

## **Licensing Sub Committee**

**Tuesday 29 September 2020**

### **PRESENT:**

Councillor Rennie, in the Chair.  
Councillor Hendy, Vice Chair.  
Councillors Morris (Fourth Member) and Mrs Pengelly.

Also in attendance: Sharon Day (Lawyer), Bev Gregory (Enforcement Officer) and Helen Prendergast (Democratic Adviser).

The meeting started at 10.00 am and finished at 1.41 pm.

*Note: At a future meeting, the committee will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.*

#### **10. Appointment of Chair and Vice-Chair**

The Committee agreed to appoint Councillor Rennie as Chair and Councillor Hendy as Vice Chair for this particular meeting.

#### **11. Declarations of Interest**

There were no declarations of interest made by Members, in accordance with the code of conduct.

#### **12. Chair's Urgent Business**

There were no items of Chair's urgent business.

#### **13. Review of Premises Licence: Royal Oak, Lake Road, Plymouth**

The committee –

- (a) considered the report from the Director for Public Health;
- (b) heard and considered the written and verbal representation from Environmental Health;
  - the representation set out that complaints of noise from live and recorded music had been received from local residents, in respect of the premises; the representation also detailed the warnings that had been given to the premises before any action had been taken;

these warnings related Covid-19 guidance for pubs and also regarding levels of noise coming from the property in August 2020, once the lock down restrictions had been lifted;

- the statement of Rachael Hind, the Council's Licensing Manager detailed her visit to the premises on 8 August 2020; her view was that, whilst any music was to be played at a premises, the Covid-19 rules meant that it had to be outside, a balance needed to be struck and the music was being played too loudly; whilst she did not witness the noise levels inside any residential property, from what she did hear she formed an opinion that if an individual was in a nearby residential property the level of music would still have been able to be heard over a loud TV and residents would have been unlikely to be able to read a book without being disturbed by the music; this statement was taken into account by the committee when reaching its decision along with the statement of Marie Price;
- ten complaints had been made to Environmental Health by local residents detailing that the music noise could be heard over the level of conversation taking place inside the residential property and that residents who had contacted the pub stated that they had been mocked publicly when asking for the music to be turned down and had been left feeling intimidated; these anonymised complaints were presented to committee and, whilst they were hearsay, they were taken into account by the committee in reaching its decision, as these were official complaints made to the Council and submitted with a view to being considered to address the problems experienced; the committee noted the attitude of the PLH in dealing with the complaints, in that it appeared from the views expressed by some complainants that the landlord had not acknowledged his obligation under the Licensing Act;
- one video was played which had been taken on 8 August 2020 by the Licensing Manager; the committee took this recording into account in reaching its decision, in that it gave a good indication of the level of music and the distance from the premises at which it could be heard;
- that Mr Chambers had put forward conditions but the Environmental Health officer was of the opinion that they were not specific enough and would not address the issues complained of; those conditions were not put before the committee and so did not form part of its considerations;

(c) heard and considered both written and verbal representations from local residents and ward councillor; as summarised below -

- complaints of noise from live and recorded music being played in the beer garden of the premises; the complaints had appeared in the local media; residents reported that both live and recorded music could be heard inside their properties above the level of their TV; the music was audible in residential properties even with the windows closed and some residents reported that they could feel the vibration from the music in their properties; the music had occurred between 5.30pm and 9pm on the weekends of 1 August and 8 August 2020; noise from music was so loud that it was described as being akin to a major music festival; the music was very loud and intrusive and echoed all around the lake; residents had also felt that the landlord had not dealt with the issues properly and some residents had been met with abuse when they challenged the pub about it; since 8 August 2020 music issues seemed to have stopped;
- residents also reported ongoing issues of noise from patrons leaving the pub shouting, swearing and arguing;
- other residents however, made representations that they were happy that the pub had made a healthy comeback and did not find that the music played at weekends was a nuisance; some reported that there had not been any problems with the premises under its new owners; the music was reported as being only once a week and only when the weather permitted; the music could have been played up to 11pm but the landlord had opted for a more socially acceptable time and ensured the music finished earlier; live music had always been a feature at the Royal Oak with no complaints in the past; the music was just for two hours on a Saturday; the people who complained were said to be in the minority and it was said that some people enjoyed sitting in their gardens listening to the music coming from the premises;

