



<u>Committee and Date</u>
Strategic Licensing Committee
19 <sup>th</sup> March 2014

<u>Item</u>
<b>6a</b>
Public

**MINUTES OF THE LICENSING ACT SUB-COMMITTEE MEETING HELD ON THURSDAY, 14TH NOVEMBER 2013 IN THE COUNCIL CHAMBER, CASTLE VIEW, OSWESTRY**

10:00 a.m. – 12.10 p.m.

**Responsible Officer** Shelley Davies

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Councillors: Peter Adams  
Steve Davenport  
Andrew Davies

**24. ELECTION OF CHAIRMAN**

**RESOLVED:**

That Councillor Andrew Davies be elected Chairman of the Licensing Act Sub-Committee for the duration of the meeting.

**25. DISCLOSABLE PECUNIARY INTERESTS**

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate

**26. APPLICATION FOR A REVIEW OF A PREMISES LICENCE**

Consideration was given to an application for a Review of a Premises Licence in respect of The Old Vaults, Church Street, Oswestry.

Mr J. Hosker (Solicitor – Shropshire Council), Mr R. Bowland (The Applicant - Public Protection Officer – Technical, Shropshire Council); Mr R. Greenwood (Public Protection Officer – Professional, Shropshire Council); Mr T. Alexander (Team Manager - Client Management/Resolution, Shropshire Council); Sergeant S. Barnes (West Mercia Police); Mrs K. Roberts (Public Protection Officer - Specialist); Mr P. Fitton (The Licence Holder); Ms J. Gibson (Co-owner of The Old Vaults); Mr S. Hunka (Licence Holders Legal

Representative); Mr K. Reynolds (Events Manager, The Old Vaults); Mr C. Hassle (Sound Engineer, The Old Vaults); Mr S. Price (DJ, The Old Vaults); and Mr S. Howle (Local Resident) were present.

Mr R Bowland (Applicant) addressed the Sub-Committee, advising that he had made the application for a review of the Premises Licence of the Old Vaults, Church Street, Oswestry on the grounds that the current operation of the premises undermined the Prevention of Public Nuisance Licensing Objective.

Mr Bowland explained that there had been a number of complaints received in relation to the premises regarding noise issues. He referred to an enforcement exercise undertaken with the Local Police on 31<sup>st</sup> August 2013 when he had heard loud music coming from the premises. It was added that when he visited the premises with the Local Police on 31<sup>st</sup> August 2013 the doors of the premises were open, which was a breach of the Licence.

In response to questions from Members of the Sub-Committee, the Council's Solicitor and the Licence Holder's Legal Representative, Mr Bowland confirmed that:

- The outdoor stage had been in place for over two years but could be dismantled if necessary;
- To his knowledge the premises held approximately 6 events per year;
- The team had investigated noise issues at other premises in the town;
- The fact that the doors had been left open did raise doubts in relation to the management of the premises;
- Reducing the volume of the music might resolve the noise issues but he considered the best approach was to cease live music on the outdoor stage at 11.00pm;
- No practical solution had been offered from Mr Fitton following letters to indicate there was a problem; and
- He felt the Licensing Act was more appropriate to resolve this issue than an abatement notice.

The Chairman invited Mr R. Greenwood (witness for the applicant) to address the Sub-Committee. Mr Greenwood noted that he did not have any personal involvement in this case. He stated that he considered it was possible to reduce the volume of the music but thought that this would result in the volume being too quiet for the intended audience.

The Chairman invited Sergeant S. Barnes (Witness for the applicant) to address the Sub-Committee. Sergeant Barnes referred to the enforcement exercise undertaken on the evening of the 31<sup>st</sup> August 2013. He confirmed that the loud music from the premises was heard from over 200 metres away in Welsh Walls.

The Public Protection Officer (Specialist) addressed the Sub-Committee, confirming that the application had been accepted as a valid application and

that during the statutory consultation period relevant representations had been made to the Licensing Authority.

Mr S. Howle (Local Resident) addressed the Sub-Committee. Mr Howle explained that loud music from the premises could be heard until 1.00 am in the property he owned in Welsh Walls, Oswestry. The windows of the property had to be kept closed at all times and the noise from the premises disturbs the sleep of the occupant. He added that during the last 18 months he had kept a noise nuisance log and 20 entries had been made during this period. He considered the recommendation to cease music on the outdoor stage at 11.00pm to be appropriate and reasonable.

In response to questions from Members of the Sub-Committee and the Licence Holder's Legal Representative, Mr Howle confirmed that:

- He owned the property in Welsh Walls and although his father-in-law lived there he did sometimes stay at the property;
- He lived a mile from the premises and could occasionally hear music from the premises at his home;
- He had considered selling the property in Welsh Walls due to the noise issues;
- The noise issues caused his father-in-law distress; and
- Although it was not an issue every weekend he had recorded 20 events in the last 18 months.

Mr S. Hunka addressed the Sub-Committee on behalf of the Licence Holder. Mr Hunka stated that there was no evidence to suggest that the premises had been poorly managed but he accepted that the Licence Holder had been warned in relation to excessive music and had not reduced the noise level. He stated that the option to reduce the volume had not been adequately discussed and considered that there was insufficient evidence to reduce the hours that music could be played on the outdoor stage.

In response to questions from Members of the Sub-Committee it was confirmed that:

- The inside of the premises was not large enough to accommodate live music acts;
- Music could be played indoors until 3.00am;
- There had not been any music events since 31<sup>st</sup> August 2013;
- They employed a sound engineer to ensure noise levels were kept below 80 dBs;
- They regularly monitored the noise from the premises during events;
- 80 dBs was a standard level that the sound engineers worked to; and
- Events took place on approximately 8 nights a year.

The Chairman invited all parties to sum up and make any final comments prior to the Sub-Committee making a decision on the application.

Members of the Sub-Committee retired to consider the application, in private, at 11.20 a.m. and reconvened at 12.05 p.m. to announce their decision.

**RESOLVED:**

That the Premises Licence be modified to include a further condition as detailed below:

- There shall be no amplified music played in the outside area of the premises after 11pm unless there is in use (to control the volume of the music) a Noise Limiting Device. Such device to be set at a limit decided on by the Shropshire Council Public Protection Officer – Technical following consultation with the Licence Holder and/or his representative.
- The exact wording of the condition to be set by the Public Protection Officer – Specialist (Licensing).

**Reasons:**

Members had read all the written representations and took into account the verbal submissions made at the hearing. The submissions made by objectors who failed to attend the hearing were given less weight than those who gave verbal evidence.

It had been agreed by all parties present that a nuisance had been caused by the playing of amplified music after 11pm from the outside area of the licensed premises. Members accepted that the interested party present had been caused such nuisance a number of times in the last 18 months. The Licence Holder had been given warnings by the Public Protection Officer - Technical but had, generally, kept the volume of the amplified music played unchanged. Members noted the views of the Public Protection Officer - Technical, and the view that to curtail the hours was the best way forward. However, Members had noted that outdoor events at the Premises took place on approximately eight days a year and that the Public Protection Officer - Technical agreed, that although not the best way forward, it was possible to play the amplified music at a level that should not cause a nuisance (even though music from neighbouring premises might be heard). Members also took into account the fact that only one resident had been willing to attend the hearing (or make representations).

Members had come to the view that it would be possible to play amplified music at a suitable level and therefore, on balance, decided not to curtail further the hours of when amplified music could be played outside but to impose a further condition as detailed above.

Members believed that the additional condition was appropriate and proportionate for the promotion of the Licensing Objectives, in particular the prevention of public nuisance.