



**EAST CAMBRIDGESHIRE DISTRICT COUNCIL**

**LICENSING ACT 2003**

**NOTICE OF DETERMINATION OF LICENSING SUB-COMMITTEE HEARING**

**DECISION NOTICE**

<b><u>Date of Hearing:</u></b>	Monday 18th July 2022
<b><u>Sub-Committee Members:</u></b>	Councillor Alan Sharp (Chairman) Councillor Alec Jones Councillor Jo Webber
<b><u>Officers</u></b>	Caroline Evans - Democratic Services Officer Lin Bagwell - Licensing Officer Maggie Camp - Director Legal Services & Monitoring Officer (Legal Adviser) Tracy Couper - Democratic Services Manager & Deputy Monitoring Officer Angela Tyrrell - Senior Legal Assistant Adeel Younis - Legal Assistant
<b><u>Applicant:</u></b>	Big Sky Venue Ltd represented by: Mr Ross Taylor and Ms Jane Gilliead (Applicant's agent)
<b><u>Responsible Authorities:</u></b>	PC 446 Clare Metcalfe Cambridgeshire Constabulary Sgt Ian Brown Cambridgeshire Constabulary Karen See, Senior Environmental Health Officer (Domestic)
<b><u>Other Persons:</u></b>	Councillor Anna Bailey Councillor Lorna Dupre Ms Clair Mackness/Willow Farm Objection Group Ms Anne Brown Mr Oliver Brown Ms Deborah Curtis Mr Chris Nye Ms Catriona Roscoe Mrs Catherine Runciman Ms Nicolette Woodhead
<b><u>Application by:</u></b>	Big Sky Venue Ltd
<b><u>Premises Address:</u></b>	Willow Farm, Pymoor Common, Pymoor, Ely, Cambridgeshire CB6 2WA.
<b><u>Date of Application:</u></b>	20th May 2022

**Details of Application:**

Application for a new Premises Licence under Section 17 Licensing Act 2003 for Big Sky Venue as set out below:

<b>Licensable Activity</b>	<b>Proposed Hours</b>
Sale by Retail of Alcohol for consumption on or off the premises	Monday to Sunday 10:00 to 04:00 12 occasions per annum 04:00 to 10:00
Late Night Refreshment (indoors and outdoors)	Monday to Sunday 23:00 to 04:00 12 occasions per annum 04:00 to 05:00
Live Music Recorded Music Plays Indoor Sporting Events Boxing and Wrestling Films Performance of Dance Anything similar to Live Music, Recorded Music and Performance of Dance  All of the above indoors or outdoors	Monday to Sunday 10:00 to 04:00 12 occasions per annum 04:00 to 10:00
Opening Hours	Monday to Sunday 10:00 to 04:30 12 occasions per annum 04:30 to 10:00

**ORAL AND WRITTEN EVIDENCE PRESENTED TO THE HEARING****Written Evidence**

The Sub-Committee members have read the material presented to them and listed below:

The Licensing Officer's Report - this included:

1. A copy of the Applicant's application form and proposed operating schedule, which sets out the measure to be taken to ensure the promotion of the four licensing objectives;
2. Plans submitted with the application;
3. Further location plans and site photographs provided by Officers;
4. Copies of representations from Responsible Authorities (the Police and Environmental Health);
5. A summary of the representations received from Other Persons both objecting and supporting;
6. s182 Statutory Guidance and Statement of Licensing Policy - 10 November 2020.
7. Copies of the full original objections provided as background papers to the report.

## The Applicant

The Applicant/Applicant's agent provided the following additional information which was forwarded to all parties:

1. Summary of Proposal;
2. Noise Impact Assessment for Willow Farm in relation to the Redevelopment of the Corkers Crisps Factory at Pymoor, Ely, Cambridgeshire dated 16th September 2021;
3. Outdoor Lighting Report for Willow Farm in relation to the redevelopment of Corkers Crisps Factory dated 18th June 2021 and produced by SHD Outdoor Lighting Consultancy;
4. Feasibility Assessment and additional information regarding previous studies taken at Willow Farm regarding light, noise and traffic;
5. Proposed additional conditions;
6. Sheet detailing types of events to be offered at Willow Farm; and
7. Example Event Management plan (showing subject headings only).

In addition, the applicant put forward an amendment via email to the hours of the application from 10.00 am to 04.00 am to 10.00 am to 02.00 am Monday to Sunday inclusive and to amend the extended hours to 10.00 am to 04.00 am on up to 6 occasions per annum with 10 weeks' prior notice.

