

Alcohol and Regulated Entertainment Sub-Committee
30 March 2022

WELWYN HATFIELD COUNCIL

Minutes of a meeting of the ALCOHOL AND REGULATED ENTERTAINMENT SUB-COMMITTEE held on Wednesday 30 March 2022 at 2.30 pm Via Zoom

PRESENT: Councillors P. Smith (Chairman)
B.Fitzsimon and G.Hayes

ALSO PRESENT: Applicant: C. Brown (WHBC Environmental Health)

Applicant's Witnesses:

M. Watts (Cambridge Acoustics), T. Vincent (WHBC Environmental Health), A. McCormack (WHBC Environmental Health), and S. Wilding (WHBC Street Warden)

Relevant Authorities Representation:

Alex Kettle- Stupka (Hertfordshire Constabulary)

Residents and their representatives:

Parish Councillors B. Knichel, B. Stubbs, Borough Councillor B. Sarson, A.Lyon, S. Gibson, J.Wilson, K.Golding, J.Brook, and J.Clowes on behalf of C. Georgiou.

Premises Licence Holder and Representatives:

J. Silver (Licence Holder)
J. Cannon (Cornerstone Barristers) representing the Licence Holder
K. Holland (Tiger Highways)
R. Vivian (Big Sky Acoustics)

OFFICIALS PRESENT: Senior Litigation Lawyer (R. Simpson)
Licensing Technical Officer (N. Tupling)
Interim Governance Advisor (B. Bix)

5. APPOINTMENT OF CHAIRMAN

Councillor P. Smith chaired the meeting.

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6. REVIEW OF PREMISES LICENCE FOR COLESDALE FARM, NORTHAW ROAD WEST, NORTHAW, HERTFORDSHIRE, EN6 4QZ.

Introduction and Procedure

The purpose of the meeting was to consider an application for a review of the premises licence in place at Colesdale Farm, Northaw Road West, Northaw. The licence had been in place since January 2020 and is held by Huds10 Ltd following a transfer of the premises licence from BJP Production to Huds10 Ltd in January 2022. The Applicant requested a review under the Licensing Act 2003 on the statutory grounds of:

- Public safety
- Prevention of public nuisance.

Documentary Evidence

The report of the Licensing Officer; the review application and supporting documents, along with written representations from relevant authorities, the Parish Council, a Ward Councillor, and local residents had been previously circulated.

Report of the Licensing Officer

The Licensing Officer presented the report. The licence holder proposed a schedule of twelve music events between 3 July 2021 and 4 September 2021. Between 5th July 2021 and 20th September 2021, the Environmental Health Team received 200 complaints from local residents regarding events held at Colesdale Farm. Many residents cited multiple concerns when making a complaint but the most dominant complaint was that of alleged noise nuisance. This was followed by traffic management, anti-social behaviour, litter and health and safety concerns.

With a history of complaints made by Cuffley and Northaw residents during events held at Colesdale Farm in 2020 (which culminated in a licensing review) impacting upon the Environmental Team's confidence in management, and given the proposed intensity of events for 2021, Environmental Health deployed officers to attend many of the events to monitor the delivery in line with the event management plan.

This monitoring also included Environmental Health employing an acoustic consultant Cambridge Acoustics, to determine the licence holder's compliance with licensing conditions; evaluate the existing licensing conditions; and consider the acceptability of events and impact on nearby sensitive premises.

Repeated efforts by the Environmental Health Team to engage with the licence holder to remedy concerns during 2021 had been unsuccessful.

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Eighty-four formal written representations had been received in support of the review within the consultation period. Eight representations had been received against the premises licence review and in support of the premises Colesdale Farm and the premises licence.

The representations in support of the review were comprised of:

- A representation from Hertfordshire Constabulary
- A representation from Northaw and Cuffley Parish Council
- A representation from a Ward Councillor
- 81 representations from residents of Northaw and Cuffley

The Applicant and Witnesses

The Applicant (the Environmental Health Team at Welwyn Hatfield Borough Council) was represented by Cheryl Brown, (Team Leader Public Health and Protection), who had provided the following witnesses:

- Marcus Watts – Cambridge Acoustics
- Terry Vincent – WHBC Environmental Health
- Aimee McCormack – WHBC Environmental Health
- Steve Wilding – WHBC Street Warden

The following points were made and noted during the Applicant's address:

