

LICENSING SUB-COMMITTEE

MINUTES OF THE MEETING HELD ON WEDNESDAY, 12 SEPTEMBER 2012

Councillors Present: Adrian Edwards (Chairman), Mollie Lock and Andrew Rowles

Substitute: Geoff Mayes

Also Present: Sarah Clarke (Solicitor), Emilia Matheou (Licensing Officer), Denise Anns (Clerk).

PART I

3. Declarations of Interest

There were no declarations of interest received.

4. Application No. 12/01256/LQN - Newbury Rugby Football Club Ltd., Monks Lane, Newbury RG14 7RW

In accordance with the Council's Constitution, Emilia Matheou (Licensing Officer, West Berkshire Council), Rosemary Green – Environment Health Officer for West Berkshire Council (Applicant), Mr Tony Foreward (Supporter) Greenham Parish Council representative, Mr Christopher Rees (Newbury Rugby Football Club Manager) and Mr Ally Pankhurst (Newbury Rugby Football Club representative) addressed the Sub-Committee on this application.

Ms Matheou, in addressing the Sub-Committee, raised the following points.

On the 19th July 2012 West Berkshire Council Licensing received an application from West Berkshire Council's Environmental Health Pollution Team Senior Environmental Health Officer Rosemary Green for a review of the Premise Licence for Newbury Rugby Football Club under Section 51 Licensing Act 2003.

The application to review the licence related to the Prevention of Public nuisance licensing objective (noise nuisance from amplified live music outdoors), details of the grounds for the review would be explained in full by the applicant, the Senior Environmental Health Officer Rosemary Green.

The consultation period ran from 20 July 2012 to 16 August 2012 and within the prescribed 28 day consultation period the Licensing Department received three (3) other representations in support of the application:

1. John Boston, Clerk to Greenham Parish Council.
2. Residents Michael and Barbara McKenzie
3. Residents Robert and Tricia Whiting.

In addition, Licensing were forwarded a copy of a letter from Chris Rees to Rosemary Green dated 30 July 2012. The letter appeared to refute the allegation made by officers that Mr Rees was under the influence of drink during the event held at the Rugby Club over the weekend of 13 July 2012. As the review had been applied for on the grounds of public nuisance only, it was considered that this letter had no bearing on the issues being reviewed so the document was not included in the agenda documents.

Also on file was a 'To whom it may concern' letter from Ms L Taylor that commended the club for a 'marvellous event' and ended by emphasising that, in her opinion, the event

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would not have been as successful had Mr Rees been under the influence of alcohol. Although the letter relates to the event it was generic with no reference to the reasons for the review being applied for by Environmental Health, the letter was therefore considered to be not relevant to the review and was intended only as a personal commendation of Mr Rees.

Members of the Sub Committee were advised of the presence of these letters for consideration as to whether or not they believed the letters were pertinent and should be admitted and that the Licensing Authority did not object to the submission of these.

Mr Rees also e-mailed Brian Leahy, Senior Licensing Officer on 11 September 2012 referring to letters of support / other evidence. Mr Leahy informed Mr Rees of the above mentioned documents and advised that they were the only ones that were held on file, but he also advised Mr Rees regarding the submission of any additional information that he might wish to submit and the procedure re the acceptance or not by the Licensing Sub Committee.

Rosemary Green Senior Environmental Health Officer introduced herself and in addressing the Sub-Committee, raised the following points.

Environmental Health – Pollution had applied for this review of the premise licence for Newbury Rugby Football Club as it was considered that the licensing objective 'The Prevention of Public Nuisance' had not been met.

Environmental Health had received intermittent complaints over the last few years regarding noise from music events held at Newbury Rugby Football Club (NRFC). When the variation of the premise licence received in June 2012 included live and recorded music outdoors until 02.00 hours there were concerns that a noise nuisance could be caused at nearby residential properties.

