

**Unconfirmed**



Minutes of a Meeting of the **Licensing Sub-Committee** held in the Claud Castleton Room, Riverside, Lowestoft on **Tuesday, 4 June 2019 at 12.30pm**

**Members of the Sub-Committee present:**

Councillor Jocelyn Bond, Councillor Janet Craig, Councillor John Fisher, Councillor Mark Newton

**Officers present:**

Teresa Bailey (Senior Licensing Officer), Sarah Davis (Democratic Services Officer), Leoni Hoult (Licensing Officer), Ben Hunter (Environmental Protection Officer/Environmental Health Officer), Andrew Reynolds (Environmental Protection Manager), Kerryn Woollett (Litigation Lawyer)

**Others present:**

Danny Banthorpe, Andrew Collins, John Collins and Alec Faccas (Applicants - Nearly Festival OB Ltd)

Ben Falat, Vice-Chairman of Oulton Broad Parish Council (Supporter)

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**1 Election of a Chairman**

**RESOLVED**

That Councillor Fisher be appointed as Chairman for this meeting.

**2 Apologies for Absence and Substitutions**

There were no apologies for absence or substitutions.

**3 Declarations of Interest**

Councillor Newton declared an interest during the discussion on item 4 when it became apparent that he had worked for the same company as one of the applicants but he did not know him personally.

**4 Application for a new Premises Licence: Nearly Festival, Oulton Broad**

Members of the Sub-Committee and Officers were asked to introduce themselves. The Chairman explained that Councillor Bond was present as a Substitute in case anything happened to a Sub-Committee Member before the Hearing commenced, or during it, as the Substitute could then take their place. He stated that Councillor Bond would remain for the duration of the Hearing and for training purposes would retire with the Sub-Committee when it was considering its decision. All parties were asked if there were any objections to the Substitute retiring with the Sub-Committee and no objections were made.

The Chairman asked the applicants and interested parties to introduce themselves. Mr Banthorpe reported that another Oulton Broad Parish Councillor also wished to speak in support of the application, however, the Litigation Lawyer stated that this was not possible because the Parish Councillor had not made a representation requesting to speak within the prescribed timescales.

Mr J Collins queried if their recent correspondence with the Environmental Protection Team was admissible and the Litigation Lawyer indicated that it was, provided the Environmental Protection Manager agreed, which he confirmed he did.

The Litigation Lawyer outlined the procedure for the meeting as well as the order in which parties would speak. All parties were asked to confirm that they had received the meeting papers, however, Mr J Collins stated that they had not received Appendix B of the Officer's report. The Licensing Officer confirmed that, whilst Appendix B had not been published online as it contained confidential consultation responses, it had been sent to the applicants directly. The Sub-Committee agreed to adjourn to enable the applicants to read Appendix B.

*The Sub-Committee adjourned at 1.05pm and reconvened at 1.25pm.*

All parties confirmed that they had now read the paperwork, however, Mr J Collins stated that they had not realised paperwork had to be submitted in advance and they wished to submit a document and email from their acoustic consultant as evidence. Mr Falat reported that he wanted to submit a graph showing activities that residents had asked the Parish Council to hold in the park. The Litigation Lawyer explained that additional documents could only be submitted at the meeting if all parties were agreeable. All parties confirmed they were happy for the documents mentioned to be submitted.

The applicants were asked if they wished to withdraw their application and they confirmed that they did not.

Mr A Collins queried whether the Sub-Committee had seen the Noise Management Plan and the Senior Licensing Officer clarified that Members had copies of all the original paperwork but did not have any correspondence sent between the applicants and Officers after the agenda had been dispatched. It was agreed that Members would be taken through the Noise Management Plan and they could then retire to consider the document in more detail if they felt it necessary. The Environmental Protection Manager reported that he had brought a copy of all the correspondence between the parties and the applicants agreed that it could be referred to if necessary.

All parties were asked if there were any further documents they wished to submit or refer to during the Hearing and the Environmental Protection Manager stated that he had also brought the Code of Practice for Concerts, the Council's Licensing Policy and examples of Noise Management Plans as they should be written. The Litigation Lawyer queried whether he wished to refer to them at the Hearing and he responded that he was not relying on them but they were useful examples. Mr J Collins stated that there was not sufficient time to consider the examples pointing out that it would have been useful to have had them beforehand, however, because the policy documents had been used as guidance, they had no objection to them being referred to if the intention

was to go through them point by point. The Environmental Protection Manager confirmed that the examples were only for reference if necessary. The Litigation Lawyer stated that the Sub-Committee could allow Policy type documents and obviously they would consider the Council's Licensing Policy, however, the examples of Noise Management Plans would not be allowed. Mr Faccas pointed out that when they had first approached the Council they had been given Waveney District Council's Licensing Policy but now reference was being made to the East Suffolk Policy. The Environmental Protection Manager and Senior Licensing Officer clarified that the Policy had just been updated from the predecessor Council but no significant changes had been made to the content.

The Litigation Lawyer asked again if there were any further documents to be submitted or referred to and it was confirmed by all parties that there were no other documents.

The Sub-Committee received the Cabinet Member with responsibility for Community Health's report ES/0028 which detailed an application for a new premises licence for The Nearly Festival at Nicolas Everitt Park for one weekend per year only.

The Licensing Officer presented the report and stated that a Hearing was required as relevant representations had been made within the statutory 28 day period. It was noted that one representation was in support of the application and one was against. The Officer confirmed that the applicants had been sent a copy of the representations as detailed in Appendix B to the report. Since publication of the report, negotiations had continued between the Environmental Protection Team and the applicants, however, up until the day before, no agreement had been reached and, therefore, the Hearing was still required.

The Licensing Officer referred to the main points for consideration as identified within the report, including having regard to guidance issued under Section 182 of the Licensing Act 2003, the Council's Statement of Licensing Policy and the Human Rights Act 1998. Members were asked to give full reasons for departing from these if it chose to do so. The Sub-Committee was asked to determine this application by:

1. Granting the application subject to any mandatory conditions and to those consistent with the application.
2. Granting the application subject to the same conditions but modified to such extent as the Sub-Committee considered appropriate for the promotion of the licensing objectives.
3. Or by rejecting the application.

The Sub-Committee was reminded that, depending on their decision, both the applicant and the other parties that had made representations had rights of appeal to the Magistrates' Court. When announcing its decision, the Sub-Committee was asked to state its reasons.

Clarification was sought on whether the Licensing Team were aware of where the negotiations had got to and the Licensing Officer responded that, up until the day before, the parties had copied Licensing in when they were emailing each other but, because they were under the impression that agreement had still not been reached,

the application needed to be heard. In response to a query, the Senior Licensing Officer confirmed that the application was for one weekend per year.

There being no further questions to the Licensing Officers, the Chairman invited the applicants to expand on their application for a Premises Licence.

