

**MINUTES OF: LICENSING SUB-COMMITTEE  
HEARING UNDER THE LICENSING ACT 2003**

**DATE OF MEETING: 29<sup>th</sup> September 2014**

**PRESENT: Councillors Gill (Chair), Ashworth and Sandiford**

**IN ATTENDANCE: Mr B Taylor, Licensing and Enforcement Officer  
Ms T Brzozowski, Licensing and Enforcement  
Manager  
Ms S Chadwick, Licensing Officer  
Mrs J Cook, Hearing Administrator  
Ms C Birtwistle, Legal Advisor  
Mr R Bingham, Legal Advisor  
Mr D Pierce, Applicant (Environmental Health)  
Ms A Guthrie, Applicant (Environmental Health)  
Ms R Lawlor, Applicant (Environmental Health)  
Ms C Lo Presti, Out of Hours Environmental  
Health Officer  
Mr P Thwaites, Out of Hours Environmental  
Health Officer  
Ms L Goodall, Millar Goodall  
Ms N Barcroft, Licence Holder  
Ms G Sherratt, Licence Holder's Representative  
Mr A Woods, Interested Party  
Ms L Eastham, Interested Party  
Ms J Longley, Interested Party  
Councillor Roy Knowles, Interested Party  
27 Members of the Public  
0 Press**

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**1. APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTES**

Councillor Cheetham had sent her apologies and Councillor Sandiford was substituting.

**2. CHAIRMAN'S INTRODUCTION**

The Chair welcomed all parties to the meeting and asked the members of the Sub-Committee and Council officers to introduce themselves.

The Chairman asked the Applicant, the Licence Holder, her Representative and the Interested Parties to introduce themselves.

**3. DECLARATIONS OF INTEREST**

No declarations were made.

#### **4. APPLICATION TO REVIEW A PREMISES LICENCE AT: THE STATION HOTEL, 505 HELMSHORE ROAD, HASLINGDEN**

##### **Preliminary Matters**

4.1 The Chair noted that an addendum to the committee report had been circulated which detailed the following:-

- Environmental Health had requested permission for the following persons to appear at the Hearing
  - Paul Thwaites, Environmental Control Officer, Hyndburn Borough Council.
  - Carmela Lo Presti, Environmental Health Officer, Pendle Borough Council.
  - Lesley Goodall, Millar Goodall Environmental Services Ltd.
- Dr Steven Tinston had requested that Ms Carolyn Edwards appear at the Hearing.
- The Licence Holder had requested permission for the following persons to appear at the Hearing
  - Samantha McManus
  - Simon McManus
  - Alan Woods
  - Sue and Jeff Hawarden
  - Dr Steven Tinston
  - It was noted that Alan Woods, Sue and Jeff Hawarden and Dr Steven Tinston had submitted separate representation and were parties to the Hearing.
- A letter of support had been received from the McManus family, however this had not been considered a valid representation.
- Statutory notices had been sent to Ms Sarah Dawson of 12 Grange Street Rawtenstall; this correspondence had been returned by Royal Mail.
- A supporting representation had been received from D Taylor or Hamer Boxing Club, Rochdale. The Licensing Authority had received a subsequent email from the Boxing Club stating that they did not have any members by that name and that the representation was not originated by the club or on their behalf. They requested that this representation be removed from consideration.
- Seven emails had been received from individuals living on Limewood Grove, West View and Helmsore Road confirming that the objection representation did not represent their views and that they did not provide authority for the representation to be written on their behalf.

4.2 The Legal Representative asked all parties whether anyone wished to withdraw their representations. It was confirmed that no parties wished to withdraw their representations. The hearing process to be followed was then outlined with a reminder that irrelevant information will be disregarded.

#### **5. HEARING PROCESS**

5.1 The Licensing and Enforcement Officer presented the report which detailed an application submitted by the Environmental Health Services which sought to review the premises licence of the Station Hotel, based on the licensing objective of prevention of public nuisance. It was noted that an application to review the premises licence had been submitted on 17<sup>th</sup> December 2013, however the determination hearing had not taken place due to a technical issue with the serving of the review application.