Following a meeting with the applicant where these concerns were raised, NRFC modified their application reducing the area of outside land to be used for the playing of live and recorded music outdoors and also reducing the finish time to 23.00 hours for live music and limit the playing of recorded music outdoors between 23.00 – 01.00 hours to the use of headsets (a silent disco). Discussions also ensued concerning the use of acoustic consultants to carry out noise monitoring for large events with noise levels based upon the Code of Practice on Environmental Noise Control at Concerts.

The three day event, The Newbury Beach Tournament covering the weekend of 13 – 15 July 2012, had been the first big event following this variation.

Due to the extended time period for this event Environmental Health undertook noise monitoring to assess the levels of noise exposure at nearby residential properties. The monitoring was carried out on the Friday and Saturday evenings. The officers monitoring on both the Friday and Saturday night witnessed high noise levels close to residential properties from the live music being played. File notes / statements from these officers covering the two days were attached to the application for the review.

Officers met with Mr Chris Rees and Mr Ally Pankhurst on both nights to discuss the problem of noise from the site. Contrary to information given at the time of the application to vary the premise licence there were no acoustic consultants on site to monitor the noise levels from the playing of amplified music. On the Friday evening Mr Pankhurst attempted to monitor noise levels with a sound level meter, however he admitted he had no experience with the instrument and did not understand the noise levels monitored.

Prior to the start of the main acts on the Saturday night further discussions were held with Mr Rees and Mr Pankhurst in an attempt to control the noise levels during the evening. There appeared to be little control other than by direct feedback from Mr Pankhurst or

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West Berkshire Officers to the mixing desk. Some control was gained over the bass levels so that noise levels dropped to more acceptable levels, however, if officers had not been present carrying out noise level monitoring of the music, the high bass levels would have continued unabated.

Noise complaints were received by Environmental Health over the course of the weekend with most complaints being received on the Friday night relating to the high bass levels.

Following the analysis of the outdoor live and recorded music played during the weekend event, it was decided that there had been an overall lack of control of the noise levels. The recent variation in the premise licence would allow the NRFC to have had live music events outdoors every day and therefore there were concerns that disturbance to nearby residential properties could occur regularly. In particular Environmental Health questioned the ability of NRFC to operate a large scale evening event with live music played outdoors without causing noise nuisance to nearby residents. It was therefore considered essential that a review of the premise licence was done and that the Licensing Committee considered the following points:

- Was it appropriate for NRFC to have a licence for the playing of live outdoor music?
- Was it appropriate for NRFC to have a licence for the playing of live outdoor music every day (Monday – Sunday) until 23.00 hours? Limitations around the number of days per week and the finish time for the playing of live music outdoors could be considered.

If the Licensing Committee was minded to allow the playing of live music at NRFC during prescribed periods, Environmental Health requested that the following conditions were put on the premise licence to control noise from the premises.

- The number of major events (attendance by 500+ people) playing live or recorded music outdoors should be limited to a specified number of events per year, with a specific number of days/weeks between events so that nearby residents were not regularly exposed to elevated noise levels.
- Acoustic consultants to be hired for major events (attendance by 500+ people) playing live music outdoors. The consultants to be present during the sound check and to carry out monitoring at nearby residential properties during the event to ensure that live music from NRFC did not give rise to noise nuisance at nearby residential properties. The monitoring information from each event to be made available to Environmental Health during or after each event upon request.
- Mail drops to local residents within one kilometre radius of NRFC to be carried out advising residents of major events (attendance by 500+ people) at least one week before any event detailing times of sound checks, time and duration of the event and a manned telephone contact number for use during the event.
- Notification of all major events (attendance by 500+ people) to be provided to Environmental Health at least one month prior to the event. This information to include date, timing of the event, details of the acoustic consultancy monitoring the event, event type with details of the music genre.

It was hoped that through these measures the likelihood of public nuisance from the playing of live music would be controlled and local residents would not be unduly disturbed by the activities at NRFC on a regular basis.

Councillor Adrian Edwards (Chairman) asked if there were any questions.

Councillor Andrew Rowles asked if Environmental Health had been made aware of the event. Rosemary Green responded to say that they had been informed of the event. Mr

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Tony Foreward asked what levels were recorded over the time of the event and what the acceptable limits were. Rosemary Green advised that it was 65DBA over a 50 minute period or lower, but the base content was higher.

