

# **LICENSING SUB-COMMITTEE**

## **MINUTES OF THE MEETING HELD ON TUESDAY, 8 MARCH 2011**

**Councillors Present:** Jeff Beck (Chairman), Manohar Gopal and Gwen Mason

**Also Present:** Sarah Clarke (Team Leader - Solicitor), Rosemary Green (Senior Environmental Health Officer) and Alan Lovegrove (Licensing Officer), Denise Anns (Clerk)

**Apologies for inability to attend the meeting:**

**Councillor(s) Absent:**

### **PART I**

#### **1. Declarations of Interest**

There were no declarations of interest received.

#### **2. Schedule of Licensing Applications**

#### **3. Application No. and Ward: 11/00058/LQN, Bunk Inn, Curridge Road, Curridge.**

The Sub-Committee considered a number of complaint records presented by Rosemary Green concerning which had led to a review of the Licence of the Bunk Inn, Curridge Road, Curridge RG18 9DS

In accordance with the council's Constitution, Alan Lovegrove (Licensing Officer West Berkshire Council) and Rosemary Green (Senior Environmental Health Officer West Berkshire Council), Mrs Monger and Mrs Armstrong, supporters of the request to review, addressed the Sub-Committee.

Mr Alan Lovegrove, Licensing Officer provided Members with a verbal report at the meeting. Mr Lovegrove reported that on 13<sup>th</sup> January 2011 West Berkshire Council Licensing Department received an application from West Berkshire Council Environmental Health – Pollution Team – Rosemary Green Senior Environmental Health Officer for a review of the Premise Licence for the Bunk Inn, Curridge, Thatcham, Berkshire, RG18 9DS under Section 51 Licensing Act 2003.

The consultation period ran from 14th January 2011 to the 10th February 2011. Within the prescribed 28 day consulting period the Licensing Department received six other representations from three couples living in the vicinity (Mr and Mrs Monger, Mrs and Mrs Armstrong and Mr and Mrs Willsher) The basis of their complaints centred around allegation of noise nuisance from live and recorded music at the premises, and noise disturbance from people in the car park and leaving the premises.

Mr Lovegrove explained that the pane would be able to make one of the following decisions in relation to the licence:

- (a) to modify the conditions of the licence;
- (b) to exclude 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;

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Ms Rosemary Green provided the panel with a verbal report setting out the reasons for the request to review the licence. Ms Green explained that she had applied for a review of the premise licence due to ongoing noise issues arising from the bunk Inn. The most recent occurrence being on New Years Eve when the Environment Health Service had received a call at 2.35am. Officers had visited the premise and had witnessed noise nuisance emanating from a karaoke machine between 03.05am and 03.56am. The officer also noted noise, shouting and tooting of horns, from patrons leaving the establishment.

During her presentation she circulated a number of complaint logs for the committee to consider. As this information had not been circulated to the attendees in advance of the meeting, and in accordance with the prescribed access to information policies of the Council, Ms Green stated that the five logs showed the action taken by the complainants and how they were affected.

Sarah Clarke (Solicitor) asked that the meeting be adjourned. She asked the agent for the Licensee (Michelle Diogioa) if they would like five minutes to consider the logs. This offer was accepted. At the end of the five minute adjournment the agent (Michelle Diogioa) and Mrs Clark advised that they had no objections as the data contained in the logs was historic. The meeting was then reconvened.

Ms Green noted that the logs showed that the noise nuisance was taking place outside of the operating hours set out in the licence.

Officers had attended site visits to deal with the issues arising from the complaints specifically in relation to the noise late at night, noise from the patio and noise emanating from patrons leaving the establishment. The site visits would result in an abatement for a period of time but then the cycle would start up again. A statutory nuisance was witnessed on the 30/31 August following which an Abatement Notice was served in accordance with the Environmental Protection Act 1990 on 4 September 2008. No further complaints were received until September 2009.

Following this complaint a meeting was arranged with Mrs Clark (the DPS) at which she explained that she had a live-in manager and that there had been changes to the location of the smoking area. Other complaints were also discussed to establish if any solutions could be found.

Offices received a letter of complaint about the premise, in relation to the licensing regulations, in September 2010.

Ms Green felt that the overall pattern showed that there was a lack of management control on the premise which led to the noise complaints. Officers had asked for the review in order that the panel determine if it is appropriate for amplified music to be played in the establishment until the late hours, given its rural location, and to highlight concerns about the late opening hours in light of the noise nuisance being generated.

Environment Health had served an Abatement Notice on the premise but it was hoped that the Sub-Committee could impose longer term sustainable measures to deal with the issues arising at the premises.

Mrs Monger, in presenting her case in support of the review, stated that:

- She appreciated that the Licensee had a business to run but they also had a duty of care to neighbouring residents;
- She felt that the noise emanating from the premise was excessive and exceeded levels that should be expected from a village hotel and restaurant;
- There were two main sources of noise, the first related to amplified music being played on the premise and her allegations could be substantiated by evidence

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collected by Environment Health Officers. This noise often Carried on into the early hours of the morning;

- The second source of noise was from customers who drinking or smoking outside or leaving the premises. This noise was sometimes ongoing and at other times it was intermittent but resulted in sleep deprivation which was having a seriously negative impact t on her family members' lives;
- Due to the location of the pub she felt that no amplified or loud music should be permitted at any time, no marquees should be allowed and that no drinking should take place outside after 10pm.
- She also asked if anything could be done about the disturbance emanating from people smoking outside the front of the premise and if anything could be done about the operating hours.
- She was not confident, based on previous history, whether the management would adhere to any revised conditions that were opposed on them.

