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## TUNBRIDGE WELLS BOROUGH COUNCIL

### LICENSING SUB-COMMITTEE

MINUTES of the meeting held at the Council Chamber, Town Hall, Royal Tunbridge Wells, Kent TN1 1RS, at 11.00 am on Wednesday, 1 December 2021

**Present: Councillor Bob Backhouse (Chairman)  
Councillors Atwood and Funnell**

**Officers in Attendance:** Trevor Horner (Licensing Officer), Robin Harris (Team Leader (Contentious)), Sharon Degiorgio (Senior Licensing Officer), Louise Kellam (Democratic Services Officer) and Caroline Britt (Democratic Services Officer)

#### CHAIRMAN'S INTRODUCTION

LSC8/19 The Chairman opened the meeting, introduced the members of the Sub-Committee panel, the officers in attendance, and outlined the procedures for the hearing. The applicants, other persons and respondents were also introduced and Mr Love's solicitor, Mr Stephen Thomas, indicated that Mr Love was unable to attend due to sickness

#### APOLOGIES FOR ABSENCE

LSC9/19 No apologies were received.

#### DECLARATIONS OF INTEREST:

LSC10/19 No declarations of interest were made by members at the meeting.

#### **21/02689/REVIEW - DETERMINATION OF AN APPLICATION FOR A REVIEW OF THE PREMISES LICENCE FOR COLEBROOK PARK, COLEBROOK LAKES, LAND EAST OF KINGSTANDING WAY, ROYAL TUNBRIDGE WELLS, TN2 3UP**

LSC11/19 Mr Trevor Horner, Licensing Officer, first confirmed that all parties present at the hearing had had sufficient time to read their reports. Mr Horner then summarised the facts, relevant representations and matters relevant to the local authority licensing policy statement and statutory guidance in relation to the application, including the previous adjournment. This information had been provided in more detail within the agenda report. No questions were put to Mr Horner.

Mr Duncan Haynes, Environmental Protection Team Leader, representing as the Applicant on behalf of the Mid Kent Environmental Health then presented the application as set out in the Agenda, as well as the options open to the Panel. Other points included:

- During a Without Prejudice hearing on 23 November, it was agreed that a suitable Noise Management Plan being agreed upon would be acceptable to their team, should the Licensing Sub-Committee Panel agree to this approach. A Noise Management Plan had since been drafted, as per the Addendum, and was acceptable to the Environmental Protection Team for consideration.
- The Sub-Committee Panel was to be made aware that if the Panel agreed to the Noise Management Plan, there would be a period of

adjustment to tweak the plan to the real-world environment, as no Plan worked perfectly first time round.

- The Environmental Protection team felt that the implementation of the Noise Management Plan as a Licence Condition, subject to any tweaking, would be sufficient.

No questions were put to Mr Haynes.

Councillor Lance Goodship, Councillor for Sherwood ward, spoke as an interested party representing his Ward constituents in support of the review.

Points included:

- Large events at Colebrook were the most escalated events he had dealt with as a Ward Councillor, with over 700 direct and indirect complaints received from residents.
- A Change.org petition had been compiled by a Sherwood resident of over 300 residents objecting to the Venue and its' events.
- He had received numerous complaints from shift workers, especially those working at Pembury Hospital, who had experienced extreme sleep deprivation over multiple weekends of live music events at Colebrook Park, causing severe impact to their effectiveness at work.
- Knights Park/Knights Wood had approximately 2000 new residents, predominantly young families, directly opposite Colebrook Park, and the noise produced by the events affected them adversely, especially with young children being kept up to 3am by the noise.
- Bank Holiday weekends had been particularly bad, as residents had to keep windows closed and weren't able to use their gardens due to the noise.
- Making Licensing complaints had been burdensome and time-consuming, and so Cllr Goodship believed many complaints hadn't made it to Committee.
- The Councillor and his family had been personally and directly impacted by the events as a resident living in the vicinity of Colebrook Park.
- Called for a full revocation of the premises' licence.

Mr Stephen Thomas, Solicitor for Premises Licence Holder Mr Love, responded to Cllr Goodship by stating that the Petition was not accepted as valid as it was not relevant to the events being determined within the review. No further questions or comments were put to Cllr Goodship.

