

GUILDFORD BOROUGH COUNCIL

LICENSING ACT 2003 RECORD OF HEARING AND DECISION TAKEN BY THE LICENSING SUB-COMMITTEE	
DATE OF HEARING	Monday 25 April 2022
SUB-COMMITTEE MEMBERS PRESENT:	Councillor Catherine Young (Chairman) Councillor Ted Mayne The Mayor, Councillor Marsha Moseley
OFFICERS PRESENT:	Mark Adams (Licensing Officer) Sophie Butcher (Democratic Services Officer) Delwyn Jones (Legal Advisor)
DISCLOSURES OF INTEREST BY MEMBERS PRESENT:	No disclosures of interest were declared.
PREMISES:	Merrist Wood Events, Holly Lane, Guildford, GU3 3PE
TYPE OF APPLICATION:	Application for a Premises Licence
DETAILS OF APPLICATION SOUGHT:	<p>To hold a live music festival in the main field and to sell alcohol to be consumed on the premises. The site will include camping area and a variety of activities inc. food outlets in addition to the main stage.</p> <p>In the first year that this premises licence has effect, the licence holder shall only be authorised to provide licensable activities on dates given in June 2022.</p> <p>In subsequent years, the licence holder shall give written notification to the licensing authority at least six calendar months before the first day on which the licensable activities will be provided in that year (which will be on the second weekend of the May/June half term holidays). The written notification shall give the date on which the licence holder intends to provide the licensable activities authorised by this premises licence, and the date shall not exceed two calendar days.</p>
APPLICANT:	Shynefest Ltd

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OTHER PERSONS:	Mr Roger Bower Councillor Bob McShee (on behalf of Councillor Ann McShee)
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DETAILS OF DECISION TAKEN:

In arriving at its decision, the Sub-Committee took into account the relevant representations submitted verbally and in writing. The Sub-Committee was also made aware that the following sections of the Licensing Policy were relevant:

- Section 4: (Fundamental Principles)
- Section 11: 11.1 – 11.9 (Licensing Hours)
- Section 12: 12.1.1 – 12.1.4 (Prevention of Crime & Disorder)
- Section 12.2: 12.2.1 – 12.2.5 (Public Safety)
- Section 12.3: 12.3.1 – 12.3.6 (Prevention of Public Nuisance)
- Section 12.4: (Protection of Children from Harm)
- Section 13: 13.1 – 13.7 (Large Scale Events)

The following sections of the Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003 were also relevant:

- Paragraph 2.1 – 2.26 – Crime and Disorder
- Paragraph 2.7-2.9 – Public Safety
- Paragraphs 2.15-2.21 – Public nuisance
- Paragraphs 9.31-9.41 – Hearings
- Paragraphs 9.42-9.44 – Determining actions that are appropriate for the promotion of the licensing objectives
- Paragraphs 10.1-10.66 – Conditions

The Sub-Committee received a report from the Licensing Officer, Mark Adams. The proposal was for a live music festival to be held in the field at Merrist Wood with alcohol to be consumed on the premises. The site would include a camping area and food outlets in addition to the main stage. In the first year that the premises licence has effect, the licence holder shall only be authorised to provide licensable activities on dates given in June 2022. In subsequent years, the licence holder shall give written notification to the licensing authority at least six calendar months before the first day on which the licensable activities will be provided in that year (which will be on the second weekend of the May/June half term holidays). The written notification shall give the date on which the licence holder intends to provide the licensable activities authorised by this premises licence, and the date shall not exceed two calendar days.

The Licensing Sub-Committee noted that there was an existing licence for the site, GUPLA0375, held by Guildford College since 2006. This was a new application which did not replace the existing licence held by the college. The applicant had permission to run an event at the site

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for two days per annum. Any licence granted was subject to conditions and additional conditions would be applied inline with the operating schedule supplied by the applicant and the Event Management Plan. The Sub-Committee may also apply additional or altered conditions, but these must be appropriate for the promotion of the licensing objectives, proportionate and should address the matters raised in the representations. The application was consulted on from 10 February to 10 March 2022 and advertised in accordance with the regulations. A total of sixteen objections had been received, on the grounds of Public Nuisance, Public Safety and possible Crime and Disorder. Concerns were raised regarding the operation of the site with suggested increased level of nuisance to the residents as well as a possible increase in crime. The Sub-Committee noted that it must consider the application for the grant of a premises licence on its merits.

