

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Tuesday, 18th November, 2014, 10.00 am

Councillors: Manda Rigby (Chair), Roger Symonds and Tim Warren

Officers in attendance: Enfys Hughes, Kirsty Morgan (Public Protection Officer), Terrill Wolyn (Senior Public Protection Officer) and Shaine Lewis (Principal Solicitor and Deputy Monitoring Officer)

91 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

92 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillor Anthony Clarke, Councillor Tim Warren was his substitute.

93 DECLARATIONS OF INTEREST

Councillor Manda Rigby declared an interest in the Spiegeltent, in that she had facilitated a meeting on the issue, but stated that this had not prejudiced her view and remained in the meeting.

94 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was no urgent business.

95 MINUTES: 4TH NOVEMBER 2014

RESOLVED that the minutes of the meeting on 4th November 2014 be approved as a correct record and signed by the Chair.

96 REVIEW PROCEDURE

The Chair explained the procedure to be followed in respect of the following item on the agenda.

97 APPLICATION: FOR A REVIEW OF A PREMISES LICENCE FOR BATH FRINGE SPIEGELTENT, RECREATION GROUND, PULTENEY MEWS, BATHWICK BA2 4DS

The Sub-Committee considered the report which sought determination of an application from Mr David Greenwood for the review of a premises licence under section 51 of the Licensing Act 2003, in respect of the Bath Fringe Spiegeltent, Recreation Ground, Pulteney Mews, Bathwick, Bath.

The following people were present for the review:-

Alan Willey (representing the review applicant), Mr White, Mrs Brown and Lizzie Milne.

The following people were present in respect of the premises:-

Steve Henwood and Wendy Matthews (Bath Fringe Ltd), Annie Beardsley, Mr Oates and Mr David Stephenson.

The Senior Public Protection Officer presented the report and explained the current terms of the licence. She stated that the application for review was on the grounds of the prevention of public nuisance and representations had been received that this operation caused a detrimental effect to nearby residents.

Mr Alan Willey representing the applicant for review made his case:-

- The operation generally adhered to the conditions;
- A few breaches had occurred and some events had overrun;
- The tent had no sound insulation and noise was reflected towards Great Pulteney Street, specifically amplified in the corner area on the upper floors;
- As the buildings were Grade 1 listed double glazing was not a solution;
- It affected residents watching TV, listening to music and trying to sleep;
- It continued for 10 consecutive days where as the rugby only lasted 1-2 days;
- If the hours were reduced to 22:30 it would make it easier for residents;
- He referred to the noise limits set which conflicted with a survey done and the ambient noise levels;
- To have an upper limit was impractical as it was frequently exceeded with peaks of 102 decibels and measurements should be taken over a 15 minute period.

In answer to questions he responded as follows:-

- There was a mobile phone number to ring if there were complaints which had been used successfully but was not always answered;
- Events had only overrun a few times;
- Limits should be set by Environmental Health and then measured and enforced;
- The ambient noise level did vary;
- Some issues would be discussed under the Land Hire Agreement;
- Some of the complaints made were when there no events in the tent.

Mr White put his case for the review:-

- Environmental health had installed monitoring equipment in his house which has not worked;
- In the Code of Practice paragraph 4.2, reference was made to 'noise being inaudible after 23:00 hrs;'
- You could only enforce conditions on the licence;
- For several years the Spiegeltent had operated with no nuisance but now the event was larger, the music was amplified and the sale of alcohol had increased.

In answer to questions he responded as follows:-

- It was believed that the noise had got worse due to the change in position of the tent;
- The tent had moved due to higher fees being charged on the rugby pitch;
- The Senior Public Protection Officer confirmed that the Bath Fringe had continued to pay the higher fee for the position on the rugby pitch for a few years even though the tent had moved – a refund had however been made in full.

Steve Henwood put the case for the premises and made the following points:-

- They always tried to work within the conditions and spoke to environmental health, licensing and local residents;
- The reason the tent had moved was that Bath rugby has asked them to move off the pitch;
- The position of the tent could be looked at again;
- It was distressing for them as an operation to hear they were causing grief to residents and it was not their intention;
- There were rumours the Bath Fringe wanted an extension to the hours which were not true;
- The responsible authorities had been invited to contribute but had chosen not to, which indicated to the Bath Fringe that there were no major problems;
- They operated for 10 days only with a variety of acts including cabaret, choirs, live bands and comedy;
- They do operate to a limit but sometime there were sound peaks;
- Noise measurements were taken by them and environmental health.

