

LICENSING SUB-COMMITTEE

MINUTES OF THE MEETING HELD ON TUESDAY, 20 NOVEMBER 2012

Councillors Present: Jeff Beck (Chairman), Billy Drummond and Geoff Mayes

Substitute: Andrew Rowles

Also Present: Sarah Clarke (Team Leader - Solicitor), Emilia Matheou (Technical Officer) and Suzanne McLaughlin (Senior Environmental Health Officer), Denise Anns (Policy & Communication)

PART I

- 1. Declarations of Interest**
- 2. Application No.12/01771/LKB - Fever Club Rooms, Market Place, Newbury, RG14 5AA**

The Sub-Committee considered a report (Agenda Item 2(1)) concerning Licensing Application 12/01771/LKB in respect of a Temporary Event Notice for the Fever Club Rooms, 17A Market Place, Newbury RG14 5EN.

In accordance with the Council's Constitution, Emilia Matheou (Licensing Officer, West Berkshire Council), Mr Andrew Woods (Solicitors for the Bar Fever Group - Applicant) and Suzanne McLaughlin (Senior Environmental Health Officer, West Berkshire Council) addressed the Sub-Committee on this application.

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

West Berkshire Council Licensing received notice on 05 November 2012 from the premises user Jeremy Wilkinson for a temporary event to be held at the premises Fever Club Rooms, Market Place, Newbury RG14 5EN.

The standard notice was given proposing the provision of regulated entertainment and the sale by retail of alcohol from 01 December 2012 to 02 December 2012 from 21:30pm to 04:00am for a maximum of 399 people.

Representation was received from Suzanne McLaughlin – Senior Environmental Health Officer exercising environmental health functions gave an objection notice to the Licensing authority on 07 November 2012. The nature of the representation was on the grounds of prevention of public nuisance. There was no evidence that mediation had taken place.

Mr Andrew Woods (Solicitor for the Bar Fever Group), in addressing the Sub-Committee, raised the following points:

The application to extend the operating hours from 03:00am – 04:00am for the 02December 2012 was made in the usual way. He commented that we were all here today because of one objection and that objection was around historical noise complaints and the possible likelihood of public nuisance occurring. The decision should be based on evidence and therefore the decision of the sub-committee should be that the application is approved.

Up to 12 temporary event notices can be applied for each year and this was the first application applied for this year. The Police had raised no objections. In 2010 there had been issues of noise which led to a noise complaint. The Fever Club Rooms back onto

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flats and the directors of Fever Club Rooms liaised with Environmental Health Officers. Work took place and no further record of any further noise complaints had been received by Fever Club Rooms since 2010. No notification of any noise complaints either inside the Club or outside had been received. On two occasions in 2011 Temporary Event Notices until 04:00am had been approved, no notification of any noise issues either inside or outside the Club had been notified to Fever Club Rooms, one was on New Years Eve. Other premises in the Market Place were open until 04:00am and one until 05:30am, also the premises known as Liquids had recently been granted a licence until 04:00am. It was envisaged that with a 04:00am close time it would spread the leavers. No suggestion had been received from the Police regarding any problems. Nowhere in the representation from Environmental Health did it state the dates, times and frequency of actual complaints which did not allow responsive comments to be made.

Councillor Jeff Beck asked if there were any questions at this stage, no questions were asked.

Suzanne McLaughlin (Senior Environmental Health Officer West Berkshire Council), in addressing the Sub-Committee, raised the following points:

This application was received to the Environmental Quality team on 05 November 2012 for a Temporary Event Notice to extend the provision of regulated entertainment from 20:00 to 0300 on Saturday 01 December – Sunday 02 December 2012 to 21:30 to 04:00 on Saturday 01 December 2012 – Sunday 02 December 2012 and to extend the sale of alcohol on the premises from 11:00 to 03:00 Saturday 01 December 2012 – Sunday 02 December 2012 to 21:00 to 04:00 Saturday 01 December 2012 – Sunday 02 December 2012.

The original application did not request the extension to hours of the provision of regulated entertainment. Due to my knowledge of the premises I telephoned the applicant, Mr Jeremy Wilkinson, on 06 November 2012 and he confirmed that regulated entertainment was to be included on the application and the application was amended.

The Fever Club Rooms are located in the centre of a town environment in Newbury, with a residential property bordering one side, which is a party wall with the first floor dance floor, and there are several more in close proximity within the Market Place, Arcade Mews and The Arcade.

The premises opened in March 2010 and complaints were received from April 2010 regarding noise from regulated entertainment and public nuisance. These complaints were received on 15 May 2010 at 00:50, 04 June 2010 at 23:55 and on 05 June 2010 at 23:05. These complaints were not all received from the same complainant and related to the level the noise from music such that the song could be deciphered and the DJ being audible inside their residential premises, vibration from the level of the bass from the music, and noise from people from shouting and other antisocial behaviour outside the premises in the early hours of the morning. Fever was advised in writing on 18 May 2010 that noise complaints had been received.

