

**DERBYSHIRE DALES DISTRICT COUNCIL
LICENCING & APPEALS SUB-COMMITTEE**

DECISION

Licensing Act 2003

Hearing held on Tuesday Monday 02nd October 2023 at 10:30am

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| Full name of Applicant: | Fox Trading and Events Limited |
| Premises Address: | Fox Festival Site, Kenslow Farm, Middleton-by-Youlgrave, DE4 1LY |
| Application | New Premises Licence On 11 August 2023, an application was received from Fox Trading and Events Limited. The application is for a Premises Licence, to allow a 3-day annual event to be known as Fox Festival to take place in fields at Kenslow Farm, in Middleton-by-Youlgrave. under the Licensing Act 2003 The application seeks to licence the site to permit one 3-day event annually (in July) with no more than 4,999 people |
| Members of the Sub-Committee | Councillor Steve Wain (Chair) Councillor Joanne Linthwaite Councillor Peter Dobbs |
| Legal Advisor | Kerry France Solicitor |
| Officers in Attendance | Eileen Tierney - Licensing Manager Emma Self - Licensing Assistant, Tommy Shaw - Democratic Services Team Leader Lucy Harrison - Democratic Services Assistant Amanda Goodwill - Environmental Health Manager David Cowley - Principal Environmental Health Officer Matthew Hulley - Environmental Health Officer |
| Others Present | The Applicant and their Representative |
| Date of Decision | 02 nd October 2023 |

Reason for attendance at the Sub-Committee:

The Report from the Licensing Manager informed the Committee of an application made under section 17 of the Licensing Act 2003, by Fox Trading and Events Ltd, for a new Premises Licence to allow the sale of alcohol and provide regulated entertainment and late-night refreshment at an annual 3-day vintage and music festival during July (to be known as Fox Festival).

Full details of the application for the new licence and the procedure for processing it were included in the report. The Committee is asked to consider representations objecting to the application. These were received from the Council's Principal Environmental Health Officer (acting as two of the Responsible Authorities specified in the legislation), and from 2 local residents.

The objections have been made on the grounds that the prevention of public nuisance, and the public safety licensing objectives, would be undermined if the licence was granted.

Recommendation

That the application for a Premises Licence, made by Fox Trading and Events Limited to allow licensable activities to take place at an event known as Fox Festival, at Kenslow Farm, Middleton-by-Youlgrave, be determined.

The meeting was conducted in public, with the agreement of all parties.

The Sub-Committee withdrew into private session to consider its decision and were advised by the Sub-Committee's legal representative that only evidence relevant to the four Licensing objectives could be taken into consideration and that it was important that any conditions attached to a Licence should be to promote the Licensing objectives.

Decision

Having considered all the evidence put before it, The Sub-Committee decided to grant the Premise Licence, subject to the following conditions:

1. An updated scaled plan of the event arena / wider access and egress movements around the site, must be submitted to Environmental Health – 6 months prior to any event. (To prevent a public nuisance and to determine the public safety risk).
(As confirmed the plan submitted within the application is not sufficient to be attached to any Premises Licence application as too variable etc)
2. The Event must not occur within 28 days of any other Licensable Activity or other type of Large Gathering of a similar nature on the site. (To prevent a public nuisance)
3. Each year the Licence Holder will give each responsible authority a copy of the ESMP (Event Safety Management Plan) with a least 4 months' notice (Public Safety Matter)
4. The ESMP will include, but will not be limited to the following: Prevention of Crime and Disorder / Crowd Management / Security (Including Ejection Policy and Searching) / emergency evacuation / plans / First Aid / Fire Safety / Noise Management Plan / Traffic

and Parking Planning / Adverse Weather Plan / Water Management Plan / Drugs Policy.
(Public Safety Matter)