(d) heard from the Premises Licence Holder (PLH) as follows -

- he had initially found the situation unreasonable, as in the past the Council had deemed it reasonable for the premises to have an outdoor music licence; however, he accepted that the music had offended some people and that had not been his intention;

he had just wanted to provide live entertainment for their customers and regulars;

- he accepted that the conditions put forward by Environmental Health were reasonable, if having music outside offended those properties close by and there was no point in having music outside if it could not be heard by people in the premises; he therefore confirmed that the premises no longer wanted to play music in the garden and as they did not want to cause any further upset and only wanted to play music inside at an audible level inside;
- (e) considered that the representations submitted by Environmental Health, other parties and PLH all detailed above, were relevant under the Prevention of Public Nuisance licensing objective;
- (f) noted the following points as having been mentioned in the representations, however were not taken into account in reaching a decision as they were not relevant under any of the licensing objectives -
- alleged breaching of and compliance with Covid-19 restrictions, this was enforced through other legislation;
  - parking issues;
  - that the premises was a well-run professional establishment which was a lovely family pub and complied with what the regulations required; that it had provided a valuable service to those in isolation and the elderly during lockdown by doing takeaways;
- (g) in determining this matter noted that whilst not everyone was adversely affected by the music noise, a lot of people were and it was therefore satisfied that the Prevention of Public Nuisance licensing objective was being undermined.

The Committee agreed -

- (1) that it was appropriate and proportionate to impose the following conditions to ensure the promotion of the aforementioned licensing objective and the licence would therefore be modified as follows -
- S.177A of the Licensing Act, 200 does not apply to the licence;

(2) in accordance with S.177A(4) of the Licensing Act, 2003, the following conditions are added to the licence -

- no regulated entertainment is permitted outside the premises; this includes any outdoor seating, beer garden, car park or temporary structure;
- regulated entertainment is permitted inside the premises only.

The committee did not consider it appropriate to impose the condition relating to regulated entertainment taking place inside the premises, as no evidence had been received that this was an issue.

14. **Review of Premises Licence: Lockdown Inn, Southway Drive, Plymouth**

The committee -

- (a) considered the report from the Director for Public Health;
- (b) considered the verbal and written representations submitted by the Environmental Health officer -
  - that the Designated Premises Supervisor (DPS) of the premises had made contact, upon the easing of Covid-19 restrictions, requesting guidance of the performance of live music; the DPS was given the advice that music could be played outside, with patrons being socially distanced and music at a volume where patrons were not required to raise their voices; the DPS was also advised to comply with the premises licence so that music should not disturb nearby residential properties; the DPS was referred him to the Government guidance for pubs and performing arts;
  - live music had taken place in the outside area of the premises on a number of occasions, since that advice was given Environmental Health had received an unprecedented number of complaints (47 complaints had been received);
  - anonymised copies of the complaints received were provided to the committee, in summary they stated that -
    - music could be heard in residents' garden and inside their properties; music could be heard above the level of their televisions and radios;

- music could be heard inside even with the windows shut;
  - the noise was described as invasive;
  - some residents could hear what was being said/sung word for word;
  - at times the music could be heard when trying to sleep and there was a report of a child struggling to get to sleep;
  - residents felt unable to sit in their gardens whilst the noise was ongoing;
  - residents struggled to have conversations in their own homes due to loud music from premises;
  - there were reports of the noise lasting four to five hours;
  - swearing and profanities could also be heard coming from the entertainment provided at the premises;
- whilst these anonymised reports were hearsay, they were taken into account by the committee in reaching its decision, as these were official complaints submitted with a view to being considered to address the problems experienced;
  - an Environmental Health officer had visited the premises and conducted noise monitoring on 8 August 2020 between 4pm and 5pm; live and recorded music had been being played from a stage setup in the beer garden; videos of the volume of the music witnessed were provided and one was played to the committee; a map produced showed the locations of where the recordings were taken; this showed that music was clearly audible 85 and 185 metres away from the premises; during this visit the officer had spoken to the DPS but this had had to be conducted away from the premises, so they could be heard above the level of noise; the DPS had agreed to turn down the volume of music; when the officer had tried to speak to a security guard at the premises, the guard had had to come very close to the officer, to be able to hear what was being said, this breached social distancing guidelines; music should have been being played at a level where normal conversations could be heard, in order to comply with Covid-19 guidance issued by Government;

