

Licensing Sub-Committee Hearings

Friday, 19 May 2017

Attendees:

Substitutes: No substitutes were recorded at the meeting

Also Present:

3 Appointment of Chairman

Present: - Councillor Harris
Councillor Hogg
Councillor Moore

RESOLVED that Councillor Harris be appointed Chairman.

4 Declarations of Interest

Councillor Hogg (in respect of his position as a personal licence holder and his position at the Oak Tree Centre) declared his non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure 7(5).

5 Minutes

RESOLVED that the minutes of the meetings held on the 18 November 2016 and 16 December 2016 be confirmed as a correct record.

6 Tiptree Press Club

Mr Ruder outlined the application to which objections had been lodged by Mrs Hoad, a local resident, and by the Licensing Authority, acting in its role as a responsible authority, and Environmental Protection.

Mrs Williams outlined the request and explained that initially she believed that a new application was not needed and all that was required was a simple transfer of names on the club premises certificate. Having contacted the Licensing Team she discovered a new application had to be made and she had been advised to apply for a premises licence. Mrs White confirmed that it would still be possible to operate as a club under a Premises Licence and this afforded the club more flexibility. Mrs Williams informed the Sub-Committee that although she had only taken over the premises in April 2017 the club had been there since the 1960's and was a hub of the community.

The applicant had been made aware of noise nuisance issues by the Estate Agents when she purchased the property and had employed Mr Pennick to refurbish the property to add sound proofing along the party wall of the property. Mr Pennick provided photos which showed what work had been done to the premises and informed the Sub-Committee that the ceiling has been lowered, vinyl flooring has been replaced with carpet and the original windows had been replaced with double glazing to help with the noise issues.

Mr Cornish, from Environmental Protection, addressed the Sub-Committee and informed it that in January 2017 the Council's Environmental Protection Team had been made aware of noise issues by Mrs Hoad and the Out of Hours Service had visited her premises, which was adjacent to the club. Very loud noise levels were recorded and the then tenant was informed but as the premises then closed no further action was taken.

A Temporary Events Notice was issued for the Grand Opening on 15 April and Mr Cornish informed the Sub-Committee that he attended the site that evening and the noise was of an exceeding high level. Mr Cornish visited Mrs Hoad's flat and could hear and feel bass tones vibrating through the floor. Even with the television on full volume the noise could not be blocked out. All windows of the club were open at this time. Mr Cornish acknowledged that as a result of the soundproofing along the party wall line there had been some improvement but the levels in the bedroom were still significant and there remained nuisance from vibration. Mr Cornish informed the applicant of these issues. The premises was visited again on 12 May and noise was witnessed coming from the club. With regard to the smoking area, opposite the entrance of Mrs Hoad's flat, Mr Cornish considered that this would benefit from some controls to limit its use given its proximity to a residential dwelling.

In response to questions from the members of the Sub-Committee Mr Cornish informed them that Environmental Health would recommend no live music or discos are permitted and that the premises should close at 23.00 until a full structural survey was done and further investigations could be made.

Mrs Hoad, objector and resident, then addressed the Sub-Committee. She informed the Sub-Committee that she had owned the flat since 2005 and having spent a period of time leasing out the premises, she returned in 2016. She had made several complaints to the last tenant of the club with regard to problems of noise. Mrs Hoad informed the Sub-Committee that she had no problems with there being a Social Club at the premises but she did not want it to turn into a night club. She also requested the smoking area be moved as she couldn't open her windows as the area was in constant use and next to her front door and fire exit.

RESOLVED that the application be granted with the following exception –

1. The Club rules (appended to this decision notice) must be adhered to at all

times. Any changes to the Club rules must be submitted to the Police and Licensing Authority for approval.

2. An incident log (which may be electronically recorded) shall be kept at the premises for at least six months, and made available on request to the Police or an authorised officer of the Licensing Authority. The log must record details of the incident, date, time, the staff who dealt with it, the action taken, the outcome, and whether the emergency services were called. The incident log must record incidents in relation to -

- (a) all crimes reported to the venue, or by the venue to the Police
- (b) all ejections of customers
- (c) any complaints received
- (d) any incidents of disorder
- (e) seizures of drugs, offensive weapons, fraudulent ID or other items
- (f) any faults in the CCTV system, searching equipment or scanning equipment
- (g) the date and time of the refused alcohol sale and the name of the member of staff who refused the sale.
- (h) any faults in the CCTV system, searching equipment or scanning equipment
- (i) any visit by a relevant authority or emergency service
- (j) times on duty, names and the licence numbers of all licensed door supervisors employed by the premises.

