

LICENSING ACT 2003 SUB-COMMITTEE 2

19 SEPTEMBER 2019

Present:

Councillors Nuttall and Russell

Apologies:

Councillors Clarence

Officers in Attendance:

Trish Corns, Democratic Services Officer

Marie Downey, Solicitor

Debbie Rosenfeldt, Licensing Assistant

1. ELECTION OF CHAIRMAN

Resolved

That Councillor Russell be elected Chairman for the meeting.

2. MINUTES

The Minutes of the meeting held on 1 August, 2019 were approved as a correct record and signed by the Chairman.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. BREMRIDGE FARM, ASHBURTON - APPLICATION FOR A NEW PREMISE LICENCE

4.1 Introductions

The Chairman introduced the Members of the Sub Committee, Legal Adviser, Licensing Officer, Democratic Services Officer and explained their respective roles.

The Chairman advised that the Sub Committee would take into account the merits of the application against the four licensing objectives: the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm, in addition to the Home Office Guidance and the Council's Licensing Policy.

4.2 Procedure to be followed

The Legal Adviser referred to the procedure to be followed for the Hearing and those present wishing to make verbal submissions. There had been no requests from any other party to speak at the hearing. The procedure was as previously circulated to all interested parties with the Notice of Hearing. All parties had been sent an agenda.

4.3 The Council's Licensing Officer's report

Consideration was given to an application for a new premise licence at Bremridge Farm, Ashburton for the provision of regulated entertainment to include the playing of live and recorded music, and performance of dance, the retail sale of alcohol and late night refreshment at Bremridge Farm, Ashburton. The hours sought are set out in the report circulated with the agenda, and as amended by the circulated revised operating schedule. A map detailing a revised outside area in the garden rather than at the Lodge, and a review of representations were also circulated at the Hearing.

The Council has received 18 letters of objection, objecting to the application on the grounds of public nuisance, and in particular noise from music being clearly audible from neighbouring dwellings; disturbance from customers in the outside smoking area throughout the evening, and when leaving the premises; vehicle doors closing, and the noise from vehicle tyres along the unmade track. The Environmental Health Officer has also objected on the grounds of public nuisance.

4.4 Address by interested parties

4.4.1 Objectors representatives

The objectors' representatives submitted that the residents are not a community wishing to prevent the use of the premises, but it was more a case of how the site is managed. The application is for events with up to 120 seated theatre style and 200 people standing for concerts. The area is rural, very quiet with any noise travelling along the valley. Birds can clearly be heard, as can neighbours conversations. Events at the premises will create a noise nuisance, which will detrimentally affect the character of the area and residents' quality of life. The approval of the external area would result in greater noise nuisance. The Parish Meeting has objected to the application because it is at odds with the Licensing objectives. The revised operating schedule provides a worse situation for residents because it introduces an outside smoking area. Council officers and Ward Members have raised concerns. There is no limit offered on the number of events. Residents have chosen to live in the area for the peace and tranquillity and for health reasons. No specialist sound insulation has been fitted to the building to address noise nuisance. Three events have been held to date and all have resulted in noise nuisance from music and event goers, and other noise associated with the events, being heard from within residents' homes. Residents all need adequate sleep for their physical and mental wellbeing, particularly the elderly and young children, and those working shifts. Residents have no issue

with the current use of the premises for medical training and research. However, the application activities are not appropriate for the location.

The applicant referred to an objection based on the noise emanating from an event on 17 July 2019. The windows were opened during this event. The premises has had an expensive air conditioning system fitted so there is no need to open the windows, and these will be kept closed during future events. The applicant added that the amended outside area for smokers has been identified in response to some representations. The revised garden area as opposed to an area around The Lodge has been suggested because the area is lined with trees which would act as a sound buffer.

4.4.2 Environmental Health Officer

The Environmental Health Officer (EHO) advised that background noise levels experienced at Woodland Village in the early hours of the morning are around LA90 26 dB, so music levels at the premises would need to be contained within the structure of the building. Sound levels arising from a recent live music event held at the premises were stated as being LAeq 80dB within the hall at Brembridge, whilst being recorded at LAeq 110 elsewhere inside the premises. Noise monitoring carried out external to the building and on the boundary of the nearest residential dwelling were found to LAeq 32dB, at 8pm and indicated that complaints were likely to be received. A noise limiter is unable to control live music as the instruments act independently of any amplifier and are therefore difficult to attenuate (for example, drums). Therefore the number of live music events should be limited to 6 per annum, equally spaced by 4 weeks. Windows and doors can also be kept closed to control noise emanating from the premises. Controlling the noise of people in the outside area is difficult and residents' concerns about this is valid. Therefore the outside area should be closed at 2100hrs.

In response to questions, we heard from the applicants who advised that: customers leaving the premises could exit the site via the garage to reduce the noise of vehicles on the unmade track. They did not wish to tarmac this drive because it crossed a field; and doors to the outside area would be closed to prevent access after 2100hrs.

In response to a further question from the residents, the EHO advised that the trees surrounding the outside area would be ineffective as a sound buffer. Noise emanating from the premises would be controlled through the Environmental Protection Act, with the evidence of a statutory nuisance. This with additional conditions could control the situation. Live events would be limited to 6 per annum, and events with controlled amplified music could be unlimited.

4.4.3 Applicants

The applicants submitted that they hosted a limited number of parties or weddings and the events would mainly be music and charity concerts. They had made the application because they would like an alcohol licence. They would conform to all conditions, and they would work with the EHO to alleviate any

statutory noise nuisance. There was some noise associated with the medical training centre at the site such as surgeons arriving by helicopter.

The meeting noted that the Live Music Act allowed premises to have live music until 2300hrs without a licence, and plays for less than 500 people.

In response to further questions, the applicants advised that: there was parking provision on site for some 30-40 vehicles; the nature of the building enable events and the two medical businesses to run from the premises compatibly.

The Legal Advisor confirmed that where a premises has both planning conditions and Licensing conditions, the most restrictive prevails.

4.5 Decision

We have carefully considered all the written material, and also all the oral submissions today, on behalf of the Interested Parties and Applicant.

On the evidence we have before us we consider there is a strong likelihood that a public nuisance will occur, and given the surrounding area, a significant number of people would be detrimentally affected.

We are agreed that the application, if granted, would interfere with the reasonable comfort and convenience of life of those living in the neighbourhood. In addition there is no structure of conditions that we could impose to guarantee the prevention of public nuisance.

This application is therefore refused.

Rights of Appeal

This decision does not take effect until the period for making an appeal has expired, or if an appeal is made, until that appeal has been determined. An appeal may be made by the applicant for the review, the licence holder or any person who made relevant representations in relation to the application.

If you wish to appeal you must give notice of appeal to the Clerk to the Justices at the South Devon Magistrates' Court, 1st Floor, Riviera House, Nicholson Road, Torquay TQ2 7TT, within the period of 21 days beginning with the day on which you were notified of the decision.

CLLR S RUSSELL
Chairman