In response to questions the following points were made:-

- The issue was over 10 days there were successive disturbances resulting in a cumulative impact;
- He agreed a condition could be put on the licence involving a noise control agreement or plan that could be drafted beforehand between the parties and monitored;
- A variety of acts were used over the 10 days to appeal to a variety of audiences;
- They applied general good practice in respect of a noise policy to the entertainment acts;
- The tent was bigger than the original;
- The position of the tent was discussed with the Council and Bath rugby;
- Steven Henwood was the designated premises supervisor and one of the Directors of the Bath Fringe, there was also a venue manager and one or more of them were always present;
- A noise abatement notice had never been served;
- The mobile phone number was circulated to residents by letter.

Annie Beardsley put her case for the premises:-

- She was a regular audience member at the Fringe;

- During performances they were regularly reminded by an army of volunteers to respect the neighbours and leave quietly;
- She felt the event was very well run.

She confirmed that she did not live in the vicinity so the event did not affect her home life.

Mr Oates put his case for the premises:-

- He was a local resident in Great Pulteney Street towards Henrietta Park;
- If he had to write a list of public nuisances, the Fringe would not register, the main problems were on a Friday and Saturday nights in the city centre when there were social disturbances which were alcohol related;
- The Bath Fringe contributed richly to the city, he did not attend frequently but was aware it attracted a great variety of people;
- Part of being a good neighbour was showing tolerance and appreciating that people like different things;
- He suggested people affected could use ear defenders.

In response to a question the following point was made:-

- The Fringe was much less of a disturbance than a Friday or Saturday night in Bath.

All parties summed up their case:-

- The Fringe worked hard to operate within the parameters set;
- The Sub-Committee were not experts and the Code of Practice stated that after 23:00 hours noise should be inaudible, therefore the licence should not be allowed after 23:00 hours;
- There was no argument about the way the Fringe was run, it was a good thing for Bath, but conditions were needed in order that problems were not caused for local residents.

The Sub-Committee adjourned to consider their decision.

RESOLVED that the premises licence in respect of the Bath Fringe Spiegeltent be issued with conditions as amended by the Sub-Committee.

Reasons for decision

Members have today determined an application for a review of a premises licence for the Bath Fringe Spiegeltent, Recreation Ground, Bath. In doing so they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Council's Policy and the Human Rights Act 1998.

Members are aware that the proper approach under the Licensing Act is to be reluctant to regulate in the absence of evidence and must only do what is appropriate and proportionate in the promotion of the licensing objectives based on the information put before them. In reaching a decision Members were careful to take account of all the relevant oral and written representations.

THE APPLICANT

The application was made under the licensing objective of prevention of public nuisance. The applicant's representative stated the event was generally good but there have been breaches adversely affecting the area to such an extent that they were unable to enjoy the peace and quiet of their properties. It was stated that whilst residents had tried secondary glazing this had proved impractical. It was further stated that in 2013 there had been issues with noise and again in 2014 but that although Environmental Services had investigated no action was taken. Whilst the applicant was not necessarily seeking revocation it was suggested that the hours could be reduced to 22:30 each night, loud music limited to alternate evenings or the stage located at the far eastern end of the Recreation Ground away from residential property. These issues, together with the imposition of sound limiters and measurements, were also echoed by the interested parties making representations.

PREMISES LICENCE HOLDER

The representative of the premises licence holder stated it was not his intention to annoy residents and he had worked with residents, Councillors and Officers to improve the event. It appeared that noise events in the vicinity were being bundled together and laid at the door of the Spiegeltent and this was unfair. It was also stated that nothing had been received from Environmental Health, the Police or other departments of the Council and throughout events the noise had been monitored and its Noise Policy and Code of Practice had been followed and if noise levels are exceeded immediate remedial action is taken. Interested parties supporting the licence holder stated the event was sensitive to its environment, was well managed and there were numerous announcements throughout the event that people should respect the residents and leave the venue quietly.

THE MEMBERS

Members balanced the legitimate competing interests of the entertainment industry and the needs of the residents. Members were also mindful to take into account only relevant matters and disregard the irrelevant. For example issues surrounding covenants relating to the Recreation Ground and restrictions in place at Hyde Park, London.

Members found on balance that whilst the Spiegeltent was generally well run and complied with its licence it was, however, having a detrimental effect on a number of neighbouring properties with regard to the lateness of live and recorded music. Whilst it was acknowledged there was a cultural benefit to Bath it was considered appropriate and proportionate to limit the hours of the licensable activities during the 10 days of the Fringe in order to limit noise disturbance to residents late into the evening.

