

Charney Bassett Parish Council

Application for Premises Licence (LAPREM/13530/21) Society of Friends, Charney Manor

Position Statement 28th July 2021

The Vale of White Horse District Council determined the application at its Licensing Sub-Committee on 4th May 2021. The formal decision notice is dated 24th May 2021 and was made available to objectors on 25th May. A transcript of the meeting has been made and is available from the Parish Council on request.

32 residents objected to the proposal as well as the Parish Council (which also made representations directly to the Licensing Sub-Committee).

The Parish Council and some individual residents have engaged in correspondence with the Vale Council to obtain clarity as to exactly what has been approved and, in particular, how noise from the licensed activities is to be assessed and controlled.

One resident (Mr Paul Whiteside) has appealed the decision and a preliminary hearing is scheduled for 13th August (see also below).

This Position Statement is being issued to summarise the Parish Council's understanding of what has been approved and how noise is to be assessed and monitored.

What has been approved?

The decision notice of 24th May confirms that the following activities have been approved:

Indoor live music: between 23:00-00:00 hours on no more than 20 times a year (any day)

Indoor recorded music: between 23:00-01:00 hours on no more than 20 times a year (any day)

Indoor late night refreshment: between 23:00-00:30 hours on no more than 20 times a year (any day)

Supply of alcohol

(off sales)	10:00-23.00 hours seven days a week
(on sales)	12.00-23:00 hours seven days a week
+ on no more than 20x a year	12:00-00:30 hours
+ for residents and bona fide guests	00:00-23:59 hours (any day)

Hours premises are open to the public:	09:00-00:00 seven days a week
+ on no more than 20x a year	09:00-01:30 hours

What constitutes 'Indoors'?

The application form states that temporary structures would be deployed (albeit "for the sale of alcohol"). But more importantly, it states that for the purposes of playing amplified music "Indoors may include a tent"¹ so objectors have been anxious to establish whether or not the Licence allows live or recorded music to be played in a marquee (or similar).

The Licensing Officer maintained in the lead up to the Licensing Sub-Committee that "Indoors" did **not** include a tent². Emphasis was placed on the fact the layout plan did not show any temporary structures. At the meeting of the Licensing Sub-Committee, it became clear that this view was not shared by the applicant. When asked to confirm after the meeting that the Council maintained the officer's stated position on this issue, the Clerk was advised that legal advice was now being sought³ viz:

"It is still my view that temporary marquees are not inside premises in this case for regulated entertainment after 2300. I appreciate this view is different to Mr Nickson's (agent for the Society of Friends). I have referred the matter to our legal dept."

More recently, the Licensing Officer has advised⁴:

"... legal advice came back as to it is possible that it could be interpreted as a marquee being inside for regulated entertainment (music after 2300)- There are no stated cases to determine the matter exactly.... If in the meantime they do hold an event that causes a problem there could be sufficient for a review of the licence back at our committee which may be an easier route (to the appeal)."

Mr Whiteside's appeal (above) has been lodged to try and clarify the position and argues that if the scope of the Licence does allow live or recorded music to be played in a tent after 23.00 hours, it should be revoked as the level of disturbance to residents would be unacceptable.

Most recently the Licensing Officer has advised⁵

".....should there be a noise problem it is relatively easy to get the licence reviewed by the council's licensing subcommittee with evidence being produced. Extra conditions can be added if the committee think fit. Should a problem persist a licence can be revoked."

Is permission required for a marquee (or other temporary structures)?

A Premises Licence is not required to erect a marquee or temporary structure per se. However, depending on the time that such temporary structures are in position, planning permission may be required. There is as yet no planning permission in place for such structures.

¹ Guidance Note 3 in the Premises Licence application form

² Statement made by Richard Brown (Vale Licensing Officer) at Residents' Meeting organised by the Parish Council on 24th March: also email dated 29th March 2021 from Richard Brown to Parish Clerk

³ Email from Richard Brown (Vale Licensing Officer) of 11th June 2021 to Parish Clerk

⁴ Email from Richard Brown (Vale Licensing Officer) of 2nd July 2021 to Parish Clerk

⁵ Letter from Richard Brown (Vale Licensing Officer) of 27th July 2021 to Parish Council

A marquee has been in position in the Manor grounds for some weeks now and has been used for visiting groups, on occasion with an amplified PA system. This has led to one resident complaining to the Manor and there are known to be concerns from others.

Following correspondence with the Society of Friends, one of the trustees has now confirmed to the Parish Council as follows:

“The Charney Manor trustees had an extra meeting this morning to discuss the problem of the marquee. We note that the period of permitted use has been extended to 43 days, and we intend to apply for planning permission for permanent use. We would accept a condition that PA systems will not be used in it. When CoVid restrictions are loosened on 19th July, people will be able to sit closer together and there will be no further need for the PA system⁶”.