Mrs Jill Newton, resident of Pembury, also spoke as an interested party in support of the review. Points included:

- She had been a resident of Pembury for 30 years and while she had noticed events in previous years, the last year had been particularly worse in relation to noise, and in particular booming bass levels.
- Events had been held from early evening until 3am, which was far too late, on consecutive nights over several weekends, with a total disregard for local residents in such an urban area.
- Events had an impact on residents' wellbeing, health and mental health.
- Called for events to be limited to time constraints and noise limits.

No questions were put to Mrs Newton.

Mr Stephen Thomas, representing premises Licence Holder Mr Iain Nicholas Love, addressed the Panel. Points included:

- Mr Love wished to apologise profusely for the problems residents

- encountered in the few weeks earlier this year.
- The Licence was granted in June 2018 and there were no problems in regards to the Category 3 events held on-site in 2019.
  - Accepted mistakes had been made and could see where they had been made and had found a positive solution to avoid recurrence of breaches to the Licensing Objective as Mr Love respected the local residents and wanted to work with them.
  - The Covid-19 pandemic and the subsequent lockdown measures had a significant impact on the industry and several knock-on effects to the planning of any events this year, such as shortages of staff, HGV Drivers and even hay bales. Mr Love focused on six Category 3 events, hoping to minimise impact to local residents, but he admitted this hadn't worked. The high demand by the public and the financial need to put on events in a short space of time meant that events were put on at short notice, so the level of planning that would have normally gone into these events did not occur.
  - Mr Love accepted that he incorrectly misplaced his trust in the event Operators to comply with licensing obligations.
  - Noise Consultant Mr Beale had placed noise monitoring equipment on the outskirts of the site during events to ensure there was no noise nuisance to residents. There was one area in which residents refused to allow the placement of the meters in their gardens. This effected how they could control the site, but was only a contributory factor.
  - Moving forward, Mr Love wished to proceed with the Noise Management Plan that had been prepared, in order to have zero environmental impact, which could be achieved. This involved using appropriate sound systems for the site and setting an approved list of suppliers for Operators and Hirers to use, as well as a requirement for Operators and Hirers to submit a site plan in advance, all of which did not occur over the summer.
  - Category 3 events were not limited to music festivals, and Mr Love was looking at various types of activity moving forward, such as food festivals, illuminated sculpture trails, outdoor cinema and one day concerts with more limited curfew. Events until 3am would still take place, but with zero environmental impact to residents.
  - Mr Love accepted that his management of the events over the few weeks this summer was not what it should have been due to financial need and time limits to put events together, and that he made mistakes as a circumstance.
  - The Conditions and Noise Management Plan put forward, in their opinion, met the Licensing Objectives and had been approved by the Environmental Health team as among the very best Plans they had seen.

Mr Thomas referred to Mr Chris Beale, Noise Consultant with SPLtrack, who provided evidence in relation to the Noise Management Plan put forward:

- Lack of planning for events held at Colebrook Park over Summer 2021 had been "terrifying". SPLtrack had been briefed only to supply a small quantity of noise meters and share the data with Mr Love, not to provide any management risk assessments or planning which would be expected at a normal event. As such, the results at Colebrook Lakes that resulted in this Review were not surprising.
- Achieving zero environmental impact at an event was a complex matter which involved a lot of planning and engagement with various stakeholders.

- In his experience, the number of people or stages at an event was not an arbiter to noise disturbance, but rather whether the correct management and planning was in place.
- The role of Noise Management at an event was to confirm compliance and prove planning had been successful, not conducting a reactive operation.

