

MINUTES

ALCOHOL AND ENTERTAINMENT LICENSING COMMITTEE MONDAY, 5 SEPTEMBER 2011



COMMITTEE MEMBERS PRESENT

Councillor Pam Bosworth (Chairman)
Councillor Robert Broughton
Councillor Breda Griffin
Councillor Reginald Howard
Councillor Vic Kerr

Councillor Graddon Rowlands
Councillor Bob Russell (Vice-Chairman)
Councillor Susan Sandall
Councillor Mrs Jean Taylor
Councillor Frank Turner

OFFICERS

Licensing Officers (Peter Harrison, Pam Robinson)
Legal Advisor/Solicitor (Paul Rushworth)
Environmental Health Protection Team Leader (Anne Marie Coulthard)
Environmental Protection Officer (Pete Rogers)
Democratic Officer (Lucy Bonshor)

12. APOLOGIES

An apology for absence was received from Councillor Chivers.

13. DECLARATIONS OF INTEREST

The Legal Advisor gave advice on personal and prejudicial interests when a Councillor is a member of the British Legion. Councillor Mrs Bosworth declared a personal and prejudicial interest and left the meeting and took no part in the discussion or voting on item 4 on the agenda.

14. MINUTES OF MEETING HELD ON 5TH AUGUST 2011

With Councillor Russell in the Chair

The minutes of the meeting held on 5th August were agreed as a correct record of the decisions taken.

15. LICENSING ACT 2003 - REVIEW OF PREMISES LICENCE - ROYAL BRITISH LEGION, BARROWBY

Decision:

- (1) The conditions of the licence should be modified to add a new condition prohibiting the ability to perform live music until such time as professional and adequate noise insulation work has been undertaken to the satisfaction of the Council's Environmental Health Services.**
- (2) Live music should be removed from the licence as a licensable activity until such time as professional and adequate noise insulation work has been undertaken to the satisfaction of the Council's Environmental Health Services.**

The Legal Advisor to the Committee introduced those present and confirmed who was to speak with regard to the application. Mr Looms for the British Legion (Sue Clark and Stuart Adams were also present), Mr and Mrs Glover (objecting), Miss Coulthard (Environmental Health Protection).

The Licensing Officer introduced report ENV545 from the Community Safety and Licensing Service Manager in relation to the review of a premises licence for the Royal British Legion, Barrowby. The review had been requested by the Environmental Protection Team at South Kesteven District Council. The premise had held a club licence premises certificate since the introduction of the Licensing Act in 2005.

Complaints about noise nuisance at the club had been received since 2003 and during the years mediation had been attempted on several occasions. An abatement notice had been served in 2010 but complaints had still been received. Miss Coulthard visited the premises in 2011 to deliver a letter and found loud music coming from the premises. She spoke to Mr Looms who had been present at previous meetings and advice was given, she also noted that the microphone for the noise limiter was missing. Mr Looms was asked to increase the noise level until uncomfortable and distorted which showed that the limiter was not functioning properly. Miss Coulthard wrote to the club explaining her findings.

An event had been advertised in the Grantham Journal for a live band on 4th of June and the event was monitored by an environmental protection officer who considered that a statutory noise nuisance was being created. The event had been held contrary to section 62 (2)(a) of the Licensing Act 2003.

Due to these events and the additional witness statements received the Environmental Protection Team had significant concerns that the licensing objectives were being undermined and were concerned that the current committee had little knowledge of their licence and the conditions attached. They feel that a review is necessary to ask the Committee to consider the following interventions to promote the licensing objectives

- i) Remove the ability to play live music
- ii) A robust condition relating to noise from the premises be attached

“During the provision of recorded music notice must not be audible at the boundary of the nearest residential premises”.

In addition to being present at the committee hearing, Mr & Mrs Glover had written in support of the review due to their close proximity to the premises and their experience of being disturbed over a number of years by the events held at the club.

Letters in support of the British Legion had also been received from representatives that valued the club in the community. These were all appended to report ENV545. The Chairman of the club had written to the Head of Environmental Health regarding the visits to the club by his officers, most of the issues raised would be dealt with at the meeting. The Chairman had been asked if they would like to make a formal complaint but this had declined.