- 5.2 The Licensing and Enforcement Officer outlined the statutory processes that had taken place prior to the hearing and informed members of the representations that had been received and appended to the committee report.
- 5.3 The Licensing and Enforcement Officer outlined the current licence details of the Station Hotel as follows:-
- The current licence holder was Nicola Barcroft who became the licence holder on 3<sup>rd</sup> February 2011. Ms Barcroft was the current Designated Premises Supervisor and had been so since 2<sup>nd</sup> June 2009.
  - The current premises licence was appended to the committee report, and essentially provided for (with minor variations for Christmas, New Year's Eve and bank holidays):
    - The sale of alcohol on and off the premises Sunday to Thursday 9am, to 11pm and Friday and Saturday 9am to 1am.
    - The performance of live music (indoors) can take place Monday to Thursday 11am to 11pm, Friday and Saturday 11am to 12.30am and Sunday 12noon to 11pm.
    - The playing of recorded music and the provision of facilities for dancing (indoors) Monday to Thursday 11am to 11pm, Friday and Saturday 11am to 1am and Sunday 12noon to 11pm.
    - The premises were allowed to remain open to the public for an additional hour at the end of permitted hours for alcohol sales on Friday and Saturday and for an additional 30 minutes on Sunday to Thursday.
- 5.4 The Licensing and Enforcement Officer stated that there were numerous conditions attached to the premises licence, the most significant ones relevant to the application were as follows:-
- There shall be placed at all exits from the premises in a place where they can be seen and easily read by the public, notices requiring customers and their vehicles to leave the premises and the area quietly.
  - All external windows and doors shall be kept closed when regulated entertainment is in progress.
  - The beer garden and any other area provided for the consumption of alcohol shall be closed to the public at 2300 hours each day.
  - The licence holder or his representative shall conduct regular assessments of the noise from the premises on every occasion the premises are used for regulated entertainment and shall take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. A written record shall be made of those assessments in a log book kept for that purpose and shall include the time and date of the checks, the person making them and the result including any remedial action.
- 5.5 Members asked questions of the Licensing Officers for clarification purposes only and the Licensing Officer provided clarification with regards to the additional 30 minutes that the premises was permitted to remain open at the end of an evening.

### **The Applicant**

- 5.6 The Applicant (Environmental Health) presented their application to review the premises licence on the grounds that the public nuisance licensing objective had been undermined. The Principal Environmental Health Officer informed Members that noise complaints had been received from nearby residents and on a number of occasions the excessive noise had been witnessed by authorised officers working on the Council's Out of Hours Night Time Noise Service.
- 5.7 The Principal Environmental Health Officer detailed the timeline of noise complaints received by the Council and the occasions on which the Out of Hours Officers had been called out and had substantiated the complaints.
- 5.8 A Noise Abatement Notice had been served on the Licence Holder on 19<sup>th</sup> September 2013.
- 5.9 The Principal Environmental Health Officer detailed the contact, visits and meetings that had taken place with the Licence Holder and also the works that had been carried out to the building to mitigate noise. It was noted that a noise limiter had not yet been installed.
- 5.10 The Principal Environmental Health Officer stated that the application had been made based on substantiated complaints only and that they did not consider the complaints to be vexatious or malicious.
- 5.11 Members asked questions of the Principal Environmental Health Officer for clarification purposes and it was noted that the windows had been replaced in January 2014 and the new side door had been fitted on 5<sup>th</sup> September 2014. The Principal Environmental Health Officer confirmed that no substantiated complaints had been received since the door had been fitted. It was clarified that a substantiated complaint was one that had been verified and/or witnessed by a third party, e.g. the Out of Hours Officers, Licensing Officers, Police etc. It was noted that all the pertinent double glazed windows fronted onto Limewood Close.

### **The Licence Holder**

- 5.12 The Chair permitted the Licence Holder's Representative to cross-examine the Principal Environmental Health Officer. It was clarified that there was a change to one of the conditions suggested by Environmental Health, after consultation with the Licensing Authority. It was clarified that inaudibility to the property in closest proximity was essential to the conditions proposed and the Principal Environmental Health Officer was not familiar the case law referred to by the Licence Holder's Representative. It was noted that the evidence provided by Environmental Health had been received on the preceding Friday and the morning of the Hearing and that there had not been enough time to circulate to all parties. This had therefore been distributed prior to the Hearing. The Principal Environmental Health Officer confirmed that his views on the works carried out by the Licence Holder had been made clear during presentation of the application and were evidenced by protracted complaints.
- 5.13 The Licence Holder's Representative presented the case to the committee and referred Members to the large amount of support for the premises from local residents. She detailed the works carried out to the premises to mitigate

noise and the measures taken by the Licence Holder when entertainment was taking place. It was noted that no complaints had been received since installation of the new side door to the premises.

