

Minutes of the meeting of Licensing sub-committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Friday 18 October 2019 at 10.00 am

Present: Councillor Alan Seldon (chairperson)

Councillors: John Hardwick and Tony Johnson

Officers: Emma Bowell, Elisabeth Laughland, Alice McAlpine and Fred Spriggs

51. APOLOGIES FOR ABSENCE

No apologies for absence were received.

52. NAMED SUBSTITUTES (IF ANY)

There were no substitutes present at the meeting.

53. DECLARATIONS OF INTEREST

There were no declarations of interest made.

54. APPLICATION FOR A REVIEW OF A PREMISES LICENCE IN RESPECT OF ST KATHERINE'S BARN, ST KATHERINE'S, LEDBURY, HR8 1AQ- LICENSING ACT 2003

Members of the licensing sub-committee from the council's planning and regulatory committee considered the above application, full details of which appeared before the Members in their agenda, the background papers and the supplements published on 17 October 2019.

The technical licensing officer presented the report.

The sub-committee heard from Environmental Protection who highlighted the following

- There had 8 Temporary Event Notices (TENS) in 2018 and 4 up until April 2019. There had been no complaints received in respect of these events.
- The premises licence had been granted on 11 April 2019.
- The premises were located in Ledbury Town Centre behind high town and in the area of St Katherine's car park. They were very close to the southeast corner surrounding the car park. The barn was in a large open area and due to the hard surfaces surrounding it, any noise was likely to be amplified.
- The closest neighbour was 10 metres away and there were five dwellings near the premises.
- The barn was a listed Tudor barn. The roof is effectively open as there was boarding on the tiles and between the eaves there were substantially filled with a padding. The windows were of a perspex nature. There was a sliding door attached to the premises.
- There had been consideration to performance noise controls inside the premises.
- During the period May to October 2019, there had been 11 noise complaints received
 - 27 May 2019
 - 24 June 2019

- 16 July 2019
- 1 August 2019
- 12 August 2019
- 19 August 2019
- 29 August 2019
- 9 September 2019
- 23 September 2019
- 7 October 2019
- Letters/emails had been sent to the premises licence holder on 31 May, 19 June and 26 June 2019.
- On 26 June 2019 a 30 minute conversation had taken place with the premises licence holder which had included advice on mediation, mitigation and controls. The premises licence holder had not seemed to be aware of the conditions on the licence and stated that the neighbours needed to be more involved in their activities. The advice which had been given was that it was not the responsibility or requirement of the neighbours to be involved in the premises' activities but it was the premises licence holder's responsibilities to contain the activities and it was for the premises licence holder to make sure that she was not disturbing the neighbours. It was the responsibility of the premises licence holder to ensure that suitable conditions were on place.
- During the period August 2019 to October 2019, there had been 12 visits to the premises during 9 of which the out of hours team had witnessed loud music and bass music.
- On 2 August 2019 noise equipment was installed into a residential property and it was noted that the noise was close but it was unclear whether it was in or outside of the property.
- Sound clips were played to the sub committee which illustrated the level of noise:
 - 2310 hrs on a Friday night at a distance of 10m to 15m from the premises.
 - 9 August 2019, the weather was very wet and there was a light breeze. There was loud audible music was playing which could be heard from the almhouses which were approximately 40m away
 - 10 August 2019 at 2356 hrs, the weather was windy and the main door was open. A singer with a guitar. The music stopped at 0005hrs.
 - 16 August 2019, the weather was damp.
 - 30 August , dry still night and illustrated people talking at the start and then loud music
- Warning letters were sent to the premises licence holder on 30 August 2019 and 16 September 2019 which stated that the issues with regard to noise control need to be addressed. The letters outline the areas. The letters also noted that the use of the premises did not fit with the permitted activities on the planning consent, i.e. café and art gallery.
- On 20 September 2019 a meeting took place with Ms Jones (premises licence holder) and Mr Oakey (her partner) which was about the structure of the building, the events and concerns and that changes needed to be made. Environmental protection were still waiting to hear from the premises licence holder as to what they were proposing to do in order to address the issues.
- Out of hours visits took place on 28 September 2019, 5 October 2019 and 12 October 2019. On each of the three visits there were loud bass music levels experienced. For the out of hours visit on 12 October 2019, the team had parked behind the library building but in direct sight of the premises (distance approximately 60 m). The bass music was extremely loud. The team had also entered a residential property and the noise was audible to the extent that the TV would need to be turned up in order to hear it. The noise had stopped at around 2330 and had then become quieter. The difference in volume levels between the bass music and background noise was noticeable.
- As a result of the 12 October 2019 visit and the evidence that sufficient warning and advice has been given, environmental protection had served an abatement notice on the premises licence holder on 17 October 2019 (copy attached as part of the second supplement published on 17 October 2019).