The Sub-Committee noted the following submission made by one of the organisers of the festival, Mr Kevin Adcock, on behalf of the applicant, Mrs Shyne Adcock.

- The event was first and foremost a music festival for families and started as a small event run for Shyne's birthday. This was their first commercial year and were based not far from Guildford.
- Mrs Shyne Adcock had contacted a Ms Julie Tanner from Merrist Wood about the potential of holding a music festival at Merrist Wood. Ms Tanner attended one of their events held at Walton upon Thames and was confident after attending that event that the organisers had held a well-co-ordinated and safe festival for families.

The Sub-Committee asked, if it was a family event, why did they require a licence to sell alcohol until 1am in the morning. Mrs Adcock confirmed that they planned to hold a silent disco from 11pm – 1am and would keep the drinking contained in those areas where the disco was being held. It was anticipated that the silent disco would be held twice. For the benefit of those unsure of what a silent disco was, it was explained that people were given headphones and danced silently to the music in the field.

The Sub-Committee also raised concerns regarding the event going on so late into the night until 1am and the movement of people and vehicles off the site.

Mr Dylan Naude who was providing the security for the event confirmed that he had a traffic management team in place. The silent disco was for the campers onsite whereas the day ticketers were anticipated to leave the site by 11pm. Therefore they did not expect a lot of vehicles to be leaving site beyond 11pm. The day ticket sales were a lot less than the number of tickets bought for camping.

The Sub-Committee was interested to know how large an event it would be and was confirmed by Mr Naude that it was one of their smallest events. His security firm had assisted in running a number of high-profile events such as Wireless and other London based festivals.

The Chairman asked the Democratic Services Officer to read out an objector's speech, Mrs Janet Ashton who had sent her apologies for the hearing.

- Local residents are enormously proud that internationally renowned Merrist Wood College is part of the same community. They are grateful too, to Shynefest for arranging a family festival over the Queen's Jubilee weekend.

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- However, there are serious concerns over noise given the unbelievable public nuisance created by an event on 1 August last year, which the college and organisers were unable to control.
- Noise condition 1 of the current license (GUPLA0375) states that noise shall not be heard beyond the curtilage of the premises. On 1 August 2021 the noise could be heard for miles around, it was unbelievable and out of control.
- Merrist Wood assured the community that this would never happen again, yet they have given no such assurances with this current application. The application purports to be for a family festival yet includes serving alcohol until 1am and playing live or amplified music all day and all night.
- There are concerns too over safety given the one small entrance and exit for the 5000 visitors proposed. It is noted that the largest Shynefest event held to date was for 1600, though this was not held at Merrist Wood.
- Many other issues have been raised by the Safety Advisory Group which do not appear to have been addressed. Please be so kind as to take these serious concerns into account in reaching your decision.

The Sub-Committee invited Mr Bower to make his representation in objection to the application:

- Have lived in Combe Lane for the last twenty years and there were twelve or so houses in the lane or adjacent to it. The current area was residential, quiet and housed an aging community. Copies of previous correspondence with Merrist Wood had confirmed that they had promised not to hold similar events such as that held last year on 1 August 2021 where the music could clearly be heard.

Mr Bower then read out a statement on behalf of a local resident, Mrs Jessica Cull who could not attend the hearing.

- Mrs Jessica Cull lived off Combe Lane, and on 1 August 2021, at midday very loud base music started to play. It made her feel very uncomfortable as she was 9 months pregnant and days away from being induced.

The Legal Advisor, Delwyn Jones confirmed that this event was unconnected to the current application being considered.

Mr Bower then proceeded to make his statement:

- Noise travels huge distances on flat terrain, even the Parish Clerk for Worpleson Parish Council, who lived 1 mile away could hear the event held last year.
- Interested to know how the sound and volume would be measured.
- Had no confidence in Shynefest and that the festival would potentially drown out any personal events being held by local households.
- With regards to security, how would that be managed? Hundreds of visitors would be leaving Combe Lane, late at night. How would rowdy behaviour be controlled. The local residents had already experienced behavioural issues with the students at Merrist Wood. How would properties be protected from drunk young people.
- Sat navigation systems inadvertently sent vehicles down Combe Lane which would cause huge traffic issues for local residents.
- The late-night finish time of the festival of 1am in the morning was unanimously voted against by Worpleson Parish Council. The animals located at Merrist Wood could also experience stress caused by the loud noise generated by the event.

