

MONMOUTHSHIRE COUNTY COUNCIL REPORT

SUBJECT: Temporary Event Notice, Cwm Cayo Farm, Gwehelog, Usk

DIRECTORATE: Regeneration, Environment and Resources

MEETING: Licensing & Regulatory Sub-Committee

Date to be considered: 23rd May 2017

DIVISION/WARDS AFFECTED: Usk

1. PURPOSE:

- 1.1 To consider a Temporary Event Notice under the Licensing Act 2003 for a field at Cwm Cayo Farm, Gwehelog, Usk. This application has been made by George Thompson of Triplicity Ltd, 30 Richmond Road, Montpellier, Bristol, Avon, BS6 5EW.

2. RECOMMENDATION(S):

- 2.1 It is recommended that members consider and determine the notice, on the basis of the information provided. Members are able to:-
- Approve the notice / or
 - Issue a counter notice which will refuse the notice

3. KEY ISSUES

- 3.1 A Temporary Event Notice has been submitted for a field at Cwm Cayo Farm, Gwehelog, Usk by George Thompson of Triplicity Ltd, 30 Richmond Road, Montpellier, Bristol, Avon, BS6 5EW to Monmouthshire County Council on 15th May 2017.

The notice has been made for the event to start on the 1st June 2017 and end on the 5th June 2017 for the following activities:-

Sale of Alcohol

02/06/17 – 12:00hrs – 02:00hrs
03/04/17 – 10.00hrs – 02:00hrs
04/05/17 – 10:00hrs – 00:00hrs

Performance of Music

02/06/17 – 12:00hrs – 03:00hrs
03/06/17 – 10:00hrs – 03:00hrs
04/06/17 – 10:00hrs – 00:00hrs

A copy of the notice is attached to this report as **Appendix A** and the location map as **Appendix B**.

- 3.2 The premises is an open field set in a rural location 2.5 miles north of Usk. The event will consist of 3 small music stages, 1 bar, art exhibition area, craft workshops, performing arts area, market place, therapy/massage area and food stalls. The general age of attendees to our events is very varied and ranges between 18-60. Parents are permitted to bring their children and there are policies in place for this and usually child numbers are small.
- 3.3 The applicant states that the event is to be run in accordance with a detailed Event Management Plan (EMP), Event Safety Risk Assessment (ESRA), Triplicity Noise Management Plan (NMP) and Triplicity Noise Survey with sound check map. These are attached as **Appendix C**.
- 3.4 The applicant has a statutory duty to send copies of the Temporary Event Notice to Heddlu Gwent Police and Environmental Health 10 working days prior to the event. The Police and Environmental Health are able to object to the notice within 3 working days from the following day the notice was received. No other party is able to make a representation on a Temporary Event Notice. The notice was submitted on line and as such the Licensing Section forwarded the notice to the statutory consultees.
- 3.5 An objection to the notice was received from the Environmental Health officer Ami Lawton which states the event would undermine the prevention of public nuisance. The objection is as follows:

With regards to Triplicity's proposals for 2017 at this site, we have issued guidance and the latest version of their Noise Management Plan submitted has agreed that they will comply with this guidance. However I am not convinced this will be achievable based on the rural location, the type of music planned being house and dance music, and the proposed finish time of 03:00 on the Friday and Saturday night.

The proposed site is in a rural location with potentially very low background noise levels during late night hours. I suggest that the background levels after midnight could potentially drop to the low 20 decibel region.

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 23:00 and 09:00 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.

At the proposed location I would consider a limit after 23:00 to be based on the background +5 dB which would potentially be very low given the rural location. I suggest that such limits would make the event not practical after 23:00 given the music output that the Festival would want in order for the event to be a success from their perspective. I note that the application finish times are well in excess of 23:00 with 03:00 hours requested on the Friday and Saturday nights and 00:00 on the Sunday night.

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 and on this basis I therefore object to this application.

3.4 The applicant has responded to the objection with the following:

I spoke with Ami earlier & regardless of the stated facts that we will adhere to the restrictions set by her she still felt that she would have to make an objection.

We have taken all appropriate measures and gone beyond what's required in our efforts to reassure you of our willing and competence:

- We have reduced the length of amplified music by 1 night
- Further reduced by 1 hour each night
- Reduced both our day time and night time levels significantly
- Carried out predictions on & off site - this was not an easy or cheap task & shows extreme willing to achieve our goal of zero complaints.
- Added extra off site monitoring times

Her objection is strongly based on negative experience of past events who did not adhere to their Noise Management Plan, had no Residents Complaint Line and by the sounds of things completely ignored any sound restrictions.

We are not this previous event. And we should not be punished because of others actions. Ami herself said this to me, yet here we are.

We have met the guidance given in the Code of Practice on Environmental Noise Control at Concerts 1995. Again as Ami states in her objection:

"we have issued guidance and the latest version of their Noise Management Plan submitted has agreed that they will comply with this guidance."

So, she issued guidance, we agreed to meet her guidance. And yet she is still making an objection.

I definitely want to go forward with a meeting at Licensing Sub Committee.

I've already repeatedly expressed our competence in Sound Management and really cannot understand Ami's objection.

Here is a small list of other UK festivals & their cut off times that all take place in extremely rural and quiet areas, with neighbours, but that with decent sound management continue to be successful year in year out. I have been involved in sound at all of these festivals previously (except One Tribe).

Noisily Festival - (Leicestershire) - 5am
Shambala Festival - (Northamptonshire) - 5am
Glastonbury Festival - (Somerset) (The smaller stages which are more similar to our event) - 6am
Secret Garden Party - (Cambridgeshire) - 5am
No Man's Land Festival - (Sussex) - 5am
One Tribe Festival - (Cheshire) - 24hrs

This is a ridiculous amount of stress in the run up to a highly organised & well produced event. Unnecessary and a waste of all of our time. We've agreed to stick to the regulations set by Ami, and will do, yet she is still objecting. This whole process makes no sense?

