

Licensing Sub-Committee – Meeting held on Wednesday, 29th September, 2021.

Present:- Councillors R Davis (Chair), Dhaliwal and Strutton

Officers Present:- Mrs Ali (Legal Services), Mrs Kauser (Democratic Services)

Also present under Rule 30:- Councillor Sabah

PART 1

6. Declarations of Interest

None were received.

7. Guidance on Predetermination/ Predisposition - To Note

Members confirmed that they had read and understood the guidance on predetermination and predisposition.

8. Minutes of the Last Meeting held on 7th July 2021

Resolved – That the minutes of the meeting held on 12th March 2020 be approved as a correct record.

9. Review of Premises Licence - The Three Tuns , 124 Bath Road, Slough, SL1 3XL

The Chair welcomed all parties to the meeting, confirming that they had all received a copy of the paperwork and outlined the procedure for the hearing.

Introduction by the Senior Licensing Officer

Ms Rumney stated that a review application of the premises licence had been submitted on grounds of the prevention of public nuisance. The review application detailed a log of incidents made by local resident, Mr Rajpoot, commencing from January 2019. A number of meetings were held prior to the submission of a review application with the Premise Licence Holders(PLH) and the Council's Resilience and Enforcement Team.

Two representations to the review application had been received by Thames Valley Police (TVP) and the Neighbourhood Enforcement Team (NET), as detailed in the appendices to the report. Noise recording equipment was installed at Mr Rajpoot's property – however once reviewed there was insufficient evidence to state that there was a statutory noise nuisance. TVP had had involvement with the premises since June 2019 and it was noted that although some works had been carried out in June 2021 to the car park, noise complaints had continued since then.

Licensing Sub-Committee - 29.09.21

It was highlighted that the Applicant had submitted a number of additional conditions to be added to the premises licence which included a Noise Management Plan, Dispersal Policy, complaints log to be maintained, gates to the car park to be locked from closing until 0600 hours and fencing/barriers to be used to prevent cars parking in the car park after the premises had closed. Sub-Committee Members were reminded that apart from a Community Protection Warning letter, no other action against the Premises was taken by any responsible authority.

Members were reminded of the relevant guidance in determining the review application and the options available to them.

Representations by Interested Party

The Sub-Committee heard and considered the representations presented by the Applicant seeking a review of the Premises Licence, Mr Rajpoot, and noted that this was the very first review applicant to have been made by a local resident and not by a relevant authority such as the Police and/or the Licensing Authority.

Prior to the Sub-Committee meeting, Members considered whether to allow the Applicant to rely on video footage/recordings of his own choice and sought the agreement of all parties attending the Sub-Committee meeting. The Applicant informed Democratic Services Officer that in total he had 346 video footage. The Sub-Committee gave permission to the Applicant to choose and play 2 video footage/recordings during the meeting.

Mr Rajpoot detailed the reasons for submitting a review of the premises licence and that it was primarily based on the licensing objective relating to the Prevention of Public Nuisance. A noise log had been started in 2018 and a petition from local residents supporting the review was referred to. It was stated that management at the premises were not taking their responsibilities seriously, not having attended PubWatch meetings or engaging in meaningful dialogue with residents to resolve matters.

Video footage from 24th April 2021 and 23rd July 2021 was played and it was noted that the recordings were taken outside of Mr Rajpoot's property.

The Sub-Committee also heard submissions from the previous homeowner and Mr Rajpoot's sister, both whom stated that noise nuisance from the premises had been an ongoing issue for a number of years and that the PLH had shown little accountability for the long standing issues.

Representations were also made by Councillor Sabah, ward councillor, in support of the review; who stated that the premise licence holders had refused to engage with the residents in seeking a solution. Councillor Sabah proposed that the opening hours be reduced to 10pm for two years, allowing the PLH to demonstrate that the venue was being run responsibly.

Licensing Sub-Committee - 29.09.21

Mr Rajpoot requested that Members give consideration to removing the Designated Premises Supervisor (DPS), reduction in operating hours to 10pm and no live music to be played.

Representations by Thames Valley Police

The Thames Valley Police Licensing Officer was not in attendance and had provided written representations that were considered by Members.

It was noted by the Sub-Committee that no legal action was taken by the Police in relation to the complaints of alleged anti-social behaviour which seemed to have been linked to the car park to the rear of the premises. Members also noted that the DPS had been informed that if any breaches were found further action would be taken including an expedited review and/or prosecution for offences.

