

**MONMOUTHSHIRE COUNTY COUNCIL
REPORT**

SUBJECT: Application for a Temporary Premises Licence for The Balter Festival, Great Goytre Farm, Pandy, Abergavenny
DIRECTORATE: Chief Executive
MEETING: Licensing & Regulatory Sub-Committee
Date to be considered: 22nd March 2016
DIVISION/WARDS AFFECTED: ABERGAVENNY

1. PURPOSE:

To consider an application for a Temporary Premises Licence under the Licensing Act 2003 for the Balter Festival, Great Goytre Farm, Pandy, Abergavenny. The event is planned to run between the 3rd and 6th June 2016. A Copy of the application is attached as Appendix A.

2. RECOMMENDATION(S):

2.1 It is recommended that members consider and determine the application, on the basis of the information provided.

3. KEY ISSUES

3.1 The application is for the following:

Supply of Alcohol (On Sales)	Start	Finish
Friday (into Saturday)	12.00hrs	04.00hrs
Saturday (into Sunday)	12.00hrs	04.00hrs
Sunday (into Monday)	12.00hrs	02.00hrs
Regulated Entertainment (Live & Recorded Music, Activities like music & dance)	14.00hrs	03.00hrs
(Indoors and Outdoors)	11.00hrs	03.00hrs
Friday (into Saturday)	11.00hrs	23.59hrs
Saturday (into Sunday)		
Sunday		
Late Night Refreshment (Outdoors)		
Friday (into Saturday)	23.00hrs	05.00hrs
Saturday (into Sunday)	23.00hrs	05.00hrs
Sunday (into Monday)	23.00hrs	05.00hrs
Hours open to the Public		

Friday to Monday	12.00hrs	17.00hrs
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The application form attached as Appendix A also includes the following appendices referred to as part of this application:-

- Appendix 1 – Safety Policy
- Appendix 2 – Arial photograph of site
- Appendix 3 – Site Plan
- Appendix 4 – Stewarding Plan
- Appendix 5 – Traffic signage map
- Appendix 6 – Vehicle Routes
- Appendix 7 – Medical Operational Plan & Medical Risk Assessment
- Appendix 8 – Letter to residents
- Appendix 9 – Challenge 25 policy
- Appendix 10 – Noise Management Plan
- Appendix 11 – Security Plan

- 3.2 The Legislative Reform (Entertainment Licensing) Order 2014 permits live and recorded music for 500 persons between the 08.00hrs – 23.00hrs in on licensed premises without the requirement of a licence.

However, the Balter Festival will require a licence as they have indicated in Appendix 1 in the event profile that the capacity for this event is 2,500 people.

This operating schedule also includes the Event Management Plan 2016 (EMP) attached as Appendix B.

- 3.3 The applicant within the operating schedule has outlined their arrangement under the four licensing objectives. It should be noted that the previous event in 2015 was held within Chepstow Racecourse.

General – all four licensing objectives

The attached EMP covers in detail how Balter Festival will promote the four licensing objectives.

Balter Festival understand the EMP is an evolving document, and look forward to any advice the local authorities and emergency services wish to offer in the run up to, or during the ESAG meeting.

2016's proposed event will be the third the partnership has organised. Over previous events an experienced team has been formed to manage all aspects of the festival.

Specialist services such as medical, security and health & safety are bought in from skilled professional providers that the management have worked alongside previously.

During the build-up phase of the event the management team(s) will be sent copies of all relevant documents and meet regularly to discuss the licensing objectives and best practices laid out in the EMP.

The meetings will make sure that all managers understand the documentation especially in regard to the chain of command, how to communicate and how each individual role is defined.

Roles falling further down the chain of command will be sent relevant documentation closer to the time of the event and will be required to attend an on-site briefing before the event begins.

Balter Festival 2015 took place on a noise sensitive site (Chepstow Racecourse) that had previously caused issues for the local area. The noise management team worked closely with Mike Richardson from the local EHO to ensure noise was controlled over the course of the event.

Balter Festival intends to employ the same team of specialists using the same measurement equipment for the 2016 event.

An example of the 2015 noise management plan is available in the application (appendix 10).

A 2016 document will be produced following meetings with the local EHO to determine suitable levels and offsite measurement locations.

A traffic management plan is in place (EMP section 9).

The festival site has been designed to get vehicles on site as quickly as possible and to allow any traffic build up to take place off the public highway.

This system also allows for stewards to manage vehicles off of site preventing traffic build up on the public highway after the event.

The Protection of Children from Harm

Balter Festival is an over 18s event and is widely advertised as so. Official identification will be required to validate e-tickets on entry. Bar staff will practice 'challenge 25' (see appendix 9 of the EMP)

Balter Festival have procedures in place to deal with minors in the event of any getting onto site (see appendix 11 of the EMP).

