

DECISION NOTICE – PREMISES LICENCE APPLICATION

MEMBERS PRESENT:	Councillor Nigel Lumby – Chair of Licensing Act Sub-Committee Councillor Garry Burchett Councillor Peter Broomhall
PREMISES:	Audio Farm Festival Hopton Court Hopton Wafers DY14 0EF
APPLICANT:	Audio Farm Limited
DATE OF HEARING:	Thursday 7 th April 2022

Decision:

It is the decision of the Licensing Act Sub-Committee, following the hearing held on 7th April 2022 to **allow the premises licence** for the Audio Farm Festival, Hopton Court, Hopton Wafers, DY14 0EF.

Rights of Appeal are set out at the end of this Decision Notice.

Reasons for Decision:

The Sub-Committee read the submissions made prior to the Hearing and listened to the submissions made by both the Applicant and Objector at the hearing. The Sub-Committee also heard from representatives from Environmental Health and the Licensing Authority.

In reaching its decision, the Sub-Committee took into account the Council's Statement of Licensing Policy 2019 to 2024 (effective 1 April 2019) in its widest sense. They specifically took into account the sections below which state:

At Part 1 – Introduction

Purpose

- 6.1 The Council's aim is to establish responsibly managed and safe licensed premises. The Policy acts as the primary vehicle for setting out the Council's approach to licensing regulation under the Act. It aims to support the Council's high level outcomes by creating an environment through the promotion of the licensing objectives that encourages people to be healthy, communities to be resilient and to develop a prosperous economy.

Paragraph 27 - Overarching principles relating to licence applications, in particular the bullet points at paragraph 27.2 and paragraph 28 –Application for a New Premises Licence.

The Sub-Committee has also had regard to the Statutory Guidance issued under Section 182 of the Licensing Act 2003 (April 2018) in particular, paragraphs 2.15 – 2.19, 9.12, 9.38, 9.42 – 9.44 and 10.10.

The hearing arises following the Applicant submitting an application for a premises licence in respect of the Audio Farm Festival and objections being received from persons who have concerns regarding the noise, traffic, date, and length of the festival, together with the number of persons in attendance at the festival.

During the consultation period for the application, representations were received from four responsible authorities, these being:

Environmental Health	Requested one additional condition in relation to the prevention from public nuisance, this being that the Music Noise Level will be barely audible at noise sensitive receptors from 23:00.
Licensing Authority	Requested removal of the conditions within the ‘General’ section of the Application and to deal with these matters within ‘Public Safety’ to include event management documentation.
Trading Standards	Requested that the full training on the Challenge 25 procedures, proxy sales and responsibilities under the Licensing Act 2003.
Police	Requested additional conditions in relation to the number of SIA staff per guest.

Prior to the hearing, the Applicant agreed to all the conditions proposed by the Responsible Authorities and agreed to amend the application to include the new conditions. Full details of the conditions are set out at Paragraph 6.3 of the report to the Sub-Committee.

Three objections were received from other persons during the consultation period whose main concerns were in respect of public nuisance. Following correspondence between the applicant and the objectors and the agreement of the Applicant to two further conditions to deal with potential noise nuisance, two representations were withdrawn prior to the hearing. Details of the two additional conditions are set out at Paragraph 8.5 of the Addendum to the original Sub-Committee report.

The third objector did not wish to withdraw her representation and attended the hearing.

The Sub-Committee noted that the outstanding concerns of the Objector were in relation to the length of the festival, the time live music was to end and the number of attendees.

The Objector suggested additional conditions to be placed on the licence should the Sub-Committee grant the licence, these conditions were that the festival should end on Sunday 4th September rather than Monday 5th September, that live music ceases at 11pm on Thursday and Sunday and at midnight on Friday and Saturday and that the number of attendees should be limited to 1,200 with 600 staff.

Prior to the hearing, in response to the conditions suggested by the Objector, the Applicant provided a detailed written response which is set out below:

The festival finishes on the Sunday evening (4th Sep) with the attendees leaving the area by midday on the Monday morning (5th Sep).

“To appease the representation, we have removed all music programming on Monday in order to minimise Public Nuisance through noise. We hope the residents can appreciate this is a drastic reduction from last year - where Monday was a full festival day. We have been proactive in taking this change in programming even before the licence application was submitted, with the residents' interests in mind. The festival's music does now finish on the Sunday at 11pm and most guests will typically leave by midday on the Monday. Monday this year is a wind-down and wellness day, with the opportunity for family focused activities, wellness, yoga, meditation. We are closing 2/3rds of the site on this day and de-rig of the site will begin. The sound systems will be off and removed from site. It provides an additional trading day for our market stalls, traders and bar to increase revenue with the hopes of recuperating losses from Covid years. We struggle to see how enforcing a mass exodus at 12pm will be beneficial to any of the 4 key licensing objectives, and in fact would more likely increase risk in the following areas: Public Nuisance, Public Safety (all traffic leaving at once), Crime and Disorder: Increase the likelihood of people entering vehicles whilst still over the blood alcohol limit. As such, respectfully, we would not be happy to accept this condition on the licence.”

The music ceases at a)11pm on Thursday & Sunday b)12 midnight on Friday & Saturday. Music from any impromptu gatherings on the campsite after-wards is hardly comparable to live amplified music of 100-112 dbs from a festival stage setting.