Representations by Resilience and Enforcement

On behalf of the Resilience and Enforcement Team at Slough Borough Council Ms Linda Corcoran explained to the Sub-Committee that a noise audio equipment was installed to monitor the situation, the findings of which indicated that there was not a statutory noise nuisance.

Ms Corcoran also confirmed that there were no complaints of noise nuisance that had been submitted from other residents in the area.

Representations on behalf of the Premises Licence holder

The Premises Licence holder was represented by this legal representative Mr Piers Warne. The DPS attended the meeting but did not give any direct evidence, in that all representations and submissions were made by Mr Warne.

The Sub-Committee heard evidence and considered the representations made including unsuccessful attempts to engage with the Applicant. The Sub-Committee also heard and considered representations made in connection with the steps the Premises had taken such as securing the gates to the car park to the rear of the Premises; and keeping an incident logbook.

It was submitted that the majority of noise complaints related to noise emanating from the car park and steps had been taken to secure the car park. Whilst accepting that on occasions there had been noise from the premises, the Sub-Committee were referred to the additional conditions being proposed, which included a Noise Management Plan, Dispersal Policy and no recorded or live music to be played in the marquee, which would seek to address this. It was noted that there were no noise complaints made during August and two reported incidents in September.

Licensing Sub-Committee - 29.09.21

A written statement by the current Designated Premises Supervisor was circulated to all parties. Members were reminded that no evidence had been submitted regarding crime and disorder at the premises and confirmed that the DPS was attending PubWatch meetings.

Summing Up

All parties were provided with an opportunity to briefly sum up.

Mr Rajpoot stated the need for action to be taken as noise nuisance from the premises had had a negative impact on local residents and been very stressful.

Mr Warne reminded Members of the additional conditions that had been proposed and the need for a reasonable and proportionate decision having taken all the information available into account.

Decision

The Sub-Committee considered all the written information and representations made at the hearing by the Applicant and his witnesses in support together with the representations made by the legal representative for the Premises Licence Holder.

The Sub-Committee resolved to refuse the review application and modify the conditions of the Premises Licence as follows:

(1) The conditions be removed from the licence:

- (a) Conditions 4, 5, 10, 11, 12, 15 (15 should be set by FRA following the introduction of the Regulatory Reform (fire Safety) Order 2005) of Annex 2 for being out of date; and
- (b) Condition 2 of Annex 3.

(2) The following conditions to be added to the licence:

- (a) A noise management plan ('NMP') will be drawn up and implemented at the premises. The NMP will cover, as a minimum: Prevention of music outbreak, Customers Deliveries and complaints. The NMP will be made available to officers from Responsible Authorities on request;
- (b) A dispersal policy will be drawn up and implemented at the premises. The dispersal policy will be made available to officers from Responsible Authorities on request. A copy of the dispersal policy to be sent to the Police Licensing Officer and Slough Borough Council Licensing Officers;
- (c) A complaints log will be maintained at the premises and will record any complaints made to the premises. As a minimum the following

Licensing Sub-Committee - 29.09.21

details will be included: date and time of complaint, person making the record, person making the complaint if known, nature of the complaint and any action taken to resolve it;

- (d) The gates to the car park will be locked within half an hour of the closing time of the premises until 06:00 the following day (with the exception of access being required by the management of the premises or emergency vehicles;
- (e) Fencing or barriers will be used to prevent cars parking in the car park after the premises closes;
- (f) No recorded or live music to be played in the marquee; and
- (g) CCTV Cameras of good enough quality to recognise number plates to be installed covering the entrance/exit of the car park in all weather conditions.

The Sub-Committee were very concerned about the noise nuisance which the Applicant complained was being caused by the Premises and carefully considered the video footage which the Applicant was given permission to play during the meeting. However, the evidence presented, and the representations made were not sufficient to consider the noise nuisance complained of to amount to being a public nuisance.

Whilst the Sub-Committee were sympathetic to how the noise nuisance was impacting the Applicant, it was noted that no responsible authority supported the review. Furthermore, the Resilience and Enforcement Team took the view that there was insufficient evidence to consider the noise nuisance to be a statutory nuisance.

In respect of the opening hours, the Sub-Committee gave serious consideration to a reduction in the opening hours of the premises on Friday and Saturday. However, in light of the measures taken by the Premises Licence Holder and in consideration of the additional proposed conditions; the Sub-Committee decided that on this occasion a reduction in opening hours was not a proportionate response.

The Sub-Committee recommended that the Premises Licence Holder provide a contact name, telephone number and email address to residents within the vicinity to raise any issues or concerns regarding noise nuisance and or anti-social behaviour.

Chair

(Note: The Meeting opened at 11.08 am and closed at 2.54 pm)