



Decision Notice

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| Date | Wednesday, 26 April 2023 – 10:00am |
| Applicant | Live Nation (Music) UK Ltd |
| Reason for Hearing | <p>The Licensing Authority had received an application for the grant of a new Premises Licence for Lytham Festival Event Site, Lytham Green, Lytham.</p> <p>There had been representation from “other persons” and as such the panel had to determine the application.</p> |
| Parties in attendance | <p>Panel:</p> <p>Councillor Shirley Green - Convenor, Councillor Matthew Lee, Councillor Sue Fazackerley MBE.</p> <p>Applicant:</p> <p>Phil Crier – PBC Licensing Solicitors – representing the applicant, Live Nation (Music) UK Ltd</p> <p>Daniel Cuffe, Joe Robinson and Peter Taylor were also present on behalf of the applicant and answered questions from the panel and from other parties</p> <p>Other Persons:</p> <p>A number of the persons who had made representations against the application were represented by Simon Newell. The following persons who had made representations against the application also addressed the panel:</p> <p>Cath Powell MBE Anne Aitken Wayne Farnworth Peter Charlesworth</p> <p>The following persons who had made representations in favour of the application also addressed the panel:</p> <p>Stuart Robinson Kurt Czarnotta Felicity Lacey Wendy Swift</p> |

The application attracted a very significant amount of public interest, which was reflected in the amount of representations received, and in the number of people who took the trouble to attend the hearing and contribute to it. We are grateful to them and to Mr Crier and Mr Newell for marshalling the disparate elements at play into a cohesive whole. We are also grateful to Mr Taylor, Mr Cuffe and Mr Robinson for their patient attention to the questions asked of them.

Lytham Festival has become an established annual fixture on the “festival calendar”. It regularly hosts internationally renowned performers, who are appreciated by large numbers of festival goers. It requires, and has, a premises licence under the Licensing Act 2003. Under that licence¹, the maximum number of people who can attend the festival at any one time is limited to 19,999.

The application was for a new premises licence. The new premises licence, if granted, would differ from the existing licence in two significant respects. It would increase the maximum number of people who could attend the festival at any one time to 29,999. And it would increase the licensed area by lengthening its footprint both at the easterly and westerly ends.

The application did not elicit any representations from relevant authorities. But it did prompt 145 representations from “other persons”, of which 71 were opposed to the application. As a result, the applicants modified their proposals. They modified them by expressing themselves willing to accept a condition that would limit the maximum number of people who could attend the festival to the following:

Friday and Sunday of the festival in 2023: 22,500

Other days of the festival in 2023: 19,999

All days of the festival from 2024 onwards: 24,999

When there are representations objecting to an application, it is perfectly normal and proper for an applicant to try to meet those objections by offering a concession such as this. In some cases, the concession leads to objections not being pursued. In this case, it did not.

The hearing was very lengthy. This decision notice does not refer to every point that was raised. But the panel listened to of all that was said at the hearing, and had regard to everything that was relevant to the licensing objectives. The panel also read all of the written representations.

Some matters were raised that were not relevant to the licensing objectives, and so we did not take them into account. These included:

Criticisms of the statutory process for licensing applications;

The length of time between the applicants settling their aspiration for the festival for 2022 onwards and making the application;

The fact that the applicants do not have an ownership interest in the premises;

The unavailability of the Green for public recreation during the Festival;

The terms of the council’s arrangements with the applicants for the use of the Green; and

The charitable and altruistic inclinations of the applicants.

¹ The 2022 festival, which extended over a longer timeframe than normal, was held under a separate premises licence, which effectively expired after that year’s event.

It became clear during the hearing that the major concerns of the majority of those who objected to the application were not what went on within the festival site during the time the festival was held, but the impact on the community of Lytham of such a large number of people arriving for the festival, accessing it and leaving it. Objections highlighted issues around car parking, access to residential streets, the use of public spaces and private gardens as toilets and, in general, the impact of the festival on the day to day lives of local people and on some local businesses.

We understand those concerns. Lytham is a small town, with a population in the region of 9,000. Even without the increased capacity that the application seeks, during the festival there can be twice as many people in Lytham who are attending the festival as people who live there. There are many positive things about this. As the applicants and those who support the application pointed out, the festival has enhanced the profile of Lytham nationally, provides a significant boost to some local businesses (particularly those in the hospitality sector), and generally engenders local pride. Very few of those who objected expressed opposition to the festival per se. Many were careful to stress that their issue was only with the intended increase the number of people who can attend.