5. A final copy of the ESMP must be submitted to all Responsible Authorities 28 days prior to an event (Public Safety Matter)
 6. The layout of the site shall be captured within a scaled plan which is communicated to all responsible authorities. Any final plan must be submitted with the final ESMP 28 days prior to an event. The site plan will have due regard to industry safety guidance such as the Purple Guide on such matters ensuring suitable segregation of activities and shall include, but not limited to: On-site camping / car-parking / main arena and attractions / concessions / Staging and structures / plant and equipment / crowd dynamics / artist and staff volunteer facilities / / general access and egress including clearways and sterile areas for emergency vehicles / emergency meeting points and control room / welfare facilities (showers and toilets) the plan will be to scale and in sufficient detail. (To prevent a Public Nuisance and Public Safety Matter)
 7. Prior to any event the Licence Holder will make contact with all local residents within 2 miles to inform them of this event 2 months prior to any event, in writing. Including contact information for the Event Organiser, and confirmation that if they experience Noise. Nuisance this should be reported to the Council Environmental Health. If the Organiser receives any concerns about noise nuisance from a local resident at any time this must be reported to the Council Environmental Health. (To prevent a Public Nuisance)
 8. The entire area must be within a secured fenced area, namely camping / arena concessions and welfare arrangements. If vehicles are located in an unsecure area any member of the public returning to their vehicle must be checked / searched before re-entering the site. (Public Safety)
 9. The Licence Holder will provide a contact number for Responsible Authorities which is answered during the Event. The Licence Holder will provide a contact number for Local residents reporting any concerns during the event regarding Public Safety or Public Nuisance. These phone lines will be contactable 24 hours while ever Licensable activities are occurring. The number will be publishable by the Council for Local Residents. (Public Safety and to prevent a Public Nuisance)
 10. Noise will not be audible from the site, at the nearest residential premises after 18:00 on days used for preparing / closing down the event. (to prevent a public nuisance)
 11. A noise management plan will be submitted to the Environmental Health Service 6 months prior to any event. (to prevent a public nuisance)
 12. A competent trained person shall be employed to oversee Health and Safety of the Activities. They will also have the Authority to overrule the Event Organiser / Licence Holders in situations of public safety. The details for this person shall be notified to all Responsible Authorities 28 days prior to any event. (Public Safety)
 13. That the hours for the provision of live and recorded music and associated entertainment and the sale of alcohol be revised to finish at 1:00am.
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Reasons

In reaching its decision the Sub-Committee had regard to

- The licensing objectives,
 - the prevention of crime and disorder.
 - public safety.
 - the prevention of public nuisance;
 - The Protection of Children from Harm
- The Council’s statement of licensing policy,
- The Statutory Guidance issued under section 182 of the Licensing Act 2003
- The Application for the Premise Licence
- The Report by the Licensing Manager
- Both the written and oral representations made to the Sub-Committee
 - Applicant Representations
 - Objectors to application Representations
 - Other Party Representations

Licensing Officer

Eileen Tierney (Licensing Manager) summarised their report.

Applicant

The Applicant outlined their application and gave the background as to their vision and aspiration for this festival.

In response to questions from the Sub-Committee, the applicant said they felt the complaints relating to the other festivals and the cumulative impact of them, not our festival. What started as a vintage clothing and music festival has become a lot more. It would be a really great thing to bring to the area. The applicant stated It is a business for them and they want it to be sustainable.

The applicant stated she did not expect to get any complaints from their family-friendly festival.

Responsible Authority - Environmental Health

Amanda Goodwill (Environmental Health Manager) relayed the concerns contained within their representation as contained within the committee bundle and advised that after reviewing the application details they were OBJECTING to this application in terms of Public Safety and Public Nuisance.

The Sub-Committee was told that while the event would be three days, it would require a week beforehand to build and prepare for the festival, followed by a week to “break” it all down afterwards.

This, combined with other festivals already running over the summer would lead to five or more weeks of disruption “back-to-back”, which would “affect people greatly”. There is need to consider if various numbers of events will be detrimental to residents. This event and others could lead to a cumulative noise nuisance and an extra burden on neighbouring properties.”

The Other Persons did not attend the hearing and the Sub-Committee were therefore only able to consider the representations that had been made in writing. The Sub-Committee gave greater weight to the evidence of those in attendance as they were able to test and explore their evidence.

The Sub-Committee did appreciate the proximity of neighbouring properties and the Sub-Committee considered the cumulative impact on the on the rural site and surrounding area given other festivals/gatherings in the locality and site. The Sub-Committee decided that measures within the conditions relating to noise should be adequate for ensuring compliance in relation to nuisance.

The Sub-Committee considered that the police and Derbyshire County Council officials had agreed on safety and management policies which would enable the festival to go ahead.

The Sub-Committee considered that as this festival has been explained and described as a family event by the applicant, the Sub-Committee considered that the reduction in hours as set out in the conditions stated above were more in keeping with a family event.

In all the circumstances and taking into account the 4 Licensing Objectives which are key and paramount, on the evidence before them the Sub-Committee feel this decision is appropriate and proportional to ensure the application can be granted whilst promoting the Licensing Objectives.

Date of decision: 02nd October 2023

Councillor Steve Wain
Chair
Licensing & Appeals Sub-Committee

There is a right of appeal to the Magistrates Court against the decision of the licensing authority.

Such right of appeal must be exercised within 21 days of receipt of this notice.

You should appeal in writing to the designated officer for the magistrates' court in the area where the premises is situated.

In Derbyshire this is usually:

North East Derbyshire & Dales Magistrates Court

Chesterfield magistrates court,
Chesterfield Justice Centre
Tapton Lane
Chesterfield
S41 7TW

or

Southern Derbyshire Magistrates Court

The Court House
St Mary's Gate
Derby
DE1 3JR

You must make your appeal within 21 days of being formally told of the Licensing Committees' decision in writing.