Mr Banthorpe reported that they were a local company that had operated for five years. They had organised nine similar events to date and a tenth would be held at Earlham Park in Norwich. He explained that it was called “Nearly” because it involved tribute acts. The aim was to hold a family friendly event with people encouraged to bring their own chairs so there would not be much jumping around and it would not be too loud. Tickets were affordable and the intention was that it would not be overcrowded. The event would finish each day at around 9.30pm to lessen any risk of Anti-Social Behaviour. It was noted that there would only be one stage with approximately seven acts per day. There would also be a children’s area, main food venue and a bar with SIAs who would challenge anyone who looked under 18. Over 18s would be asked to wear a wristband and “bring your own” drink would not be allowed. He added that they had experienced few alcohol related incidents at their past events because they nipped potential issues in the bud. He continued that children were safe because the event would be ticket only and within a fenced area. He added that it was a community event that would support charities and hopefully involve local businesses. It was clarified that the applicants were working with other businesses in the park to ensure they could still trade and locals would be able to enjoy the park as the event would only use half of the site. Local hotels and taxi firms were being used and, to date, there had been healthy ticket sales. The applicant stated that the Parish Council who operated the park had been very welcoming. He felt that this was a great event for families or those with special needs or disabilities and he concluded that the company’s aim was to bring a safe, controlled event to the District.

There being no questions from the Sub-Committee, the Chairman invited Officers to ask questions of the applicants.

The Litigation Lawyer sought clarification on the number of tickets sold to date and it was noted that 900 adult tickets had been sold for the Saturday and 700 for the Sunday. Mr Banthorpe added that approximately 1300 adult tickets were available per day and the maximum number of people at the event would be 2000 in total, including children.

The Environmental Protection Manager queried how many people were expected at the event at any one time and it was reiterated that, in total, there would be a maximum of 2000 including children, with around 33% being between the age of 5-15. Mr Banthorpe added that there was no charge for babies and they tended to work on an average of approximately 1000 adults and 500 children.

The Licensing Officers confirmed that they had no questions for the applicant.

In response to a Member’s query, Mr A Collins indicated that only the top of the park on the grassed area near the bandstand would be used this year, although, in future years, the area might be widened out if the Parish Council agreed. He also confirmed that members of the public not attending the event would still be able to get around to

all areas of the park. Members were assured that, even if the area was widened in future, there would still only be one stage with the same headcount so the public could use the park at the same time.

Mr J Collins reported that he was a Director of EclipseUK Ltd and was the named licensee so he oversaw the bars. He had two Master's Degrees in Science so he felt qualified and competent to speak about noise management. He explained how the alignment of the speakers either side of the stage affected the noise emanating from them and that the aim was for the audience to have balanced hearing. An engineer would be located in a tent about 30 metres away from the stage to ensure that the sound was balanced by changing the alignment and volume levels to channel the sound to cover different parts of the crowd. This ensured that the noise was where they wanted it and was away from people outside of the Festival. The day before the Festival, the sound engineer would make sure it all worked and the noise monitoring engineer would take measurements around the site while being in contact with the sound engineer so he could turn the volume down if it was too loud. Checks would be made again once the concert started to ensure the set levels were not exceeded. The noise monitoring engineer would also check noise levels around the area during the Festival. In relation to the Noise Management Plan, Mr J Collins stated that they would abide with the guidelines and ensure that noise was under 65dB. He explained that the modelling programme they used went beyond the site and also over-estimated noise levels the further someone moved away from the speakers. If it was found that noise levels were well above 65dB it would be apparent that there was a problem and sound levels would be changed. He pointed out that the area was adjacent to the Broad and this would need to be allowed for as water surfaces were not as absorbent as grass, but the modelling programme had said there should not be a problem. He concluded that this was the only event where a licensing authority had asked for predictions to be undertaken.

The Chairman asked if anyone had any questions for Mr J Collins.

In response to a query from the Environmental Protection Manager, Mr J Collins stated that background measurements would not be taken in the vicinity of any other venues because Sharps Redmore had said it did not add to the data so if the background level was below 65dB that should be okay. Further details in relation to Sharps Redmore were requested and Mr J Collins indicated that they had worked with them in the past and he referred to their letter confirming they were happy with the Noise Management Plan. The Environmental Protection Manager pointed out that it had only been received the day before and he queried when the applicants had contacted the consultants. Mr A Collins responded that it had been at the end of the previous week and the consultants had made a few comments on the Plan but said that the background level was not relevant. The Environmental Protection Manager asked if the consultant's comments had solely been in their written correspondence and Mr A Collins confirmed that they had also spoken verbally. Mr J Collins pointed out that they were a reputable firm of acoustic consultants who had gone on record to give their advice and send a letter of support. He added that they had talked to Sharps Redmore as "competent people" in accordance with the Council's Guidance because of the Environmental Protection Manager's concerns regarding their own competency, despite the fact that Mr A Collins who had drawn up the Noise Management Plan, had

previously been employed by Sharps Redmore as a consultant in matters related to sound system design.

The Environmental Protection Manager queried if Sharps Redmore had said there was no need to do background measurements and Mr A Collins stated that they had been told that background measurements were not relevant. The Officer referred to the Code of Practice which stated that it was necessary to determine sound propagation characteristics of the venue, and he queried if the applicants regarded Sharps Redmore's advice as over-riding the guidance document. Mr J Collins responded that, whilst the document was only guidance, they wanted to do what was appropriate but Sharps Redmore had said that background measurements would not add anything. He added that the applicants had visited the site and determined there was not going to be an issue if the noise was below 65dB. He also confirmed that they had carried out the calculations on the decibel level.

The Environmental Protection Manager queried if Ease Focus, the modelling programme used, had any facility for reflecting wind direction etc and he pointed out that when using software to model sound there had to be some raw data. Mr A Collins stated that his earlier communication had covered this point. He added that the programme allowed them to predict the parameters of the speakers and what they would do when they were coupled together. Details were put in the software and because the computer knew where the speakers were sited, it gave the maximum volume levels that could be achieved. In response to a query, he explained that the target was 100dB 30 metres away from the stage. The Environmental Protection Manager asked if the software data used would be submitted to the Council as part of the Noise Management Plan, including the calculations for the noise levels. Mr J Collins pointed out that the Guidance did not stipulate what a speaker was and, therefore, he queried why they had to state the sound levels. The Environmental Protection Manager acknowledged that it was not in the Guidance, however, he wanted evidence that there had been an attempt to calculate the propagation of sound and levels of attenuation over distance. He pointed out that Ease Focus was downloadable for free and was not intended for use for modelling sounds propagation for the purposes of the application of the Code of Practice for outdoor events, therefore, he felt the software was being used to do something it was not designed to do. Mr J Collins reported that the same people who supplied the programme had supplied the speakers and, therefore, it knew exactly the parameters of sound the speakers would make.

