



To be submitted to the Council at its meeting on 17th March 2022

LICENSING SUB-COMMITTEE

3rd February 2022 at 1.30 p.m.

Present:

Councillors Green, Harness and K. Swinburn

Officers in attendance:

- Gemma Broderick (Solicitor)
- Adrian Moody (Licensing and Environmental Protection Manager)
- Iain Peck (Senior Licensing Enforcement Officer)
- Sophie Pickerden (Committee Support Officer)
- Eve Richardson-Smith (Deputy Monitoring Officer)
- Vicky Thompson (Environmental Protection Officer)
- Paul Windley (Democratic and Scrutiny Team Manager)

Others in attendance:

- Sean De Souza (Premises Licence Holder)
- Michael Kheng (Kurnia Licensing Consultants)
- There were four observers and one member of the press in attendance.

LSC.17 APPOINTMENT OF CHAIR

RESOLVED – That Councillor Harness be appointed as Chair for this meeting.

COUNCILLOR HARNESS IN THE CHAIR

LSC.18 DECLARATIONS OF INTEREST

There were no declarations of interest received in respect of any item on the agenda for this meeting.

LSC.19 APPLICATION FOR A REVIEW OF THE PREMISE LICENCE – “SILHOUETTE” 38A ALEXANDRA ROAD, CLEETHORPES

The Chair introduced himself, the other members of the sub-committee, and the officers present.

The sub-committee considered an application for a review of premises licence in respect of the premises known as “Silhouette”, 38A Alexandra Road, Cleethorpes.

Mrs Richardson-Smith explained the procedure for the hearing and it was confirmed that there were no additional documents for consideration by the sub-committee.

Mr Moody summarised the application and he explained that the application for review had been submitted by the Council’s Environmental Protection team as a result of excessive noise from regulated entertainment at the premises. He outlined the representations received in relation to the application.

The Chair invited Ms Thompson to address the sub-committee on behalf of the applicant. Ms Thompson explained her duties and outlined the events leading to the application for review. She noted that efforts had been made to work with the premises licence holder but they were often un-responsive and un-cooperative. She had reached the conclusion that the premises licence holder was failing to meet the licensing objectives around the prevention of public nuisance and it was recommended that permitted hours of the playing of live and recorded music be reduced to 11pm.

The sub-committee sought clarification of the premises licence holder’s response to the warnings that had been issued. Ms Thompson responded that from her observations there had been continued excessive noise from the premises, aside from during COVID restrictions.

The sub-committee sought clarification of the sound recordings that had been made by the Environmental Protection team. The sub-committee took the opportunity to listen to one of the recordings.

The Chair invited Mr Kheng to address the sub-committee on behalf of those who had made representations in support of the application for review. Mr Kheng highlighted that, excluding refurbishment works and COVID restrictions, the premises had only been operating for 12 months and, yet noise recording machines had been installed on three occasions. He felt that this was excessive. He raised further concerns that there had been no response to formal warnings that had been issued. Mr Kheng explained that the interested parties supported the proposal for music to be curtailed at 11pm and requested an additional condition to the premises licence as follows:

The effect of the deregulation provided for by the 2003 Act (as amended) is removed and Section 177A of the Licensing Act 2003 does not apply and live and recorded music at the premises is treated as being regulated entertainment at all times authorised by the premises licence.

This would essentially regulate de-regulated entertainment and would give effect to the aim of reducing excessive noise.

The sub-committee was given the opportunity to ask questions of Mr Kheng and sought clarification on a number of points, including any involvement by the police. It was noted that noise matters had been reported to the Environmental Protection team. In the absence of representations from the police, it was assumed that levels of violence were not of any concern.

The Chair invited Mr De Sousa to address the sub-committee as the premises licence holder. Mr De Sousa declined the opportunity to comment.

The sub-committee was given the opportunity to ask questions of Mr De Sousa and enquired what his response was to the complaints that had been made about noise levels. Mr De Sousa felt that the issue was with the doors at the front of the premises which were constantly in use. He commented that the windows at the rear of the building were always kept closed. He added that the volume setting had not been touched since it had been agreed with Environmental Protection. The Chair suggested that there may always be the temptation to turn the volume up during a busy night. Mr De Sousa responded that the premises was quite a small space.

The sub-committee enquired whether Mr De Sousa had attempted any consultation with residents. Mr De Sousa responded that he had never met any of the residents who had complained, and none had visited the premises to raise their concerns. He considered himself well known and approachable.

The sub-committee enquired why he had not responded to contact from the Environmental Protection team. Mr De Sousa commented that he preferred to speak in person by telephone rather than use emails and he had always tried to make contact by telephone after receiving letters.

The Chair invited all parties to make their closing statements.

The sub-committee withdrew to deliberate. After an interval, the sub-committee returned to advise of their findings.

The Chair advised that the sub-committee valued, and fully supported, small local businesses and did not want to see anyone lose their

livelihood. However, the sub-committee had heard overwhelming evidence of an ongoing, regular and unreasonable public noise nuisance at the premises, from both the Environmental Protection Officer and residents, which clearly undermined the licensing objectives.

The sub-committee had not seen any significant efforts to respond to the complaints by the Premises Licence Holder to try to rectify the problem.

The sub-committee agreed that the noise was wholly unacceptable for residents to endure, and they had to take their well-being seriously.

The sub-committee determined to amend the Premises Licence with recorded and live music to cease at 11pm and to add a condition to the Premises Licence to essentially regulate de-regulated entertainment as follows:

The effect of the deregulation provided for by the 2003 Act (as amended) is removed and Section 177A of the Licensing Act 2003 does not apply and live and recorded music at the premises is treated as being regulated entertainment at all times authorised by the premises licence.

The sub-committee believed this action was appropriate and proportionate in the circumstances.

The sub-committee considered the further proposed conditions, but noted they were not relevant to the root cause of the problem of noise and therefore were not in agreement that they should be added to the Premises Licence.

RESOLVED – That the premises licence in respect of the premises known as “Silhouette”, 38A Alexandra Road, Cleethorpes be amended with recorded and live music to cease at 11pm and to add a condition to essentially regulate de-regulated entertainment as follows:

The effect of the deregulation provided for by the 2003 Act (as amended) is removed and Section 177A of the Licensing Act 2003 does not apply and live and recorded music at the premises is treated as being regulated entertainment at all times authorised by the premises licence.

There being no other business, the Chair thanked those in attendance for their contributions and concluded the meeting at 3.31 p.m.