

Meeting	Licensing/Gambling Hearing
Date	27 February 2020
Present	Councillors Melly, Norman and Wells

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**30. Chair**

Resolved: That Cllr Wells be appointed to Chair the meeting.

**31. Introductions****32. Declarations of Interest**

Members were asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they may have in respect of business on the agenda. None were declared.

**33. The Determination of an Application by Live Nation (Music) UK Ltd for a Premises Licence [Section 18(3)(a)] in respect of York Sports Club Fields, Event Site, Clifton Park, Shipton Road, York, YO30 5RE (CYC-065763)**

Members considered an application by Live Nation (Music) UK Ltd for a Premises Licence [Section 18(3)(a)] in respect of York Sports Club Fields, Event Site, Clifton Park, Shipton Road, York, YO30 5RE (CYC-065763).

In considering the application and the representations made, the Sub-Committee concluded that the following licensing objectives were relevant to the Hearing:

1. The Prevention of Crime and Disorder
2. Public Safety
3. The Prevention of Public Nuisance
4. The Protection of Children from Harm

In coming to their decision, the Sub-Committee took into consideration all the evidence and submissions that were presented, and determined their

relevance to the issues raised and the above licensing objectives, including:

1. The application form.
2. The following information circulated prior to and at the hearing:
  - Proposed noise conditions received from the applicant's solicitor
3. The Licensing Manager's report and the comments of the Senior Licensing Officer given at the Hearing. The Senior Licensing Officer outlined the report noting that the application was for 3 event days per calendar year indefinitely. She noted the opening and operating hours and schedule, that it had an occupancy of 19,000 she noted the information contained within the annexes to the report. She advised that consultation had been carried out and that conditions had been agreed with North Yorkshire Police. She gave an overview of all representations, from the City of York Council Public Protection (Environmental Protection) from 'other persons' which had been received in support and objection. She advised that there were no planning issues and she then outlined the options available to Members in determining the application.
4. The representations made by the Applicant's Solicitor at the hearing, and his witnesses:
  - Commercial Director Cuffe & Taylor
  - Senior Event Manager, Cuffe & Taylor
  - Technical Operations Manager, Cuffe & Taylor
  - Managing Director, Cuffe & Taylor
  - Acoustic Consultants

Mr Crier explained the application as being over three concert days from 3.00pm – 10.00pm, noting that 40% of ticket sales to date were from the York area. He noted the target audience for the event and economic and social benefits to the City. He advised that the applicants had engaged with the local community, and noted that the representors had been in support and objection. He advised that traffic management was not a licensing matter and will be dealt with through the SAG and that the logistical planning for the event was comprehensive.

Mr Crier referred to conditions agreed with the police and the proposed condition from City of York Council Public Protection (Environmental Protection) (PPU) for a Noise Management Plan to contain a requirement that the Music Noise Level expressed as an LAeq shall not exceed 65dB(A) over a 15 minute period as

measured at the nearest noise sensitive premises. Mr Crier explained that from noise modelling the noise would go above 65dB(A) which was why the applicant had requested the noise condition of 75 dB(A) at two locations and 65 dB(A) at other locations. He referred to guidance on noise levels in context of overall noise levels. He advised that his clients would comply with noise level conditions and the higher noise levels proposed were to allow a more flexible approach to avoid a breach of the licence. He then invited the applicant's noise consultants to speak. The noise consultants referred to examples of other festival around the country where the permitted noise was above 65 dB(A) and explained that the national code of practice was under review and it is likely that the distinction between urban and rural locations will be removed. Mr Cuffe, the Managing Director of Cuffe & Taylor then explained that the company is a part of Live Nation, not a large corporate organisation but is a local business with a long term approach to using York as a destination for the festival.

