

CITY OF PLYMOUTH

Subject: Boringdon Hall Hotel, Colebrook, Plympton,
Plymouth
Review of Premises Licence

Committee: Licensing Sub Committee (Miscellaneous)

Date: 16 November 2010

Cabinet Member: Councillor Michael Leaves

CMT Member: Director for Community Services

Author: Peter Clemens
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Contact: 01752 305465

Ref: ERS/LIC/PREM

Key Decision: No

Part: I

Executive Summary:

An application has been received from the Environmental Health Department under Section 51 of the Licensing Act 2003 for the Review of the premises licence in respect of Boringdon Hall Hotel, Colebrook, Plympton, Plymouth.

Corporate Plan 2010 – 2013 as amended by the four new priorities for the City and Council:

1. Delivering Growth

www.plymouth.gov.uk/corporateplan.htm

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

Not applicable.

Other Implications: e.g. Section 17 - Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment etc.

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

Recommendations and Reasons for recommended action:

That Members consider this report.

Alternative options considered and reasons for recommended action:

None.

Background papers:

Application.
Licensing Act 2003.
Guidance issued under Section 182 Licensing Act 2003.
Council's Licensing Policy.

Sign off:

Fin		Leg		HR		Corp Prop		IT		Strat Proc	
Originating CMF Member											

1.0 BACKGROUND

1.1 On the 20th September 2010 the licensing department received an application from the Environmental Health Department under Section 51 of the Licensing Act 2003 for the Review of the Premises Licence in respect of the Boringdon Hall Hotel situated at Colebrook, Plympton, Plymouth.

1.2 Review application.

The Environmental Health Department have made application for the review of the premises licence for the purpose of promoting the licensing objectives in relation to the Prevention of Public Nuisance. Copies of this application have been served by the Environmental Health Department on each of the responsible authorities and holder of the premises licence.

The Environmental Health Department will say they have received a number of complaints from nearby residents dating back to 2008 relating to excessive noise emanating from the premises. Officers from the Public Protection Service have visited the premises and in their opinion have witnessed breaches of conditions of the Premises Licence.

Officers have attempted to work with the premises licence holder and their associates in reducing the impact of noisy activities on local residents but the noise issues have continued.

In accordance with review proceedings at 14.09hrs on Tuesday 21st September 2010 a licensing officer from Plymouth City Council attended the premises and spoke to Mr Alan Lomax and requested the site notice be displayed at the premises. The officer fixed one size A4 site notice to the lamp post at the driveway entrance to the premises and a further size A3 site notice on the wall at the driveway entrance.

At 15.57hrs the same day a similar notice was displayed on the public notice board at the Civic Centre, Armada Way, Plymouth.

1.3 Licensable Activities.

These premises have the following licensable activities and timings.

<u>(A) Plays (Indoors)</u>	
Mon to Sat	10.00hrs to 02.00hrs
Sun	12.00hrs to 01.00hrs
<u>(B) Films (Indoors)</u>	
Mon to Sat	10.00hrs to 02.00hrs
Sun	12.00hrs to 01.00hrs
<u>(C) Indoor Sporting Event</u>	
Mon to Sat	10.00hrs to 02.00hrs
Sun	12.00hrs to 01.00hrs
<u>(D) Boxing or Wrestling (Indoors)</u>	
Mon to Sat	10.00hrs to 02.00hrs
Sun	12.00hrs to 01.00hrs