Environmental Health Officers carried out proactive monitoring on 11 June 2010 at two of the complainants premises. A statutory nuisance from the noise and vibration of the music was witnessed. Following this the management of Fever were advised that a statutory nuisance had occurred and a meeting was held on 21 June 2010 to discuss the issues. The complainant living closest to Fever continued to be affected by noise and further monitoring was carried out on 15 July 2010. The Environmental Health Officers witnessed the vibration from the bass, heard the DJ between songs and could decipher different songs being played. An Abatement Notice under the Environmental Protection Act 1990 was served on 19 July 2010.

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Some works to reduce the impact from the music and vibration were carried out, such as reducing the level of the bass on the noise limiter by 10% and removing one speaker which was located close to the party wall.

In the months following the service of the Abatement Notice the complainant advised that there had been a slight improvement in the noise and vibration levels but did vary on different days of the week and varied from week to week. The DJ was still audible at times and the music did continue until 03:00. Fever was advised on this on 13 September 2010. At the beginning of 2011 the complainant advised that music could be heard over the Christmas/New Year period. Fever advised that they had also incorporated an additional noise control measure of externally checking noise from three locations and recording these in a log.

Environmental Health Officers carried out further proactive monitoring on 27 January 2011 and the bass and DJ was audible.

Complaints regarding public nuisance from noise in the early hours of the morning, notably after 03:00, have also been received since April 2010. These are from residents living in close proximity to the Market Place. The complaints are of noise from people talking and shouting and other antisocial behaviour, as they move from Market Place and especially as they move towards Bartholomew Street via The Arcade alleyway. One complaint related to urinating in shop doorways whilst queuing to enter Fever.

This application did not provide any details as to how the extension in regulated entertainment and alcohol provision will be controlled to prevent public nuisance. There is, therefore, the likelihood of public nuisance if the extension is granted. There is the possibility that there will be a recurrence of a statutory nuisance from noise and vibration and residents will be unduly disturbed even later at night by the activities at this premise.

In summary Environmental Health – Environmental Quality recommend that this application for a Temporary Event Notice be refused on grounds of historical noise complaints amounting to a statutory nuisance and the likelihood of increased public nuisance due to the extension in regulated entertainment and alcohol provision at the premises.

Councillor Beck asked if there were any questions.

Councillor Billy Drummond asked Jeremy Wilkinson (DPS) if he had regular contact with residents. Mr Wilkinson responded to say that when the original contact from Environmental Health was made they had not given the names of the people affected to him. Also as there had been no specific issues since 2010 and he frequently saw neighbours to the Club around Newbury no meetings had been arranged.

Councillor Drummond asked if there were door stewards checking. Mr Wilkinson said that there were two. Councillor Drummond asked if they also were in place checking as people left the Club. Mr Wilkinson said that they did and that on occasions they had received thanks from the Police for assisting them in the Market Square.

Councillor Geoff Mayes asked if the extension of 03:00 – 04:00 hrs was into the 02 December 2012. Andrew Woods agreed that this was so.

Councillor Mayes asked if Fever Club Rooms was a separate building structurally. Mr Woods advised that it was adjoining other buildings. Councillor Mayes commented that that must make it difficult to deal with noise. Mr Woods advised that they had moved two speakers off the dance floor, taken three speakers out from the adjoining wall and not reinstated them and also installed a music suppressor. Councillor Mayes asked if any work insulating the walls had been done. Mr Woods said no.

Councillor Jeff Beck asked if the complaints reported by Environmental Health had taken place before the modifications had taken place. Mr Woods said that that was the case

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and by the end of 2010, after all the work had been completed no further complaints had been received.

Councillor Beck asked if Suzanne McLaughlin could confirm that the licence for the building previously occupied by Liquids had been granted until 04:00am. Ms McLaughlin could not, but Emilia Matheou (Licensing Officer for West Berkshire Council) confirmed that it had.

There being no further questions Councillor Beck asked if Mr Woods would like to make a closing comment.

Mr Woods commented that the evidence put forward was not enough to refuse the Temporary Event Notice application. January 2011 was the last time complaints had been received and therefore 23 months had elapsed without incidence. No evidence had been offered that incidents in the Market Place could be attributed to people from the Fever Club Rooms and the previous two Temporary Event Notices had created no complaints. Evidence specific to the premises had not been offered only what may happen.

The Sub-Committee retired at 2.30pm to make its decision.

The Sub-Committee returned at 3.30pm and Councillor Jeff Beck (Chairman) read out the Notice of Decision.

3. Representation from Environmental Health

(The meeting commenced at 2.00 pm and closed at 3.35 pm)

Name: Councillor Jeff Beck

Date of Signature

Name: Councillor Geoff Mayes

Date of Signature

Name: Councillor Billy Drummond.....

Date of Signature