The Environmental Protection Manager queried if any of the applicants had relevant qualifications in acoustics and Mr J Collins confirmed that, whilst none of them had specific qualifications, he was a research scientist with two Master's in Science and, therefore, he felt he was a competent person. He also pointed out that the guidelines did not stipulate that applicants had to be Noise Management Consultants with qualifications but given their backgrounds and history of organising events, they felt they were competent and Sharps Redmore, who were reputable consultants, had agreed that they were.

Mr J Collins introduced Mr A Collins who was a Director of EclipseUK and also of the Festival. Members noted that he had worked in the industry for 20 years with his own business for 16 years. He had also been used as a consultant by Ipswich Borough Council.

Mr A Collins explained that Sharps Redmore had reviewed the Noise Management Plan and were happy it covered everything they would have done. He read out a letter from the consultants and it was noted that they had recommended a second check be carried out of the site because the wind might be different on the day and this had the potential to change the levels. Mr A Collins then responded to the Environmental Protection Team's consultation response:

- 1(a) Page 2 of the Noise Management Plan – the Ease Focus Programme predicted the maximum distance away where noise management was needed which was at Bridge Road, however, the software did not know that there were houses and trees in the way so there was likely to be less of an impact than predicted. The speakers could provide 110dB at full capacity and the graph showed four locations where there was a potential for noise nuisance. Sound levels were aimed into boxed areas of the site and the speakers were designed to keep sound in that. Reference was made to the coloured graph showing the predicted noise levels.
- 1(b) The event would be set up on Friday morning and a test of a typical song would be carried out at location 2 as that was where the nearest noise issue could be, then when they were satisfied they would move to location 3 and the track would be played at the same volume then repeated at location 4 and 5.
- 1(d) Page 2 - the noise management engineer would check noise levels with the sound engineer during the event and checks would now be made on Saturday morning as Sharps Redmore had suggested, with changes made if necessary.
- 1(e) A mobile number for registering complaints had been advertised and it was confirmed that a letter would also be sent to local residents.
- 1(f) Noise levels would not exceed 65dB over 15 minutes which had been taken from the Guidelines.
- 1.2 Page 4 – A record of issues during the event would be considered afterwards.
- 1.3 There would not be any plant on site and only silent running generators used.
- 2 The water supply was no longer an issue and this was confirmed by the Environmental Protection Manager who clarified that this was because the applicants would now be using the mains water supply.

Mr A Collins stated that Environmental Protection Officers were suggesting that the Noise Management Plan was not valid because the applicants did not have qualifications, however, the letter from Sharps Redmore, obtained the day before the Hearing, stated that they would do what the applicants were doing so this showed that they were competent because the consultants had agreed with them.

The Chairman asked if the Sub-Committee had any questions for the applicants.

In response to a Member's query on noise levels and comparisons, Mr A Collins stated that the 65dB limit was in the guidance and a bus driving past was 75dB but measurements were taken over a 15 minute period and averaged out so it was difficult to equate something to 65dB. He explained that someone could talk with a

background level of 65dB eg silent generators were 65dB and it would be possible to talk next to them. Members noted that, whilst the volume would not be turned up to the maximum levels, it needed to be loud enough to enjoy but was a nice level to listen to. Mr A Collins stated that pop concerts were generally 100dB so levels below 90dB were unlikely to be satisfactory.

The Environmental Protection Manager asked if Sharps Redmore had visited the site and Mr A Collins stated that they had not, they had only looked at a plan. The point was made that visiting a site was key to giving an opinion on background noise as referred to in the Code of Practice eg different areas would expect to have different noise levels and the purpose was to determine the sensitivity of an area. Mr J Collins indicated that the Code of Practice did not state that noise levels had to go below 65dB and the Environmental Protection Manager explained that there was a requirement for an assessment of the site and the viability of the events planned to be held and this was covered in Page 4 of the Code, but the applicants had not done this.

Clarification was sought in relation to the specification of the sound meters being used and Mr J Collins stated that, following Officers' queries on this issue, two meters had now been booked for the event but if they broke then they would use a type 2 calibrated meter rather than a specific type of meter, which is what they had intended to do on the day. He assured Members that the meters would be of the same level at the right specification. The Environmental Protection Manager commented that this was positive news.

Reference was made to Sharps Redmore's recommendation that extra sound checks be carried out and Mr A Collins stated that, whilst they did not wish to annoy neighbours at 10am when the event started at 12, if it was felt that extra checks were preferable then they were happy to do them. The Environmental Protection Manager commented that, although this was a positive step, it was concerning that the applicants had only just agreed to it based on Sharps Redmore's advice rather than having due regard to Section 4.8 on page 11 of the Code of Practice for Noise Control of Concerts in relation to the carrying out of sound tests. Mr A Collins stated that they had agreed to do extra sound checks for both reasons, although this could cause issues as their letter to residents had stated that checks would take place on Friday so residents would not be expecting checks Saturday morning.

There being no further questions to the applicants, the Chairman invited the Environmental Protection Manager as the objector to address the Sub-Committee.

The Environmental Protection Manager reported that, in pursuit of its functions as a licensing authority, East Suffolk Council was required to produce and publish a Statement of Licensing Policy which was available on the Council's website. The Policy addressed how the Council proposed to discharge its functions as a licensing authority to achieve compliance with the "Licensing Objectives" set out in the Licensing Act 2003, which included, amongst other things, the Prevention of Public Nuisance. It contained detailed notes on how event organisers should set about ensuring that they dealt with the potential for public nuisance from their licensable activities. Members' attention was drawn specifically to paragraph 14.4.6 on page 23 of the Policy which provided examples of control measures to be applied to assist applicants in the preparation of their proposals for licensable events. This detailed advice had been a consistent part of



the Statement of Licensing Policy since the Licensing Act came into force in 2003, so it was by no means new. Members were assured that the Litigation Lawyer would be able to advise them on the status of this document as a piece of formally adopted Council Policy. Section 14.4.6 referred to the need to have regard to relevant codes of practice. The relevant industry code of practice in these circumstances was the Code of Practice on Environmental Noise Control at Concerts published by the Noise Council in 1996 and this was available via an internet search. In brief, the code of practice set out a methodology for planning any large outdoor musical event. It defined “large” as anything with an audience from several hundred people upwards hence this event with an anticipated audience of 2000 people fitted this description. The methodology required an assessment of the suitability of the venue, and some modelling to be done to predict the way noise arising from the event would affect the locality. This included:

- measuring background levels,
- the character of the location, including taking into consideration the nature and frequency of other noisy events which take place at the same location at other times
- the presence of noise sensitive receptors
- the number of similar outdoor musical events proposed to be held at the location during the course of any year

