

MINUTES

**ALCOHOL, ENTERTAINMENT &
LATE NIGHT REFRESHMENT
LICENSING COMMITTEE
FRIDAY, 2 AUGUST 2013**



COMMITTEE MEMBERS PRESENT

Councillor Mark Ashberry
Councillor Pam Bosworth (Chairman)
Councillor George Chivers
Councillor Breda Griffin

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

OFFICERS

Licensing Officers (Richard Etherton, Christian Smith)
Solicitor to the Committee (Paul Rushworth)
Justin Johnson (Principal Planning Officer South Team)
Democratic Officer (Lucy Bonshor)
Administrative Assistant (Alex Jarvis)

6. APOLOGIES

Apologies for absence were received from Councillors Broughton, Howard, Rowlands and Susan Sandall for this meeting only.

7. DISCLOSURE OF INTERESTS

None disclosed.

8. MINUTES OF MEETING HELD ON 5TH JULY 2013

The minutes of the meeting held on 5th July were agreed as a correct record of the decisions taken. A letter had been received from one of the interested parties concerning the minutes and it was agreed that a copy of the letter be filed with the minutes.

9. LICENSING ACT 2003: REVIEW OF PREMISES LICENCE FOR WILLIAM CECIL HOTEL, 36-38 HIGH STREET, ST MARTINS, STAMFORD

Decision:

That the Premise Licence for the William Cecil Hotel, High Street, Stamford be modified to include the following conditions:

- 1) A temporary barrier to be erected (as discussed at the meeting) to deal with the noise nuisance.**
- 2) That the smoking and dispersal policy (as circulated at the meeting) by the respondents be implemented.**
- 3) That the smoking and congregation area outside the marquee be moved away from the marquee and closer to the hotel premises.**
- 4) That guests leaving the marquee are continued to be diverted away from all residential and school properties.**
- 5) That a Designated Duty Manager is in the marquee at all times that a function is being held. The contact details of the Designated Duty Manager to be circulated to the Environmental Protection Team, residents and the school.**

The Solicitor to the Committee introduced those present and confirmed who was to speak in connection with the application; Pete Rogers, Environmental Protection Team (responsible authority), James Rankin, Counsel for the respondents, Chrisophe Brookes, Managing Director of Hillbrooke Hotels (Burghley) Ltd and David Parnell, Land Agent for Burghley Estates.

The Licensing Officer presented report CSL033 which concerned the review of the premises licence for the William Cecil Hotel, Stamford which had been requested by the Environmental Protection Team on the grounds of public nuisance under Section 51 of the Licensing Act 2003. The options available to the Committee when dealing with the review were listed within the report. The Licensing Officer reminded Members of the guidance issued under S182 of the Licensing Act 2003 to be mindful of when dealing with a premise review and the powers available to them.

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 which 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."

An application to review the premises had been received by Environmental Protection, one of the responsible bodies on 10 June 2013 on the grounds of public nuisance.

At the hearing held on 17 March 2006, conditions were placed on the licence that noise levels for the marquee should not exceed 85 decibels and that the

licence holder should take steps to reduce the level of noise where it was likely to cause a disturbance to local residents.

Written records of the assessments were to be kept and were to include the time and date of the checks, the person making them and the results, including any remedial action. Appendix 2 to the report gave the minutes of the hearing held on 17 March 2006.

The premise held a licence for the following activities:

- Live music
- Recorded music
- Performance of dance
- Making music
- Dancing
- Late night refreshment
- Sale of alcohol

Appendix 3 of the report gave full details of the times of the licensable activities.

Since August 2011 Environmental Protection had received 15 complaints of loud music and noise from the guests at functions within the marquee. The marquee was a permanent structure but did not have planning permission and a retrospective planning application was requested by the authority's Planning Department.

The main complainants were student of the adjacent boarding school, however local residents had also complained. Investigations by Environmental Protection had revealed that the music from the marquee was loud and intrusive and a noise abatement notice was served on 11 October 2011.

In response to the noise complaints, the William Cecil installed a directional sound system in the marquee on 3 January 2012. The system was inspected by Environmental Protection and a noise limit was agreed. Sound tests proved that the music played through this system would not breach the abatement notice.

Six months later, further noise complaints were received with the noise coming from the marquee, further monitoring identified that the music and guests attending events in the marquee were both loud and intrusive.

On 5 November 2012 a meeting was held with The William Cecil management, Planning Officers and Environmental Protection to discuss the outstanding planning permission and the noise nuisance identified from recent monitoring. Because the last abatement notice was served more than 12 months previously, a further noise abatement notice was served on the William Cecil on 9 November 2012. Environmental Protection recommended that the marquee should not be granted planning permission for events incorporating music and

late night entertainment.