The Environmental Health Officer then presented the case for Environmental Protection. She detailed the times of the visits to the premises, what she had found with regard to the location of the sound limiter on these visits, advice that had been given about the location of the equipment and who had attended these meetings. She then asked Mr Rogers an Environmental Protection Team Member who had carried out a noise nuisance test at the property next to the premises on the night when a live band had been playing to present his report. He informed those present of his findings and played a recording of the noise that he had witnessed previously and that in his opinion a statutory noise nuisance had been made. The Environmental Health Officer advised Mr Looms of the findings and the considered breach of the noise abatement notice. Further letters were sent and meetings held. The Environmental Health Officer concluded her presentation by stating that the current committee were not fully aware of the conditions of their licence and that the provision of live music should be removed from it. The review of the licence was a final step in trying to avoid prosecution action.

Questions were then asked of the Environmental Health Officer to which she replied.

The Legal Advisor then asked for clarification on points raised to help assist the committee in making their decision. The legal adviser asked Mr Looms to explain the structure of those with responsibility for the club. Mr Looms confirmed that the committee as a whole were responsible for noise issues at the premises.

Mr Looms for the British Legion then presented their case. He referred to the long history of the club and the work that it did to help support those people in the armed forces. He said that the former committee had misled the current committee on what events it could hold and he referred to the good relationship that they had with the neighbour situated to the right of the premise (going north up Low Road). Membership of the club had struggled over the years and if the live entertainment part of the licence was removed then there was a fear

that the club would have to close. The entertainment was for once a month for one and half hours.

The Licensing Officer then questioned Mr Looms in detail about the advertisement of the entertainments that had taken place which under the licence they were not allowed to do and the groups that used the club again in breach of the conditions on the licence. He also referred to the meetings that had taken place with Environmental Health Officers that Mr Looms had been present at and although advice had been given it had been ignored.

Further questions were then put to Mr Looms from Committee Members, the Environmental Protection Officer and the Legal Advisor.

Mr and Mrs Glover then gave a short presentation. They fully agreed with the information that the Environmental Health Officer had given and indicated that both public and private events took place at the premises. Intrusive noise from these events had been a problem for years and the present committee for the club had not approached them once.

Questions were then put to Mr & Mrs Glover about the events in question to which they replied. Following this the Licensing Officer then gave his closing statement and the decisions available to the Committee.

(3.10pm Licensing Officers, applicants and objectors leave the meeting)

Members discussed in detail the information they had before them and the representations made during the meeting. Having regard to the advice given by the Legal Advisor, the premise building, the history of the noise nuisance and its location to residential properties, it was proposed, seconded and agreed to remove live music from the premises licence until such time as adequate noise insulation work had been undertaken to the satisfaction of Environmental Health Services. The Committee questioned whether the issues relating to noise nuisance had gone on so long that suspending the licence might be an appropriate response. Following legal advice and on balance the committee decided that to close the premises at this stage might have such a detrimental effect on the viability of the club that a more proportionate alternative measure was appropriate which would address the neighbouring resident's concerns whilst allowing the British Legion to continue to function.

(3.28pm Licensing Officers, applicants and objectors returned to the meeting)

The Legal Advisor read out the decision of the Committee.

The Committee had considered the representations of all the parties and the decision of the Committee was to modify the conditions of the licence by adding a new condition prohibiting the ability to perform live music in addition and for completeness live music should be removed from the licence as a licensable activity until such time as professional adequate noise insulation work was

undertaken to the satisfaction of the Council's Environmental Health Service. The Legal Advisor informed those present that the decision was appealable to the Magistrates Court within 21 days of written notification of the decision.

(3.30pm meeting break)

16. LICENSING ACT 2003: VARIATION OF PREMISES LICENCE - STAMFORD KEBAB HOUSE

Reconvene 3.43pm
Councillor Mrs Bosworth in the Chair

Decision:

That the application to vary the premise licence in respect of the Stamford Kebab House be approved as follows:

Sunday to Tuesday 23:00 – 00:30

Wednesday to Saturday 23:00 – 02:30

The Licensing Officer referred to report ENV544 which had been circulated with the agenda. He then gave a brief background to the Committee about Late Night Refreshment Licenses. The application before the Committee was to vary the opening hours of the premises to 03:00am. One objection from the police had been received and three from residents. The applicant and the police had discussed the opening hours requested and the applicant had agreed to alter his hours to be in accordance with the other late night refreshment establishments in the area, closing at 2:30am. Following the agreement the three other objectors had withdrawn their objections as they had not wanted an establishment opening later than the rest. As an agreement had been made neither party were present at the meeting. It was proposed, seconded and unanimously agreed to grant the variation of the new agreed hours.

17. CLOSE OF MEETING

The meeting closed at 3.50pm.