The Environmental Protection Manager continued that, as Members were aware, the proposed venue was a small park beside Oulton Broad on the edge of the Broads National Park, the Oulton Broad conservation area, opposite high quality housing (from 200m away on the opposite shores of the Broad) and about 500 metres to the East of the Carlton Marshes Nature Reserve which was the largest Suffolk Wildlife Trust reserve in Suffolk. The 1996 Code of Practice provided some suggested noise limits which might be applied for events under a selection of circumstances, and proposed that a “competent person” should calculate the likely impact of the proposed entertainment on the nearest noise sensitive locations with a view in the first instance to establishing the viability of the venue. In other words, the first question which had to be addressed was if “it was sensible to expect to be able provide the sort of entertainment proposed in that locality without causing disproportionate disturbance to residents”. Assuming the answer to this question was yes, the code then went on to detail a methodology for testing and adjusting if necessary the sound propagation predictions carried out at the planning stage, by carrying out sound checks, once the event had been set up. The maximum permitted levels at the noise sensitive locations derived by these tests was converted into a “music noise level” which could be monitored at the front of house sound stage by the sound engineers directly in control of the system’s output. Following those tests, including any adjustments found necessary owing to meteorological conditions or other unpredicted eventualities, it was possible for the event to proceed with a reasonable degree of confidence that the noise levels impinging on the nearby noise sensitive receptors would not cause an unreasonable amount of disturbance. Whilst the event was taking place, measurements should be made at locations representative of the noise sensitive receptors to continuously check that the controls which had been planned were working. This was particularly important where a variety of styles of entertainment were proposed, since different styles of music or singing might require adjustments to the MNL during the performance to accommodate their inherently different propagation characteristics. Records of measurements taken at front of house, and of

the measurement checks, would be collated and retained for examination by the Environmental Health Officer in order to assist in resolving any complaints and for the benefit of aiding the planning of future events of a similar nature at the same location.

The Sub-Committee noted that a couple of examples of written assessments completed in accordance with the 1996 code of practice were available for their perusal if they wished.

The Environmental Protection Manager stressed that the above concluded what *should* happen but in terms of the current application, moving to the chronology surrounding this event, Officers received notification of an application for a premises licence for the Festival on 9 April 2019. The initial response comprising a list of requirements relating to compliance with the 1996 code of practice was dispatched to the Licensing Team two days later on 12 April. It was explained that, normally, they would expect to hear from the applicant following such an intervention, and indeed, both the 1996 code of practice and the Council's Statement of Licensing Policy recommended that applicants should make contact with the Council's Environmental Protection Team to discuss detailed requirements but the Team heard nothing from the applicant over the course of the following three weeks. As the time limit for making objections was fast approaching and no information or contact had been received from the organisers about the management of noise, Environmental Health Officers took the decision to lodge a formal objection to the granting of the licence on 3 May 2019.

Members were informed that the Licensing Team notified the applicant of the objection on 3 May and on the same day the applicant contacted Licensing to request details of who to contact in the Environmental Protection Team. Following communications with the applicants, the Environmental Protection Team were made aware of the existence of an Event Management Plan and furnished with a copy. It contained a very brief consideration of noise amounting to a page of text and two pictures. This comprised a very brief statement of intent to comply with the code of practice but failed to provide any detailed evidence that the code of practice had been followed or would be complied with. The Environmental Protection Manager explained that Ease Focus was not a recognised system for calculating noise assessments of the type required for noise control at such events. On 7 May the Environmental Health Officer emailed the applicant with some detailed comments on the requirements for controlling noise which simply repeated the comments made in the initial comments to the Licensing Team on 12 April. On the same day, the applicant responded with an updated version of the noise part of the Event Management Plan but this updated plan added nothing significant to the Noise Management Plan. Environmental Health responded by email the same day pointing out the shortcomings of the revisions made and asking questions related to:

- how the "music noise level" was going to be calculated
- how front of house staff would be able to monitor it
- how often checks would be undertaken, and also
- asking for the credentials demonstrating the competence of the personnel managing the noise control features of the Event Management Plan

The Environmental Health Team received an email on 8 May from the applicant saying they did not understand what was required. Officers responded the same day referring

to earlier correspondence which set out detailed requirements. On 21 May, Environmental Health received another revision of the Event Management Plan but again this failed to meet the requirements of the Code of Practice by a large margin. The Environmental Protection Manager stated that, by this stage, Officers were becoming increasingly alarmed by the potential for serious noise disturbance if the event went ahead as proposed. In the absence of any attempt by the applicant to model propagation and calculate music noise level in accordance with the Code of Practice, Environmental Health Officers carried out some brief calculations. The results of these demonstrated the potential for noise levels at residential accommodation across the water on the North Bank of Oulton Broad (200m) in excess of the limits proposed by the Code of Practice by a very large margin indeed – of the order of 20dB above. Environmental Health Officers arranged and attended a meeting with the applicant in Oulton Broad on 22 May. This meeting was also attended by representatives from Oulton Broad Parish Council as landowners, bearing ultimate responsibility for the management of the park. That meeting left Officers with many serious but unanswered questions about how the proposed event could be made to comply with the Code of Practice and avoid causing a serious public nuisance. Those concerns included:

- The absence of any robust methodology for calculating a music noise level in compliance with the code of practice at the planning stage
- The suitability of the equipment the applicant was proposing to use to monitor music noise levels
- The competence of the people planning the noise control measures and carrying out the monitoring
- The music noise levels they were proposing as suitable for the venue

During that meeting all these points were explained to the applicant and firm advice was given that they should approach a competent acoustic consultant with a view to getting some proper prediction and modelling done in accordance with the Code of Practice, followed by competent monitoring. During that meeting the applicant expressed his concerns at the financial burden of having to comply with the Code of Practice.

It was noted that Environmental Health Officers received nothing further until first thing yesterday, 3 June, when another revision of the existing Event Management Plan arrived by email. This was accompanied by the applicant's explanation that he had contacted a firm of acoustic consultants and had informal discussions about the Environmental Health Team's requirements and the accuracy of his proposals. The applicant provided Officers with a copy of a very brief email exchange with the acoustic consultant which he offered in support of his contention that he did not need to comply with the Code of Practice or carry out the background checks or noise control measures set out therein. This added nothing of significance to the Event Management Plan already supplied. With regard to the email exchange furnished, between the applicant and the acoustic consultant they had informally contacted, this amounted to a further denial that the Code of Practice needed to be applied in this case and, therefore, the Environmental Health Team found themselves at the date of the appointed Hearing with no confidence that the event was capable of being run in a manner which complied with the Code of Practice, or the Council's Statement of Licensing Policy with regard to the prevention of public nuisance. Furthermore,

Officers believed there was a real possibility of it causing serious nuisance to neighbouring residents in the vicinity, if it were to go ahead as currently proposed.