- 3.4 If granted the licence would also be subject to Mandatory Conditions which are attached to this report as Appendix C.
- 3.5 The applicant has a statutory duty to send copies of his/her Premises application to the 'Responsible Authorities' namely Heddlu Gwent Police, South Wales Fire Service, The Local Health Board and departments of Monmouthshire County Council being the Environmental Health Section, Social Services, Planning, Licensing and Trading Standards Department. (A notice also has to be circulated in a newspaper within the area of the premises as well as a notice displayed at the premises to enable local businesses and residents to make a representation. The application is also advertised via the Council's website). This was duly carried out by the applicant.)
- 3.6 **Representations** have been received from 2 of the statutory consultees, namely Environmental Health and Licensing and another relevant representation.
- 3.7 The following is the representation received from **Huw Owen, Principal Environmental Health Officer:-**

I am familiar with the Balter Festival operation as it was staged in 2015 at Chepstow Racecourse and I was involved in my teams monitoring at night of the music festivals over the event period. I did consider the music level during this event to be reasonably well managed but this section did received complaints from the occupiers of 4 properties including premises well in excess of 500m from the event. Music noise levels at 250/300m distance from the stages after midnight were typically in the high 30s/low 40s decibel range with the base beat dominant.

I have appraised the proposed site and note that there are a number of dwellings in fairly close proximity, many of which are in Herefordshire County area. These include:

By following this structure Balter Festival intend to ensure a safe and successful event for all parties involved.

The Prevention of Crime and Disorder

Balter Festival employ 'Event Safety Alliance' to provide SIA licensed security personnel. ESA have extensive experience on a variety of events many of which are much larger than Balter Festival.

ESA provided all security personnel at Balter Festival 2015, and the festival provides additional volunteer Stewards to assist security in non-critical positions.

Prevention of crime and disorder is taken very seriously and steps are taken throughout all phases of the event to manage the situation. Please refer to the security plan within the EMP (appendix 11) for more information.

Based on the audience profile and experience of our previous events Balter Festival do not foresee any serious crime and disorder occurrences, however procedures are in place should the situation arise.

Public Safety

Public Safety is paramount to the event and takes priority over keeping the event running.

Balter Festival has employed Alex Michaels as the dedicated Health & Safety officer who has collaborated with the festival management to write the Health & Safety policy and risk assessments (EMP – appendix 1)

The EMP details how Balter Festival intends to maintain public safety in more detail. The EMP was written using experience gained at previous events by the festival management and the guidelines laid out in 'The Event Safety Guide'.

The organisers have implemented a clear management structure and chain of command that will be supplied to all management staff have a clear understanding of all procedure and how to communicate effectively before they arrive on site.

Roles falling further down the chain of command will be sent relevant documentation closer to the time of the event and will be required to attend an on site briefing before the event begins.

Health and Safety will be monitored and logged throughout the event to improve best practice.

Balter Festival employ 'Event Safety Alliance' as SIA registered security on site as well as 'Event Paramedic Services' to maintain safety on site.

Prevention of Public Nuisance

At an event such as Balter Festival the biggest factors that could cause a public nuisance are noise & vibration and additional traffic on the public highway.

Balter Festival will employ a specialist noise management team to measure noise on and off site, and set the onsite noise levels from readings taken off site at pre-determined measuring points.

All onsite sound engineers will be briefed that the noise management team's word is final and they must obey any request for level adjustment.

Monmouthshire County Council area:

- Little Goytre – approx. 270m from site boundary
- Goytre Cottage – approx. 390m

Herefordshire County Council area:

- Little Croxley – approx. 300m from site boundary
- Ivy Cottages – approx. 230m
- Llancillo Bungalow – approx. 500m
- Little Vineyard – approx. 550m
- The Goytree – approx. 780m
- Vineyard Farm – approx. 800m

The proposed site is in a rural location with potentially very low background noise levels during late night hours as the traffic on the A465 reduces. I suggest that the background levels after midnight could potentially drop to the low 20 decibel region. This is a significant difference to the 2015 Chepstow venue where the background levels are likely to be at least +10/15 decibels higher at night.

Furthermore the proposed site is on the base of the 'valley' with the shallow basin topography not likely to act as a natural barrier and the music potentially carrying a significant distance from the source.

I note that the application provides that a specialist noise management team will be employed to measure noise on and off site and set the onsite noise levels from readings taken off site at pre-determined measuring points. The 2015 Noise Management Plan has been provided as an example. The application further provides that a 2016 document will be produced following meetings with the local EHO to determine suitable levels and offsite measurement locations.