3. All staff shall be trained in relevant age restrictions in respect of products, recognising signs of drunkenness, how to refuse service, the premises' duty of care, company policies and reporting procedures, action to be taken in the event of an emergency, including the preservation of a crime scene and reporting an incident to the emergency services, and the conditions in force under this licence; this is to ensure that there is no underage drinking, drunkenness on the premise or in public, use of drugs, violent and anti-social behaviour and to ensure the protection of children from harm.

4. Documented records of training completed shall be kept for each member of staff. Training shall be regularly refreshed and at no greater 12 monthly intervals. Training records must be made available for inspection upon request by a Police officer or an authorised officer of Colchester Borough Council.

5. The premises must install, operate and maintain a comprehensive digital CCTV system. All public areas of the licensed premises, including all public entry and exit points will be covered, enabling facial identification of every person entering in any light condition. The CCTV cameras must continually record while the premises are open to the public and recording must be kept available and unedited for a minimum of 31 days with the date and time stamping. A staff member who is conversant with the operation of the CCTV system be able to produce/download/burn CCTV images upon request by a Police officer or an authorised officer of the Licensing Authority. Any footage must be in a format that can be played back on a standard personal computer or standard DVD

player. Where the recording is on a removable medium (i.e. compact disc, flash card etc.), a secure storage system to store those recording mediums must be provided.

6. Customers permitted to temporarily leave and then re-enter the premises, e.g. to smoke, must not be permitted to take drinks or glass containers with them.

7. Staff shall monitor customers smoking outside the premises on a regular basis and ensure customers do not cause a public nuisance.

8. No deliveries or collections relating to licensable activities at the premises will take place between 19.00 and 08.00 hours.

9. Notices must be prominently displayed at all exits requesting customers to respect the needs of local residents and leave the area quietly.

10. The Challenge 25 scheme must be operated to ensure that any person who appears to be under the age of 25 shall provide documented proof that he/she is over 18 years of age. Proof of age shall only comprise a passport, photo card driving licence, an EU/EEA national ID card or similar document, an HM Forces warrant card, or a card bearing the PASS hologram.

11. All children under the age of 18 must be accompanied by an adult.

12. Anyone purchasing alcohol who has a minor in their company will be observed via CCTV cameras located in the club to ensure that alcohol is not passed to the minor.

13. No children are allowed in the bar area.

14. No regulated entertainment shall be permitted in the premises until such time as a full acoustic survey of the sound transmission between the premises and adjoining residential dwellings is undertaken, all recommended works are undertaken and a validation test has been carried out that shows beyond doubt that music noise from live or recorded entertainment is not likely to cause nuisance to occupants residential dwellings.

15. All windows and external doors shall be kept closed when regulated entertainment takes place, except for the immediate access and egress of persons.

Reasons for the determination

The Sub-Committee had regard to the submission of the Applicant that there was not a history of noise complaint and that they believed they had been wrongly advised of the need to apply for a premises licence. They noted that the premises intended to operate

as a family orientated club.

The Sub-Committee considered the evidence presented by Mr Cornish on behalf of Environmental Protection. Having considered this evidence it found that there was evidence of noise nuisance prior to the Applicant having taken over the premises; work had been carried out to mitigate the noise nuisance; and following these works there was still considerable noise nuisance. The Sub-Committee noted that Mr Cornish was uncertain as to whether the building could be adequately sound proofed. A full acoustic survey of the structure of the building was necessary before any further works were carried out and any resulting works would need to be thoroughly tested to prove that there was no noise escape from the building into neighbouring properties.

In the light of the evidence proving noise nuisance at the premises the Sub-Committee found that the regulated entertainment to be provided at the premises was licensable and therefore subject to regulation under the premises licence. The Sub-Committee considered it proportionate and appropriate that a condition should be placed on the licence preventing regulated entertainment until such a time as a full acoustic survey had been carried out to identify the works necessary to prevent the escape of noise and such works had been completed and tested to ensure that there was no noise nuisance.