The Environmental Protection Manager explained that noise levels had different effects in different settings and sound meters took instantaneous samples of the sound pressure level over a period of time. The required 65dB level was an average of those instantaneous levels at the receptor. Clarification was sought on the noise levels of the power boats that regularly used Oulton Broad and it was explained that, although noise had been an issue with these, they had been operating since 1912 and were part of the nature and character of the location and an accepted part of Lowestoft life carried out under the aegis of clubs which had rules about noise emissions from contestants which were successfully self-regulating. He added that it was difficult to compare the noise levels of a concert with power boats because, whilst it was possible they were 90-100dB and there were multiple point sources, they were transient and whizzed past.

In response to a query from the Litigation Lawyer, the Environmental Protection Manager stated that he had little confidence that the event would be run properly and that there was a real possibility of noise disturbance which was why the applicants needed to engage a competent person as stated in the Code of Practice. Following another query from the Litigation Lawyer, the Environmental Protection Manager stated that, in broad terms, he would have some suggestions for conditions on the Licence, examples of which were given in the code of practice. Mr A Collins stated that he did not think they were likely to get agreement unless the applicants were forced to spend a lot of money on consultants. He added that normally they just had to state that they would not exceed 65dB on their applications and that was good enough.

The Litigation Lawyer queried where the applicants had addressed the issue of noise in their Operating Schedule and Mr Banthorpe stated that it was in their application form but in addition the applicants would be happy for a condition to be included that the noise levels would not exceed 65dB over a 15 minute period at the nearest noise sensitive location. The Environmental Protection Manager stated that that would assume the 65dB had been calculated correctly by a competent person. In response to the Litigation Lawyer's query, the Environmental Protection Manager clarified that, whilst there was no set definition of a "competent person", everything he had seen so far suggested that none of the applicants were. He added that competent people tended to have acoustic qualifications which were relatively easy to obtain from the Institute of Acoustics. Mr J Collins stated that this was a basic level course that could not be undertaken until October so, although they would probably enrol one of the applicants to go on it, in the meantime, Sharps Redmore had said they were competent and that the Noise Management Plan ticked every box. Clarification was sought on what the impact would be if a condition was imposed stating that a competent person was someone who had a relevant qualification. Mr A Collins stated that the cost was huge – between £7,500-£9,000 and this would make the event unviable. He added that they were a sound and light company and had never seen this type of condition imposed on similar events they had organised to date. The Environmental Protection Manager stated that such conditions were commonplace, and the next step would be for an assessment to be carried out, including how and when monitoring would be undertaken. He added that he would like a condition imposed that the Noise Management Plan would be submitted to the Environmental Protection Team for approval and that the assessment would be undertaken by a competent person with

the relevant qualifications who had been approved by the Environmental Health Team. Mr A Collins stated that he felt it would be impossible to reach agreement on engaging a consultant that Environmental Health found competent for a reasonable cost that would enable the event to be viable and they certainly could not afford £7,500. The Environmental Protection Manager referred to a document he had mentioned at the start of the meeting which was an assessment for the First Light Festival, which had been commissioned at a cost of less than £2000. He also queried the profit margins of this event if 2000 tickets were sold at a price of £30 each.

Given the comments made, the Litigation Lawyer suggested that it might be useful to hear from the applicants what they considered the conditions should be.

Mr A Collins referred to 14.4.6 of the Statement of Licensing Policy and stated that these were just guidelines and not mandatory conditions. The Environmental Protection Manager stated that it was mandatory and referred to the applicant's Statement of Intent. Mr Banthorpe indicated they had attended a SAG meeting in January 2019 with the aim of receiving advice, however, no-one from Environmental Health had been present. The Environmental Protection Manager clarified that the "Safety Advisory Group" was an event safety planning meeting where safety matters were discussed. A large number of events were discussed in that forum, many with no noise control implications, and which did not always go ahead and consequently his Team did not normally attend every meeting because it was too resource intensive. His Team obviously did get involved in connection with its role as a "statutory consultee" under the separate statutory process for licence applications. He added that it clearly stated in the guidelines that applicants should contact the Environmental Health Team but the applicants had not done so. The Senior Licensing Officer explained that the SAG was attended by a number of different authorities and that she had attended the January SAG meeting, although a lot of the events discussed did not always need a licence. The Litigation Lawyer asked the applicants if they were saying they did not know how to contact the Environmental Protection Team given their contact details were on the website. Mr Banthorpe stated that the Environmental Protection Manager's comments regarding the timescales of when things had happened were irrelevant because the applicants had thought that by attending the SAG meeting that was their consultation as this was the case when they had attended different SAG meetings for other events.

In response to a query from the Litigation Lawyer, the Environmental Protection Manager confirmed that he felt the assessment submitted was not satisfactory because it did not accord with the Code of Practice and that the event would cause serious noise disturbance at the nearest noise sensitive areas which was the housing opposite the Broad. He added that no competent person had carried out an assessment of the noise sensitive areas of the site and Ease Focus was a software programme for planning speaker arrays, not noise propagation in the context of nuisance.

Mr Banthorpe provided clarification on the timeline and it was noted that the applicants had spoken to the Parish Council in November 2018 and attended the SAG meeting in January 2019 to discuss the event. He queried whether the park had a Premises Licence for the other music events that were held there. The Senior Licensing Officer confirmed that the park did not have a Premises Licence but that Temporary

Event Notices had been submitted, for example, for the Lions event which included music and was for less than 499 people. Mr Banthorpe stated that they had thought it was okay to have their event as other events were held on the site without a licence. The point was made that the Council's declaration of support for an event did not confer that a licence had been or would be granted. Mr Banthorpe stated that the applicants had followed the process and given there were already events being held in the park and the site was advertised on the Council's website, they had not thought there were going to be this many issues. The Environmental Protection Manager clarified that it was his responsibility to ensure sites were suitable for each event being proposed irrespective of whether the site was advertised as being available or not. Mr J Collins asked whether Sharps Redmore were considered to be competent consultants and the Environmental Protection Manager confirmed that they were. He added that his issue was that the applicants did not appear to be in a contractual relationship with the consultants and that no robust or rigorous noise assessment of the park had been carried out. He stressed that was why the site should be visited so that it could be modelled properly. Mr J Collins stated that the consultants were saying that what they had seen was correct. The Environmental Protection Manager explained that many consultants agreed that Ease Focus caused problems in the acoustic industry when misused and he repeated that site visits were always necessary when modelling propagation rather than from a plan. Mr J Collins explained that Ease Focus over-estimated music noise levels and could predict the levels at different distances.

The Environmental Protection Manager was asked whether he had known the details of the speakers that would be used when he had undertaken his calculations. He responded that he had not but added that their assessment had been based on simple propagation calculations based on the limited information supplied by the applicant which was why they had concerns. Mr A Collins stated that every component of the speakers had a different frequency and were designed to fire in the same direction but controlling the base was more difficult to do with a single box, although it was possible to shape the way the sound moved which was what all big concerts did. The Environmental Protection Manager pointed out that it sounded like the applicants were saying that there was no need to have a Code of Practice regarding sound that escaped. He clarified that it was not his role to advise applicants of what should be in their Noise Management Plan which was why they should employ a competent person.

