

MINUTES

ALCOHOL AND ENTERTAINMENT
LICENSING COMMITTEE
FRIDAY, 21 SEPTEMBER 2012



COMMITTEE MEMBERS PRESENT

Councillor Mark Ashberry
Councillor Pam Bosworth (Chairman)
Councillor Robert Broughton
Councillor George Chivers
Councillor Reginald Howard

Councillor Vic Kerr
Councillor Bob Russell (Vice-Chairman)
Councillor Mrs Jean Taylor
Councillor Frank Turner

OFFICERS

Licensing Officers (Pam Robinson, Richard Etherton)
Solicitor to the Committee (John Armstrong Legal & Democratic Service Manager)
Democratic Officer (Lucy Bonshor)

8. APOLOGIES

Apologies were received from Councillor Griffin and Councillor Rowlands.

9. DISCLOSURE OF INTERESTS

None declared.

10. MINUTES OF MEETING HELD ON 27TH JULY 2012

The minutes of the meeting held on 27th July were agreed as a correct record of the decisions taken.

11. LICENSING ACT 2003: REVIEW OF A PREMISES LICENCE, MILLSTONE PUBLIC HOUSE, 1 ALL SAINTS STREET, STAMFORD, LINCOLNSHIRE, PE9 2PA

Decision:

That the activity of outdoor music be removed from the Premises Licence for the Millstone Public House, 1 All Saints Street, Stamford.

The Solicitor to the Committee introduced those present.

The Licensing Officer referred to the application that had been received for a review of the premise licence for the Millstone Public House at Stamford. The application had been received from The Environmental Protection Team who had asked that the Committee look at the provision of outside music with a view to removing it from the licence. The provision of outdoor music was allowed Thursday – Saturday between May and October.

The Environmental Protection Team had worked with the Designated Premises Supervisor (DPS) to try and address the continued complaints from members of the public regarding outdoor music. A sound level meter had been installed at a neighbouring property between the 5th and 12th July and the recordings showed that the music was loud, heavy bass, live music. The results of the recordings indicted a noise nuisance. Following the display of public notices seven letters of support for the review were received which indicated that outdoor music was a particular problem but also that indoor music could be problematic. They had all complained to the Environmental Protection Team as well as the DPS but there had been no improvement. A complainant had also spoken to the police and said that she had witnessed customers sniffing drugs and urinating and had now resorted to leaving her premises when she knew that an event was taking place.

Peter Rogers, Team Leader Environmental Protection then presented their case. He referred to the number of occasions that outdoor music events had taken place and the complaints that had been received. He referred to diary sheets that had been completed by complainants and letters that had been sent to the DPS asking them to reduce the excessive noise and to discuss the complaints that the Environmental Protection Team had received. As complaints had still been received a formal investigation had been undertaken. A sound level meter had been installed at a local residence and Members of the Committee heard an extract of the recording taken on 7th July 2012. The recording showed that the outdoor music being played was intrusive and created a statutory noise nuisance and Mr Rogers recommended that the playing of outdoor music be removed from the Premise Licence.

The Interested Parties (Sally-Ann Walton and Veronica Bossel) then presented their cases. They lived near to the premises referred to and the excessive noise particularly the rhythmic base line, played outdoors at the Millhouse at various dates during the year was so intrusive and loud that when they knew an event was taking place they made arrangements to vacate their premises for the duration of the event. Although efforts had been made to speak to the DPS asking for the base line to be reduced nothing had been done. A further interested party, Mr Clayton who lived at All Saints Street, referred to the previous application that had been made for the premises back in 2007. Although he had objected to the playing of outdoor and piped music at that time he had been the only objector and had spoken to the previous landlord who

had indicated that the outdoor music would only be used for sports events and would not be loud and would finish at a reasonable time. Mr Clayton confirmed that whilst the previous landlord had been at the premises they had not had any complaints it was only since the new landlord had been in situ that the problem with the excessive loud music had started. His house was triple glazed and had sound proofing yet still the heavy base could be heard making the house vibrate. The noise was totally unacceptable and far too loud.

Members asked Mr Clayton various questions to which he responded.

