

LICENSING (LIQUOR AND GAMBLING) PANEL

Date: 17 March 2010

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9:30am

Present: Councillors: -

Richard Gell
Gill Mercer

Brian Northall (Chairman)

PART A ITEMS

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Brian Northall be appointed Chairman for this Hearing.

2. DECLARATION OF INTERESTS

No interests were declared.

3. MINUTES

The minutes of the Licensing Panel meeting held on 28 October 2009 were approved and signed by the Chairman.

4. REVIEW OF THE PREMISES LICENCE FOR THE BENEFIELD WHEATSHEAF, UPPER BENEFIELD

The Licensing Officer reported on an application for a review of the Premises Licence for the Benefield Wheatsheaf, Upper Benefield under the Licensing Act 2003.

The Review had been requested by some local residents under the public nuisance licensing objectives of the Act. The grounds for the Review were: "Persistent noise disturbance from amplified music and shouting inside and outside the premises. In addition, the continued breach of the Noise Abatement Notice served on the premises by East Northamptonshire Council." The application requested that the Premises Licence be revoked.

The statutory bodies had been consulted and representations were received from the Council's Environmental Protection Officer and three local residents. Environmental Protection had recommended that extra conditions be imposed on the Licence if it was not revoked. (The representations had been analysed and extracts placed under the relevant licensing objective are attached as Appendix 1 to these minutes at page 6 below).

(a) Evidence from the applicants

Dr Carole Lancaster and Mr David Smyth, local residents, spoke in support of the Review. They both confirmed that the main issue was the noise nuisance from indoor and outdoor events held at the premises since 2005 when the new owners took over. The noise problems appeared to be worse when there were events and wedding functions held in a marquee erected at the rear of the premises. They contended that the levels of noise from the events were unreasonable, especially in a village setting and was causing distress to them and their families. The problems appeared to have got worse last year and, following a number of events held in August and October 2009, they had complained to the manager about the noise and both confirmed that he had not taken the matter seriously and had not dealt with their complaints in a satisfactory manner. After contacting the Council's Environmental Health Department, they had noise monitoring equipment installed in their properties and an environmental protection officer had witnessed loud music from events held on 22 August and 3 October 2009. Following the event in October 2009, a prosecution for breach of the Noise Abatement Notice (served on the owners in 2008) had been made. They requested that the Panel should now revoke the Premises Licence as the only viable solution to prevent further noise nuisance occurring.

(b) Evidence from Environmental Services

Mrs Mandy Dennis, Environmental Protection Officer (ENC), also spoke in support of the Review. She stated that there had been problems with noise nuisance at the premises on and off since 2005. A number of complaints from local residents about noise, including the applicants, had been received and investigated during this period and a Noise Abatement Notice had been served on the owners in April 2008. The applicants, Dr Lancaster and Mr Smyth had been given diaries to keep a note of events which had caused a nuisance to them and noise recording equipment had also been placed in their properties to record levels of noise. She explained that monitoring noise levels was a subjective matter and often depended on the type of music being played. However, a level of 25 decibels through all the frequencies was recognised as a reasonable level of background noise and that this level could be acceptable, although the lower bass frequencies could cause a nuisance at 25 decibels. She confirmed that a statutory nuisance had been found on 3 October during an event held at the premises and that the owners had pleaded guilty to the breach following the prosecution. If the Panel decided not to revoke the Licence, she recommended some proposed extra conditions and that these be imposed on the Licence to properly control noise from any future functions or events held at the premises.

(c) Evidence from the Licence Holders

Mr Michael Proctor (Barrister), representing the owners of the Benefield Wheatsheaf, spoke objecting to the Review. Before responding to the applicant's evidence he apologised to the Panel for the late submission of the representations and documents outlining his client's case. He stated that the relevant objective in this Review was the prevention of public nuisance caused by noise from outdoor functions at the premises. The owners of the premises acknowledged that there had been a problem with noise during the past five years for local residents and were now attempting to rectify the situation. Mr Charles Reynolds, one of the owners, had now taken personal control of the business and a new general manager had been appointed. He went through the events and wedding functions held at the premises during August and October 2009 and that the noise levels at some of these events were unacceptable, which had been established by the noise monitoring equipment installed in the applicant's homes by the Council's Environmental Health Officers. He acknowledged that the owners had not defended the prosecution for the breach under the 2008 Noise Abatement Notice following the event on 3 October 2009. However, he pointed out that the applicants had not objected to some of the events held during in 2009. He

referred to the 25 decibel level of noise mentioned by Mrs Dennis in her evidence and that this level could be used as an acceptable and reasonable level of noise experienced by the local residents when functions were being held at the premises. He emphasised that wedding functions were very important to the future viability of the business and that 20 functions had already been booked during 2010. The first of these would be held on 8 April, with another planned on 1 May, under two separate Temporary Events Notices. The owners were intending using these two outdoor functions to test new noise reduction measures in the marquee and had been working closely with the Council's Environmental Health Officers. He mentioned the extra conditions proposed by Mrs Dennis which had also been copied in his client's representations and circulated to all parties, and stated that these would be acceptable to the owners as a positive way to resolve the noise issues. He requested that the Licence should not be revoked and that the proposed extra conditions be imposed on the Licence to enable outdoor events and functions to proceed at the premises during 2010.

