

LICENSING PANEL

Date: 18 June 2009

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9:30am

Present: Councillors: -

Glenn Harwood
Brian Northall

Gill Mercer

PART A ITEMS

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Glenn Harwood be appointed Chairman for this Hearing.

2. DECLARATION OF INTERESTS

No interests were declared.

3. MINUTES

The Minutes of the meetings held on 16 April 2009 were approved and signed by the Chairman.

4. REVIEW OF THE PREMISES LICENCE FOR THE GEORGE INN, OUNDLE

The Licensing Panel considered an application for a review of the existing Premises Licence for The George Inn, Oundle, under the Licensing Act 2003. The review had been requested by the Council's Environmental Protection Officer on behalf of local residents on the grounds of the prevention of public nuisance objective under the Act.

The application for the review had been prompted by the conviction at the Magistrates Court of the Licence Holder, Mr John Saunders, in January 2009 for the breach of a Noise Abatement Notice served by the Council in July 2007.

The Licensing Officer reported that a previous Licensing Panel Hearing had been held in November 2007 to consider a variation of the Premise Licence. The variation was approved with additional conditions that no more than 2 events being held outside the premises per month from April to September annually as follows: -

- Live Music – live music external to the building both amplified and unamplified shall be allowed for 4 hours only at any one event between the hours of 12:00 and 21:00 hours.

- Recorded Music - no recorded music amplified external to the building shall be allowed outside the premises at any time.
- Dancing – the provision of facilities for dancing outdoors shall be allowed for 4 hours only at any one event between the hours of 12:00 and 21:00 hours.
- Opening Hours – the premises shall only be open to the public from 10:00 hours to 01:00 hours from Sunday to Thursday and from 10:00 hours to 02:00 hours on Friday and Saturday only.

The statutory bodies had been consulted about the application and representations had been received from the Council's Environmental Protection Officer, Oundle Town Council and 4 members of the public about noise nuisance (3 for the review and 1 against). (The representations had been analysed and extracts placed under the relevant licensing objective are attached as Appendix 1 to these minutes at page 4).

Karen Pell, the Council's Environmental Protection Officer and applicant, spoke in support of the review. She said that the Council had a statutory duty to investigate noise complaints and take appropriate action in accordance with the Council's noise enforcement policy. On 7 June 2008, complaints had been received from local residents and an officer witnessed noise nuisance from an outside event held at the premises. Mr Saunders was interviewed by officers on 18 June 2008 about the alleged nuisance and he made assurances that no further outside events were planned for that summer. A formal caution was offered but not accepted by Mr Saunders. On 22 August 2008, further complaints were received and an officer witnessed noise nuisance from an outside event held at the premises. Mr Saunders was then prosecuted on 14 January 2009 at Corby Magistrates Court for breach of the Noise Abatement Notice, where he pleaded guilty and was convicted of two offences. She referred to the letter of support received from Mr Murray and refuted the evidence he had attached to the letter regarding noise readings he had taken with Mr Saunders present at the second event in August 2008.

Miss Pell stated that the Council had applied for the review on behalf of local residents and requested that the Panel remove any condition allowing live or amplified music played outside the main public house, to ensure that local residents did not have to suffer further noise nuisance from the premises.

Two local residents, Mrs E MacDonald and Mrs P Mayhew, spoke supporting the review and mentioned the high volume of noise from the two outside events held at the premises last summer. Mrs Mayhew suggested that Mr Saunders was welcome to visit her property when an event was in progress to witness the level of noise she was experiencing.

Mr Hobbs, representing Mr Saunders, spoke objecting to the review. In referring to the prosecution for breach of the Noise Abatement Notice in January 2009, he stated that the Magistrates had given Mr Saunders an absolute discharge, with no fine or costs awarded against him. The Magistrates had also stated that they considered the conditions imposed on the Abatement Notice were impossible to comply with and Mr Saunders had done everything he could to prevent noise nuisance occurring. He requested that the Panel dismiss the review and allow the existing conditions to remain on the Licence.

The Panel asked Miss Pell, Mr Hobbs, Mrs E MacDonald and Mrs P Mayhew, a number of questions about their submissions and asked Miss Pell and Mr Hobbs 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 at the Hearing, and it was

RESOLVED:

That the existing conditions on the Premises Licence for The George Inn, Oundle, remain and that no additional conditions be imposed on the Licence.

The Chairman read out the following statement giving the reasons why the Panel had not amended the existing conditions on the Licence or had imposed extra conditions: -

“The Licensing Panel had considered this application for a review of a Premises Licence after taking into account the Licensing Officers report, representations both supporting and objecting to the application and other items of evidence presented. They had also carefully considered the Licensing Objectives, East Northamptonshire Council’s Statement of Licensing Policy and Guidance issued under Section 182 of the Licensing Act 2003 in reaching their decision.

There would be no change to the existing Licence conditions, mandatory and/or additional. The Panel considered that the existing conditions which imposed a maximum 2 events per month, from April to September annually, limited to a maximum of 4 hours each event, finishing no later than 21:00 hours, were sufficiently robust.

The Panel was very aware of the concerns raised by residents in support of the Review. However, two of the three letters of representation submitted in this case referred to an indoor function that took place on the 3 May 2009. The third letter also referred to that function as well as others including some outside.

East Northamptonshire Council’s statement of licensing policy under paragraph 11.1 states that “the Licensing Authority should be aware that the views of vocal minorities should not be allowed to predominate over the general interests of the community that the Panel represents”. In addition, paragraph 11.3 of the same document encourages and promotes entertainment particularly live music and dancing.

The Panel was encouraged to hear a supporter of the Review offer an invitation to the Licence Holder to visit her home when events are occurring to assess noise levels at that location. That was welcomed by the Panel as a positive way forward in this matter.

Whilst the Panel did not wish to impose any additional conditions on the Licence, it did consider that the License Holder had to be more pro-active and positive in the control of potential noise nuisance from future events. Failure to do so could result in a further Review of the Licence.

Whilst not a condition, the Panel recommends that the License Holder should notify nearby local residents in writing, no less than 7 days in advance of an event.”

The Chairman also mentioned that the Panel’s decision would be sent in writing to all parties and that they had the right to appeal to the Magistrates Court within 21 days, if he wanted to appeal against the Panel’s decision.

Chairman

REVIEW OF THE PREMISES LICENCE FOR THE GEORGE INN, OUNDLE

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

Public Nuisance Objective

(a) Representations in Support

Three representations had been received from local residents in support of the Review and they all gave details of nuisance caused by loud music from the premises:

“...we noticed that there was loud music coming from a live band.....clearly audible in our bedrooms and very disturbing”

“..immediately aware of music, with a heavy bass beat..... the music was pretty loud. I could hear it through double glazing. It stopped about 11.45pm”

“Our most recent intrusion was on Sunday May 3 2009 when we heard the bass beat from the George through our walls in the front of the house”

(b) Representations Against

One letter against the Review had been received from a local resident, referring to the writers use of, and support for, the public house:

“I am and remain absolutely flabbergasted at the Review called by the Council once again.”

A representation had been received from Oundle Town Council indicating that the Council felt that the proposed action appeared harsh.