In response to questions from the parties Mr Crier and his witnesses clarified:

- The sound checks would take place the day before or the morning of the event and although this was not licensable, residents would be notified.
  - The locations of the noise survey and clarification that the background noise level would be referred to as 51 dB(A) although the application is not based on background noise levels.
  - An operational plan would be adopted in accordance with the conditions.
  - That most acts wanted to finish earlier than the timings stated
  - The Vanguardia noise report included information on the sound levels
  - The total noise level on Shipton Road was 69 dB(A) on average, which was why it was unfair to set a limit of 65 dB(A). An explanation was then given about the location of the noise survey for the noise modelling.
  - There would be sound propagation tests carried out in advance at nominated control points and this would be kept under review continuously throughout the event.
  - The role of the Safety Advisory Group (SAG) in developing plans for the event.
5. The representations made by Mr Golightly, on behalf of City of York Council Public Protection (Environmental Protection) (PPU) in writing and at the hearing. He explained their objection on the

grounds of public nuisance noting the location of the festival as being in an area with a large number of residential properties nearby. He outlined the previous complaints received about live music at the venue. He advised that the noise levels within national guidance had been incorporated into local guidance for an urban to rural venue such as this, and he explained that the limit of 65 dB(A) had been requested in order to avoid public nuisance. Mr Golightly referred to his witness Mr Gray (York Council Public Protection (Environmental Protection)). Mr Gray expanded on the points made by Mr Golightly in relation to the noise survey and modelling and he explained that the difference between 65 dB(A) and 75 dB(A) was effectively a doubling of the noise level. He cited examples of festivals with a limit of 65 dB(A). There is no reason to deviate from the national guidance in this location.

In response to questions, Mr Golightly and Mr Gray clarified

- The request for 65 dB(A) was in line with local guidance
- There were no examples of events in York where noise levels had gone above 65 dB(A)
- If national noise guidance changed the position of Public Protection would be to retain their current recommendations.
- The rationale for their requested noise condition of 65 dB(A) and that 70 dB(A) would not be acceptable.
- Where events had exceeded 65dB(A) there had been noise complaints.
- An explanation of the process for investigating noise complaints was given.

6. The representations made by Cllr Sam Waudby, Rawcliffe and Clifton Without Ward Councillor on behalf of Rawcliffe and Clifton Without Ward Councillors in writing and at the hearing. She outlined the concerns of the Ward Councillors and local residents and she gave an update on the discussions at a Ward Committee meeting about the festival on 23 January 2020. She noted that the views expressed by residents had been mixed and she noted concerns about the licence being in perpetuity, traffic and parking and noise. During questions to the Councillor, Mr Crier noted that traffic was not relevant to the licensing application and he advised that the traffic management plan was being done in consultation with traffic management at the council. In answer to a question Cllr Waudby confirmed that there are a number of care homes in the area and she pointed these out on the location map.
7. The representations made by Rawcliffe Parish Council and Clifton Without Parish Council in writing and represented by Cllr Darryl

Smalley (Rawcliffe and Clifton Without Ward Councillor) at the hearing. He explained that the main issues were with traffic, parking and noise. He explained concern about the proposed traffic permit scheme creating increased congestion outside the area and trapping residents in for the three days. He noted concern about car parking and noise from the festival affecting residents, including the impact of this on Limetrees Child and Adolescent Mental Health Service (CAMHS) and Clifton Park hospital. He requested that if the Sub-Committee were minded to grant the licence, that it be for one year. During questions to the Councillor, the applicant stated that they would be willing to meet with the Parish Councils to discuss their concerns about the parking permits and it was suggested that there would be a large number of people walking to the festival.

Cllr Smalley was asked and explained the concerns of the Parish Councils about public safety and he was asked and advised that Limetrees and Clifton Park hospital were open on Fridays.

8. A Representor in writing and in person at the hearing. The Representor outlined his concerns that traffic management and parking at the festival would create a public nuisance and he suggested that the site was not suitable for an event of that size. He added that trialling the event for one year would not change the unsuitability of the site. He explained his role as Vice Chair of the York and North Yorkshire Modern Slavery Partnership and cited their concerns about county lines drugs problems at the event. He also explained that the bus drop off at Clifton Alliance Cricket ground was unsuitable and that there would be problems with public safety from people leaving the site after the event.
9. A Representor in writing and in person at the hearing. The Representor explained his concerns about public safety and crime and disorder from people leaving the site, and he added that during the festival on Fridays, children would walk home from school at the same time people would arrive at the venue and would have to navigate their way through the restricted area. He explained where he resided in close proximity to the venue and that he had not received any satisfactory answers from the applicant or any consultation on his concerns about noise. He stated that his concerns had not been addressed in the noise report submitted on 18 February 2020 and he requested that the acoustic survey be made available. He would be happy for his house to be used as a noise monitoring point. Mr Crier explained that the baseline report could be made available.