There were no more questions.

Mr Tony Foreward spoke in support of the review under the grounds of public nuisance. There had been ongoing concerns raised with previous concerts within his parish and these had already been expressed. The parish became aware of the concert when objects within parishioner's houses shook with the high level of bass. A discussion regarding the event was undertaken at a parish council meeting and a number of parishioners spoke up. The level of noise was astonishing and it was felt that a lack of regard was shown by NRFC to residents. The venue was not the right place for an outside event and given the proposal for a number of new houses in the area, it would seem even more residents could be affected.

Councillor Adrian Edwards (Chairman) asked Mr Tony Foreward how far away from the venue did he live. Mr Foreward responded to say two (2) miles approximately. Councillor Edwards asked Mr Foreward how many residents had called to object on the night. Mr Foreward advised that there were six (6) calls received, and the Ward Member was notified. Councillor Mollie Lock asked Mr Foreward if he was in a two (2) mile radius or what. Mr Foreward responded to say as the crow flies. Mr Christopher Rees asked Rosemary Green how many complaints she had received from residents within one (1) kilometre. Rosemary Green advised that they had received seven (7) complaints.

Mr Christopher Rees said that he agreed with Rosemary Green regarding her proposals. He went on to say that contrary to what neighbouring residents had said, Tydehams, Monks Lane, Heather Gardens, Whittings, Southerlands to name but a few had all had letters delivered to every household. Mr Ally Pankhurst went on to say that he had personally delivered an envelope to every door in those areas, but not one resident had turned up to an invited meeting prior to the event. The process of notification and meetings prior to events had formed part of a process that had been carried out over the past 18 years to his knowledge. Mr Rees said that the engineers that were hired for the event had not supplied an acoustic consultant, and therefore mindful of neighbouring properties the music had been stopped at 10.30pm. He had always tried to work with NRFC neighbours. Rosemary Green said that they had been trying to contact Mr Rees on the Friday night but could not. Mr Rees said that his call record showed no record of any calls, he had also checked with Vodaphone who also had no record of any calls. He went on to say that 100 free tickets had been issued to neighbouring properties and he apologised that the situation had come to this. He thought that the music would be absorbed by the topography of the area and NRFC had received no complaints. He did not disagree with Rosemary Green's evidence, nor with her proposals.

Councillor Andrew Rowles asked who had hired the Acoustic Consultants. Mr Rees said that they had not specifically formed part of the licence, they were discussed and he had presumed that the staging company would have supplied them. Mr Pankhurst said that they had thought that one of the three engineers supplied would monitor the noise. Once they realised that this was not the case he (Mr Pankhurst) used a sound level meter but he did not have sufficient experience to make this effective. He said that all complaints received by NRFC were taken very seriously. Councillor Rowles asked if this was NRFC's first event of this nature. Mr Rees said that this was the first one since he arrived at NRFC. Councillor Rowles asked if it was proposed to hold an event of this type annually. Mr Rees said that he would like to take an event like this nationally once a year, one weekend a year. Councillor Rowles asked where the wind was coming from to generate noise two miles away. Mr Pankhurst said it was quite a still night, but there had been a terrible storm. Councillor Edwards commented that it was extraordinary that the

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event could be heard two miles away. Mr Pankhurst said that the event was finished by 10.45pm and Mr Rees said that they thought that the levels of noise experience two miles away would have been at acceptable levels. Mr Pankhurst said that they had tried everything they could once the Council officers had visited.

Mr Tony Foreward said that he supported NRFC and would like it to be successful, he asked for clarification of the conditions being proposed by Environmental Health.

Mr Rees said that he had a number of documents, additional information that he would like to circulate. Councillor Adrian Edwards (Chairman) asked everyone present if they agreed to this. All agreed and the documents were circulated:

1. Complimentary Ticket Letter
2. Initial Response Email
3. Initial Response Letter
4. Missed call log 07827 432765
5. Call History log 07827 432765
6. Letter of support Ms Taylor
7. RFU forwarded letter
8. Letter of support Mr Sparrow.