3.5 The Environmental Health Officer has responded to the above:

The key factor in the decision reached to object to this proposal is that I am not convinced the levels agreed to in the Noise Management Plan submitted by Triplicity will be achievable based on the rural location, the type of music planned being house and dance music, and the proposed finish time of 03:00 on the Friday and Saturday night.

I would be prepared to consider any modifications proposed by Triplicity with regards to substantially earlier finish times, any proposals regarding play lists and the nature of music played after 23:00, possible reduction in stages after 23:00.

3.5 The applicants response is as follows:

I am willing to discuss further changes. Hence asking what the changes need to be.

Unfortunately I cannot further convince Ami that the levels are achievable (even though they 100% are & we will) & her opinion is based on previous events terrible behaviour.

I don't know how to react to:

"I would be prepared to consider any modifications proposed by Triplicity with regards to substantially earlier finish times, any proposals regarding play lists and the nature of music played after 23:00, possible reduction in stages after 23:00."

I have already done this. I ask please can any further guidance from Ami be direct and quantifiable as otherwise I feel this exchange could go back and forth while I poke in the dark to try and achieve what is wanted. (We have already done this).

Please tell me exactly what you want specifically & then we can discuss further.

3.6 Environmental Health have responded with:

I have tried calling you this morning but there was no answer and no facility for me to leave you a message.

The crucial factor in this application from an Environmental Health and noise control perspective is the finish times. Secondly is that the location is extremely rural in nature so the later into the night the event goes, the quieter the background levels will become and therefore the more difficult it would be for you to adhere to the noise levels set in the guidance issued.

I would be happy if the music finished at midnight and there was no amplified music after 23:00. The reason for this is because I don't feel the location is fit for purpose for this sort of event. Proposed levels are going to have to be so low that I am unable to see how you can adhere to them whilst still achieving your customer entertainment factor for this type of event with this type of music.

I understand that this may not be changes you feel that you can make and that the event has already been advertised with tickets sold. Unfortunately these are not factors I am able to consider from an Environmental Health perspective.

4. REASONS:

4.1 In making its decision, the Sub Committee is obliged to have regard to:-

- The Licensing Act 2003
- National Guidance
- Council's own Licensing Policy and
- All representations made and evidence presented

4.2 The determination of an application for a Temporary Event Notice under Section 105 (1)-(3) of the Licensing Act 2003 states:-

(1) This section applies where an objection notice is given in respect of a temporary event notice.

(2) The relevant licensing authority must-

(a) hold a hearing to consider the objection notice, unless the premises user, the chief officer of police who gave the objection notice and the authority agree that a hearing is unnecessary, and

(b) having regard to the objection notice, give the premises user a counter notice under this section if it considers it necessary for the promotion of the crime prevention objective to do so.

(3) The relevant licensing authority must-

(a) In a case where it decides not to give a counter notice under this section, give the premises user and the relevant chief officer of police notice of the decision, and

(b) in any other case-

(i) give the premises user the counter notice and a notice stating the reasons for this decision, and

(ii) give the relevant chief officer of police a copy of both of those notices.

4.1 In section 7.28 – 7.40 of the Guidance issued under section 182 of the Licensing Act 2003, the Secretary of State regarding how the Licensing Authority should deal with objections is attached as **Appendix D**.

- 4.2 Section 7.39 of the Guidance states that Section 105 of the 2003 Act is clear that a licensing authority must hold a hearing to consider any objections from the police or Environmental Health unless all parties agree that a hearing is not necessary. The applicant and objector have not come to an agreement and therefore the hearing will go ahead.
- 4.3 Should members determine that the Temporary Event Notice be refused, the applicant has a right of appeal against this decision to the Magistrates. However, should members determine that the notice be allowed to proceed, disregarding the Environmental Health Officer (EHO) objection, then the right of appeal is afforded to the EHO.
- 4.4 Section 14.4 of Monmouthshire County Council's (MCC's) Licensing Policy states relevant representations will be taken as those that relate to the fundamental principles of the Licensing Act, any organisation or individual wishing to objection to any application will therefore need to state whether they are doing so on the grounds of:
- The prevention of crime and disorder
 - Public Safety;
 - The prevention of public nuisance
 - The protection of children from harm
- 4.4 Section 22 of MCC's policy also states that the Licensing Authority recommends that anyone wishing to submit a Temporary Event Notice, particularly where this involves the provision of regulated entertainment, gives as much notice to the Authority as possible, to ensure that proper advice can be given and any anticipated issues resolved in a planned and timely manner. A period of at least 10 weeks is recommended for this process, and a longer consultation period should be considered for larger events. Whilst notice can legally be submitted with 10 working days or a late notice in 5 working days prior to the event taking place, a period of 10 weeks is recommended for larger events.
- 4.6 2.24 of MCC's policy recommends that contact be made with the Events Safety Advisory Group and this was duly carried out on the 4th April 2017 however no application was submitted to the Licensing section for regulated entertainment or alcohol sales.

However, the policy is a guidance document and is not statutory function. Monmouthshire County Council's Policy further stipulates that each application has to be treated on it's own merit and that the licensing authority should support licensees on a wide range of entertainment activities to promote the cultural benefit of the community.

5. RESOURCE IMPLICATIONS:

- 5.1 Nil

6. CONSULTEES:

Heddlu Gwent Police
Local Authority Environmental Health

7. BACKGROUND PAPERS:

Licensing Act 2003

Guidance issued under Section 105 of the Licensing Act 2003

Monmouthshire County Council's Statement of Licensing Policy dated 7th January 2015

8. AUTHOR:

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