

LICENSING SUB-COMMITTEE

MINUTES OF THE MEETING HELD ON WEDNESDAY, 30 MARCH 2011

Councillors Present: Peter Argyle (Chairman), Gwen Mason and Quentin Webb

Also Present: Sarah Clarke (Team Leader - Solicitor) and Alan Lovegrove (Licensing Officer), Stephen Chard (Policy Officer) and Councillor Manohar Gopal

PART I

1. **Declarations of Interest**

Councillor Quentin Webb declared an interest in Agenda Item 2(1) by virtue of the fact that he was an original member of the New Era Theatre many years previously. However, the current applicant was not known to him. As his interest was not personal or prejudicial he was permitted to take part in the debate and vote on the matter).

2. **Application No. and Ward: 10/01258/LQN New Era Theatre at St George's Church, Andover Road, Wash Common, Newbury**

The Sub-Committee considered a report (Agenda Item 2(1)) concerning Licensing Application 10/01258/LQN in respect of the New Era Theatre, St George's Church, Andover Road, Wash Common, Newbury, RG14 6NU.

In accordance with the Council's Constitution, Alan Lovegrove (Licensing Officer, West Berkshire Council); Mrs Madeline Winter, Mrs Janet Bennett and Reverend Paul Cowan (speaking on behalf of the applicant, Mr Stephen Bennett); and Councillor Adrian Edwards (speaking on behalf of the objectors, Mr and Mrs Pasmore), addressed the Sub-Committee on this application.

Mr Lovegrove in addressing the Sub-Committee raised the following points:

- On 2 February 2011 West Berkshire Council's Licensing Department received an application for a premises licence to be granted under the Licensing Act 2003 from Mr Stephen Bennett on behalf of the New Era Theatre, St George's Church, Andover Road, Wash Common, Newbury, RG14 6NU. The application was for:
 - Performance of plays (indoors) between 2000 and 2230 hours, Tuesday – Saturday.
 - Films (indoors) between 2000 and 2230 hours, Monday – Saturday.
 - Live music (indoors) between 2000 and 2230 hours, Monday – Saturday.
 - Supply of alcohol (on the premises) between 2030 and 2130 hours, Tuesday – Saturday.
 - The standard days and timings that the premises would be open were between 1930 and 2300 hours, Tuesday – Saturday.
- The consultation period ran from 3 February 2011 to 2 March 2011. Within the prescribed 28 day consulting period the Licensing Department received one representation from Mr and Mrs Pasmore. This was based on three of the Licensing Act's four objectives:
 - Prevention of Crime and Disorder
 - Protection of Children from Harm
 - Prevention of Public Nuisance
- No mediation had taken place.

LICENSING SUB-COMMITTEE - 30 MARCH 2011 - MINUTES

Mrs Winter, prior to addressing the Sub-Committee, requested that the statement she was to read on behalf of the New Era Players be circulated. This was agreed to by all parties. Mrs Winter raised the following points:

History and Current Use

- New Era Players had been an amateur theatre company for some 38 years. They had leased the former St Luke's Hall from St George's Church, Wash Common for the last 33 years and had fitted it out as a theatre, run on the basis of a membership club.
- Currently four productions of eight performances were run per year. In previous years when there was a larger membership up to eight productions were run each year. One of the members ran a children's drama school at the theatre twice a week and put on end of term shows. There were also occasional events which took place on other evenings. Rehearsals were held at least twice a week and on other days the theatre was used for set building, costume making etc.

Future Proposals

- The New Era Theatre was currently negotiating the renewal of their lease with St George's Parochial Church Council. It had been agreed that they should work within the Church's Vision to do more within and for the local community and to facilitate this they needed to do three things:
 - Improve the building and make it Disability Discrimination Act (DDA) compliant by extending to the side to improve the comfort and convenience of the audience, provide a wheelchair accessible toilet (currently the two toilets were accessed through the kitchen area) and provide a ground floor dressing room. This would not increase the number of seats in the auditorium nor increase the size of the stage.
 - In order to pay for the building works, grant aid would need to be sought, but grant bodies would not support the theatre if it continued as a private membership club, hence the need for the premises licence.
 - Likewise the theatre wished to apply for charitable status as that would assist with fund raising, but this was unlikely to be granted if it remained as a private membership club.