Rosemary Green clarified proposal conditions:

- Three weeks to one month between major events.
- A total of six (6) events during the summer months.
- A mail drop to be delivered to all residents within a one (1) kilometre radius seven (7) clear days before any event.
- A sound check to be completed seven clear days before any event.

Mr Rees said that he would be happy to reduce the number to two (2) during the summer with a month in between. He was totally happy with all the suggestions.

Having taken the representations into account, including the written representations made by Mr & Mrs R Whiting, Mr & Mrs M McKenzie and Mr J Boston clerk to Greenham Parish Council, the Licensing Sub-Committee **RESOLVED** that Application 12/01256/LQN be modified subject to a number of conditions.

The Sub-Committee retired at 2.50pm to make its decision.

NOTICE OF DECISION

The Licensing Sub-Committee of West Berkshire Council met on **12 September 2012** and considered a request for a review of a premises licence pursuant to section 51 of the Licensing Act 2003 (reference 12/01256/LQN). The application was made by West Berkshire Council, Environmental Health in respect of premises licence number 013875, granted to **Newbury Rugby Football Club Ltd** for premises Known as Newbury Rugby Football Club, Monks Lane, Newbury, Berkshire RG14 7RW.

In coming to their decision, the Sub-Committee had regard to the four licensing objectives, which are:

1. the prevention of crime and disorder;
2. public safety;
3. the prevention of public nuisance; and
4. the protection of children from harm.

They also considered the Department of Culture, Media and Sport Guidance on the Licensing Act 2003 and West Berkshire Council's Licensing Policy.

The Sub-Committee heard representations made by:

1. The Applicant: Rosemary Green, Environmental Health Officer.
2. Supporter: Councillor Tony Forward of Greenham Parish Council
3. Licensee: Mr C Rees, Manager and Mr A Pankhurst on behalf of Newbury Rugby Football Club Ltd.

The Licensing Sub-Committee also considered the representations of the following who did not attend: Mr & Mrs McKenzie and Mr & Mrs Whiting.

Having taken those representations into account, the Licensing Sub-Committee found that the premises known as Newbury Rugby Football Club was not being operated in accordance with the licensing objective for the prevention of public nuisance as the activities at the premises were causing an ongoing public nuisance to surrounding residents. The Sub Committee therefore RESOLVED that premises licence number 013875, issued in respect of premises known as Newbury Rugby Football Club, Monks Lane, Newbury, be modified with immediate effect in the terms below:

1. The number of major events (attendance by 500 people or more) at the premises playing live or recorded music outdoors shall be limited to 4 (four) events per calendar year, with 3 (three) weeks between events so that nearby residents are not regularly exposed to elevated noise levels

REASON: Prevention of public nuisance

2. Acoustic consultants to be used by the Licensee for major events (attendance by 500 people or more) at the premises which will include the playing of live music outdoors. The Licensee shall ensure that the consultants are present during the sound check and that they carry out monitoring at nearby residential properties

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during the event to ensure that live music from the rugby club does not give rise to noise nuisance at nearby residential properties. The monitoring information from each event to be made available to the Environmental Health Service of West Berkshire Council during or after each event on request by an authorised Environmental Health Officer.

REASON: Prevention of public nuisance

3. The Licensee shall complete a mail drop to local residents within a 1 kilometre radius of the licensed premises known as Newbury Rugby Football Club Ltd to advise residents of any major events (attendance by 500 people or more) at the premises at least 1 week before the commencement of the sound check for an event or the event itself (whichever is the earliest), detailing the times of any sound check, time and duration of the event and a manned telephone contact number for use during the event.

REASON: Prevention of public nuisance

4. Notification of any major events (attendance by 500 people or more) at the premises shall be provided to the Environmental Health Service of West Berkshire Council at least 1 month before the event. Information as to date and timing of the event; details of the acoustic consultancy monitoring event; event type with details of music genre to be provided

REASON: Prevention of public nuisance

Cllr Adrian Edwards (Chairman)
Cllr Mollie Lock
Cllr Andrew Rowles
Date: 13 September 2012