<u>(E) Live Music (Indoors & Outdoors)</u>	
Mon to Sat	10.00hrs to 02.00hrs
Sun	12.00hrs to 01.00hrs
Non Standard Timings New Years Eve: From the end of permitted hours on New Years Eve to the start of permitted hours on the following day	
<u>(F) Recorded Music (Indoors & Outdoors)</u>	
Mon to Sat	10.00hrs to 02.00hrs
Sun	12.00hrs to 02.00hrs
Non Standard Timings New Years Eve: From the end of permitted hours on New Years Eve to the start of permitted hours on the following day	
<u>(G) Performance of Dance (Indoors)</u>	
Mon to Sat	10.00hrs to 02.00hrs
Sun	12.00hrs to 02.00hrs
<u>(I) Provision of Facilities for Making Music (Indoors & Outdoors)</u>	
Mon to Sat	10.00hrs to 02.00hrs
Sun	12.00hrs to 02.00hrs
<u>(J) Provision of Facilities for Dancing (Indoors & Outdoors)</u>	
Mon to Sat	10.00hrs to 02.00hrs
Sun	12.00hrs to 02.00hrs
Non Standard Timings New Years Eve: From the end of permitted hours on New Years Eve to the start of permitted hours on the following day	
<u>(I) Late Night Refreshment (Indoors & Outdoors)</u>	
Mon to Sun	23.00hrs to 05.00hrs
<u>(M) Retail Sale of Alcohol for Consumption ON and OFF the Premises</u>	
Mon to Sun	24hrs (Function to 02.00hrs)
<u>(O) Hours Premises are Open to the Public</u>	
Mon to Sun	24hrs (Function to 02.30hrs)

2.0 RESPONSIBLE AUTHORITIES

- 2.1 *Devon & Somerset Fire & Rescue Service* – no representations.
- 2.2 *Trading Standards* – no representations
- 2.3 *Planning Officer* - no representations.

2.4 *Child Protection* – no representations

2.5 *Health & Safety Executive* – no representations.

2.8 *Devon and Cornwall Police* – no representations.

3.0 INTERESTED PARTIES

3 – letters of representation have been received from residents living within the vicinity of the premises (Appendices 1 – 3).

4.0 CONSIDERATIONS

4.1 In making its decision the Committee is also obliged to have regard to the application and any relevant representations, take any such steps if any as it considers necessary for the promotion of the licensing objectives, which are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

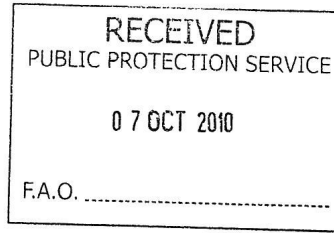
4.2 The steps are :

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

Where the committee takes a step in 4.2 (a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

Plintona View
Plympton
Plymouth
PL7



4th October, 2010

Licensing Act 2003 – notice regarding Boringdon Hall Hotel, Plympton

Dear Sirs

We are pleased to see the above notice being placed on Boringdon Hall Hotel. For the last 3 years the noise levels coming from the marquee have been both intrusive and annoying on regular weekends over the summer months and in December.

In the first and second years, it was the live bands that caused the biggest issue and these noise levels have been monitored by the Environmental Health out of hours team.

In the second year, the Environmental Health team told us they were talking to the management team at Boringdon Hall and indeed the manager came to see us occasionally to say that they were looking into various measures, all of which came to nothing or made absolutely no difference whatsoever.

This summer, the problem has worsened with recorded music being almost as loud (including a Saturday even after this notice was displayed).

Any time we wish to sit outside in the summer at the weekends when the music is playing, (which is most weekends, either Friday or Saturday nights or both) the music is there, every word of the song being audible and also every word the DJ is saying. We can choose to go inside, but unless all the windows are shut, again the same music and DJ can be clearly heard. It is not unless all the windows are shut that it becomes just a background noise. This is acceptable to a point, but singing to a tune in your head when you are trying to get to sleep certainly is not. We have had to shut the windows to allow our young children to get to sleep. Why should we be confined to the

inside of our home with the windows shut and TV on to keep out this nuisance noise?

There are also from time to time fireworks that tend to go off between 10.45-11.00pm, which without warning go off and have woken our children.

Ever since this marquee has been erected, it has been a nuisance, the hotel has shown scant regard to our pleas to quietening the music. We fully support an outright ban on both live and recorded music on the premises outside the main building.

We would be happy to support the representation in person if possible or discuss this in more detail if this would help in any way.

