

WELWYN HATFIELD COUNCIL
ALCOHOL AND REGULATED ENTERTAINMENT SUB-COMMITTEE – 30 MARCH
2022
REPORT OF THE LICENSING OFFICER

NORTHAW AND CUFFLEY

REPORT TO LICENSING SUB COMMITTEE

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

1 Summary of the Review

Premises Licence Holder(s)
Huds10 Ltd
Address of Premises
Colesdale Farm Northaw Road West Northaw Hertfordshire EN6 4QZ

This report contains an application for a review of the premises licence currently in place at Colesdale Farm, Northaw Road West, Northaw. This licence 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 and the Director of Huds10 Ltd is Joshua Silver. A copy of this licence is shown in appendix A.

The review has been formally requested by Cheryl Brown of Environmental Health (the applicant). The Applicant has requested the review under the Licensing Act 2003 on the statutory grounds of:

- Public safety
- Prevention of public nuisance

The full review application is contained in Appendix B to this report.

Part 2 Appendix A – Premises Licence and S24 Continuation Sheet

Part 2 Appendix B – Review application form, Post Event Report by Cambridge Acoustics, Witness Statements, Copy of Noise Abatement Notice Served August 2021 and Map of geographical spread of complaints received by Environmental Health

Part 2 Appendix C – Representation from Hertfordshire Police with witness statement and body worn footage (footage to be shared during the hearing)

Part 2 Appendix D – Representation from Northaw and Cuffley Parish Council and collated responses from residents who have requested anonymity

Part 2 Appendix E - Representations in support of the review

Part 2 Appendix F - Representation against the review (in support of the venue)

2 Details of Review Received

An application has been received from the Applicant under the Licensing Act 2003 for a review of Colesdale Farm premises licence on the grounds of public safety and prevention of public nuisance. This application has been judged as appropriate and has therefore been brought to the Licensing Sub Committee to be determined. The application and associated documents are contained in Appendix B.

The applicant (Environmental Health) has requested a review of the premises licence regarding two of the licensing objectives, namely public safety and public nuisance following the delivery of a series of events between July and August 2021.

The premises is licenced for 12 events per year between April and November. Last year the licence holder proposed a schedule of 12 music events between 3rd July 2021 and 4th September 2021, which effectively delivered music events for nearly every weekend across the summer period.

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.

The review application has been submitted by Environmental Health after repeated efforts from the Team to engage with the licence holder to remedy concerns raised last year were unsuccessful, and with concern for the impact these events are having on the local community as well as the safety of those working and attending the events.

The evidence provided by Environmental Health to support the review application includes:

- Witness Statements from Council Officers, an Acoustic Consultant and PCSO who attended an event
- A post event report from Cambridge Acoustics (Acting on behalf of Environmental Health)
- A Noise Abatement Notice that was served on the licence holder on 20th August 2021

- Complaints received by Environmental Health from members of the local community and noise recordings

2.1 Unresolved Review Concerns

There were eighty-one representations from members of the public who live in Northaw and Cuffley which indicated support of the review. Representations from members of the public have expressed concerns with the current premises licence based on the four licensing objectives, the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. One representation of support for the review was submitted by a Ward Councillor for Northaw and Cuffley these representations are detailed in Appendix E.

A representation of support of the review has been submitted by Hertfordshire Police on the grounds of the prevention of crime and disorder and public safety, the representation and supporting documents are detailed in Appendix C.

A representation of support of the review has been submitted by Northaw and Cuffley Parish Council on the grounds of public safety and the prevention of public nuisance, the representation is detailed in Appendix D. The Parish Council have also submitted a document of collated responses from residents of Northaw and Cuffley who have asked for representation from the Parish Council having indicated concerns relating to their identity being revealed, these representations are also detailed in Appendix D.

There were eight representations submitted against the premises licence review which were in support of Colesdale Farm and the premises licence, these representations are detailed in Appendix F.

Resolved Review Concerns

No concerns expressed by the applicant have been successfully mediated prior to this hearing.

3 Explanation

The application submitted is for the Review of the Colesdale Farm Premises licence WK114449. The premises licence has been in force since January 2020, and allows the Sale of Alcohol, Plays, Films, Live Music, Recorded Music, and anything of a similar description to live music, recorded music, or performances of dance. These activities are limited to 12 events per year between April and November. The times that these activities can take place are on the schedule at Appendix A.

The licence has some specific noise conditions that were added to the licence in agreement with the applicant by Environmental Health who made representation to the original premises licence application in January 2020.

The premises licence was held by BJP Productions Ltd from January 2020 to January 2022. In January 2022 a transfer application was submitted to the Licensing Authority by Joshua Silver Director of BJP Productions to transfer the premises licence to Huds10 Ltd where Joshua Silver is a Director. No subsequent applications or changes were made to the premises licence and the Designated Premises Supervisor for the licence remains Joshua Silver.