Mrs Armstrong in presenting her case in support of the review stated that:-

- She concurred with the issues set out in the review request document;
- The disturbance was as a result of the late hours the Bunk operated at; this included noise in the road outside the premise and vehicle noise from patrons being welcomed at the establishment late at night. These were not isolated incidents but frequent events.
- She had a specific issue with the use of the front patio area where patrons congregated to smoke and drink until late at night; this issue had been raised when the licence had originally been granted but this had now been exacerbated. Her bedroom window was about five metres from the patio area.
- They had contacted the management on a number of occasions to ask them to turn the music down but the problem persisted;
- Due to the noise levels they had to keep their bedroom windows shut and this could be very uncomfortable especially in the summer;
- In addition to the noise nuisance there was also an issue of litter, including broken bottles and glass and cigarette butt, being thrown over the fence into their garden which was a potential danger to the residents and their pet dog. They had written to the Licensee about this issue but it had persisted;
- The management appeared to have no regard for the neighbours;
- The loud music was out of keeping with the rural location;
- The sleep deprivation and stress this was causing the family was having an adverse impact on their health;
- She referred to a specific event when their doorbell was rung at 4.20am in the morning; she disagreed with the Licensee's version of the story as set out in the logs where they indicated that the disturbance on this occasion, which included a street fight, had taken place at around 1.00am;
- The notices about leaving the premise quietly appeared to be disregarded by the patrons;

In response to a query as to whether the restaurant generated similar problems Mrs Armstrong stated that it did not.

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Cllr Beck said that the problems were over a long period of time and during that time the ownership (RC Inns Ltd) had not changed. He noted that since 2009 the Liquorice family were no longer involved and queried whether had there been any noticeable changes since 2009.

Mrs Armstrong replied that there had been no improvement. They had tried dealing directly with RC Inns but noise was still a problem.

Michelle Diogioia responded on behalf of Mrs Clark (Licensee).

The Bunk Inn was a country pub and restaurant whose main bar was a listed building. Double glazing had been installed and Mrs Clark was the sole owner who lived on site. Most of the complaints raised were historic and occurred before Mrs Clark became the Licensee. Any complaints raised with Mrs Clark had been dealt with within the licence conditions. The historic complaints were raised in 2004, 2008 and 2009 therefore any reference to these should not be taken into account at this hearing.

The Bunk Inn was a restaurant with an eight room hotel. 50% of its business was in the restaurant, 11-15% in the hotel rooms. 38% in alcohol sales, with 70-80% of that alcohol being sold in the restaurant.

The pub had never been prosecuted and had always complied with any abatement order served on them.

All staff were trained regarding noise and there were signs to this effect and to respect the local neighbourhood displayed within the pub. All windows were also kept shut. Mrs Clark believed that the noise generated was just general chatter as would be found in any pub.

Since the smoking ban in 2007 it was a requirement for pubs to supply an outside place for smokers. The site of the Bunk's smoking area was the only realistic location. They had looked at alternative areas and had moved it once already.

Mrs Clark did not accept that all the complaints were justified. She frequently asked clients to quieten down but did not have control of taxi's arriving to pick up clients, or clients who left the pub to go and drink elsewhere before returning to Curridge.

Cllr Mason queried whether the noise affected the occupancy of the hotel rooms. Ms Diogioia replied that clearly it could not be that bad otherwise people would not stay.

Cllr Beck noted that Rosemary Green had mentioned that licensing times were not adhered to and there was lack of management control. He asked Ms Clark to respond to these comments.

Mrs Clark commented that she lived on the premises and she objected to the suggestion that the premises were not managed properly. She believed the problems were historic and the pub was closed when it was not viable to keep it open. The costs to remain open would be excessive. It was not operated as a pub, more as a restaurant.

Cllr Mason queried that, if the premise operated as a restaurant, what was the average leaving time for diners. Mrs Clark responded that this was no later than midnight. The pub was used by locals for socialising. She did not operate it on a 'party level. The last outdoor party had taken place in September 2009. During 2010 there had been two live bands and one karaoke night.

Cllr Mason noted that despite the imminent review there were still two occasions when police/out of hours environmental health were called to disturbances in the last 28 days.

Mrs Clark responded that no police called to the premise during this period and on 28 January 2011 the pub closed before the permitted licensing hours. Other than New Years Eve there had been no other live music event at the premises. She explained that she

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had refused to hold a party for someone who lived in the village, and as result they had to hold the event elsewhere and she had lost their business.

In response to a question from Mrs Monger as to whether she held any 'young parties', Mrs Clark explained that she did not hold any parties.

Cllr Mason queried how many staff were employed at the establishment. Mrs Clark replied that she employed 14 members of staff.

Rosemary Green noted that Ms Clark lived full time in the pub. She asked when this change had happened and Ms Clark explained that she had moved in in May 2009. Rosemary explained that when officers had first met Ms Clark she had stated that she lived in the village with a manager in the pub. Mrs Clark explained that she had moved in when the manager was still there and they both lived there for a time.

Mrs Clark and Michelle Diogioia were asked if they had any questions they wished to ask and they responded that they did not.

Sarah Clarke (Solicitor) asked for a copy of the licence. She showed this document to both Mrs Clark and Michelle Diogioia who responded that it was the existing licence..

The Hearing Panel retired at 11.00am to make its decision.

The Hearing Panel returned at 12.30am and Sarah Clarke (Solicitor) read out the Notice of Decision.

The Panel **RESOLVED** that as the premise was not being operated in accordance with the Licensing Objective relating to Public Nuisance the premise licence be amended with immediate effect. The amendments were set out in the Decision Notice

*(The meeting commenced at 10.00 am and closed at 12.40 pm)*

**CHAIRMAN** .....

**Date of Signature** .....