There being no further questions to the Environmental Protection Manager, the Chairman asked Mr Falat, the Parish Council representative, to address the Committee.

The Parish Council representative reported that this event accorded with parishioners wishes and he submitted a diagram showing the results of a survey carried out in 2018. Approximately 40% of a total of 200 respondents wanted music events so the Parish Council had agreed to Waveney District Council's suggestion that the Nearly Festival be held in the park, as there were no other suitable locations in the area. The Parish Council wanted to try it as an experimental one-off and if it was successful it could be repeated but if there were too many issues then they would look at other options. The Parish Council representative stated that the main issue was not just noise on the day but cumulative noise eg annually there was the noise from powerboats and spectators; there were now 12 not 7 days of Bands; 130 days of yacht racing; the gala day; theatre and outdoor cinema events, all of which equated to approximately 170 days of noise per year compared to the two additional days being

requested by parishioners for music activities, so this was only a minimal cumulative increase. He added that he was filled with confidence in the applicants and he pointed out that determining who was a “competent” person was a matter of opinion. He concluded that the Parish Council wanted the event to go ahead.

The Chairman asked the Sub-Committee if they had any questions for the Parish Council representative.

In response to a query, the Parish Council representative confirmed that they would refuse to allow the event to take place again if there were any problems this year. He added that a recent event had got out of hand and the Parish Council had agreed that more stringent controls would need to be in place if it was held again next year. A query was raised as to whether Broad View Road residents had been consulted and it was noted that one of the Parish Councillors lived along there and was in contact with his neighbours. It was added that three people on the Road had responded to the survey and they had been positive about holding music events. The Environmental Protection Manager pointed out that this might be because they assumed an event would accord with the Licensing Policy and Code of Practice. Mr A Collins stated that the event had been well publicised and so if residents had concerns they would have come forward to complain but as far as he knew no-one had.

The Chairman asked if the Licensing Officers had any questions for the Parish Council and they responded that they did not.

A further query was raised by a Member in relation to the number of actual responses received to the survey. The Parish Council representative reported that, overall, 11% of residents had responded to the survey and approximately 200 people had responded to that one question, with 40% of those 200 wanting music events. He reiterated that the Parish Council wanted to move this forward but would be circumspect regarding the merits of the event when deciding whether to hold it again in the future.

The Litigation Lawyer asked the Licensing Officers if they had any advice on possible conditions prior to the parties summing up.

The Senior Licensing Officer stated that normally a Noise Management Plan would be reviewed annually and there would not be an expectation that there would be lots of overall conditions. She reminded Members that any conditions had to be proportionate for example if the cost of employing a consultant meant that the event was not viable then Members would need to determine if that would be a proportionate condition. Clarification was sought on whether conditions had to be approved by Environmental Health and the Senior Licensing Officer responded that there were general conditions which could include an Event Management Plan and Noise Management Plan and Environmental Health had 28 days to give their approval and both Plans would be reviewed annually.

The applicants stated that provided any conditions did not cost a lot of money and made the event unviable they were happy to agree to them. They also indicated that they would be happy for the Environmental Protection Team to monitor the noise levels and include 65dB as a condition so Officers could shut the event down if they

exceeded it or prosecute them for breaching conditions. It was stressed that the company intended to continue operating as they had been for 5 years by putting on successful events and it would not wind itself up just to avoid prosecution. The Environmental Protection Manager pointed out that asking Environmental Health to monitor event noise levels transferred the cost onto the local authority and it would be very difficult for any Council to shut down an event whilst it was taking place, especially if there were 2000 people there.

It was agreed that there would be a short adjournment for a comfort break prior to summing up and then, due to the lateness in the day, the Sub-Committee would provide the applicants with a decision within five working days. One of the applicants expressed concern that if the licence was not granted they would need to refund tickets and he pointed out that the event was only a few weeks away on 29/30 June. The Senior Licensing Officer stated that the applicants would still have 21 days left in which to appeal if the decision was made by the end of the next week.

*The meeting was adjourned at 4.35 to 4.42 for a comfort break.*

Mr J Collins summed up by stating that he believed that they had followed the Code of Practice and that the Noise Management Plan ticked off all the boxes/points raised. He added that the whole point of the event was that it was a small family event and conditions had to be proportionate because they were not on the same scale as something like the Latitude Festival. He realised that local residents could be upset by the event but they did not want to do that so they were trying to work to the guidelines. He believed they were competent people and he stated that reputable consultants had ratified the Noise Management Plan. Whilst not a programme that was used often, it was a programme that did the job as it over-estimated the noise levels and alerted them to any problems but they did not believe that what they were proposing would lead to any. He felt that the checks they were carrying out and monitoring during the event would allow them to keep to 65dB. He pointed out that the event finished at 9.30pm on Saturday and 8.30pm on Sunday so it was a fairly concentrated period of time and was pop music rather than heavy metal. He felt that they were competent and suggested that history had shown they were because they had organised many events before without any problems or this level of issues from Environmental Health. He added that the Parish Council were fully supportive and wanted the event to go ahead because residents of Oulton Broad wanted the event. The company was happy to work with Environmental Health so Officers could build confidence in them, so if they wanted to send someone to monitor the event, the company would be happy to take on board any comments they made. In relation to conditions, he stated that the company would abide by them but asked that they be proportionate to enable them to make some money so they could bring the event back again.

The applicants were assured that they would receive written notification of the decision within 5 working days.

The meeting ended at 4.50pm.



The Sub-Committee agreed the following Decision Notice by email and it was sent to the applicants within 5 working days:

“Nearly Festival OB Ltd has applied for a premises licence at Nicholas Everitt Park, Bridge Road, Oulton Broad, NR33 9JR.

The proposed licensable activities are:

1. Live music – Saturday 11:00 to 21:30 and Sunday 11:00 to 20:30
2. Recorded music – Saturday 11:00 to 21:30 and Sunday 11:00 to 20:30
3. Performances of dance – Saturday 11:00 to 21:30 and Sunday 11:00 to 20:30
4. Sale of alcohol – on sales only – Saturday 11:00 to 21:30 and Sunday 11:00 to 20:30

The activities are only to take place one weekend per year and the Licensing Team is to be informed of the date at least 30 days prior to the event each year.

The hearing was held because a relevant representation was received from Environmental Protection as a responsible authority.

Environmental Protection’s objection was on the basis that the organisers need to demonstrate the adequacy of the measures to be imposed for controlling noise impacts from outdoor entertainment and for ensuring the safety of any temporary water supplies provided for the event.

It was established during the hearing that there were no longer any concerns in relation to water supplies, therefore that representation was not considered any further.