The Applicant's Agent sought to submit a full event management plan at the hearing. The Legal Adviser advised the Licensing (Statutory) Sub-Committee that this could only be accepted if all parties agreed to accept the plan. As all parties did not agree to accept the plan at such a late stage, the event management plan was not accepted and deemed inadmissible.

## Responsible Authorities

1. Karen See, Senior Environmental Health Officer - Environmental Pollution - original email and completion of the Representation form for Responsible Authority to correct an omission in the original email: and
2. PC 446 Clare Metcalfe, Licensing Officer, Cambridgeshire Constabulary - letter and form dated 16th June 2022.

Copies of representations from Responsible Authorities were appended to the Licensing Officer's report.

## Other Persons

Members were provided with a lever arch file containing paper copies of 214 representations from Other Persons objecting to the application and 2 representations from Other Persons in support of the application.

Slides of the representations from Other Persons were presented by the Licensing Officer during their representation in person at the Licensing Sub-committee hearing.

## Oral Evidence

The Sub-Committee members heard the following oral evidence:

### The Licensing Officer

The Licensing Officer presented the report and outlined the amendment put forward by the applicant in relation to the hours of the application and the extended hours.

### The Applicant

The Applicant's agent provided an overview of their business aspirations, the application being sought and answered questions from Members, officers and Responsible authorities.

### Responsible Authorities

Environmental Health - provided a detailed overview of their concerns, provided amplified concerns that the application did not promote the licensing objectives and answered questions from Members.

The Police - provided a detailed overview of their concerns regarding the application and amplified their concerns that the application failed to promote the licensing objectives.

### Other Persons

During presentations by Other Persons, the Licensing Officer presented slides of the written representation made by the Other Person whilst they were speaking.

The following Other Persons appeared and gave presentations regarding their concerns:

Cllr Anna Bailey (District Councillor/Ward Member for Downham Villages)  
Cllr Lorna Dupre (appearing as County Councillor and on behalf of CPRE)  
Ms Clair Mackness (representing herself and the Willow Farm Objection Group)  
Ms Anne Brown  
Mr Oliver Brown  
Ms Deborah Curtis  
Mr Chris Nye  
Ms Catriona Roscoe  
Mrs Catherine Runciman  
Ms Nicolette Woodhead

### The following Guidance was considered:

East Cambridgeshire District Council Statement of Licensing Policy – 7th January 2021  
Revised Guidance issued under section 182 of the Licensing Act 2003 - April 2018

## **DECISION**

The decision of the Licensing Sub-Committee (in exercise of the powers delegated by East Cambridgeshire District Council as Licensing Authority) was to:

**REFUSE** the application for a premises licence pursuant to the Licensing Act 2003.

## **REASONS FOR THE DECISION**

1. The Sub-Committee carefully considered all the information provided before and at the hearing. As detailed above, the Sub-committee heard from the Applicant, Police, Environmental Health and from 10 Other Persons, although it was noted that 214 representations had been received in total from Other Persons objecting to the application.
2. Members concluded that although the Applicant had expressed various aspirations as to the types of event he wished to host if the application were granted, it was important to

focus on the application before them which, if granted, would allow the Applicant to host events at the premises 365 days per year.

3. In making their decision, the Sub-Committee had regard to the four licensing objectives, namely:
  - The Prevention of Crime and Disorder
  - Public Safety
  - The Prevention of Public Nuisance
  - The Protection of Children from Harm
4. The Sub-Committee considered that the licensing objectives of the prevention of public nuisance, public safety, and prevention of crime and disorder were engaged. Due to the lack of information contained within the application and the operating schedule as to the promotion of the licensing objective of protection of children from harm, the Sub-Committee concluded that it was not possible for them to conclude whether this was also engaged. It also considered the national guidance and the Council's Licensing Policy.
5. The Sub-Committee considered the area of the premises to be rural. It is a predominantly flat area, sparsely populated, with Pymoor village being less than 1km away from the site and the proposed premises being situated between other settlements of Little Downham and Coveney.
6. The history of the premises shows that there have not been live music events previously in this location. The site had previously been used as a commercial food production unit which employed 110 employees before its destruction from fire in 2020.
7. With regard to the statutory consultees, the Sub-Committee assessed both their written and oral representations and gave them appropriate weighting based on the fact that very little information was provided to promote the Licensing Objectives. The concerns of the statutory consultees included:

**Police:** Concerns had been raised regarding the proposed licensable activities due to concerns over potential public nuisance to local residents caused by the presence and noise of event traffic, concerns from noise bleed from the actual event activities and concerns over traffic management issues and lack of sufficient information.

