flow of traffic.

4. The imposed conditions.

The following additional conditions were imposed by the Sub-Committee:

Condition 1

The licence holder must ensure that the documents specified in the representation received from Norfolk Fire & Rescue Service dated 01 July 2021 (Appendix 2 of the Licensing Officer's report) are also copied to the Council.

Condition 2

In accordance with section 21 Licensing Act 2003, each individual member of security staff carrying out a security activity must be licensed by the Security Industry Authority ('SIA') under the Private Security Industry Act 2001, or be entitled to carry out that security activity by virtue of section 4 of that Act.

Condition 3

Subject to confirmation from the relevant fire and rescue authority, the license shall authorise a cumulative maximum attendance of the event of up to 8,000 to include all public weekend tickets, day tickets as well as staff and complimentary performer passes.

Whilst not a condition, the Sub-Committee recommends advance online sales of day tickets rather than 'on the day' ticket sales. The Sub-Committee feel this is important to assist with congestion on the road and to enable attendees to expediently access the site.

DETERMINATION

The Sub-Committee grants the application subject to the conditions as detailed above.

RIGHT OF APPEAL

There is a right of appeal against this decision to the Magistrates' Court. An appeal must be commenced within 21 days beginning with the day on which you receive notification of the decision. You may wish to seek independent legal advice from a solicitor or the Citizens Advice Bureau regarding this.

Signed.....E. Nockolds.....

Date: 26 July 2021

Councillor Elizabeth Nockolds (Chairperson of the Licensing Committee)