10. A Representor in support in writing and represented by his wife at the hearing. She explained that parking was a perpetual problem on her street and she acknowledged the issue of public nuisance caused by the festival. She expressed support for the economic benefits of the event and noted that the profile of people attending the event would be different to those visiting the city centre.

The Chair then asked PC Hollis (North Yorkshire Police Alcohol Licensing Department) to clarify the proposed police condition no. 1 on page 101 of the Agenda papers. PC Hollis clarified the role of the SAG in the context of the condition and confirmed that traffic management was within the remit of the SAG and that the Event Management Plan required by the condition could include a dispersal policy.

- The applicant and representors then summed up. In response to further questions from the Sub-Committee on points for clarification the applicant confirmed:
- The security measures in place at the festival
- That there could be two under 16s per adult and under 18s could not queue at bars
- There would be SIA security on each bar
- There was no reason for the showing of films in section 18 of the application

Mr Golightly, on behalf of City of York Council Public Protection (Environmental Protection) (PPU) confirmed that a noise restriction of 70 dB(A) would not be acceptable.

Mr Crier, on behalf of the applicant stated that the applicant wished to amend its application to a one year only licence to start at 5pm on the Friday. He also said that the applicant would be willing to agree to a noise limit of 70 dB(A) (15 minutes) for the headline acts on Shipton Road and Clifton Park Avenue and 65 dB(A) for the support acts.

In respect of the proposed licence, the Sub-Committee had to determine whether the licence application demonstrated that the premises would not undermine the licensing objectives. Having regard to the above evidence and representations received, the Sub-Committee considered the steps which were available to them to take under Section 35(3)(a) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:

Option 1: Grant the licence in the terms applied for. This option was rejected.

Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee. This option was approved.

Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify / add conditions accordingly. This option was rejected.

Option 4: Reject the application. This option was rejected.

In agreeing Option 2 the following conditions and modified/additional conditions were added to the licence:

1. Prior to an event taking place a documented noise management plan shall be submitted to, and approved in writing by City of York Council. Once approved, it shall be implemented immediately. No event shall take place until the approval of the plan. The agreed Noise Management Plan must contain a requirement that the Music Noise Level expressed as an LAeq shall not exceed 65dB(A) over a 15 minute period as measured at any of the agreed noise sensitive locations.
2. A draft of the Event Management Plan (EMP) will be produced three months prior to the event each year and will be submitted to the Licensing Authority and all the members of the Safety Advisory Group (SAG). Following consultation with the SAG, the Licensing Authority shall notify the premises licence holder in writing that the draft EMP is acceptable or unacceptable not less than one calendar month prior to the event taking place. The event shall not take place until the draft Event Management Plan has been approved by the Licensing Authority in consultation with the SAG. Once approved no change shall be made to the EMP without the agreement of the Licensing Authority or Police. The event shall operate at all time in accordance with the EMP as approved by the Licensing Authority.
3. With the exception of private areas exclusively for artists and bona fide guests, all drinks shall be served in non-glass vessels only. For glass bottled drinks, the drink is to be decanted into non-glass vessels.

4. The licence holder will operate a Challenge 25 Age Verification Policy. Notices must be displayed in prominent positions indicating that the Challenge 25 policy is in force.
  - Documented staff training will be given regarding staff's obligation under the Licensing Act in respect of the:-
  - Retail sale of alcohol
  - Age verification policy
  - Conditions attached to the Premises Licence
  - Permitted Licensable activities
  - The Licensing objectives and
  - The Opening Times of the venue.
  - Such records shall be kept for a minimum of one year and will be made available immediately upon request from any Responsible Authority.
5. A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals of alcohol sales to under-age or drunk people as well as incidents of any anti-social behaviour and ejections from the premises.
6. Such records shall be kept for at least one year. [For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry]: They will be made available immediately upon a reasonable request from any responsible authority.
7. No retail sale of alcohol shall take place from a bar or beer tent unless there is a Personal Licence holder present to authorise sales. The Personal Licence holder shall be based on the bar and will be available within 5 minutes of request by authorities when alcohol sales take place.
8. It is the responsibility of the Designated Premises Supervisor to conduct a risk assessment to decide the number of SIA registered security staff needed for the event. This shall include a minimum of 2 x SIA door supervisors on each bar and be included in the Event management plan which is to be submitted to the Licensing authority and Safety advisory group (SAG) before the event.
9. When SIA Door Supervisors are on duty, they shall wear high visibility arm bands and sign in and out of the premises in a register providing their full name and SIA number.