The licence was amended as follows:

Regulated entertainment by way of live and recorded music shall be

Thursday to Saturday	12:00-23:00
Sunday to Wednesday	12:00 22:30

Delegated authority was given to the Public Protection Officer to issue the licence.

98 LICENSING PROCEDURE

The Chair explained the procedure to be followed in respect of the following items on the agenda.

99 APPLICATION FOR A NEW PREMISES LICENCE FOR BYRON, UNIT 3, SAW CLOSE, BATH BA1 1 EY

The Sub-Committee considered the report which sought determination of an application for a new premises licence in respect of Byron, Bath.

The applicant Marc Balding was present with his representative Graeme Cushion.

The Public Protection Officer presented the report and outlined the application. She stated that a representation had been received from Avon and Somerset Constabulary stating that the application lacked detail and clarity with reference to the licensing objectives. Conditions were proposed by Avon and Somerset Constabulary (see paragraph 5.12 of the report) and agreed by the applicant in writing.

The applicant's representative put the case and stated that the applicant was an experienced operator with 47 premises. No representation had been received except for the police and those conditions had been agreed. They noted the premises were in a cumulative impact area but this premises would not add to these problems as they provided a waitress only service and their drink prices were relatively high. The operator had never had any enforcement issues or a review of a licence.

There were no questions from Councillors or the Police.

Martin Purchase (Avon and Somerset Constabulary) was present having made a representation. He stated he had nothing to add as the proposed conditions had been agreed. There were no questions.

All parties had nothing further to add in summing up.

The Sub-Committee adjourned to consider their decision.

RESOLVED that a new premises licence be granted in respect of Byron, Unit 3 Saw Close, Bath BA1 1EY, subject to the standard terms and conditions and extra conditions as amended by Avon and Somerset Constabulary.

Reasons for decision

Members have today determined an application for a new premises licence for Byron Hamburgers Ltd Unit 3 Saw Close, Bath. In doing so they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Council's Policy and the Human Rights Act 1998.

Members noted the premises are in the Cumulative Impact Area and the Police had made representation and suggested conditions which the applicant had agreed to being placed on the licence. Members considered that with the nature of the premises and imposition of these conditions the premises were unlikely to add significantly to the cumulative impact being experienced.

Authority is delegated to the Public Protection Officer to issue the licence with the agreed conditions.

100 APPLICATION FOR A PREMISES LICENCE FOR ZIZZI, UNIT 2, SAW CLOSE, BATH BA1 1EY

The Sub-Committee considered the report which sought determination of an application for a new premises licence in respect of Zizzi, Bath.

The applicant Marc Ward was present with his representative Graeme Cushion.

The Public Protection Officer presented the report and outlined the application. She stated that a representation had been received from Avon and Somerset Constabulary stating that the application lacked detail and clarity with reference to the licensing objectives. Conditions were proposed by Avon and Somerset Constabulary (see paragraph 5.12 of the report) and agreed by the applicant in writing.

The applicant's representative put the case and stated that the applicant was an experienced operator with 125 premises. No representation had been received except for the police and those conditions had been agreed. They noted the premises were in a cumulative impact area but this premises would not add to these problems as they provided high quality Italian food and a waitress only service. The operator had never had any enforcement issues or a review of a licence.

There were no questions from Councillors or the Police.

Martin Purchase (Avon and Somerset Constabulary) was present having made a representation. He stated he had nothing to add as the proposed conditions had been agreed. There were no questions.

All parties had nothing further to add in summing up.

The Sub-Committee adjourned to consider their decision.

RESOLVED that a new premises licence be granted in respect of Zizzi, Unit 2 Saw Close, Bath BA1 1EY, subject to the standard terms and conditions and extra conditions as amended by Avon and Somerset Constabulary.

Reasons for decision

Members have today determined an application for a new premises licence for Gondola Restaurants Ltd Unit 2 Saw Close, Bath. In doing so they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Council's Policy and the Human Rights Act 1998.

Members noted the premises are in the Cumulative Impact Area and the Police had made representation and suggested conditions which the applicant had agreed to being placed on the licence. Members considered that with the nature of the premises and imposition of these conditions the premises were unlikely to add significantly to the cumulative impact being experienced.

Authority is delegated to the Public Protection Officer to issue the licence with the agreed conditions.

The meeting ended at 12.20 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services