- a police officer had visited the premises on 8 August 2020 at 7pm; he reported that loud music was being played and expletives could be heard over the microphone from the person providing the entertainment; the officer's statement confirmed that this would have been able to be heard by passers-by and in the homes of neighbouring properties; the officer did report that social distancing was being followed by patrons; this written statement was taken into account by the committee;
  - discussions had taken place with the Premises Licence Holder (PLH) and the following had been agreed, as a way of addressing the problems that had been experienced -
    - removal of the application of S.177A Licensing Act, 2003;
    - no regulated entertainment be permitted outside of the premises; this included any outdoor seating, beer garden, car park or temporary structures;
    - regulated entertainment be permitted inside the premises only;
- (c) considered the representations submitted by local residents summarised as follows -
- residents had been able to hear every word of announcements from the premises PA system (one from a distance of 0.25 miles away); the DJ could be heard laughing, screaming and shouting into the microphone; the volume was reported to be ridiculously loud and showed little consideration for surrounding residents; the noise had been so loud that residents had struggled to talk to each other, whilst in their gardens and had not been able to escape the noise when going inside, even with the double glazed windows closed; the uncertainty of when and if the problem occurred again caused high levels of stress; one representation exhibited snapshots of Facebook comments about the noise; these Facebook snapshots were not taken into account by the committee in reaching their decision because they were not official complaints to the Council and neither were they representations in their own right; the people who had written these comments had not done so in the knowledge that they would be considered in anyway;

- a representation was received from a performer in support of the premises stating that the venue was a promising premises for music and that nationally known artists were playing at the venue; they stated that the premises was a family venue and that some people had attended because they had heard the music; they said that no complaints had been received from people at the venue at that time, even those sitting close to the PA system; they said there had been no need for anyone to raise their voice above the level of the music; they further stated that there would be no need for any more outdoor gigs, as staff had coherent plans for all seated, socially distanced gigs and therefore the conditions seemed to be appropriate; the premises was Covid secure;

(d) considered the representations submitted by PLH and DPS, as follows -

- the venue had held three outdoor entertainment events on 11 July, 19 July and 8 August 2020;
- once the licence holders became aware of the issues on 10 August 2020, they gave strict instructions to the DPS that no further outdoor events were to take place; these instructions had been followed by the DPS;
- since the Covid-19 restrictions on indoor regulated entertainment were lifted, there had been no reported complaints regarding excessive noise or nuisance;
- the premises licence holders had engaged with Environmental Health and offered to accept the conditions mentioned by Environmental Health;
- the licence holders had prepared and submitted a noise management plan for the venue, to Environmental Health;
- the licence holders accepted that the conditions put forward would prevent a recurrence of events that gave rise to the complaints and accepted that the addition of these conditions to the licence was a reasonable course of action for the committee to adopt;
- they apologised that the events had led to the complaints;



- the DPS was concerned that a local Councillor had allegedly been encouraging complaints about the noise be made to the Council; this concern was noted by the committee but not taken into account when reaching its decision, as the committee had not been presented with any evidence to support this allegation;
- (e) considered the representations submitted by Environmental Health, other parties and the PLH detailed above (save where otherwise specified above) to be relevant under the Prevention of Public Nuisance Licensing Objective;
- (f) noted that the PLH had responded to the complaints in a responsible manner and had worked with Environmental Health to reach an acceptable conclusion;
- (g) was satisfied that, in light of the relevant representations received, the Prevention of Public Nuisance licensing objective was being undermined.

The Committee agreed that it was appropriate and proportionate to impose the following conditions to ensure the promotion of the aforementioned licensing objective and the licence would therefore be modified as follows –

- (1) S.177A of the Licensing Act, 2003 does not apply to the licence;
- (2) in accordance with S.177A(4) of the Licensing Act, 2003 the following conditions are added to the licence -
- no regulated entertainment is permitted outside the premises; this included any outdoor seating, beer garden, car park or temporary structure;
  - regulated entertainment is permitted inside the premises only.

(Councillor Morris, as the fourth member, was present for all of the meeting but did not take part in the deliberations for each review).