

WELWYN HATFIELD COUNCIL
LICENSING SUB COMMITTEE
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

1 Summary of the Review

Premises Licence Holder(s)
BJP Productions 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 BJP Productions Ltd. The Designated Premises Supervisor and the Director of BJP Productions is Joshua Silver.

A copy of this licence is shown in appendix A.

The review has been formally requested by Lisa Chaplin Clerk of Northaw and Cuffley Parish Council (the applicant). The Applicant has requested the review under the Licensing Act 2003 on the statutory grounds of:

- Prevention of public nuisance

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

Appendix C Letters in support of the review application

Appendix D Letters against the review application (in support of the venue).

Appendix E Representation from Environmental Health.

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 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 is at Appendix B.

The review relates solely to preventing nuisance to the public primarily by noise. Other matters relating to Covid 19 restrictions and the input of the Safety Advisory Team cannot be taken into consideration as these do not fall under the licensing objectives subject of this review.

The Applicant has requested a review of the premises licence due to residents of Northaw and Cuffley experiencing noise nuisance between August and September 2020 due to a series of events that took place at Colesdale Farm every weekend.

These events were consolidated into a short period due to lockdown earlier in the year. The licence allows 12 music events to take place between April and November but these all took place between August and September.

A number of complaints were received by Environmental Health following these events and the actions taken are reported in the Environmental Health representation at Appendix E.

2.1 Unresolved Review Concerns

There are a number of representations received from people who both support and are against the events at Colesdale Farm. There are five representations in support of the review who all live in Northaw and Cuffley at Appendix C and twenty two representations against the review at appendix D. A small proportion of these live in Northaw and Cuffley.

Two of the representations against the review who do not live in Northaw and Cuffley did not live at the address supplied when the notice of hearing was delivered. There were nine people who made representations against the review but did not provide an address and/or signature so these have not been included as relevant.

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 premise licence WK114449. This 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. Due to premises being unable to open earlier in the year the 12 events all took place during the months of August and September 2020.

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 application in January 2020.

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 Guidance issued under section 182 of the licensing Act 2003.

(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.

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 schedule
- b. Premises Licence Review Application
- c. Representations in support of the application
- d. Representations against the review application
- e. Environmental Health representation

Kate Payne Licensing Team Leader
Date – 2/11/2020