

APPENDIX 8



Directorate for Planning, Growth and Sustainability

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Dealt with by: Mr A Godman
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Your Ref: PR0844/PR202309-331542/LC201711-4115
Date: 12/10/2023
Our Ref: PR202310-332089
Email: Andrew.Godman@Buckinghamshire.gov.uk

BY EMAIL

Dear Sir/Madam

Licensing Act 2003

Re: Review of Premises Licence – Bury Farm Equestrian Centre, New Bury Farm, Mill Road, Slapton, Leighton Buzzard, LU7 9BT (review reference: PR202309-331542)

Thank you for notifying the Strategic Environmental Health Protection Team regarding the above.

I am an authorised officer of the Council as set out in Section 69(2)(d) of the Licensing Act 2003. I fulfil the duties of a Responsible Authority as defined by Section 69(4)(e) of the Act in terms of the Council's statutory functions associated with the minimisation or prevention of risks associated with pollution to the environment or harm to human health. The scope of my role broadly encompasses the *prevention of public nuisance* licensing objective as described in Section 4(2)(c) of the Licensing Act 2003.

As a representative of a Responsible Authority with a particular focus on the prevention of public nuisance licensing objective I consider it appropriate that I make the following representation in connection with this review:

Comments on Mrs Griffin's application for review of premises licence

Mrs Griffin's grounds for review, as cited in her application form, make explicit reference to the following three licencing objectives:

- (a) the prevention of crime and disorder
- (b) public safety
- (c) the prevention of public nuisance

The applicant also submitted a 9 page email to the Licensing Authority setting out her views as to why the current premises licence for New Bury Farm is not fit for purpose – see summary over page.

- The granting of planning permission regarding New Bury Farm was inappropriate
- The ownership of a single track driveway running between Mill Road and New Bury Farm is in dispute and use of it by the licence holder and festival attendees amounts to trespass
- Loss of residential amenity due to event traffic (i.e. noise associated with motorcycles and inhibited access to her property)
- Misleading information was submitted in connection with a number of premises licence applications regarding New Bury Farm
- Damage to trees
- Non-conformity with the 2023 Event Management Plan as regards traffic routes as regards the Fields of Thunder event *et al*
- The general unsuitability of the driveway as regards festival traffic
- Members of the public looking into her residential property whilst using the driveway
- Event music noise
- Inadequate communication from the event organisers
- Liability arising from use of the driveway

Many of these points are, in my opinion, beyond the scope of the Licensing Act 2003 and so I focus on the following areas that *may* have a relevance to the prevention of public nuisance licensing objective:

Loss of residential amenity/access to a property

The concept of residential amenity is largely associated with town and country planning legislation and the decision making of the Local Planning Authorities. The Licensing Act 2003 makes no reference to the term *amenity* but does harnesses the principle of public nuisance in connection with one of its licensing objectives.

Guidance issued by the Secretary of State under Section 182 of the Act states that the use of the term public nuisance in the context of local authority licensing retains its broad common law meaning. In this case I have been guided by the Attorney-General v PYA Quarries 1957 judgement and, in particular, the comments of Lord Denning in that case:

“I prefer to look to the reason of the thing and to say that a public nuisance is a nuisance which is so widespread in its range or so indiscriminate in its effect that it would not be reasonable to expect one person to take proceedings on his own responsibility to put a stop to it, but that it should be taken on the responsibility of the community at large.”

In my opinion the Licensing Act 2003 and supporting statutory guidance make clear that licensing authorities should have regard to *public* rather than *private* nuisances in their decision making. Having visited the site on a number of occasions over the past few years (including both the festivals this year) I appreciate that use of the single track driveway adjacent Mrs Griffin’s property as the main access/egress route for festival-goers and event staff is likely to result in noise (which is likely to be audible within the curtilage of her property) and inhibit her access/egress in connection with her dwelling/business; such an interference may, if repeated, amount to a private common law nuisance. However, due to the limited number of households

subject to that interference I do not believe that it could reasonably be described as a public nuisance having regard to its definition above. (NB: the Council has not received any other complaint concerning noise arising from the events at New Bury Farm in 2022 or 2023).

However, event related traffic congestion and associated noise impacting the wider community could conceivably amount to a public nuisance and therefore I believe that this supports the need for an appropriate regulatory control (i.e. the agreement of a traffic management plan in connection with a premises licence) – the current New Bury Farm premises licence contains such a provision.

Noise from regulated entertainment (music) at two festivals

I attended one festival last year and both this year at New Bury Farm to monitor off-site noise levels arising from regulated musical entertainment. The noise levels that I witnessed did not exceed those set out in the agreed Event Management Plan (the element relating to 'Noise management planning and controls') for those events. These control levels reflect the contents of the Noise Council's *Code of Practice on Environmental Noise Control at Concerts* – a nationally recognised guidance document for such events.

Infringement of privacy

The Board of Trustees of the Tate Gallery v Fearn and others 2023 Supreme Court judgement established that visual intrusion could amount to a common law nuisance. Again, due to the limited number of persons impacted by the intrusion cited by Mrs Griffins I do not believe that the infringement of privacy associated with the use of the driveway as the main vehicular route to/from the event ground amounted to a public nuisance.

Conclusion

It is obviously a matter for the Licensing Sub-committee to decide whether the representations made in connection with this review contain material that falls within the scope of the prevention of public nuisance licensing objective and, if so, what measures are necessary in order to promote it in practice.

Nonetheless, I would respectfully suggest that the current premises licence contains adequate control measures as regards these risks flowing from events at New Bury Farm. The Licensing Authority has a number of enforcement options associated with a demonstrable breach of a premises licence condition, such as the failure to comply with an agreed traffic routing plan (as I believe was the case with the Fields of Thunder event) and therefore the ability to hold the licensee to account already exists.

For future festivals I suggest that the Licensing Authority and relevant Responsible Authorities carefully consider how the New Bury Farm event ground is accessed by both the public and organisers and that contingency arrangements (reflecting inclement weather etc.) are incorporated within any agreed Event Management Plan so that there is no repeat of the problems experienced by Mrs Griffin.

Yours faithfully,



Mr A Godman
Environmental Health Officer