Mrs Winter then addressed the concerns of the objector:

Prevention of Crime & Disorder and Protection of Children from Harm

- Currently one free drink was offered to audience members at the interval. Drinks were not offered before or after performances. At the March production coffee was offered, in June and September a choice of Buck's Fizz or orange juice was offered, and in December coffee was again offered. Although twice in the last ten years mulled wine had been offered when the production dates were close to Christmas. There was not a bar on the site and drinks were served on trays to the audience who remained seated. The interval lasted 15 to 20 minutes.
- The theatre was aware of just one incident of a theatre member urinating in Mr Pasmore's front garden. This occurred in December 2010 and the Stage Manager and front of house staff were just as disgusted, as Mr and Mrs Pasmore, when they learnt of it. Mr Pasmore had reported it immediately after the incident. On later investigation the perpetrator was discovered to be an elderly man who had recently had an operation for prostate problems and, in desperation, rather than risk finding the toilets occupied, sought relief in the nearest bushes. It was not because of a lack of toilets or a surfeit of alcohol. This was not condoned in any

LICENSING SUB-COMMITTEE - 30 MARCH 2011 - MINUTES

way and was apologised for. In general, the maximum number in the theatre was 70. This allowed one toilet per 35 people and this was believed to be a better ratio than in many commercial theatres.

Prevention of Public Nuisance

- Only one complaint had been received in the last 20 years with regard to noise. That was from Mr and Mrs Pasmore in September 2009 shortly after they had moved into the neighbouring house. At the time the theatre was putting on a production of Nicholas Nickleby, which had a cast of 37 actors including 12 children. Such large cast productions were extremely rare and as conditions were cramped back stage and the weather was good, actors spent time outside to the rear of the building when not needed on stage. The children were supervised at all times and were certainly not rowdy, but it was accepted that children's voices could carry. The children were just there for the first act and went home each evening at the interval.
- Doors were kept shut during performances and any noise from sound effects or applause was barely audible from the outside. Obviously, people might talk on arrival and departure, but these periods were relatively short and the maximum number that could be seated, and therefore be in attendance, was 54 people. Performances generally ended before 10.30pm and the car park was to the side of the building away from Mr and Mrs Pasmore's house. In the summer of 2010, Mrs Pasmore complained that during the intervals people gathered outside the auditorium door to chat and smoke and this disturbed her children. Since then it had been ensured that audience members, cast and crew moved either to the grass area in front of the theatre or to the car park at their rear if they wished to chat or smoke. Incidentally there was a path between the theatre and Mr and Mrs Pasmore's fence which was provided by the Church and Falkland School as a safe route for parents and children. This path was also used by others and, at times, youngsters found smoking in the shelter of the theatre porch had been moved on. It had also been necessary to pick up discarded beer cans, cigarette butts etc.

Conclusion

- It was not considered that the current activities of New Era Theatre caused a nuisance, but responses had been made in a reasonable, neighbourly and timely way to Mr and Mrs Pasmore's complaints. It was not considered that the granting of a premises licence would contravene any of the four licensing objectives. It was the intention to improve the theatre, increase accessibility and do more to involve the local community. Without a premises licence it would not be possible to do any of this. It was therefore requested that the licence application be granted.

Members queried the frequency of one act plays and the timings for serving alcohol on these occasions. Mrs Winter advised that these were minimal (approximately two in the last twelve years). However, on these occasions a full evening was still held and the timings for serving alcohol were unchanged from the standard time of between 2030 and 2130 hours. The second half of the evening was used as an opportunity to, for example, discuss the play. Mrs Winter confirmed that the standard times for serving alcohol would not be altered regardless of the event being held.

A question then followed on whether alcohol would be served at school performances held in the evening. Mrs Bennett advised that this was not the intention and she would be happy to have this included as a condition of approval.

Mrs Winter went on to say that musical performances would not be amplified due to the size of the Theatre and subsequent noise levels.

LICENSING SUB-COMMITTEE - 30 MARCH 2011 - MINUTES

Approximately 40 fund raising events were held throughout the year, the majority of which took place in the St George Church Hall which allowed for greater numbers. Of the few that were held in the theatre, it was the intention to hold these during the standard times.

Members queried the actual arrangements for the sale/serving of alcohol. Mrs Winter advised that the practicalities would be confirmed if the licence was approved, but this would likely involve an individual's drink order being taken on arrival at front of house and being served during the interval. There would only be time for one drink per person and the type of drink being served would most commonly be a glass of wine or fruit juice.

Alan Lovegrove was asked to comment on the procedure described and he advised that while this was not a common procedure it did occur. There was the potential to place a condition in relation to this operation but it would be difficult to enforce. Mrs Winter added that its enforcement was possible due to the short time of the interval.

Members pointed out that a premises licence meant that a bar could be installed in future. Mrs Winter accepted this possibility, but added that if this was the case then the building work required would mean a move away from theatre use.