How much music noise is acceptable?

A condition (no.16) has been attached to the Licence that seeks to control music noise. The Licensing Officer agreed the wording of the condition with the applicant before the Licensing Sub-Committee as follows:

“Live or recorded music from regulated entertainment shall not be audible at the boundary of the nearest noise sensitive property, so as not to cause a disturbance to local residents. The premises licence holder or his/her representative shall conduct regular assessments of the noise coming from the site on every occasion they are used for regulated entertainment. Appropriate steps shall be taken to reduce the level of noise where it is found to be heard at the boundary of the nearest residential property.”

At the meeting, Councillors added the following wording to the condition:

“On each occasion of live and recorded music that the organisers shall consult with environmental health to limit the possibility of any additional noise.”

Prior to the Licensing Sub-Committee, the Licensing Officer advised that the condition was intended to ensure that no music noise should be capable of being heard at the site boundary (whether the music was from within a building or within a tent). Notwithstanding that the condition refers only to ‘noise from regulated entertainment’ and that a licence is only required for the playing of live or recorded music after 23.00 hours⁷ the officer took the view that condition 16 would also apply to noise before 23.00 hours as well as noise after that time⁸.

The Parish Clerk spoke to the applicant’s agent before the meeting and it was clear that the Friends’ view of the scope of the condition was very different. Not only was the condition to only apply after 23.00 hours, but it was intended that any noise audible at the site boundary was not played at a level that did not *“cause a disturbance to local residents”*. This did not necessarily mean no noise at all.

⁶ Email of 9th July from Catherine Hilliard (lead trustee) to Parish Clerk

⁷ Prior to 23.00 hours the granting of a licence to provide alcohol negates the need for a separate licence for the playing of live or amplified music where fewer than 500 people are present

⁸ This was because the condition had been offered by the applicant. Also email of 26th April from Richard Brown (Vale Licensing Officer) to Parish Clerk

The Parish Council explored this further with the applicant at the Licensing Sub-Committee and established with the Manor's Manager (Gill Peaston) that a noise monitoring device had been obtained to allow for background noise levels to be established and to allow for music noise to be monitored at the boundary – the aim being to ensure this did not exceed 10dba about background.

The Council's Environmental Health Officer (Paul Williamson) was in attendance for the meeting and in answer to questions from the Parish Council he confirmed the following:

- That noise at a level of 10 dbA over background would certainly cause unreasonable disturbance to residents;
- That noise at even 5 dbA was likely to cause unreasonable disturbance to residents;
- But that in any event this was academic as condition 16 would ensure that no music noise at all would be heard at the site boundary.

The Parish Council has corresponded further with the Licensing Officer subsequent to the meeting and he now advises that the question as to whether condition 16 applies before 23.00 hours is something 'for the lawyers'⁹.

What next?

Much seems to depend on the intentions of the Society of Friends. Immediately after the Licensing Sub-Committee the Parish Council was informed as follows¹⁰

"In the present state of our business, it is highly unlikely that we shall be hosting events in the near future and I want to assure the PC that when the time comes, the trustees will make sure that the extra condition is scrupulously complied with.

We are hoping to run some kind of Open Day later this summer - regulations permitting - where we will be in a position to describe some more of our plans for the property in more detail."

The Open Day at the Manor is to be held on 31st July.

The position on these issues was reported to the Parish Council at its meeting of 21st July. Councillors find the Vale Council's uncertain position on the status of marquees disappointing. So too its position on music noise as no one quite knows what position the Council will take to music noise before 23.00 hours. Does it expect that no noise should be heard at the site boundary, or is the expectation that any noise heard should not cause disturbance to residents? And, if it is the latter, what level of noise above background triggers unreasonable disturbance? Although its position on music noise after 23.00 hours is clearer (no noise should be audible at the site boundary) the applicant's position (as explained at the Licensing Sub-Committee) is known to be quite different - yet the condition was supposedly agreed with the Friends before the meeting.

⁹ Email from Richard Brown (Vale Licensing Officer) of 11th June 2021 to the Parish Clerk

¹⁰ Email dated 4th May 2021 from Catherine Hilliard (lead trustee) to Parish Clerk

It seems that these questions can now only be tested further if complaint is made to the Vale 'Out of Hours' Team¹¹ about problem noise generated during the holding an 'event'.

The issues addressed in this note have been discussed with the Licensing Officer before being placed on the Village website, and will be updated when any further key information comes to light. Mr Whiteside's appeal, for example, is likely to take further, and possibly resolve, the issue of whether the licence allows the playing of live of amplified music after 23.00 hours in a tent.

Trevor Brown
Parish Clerk

¹¹ [Reporting a noise nuisance out of hours - Vale of White Horse District Council \(whitehorsedc.gov.uk\)](http://whitehorsedc.gov.uk)