



Leicester
City Council

Notes of the
HEARING UNDER THE LICENSING ACT 2003

Held: TUESDAY, 30 JULY 2013 at 9:30am

P R E S E N T:

Councillor Thomas - Chair

Councillor Dr. Barton

Councillor Byrne

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1. APPOINTMENT OF CHAIR

Councillor Thomas was elected as Chair for the meeting.

2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

3. DECLARATIONS OF INTEREST

Members were asked to declare any interest they may have in the business on the agenda.

Councillor Barton declared an interest in that she knew Mr Sturgess and had business dealings with him two years ago, and had received hospitality, but approached the application with an open mind.

In accordance with the Council's Code of Conduct, the interest was not considered so significant that it was likely to prejudice Members judgement of the public interest. Councillor Barton was, therefore, not required to withdraw from the meeting.

4. ANY OTHER URGENT BUSINESS

**5. APPLICATION FOR A REVIEW OF AN EXISTING PREMISES LICENCE:
THE PLANT ROOM, 63 HUMBERSTONE GATE, LEICESTER LE1 1WB**

The Director of Environmental Services submitted a report on an application for a review of an existing premises licence for The Plant Room, 63 Humberstone Gate, Leicester, LE1 1WB.

Members noted that an application for a review of the existing premises licence

had been received from the Council's Noise Team which necessitated the application being determined by Members.

The Licensing Team Manager and the Solicitor to the hearing panel were present at the meeting. Mr A. Sansome from the Council's Noise Team was also present.

The Licensing Team Manager informed the hearing that there was no-one present from the Premises, and the Licensing Section had not heard from the applicant regarding their non-attendance at the hearing.

Members agreed to consider the application in the absence of the licence holder, as they felt the licence holder had been fully informed regarding the date and time of the hearing, and it to be in the public interest to proceed.

The Licensing Team Manager presented the report. The Licensing Team Manager circulated colour photographs of the location and exterior of the premises to all present. It was noted that the application for a review of the existing premises licence from the Council's Noise Team had been made on the grounds of the prevention of public nuisance, and a condition had been requested by the Noise Team to be added to the premises licence. It was also noted that a representation from a member of the public had been made on the grounds of the prevention of public nuisance.

Mr Sansome outlined the reasons for the requesting the review, referred to the review application, and made the following points during the submission:

- Colour photographs of the roof space and nearest residential properties were circulated to Members.
- A number of Temporary Event Notices (TENs) had been received from the premises, which had generated a number of complaints from residents living close to the premises regarding noise from the roof top area of the Plant Room.
- A TEN was received on 10th May 2015 in respect of an outdoor event at the premises on Saturday 25th and Sunday 26th May 2013. The Noise Team made a representation for the submitted TEN and the TEN was withdrawn. The event organisers had stated that the event was covered by exemptions in the Licensing Act 2003 created by the Live Music Act and so a TEN was not necessary.
- Home Office guidance was referred to which stated that 'a DJ who is merely playing tracks would not be a performance of live music, but might if they are performing a set which largely consisted of mixing recorded music to create new sounds'.
- A noise nuisance was reported by a resident on the 25th May 2013, and the noise was witnessed by the Noise Team, and further complaints were made about music being played on the roof area on 26th May 2013.
- On the 28th May 2013 warning letters were sent to the Designated Premises Supervisor (DPS) and Premises Licence Holder (PLH) at her home address, and no response had been received to date.

- There was on-street activity at night-times, and increasing activity in the day-times would affect residents over a longer period of time.
- It was the Noise Team's request that a condition be added to the licence that no live music shall be played on the roof top area, in order to prevent a recurrence of public nuisance.
- The Live Music Act encouraged live music, but could also be used to increase business. The Act allowed live music to be played until 23:00hours. After 23:00hours, the current licence restricted recorded and live music to be played indoors only.
- Acoustic music played on the roof of the premises would also be near to and affect nearby residential areas, and residents would have to keep their windows shut.
- It was the nature of the events that had resulted in complaints, and this showed that live music was not a suitable activity for the roof.
- The Health and Safety Team had made recommendations as to the safety of the roof which was originally opened up as a smoking area.

Mr Sansome was then given the opportunity to sum up the Noise Team's position and make any final comments.

Mr Sansome reiterated that the current premises licence allowed music to be played inside the premises only. He said the premises was in a residential area, with some of the residents having balconies, and the representation had been made following complaints. A previous TEN had been withdrawn as it was exempt from licensing under changes brought about by the Live Music Act, and noise issues from the event had been witnessed by the Noise Team. The Noise Team had no objection to indoor activities, but asked that a condition be placed on the licence that no live music should be played on the roof top area. He added that future TENs would be looked at on a case by case basis.

The Solicitor to the hearing panel advised the Members of the options available to them in making a decision. Members were also advised of the relevant policy and statutory guidance that needed to be taken into account when making their decision. The Panel were advised that they could depart from the adopted policy or guidance provided they gave reasons for doing so.

The Licensing Team Manager, the Solicitor to the hearing panel, and Mr Sansome then left the meeting.

Members gave the application full and detailed consideration.

The Solicitor to the hearing panel was re-called to advise the Hearing Panel on the wording of their decision.

The Licensing Team Manager and Mr Sansome then returned to the meeting.

The Chair informed everyone present that the Solicitor to the hearing panel had been re-called to advise the Members on the wording of their decision.

RESOLVED:

That the review of the existing premises licence for The Plant Room, 63 Humberstone Gate, Leicester, LE1 1WB be upheld, and added the following condition to the licence:

1. No live music shall be placed on the roof top area at any time.

Members noted that the area was mixed, with lots of living accommodation. They heard from the Noise Team regarding the licensing objective of the prevention of public nuisance. They discussed the matter fully and concluded that there were no practical ways in which sound proofing or regulation could be installed at this premises to limit noise nuisance. They fully considered all of the options available to them. They also noted that there had been a lack of cooperation and willingness on behalf of the premises licence holder / DPS to engage in resolving the problem, and Members considered the guidance regarding this.

6. CLOSE OF MEETING

The meeting closed at 10.55am.