Questions and discussion from Members of the Panel and other registered parties at the Hearing to the Respondents included:

- Complaints made in 2019 were not relevant to this Hearing as the events in the complaints pre-dated Mr Love's tenure as Licence Holder.
- Unlike this year, contracts made with external hirers and operators would be made well in advance with deposits and financial incentives and imperatives to comply with the requirements which were set by SPLtrack. Non-compliance would result in the cancellation of the contract.
- While the Hearing was only in relation to Category 3 events, any Category 1 or 2 events to take place would also be improved upon with cooperation with the Environmental Health team. The difference between a Category 1 and 3 event was clarified as being the number of people permitted to attend. As such, Category 1 events were limited in numbers.
- Countrywide, the biggest issue in noise disturbance from events was bass beats, and this issue could be mitigated using a number of options, and was the mission of Noise Management. There was to be no impact to residents in their house, even with windows open for ventilation.
- Ideally, sound power was to be no more than was necessary to entertain the immediate audience and none was to be lost to the environment. In order to ensure directivity, baffles were needed to ensure sound energy was directed straight to the audience. Having multiple speakers also meant crowds were much closer to the speakers, so sound did not have to travel further than necessary.
- While Mr Love had not yet formally contracted Mr Beale and/or SPLtrack for future events, but Mr Beale was confident that he would and he was willing to work with Mr Love and the Environmental Health team to deliver the Noise Management Plan.
- In Mr Beale's years of experience, one loudspeaker system in particular had a history of causing environmental problems and happened to be the system used at Colebrook Lakes during 2021. This system was never going to be used at Colebrook Lakes again as it was uncontrollable from an environmental point of view. Having preferred suppliers with specific types of sound systems would eliminate the use of that system.
- Loudspeakers were being made every year bigger, more powerful with more bass and volume, but problem of environmental impact remained, so technical restrictions had to be put in place to prevent the extreme capabilities of the speakers being used. The physical size of the baffles was only able to restrict the directivity of the loudspeaker within a certain frequency response, and it was not possible to build baffles big enough to contain the very lowest frequencies, so filters were to be put on loud speaker systems to limit the frequency response to within the capability of the baffles in order to restrict the directivity of the sound energy to a very small area.

- Noise monitoring/modelling system interacted with live sensors and was used for various events, including music and motor racing events within the UK and construction projects in London. The historical approach of using smaller numbers of very expensive noise meters was not timely or appropriate as they could only provide data after the event had taken place, or connectivity would be an issue, which wasn't useful for residents or operators. So they produced compliant, affordable noise meters in larger numbers that could be monitored in real-time. In the planning process, assessments of weather and other factors were modelled and tested accurately and implemented so that sensors were just to be a confirmation that noise mitigation had been successful. If it wasn't, they would know within one minute if there was an issue which could be acted upon immediately by the responsible individuals on site, which ended the latency in response previously experienced by residents.
- Data from noise meters was to be made available to stakeholders, including Environmental Health as well as local residents, via a web app. Residents could complain via the app so this could be instantly logged and responded to.
- SPLtrack had recently worked with event in Chepstow that was similar to Colebrook Lakes in terms of effect on residents and had implemented their system this year and almost completely eliminated complaints.
- The aim of their work was not to be in a position where they were turning systems/volume down, but instead confirming success of their planning. If they were in a position that they were attenuating Stages/systems, that meant that they were aware that residents were aware of the noise, which meant they had failed their planning.
- The system was able to predict the noise level within the next 15 minute period based on data they had in real time, with sound engineers being given a guideline of whether they were trending above or below the prescribed level in order to adjust accordingly in a dynamic manner. They also controlled the maximum level a stage could operate to with a physical limiter/suppression device.
- Promoters and organisers presented with factual information and data were generally happier and more likely to comply with limits, rather than when presented with opinions unsubstantiated messages to back them up. However, if they did fail to comply, there was a Draconian method of preventing further issues by means of unplugging the speaker system, which had happened before at large events because the most important thing was the complying with and maintaining the Licence.
- There was no standardised agreed metric to measure inaudibility of music noise, SPLtrack and Environmental Health used different but comparable metrics to monitor and reduce bass, and the software produced by SPLtrack could add additional metrics in discussion with experts such as Mr McCullough.

The Chairman then invited final addresses from all parties. Following these addresses, Members of the Sub-Committee retired to discuss the application accompanied by the Council's legal representative and the Democratic Services Officer.

**RESOLVED** – That the conditions of the premises licence be modified as set out in the decision notice appended to these minutes.

**DECISION NOTICE ENCLOSED**

NOTE: The meeting concluded at 2.30 pm.