“Audio Farm Ltd has agreed to be barely audible after 11pm. This huge reduction in noise output after 11pm which has been advised by Environmental Health and is fully compliant of all legal restrictions and requirements should result in minimal disruption to any and all residents. This is now a licensing requirement and has been added as a condition - a step that has appeased and reassured 2 of 3 residents who have now removed their representations with no others from any other the local residents, with the high number of the local residents enjoying the festival with free tickets and bringing their families. We have been able to share evidence of updates to sound system setups, bass limiters and heightened noise monitoring in our Noise

Mitigation Plan to achieve this. We hope the residents appreciate the additional resource that has been allocated to noise monitoring in the local area to ensure we are fully compliant on this new licensing condition. Hopton Court already has a 1am licence and are keeping within their already ap-proved premises licence times, though we sit on our own separate licence I do not see why we should not be granted the same licence.

We have demonstrated a huge compromise already in 2021 and in 2022. In 2021 we applied for music for 12am Thursday, 1am Friday, 1am Saturday, 1am Sunday and 11pm Monday. We reduced this in 2021 to 11pm on Sunday, and 10pm on Monday. Now in 2022 we are further reducing this by having no programmed music and zero amplified music on the Monday. Please see Appendix 1 - Noise Mitigation and Report by Kaim Shaw our acting Noise Management Lead Audio Farm 2021 Confident that we are championing the residents' needs already in the steps taken so far, a further reduction to 12am on Friday and Saturday will only serve to chokehold the festival financially and make it entirely unviable:

- We've sold 89 Day Tickets and 285 Weekend Tickets for 2022 to date. All have bought under the basis of a 1am finish (as last year). We have 72 'rollover' tickets from Covid Cancellations that were bought on the basis of a 1am finish. Our biggest UK festival competitors have 3am licences and we have in previous years given refunds to people who said "1am and 11pm Sunday is too early". We are only just credible vs our competitors at a 1am finish on Friday and Saturday. If we announce a 12am finish on Friday and Saturday, it will cause a mass refund situation, and will put the festival in jeopardy. We have already sold £50k of tickets, and paid out £45k to wages, suppliers, artists and site hire. The festival is a £350k project in total.
- If we change licence we jeopardise the whole project and limited company: 4 people's jobs, 20 event freelancers, artists opportunities and event supplier business - all of which have suffered immensely from Covid's impact on the industry. 13 years of work from hundreds of artists, organisers and collaborators have been put into growing Audio Farm and it is all jeopardised if we lose the critical licensing hour of 12am - 1am on Friday and Saturday.
- Bar sales are high between 12am - 1am and without encouragement with entertainment (music) in the licensable area, attendees will retreat to their tents and drink alcohol bought from elsewhere. We could lose a large chunk of revenue which could be the difference in profit or loss.
- The Directors have invested £50k, and we are not after making profits, with the flat wage of £12.50 taken by full-time active directors. We want to ROI back, and with eventual aim to continue to make money for Green Paw Project Charity to plant trees in Wales in England and regenerate land and create space for biodiversity. Please see www.greenpawproject.org. Audio Farm Festival will be the biggest funder of charity with £14,756 funded to date.

- If ticket buyers turn up and we close at 12am the damage that will do to our credibility will damage us beyond repair for sales for 2023. One hour on the Friday and one hour on the Saturday does not seem much, but it's huge for being credible vs our competitors.
- Why did we start selling tickets before the licence was approved for 2022?
- We started selling tickets on 1st March as we need at least 7 months of promotion to hit our targets of sales. It's a slow process.
- We have sold tickets based on approved 2018 and 2021 licence times which are 1am.
- We can't pay pre wages without cash flow and tickets needed to be sold, and cash was needed on 1st March to pay wages, and the invoice from Hopton Court Site Hire.
- Many of the like for like festivals in the UK announced their festival in January, February or March. April or May would be too late.
- In 2023 we will apply earlier.”

The Sub-Committee were mindful of the Statutory Guidance contained within paragraph 9.43 which provides that their determination must be appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

The number of attendees is limited to 1200 with 600 staff (as Audio Farm claim were the numbers in 2021), i.e. a maximum of 1800 people on site at any one time.

“It is highly likely that we will be very close to these numbers on site. Regarding having a capacity restriction limitation on a premises licence for the purpose of adhering to licensing objectives; it's not a decision that can be made and agreed to by Audio Farm totallically but would be guided by site (Hopton Court), H&S legislation and compliance and SAG.

In 2021 we had 1167 Weekend and 256 Day Tickets, and 221 Staff plus circa 300 artists.

Our breakeven for Audio Farm Festival 2022 is 1350 tickets. Our target will be 1500 ticket buyers on site.

Impact on the locale of these numbers on site has been largely mitigated with our new Traffic Management Plan which has been favourably received by residents and the SAG committee. And so, yet again the only real implication would be to put a major financial limitation on Audio Farm Festival making it entirely unviable and incur irreparable business losses.

I earnestly hope that this isn't the true intention of the representing residents and that these explanations will serve to reach a mutual understanding resulting in the removal of representations.”

The Sub-Committee were mindful of the Statutory Guidance contained within paragraph 9.43 which provides that their determination must be appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

Whilst the Sub-Committee were mindful of the Objectors concerns, having regard to the

Statutory Guidance, the Sub-Committee were satisfied that the additional conditions agreed by the Applicant prior to the hearing, would be an appropriate and proportionate response to promote the licensing objectives.

APPEAL: You have a right to appeal this decision to the Magistrates Court within 21 days of receipt of this Notice. There is a court fee payable for that process. You should be aware that Shropshire Council reserves the right to seek a full costs order against you in the event of any unsuccessful appeal by you against this revocation.

You may wish to seek legal advice in relation to the content of this letter with regards to the granting of the premises licence.

Dated: 12th April 2022