We share the concerns about the effect on the community of an increase in the number of people who can attend the festival. While the increase in the footprint of the licenced area will mean that a greater number of people can be safely accommodated in the arena itself, we were not persuaded that there is capacity in Lytham to absorb the additional numbers who would visit for the festival, even as reduced by the condition offered by the applicant. It was clear from the evidence we heard that daily life for many in Lytham is made less convenient during the festival, and for some is made highly inconvenient. For many, getting access to their homes in a vehicle becomes something that has to be planned for and even negotiated. For others, rowdiness and anti-social behaviour, even to the extent of the use of public and private open spaces for toilet provision, becomes a regular occurrence. Increasing the number of people visiting the Festival risks such problems getting worse.

We acknowledge that issues around parking and access are outside the direct control of the applicant. We also acknowledge that the behaviour of people who have attended the festival cannot be controlled by the applicant after they have left the festival. Paragraph 2.21 of the statutory guidance under section 182 of the Licensing Act emphasises that point:

“Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti- social behaviour is accountable in their own right.”

This suggests that licensing authorities should not normally take matters that occur away from the licenced premises into account when considering applications for premises licences. However, paragraph 1.12 of the guidance makes it clear that the guidance *“cannot possibly anticipate every possible scenario”* and that licensing authorities can depart from the guidance if they have good reason to do so.

We believe that there is good reason to depart from the guidance and to take the off-site impact of the festival into account. The overriding impact of the festival on the day-to-day life of significant parts of the local community means that it would be wholly artificial to disregard the public nuisance impacts of the festival that occur outside the licenced area when considering the application. Our decision therefore takes those impacts into account.

While some of those objecting to the application felt that ‘enough is enough’, and that the festival should not expand at all from its present size, others, including some of those who spoke at the hearing, took a more nuanced position, emphasising the need for fuller and more formalised community involvement if the community is to ‘buy in’ to any further expansion, and that any further expansion should be incremental and led by the precautionary principle.

We agree with that approach. The festival has been and continues to be a huge positive for Lytham. But it continues to have a very significant impact on the local community. The success of the festival

depends in a sense on a partnership between the organisers and the local community, who accept the disruption that comes with the festival for the positives that it brings. The increase to 24,999 which represents the current ask of the applicants is, in our judgment, a step too far. Increasing the capacity of the event by 25% to 24,999 would cause significant risk of the impacts on the community which we have mentioned earlier being elevated to an unacceptable level. While the increase proposed for 2023, to 22,500 persons, is smaller, it is far from immaterial. We feel that it would be appropriate for the increase to 22,500 to be trailed during 2023, so that the decision on any further application for a permanent increase could be informed by the real -life experience of the two nights in 2023 to which the increase applies.

We also take on board the suggestion, which was accepted by the applicants, that the present community engagement measures should be set out in a condition and subject to the oversight of the council. Similarly, the condition, accepted by the applicant, that the capacity of the festival should be subject to approval by the Safety Advisory Group ('SAG'), will be included.

Our decision is therefore:

To grant the licence as applied for, subject to the mandatory conditions, conditions reflecting the operating schedule, and the following conditions:

A condition that the maximum number of attendees at the festival at any one time is limited to 19,999, except for Friday 30 June 2023 and Sunday 2 July 2023, when the maximum will be 22,500, unless (for any date) the SAG recommends that the maximum number should be lower.

A condition that the applicant should assist in setting up a community liaison group whose remit will be to facilitate discussion between the applicant and the local community about the festival, which will be coordinated by Fylde Borough Council or such other person or body as the council approves, and which will comprise such representatives of the local community in Lytham and a senior responsible representative of the applicant.

Finally, we mention two other matters. We accept the good faith and commitment to the local area of Mr Taylor, Mr Cuffe and Mr Robinson. This has been demonstrated consistently over a number of years. But a premises licence attaches to premises and cannot be predicated on the goodwill of individuals. There may come a time when these individuals are not involved in the festival, and the licence must cater for such a time.

There was considerable discussion of safeguarding at the hearing, despite the responsible authority for child protection not having made a representation. We heard from one person that they had sent a copy of the applicant's safeguarding policy to the responsible authority, and anticipated the authority making adverse comments on it. We are not persuaded that there are any legitimate safeguarding concerns. If the responsible authority required sight of the applicant's safeguarding policy, it could have asked for it as part of the consultation process. It did not, and made no representations.

Thank you to all concerned in the hearing. That is our decision.