**Environmental Health:** No information had been provided as to the likely number or nature of events; no consideration given in the application for potential means to control music noise levels from a larger scale event was considered inadequate; the procedure and timescales proposed for requesting advice and guidance from the SAG were considered prohibitive and the suggestion that each event would be taken to SAG for agreement is considered impracticable and unworkable. Additional information provided by the Application with respect to lighting and noise impacts had been prepared in relation to the redevelopment of the factory site and were therefore irrelevant to this application. The greater the number of events being planned then the greater degree of reassurance that would be required to ensure adequate protections are in place in the form of licence conditions.

**Representations from Other Persons:** These included the lack of detail about events, the risk of fire and damage to crops, risk of damage to livestock, the remoteness of the site, lack of public transport, the rural nature of the site and lack of infrastructure for walkers to the site, risk of an increase in crime and criminal behaviour in the area and the significant risk to pedestrians accessing and egressing the premises.

**District and County Councillors** highlighted the lack of information about the nature of the events, the extent of the licence to operate all year round, poor road links, risk to public safety, potential for noise pollution, a range of additional issues were taken into consideration and regard was had to each of the points made.

8. While the Sub-Committee support opportunities for local employment and for the local entertainment this application proposed, the lack of specific information means it cannot afford it any great weight.
9. The Sub-Committee found the application lacking in any specific detail in that there was a lack of detail in the operating schedule as to the promotion of the 4 licensing objectives, there are no viable impact statements in relation to noise and light as these were in respect of the redevelopment of the Corkers Crisp factory and not this application, the Event Management plan which was produced was only a sample and not a working document, no Traffic Management Plan and the Operating Schedule contained very few details on events and capacity.
10. The Sub-Committee considered national guidance and noted that there was no definition of public nuisance under the Act and therefore the definition of public nuisance should be given its broad common law meaning. Public nuisance could include the reduction of the living and working amenity and environment of other persons living in the area of the licensed premises (para. 2.15 s182 Guidance). Given the premises' location, the topography of the surrounding landscape and the lack of specific noise and light assessment applicable to the application or a detailed operating schedule, the Sub-Committee consider that there is likely to be substantial (based on the worst-case scenario) harm:
  - **Prevention of public nuisance:** Concerns had been raised with regard to illegal parking issues, increased volume of traffic in the villages (resulting in both increased noise and increased traffic flow), concerns regarding the disturbance to local residents from the increase in traffic, the statutory consultees raised concerns with regard to the lack of information which the members agreed with and concluded that the application fails to promote this licensing objective.
  - **Public Safety:** Concerns were raised with regard to accessing and egressing the events, some of which could take up to 4,999 people and the transit routes to and from the venue. Due consideration was given to the lack of information in the application and given at the Hearing. The impacts of noise would have a detrimental effect on local residents if the licence would be used to its full extent and members agreed with these concerns and concluded that the application fails to promote this licensing objective.
  - **Prevention of Crime and Disorder:** The Sub-Committee recognised this as a potential issue but given the lack of event information means it cannot ascertain how events will be managed and therefore cannot be satisfied the application promotes this licensing objective.
  - **Protection of Children from Harm:** There is no information available with regard to how appropriate the events would be for children and how, if they were appropriate for children, the licensing objective of protection of children from harm would be met. It was therefore not possible for the Sub-Committee to be satisfied that the application would promote this licensing objective.

11. In addition, because of the concerns about the lack of proper and relevant detailed information in the application and information given at the Hearing, it was not felt that conditions could be applied to the grant of the application which would address the failure to promote the above licensing objectives and allay the Sub-Committee's concerns. This point had also been made in the representations made by Environmental Health and Cambridgeshire Constabulary. The Sub-Committee were therefore satisfied that the conditions offered by the applicant were not appropriate to uphold the licensing objectives, and no appropriate conditions could be applied.
12. Having considered all the evidence presented, the Sub-Committee determined that the application did not promote the Licensing objectives and consequently, for all the above reasons, the application is **refused**.

### **RIGHTS OF APPEAL**

The Applicant or any persons who made a relevant objection have a right of appeal against this decision. Notice must be given to the Clerk to the Cambridge Magistrates' Court, The Court House, Bridge Street, Peterborough PE1 1ED within 21 days of notification of the Licensing Sub-Committee's decision. Email: [cb-enquiries@hmcts.gsi.gov.uk](mailto:cb-enquiries@hmcts.gsi.gov.uk)