The guidance this section gives to organisers of large scale open air events is based on guidance given in the Code of Practice on Environmental Noise Control at Concerts 1995. This provides that for events continuing or held between the hours of 23.00hrs and 09.00hrs the music noise level should not be audible within any noise sensitive premises with windows open in a typical manner for ventilation. In recognition that the test of inaudibility will very much rely on the sensitivity of an individual's hearing, this section typically advises that it will be accepted that this measure has been met if the music does not exceed the background level at the boundary of any dwelling by more than +5dB LAeq 1 minute or exceed 35dB LAeq 1 minute, whichever is the lower.

The music levels generated at the Chepstow 2015 event would at the proposed location in my opinion have the potential to cause substantial disturbance to the residents living in the locality and for a statutory noise nuisance to be caused with regard to the provisions of the Environmental Protection Act 1990.

On consideration of these factors in my opinion there is the significant potential for the key Licensing Act 2003 objective 'prevention of public nuisance' not to be met on this basis I therefore object to this application.

The Licensing Enforcement Officer Leigh Beach has also submitted the following:

I have considered the temporary premises licence application, our policy and visited the site. This is not a recognised music venue and I fear local residents may be subject to public nuisance by noise nuisance over the weekend. The music/people partying and people camping on site. This site is in a rural area of Monmouthshire therefore the usual noise level will be very low at night with reduced traffic on the main road, a music festival until 3am is likely to be heard by local residents in my opinion. From my experience with public nuisance the later

the noise occurs the less people tolerate it and the more nuisance it causes for local residents. Therefore I'm concerned for the hours applied for.

Relevant Representation:

Public Safety : Extremely dangerous entrance, not suitable for this amount of traffic.

Public Nuisance: Noise levels not appropriate for this area

3.8 Representations made under the Licensing Act 2003 must be made under the four key licensing objectives, namely:-

- The prevention of crime and disorder;
- Public Safety;
- The prevention of public nuisance; and
- The protection of children from harm.

However, Section 9.9 of the Guidance issued by the Home Office states:

It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.

3.9 **In response to the representation the applicant Mr Elias Cole submitted the following on behalf of the Balter Festival:**

We are very disappointed but do understand the concerns of Mr Huw Owen. We had believed that by moving venues to one that was only near a few houses as opposed to several thousand we would be in a better position but obviously that was incorrect. We do put a heavy emphasis on controlling the sound as best as possible, but obviously we are also trying to run a successful and enjoyable event for a couple thousand people so invariably this can be louder than local residents may expect. We would expect though to be bringing in significant business to the area, both from our audience and ourselves using local suppliers and farm equipment.

3.10 In accordance with 9.2 of the Home Office Guidance issued under Section 182 of the Licensing Act 2003 a hearing is not required if no representations were received or such representations were withdrawn. Furthermore, a hearing is not required if conditions have been agreed and agreed by all parties. However, in this instance no agreement was reached and therefore a hearing is required.

4. REASONS:

4.1 The determination of an application is to be considered in accordance with Section 18 of the Licensing Act 2003.

4.2 In section 9.4 of the Guidance issued under section 182 of the Licensing Act 2003, the Secretary of State recommends that, a representation would only be "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.

4.3 Monmouthshire County Council's Policy on Prevention of Nuisance are set out in Section 11 and read as follows:

Prevention of public nuisance

Licensed premises can have significant potential to impact adversely on persons

in the vicinity and further afield through public nuisances that arise from their operation.

Subject to case law the Licensing Authority interprets 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in the vicinity of a licensed premises.

Applicants will be encouraged to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance.

The Licensing Authority recommends that licensees apply a high standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises, particularly where:

- they are situated in a residential or noise sensitive area; or
- extended opening hours are proposed.

The Licensing Authority recognises that beyond the immediate vicinity of the premises the control that a licence-holder can exert over its patrons diminishes and individuals who engage in anti-social behaviour are accountable in their own right.

When addressing the issue of prevention of public nuisance in their operating schedule, the applicant may identify steps to show that those factors that impact on the prevention of public nuisance objective have been considered.

5. RESOURCE IMPLICATIONS:

5.1 Nil

6. CONSULTEES:

Heddlu Gwent Police, South Wales Fire Service and the following departments from Monmouthshire County Council, namely, Environmental Health, Social Services, Planning, Trading Standards, Licensing and the Local Health Board

7. BACKGROUND PAPERS:

Licensing Act 2003

Guidance issued under Section 182 of the Licensing Act 2003 dated March 2015.

Monmouthshire County Council's Statement of Licensing Policy dated 1st July 2015.

Live Music 2012

8. AUTHOR:

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