A representation was also received in support of the application. This representation was received from Ben Falat a Councillor at Oulton Broad Parish Council. The basis of the representation was that the event would ensure minimal nuisance during night hours, maximise incoming tourism and promote cultural diversity. It was considered that the applicant had sufficient experience in running similar events and that they have sought the expertise of a noise management company to provide a suitable Noise Management Plan.

John Collins, Andrew Collins, Danny Banthorpe and Alec Faccas appeared on behalf of the applicant.

Danny Banthorpe provided the Sub-Committee with an overview of the types of events Nearly Festival OB Ltd puts on. He said that they are a local company and have been operating for 5 years. In this time they have put on 9 similar events across Suffolk and Norfolk. The event is called the “Nearly Festival” because they hire tribute acts. He said that the term “festival” should be softened as the events they put on are not loud or expensive. They are family friendly with most people seated on picnic blankets and only one music stage. The finish times are suitable to the demographic in that they finish during day light hours so that children can be taken home in daylight. This also

lessens the likelihood of any anti-social behaviour. Danny Banthorpe outlined the measures in place to deal with anti-social behaviour and the sale of alcohol. Danny Banthorpe said that Nearly Festival OB Ltd support local charities and local businesses. They will operate in such a way that the businesses within the park can still operate and will benefit from the event.

Danny Banthorpe confirmed that they have sold 900 adult tickets for Saturday and 700 adult tickets for Sunday. He said that they usually stop at around 1300 adult tickets per day as they like to limit the attendees to 2000 and the remaining 700 tickets will be made up by children. He said that for every 1000 adult tickets sold there will usually be 500 child tickets sold.

Andrew Collins said that there was no appetite to increase the number of stages for any future events.

John Collins then described the methodology used to produce the applicant's Noise Management Plan. He said that the way the speakers are set up effects the way sound propagates. He said that there will be a sound engineer approximately 30 metres in front of the stage that will have control over the various sound inputs as well as the overall volume of the music. He said that to ensure the best sound for the audience in front of the stage they use a software program, Ease Focus. He said that before and during the event a noise monitoring person will go to various areas around the premises to take sound measurements. If the noise was too loud the noise monitoring person would contact the sound engineer and the sound engineer would turn the volume down.

John said that they have used sound modelling software to prepare their Noise Management Plan. He said the software was complicated and expensive and wasn't used by many people for those reasons. He also said that the software overestimates sound further away from the speakers. John said that the applicant was of the view that what they are doing and what they proposed to do was sufficient to manage noise. He also said they had not been required to do this by any other councils for areas where they have held events.

In response to a question from Andrew Reynolds of Environmental Protection, John said that they had not taken background noise readings. John said that they had contacted Sharps Redmore, acoustic consultants, and Sharps Redmore said that a background check was not relevant. Mr Reynolds explained to the Sub-Committee that Sharps Redmore was a reputable firm of acoustic consultants.

Mr Reynolds asked John whether they had complied with paragraph 4.2 of the Code of Practice on Environmental Noise Control at Concerts which states "Determine the sound propagation characteristics between the proposed venue and those living nearby who might be affected, and carry out an appropriate background noise survey." The response on behalf of the applicant was that this was only guidance; there was no requirement to follow this document. Instead persons from the applicant walked around the site and determined that it was not a noisy area therefore it wasn't necessary to do a background noise survey.

Mr Reynolds queried if the software used considers wind direction. John confirmed that it does not, though said that the software was provided by the company that provided the speakers, therefore the software knows what the speakers are capable of.

Mr Reynolds asked if any of the persons from the applicant had any acoustic qualifications. It was confirmed that they do not have such qualifications though Sharps Redmore had said they were competent.

Andrew Collins, on behalf of the applicant, then read aloud the email from Sharps Redmore and took the Sub-Committee through the Noise Management Plan which was provided to Environmental Protection the day before the hearing.

Andrew submitted that the Noise Management Plan addressed each of the points within Environmental Protection's initial representation and was included as appendix b to the report.

Mr Reynolds queried why the checks referred to in the email from Sharps Redmore were not included in the Noise Management Plan before Sharps Redmore suggested them. Andrew said this was because it could lead to more complaints, for example, if residents expected the event to start at 12noon though sound checks were carried out at 10am, this could lead to complaints that the event had started early.

Mr Reynolds then addressed the Sub-Committee. He referred the Sub-Committee to paragraph 14.4.6 of its Statement of Licensing Policy which refers to the need to have regard to relevant codes of practice. Mr Reynolds said the relevant industry code of practice was the Code of Practice on Environmental Noise Control at Concerts published by the Noise Council in 1996. The Code of Practice sets out a methodology for planning any large outdoor musical event. The methodology requires an assessment of the suitability of the venue, and some modelling to be done to predict the way noise arising from the event will affect the locality. Mr Reynolds said this includes:

- measuring background levels;
- the character of the location, including taking into consideration the nature and frequency of other noisy events which take place at the same location at other times;
- the presence of noise sensitive receptors; and
- the number of similar outdoor musical events proposed to be held at the location during the course of any year.

Mr Reynolds said there was housing 200m away from the premises on the opposite shores of Oulton Broad.

He said the Code proposes that a "competent person" should calculate the likely impact of the proposed entertainment on the nearest noise sensitive locations.

Mr Reynolds then outlined what the code suggests for managing noise at concerts.

Mr Reynolds said that Environmental Protection received notification of an application for a premises licence for this event on 9 April this year. Environmental Protection's initial response comprising a list of requirements relating to compliance with the Code of Practice was dispatched to the licensing team on 12 April.

Mr Reynolds said that Environmental Protection would normally expect to hear from the applicant following such an intervention, and indeed, both the Code of Practice and the Council's statement of licensing policy recommend that applicants should make contact with the Council's Environmental Protection team to discuss detailed requirements. However, Environmental Protection heard nothing from the applicant over the course of the following 3 weeks. This resulted in Environmental Protection making a formal objection to the licence on 3 May 2019.

Environmental Protection was eventually provided with a copy of the Event Management Plan though this contained only very brief consideration of noise amounting to 1 page of text and two pictures.

On 7 May Environmental Protection provided the applicant with comments on the requirements for controlling noise to which the applicant responded (on the same day) with an updated version of the noise part of the event management plan, though this updated plan added nothing significant. Environmental Protection responded on the same day pointing out the shortcomings. On 8 May Environmental Protection received an email from the applicant saying they did not understand what we required.

Environmental Protection responded on 8 May referring to earlier correspondence then on 21 May the applicant provided another revision of the event management plan though once again this failed to meet the requirements of the Code of Practice.

Due to concerns that there could potentially be serious noise disturbance if the event went ahead as proposed Environmental Protection carried out its own tests. These demonstrated the potential for noise levels at residential accommodation across the water on the North Bank of Oulton Broad (200m from the event) in excess of the limits proposed by the Code of Practice by up to 20dB.