## LICENSING SUB-COMMITTEE HEARING – 01/12/2021

### LICENSING SUB-COMMITTEE DECISION NOTICE (Decision made by the Sub-Committee on 01/12/2021)

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**NAME AND ADDRESS OF PREMISES:** Colebrook Park, Colebrook Lakes, Land East of Kingstanding Way, Royal Tunbridge Wells TN2 3UP

**NAME OF PREMISES LICENCE HOLDER:** Mr Iain Nicholas Love

**REASON FOR HEARING:** An application for a review has been received from Tunbridge Wells Borough Council Environmental Protection Team.

In their representations the objectors raised the following concerns:

- (1) There was an ongoing and unacceptable public nuisance generated by noise from music to residential premises over a wide area.

**DELIBERATION – LICENSING OBJECTIVES:** The relevant licensing objectives were considered by the Sub-Committee:

#### 1. Prevention of Public Nuisance

The Sub-Committee had regard to the written evidence provided and heard from Duncan Haynes and John McCullough from the Environmental Protection Team, who gave evidence in respect of events held at this premises between 7 August 2021 and 19 September 2021 which led to substantial complaints relating to noise from members of the public, which were verifiable on the basis of evidence they had collected or had been provided with. The applicant confirmed that they had been in discussions with the respondent in relation to a Noise Management Plan (NMP) which may alleviate the issues, however they were clear that there were a range of options open to the sub-committee including various restrictions and even revocation of the licence in respect of these types of events.

The Sub-Committee also heard from Cllr Goodship, who gave evidence both in respect of historic concerns around this premises and also current concerns from his residents and his own experience of the disruption caused by the events in August and September of this year.

The Sub-Committee heard from Ms Jill Newton, a resident of Pembury, who gave clear evidence of the disruption caused.

In response, the Sub-Committee heard from Mr Love's Solicitor, Mr Thomas, and from his noise expert, Mr Christopher Beale. Mr Thomas accepted on behalf of Mr Love that the events in the late summer of this year had caused a nuisance, were not acceptable and he apologized for this. Mr. Thomas and Mr. Beale set out the key aspects of the NMP, which they were confident could provide events on this premises with zero environmental impact on residents.

Mr Beale answered questions from Mr McCullough which set out further how the NMP would control noise nuisance from this premises.

On balance, the Sub-Committee determined that on the basis on the evidence that they had been presented with, there was a realistic possibility that the NMP could promote the licensing objective of preventing a public nuisance and therefore imposed the following condition:

*The Premises Licence Holder will comply with the requirements of the Noise Management Plan, dated 28 November 2021, prepared by SPL Track, subject to any modifications agreed with the Environmental Protection Team. This Plan will be reviewed annually or by agreement at lesser intervals with the Environmental Protection Team and any update lodged with the Licensing Authority and the Environmental Protection Team,*

The Sub-Committee were satisfied that the above condition was appropriate and proportionate to promote this licensing objective.

**2. Prevention of Crime and Disorder**

The review was called in order to deal with issues with public nuisance and therefore no representations were made in respect of this licensing objective.

**3. Public Safety**

The review was called in order to deal with issues with public nuisance and therefore no representations were made in respect of this licensing objective.

**4. Protection of Children from Harm**

The review was called in order to deal with issues with public nuisance and therefore no representations were made in respect of this licensing objective.

**DECISION MADE:** That following the review hearing, the Licence be modified to incorporate the condition identified above

Additional notes made by the Sub-Committee at the meeting:

- This licence, like any other licence, is subject to review at the instigation of any Responsible Authority or Other Persons should there be any concerns regarding the operation of, and/or, breaches of the licence.
- Other Persons and Responsible Authorities were reminded that they may apply for a review of this licence "after a reasonable interval" pursuant to Section 51 of the Licensing Act 2003.
- Entitlements to appeal for parties aggrieved by the decisions of the Licensing Authority are set out in Schedule 5 to the 2003 Act.
- In the case of a Premises Licence, an appeal has to be commenced by the giving of a notice of appeal by the appellant to the justices' chief executive for the magistrates' court within a period of 21 days beginning on the day on which the appellant was notified by the licensing authority of the decision to be appealed against.

Signed: Bob Backhouse

Date of Notice: 01/12/2021

Councillor Bob Backhouse  
Chair of the Licensing Sub-Committee