Mr Wycherley the DPS was then asked for his comments. He apologised for the stress that he had caused those residents who had attended the hearing, he had not really been aware of how distressing the noise level had been. He was asked by one of the interested parties present what he had done to address the complaints made about the noise. Mr Wycherley replied that although he had patrolled the outside of the premises and taken a recording on his phone he hadn't done enough. Mr Rogers then asked why he had not worked with the Environmental Protection Team to address the noise problems to try and resolve them. Mr Wycherley replied that he had tried to do it himself.

Members of the Committee then asked Mr Wycherley various questions about his long plans for the future to which he replied.

The Licensing Officer then gave her closing statement. She reminded Members to have regard to the representations they had heard and that the hearing was purely about outdoor music at the premises. The options available to the Committee were:

- a. to modify the conditions of the licence;
- b. to exclude a licensable activity from the licence;
- c. to remove the designated premises supervisor;
- d. to suspend the licence for a period not exceeding 3 months; or
- e. to revoke the licence.

If the Committee decided that none of the steps were appropriate, then they should take no further action.

Mr Rogers then gave his closing statement referring to the fact that residents vacating their properties was a good indication that the noise coming from the Millstone created a statutory noise nuisance and the section continued to receive complaints about the noise, he recommended that outside music be removed from the license.

(10.52am Licensing Officers, Environmental Protection Officers, DPS and Interested Parties leave the meeting)

Members discussed the information they had been given and the representations made during the meeting and the comments from the Solicitor

to the Committee that any decision made must be proportionate to the evidence that they had heard. A Member suggested that this would have been a good example where a site visit would have been helpful and it was requested that this be considered in the future. Further discussion followed and it was proposed, seconded and unanimously agreed that the licence to play outdoor music be removed from the Premises Licence.

(11.20am Licensing Officers, Environmental Protection Officers, the DPS and Interested Parties return to the meeting)

The Solicitor to the Committee read out the Committees decision. Having considered all documentary evidence and having heard all representations the Committee were content that the noise created did emanate from the music played in an outside area on the premises of the Millstone Public House. The Committee were also content that due to the sound levels the music was both loud and intrusive as it affected a class of people who lived in the vicinity of the public house and they were also content that it caused a public nuisance in breach of one of the four licensing objectives. The Committee then considered whether what was asked for in the application for review, namely that the activity of outside music be removed from the premises licence was proportionate to meet the licensing objectives or whether there were mitigation measures that could be introduced that would be a more proportionate response to meet those objectives. The Committee noted that the noise emanated from music played in an outside space, therefore a condition that related to keeping all windows and doors closed would be inappropriate. The question of whether a noise limiter would be effective was also considered but although Mr Rogers had approached the premises DPS about mitigation measures the DPS had not gone back to Mr Rogers to discuss how these could be implemented. The Committee also considered whether a licence which limited the number of events a year would be a more proportionate response that would alleviate the noise levels so as to prevent a breach of one of the licensing objectives, however, the Committee were content that limiting the number of events would not prevent the breach from occurring, it would merely restrict the number of opportunities the owner would have to breach them. It was noted that if the owner wanted to have a one off event he could apply for a Temporary Events Notice. The Committee had also taken note of the concerns raised by the DPS relating to the potential adverse impact on his business if the licence was removed however, there was no evidence before the Committee that would corroborate the DSP's speculation that business would drop off. It could equally be speculated that removal of outside music could attract an alternative clientele. In any event the Committee were content that the impact on the business must be balanced by the effect the public nuisance was clearly having on the wider community and it must not be view in isolation. It must also be considered in light of the DPS's apparent lack of engagement with the local community to seek to address their concerns. Having taken all these matters into consideration the Committee were satisfied that:

- the music played outside on the premises of the Millstone Public House

was loud and intrusive and did affect a class of people and thereby caused a public nuisance in breach of one of the four licensing objectives;

- there was no other proportionate measure available beyond stopping the playing of music in the outside area that would have alleviated the noise levels so as to stop the public nuisance occurring.

The Committee's decision was that the activity of outside music be removed from the premises licence. The decision was appealable to the Magistrates Court within 21 days of written notification being given.

12. CLOSE OF MEETING

The meeting closed at 11.24am.