We look forward to hearing from you

Yours faithfully

Clemens, Peter (DEVELOPMENT)

From: ...
Sent: 14 October 2010 20:29
To: Licensing (DEVELOPMENT)
Subject: Nuisance noise Boringdon Hall Hotel

Dear Sirs

I write with reference to the review of the licence of Boringdon Hall and the issue of noise nuisance. We live adjacent to the hotel and are their neighbours. Since the Marquee was put up we have had to put up with increasing amounts of disturbance over the years.

Until the past 12 months we have never complained but on several more recent occasions we have had to phone the hotel and complain about the noise coming from the Marquee when they have had very loud music. It has been so loud that our children have been unable to go to sleep. The noise has even forced us to turn up our TV so we could hear it over the music! On evenings when there is music in the marquee it would deter us from using the garden due to the continued noise.

Whilst I appreciate they need to use the Marquee as part of their business, and we have enjoyed functions there, it has become an unacceptable nuisance. I would also like to say in fairness to the Hotel that on each occasion we have called to complain they have turned the music down to a more reasonable level.

Yours faithfully

Boringdon Hill
Colebrook
Plymouth PL7

15/10/2010

Boringdon Hall Nuisance Noise

Representation to the Head of Environmental Services (Plymouth City Council) from:

Plintona View,
Colebrook,
Plymouth,
PL7

Dated: 10th October 2010

Summary

The Marquee at Boringdon Hall Hotel is an inappropriate structure in an inappropriate location, too close to residential areas, for it to play host to both live and recorded music functions.

As local residents we are effectively forced to endure an 'open air' concert on the vast majority of weekends throughout the summer and Christmas seasons. Council Noise Monitoring teams have been called to Plintona View almost every weekend in the last few months.

Over recent years the Hotel Management have, despite verbal assurances, taken no effective or enduring action to address the concerns of residents. We have no confidence that they will choose to behave any differently in the future.

We therefore seek a complete retraction of Boringdon Hall Hotel's licence to stage both live and recorded music events or make use of an amplified Public Address (PA) system.

Background

We moved to Plintona View in 2002. The property met all our requirements for a modern house in a peaceful location on the outskirts of the city. The 3-storey house itself is very modern in design, well insulated and with the main living area on the first floor under a large (feature) section of glass roof. As well as an integral patio area off the lounge at the front of the house, we have also built a decked patio area in the rear garden. The bedrooms for our two young children (aged three and one years respectively) and the master bedroom are all on the second floor. The location proved idyllic, with most warm evenings sat outside on one of the patios (around a chiminea as required) until the erecting of the Marquee at the Hotel a few years ago.

Boringdon Hall Hotel effectively sits at the very top of a wood-sided valley that runs down towards the village of Colebrook. Our property is sited approximately 250-300 metres down the valley from the Hotel, in direct line of sight and therefore direct sound path from the Marquee. The latter is an aluminium framed 'tent' structure with no evident sound insulation, and surrounded on the far side by the stone walls of the Hotel building in such a way that can only serve to further reflect sound back down the valley towards our property.

Throughout the summer 'wedding season', the Hotel will invariably host a large wedding function in their Marquee on at least one of the Friday or Saturday nights, often both. Live bands, DJ dance music sets and an intrusive PA system can invariably be heard until at least midnight, often later. The Christmas and New Year party season also sees extensive use made of the Marquee for large social gatherings. There is also a regular Salsa Night every Tuesday throughout the year organised by Salsa Conmigo¹ during which the words of the dance instructor can be clearly discerned over the PA, together with occasional Salsa Party Nights at the weekend².

The Management of Boringdon Hall Hotel has continually failed to engage with the local community or indeed routinely monitor noise levels. A flurry of activity was evident a few years ago immediately prior to the Hotel being served with a Noise Abatement Order, but since then no further interaction has been forthcoming. Indeed, whenever we have rung the Hotel to complain about particularly intrusive noise levels we are invariably faced with indifferent reception staff who claim that the Duty Manager is busy in another part of the Hotel and will personally call back. Rarely, if ever, are calls returned by the Duty Manager, and if by exception they are, the best outcome we obtain is a short term reduction in noise level from the Marquee that will then rapidly return to the original level as the evening proceeds.