- The concentrated delivery of events for nearly every weekend of the summer period intensified the complaints generated.
- The SAT had not been satisfied with the participation nor contributions received from the Premises Licence Holder.
- Noise monitoring was undertaken at each of the events. The Council's acoustic consultant (Cambridge Acoustics) had contacted the licence holder's acoustic consultant (F1 Acoustics) to discuss the noise management plan and proposed monitoring.
- During July, the licence holder's acoustic consultants were advised that given the impact and cumulative effect of events, that the noise was likely to be actionable under nuisance legislation within the Environmental Protection Act 1990. The licence holder was therefore given notice of the noise problem and the opportunity to take remedial action.
- Cambridge Acoustics conducted noise monitoring during August 2021 and based on that evidence, a Noise Abatement Notice was served on BJP Productions.
- Witnesses had provided statements; and reported participants at the events using drugs, driving whilst inhaling or drinking, and the forcing open of a field gate to use the field as a toilet. Taxi pick-up and drop offs caused confusion, and traffic management (particularly egress from the site) was poor.
- Witnesses all concurred as to the excessive noise emitted from the site.

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In response to questions, Members heard that the site in its present form, with its access and egress limitations, was unsuitable for events of the scale and type operated. To improve the behaviour of pedestrians leaving the site, dedicated control measures and resources would be necessary. The current condition relating to decibel level was felt to be unsuitable and would need to be replaced with a more robust condition.

Representation from Hertfordshire Constabulary

Alex Kettle-Stupka addressed the sub-committee, and the following points were made and noted:

- There were public safety concerns, including the blocking of the road by parked vehicles, and the risk of pedestrians walking in the road. A video demonstrating an instance of this was shown.
- There were crime and disorder concerns, including an instance of a fight at the venue leading to a vehicle being driven into the crowd. There had been ten reports of violent crime at the site in the last year. All fell within the time period the events were being run.

Representations from Northaw and Cuffley Parish Council, the Ward Councillor, residents and members of the public.

In summary, the following points were made to the sub-committee and noted:

- Problems with the site had become worse, despite the previous review by the sub-committee. There had been a lack of suitable mitigation for ongoing anti-social behaviour (including drug use), littering, noise abatement and traffic management concerns. The dedicated telephone line to which problems could be reported, was typically unanswered.
- The location of the access and egress to the site resulted in a conflict between vehicles and pedestrians. The site was poorly located for public transport; and taxi pick-ups and drop-offs caused disruption. Consequently, there was anti-social behaviour as participants made their way back to Cuffley Station.
- The frequency of, and the noise from the events affected residents' enjoyment of their own homes, and consequently had a negative impact on the mental health of some.

Premises Licence Holder

The Premises Licence Holder (Joshua Silver (Huds10 Ltd)) was represented by Mr Cannon, (Cornerstone Barristers). Prior to the meeting, Mr Cannon had made available a bundle of documents relating to acoustics and traffic management, for the consideration of Members. Mr Cannon provided the following witnesses:

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- Kevin Holland – Tiger Highways
- Richard Vivian – Big Sky Acoustics

The following points were made and noted during Mr Cannon's address to the sub-committee:

- The Licence Holder was an experienced events operator and was keen to learn the lessons of 2021, working with a new team of advisors.
- The matters before the sub-committee could all be surmised as being related to either noise and or access/egress, therefore the licence holder had sought to offer proposed solutions to those matters to the sub-committee. The Licence Holder was prepared to:
 - a) Reduce the capacity of the events from 5000 to 3000 attendees
 - b) Reduce the number of events from 12 to 6 per annum
 - c) Provide a bass noise condition
- Mr Vivian (Big Sky Acoustics) concurred that the existing noise condition was unsuitable and had proposed an alternative, specifically to address bass noise.
- It was acknowledged that with only one access and egress point to the site in 2021, an alternative traffic management plan was necessary.
- Mr Holland (Tiger Highways) had circulated plans to address site access, highway congestion, and the separation of pedestrians from vehicles in and around the site. This would involve the introduction of a second access and egress point, effectively creating a one-way system; the introduction of an enforceable clearway to prevent the road being obstructed by parked vehicles; the replacement of the 3-way lights with 2-way lights and improved marshalling. A protected walkway was envisaged to segregate pedestrians from vehicles within the site.

Mr Cannon urged the sub-committee to note that there appeared to be headroom for further regulation, and whilst acknowledging that there had been challenges at the site, the Licence Holder had committed to comply with any further conditions and had proposed solutions.

In response to questions from Members, it was stated that:

- a) There were mitigations possible for field access and egress in wet weather, and that an event would be cancelled where extreme weather was forecast.
- b) A condition relating to the provision of a risk assessment to the SAT 8 weeks in advance of an event, would define the number of marshals needed for specific events.
- c) Effective marshalling, a steady egress plan from the site, and the protected walkway were the measures aimed at mitigating the mixing of pedestrians with vehicles outside the site.
- d) Dedicated taxi pick-up and drop-off points would be introduced, although Members noted that Uber drivers may not engage with those.