10. Music Noise Levels to be monitored regularly throughout the event by the appointed noise consultants at the agreed noise monitoring locations to check both compliance with the specified maximum levels and the avoidance of any noise nuisance. The measures stated in the Noise Management Plan shall be implemented so that the noise limits are met.
11. Low frequency levels between 30 and 125Hertz shall also be monitored by the appointed noise consultants throughout the event at the agreed monitoring locations.
12. The premises licence holder shall ensure that the promoter, sound system supplier and all individual sound engineers are informed of the sound control limits and that any instructions from the appointed noise control consultant shall be implemented.
13. A sound propagation test will be undertaken either the day before or on the day of the event in order to set appropriate guideline limits at the sound mixer position. The sound system will be configured and operated in a similar manner as intended for the event and the noise source used for the test will be similar in character to the music likely to be produced during the event.
14. A dedicated complaints line shall be set up prior to and operated throughout the event. All noise complaints shall be communicated immediately to the consultant's noise monitoring team who will investigate immediately including visiting the nearest noise monitoring location to the complainant and requesting immediate action as required.
15. Information regarding the event shall be circulated to local residents within an area agreed with the local authority at least 2 weeks prior to the event taking place. The information will include details of the timings for the show including propagation tests and the dedicated telephone line number for any complaints.
16. All complaints shall be recorded together with the action taken and, together with the data of sound levels taken during the event, shall be included in a summary Noise Report to be prepared by the appointed noise consultants. This report should be submitted to the Environmental Health Department at York City Council no later than 3 weeks following the event.
17. A post-event meeting will be held between the premises licence holder and the environmental health department following

submission of the Noise Report with a view to assessing the noise levels during the 2020 event.

18. The licence is limited to one calendar year for a maximum of three event days.
19. All licensable activities shall not commence before 5.00pm Monday to Friday (excluding Bank Holidays).
20. The licensable activities for Saturdays, Sundays and Bank Holidays were granted for the hours as applied for.
21. There shall be no age restricted films.

***All conditions offered by the Applicant in the application, including the operating schedule, for granting the premises licence under the Licensing Act 2003, shall be included in the licence, unless contradictory to the above conditions.***

**The Sub-Committee noted that the applicant amended its application at the hearing to be limited to a licence for one calendar year to start at 5pm on a Friday and that it had amended its proposed condition as to maximum noise levels.**

**The Sub-Committee carefully considered all the evidence placed before them including the application and all the representations and had regard to the licensing objectives, the section 182 Guidance issued by the Secretary of State and the Council's own statement of licensing policy.**

They considered the likely effects of the grant of the premises licence on the promotion of the licensing objectives. The Sub-Committee considered very carefully the representation of Mr Golightly on behalf of City of York Council Public Protection (Environmental Protection). The Sub-Committee had careful regard to the concerns of the neighbouring residents about the noise created by the licensable activities and the close proximity of the application site to his residential properties.

**The Sub-Committee concluded that if the application were to be granted in the terms applied for there would be the likelihood of residents being subjected to public nuisance in terms of noise nuisance from licensable activity on the site. The Sub-Committee considered that the noise condition proposed by PPU was appropriate and proportionate to address the issue of noise**

**nuisance and ensure that noise levels from the premises could be reduced to an acceptable level for nearby residents. The Sub-Committee was encouraged by the other measures stated in the application to satisfy the four licensing objectives and the conditions agreed with the Police. The overall conclusion of the Sub-Committee was that a one year licence should be granted for the licensable activities requested but subject to the additional and amended conditions set out above. It was considered that all these measures should ensure that an appropriate balance is met in order to promote the licensing objectives.**

**The Sub-Committee considered only those issues that relate to the licensing objectives. As a result the Sub-committee considered that it was not within its remit to consider traffic/parking control issues on event days and did not take into account the fact that tickets have already been sold for the event.**

The Sub-Committee therefore agreed to grant the licence with the additional and mandatory conditions referred to above which were appropriate and proportionate in the circumstances to promote the licensing objectives.

, Chair

[The meeting started at 10.00 am and finished at 1.50 pm].