In the past the Management of Boringdon Hall Hotel have claimed that a Noise Limiter device has been fitted to initially warn and then cut the power to the DJ and PA systems whenever noise levels exceed an acceptable level. This equipment is either patently not fitted, not working or set to intervene at far too high a noise level. The evidence statements of Council Noise Monitoring Staff from numerous visits to Plintona View when DJ recorded music sets have been playing will bear witness to this.

How Our Family is Affected

The nuisance noise from the Boringdon Hall Hotel Marquee directly impacts our family in the following ways:

1. Given that our property has a glass roof section, is south west facing and well insulated, the temperature in the top floor bedrooms can routinely exceed 25°C in the early evening³. It is therefore essential for windows to be left open to reduce the temperature to an acceptable level for our young children to sleep. If there is a function within the Marquee, the noise level has invariably woken one or both of our children whenever their bedroom windows are left open. Given their very young ages, getting them back to sleep given the continued noise is then a lengthy, difficult and often highly fraught process. Note that it is not just as simple as closing the windows, since on warm nights the bedroom temperatures will

¹ <http://www.salsaconmigo.co.uk/Tuesday.html>

² The most recent Salsa Party Night was Friday 24th September as witnessed by the duty Council Noise Monitoring team. The team contacted Boringdon Hall Hotel at 2030 and achieved a short term reduction in noise level. However, the volume returned to previous nuisance levels after the Council team departed. A further call by the Council team to the Hotel was required to deliver an enduring reduction in the level. Note that this was only 4 days after the Notice for review of the Premises license was served on the Hotel. A further DJ function the following night (Saturday 25th September) also proved to be intrusive.

³ We have a Gro-Egg room thermometer in each child's room as a protective measure.

then rise to a very uncomfortable level that will then preclude the children from sleeping – fans purely serve to keep warm air moving around the top of the house.

2. The main wall of our master bedroom directly faces Boringdon Hall Hotel. Although neither of us are particularly light sleepers or indeed overly noise sensitive, my wife and I find it very difficult to get to sleep before the completion of any major function within the Marquee. This is particularly the case whenever a live band is playing and also when DJs tend to 'ramp up' in terms of intensity and volume towards the end of their set – with the bass frequencies of 'hardcore' dance music and the DJ's voice over the PA system clearly discernable within our bedroom. We have been forced into a routine of resorting to plastic ear plugs, ensuring all windows are firmly closed and leaving on either a fan or a radio (on sleep timer) in order to attempt to get to sleep. Alternatively, on particularly loud and intrusive nights we just don't go to bed until the function has ceased – anything up to 0100 in the morning.

3. On warm summer evenings we are unable to exercise our right of 'quiet enjoyment' of our property by sitting outside on either our front or rear patios due to the intrusive noise level emanating directly from the Marquee. Enjoying the (previously) peaceful setting or engaging in quiet conversation is not possible without the constant intrusion of a live band, dance music or a PA system from as early as 1830 into the evening. The predominantly 'outdoor' social lifestyle we used to enjoy throughout the summer months has been effectively curtailed by the nuisance noise from the Marquee.

4. Individual songs from particularly loud events at the Marquee are clearly discernable inside our property, even with windows closed. On occasions we have even been required to noticeably increase the volume level of the television within our lounge in order to be able to follow programme dialogue over clearly audible individual song lyrics and DJ introductions. The most recent such event was Saturday 18th September 2010, when from 1830 through to 0015 there was a sustained very loud and intrusive DJ recorded (dance) music set supported by a PA system. This nuisance noise level was witnessed by the duty Council Noise Monitoring team who, for information, also recorded an average noise meter reading of over 50dB by the side door of our property, adjacent to the rear patio.

Desired Outcome

Given the ongoing impact on both our family and lifestyle of the nuisance noise levels that emanate directly from the Marquee, we believe that we are entirely justified in seeking a complete retraction of Boringdon Hall Hotel's licence to stage both live and recorded music events or make use of an amplified Public Address (PA) system.