Councillor Edwards in addressing the Sub-Committee raised the following points on behalf of Mr and Mrs Pasmore:

- They were in no way against the theatre or the arts. Their concerns were in relation to the current layout, the close proximity of the theatre to their home and noise levels caused by the general activity of the theatre. These were current issues, which would increase in future.
- The theatre was only a few yards from the boundary of their home. There was previously a 30 foot hedge along the boundary which provided some screening in respect of noise levels. Unfortunately this had been removed meaning the house was completely open to all noise and disturbance. The front door of the theatre was visible from the ground floor of their home and the children's bedrooms overlooked the theatre. It was therefore possible in both cases to see those congregating outside. The close proximity of the theatre did therefore have an impact on his family's amenity.
- The low number of toilets was felt to be inadequate, particularly for longer performances. They believed their garden had been urinated in on more than the one occasion mentioned.
- The frequency of use described in the report did not take into account the other times the theatre was in use outside of licensing hours. I.e. rehearsals. This needed to be taken into account for the protection of children and the environment.
- If alcohol was served as outlined in the report then it would lead to further problems. The Pasmore's view was that the licence should not be granted until the facilities were adequate for an alcohol licence.

Mrs Winter was then given the opportunity to address the comments made on behalf of the objector and made the following points:

- The distance from the theatre door to the Pasmore's fence was just under 6m, it was then a further 4m to the Pasmore's house. This had been the case for 33 years and she believed the Pasmore's were aware of this when they purchased the house in 2009.

LICENSING SUB-COMMITTEE - 30 MARCH 2011 - MINUTES

- It was possible to increase the frequency of performances without a premises licence. The licence would enable additional funding to be generated and improvement work would help reduce the level of noise.

Reverend Cowan, who also lived in close proximity to the theatre, though not as close as the Pasmore's, was in support of the New Era Theatre. As both the local vicar and a neighbour he did not accept the concerns raised by the objector. He attended some performances and concerns of loud noise/heavy consumption of alcohol were not the case. The drinks on offer were low alcohol.

The Church wanted the theatre to increase what it offered to the community. In order for it to do so it needed a premises licence to help generate much needed funding. The proposed extension would offer some protection to the Pasmore's. No concerns had been raised by other local residents.

On noting that drinks were consumed within the auditorium during the interval, Members asked where the noise was generated from. Mrs Winter advised that this was prior to the relocation of the smoking area. However, Mrs Winter did accept that on warm evening's people would go out during the interval, possibly with their drink. Efforts were made on these occasions by front of house staff to move people to the front or rear of the building and away from neighbouring properties. However, it was sometimes the case that young people, separate to the theatre, would congregate in the area described by the objector. If, in time, the extension could be built then the existing footpath would be moved.

A query then followed as to whether there was potential for alcohol to be served during rehearsals and outside of the specified times. Alan Lovegrove confirmed that alcohol could only be supplied during the specified times. Sarah Clarke added for clarification that alcohol could be sold to whoever was on the premises during the allotted times. Mrs Bennett then confirmed that alcohol would not be served outside of the standard times. This was both impractical in terms of the limited space for storing alcohol and it was not felt to be appropriate for alcohol to be consumed during rehearsals. Mrs Winter added that while it was legally possible for someone to purchase a drink and not attend a performance, it was extremely unlikely with two nearby public houses.

It was queried whether there were any restrictions arising from the close association with the church. Reverend Cowan advised that the Church Diocese would be consulted as part of a potential planning application, the process for which was run by West Berkshire Council.

The disabled access to the toilets and the auditorium was queried and Mrs Winter advised that disabled access was gained via a ramp. It was hoped that access could be improved upon in future.

As a closing statement Mrs Winter referred the Sub-Committee to her conclusion.

The Sub-Committee retired at 10.55am to make its decision.

The Sub-Committee returned at 11.40am and Sarah Clarke (Solicitor) read out the Notice of Decision.

Having taken the representations into account, including the written representation made by Mr and Mrs Pasmore, the Licensing Sub-Committee **RESOLVED** that Application 10/01258/LQN be granted subject to the conditions detailed in the operating schedule, any relevant mandatory conditions in ss19-21 of the Licensing Act 2003 and the following variations:

- (1) Live music permitted under the licence (detailed at page 9, box E of the Application Form) shall not be amplified.

REASON: The prevention of public nuisance.

LICENSING SUB-COMMITTEE - 30 MARCH 2011 - MINUTES

- (2) The supply of alcohol shall be permitted between 2030 and 2130 hours on Tuesday, Wednesday, Thursday, Friday and Saturday. The supply of alcohol permitted under the licence shall not be permitted at any non standard time.

REASON: The prevention of public nuisance and the protection of children from harm.

(The meeting commenced at 10.00 am and closed at 11.45 am)

CHAIRMAN

Date of Signature