- Environmental protection requested that the conditions on the licence be amended as follows:
 - *Licensable activities -*
Plays / Films / Live Music / Recorded Music / Performance of Dance / Anything Similar to Regulated entertainment
 - *Monday to Saturday 10:00 – 18:00*
 - *Sunday 12:00 – 18:00*
 - *The opening hours of the premises*
 - *Monday to Sunday 10:00 – 22:00*
 - *Windows (in the public areas) at the premises shall be kept closed after 21:00.*
 - *All external doors (to the public areas) shall be kept closed after 21:00 except during immediate access and egress.*
 - *The outside area should not be used after 22:00 on any day.*
 - *Dispersal policy which meets the requirements of Environmental Protection and Licensing Service.*

The sub-committee heard from the licensing authority:

- The principal licensing officer showed three videos which identified the location of the premises in St Katherine's car park.
- The principal licensing officer had attended some of the out of hours visits.
- The level of noise was too loud
- The sub-committee should consider revoking the licence as there has been a significant amount of engagement with the premises licence holder and support from the licensing authority and environment protection; despite this the premises licence holder chosen to ignore the advice and continues to cause noise nuisance.
- The premises licence holder were not promoting the licensing objectives and appeared to have no intention of doing so.

The sub-committee then heard from Mr Thomas who had launched the review as a member of the public who highlighted the following:

- He had lived in the rented accommodation for 14 years and had chosen his current flat because it was in a quiet location.
- He had lived in Ledbury since 1976 and had spent all his adult life living in the town centre.
- The premises was directly outside his flat
- The premises emanated an unbearable volume of music and there was noise from people attending the events.
- The premises licence holder had not adhered to the conditions on the licence.
- There had been no consideration to the noise levels since the renovation in 2018.
- He had been forced to leave his flat in order to escape the noise and he dreaded the weekends.
- At a recent meeting of the Ledbury Town Council, Mr Oakey had indicated that he should find another place to live and that Mr Oakey would rent the property.
- The noise was having a detrimental effect on his health and wellbeing and had had to seek help from his doctor.

The sub committee then heard from Lynn Jones (premises licence holder), Mr Robin Oakey and Mr Alex Clive who stated the following:

- They wanted the Barn to be a friendly happy place which was accessible to all.
- They wanted the neighbours to join in.
- They had a large petition which had been signed by the friends of the Barn which included the almshouses.

- The renovation was intended to provide a cultural hub for Ledbury and it would be a shame if there were restrictions on the licence.
- The events were well organised, high quality, unique and a credit to the premises licence holder.
- There had been planning issues with Herefordshire Council and the planning committee which had caused delays. The premises had been asking for 19 months for planning permission to insulate the roof and triple glaze the property. The conservation officer was happy with the proposed works.
- Due to the allegation that the premises were being run as a night club, they had had to re-apply again for planning permission.
- Ledbury was a growing town and there were very few places of entertainment.
- They had video and sound recordings which had not been sent to the licensing authority prior to the sub committee meeting and were not allowed to be shown.
- They had not been able to open some of the documents/files which had been sent to them by environmental protection and the licensing authority.
- It was hoped that the third amended planning application would go through as it included an acoustic blanket.
- They were aware that other premises were in breach of their licensing conditions.
- A number of premises had had serious problems which included fighting but The Barn had never had these problems.
- Customers travelled to see events, e.g. from Cardiff and Derbyshire, and they stay in local hotels.
- They were not a nightclub.
- They considered the music to be part of the art.

Following queries from members of the committee, it was confirmed that the premises were a café and art gallery and that the premises tried to engage in as many other things as well which included for example a farmers markets.

The committee carefully considered all the representations, reports and evidence before them today. They have had regard to their duties under S4 of the Licensing Act and considered guidance issued under s182 of the Licensing Act 2003 and Herefordshire Council's statement of licensing policy.

DECISION

The sub committee's decision following a review of premises licence was to suspend the license for a period of three months. Upon the lifting of the suspension the conditions will be amended to include:

- All licensable activities will be from 1000 until 2200 Monday to Sunday.
- Customers must leave the premises by 2230.
- Windows and doors should be closed at 2000hrs.
- The existing condition regarding noise and vibration will remain in place on the license.

The premises licence holder will agree a dispersal policy with the licensing authority and environmental protection prior to the lifting of the suspension.

Section 177 of the Live Music Act 2012 has been dis-applied

REASONS

The sub committee had taken into account all the statements from the parties present and the number of noise complaints and visits by the council's out of hours team in respect of noise nuisance, together with the issue of the Section 80 notice in respect of statutory nuisance.

The reason for the suspension was to allow time for consultation with the neighbours, for noise attenuation measures be put in place and for the dispersal policy to be agreed and put in place.