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**Sent:** 12 August 2020 14:59  
**To:** Sharon Degiorgio <Sharon.Degiorgio@Tunbridgewells.gov.uk>  
**Cc:** John McCullough <John.McCullough@MidKent.gov.uk>; Trevor Horner <Trevor.Horner@TunbridgeWells.gov.uk>; Ellen Shaw 46052479 <Ellen.Shaw@kent.police.uk>; nick.love1@gmail.com  
**Subject:** FW: Variation of Licence - Colebrook Estate

Dear Sharon,

I had a very helpful discussion on Tuesday afternoon with John McCulloch-EHO and an interim solution is proposed as set out in this note that I would ask you to consider with Robin.

I note that the proposal put forward by the noise expert, Mr Christopher Beale on behalf of the Colebrook estate is a plan that has John's support in principle as an environmental health expert but that he feels that before he can give it his full unqualified support and indeed satisfy the residents that compliance with the plan will not cause a nuisance Mr Love should run 2 music festival events adopting the plan, then revising or tweaking any proposals in the plan by agreement with EHO with a view to putting the matter forward to the committee for consideration. I understand the Police agree with this suggestion, but I have cc'd Ellen in for comment.

No-one wants to waste valuable committee time or engage licensing in preparing for a detailed hearing only for the purpose of securing an adjournment of this case for that purpose.

The proposal is that we ask you to consider is:

***The application for variation of a premises licence be adjourned until a set date we would have to arrange now in October 2021 to enable the Environmental Health Department to carry out proper testing of the noise management plan prepared by SPL Track and provide live data to the committee and residents to show how it can work. The basis of the adjournment would be to permit the applicant to run two large events i.e. persons between 1500 and 4999 over a period of three days. On the Friday and Saturday of one of the events the terminal hour for the provision of live and all recorded music would be 4 AM and on the other event the terminal hour for the provision of live and or recording the music would be 3 AM. During the course of the testing EHO wish to carry out noise management testing in the light of further developments to exclude the need for music to be provided in a marquee after 23:00 hours and revisit the question of the definition of "indoors" when applied to a marquee as currently provided under the existing licence.***

We require the adjournment on these days to facilitate the operation to the hours requested so that effective tests can be undertaken. You will note this is beyond the operation of the current licence.

It would be in the intention that EHO would set the noise levels in advance of the two events in question. Additionally EHO would have the right to require reduction in the noise level during the course of any event e.g. should weather conditions change.

Under the plan noise from the site can be tracked in real-time and EHO at any time of the night and day can determine the noise levels by connecting to the relevant app. They don't actually have to be on site under this particular system to monitor the noise levels although in practice it is likely they will want to be to verify from their own personal experience and also the live data that the system works.

Mr Beale operates a similar system at various sites throughout the country where this system has proven effective. EHO do not want to give a positive greenlight to the system until it has been tested, hence the suggestion that the application be adjourned on the above terms. Mr Love notes that we live in exceptional times calling for an "exceptional solution" and for his part has sustained massive financial losses as a result of the Covid 19 pandemic and is keen to have some sort of certainty going forward. It is to be hoped that he will be able to run these festivals in 2021 if the adjournment can be granted in these terms.

I have checked the law and as I see it regulation 11 of the Licensing Act 2003 (Hearings) Regulations 2005 permits the licensing committee to extend the time for consideration of an application where it is in the public interest to do so.

Further Regulation 12 states that the committee have the right to adjourn the hearing to a specified date where it considers this to be necessary for its consideration of any representations or notice made by a party.

This is subject to regulation 13. Parts B and C only apply to reviews and part A only applies to the transitional provisions, so therefore it would appear that provided we pass the public interest test then the committee does have the power to grant the adjournment on the above terms.

It clearly is in the public interest because it must be for to the benefit of both the community and the local authority to know that the plan put forward by the applicant will work. It is not the applicant's fault that he is the victim of the pandemic and at the moment cannot really make any use of the site for the large events. The local residents would not be prejudiced by the grant of this adjournment.

Mr Love cannot go ahead with the proposal unless he can enter into a contract with providers and requires some certainty to enable the Festivals to be held and the tests carried out. At the moment he hopes to run 2 3 day events in May and August hence the suggestion of an October date.

John has sent me the following email in response to the proposal we discussed:

**Stephen,**

***I am in agreement with the information proposal. I think it is a rare win-win-win scenario certainty for the promotor with built-in safeguards for residents and a potential opportunity for the introduction of relevant technological advances to the control of noise for the ongoing betterment for residents together with ongoing monitoring protocols that will assist the EP team going forward. The EP team are aware of the difficult of the promotor to book events without confidence that they can take place. This ability to be***

***able to hold 2 events over two different weekends adequately separated will give us sufficient data to establish whether the noise can be controlled so as not to cause public nuisance. The powers to intervene by EHOs will give residents confidence that should noise levels (against our expectations) prove excessive we can intervene.***

***Having the data to put before a committee will ensure that "guesswork and estimation" are eliminated and actual relevant data will be presented upon which they can make informed decisions.***

***This move would be equitable on the basis that there have been so few events over the last few years AND none this year and the proposals are not excessive. I would like to put this to Robin Harris for advice on how we can achieve this level of compromise within the restraints of the licencing Act.***

On the basis that the matter proceeds to a hearing on 7th September I note that it would be the position of EHO to support the application for adjournment on the basis of the above. If acceptable then we would have to contact the local residents to advise of the proposed adjournment to next year for the purpose of testing the noise management plan that has now been put forward so that the application can be heard on its merit with all necessary information to hand. However hopefully, we can all avoid an unnecessary hearing and unnecessary work if the course of action proposed in this email is accepted.

I imagine that if the residents do not agree to that course of action and then the application to adjourn would have to be heard on 7<sup>th</sup> September.

Best  
Stephen

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