Environmental Protection attended a meeting with the applicant on 22 May and gave firm advice that they should approach a competent acoustic consultant with a view to getting some proper prediction and modelling done in accordance with the Code of Practice, followed by competent monitoring. During the meeting the applicant expressed concerns at the financial burden of having to comply with the Code of Practice.

Environmental Protection received nothing further from the applicant until 3 of June when yet another revision of the existing event management plan arrived by email.

Environmental Protection have no confidence that this event is capable of being run in a manner which complies with the Code of Practice, or the Council's statement of licensing policy with regard to public nuisance. Furthermore, Environmental Protection believes there is a real possibility of the event causing serious nuisance to neighbouring residents in the vicinity, if it were to go ahead as currently proposed.

Mr Reynolds said the applicant had used free software which was intended for the speakers and isn't recognised for assessing environmental impact. Mr Reynolds said this was not a competent assessment.

Both the applicant and Environmental Protection were asked what conditions they would propose. The applicant suggested a condition to the effect "Noise levels must not exceed 65dB over a 15 minute period at the nearest noise sensitive premises." The applicant submitted that this would enable Environmental Protection to shut them down or prosecute them if there was a contravention. Mr Reynolds said that to shut down a music festival was not easy given that there will be 2000 people enjoying themselves and that in the past he had experienced companies being wound up before they have been able to be prosecuted. The applicant submitted that it intends to continue operating which can be seen by the fact it has been operating for 5 years and is putting on successful events, therefore it would not wind itself up to avoid prosecution. Mr Reynolds also said that asking Environmental Protection to monitor if the noise levels exceed 65dB transfers the cost onto the local authority.

Mr Reynolds said that Environmental Protection would seek a condition to the effect that a competent person must carry out an assessment in accordance with the Code of Practice and a Noise Management Plan be submitted for approval by Environmental Protection. Mr Reynolds said a competent person would be a person that has an acoustic qualification.

The applicant said it would cost £7,500 to have the assessment and monitoring done by a qualified person and this was close to its profit margins.

Mr Reynolds said the Council had had assessments carried out for events it was putting on and these only cost £2,000. Mr Reynolds also queried the profit margins if 2000 tickets were being sold at a price of £30 each.

The applicant said it wanted advice from Environmental Protection though Environmental Protection had not attended the Safety Advisory Group (SAG) meeting which is what normally happens at other councils. Mr Reynolds said it was resource intensive for officers from Environmental Protection to attend every SAG meeting particularly as not all events then go ahead.

Mr Falat from Oulton Broad then addressed the Sub-Committee. He provided a graph which showed the results of a survey conducted by the Parish Council. The survey received a response from about 11% of people surveyed, which amounted to 200 people. The question was what they would like to see the park used for. Of the people that responded almost 40% said they would like to see the park used for music or bands.

Mr Falat said there were many noisy events in the park throughout the year and that this event would have a minimal impact, increasing the number of noisy events by only one and a bit percent. Mr Falat said he was filled with confidence in the applicant. He said that the Parish Council was using the event this year as a test, should it prove to be problematic then it would not allow the events to continue in the future. He said that the event had been well advertised locally including in the streets and in the local press

and that the Parish Council was not aware of any residents that had concerns about the event.

The Licensing Officer was asked to comment on the types of conditions attached to licences for similar events. The Licensing Officer said that some licenses have conditions requiring a Noise Management Plan to be submitted 28 days in advance for approval by Environmental Protection.

In summary John Collins on behalf of the applicant submitted that they have followed the code of practice, the Noise Management Plan they have provided ticks all the boxes which Environmental Protection have raised and what they have proposed is sufficient. The event will not go on late at night, it is family orientated therefore it will be pop music rather than heavy metal. They feel they are competent and have run a number of other events previously without any problems and without having to go to these lengths. The Parish Council has given them a glowing report and want the event to go ahead. They want to build an ongoing relationship with the locals. He said they were happy to work with Environmental Protection so that they could build a relationship. Any conditions placed on the licence would be complied with though he asked that these be proportionate and for the Sub-Committee to bear in mind that the applicant would still like to make some money.

The Sub-Committee listened to the submissions from the applicant, Environmental Protection and Mr Falat as well as the extensive questioning. The Sub-Committee also considered the documents provided during the hearing.

The Sub-Committee had particular regard to the nature of the event in that it is:

1. a tribute band event therefore will consist of pop music;
2. is targeted at families;
3. finishes relatively early both days and certainly whilst still daylight;
4. is only for 2 days per year;

The Sub-Committee was of the view that such an event was unlikely to cause noise issues.

The Sub-Committee was also mindful that the Parish Council was very supportive of the event. Furthermore, the Sub-Committee had particular regard to the fact that the Parish Council intended to use this year's event as a test event and if there were any issues, the Parish Council will not allow the event to go ahead in the future.

The Sub-Committee also gave weight to the fact that no representations had been received from any local residents despite the event being advertised in accordance with the licensing regime though also promoted for the purpose of ticket sales.

Whilst the Sub-Committee does appreciate the concerns of Environmental Protection that the Noise Management Plan had not been produced by a competent person in accordance with the Code of Practice, the Noise Management Plan that was provided did state that monitoring would be carried out on the day and also provided details of persons to contact in the event there were noise related issues.

The Sub-Committee was of the view that Nearly Festival OB Ltd appeared to be a professional outfit. The Sub-Committee had particular regard to the fact that the applicant has put on other similar events and the Sub-Committee was not made aware of any noise issues at these events. Therefore, whilst the persons representing the applicant at the hearing may not have acoustic qualifications, the applicant did appear to be a responsible organisation. Furthermore, the applicant appeared to want to continue to operate, therefore it would not be in its interests for there to be noise issues because this would likely mean that it could not put the event on next year.

The applicant had consulted Sharps Redmore, which was agreed by Environmental Protection to be a reputable firm of acoustic consultants, and the response was positive and supported the approach that had been taken.

Whilst the Sub-Committee was disappointed the applicant had not been more proactive in engaging with Environmental Protection as is encouraged under its statement of licensing policy, on this occasion, for the reasons stated above, the Sub-Committee was minded to grant the application subject to the following condition:

- Noise levels are not to exceed 65dB averaged over a 15 minute period at the nearest noise sensitive premises.

The Sub-Committee was also mindful that should there be any issues with the event it was open to Environmental Protection, the Parish Council or indeed any member of the public to bring a review of the premises licence, at which time the Sub-Committee was likely to require a condition more in line with that suggested by Environmental Protection.

Anyone affected by this decision has the right to appeal to the Magistrates' Court within 21 days of receiving notification of the decision notice.

Hearing date: 4 June 2019

Decision: 4 June 2019

Sub-Committee approved Decision Notice by email: 6 June 2019"

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Chairman