Further on-site monitoring on 24 November and a joint monitoring exercise with the William Cecil noise consultant on 4 January 2013, identified that music from the marquee was acceptable but the noise from guests was loud and intrusive.

Planning permission was finally refused but an appeal against the refusal was lodged on 1 May 2013 (appeal due to be heard in October 2013). Since the refusal of planning permission, noise complaints had still been received on six further occasions. Appendix 1 to the report detailed the complaints received and testimonies from the boarders.

Mr Peter Rogers from Environmental Protection then presented the case and played a recording to the Committee which had been taken on 6th October 2012 in the bedroom of a resident with the windows open. He then referred to witness statements appended to the report detailing dates when functions had been held in the marquee and at which the noise from both the music and guests had been loud and intrusive. The noise was having a detrimental effect on the residents and those students living in the student accommodation which was situated near to the marquee. The management of the hotel had not resolved the issue and the noise nuisance continued. He then read out some of the testimonies from the students which had been received.

Mr Rankin, the representative for the respondent asked if Mr Rogers had been present when the recording on 6th October had been taken, to which Mr Rogers replied that he hadn't.

Mr Rankin then presented his case on behalf of the respondents. He confirmed that the Committee had received a noise report that had been carried out and he circulated a chronological list of the history of complaints. The premises had operated since 1982 and historically no complaints had been received until 2011. It was accepted that planning permission had been refused and was under appeal. Mr Brookes the Managing Director had tried to address the noise issue and following the meeting in November 2011 had installed a directional sound unit at a cost of £22,000, which had been tested and complied with the 85 decibel condition. It seemed that the complaints now were more concerned with the noise from people who attended functions in the marquee rather than the music. He referred to the recording that had been played from October and he had doubts about the accuracy of the recording especially as Mr Rogers had not been present and the directional sound unit had been set accordingly.

To try and limit the noise from guests a temporary lining structure had been trialled inside the marquee. Although it had not been possible to use the bedroom of the resident to test the sound, tests had been made further back from the premises which indicated that that the temporary barrier did reduced the sound. He then referred to the event which had taken place on 25th May and the response, or lack of response received from the management at the

time to which he was extremely apologetic. In order to address the problem he felt that assistance was needed from all parties concerned, and although the trialled barrier was unsightly, it was only a temporary measure.

Mr Rankin then spoke about the proposed future location of the marquee subject to planning permission being approved.

A smoking and dispersal policy which had been circulated to Members was proposed to be introduced and it was proposed that the smoking and congregation area outside the marquee be moved closer to the hotel.

Mr Brookes then spoke about the proposals to move the marquee subject to planning permission and measures that had been implemented in the short term to try and address the noise issue from guests. One of the measures included a more circular route to the car park when guests left the marquee which took them away from residential properties and he also spoke about the trialled barrier. He referred to the chronological list that had been circulated to members concerning noise complaints and he referred to some events that had taken place in Burghley Park which had been very loud. He felt that all parties needed to work in partnership to try and resolve the problems; the recommendations suggested by Mr Rogers, no live music after 9pm, limiting the number of guests and events during the year, were not practical and would seriously impact on the financial viability of the hotel.

Further discussion followed on the viability of the business if the recommendations suggested by Mr Rogers were implemented. Any measures put in place would hopefully be for a short term period and planning permission for relocating the marquee would be approved which would address the noise nuisance.

A question was asked about using rooms within the hotel rather than the marquee; however, Mr Brookes replied that the saleability of having weddings at the hotel would be compromised if the marquee was not used and only one room within the hotel held the same amount of guests as the marquee. A request was made to hear again the recording played earlier, to see which was louder the music or the guests, however as there was some question about the recordings validity it was agreed to hear a recording that had taken place on 25th May 2012 and at which Mr Rogers had been present. The barrier had not been in place when the recording had been taken.

Further questions were then asked about the number of functions in a year, the reasons why a brick building would not be built (the hotel was a listed building), the health and safety implications of the barrier (the barrier complied with health and safety regulations), why the marquee had been retained which was in contravention of the decision of the Secretary of State (a certificate of lawful use had since been granted by the Council).

Although the planning issue was completely separate to the licensing issue, the

Council's planning officer Justin Johnson gave a brief outline of the sites history to Members for clarity.

Further questions were then asked about the timescales involved if planning permission was granted, the number of complaints received and the size of the marquee.

The Solicitor to the Committee reminded Members that any decision they made had to be reasonable, appropriate and proportionate to the causes of the noise nuisance.

