

LICENSING PANEL

Date: 17 July 2009

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9:30am

Present: Councillors: -

Richard Gell
Brian Northall (Chairman)

Ron Silver

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. APPLICATION FOR THE VARIATION OF A PREMISES LICENCE – THE COURTYARD LUXURY LODGE, WEST STREET, STANWICK

The Panel considered an application for the variation of a Premises Licence for The Courtyard Luxury Lodge, West Street, Stanwick, under the Licensing Act 2003.

The application sought to extend the licensed area to encompass the whole property, to include the restaurant extension and existing marquee; to add 'anything similar to music and performances of dance' to the list of regulated entertainment; and to remove a condition on the existing Licence regarding outside music so this could continue until midnight (currently until 23.00hours). The applicants were also seeking to vary the number of persons permitted on the premises from 100 to 250.

The statutory bodies had been consulted and representations had been received from the Fire Authority, Stanwick Parish Council, the District Council's Environmental Protection Manager and 4 local residents about public safety and public nuisance issues. (The representations had been analysed and extracts placed under the relevant licensing objective are attached as Appendix 1 to these minutes at page 5).

The Licensing Officer submitted a letter from the Fire Authority stating that it would withdraw its objections subject to the necessary improvements being made to the fire exits. The Panel noted that this work had now been undertaken.

Mr and Mrs Bates, the applicants, spoke in support of their application. They acknowledged that noise from amplified music played during events held at the premises in the past had

been a problem for local residents. They had recently taken steps to resolve the issues raised by the objectors and were working closely with the Council's Environmental Protection Manager, Mr Hale, to overcome these. During the summer, events were mainly held in an outdoor marquee and improvements had been undertaken to contain noise from events held inside; a sound limiter had been installed; soundproofing material had been fitted to the inside; and it was intended to move it further away from nearby residential properties. A planning application had been submitted recently to the Council for permission to build a permanent structure to replace the marquee and if approved, this should solve the noise nuisance issues.

Mr Darren Hale, Environmental Protection Manager, representing the Council's Environmental Health Section, spoke objecting to the application. He stated that the Council was supporting the objections made by local residents and confirmed that a Noise Abatement Notice had been served on the owners in May 2009 following complaints witnessed by an officer at a property near the premises. He confirmed the work undertaken by the applicants recently to reduce noise from the marquee but stated that the only satisfactory solution would be the construction of the proposed building for events.

Stanwick Parish Councillor Roger Dainty spoke objecting to the application and mentioned the complaints that he had received from local residents about noise from the premises. Mr Andrew Selbie, a local resident, whose property adjoined the premises, also spoke objecting to the application and reiterated his complaints about noise nuisance caused by loud music from the premises, especially during the summer. He stated that he and his family often left their property over the weekend in the summer to escape the noise.

The Panel asked Mr and Mrs Bates and Mr Hale a number of questions about their submissions and then asked Mr and Mrs Bates to sum up their case.

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 application for the variation of a Premises Licence for The Courtyard Luxury Lodge, West Street, Stanwick, be refused.

The Chairman read out the following statement giving the reasons why the Panel had refused the application: -

"The Licensing Panel considered an application for the variation of a Premises Licence for The Courtyard Luxury Lodge, West Street, Stanwick and took into account the Licensing Officer's report, Environmental Protection Officer's report, and representations objecting to the application and other evidence presented. After careful consideration of the licensing objectives, East Northamptonshire Council's statement of licensing policy and guidance issued under Section 182 of the Licensing Act 2003, the Panel decided to refuse the application for the following reasons.

The Panel considered whether it was likely that the application to vary the current licence would prejudice the licensing objectives for public nuisance and public safety.

Public Safety

With regard to the licensing objective of public safety, the Panel was satisfied that the applicants had arrived at a satisfactory agreement with Northamptonshire Fire and Rescue

Service with regard to the concerns that had been raised about the increased number of persons attending the premises regarding adequate fire escapes. The Panel were given a copy of a letter from the Fire and Rescue Service confirming steps had been take to satisfy it.

The Panel heard representations about the current parking issues in the locality and concluded that an increase in the number of persons permitted on the premises from 100 to 250 would inevitably increase the risk to public safety caused by patrons' vehicles being parked in unsuitable or dangerous positions in the locality. The Panel considered that no conditions could be imposed to resolve this issue.

Public Nuisance

The Panel concluded that if the application to vary was granted, the licensing objective to prevent public nuisance would not be achieved and this was founded on the following evidence:

- (a) Evidence from local residents The Panel considered representations in writing from a number of local residents and heard evidence from Mr Selbie at the Hearing. The Panel considered that local residents had suffered from noise nuisance arising from regulated entertainment which had taken place under the current licence conditions. Mr Selbie gave evidence that even with the windows of his property being closed, the noise from the premises caused him distress. He also gave evidence that, as a result of the noise disturbance, his family were affected and that the family home was regularly vacated at weekends in order to avoid further nuisance.

The evidence of Mr Selbie, supported by other objectors, was that regulated entertainments had quite often taken place beyond the permitted 23:00 hours and that noise nuisance had gone beyond midnight on many occasions.

As a result of the representations of local residents, the Panel found it was likely that the extension of hours sought under the variation and the other aspects of the application would cause noise nuisance to local residents in the future.

- (b) Evidence from Environmental Protection The Panel heard evidence from Mr Darren Hale, East Northamptonshire Council's Environmental Protection Manager, and was mindful that regulated entertainment had been taking place and would continue to take place from a marquee structure. The Panel heard evidence from the applicants that sound mitigation measures were proposed for the marquee but was not satisfied that such measures, having regard to the nature of the structure, would provide a sufficient guarantee that noise nuisance would not continue, especially having regard to the later hours that were proposed and the evidence from Mr Hale that noise nuisance was more likely to arise during the later hours. From Mr Hale's evidence the Panel was not assured that any conditions could be imposed which could resolve this issue."

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

Chairman

**APPLICATION FOR THE VARIATION OF THE PREMISES LICENCE – COURTYARD,
LUXURY LODGE, WEST STREET, STANWICK**

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

Public Safety

(a) Stanwick Parish Council

“To allow a larger capacity in the marquee an additional fire exit should be installed.”

Public Nuisance

(a) Stanwick Parish Council

“Parish Councillors have received complaints from nearby residents regarding noise nuisance”

(b) Environmental Protection Manager

“We have received complaints from a number of local residents concerning noise from events held in the marquee from amplified music...there are still some concerns as to the applicants ability to minimise noise particularly when they are not present and the site is managed by someone else.”

(c) Local Residents

“The Courtyard already has an Abatement Notice in force because of very loud music which was being played after midnight on the occasions when they had discos’ and weddings etc.”
“We are still hearing noise from Courtyard... not so loud as before but still loud”
“This establishment is already the source of significant public nuisance with the playing of very loud music...to extend the licence will only compound the problem”
“..they have proven on many occasions to be a major public noise nuisance to ours and neighbouring properties, regularly exceeding the restriction by up to 3 hours”