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- The local residents did not want a repeat of last year.

The legal advisor, Delwyn Jones confirmed that the issues which needed to be addressed to the applicant were as follows:

- How the traffic would be managed outside of the site.
- How security and crime issues would be managed outside of the site.
- How noise would be effectively controlled so it did not spill over to the detriment of the neighbouring amenities.

The Chairman invited Councillor Bob McShee to speak on behalf of Councillor Ann McShee who had submitted representations on behalf of the local residents:

- Wished to correct the fact that Gaynor White's objection was not a personal one but had been submitted on behalf of Worplesdon Parish Council as she was their Parish Clerk.
- Requested that the Risk Assessment, which was due for review on 1 May 2022, incorporated any changes made by the Safety Advisory Group (SAG).
- Local Ward Councillors and residents should be given an event telephone number in order to raise any issues that might be experienced on the day.
- A meeting should be scheduled in May with all interested parties and the applicant to agree the amended Risk Assessment.
- The sale of alcohol should stop at 11pm which is in line with pub closing hours.
- It was recommended that the playing of loud music should also stop at 10pm.

In relation to the traffic management queries raised, Mr Naude who looked after security confirmed that a one-way system would be in operation from the Merrist Wood roundabout for both traffic entering and exiting the site. Three traffic marshals would be onsite as well as security.

The Sub-Committee asked how noise levels would be managed, specifically base. It was confirmed by Mr Eddie Oxborough who was in charge of noise monitoring that there would be two live loggers. When the sound levels reached amber level and or higher the sound engineer would be asked to turn the sound down. Spot checks on sound levels would also be performed regularly around the site. Contact numbers of the relevant people had also been provided in the Risk Assessment pack.

In terms of security, three foot patrols would be onsite along with two mobile dog handling units which were in place to ensure that the risk assessments were not breached. There were also two public footpaths that ran through the site and therefore two additional security teams would be located at those sites and could also be contacted directly to resolve any issues that arose.

The Sub-Committee asked what the upper limit of people was attending. It was confirmed that the event was for up to 4999 and was the maximum number of people permitted. However, in terms of tickets sold so far, 104 tickets had been sold for Friday and 150 tickets for the

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weekend, 95 tickets for Saturday and 31 day tickets. There was therefore currently an under sale of tickets for the amount people that could potentially attend. It was also clarified that the 4999 maximum figure included all members of the Shynefest Team.

The Chairman invited Mr Bower to make his closing representation in objection to the application. Mr Bower reiterated his concerns regarding how the noise would be effectively measured to ensure it did not disturb local residents who lived only 200-300 yards from the site of the event. Mr Eddie Oxborough confirmed that there would be two live loggers, one placed close to Mr Bowers house and the second located down Holly Lane. The loggers were so sound sensitive they could pick up the sound of someone's stomach gurgling. At 60 decibels an alert was sent to the team monitoring the noise and if over 65 decibels over a fifteen-minute period, the sound would be turned down. Mr Oxborough then offered to place one of the loggers in Mr Bower's Garden which he accepted. The Noise Management Plan included a predicted analysis of the levels of noise likely to be experienced which was 55 decibels.

The Chairman invited the applicant to make any closing comments in support of their application. Mrs Adcock confirmed that the 'What 3 Words' app would be recommended to all festival goers to use to get directions to the site as this gave the precise location to the festival entrance at Holly Lane and would also prevent festival goers from travelling down Combe Lane. Mr Ollie Cluskey who would be running the bar also confirmed that the entire Shynefest Team was extremely experienced and proficient at running such events.

The Chairman invited Mark Adams, Licensing Officer to make any concluding comments. The Sub-Committee was reminded that the presumption was to grant the licence but the licence if granted could be reviewed, if necessary, in future.

The Legal Advisor, Delwyn Jones did not have any further comments to make.

Having considered the submissions made by the applicant, the Sub-Committee:

RESOLVED to grant the new premises licence for Shynefest Ltd at Merrist Wood, Guildford to hold a live music festival on 3 and 4 June 2022. In subsequent years, the licence holder shall give written notification to the licensing authority at least six calendar months before the first day on which the licensable activities will be provided in that year (which will be on the second weekend of the May/June half term holidays). The written notification shall give the date on which the licence holder intends to provide the licensable activities authorised by the premises licence, and the date shall not exceed two calendar days.