In the short term the respondents proposed:

- To erect a temporary barrier
- To introduce a smoking and dispersal policy
- To move the smoking and congregating area from outside the marquee to nearer the hotel

Mr Rogers felt that the barrier was not fit for purpose and did not reduce the sound enough; it was not an option to control the noise. He felt that the marquee was not managed correctly and his recommendation was that events should not be allowed later than 9pm and there should be a limit on the number of events in a year.

The Licensing Officer then gave his closing statement reminding the Committee of the options open to them, the Committee could:

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

If the Committee decided that none of the above steps were necessary then it need take no action.

Mr Rogers then gave his closing statement, he asked the Committee to consider the level of control by the management, reviews were not undertaken lightly and he recommended that no events should be on later than 9pm.

Mr Rankin then gave his closing statement reminding the Committee that their decision had to be reasonable and proportionate and that the measures recommended by Mr Rogers were in his view draconian. Mr Rankin had put forward proposals for a way forward but a resolution would not be found "over night".

(11.30 Licensing Officers, applicant and all interested parties left the meeting)

(11.30 – 11.35am meeting adjourned)

Members discussed the application for the review having regard to the information contained within the report, the representations that had been received during the meeting and the Licensing objectives. The Committee were satisfied that a noise nuisance was present and that the cause was noise coming from the marquee and more recently from guests attending functions. Concern was expressed about the management of the facilities during the functions held in the marquee and how complaints received had been dealt with by the management. The Solicitor to the Committee reminded them that any decision that they made had to be appropriate and proportionate and focused to address the causes of the nuisances. It was suggested that a stepped approach be made and the proposals put forward by the respondent should be added as conditions to the licence.

- To erect a temporary barrier
- To introduce the smoking and dispersal policy (as circulated)
- To move the smoking and congregating area from outside the marquee to nearer the hotel.

A further condition was required to include diverting the guests leaving the marquee through a route away from residential and school properties. As the management was also a concern to the Committee it was proposed that another condition be attached to the premises licence. A Designated Duty Manager was to be inside the marquee at all times that a function was taking place and that their contact details should be made available to the Environmental Protection Team, the residents in the immediate area and the school in order that someone responsible for the management of the marquee could be contacted in case of any further problems.

Further debate followed about the timing of events within the marquee, following which it was proposed, seconded and agreed to add conditions to the licence as outlined previously. Members also wanted to remind those present that any further complaints received by Environmental Protection following the implementation of the conditions could result in a further review where it would be open to the Committee to take more stringent measures.

(12 noon Licensing Officers, applicant and all interested parties returned to the meeting)

The Solicitor to the Committee read out the decision. The Committee had listened to the representations of all the parties and was satisfied based on the evidence before them that a public nuisance existed from the use of the marquee both to residents and school children from Stamford Endowed School and they had to address that issue. The Committee were aware that they had to focus their powers on the cause of the issue which in this case was public nuisance from the marquee and their response should be no more than appropriate and proportionate to those causes and concerns. The Committee during debate were mindful of the balance to be struck between the need for

the hotel to operate and the need for residents and school children to peaceably be able to use their properties. As a result of that they had tried to come up with a decision that addressed both of those issues. The decision of the Committee was to modify the conditions of the licence to see if further conditions dealt with the issue. The conditions were to be modified along the lines suggested by the respondent to the review. The first condition asked the Managers of the hotel to erect the temporary barrier as discussed to deal with the noise nuisance. Secondly the conditions to be modified to require the introduction of the smoking and dispersal policy as set out in the report circulated. The Committee asked that the respondent remove the smoking and congregating area from outside the marquee to an area nearer to the hotel and they ask that the hotel continue to have a policy that when people leave the marquee they leave via an exit away from the nearest residential or school properties. The committee were particularly concerned that there appeared to be a poor management issue relating to preventing noise that came from the marquee and people attending functions and as a result of that they wished to add a further condition to the licence which requested that a designated duty manager be within the marquee at all times that a function took place and they asked the respondents to notify the Environmental Protection Team, the nearest residents and the Stamford Endowed School, the name of the person who was managing those functions in order that someone could be held responsible for those functions and that contact details could be given to all the parties concerned. The Committee were concerned about the issue and had asked that the Environmental Protection Team be reminded that if further complaints were received relating to the issue the matter could be referred back to the Committee for a further review. The Committee considered that this was a stepped approach that they were taking at this time and was at this stage, a proportionate response to the concerns raised.

The decision of the Committee was appealable to the Magistrates Court within 21 days of the written decision.

10. CLOSE OF MEETING

The meeting closed at 12.10pm.