Mr Charles Reynolds, a Director of the Benefield Wheatsheaf, also spoke. He acknowledged that there had been problems with noise during events and functions held at the premises since 2005 and he personally apologised to the applicants for any nuisance and distress caused to them and their families. He had taken personal control of the premises since 2 March 2010 and a new manager had recently been appointed following a number of staff changes. In an attempt to overcome the existing noise problems, he proposed to reposition and attach the marquee to the rear of the premises, with a double door entry system, introduce noise reduction equipment on the sound system using directional speakers, which would be located in the premises instead of the marquee. He also agreed to the extra conditions proposed by Mrs Dennis being imposed on the Licence and gave assurances that these changes would resolve the present noise issues for local residents.

The Panel noted that a planning application for the erection of a marquee at the rear of the premises for a temporary period of three years had been refused by the Council's Development Control Committee on 10 March 2010.

The Panel asked the speakers a number of detailed questions about their submissions and then asked them to sum up their cases.

After considering the submitted report and the representations made at the Hearing from the speakers, including advice from the Solicitor to the Council, the Panel retired to consider the application and evidence presented, and it was

RESOLVED:

That the Premises Licence for the Benefield Wheatsheaf, Upper Benefield, not be revoked and that new additional conditions be imposed on the Licence (see below).

The Chairman read out the following statement giving the reasons why the Panel had not revoked the Premises Licence and had added additional conditions: -

"The Licensing Panel considered the application for a Review of Premises Licence for the Benefield Wheatsheaf, Upper Benefield and took into account the Licensing Officer's and Environmental Health Officer's reports, representations objecting to the application and other relevant items of evidence presented. The Panel carefully deliberated and considered the licensing objectives, East Northamptonshire Council's statement of Licensing Policy and guidance issued under Section 182 of the Licensing Act 2003. The main consideration was the licensing objectives relating to public nuisance.

Public Nuisance

- (a) Evidence from the applicants The Panel heard representations from Dr Carol Lancaster and Mr David Smyth and considered that local residents had suffered from noise nuisance arising from regulated entertainment which had taken place under the current licence conditions. Dr Lancaster and Mr Smyth addressed the Panel and gave evidence that noise nuisance from the premises had caused distress to them and their families. Both stressed that this had been a long standing problem and that the noise heard from inside their properties was occasionally as bad as outdoors. This had been confirmed by recordings made by Environmental Control equipment and a Noise Abatement Notice was currently in force.
- (b) Evidence from Environmental Services The Panel also heard evidence from Mrs Mandy Dennis, Environmental Protection Officer of East Northamptonshire Council, with regard to the history of noise problems at this site.
- (c) Evidence from the Licence Holders The Panel heard evidence from Mr Michael Proctor, a barrister representing the owners of the Benefield Wheatsheaf, and Mr Charles Reynolds, a director of the Benefield Wheatsheaf Limited. Both accepted that there had been a history of noise nuisance and that complaints had been dealt with in a less than satisfactory manner in the past. Mr Reynolds also made a public apology for the way this had been handled. He stated that the previous management had not dealt with noise complaints satisfactorily and as a result the management had been changed.

The Panel looked at the various options available and decided not to revoke the Premises Licence and, after considered the conditions proposed by the Licensee, imposed the following new additional conditions on the Licence: -

1. The playing of live music, karaoke or amplified recorded music shall be restricted to the main building only.
2. A double door lobby system shall be installed at all access points to the marquee. Self closing mechanisms shall be installed on all the doors. All doors to the marquee shall remain closed at all times except to allow access.
3. All the noise equipment shall be located at a position to be agreed in writing with East Northamptonshire Council's Environmental Protection Officers.
4. The playing of all recorded/amplified music shall be through the use of directional speakers.
5. The noise climate at the surrounding residential properties shall be protected such that when measured one metre from the façade of any residential property the A weighted equivalent continuous noise level (LAeq) emanating from amplified music from the Benefield Wheatsheaf shall not exceed background levels when measured over any 5 minute period (LAeq, 5min). No third octave band when measured at one metre from the façade of any residential property shall be more than 5db greater than its immediate neighbour.
6. Any recorded/amplified music shall only be used through a sound suppression system which will be locked to prevent the music being amplified above a set level. This will comply with Condition 5 above to be agreed with East Northamptonshire Council's Environmental Protection Officers.

7. The Benefield Wheatsheaf shall submit for approval to East Northamptonshire Council's Environmental Protection Officers a noise management plan for the playing of amplified music, such approval not to be unreasonably refused. This plan shall include the following:
 - Robust policies and procedures applied to events in the Benefield Wheatsheaf
 - Fixed sound limiting and/or monitoring equipment
 - Training procedures for managers and other staff associated with events in the Benefield Wheatsheaf
 - An ongoing review process
 - Details of monitoring to be undertaken at the time of events
 - A detailed complaints monitoring system, including direct contact details during events.
8. All windows and doors shall be kept closed when entertainment is taking place.
9. A Designated Premises Supervisor shall manage outside entertainment to ensure that it does not cause a public nuisance.
10. No more than 20 outdoor events shall take place each year between 23:00 and 02:00 hours.

The above ten conditions shall replace all the existing additional conditions on the Licence.

Notice of this Decision would be sent in writing to all parties within 21 days, who would also have the Right of Appeal within 21 days from receipt of the Decision Notice. This decision becomes effective 21 days after receipt of the Notice by all parties or on the date when any appeal is finally determined.”

Chairman

REVIEW OF THE PREMISES LICENCE FOR THE BENEFIELD WHEATSHEAF, UPPER BENEFIELD

The representations received had been analysed by the Licensing Officer and extracts placed under the relevant licensing objective: -

Public Nuisance

From three Local Residents (the applicants)

“Persistent noise disturbance from amplified music and shouting inside and outside the premises. In addition, the continued breach of the Noise Abatement Notice served on the premises by East Northamptonshire Council.”