The Sub-Committee agreed to the following licensable activities and amended requested hours as follows:

Activities	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
Sale of alcohol							
For consumption on the premises					17:00 - 23:59	11:00 - 23:59	
Live Music					17:00 -	11:00 -	

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Activities	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
					23:00	23:00	
Recorded Music					17:00 - 23:00	11:00 - 23:00	
Performance of Dance					17:00 - 23:00	11:00 - 23:00	
Late Night Refreshment					23:00 - 23:59	23:00 - 23:59	
Times premises are open to public regarding licenced activity							
					16:00- 23:59	10:00 - 23:59	

The conditions consistent with the operating schedule and following mandatory conditions applied:

Mandatory condition - Sales of alcohol

1. No supply of alcohol may be made under the premises licence –
 - a. at a time when there is no designated premises supervisor in respect of the premises licence, or
 - b. at a time when the designated premises supervisor does not hold a personal licence, or the personal licence is suspended
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence

Mandatory condition - Age verification policy

1. The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
2. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
3. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - a. a holographic mark, or
 - b. an ultraviolet feature.

Mandatory condition - Irresponsible promotions

1. The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

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2. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - a. games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - i. drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - ii. drink as much alcohol as possible (whether within a time limit or otherwise);
 - b. provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - c. provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - d. selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - e. dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

Mandatory condition - Free potable water

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

Mandatory condition - Smaller measures

The responsible person must ensure that—

- a. where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - i. beer or cider: ½ pint;
 - ii. gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - iii. still wine in a glass: 125 ml;
- b. these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- c. where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

Mandatory condition - Permitted price for alcohol

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1—
 - a. “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - b. “permitted price” is the price found by applying the formula $P=D+(D \times V)$, where—

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- i. P is the permitted price,
 - ii. D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - iii. V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- c. “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
- i. the holder of the premises licence,
 - ii. the designated premises supervisor (if any) in respect of such a licence, or
 - iii. the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- d. “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- e. “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Mandatory condition - Door supervision

Where at specified times one or more individuals must be at the premises to carry out a security activity, all such individuals must be licensed by the ‘Security Industry Authority (SIA)

Additional conditions

Additional conditions will be attached to the licence inline with the operating schedule supplied by the applicant and the Event Safety Management Plan.

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REASON FOR DECISION:

In reaching their decision to grant the application, the Sub-Committee considered both written and oral representations from the applicant and other persons.

The Sub-Committee was mindful of the concern that the application had caused to other persons in terms of the potential for noise and public disorder and was sympathetic to their concerns. The Sub-Committee was however satisfied that sufficient noise mitigation measures had been put in place by ensuring that two loggers used to monitor obtrusive sound would be located in strategic locations so to minimise sound levels exceeding 65 decibels after fifteen minutes. One logger would be placed in Holly Lane and the second in Mr Bower's garden, which was fully supported by the Sub-Committee, given Mr Bower's concern over this aspect of the event disturbing both his and his neighbours peace. The potential for public disorder had also been successfully addressed via the Event Safety Management Plan which included the employment of security who would ensure the general public's safe and efficient entry and exit onto the site. The day ticket sales were particularly low and therefore the Sub-Committee was satisfied that the total number of people exiting the site at 11pm would be minimal. The majority of people had bought camping tickets and therefore would not leave the site until the Sunday.

In addition, to address concerns regarding drinking alcohol until 1am, the Sub-Committee agreed that this was an excessive time in consideration of the fact that Shynefest was a family event. In consideration of this, the Sub-Committee amended the proposed licensable activities so that the sale of alcohol and late-night refreshment provision concluded at 11:59 hours.

In relation to concerns regarding traffic management issues, the Sub-Committee noted that this would be dealt with by the Safety Advisory Group in due course and suitable measures would be put in place. Any such changes made should be reflected in the Risk Assessment.

The Sub-Committee strongly encouraged the applicants and Shynefest Team to actively engage with Worplesdon Parish Council, local ward councillors and local residents over the arrangements leading up to the event such as review of the Risk Assessment and the provision of a telephone number should there be any problems.

The Sub-Committee were content that sufficient mitigation measures had been put in place to minimise the risk of a public nuisance being caused in terms of noise or public disorder. The Sub-Committee therefore agreed that the new premises licence was granted for Shynefest to operate on 3-4 June 2022. The Sub-Committee agreed that should any public nuisance issues occur as a result of the event; they had the powers to review the licence in the future.

Signature of Chairman:

Dated:

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