- 5.14 The Licence Holder's Representative drew Members attention to the main complaints regarding the premises and noted that the Licence Holder had been subjected to personal attacks via social media. The Licence Holder's Representative stated that there was evidence that some of the complaints were malicious. It was noted that a large number of individually written letters of support had been received for the premises.
- 5.15 The Licence Holder's Representative raised concerns regarding the process followed by the Authority and stated that the wording of the licence was not clear with regards to the additional 30 minutes of opening time.
- 5.16 The Licence Holder's Representative referred to case law on noise nuisance, in particular with regard to the inaudibility condition and it was noted that the Licence Holder would prefer no action to be taken, however some conditions had been proposed should the Committee see fit to consider amending or imposing additional conditions.
- 5.17 The Committee did not ask any questions of the Licence Holder or her Representative.

### **Interested Parties**

- 5.18 The Chair asked the 4 people who had indicated they wished to speak as Interested Parties to address the Hearing.
- 5.19 Ms Jodie Longley addressed the Hearing and stated that she lived on West View, very close to the premises and did not consider the noise to be a problem. She noted that if she stood at the rear of her premises she could hear noise from another premises, not the Station Hotel.
- 5.20 Ms Laura Eastham stated that the Licence Holder had done her utmost to fulfil her duties and that the beer garden was closed early in an evening and that regular patrols of the premises took place. It was her view that you could not hear the noise until you entered the premises.
- 5.21 Councillor Roy Knowles stated that the premises was an asset to the community and outlined the work that the Licence Holder had carried out with regards to changes to the building. He raised concerns regarding the language used in the report such as 'numerous' and 'typical rock band' and noted the he felt this could influence the Committee.
- 5.22 Mr Alan Woods read out the letter of support that he had submitted previously and reiterated his support for the premises.

## **6. FINAL STATEMENTS**

- 6.1 The Applicant stated that there was no dispute as to the value of the premises to the community and the issue was how the premises impacted on the residents around them. It was reiterated that the application had been based on substantiated complaints only and that they were concerned with the issue of 'tolerable noise'.

6.2 The Licence Holder's Representative asked Members to consider the question of 'reasonableness' and reiterated the belief that the main complaint against the premises was malicious and did not reflect the view of all local residents. Members were asked to consider case law and to consider the conditions suggested by the Licence Holder.

6.3 The Applicant and Officers, the Licence Holder and her Representative, the Interested Parties, the Licensing Officers and all members of the public left the room to enable Members to determine the application. The Legal Advisors and the Hearing Administrator remained in the room with Members.

## 7. DETERMINATION

7.1 In determining the application, the panel gave consideration to the following:-

- Case law
- Conditions proposed by the Applicant and the Licence Holder
- Decibel readings

## 8. DECISION:

8.1 After giving consideration to all the written representations and verbal representations made by the Applicant, the Licence Holder and the Interested Parties; and after giving proper consideration to the Licensing Objectives, the Sub-Committee appointed under the Licensing Act 2003 decided to take the following action in respect of the application to review the licence for the premises under Section 52(4) of the 2003 Act:-

### **Resolved:-**

The following additional conditions will be imposed on the premises licence:-

1. When regulated entertainment is taking place, the DPS or duty manager will make checks of the perimeter of the building every hour from 9pm until the entertainment time has finished. Logs will be maintained detailing the time of the check, any observations and this will be signed by the person making the check.
2. The DPS will monitor the checks made in the logs on a weekly basis and will take appropriate action where necessary.
3. When the DPS is not on the premises a responsible person will be nominated to manage the premises in their absence.
4. The person nominated to manage the premises in the absence of the DPS will be trained in the conditions attached to the licence.

It was further resolved that the following condition would be removed from the current licence and replaced with the above conditions:-

"The licence holder or his representative shall conduct regular assessments of the noise coming from the premises on every occasion the premises are used for regulated entertainment and shall take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. A written record shall be made of those assessments in a log book kept for that purpose and shall include, the time and date of the checks, the person making them and the results including any remedial action."

The additional conditions were considered necessary for the promotion of the following licensing objective:-

- Prevention of public nuisance

The Chair noted the following to the Licence Holder:-

- The Licence Holder had alluded to the fact that she carried out checks approximately every 20 minutes when there was regulated entertainment and the Members felt that she should continue this practice.
- The Members reiterated the need to keep the premises windows shut when there was regulated entertainment so as not to undo the good work already undertaken and that the Licence Holder could consider installing air conditioning in the premises.

**The meeting commenced at 1.45pm and closed at 16.15pm**