

Re: License Application LI/22/1990

Mr Bryant

Thank you for your email and explanations. As I noted in my initial submission I attempted several times to submit my comments online but received a 'system error' message on each occasion. When I was advised to email my comments the only extra item I was advised to include over and above my comments was the application number - hence no other details. I also note your comments in regard to 'relevance', although the Application Comments page makes no reference to this aspect. I was attempting to make a reasoned argument for my objection based on evidence and suggesting that previously imposed conditions have been pretty flagrantly ignored.

However, in an attempt to allow acceptance of the my representations I make amendments as below (and as you suspected this is related to the public nuisance objective):-

I object to this license application on the basis that this is likely to substantially increase the potential of public nuisance.

The application anticipates a material expansion of activities, including late night entertainment which will be problematic to the nearby domestic dwellings. The license is intended to support live and recorded music which is to take place in the open air or within temporary structures, and attempts to prevent noise nuisance in such circumstances will be inadequate. In addition it can be anticipated nuisance arising from the arrival and departure of vehicles in an essentially rural area where no prevention measures are possible, inevitably extending the time span of nuisance.

Licensing to 11pm at any time of the year will require floodlighting with concomitant light nuisance as the site sits above the nearest domestic dwellings and will be clearly visible.

The operation of setting-up and subsequent cleaning-up of the site will again, because of the open-air nature of the site, present noise nuisance and extend the time span of disturbance.

Although the comments above are specifically related to this application, they have been informed by recent experience of effects under the current license.

Philip Tilbury, *address redacted*.

Perhaps you can let me know this meets the relevance criteria and you are able to include them in your deliberations.

Regards

Philip Tilbury

On 12/01/2023 15:53, Jon Bryant wrote:

Dear Mr Tilbury

Thank you for your email making representations regarding the application to vary the current Premises Licence at the Maize Maze location.

Firstly can you confirm that your representations are on the licensing objective of the prevention of a public nuisance.

In respect of Licensing Applications the legislation is prescriptive and I can only take into account “relevant representations”. Within Licensing Applications a representation is only “relevant” if it relates to the *likely effect* of the grant of the licence on the promotion of at least one of the Licensing Objectives. I am not permitted to accept any representations that are not considered to be relevant under the Act.

The four licensing objectives are:

1. The prevention of crime and disorder. This relates to any crime, disorder or anti-social behaviour at the premises or related to the management of the premises. A licence holder/applicant cannot generally be held responsible for the conduct of individuals once they leave the premises;
2. Public safety. This relates to the safety of the public *on* the premises, i.e. fire safety, electrical circuitry, lighting, building safety or capacity, and first aid.
3. Prevention of public nuisance. This can relate to issues such as hours of operation, noise emanating from the premises, vibrations, lighting and litter.
4. Protection of children from harm. This relates to protecting children from the activities carried out on the premises whilst they are there. The law already provides special protections for children under 18 to buy alcohol.

I am unable to accept representations that relate to other matters such as the location of the premises, the planning restrictions in place for the premises, the fact that the hours for the licensable activities vary from the permitted planning hours and areas such as the local road infrastructure, parking etc. The issue of a Premises Licence under the Licensing Act 2003 does not override any other legislation or planning requirements. If a premises is operated in breach of any particular planning consent then this would be dealt with through the planning enforcement process. Misunderstandings occasionally occur because Planning and Licensing are totally separate legislation and it is not a relevant representation to state that the application is for longer hours than what is allowed by the planning. We have many premises throughout the District where their Licensing and Planning permitted hours are different, but they cannot choose which ones they wish to comply with.

For clarity I have copied below an extract from the Statutory Guidance issued under the Licensing Act 2003

*A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives.*

Your comments surrounding the expansion of the provision of regulated entertainment, the performance of live and recorded music are potentially relevant however the fact that you say that they differ to the planning opening hours would not be relevant. The comments should address the likely effect of the grant of the variation on the licensing objectives. I would also add that this is not a review or consideration of the current licence just a consideration of the application to vary the current premises licence.

If a relevant representation is made and it cannot be resolved then the application will be determined by the Licensing Sub Committee. All parties who have submitted a representation will be able to address the Sub-Committee. No new grounds of objection may be raised or introduced at this stage and parties are limited to speaking to matters outlined in their original representation although detail provided may be expanded upon. Is there any further detail that you wish to add to your representation, for example your proximity to the location or other details?

Finally, Under the Licensing Act 2003 (Hearings) Regulations 2005 I also require the full address of any persons making representation so I am currently unable to accept your representation at this time as valid. As the consideration of any application is a legal process the details of persons making representations are passed to the applicant.

At present I am unable to accept your representations as being relevant however I look forward to receiving further detail and clarification which may assist me in accepting your comments. Please ensure that any additional comments are sent by 2359 hours on the 13<sup>th</sup> January 2023.

Kind regards

Jon Bryant

Jon Bryant

Senior Licensing Officer

Mid Sussex District Council

Environmental Health

**From:** Philip Tilbury

**Sent:** 12 January 2023 14:09

**To:** licensing

**Subject:** License Application LI/22/1990

I attempted several times to make a comment on the above application through your website. On each occasion I received an error message. As a result, following contact with the office, I was advised to email my comments to this address so that you may take them into account.

I am aware that tomorrow is the last day for comments.

Please contact me if you require any further information.

My comments are as follows:-

I object to the granting of the license application on the following:-

Permission to operate the Pick Your Own (PYO) activity given under planning application DM/19/1606 was granted subject to several conditions. The specific conditions relating to the PYO activity (given that this license is sought under the trading name of "Pumpkin Farm") was that it shall only be open to visitors between 10am and 5.30pm. There can be no reason why licensing hours can reasonably exceed the opening hours of the site and anything beyond this time clearly anticipates activity beyond the permissive hours.

During the PYO event in 2022 the hours of opening were advertised, and occurred, as beginning both earlier and extending to later than permission allowed. The current license (LI/20/0997) was utilised to serve alcohol when the PYO should not even have been open to the visitors.

During 2022 live and recorded music took place outside the permitted window of 1 June to 30 September, which is a breach of a condition of the license currently in force.

During 2022 (and earlier) the license condition regarding clean-up of external sites between 2300 and 0800 was regularly breached, more specifically before 0800 in the morning.

During 2022, and following an enquiry to MSDC Environmental Health (EH) regarding excessive noise, a noise meter was installed and recorded for several weeks. Following analysis by EH it was reported that noise inside the house was both intrusive and persistent. I understand that further enquiries by EH discovered that a license condition regarding submission of a noise management plan had not been met.

I submit that several current license conditions are already being breached, and that granting the license application, as it stands, allows a massive expansion in the provision of live and recorded music apparently at any time of the year and up to 11pm on Fridays and Saturdays. This essentially alters the nature of a farming enterprise with ancillary activities to a major entertainment enterprise with year-round potential for use and to late at night. This is completely at odds with the opening hours condition in the planning permission and seeks to materially alter the nature of the use of the land. The license will open the door to further and

increased noise and public nuisance issues and is inappropriate given the location and rural nature of the site.

I request that a license is only granted between 10am and 5:30pm to be strictly in line with the PYO permitted opening hours and period of operation allowed, as there cannot be a valid reason or justification to extend so materially beyond these hours of opening. In addition there have been several, multiple, breaches of the current license which suggests either no comprehension of the obligations attaching to the grant of a license, or no intention to comply, and fear a similar disregard to conditions with such a large increase of licensing availability