

LICENSING SUB-COMMITTEE

Friday, 20 December 2019

**Present: Councillor Chris Woodward (Chairman)
Councillors Thomson and Podbury**

Officers in Attendance: Dave Packham (Licensing Officer), Robin Harris (Senior Lawyer (Contentious)) and Caroline Britt (Democratic Services Officer)

Other Members in Attendance: Councillors Atkins, Backhouse and Williams

CHAIRMAN'S INTRODUCTION

LSC1/19 The Chairman opened the meeting and introduced the members of the Sub Committee panel and officers in attendance.

The Chairman explained that the circumstances of the meeting had changed and the applicant had now submitted a request that the hearing be adjourned for a period of 6 months. In recognition of this the Chairman invited the applicant's representative, Mr Thomas (Solicitor) to outline the details of the revised application request. The Committee, officers and representatives present would then be allowed an opportunity to ask questions before retiring to consider the request and make a decision.

APOLOGIES FOR ABSENCE

LSC2/19 No apologies were received.

DECLARATIONS OF INTEREST:

LSC3/19 No declarations of interest were made by members at the meeting.

DETERMINATION OF AN APPLICATION TO VARY THE PREMISES LICENCE FOR COLEBROOK PARK

LSC4/19 Mr Thomas, Solicitor for the applicant made the following comments:

- At the time of the original application and following 2 events staged, feedback received from the Environmental Health Office was that the events had met with current criteria. It was therefore understood that there would be no issue with this application.
- The applicant was keen to ensure that any event staged met the relevant criteria and did not breach the noise nuisance objective. They would work with Environmental Health and local residents in order to achieve this.
- At a meeting held with Environmental Health (Monday 16 December 2019) it was suggested that a fresh noise report from an expert would be beneficial, especially regarding background levels as the application request included an extension of hours to 4:00 – 4:30am.
- A number of suggestions were taken on board and a modified application request was forwarded to Licencing on Wednesday 18 December 2019.
- However a noise assessment report was not possible at such

short notice.

- Without the provision of additional evidence that showed noise levels were in line with Environmental Health Guidelines, the Environmental Health Office would not be able to support the application.
- The site was not overused. As such it was felt that in the best interest the hearing be adjourned until after the next event which was at the end of May 2020.
- The current licence to 3:00am would remain enforced. To allow the event to continue to 4:00-4:30am an application for a temporary events licence would be submitted. This would allow for the necessary data to be collected to assess background levels.
- Once the data had been collected a proposal would be submitted to the Licencing Committee to ensure there would not be a noise nuisance for residents. Environmental Health would be on site to monitor the event so would be on hand to deal with any issues from residents.
- This would allow for an informed decision based on up to date evidence.

John McCulloch from Environmental Health made the following comments:

- Environmental Health (EH) had no objection to a deferral subject to being able to introduce evidence and/or witnesses following the event in May 2020. EH would work with the applicant to ensure the event was a success and thereby a success for residents.

Discussion and responses to member questions included the following matters:

- EH confirmed that they would be monitoring the May event in association with the applicants consultants. This would allow EH to verify the ball park figures produced by the consultants.
- The use of a temporary event notice was not ideal. The licence variation application would negate the repeated use of this type of licence. It would allow the applicant to retain full control and ensure that all other interested parties knew the extent of the licences remit.
- The temporary licence requested for the time extension for the May festival would allow it to be monitored and used as data for the application to vary the current premises licence. The number of people expected to be at the site at this time would be under 500.
- EH confirmed that the live monitoring would be undertaken by the applicants consultant. This would involve the use of a sound level meter, linked to the internet and was available to see by members of the public. EH would be monitoring levels using their own equipment which would then be downloaded the next day. EH would be linked in to the consultants so if there was a problem they would be able to liaise and get the volume turned down.
- The applicant would remain responsible for their own monitoring and response to live conditions. The applicant understood that if they were in breach of conditions there would be penalties.
- EH confirmed that if wind direction was a factor in the level of

noise heard (e.g. in Tonbridge or Paddock Wood) it would be reliant on complaints submitted by individuals.

- The applicant would engage extra personnel that would be on site to handle any issues that arose during the event.
- Concern was raised regarding public awareness and the public's right to be heard at a later date. Legally, if the hearing was adjourned, the only people who would be allowed to make representation were those who did so at the time the original application was made. If others had concern they could call for a review of the licence. This would allow for other parties that were not part of the variation proceedings.
- Should an adjournment be granted, a decision notice would be issued by the Council that stated the decision had been adjourned with notice given for a new date for the hearing and the reasons for the new date.
- No additional (new) representations could be made for the existing variation unless called as a witness for one of the original representatives. For example, a member of the public could make a complaint to EH who would then be able to call those persons forward as witnesses.
- The test event would measure against approximately 500 people. This raised concern that there would not be adequate evidence of noise levels for a large event (up to 5,000 people). The applicant confirmed that by 3am the expected number of people in attendance would be around 500 so the parameters for data capture would be reasonable.
- EH confirmed that equipment used would allow them to extrapolate the data and if necessary work out what the noise levels would be if attendance was higher. If necessary, EH would also be in a position to restrict numbers of people, speakers etc.
- Key to the provision of acceptable noise levels was not the fabric used on the marquees but the Zonal Array system that was installed in the ceiling of the marquee. It both captured and absorbed the noise.

Members of the Sub-Committee retired to discuss the application accompanied by the Council's legal representative and the Democratic Services Officer.

Decision: The hearing was reconvened. The Chairman confirmed the Sub-Committee had agreed to allow the deferment of the hearing for a period of 6 months. The Chairman then asked the Council's legal representative to detail next steps.

- The application for a variation would be adjourned for a period of 6 months – to 19 June 2020.
- The Sub-Committee considered it was in the public interest that there was evidence available for all parties to hear in order to fairly determine the application for a variation.
- TWBC would provide a new notice of hearing with a new date and the reasons for the adjournment. The Sub-Committee further decided that it would allow 21 days in order to make representations as to the new date (19 June 2020). This was more than was usually allowed but took account of the Christmas and New Year period.
- After the 21 day period had elapsed and if no objections to the

new date were received, the date would be confirmed. If representations were made to the date, consideration of a new date would be given. If a new date were agreed, a new notice of hearing would be issued.

RESOLVED – That the hearing was adjourned for a period of 6 months. A new notice of hearing would be issued and 21 days allowed to make representations as to the new date. Subject to any representations received, a revised hearing date of 19 June 2020 would be confirmed.

NOTE: The meeting concluded at 12.15 pm.