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- e) It was anticipated that the proposed clearway would be enforced using tow away powers. It was not clear whether Hertfordshire County Council would be willing to enforce a tow away zone or whether a private company would need to be employed. It was yet to be determined where towed cars would be taken to.
- f) The site would be on the threshold of financial viability with the reduction in number of events from 12 to 6.

Members cautioned that the plans circulated would have to be agreed by the relevant authorities, which would take time and would have to be negotiated.

Both parties made a final address to the sub-committee, whereupon the sub-committee retired to deliberate a decision.

Determination

The licensing sub-committee has decided to revoke the premises licence for Colesdale Farm Northaw Road West, Northaw in response to an application for review of the premises licence currently in place.

An application for a review of the licence was formally requested on 31st January 2022 by Cheryl Brown Environmental Health Officer at Welwyn Garden Borough Council ('the Applicant').

The Applicant requested the review under the Licensing Act 2003 on the statutory grounds of:

- Public Safety
- Prevention of public nuisance

The licence for Colesdale Farm has been in place since January 2020 and is held by Huds10 Ltd following a transfer of the premises licence from BJP Productions to Huds10 Ltd in January 2022. The Designated Premises Supervisor ('DPS') and the Director of Huds 10 Ltd is Joshua Silver. Mr Silver was represented by Josef Cannon of Cornerstone Chambers.

The Applicant presented her application for review of the premises license to the sub-committee. The application was supported by evidence from Marcus Watts Director of Cambridge Acoustics and further representations in support of the application were also given verbally and in writing by members of the Environmental Health Team, the Public Health and Protection Team, Hertfordshire Police, Northaw and Cuffley Parish Council and local residents. The Applicant's position was that despite repeated efforts to engage with the license holder the outstanding issues relating to public safety and the prevention of public nuisance remained unresolved and that she had serious concern regarding the impact of the events on the local community and for the safety of those working at and attending the events

The DPS then responded to the application through his legal representative Mr Cannon. His response was supported by evidence given by Richard Vivian of

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Big Sky Acoustics and Kevin Holland of Tiger Highways as well as by written representations from local residents. The license holder's position was that noise levels during the music events had not breached the existing license conditions; he was keen to engage constructively with the Environmental Health department and with the Parish Council; he had engaged new noise consultants to address the noise issues raised in the application: he had engaged highways consultants to address the health and safety concerns raised. He proposed a number of conditions aimed at addressing the concerns raised.

Members of the Sub-Committee chaired by Councillor Paul Smith, considered carefully the written and oral evidence and representations made by both representatives for the Applicant and representatives on behalf of Huds10 Ltd.

Having heard the representations for both the Applicant and the license holder the committee retired to consider the same and reach a decision.

In reaching a decision the committee noted the following facts as being of particular relevance:

It was noted that this was the second time that this premises license had come before the sub-committee for review due to concerns regarding noise.

It was noted that Environmental Health had issued a noise abatement notice on 20.8.21 and that this had not been challenged by the Licensee. Evidence was given that it had been breached soon after issue.

It was noted that Hertfordshire Police had significant concerns regarding Crime and Disorder and Public Safety.

It was noted that the previous Noise Management Plan had not been adhered to.

It was noted that the existing license condition relating to noise levels had not been significantly breached during 2021 despite which noise had remained a persistent nuisance to residents resulting 200 complaints being received between from local residents between 5th July and 20th September 2021.

It was noted that pavements along the roads close to the venue were narrow.

Due regard was given to the Licensing Act 2003 and the Guidance to it as well as to the Welwyn Hatfield Borough Council Licensing Policy.

The sub-committee gave serious consideration to addressing the safety issues raised through attaching conditions to the premises license. Having considered all the evidence however, it was not satisfied that events could be run safely at the premises. The sub-committee considered that even with the revised traffic plans put forward the build up of traffic would not be sufficiently mitigated and there would still be the potential to have walkers and cars in too close proximity due to the volume of pedestrians and the narrowness of the pavements. This would be the case particularly after the venue closed, when the attendees might

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be under the influence of alcohol and so would not necessarily take rational decisions.

Looking at the topography of the location and its close proximity to local dwellings the sub-committee was also not fully satisfied that any noise conditions it attached could fully negate the nuisance caused to residents.

The sub-committee therefore concluded that it was not satisfied that there was a combination of conditions would successfully address the very serious concerns relating to Public Safety, the Prevention of Public Nuisance and Crime and Disorder raised at the hearing.

For these reasons the sub-committee has decided to revoke this premises license.

Meeting ended at 7.35 pm
BB