Any evidence and decision must also relate to the premises licence and not to other matters such as planning, or Covid 19 as these are not relevant under the four licensing objectives. These are separate regimes and regulations which have no bearing on the premises licence and cannot be taken into consideration at this hearing.

The committee is obliged to determine this application for review of a premises licence for Colesdale Farm. In determining the review, the sub-committee must take account of the council's duty to promote the statutory licensing objectives namely:

- A) The prevention of Crime and Disorder
- B) Public Safety
- C) The Prevention of Public Nuisance
- D) The Protection of children from harm.

In making its decision, the committee is also obliged to have regard to the National Guidance and the Councils own Licensing Policy (Previously circulated).

In determining the licence review, members will wish to keep in mind:

- i) The Licensing Act 2003 provides a range of powers for the licensing authority which it may exercise in determining a review where it considers them appropriate for the promotion of the licensing objectives.

4 Licensing Policy

(2.10) The legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include

- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- giving the police and licensing authorities the powers they need to effectively manage and police the night- time economy and take action against those premises that are causing problems;
- recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

(5.4) Conditions will only be attached to premises licences or club premises certificates where they are reasonable, proportionate, enforceable and relevant to the premises. They should focus on matters within the control of the individual licence holder or premises user (for temporary event notices). Conditions will be

tailored to the type of operation and specific characteristics of the individual premises.

(5.6) Any conditions should be:

- clear
- enforceable
- evidenced
- proportionate
- relevant
- be expressed in plain language capable of being understood by those expected to comply with them.

(5.11) The Act requires that any conditions attached to licences must be specific to individual premises and tailored to the characteristics and style of the licensable activities rather than applying a set of standardised conditions to all. The Council will therefore always ensure that conditions are individually selected and appropriately tailored. In some cases conditions may be drawn from pools of conditions set out in the Guidance issued under section 182 of the Licensing Act 2003.

(9.6) The Sub-Committee will determine each case on its individual merits whilst taking into consideration the terms of this Policy document. Where the Sub-Committee determines that it is appropriate to attach conditions to the licence/certificate it will ensure that those conditions are focused on the direct impact of the activities taking place at the premises concerned on members of the public in the area concerned. Such conditions will be proportionate to the activity to be controlled and will only be imposed in the interests of the licensing objectives.

(24.1) The Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 to mean that any person may make a representation about a premises licence or club premises certificate application. They no longer need to establish that they live or work near to the premises. The representation must, however, be relevant to at least one of the licensing objective and must not be frivolous or vexatious.

(24.2) In making a decision as to what weight to attach to a relevant representation, we may consider whether the individual is likely to be directly affected by disorder or disturbance occurring or potentially occurring on those premises or immediately outside the premises. In other words, it is the impact of issues relating to the four licensing objectives that is the key consideration. However, each representation will be judged on its own merit.

4.1 The subcommittee will also wish to be aware of the revised Guidance issued under section 182 of the licensing Act 2003 dated 2018.

(9.37) As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and

avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.

(9.38) In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy.

(9.42) Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

(9.43) The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

(9.44) Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

(10.10) The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises.

Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

(10.13) The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.

(11.17) The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

(11.18) However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

(11.20) In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.

(11.21) For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

(11.22) Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented.

Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

(11.23) Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

- 4.2 The sub-committee will also wish to be aware of Welwyn Hatfield Council Statement of Licensing Policy 2020 – 2025.

5 Recommendation

- 5.1 The committee must have regard to the review application made and the evidence it hears. The committee is therefore asked to determine the review application.
- 5.2 In determining the review, the sub-committee may on behalf of the licensing authority, and having regard to the promotion of the licensing objectives, statute, guidance and policy decide on the following courses of action:
- (a) to modify the conditions of the licence (which includes adding new conditions or any alteration or omission of an existing condition);
 - (b) to exclude a licensable activity from the scope of the licence;
 - (c) to remove the designated premises supervisor;
 - (d) to suspend the licence for a period not exceeding three months;
 - (e) to revoke the licence;

6 Appendices

- A. Premises Licence and S24 Continuation Sheet
- B. Review application form, Post Event Report by Cambridge Acoustics, Witness Statements, Copy of Noise Abatement Notice Served August 2021 and Map of geographical spread of complaints received by Environmental Health

- C. Representation from Hertfordshire Police with witness statement and body worn footage
- D. Representation from Northaw and Cuffley Parish Council and collated responses from residents who have requested anonymity
- E. Representations in support of the review
- F. Representation against the review (in support of the venue)

Nicol Tupling Licensing Technical Officer
Date – 14/03/2022