

Licensing Sub-Committee Report

Review: Pinchington Hall, Crookham Common, Thatcham, RG19 8DQ (21/00786/LQN)

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| Type of Application: | Application for the review of a premises licence under the Licensing Act 2003 |
| Parish: | Thatcham: Colthrop & Crookham |
| Ward Member: | Councillor Steve Ardagh-Walter |
| Case Officer: | Emilia Matheou (Licensing Officer) |
| Portfolio Holder: | Councillor Hilary Cole |
| Service Director: | Eric Owens |

1. Purpose of the Report

- 1.1 To set out the background information pertaining to this application for the review of a premises licence under the Licensing Act 2003.

2. Recommendation

- 2.1 Members are asked to decide, on consideration of the application and representations, whether further steps are required and appropriate in relation to premises licence 20/00133/LQN, to promote the licensing objectives. If not, the existing licence and conditions would remain in place as granted.
- 2.2 If Members consider that action is appropriate, Members are asked to decide whether or not to:-
 - (a) Issue an informal written warning to the licence holder and/or to recommend improvement specific to the licensing objectives within a particular period of time (this is an informal step outside of specific statutory powers, but can be considered in accordance with Statutory Guidance);
 - (b) Modify the conditions of the licence;
 - (c) Exclude a licensable activity from the scope of the licence;
 - (d) Remove the "Designated Premises Supervisor" (DPS) from the licence where one exists;
 - (e) Suspend the licence for a period of up to three months;
 - (f) Revoke the licence

Members of the Licensing Sub-Committee are asked to make a decision at the end of the hearing after all relevant parties have been given the opportunity to speak and the hearing has been brought to a close. Members must give full reasons for their decision.

3. Background

- 3.1 Every premises that provides one or more of the licensable activities has to firstly obtain either a premises licence or a club premises certificate from the local licensing authority. That licence or certificate sets out the extent of the premises operation including the permitted times for the licensable activities and the established licence conditions.
- 3.2 Pinchington Hall has a premises licence, see Appendix 1, for the following licensable activities:

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| Exhibition of Films | Monday to Saturday: 11:00 to 23:00 Sunday: 11:00 to 22:00 Activity will take place Both Indoors and Outdoors Further Details: Age appropriate films only. |
| Performance of Live Music | Monday to Thursday: 11:00 to 23:00 Friday and Saturday: 11:00 to 00:00 Sunday: 12:00 to 22:00 Activity will take place: Indoors Monday to Saturday: 11:00 to 23:00 Sunday: 12:00 to 22:00 Activity will take place: Outdoors |
| Recorded Music | Monday to Thursday: 11:00 to 23:00 Friday and Saturday: 11:00 to 00:00 Sunday: 12:00 to 22:00 Activity will take place: Indoors Monday to Saturday: 11:00 to 23:00 Sunday: 12:00 to 22:00 Activity will take place: Outdoors |
| Late Night Refreshment | Thursday: 23:00 to 00:00 Friday and Saturday: 23:00 to 02:00 Activity will take place: Indoors |
| Supply of Alcohol | Monday to Thursday: 11:00 to 23:00 Friday and Saturday: 11:00 to 02:00 Sunday: 12:00 to 22:00 Activity will take place: Indoors Alcohol: On Premises Further Details: Residents and their bona fide guests 24 hours 7 days a week. Monday to Saturday: 11:00 to 23:00 Sunday: 12:00 to 22:00 Activity will take place: Outdoors Alcohol: On Premises |

3.3 The opening hours of the premises are listed as:

Monday to Thursday: 06:00 to 23:30

Friday and Saturday: 06:00 to 02:30

Sunday: 06:00 to 22:30

Further Details: Residents and their bona fide guests 24 hours 7 days a week.

3.4 In addition to the relevant mandatory conditions under the Licensing Act 2003 and secondary legislation a number of additional conditions were attached to the licence following the Licensing Sub-Committee meeting which took place on the 18 May 2020. These conditions are included in Appendix 1 to this report.

3.5 The conditions include:

- All bookings and events which include licensable activities will be pre-booked with at least 14 days' notice being given;
- There shall be a maximum of 120 customers permitted on the premises during licensable activities;
- The premises licence holder shall ensure the premises' digitally recorded CCTV cameras shall continually record whilst the premises are open to the public and recording shall be kept for a minimum of 31 days;
- The requirement for door supervisors to be employed shall be risk assessed, whenever any regulated entertainment is to be provided beyond 23:00. The door supervisors should be easily identifiable and a register of door supervisors should be kept;
- The premises shall at all times operate an age verification policy of Challenge 25 to prevent any customers who appear to staff members to be under the age of 25 years from purchasing alcohol without having first provided identification;
- Prior to commencing licensable activities at the premises the Applicant shall submit and agree an inside noise management plan and an outside noise management plan with West Berkshire District Council's Environmental Health department; Environmental Health's agreement to the plan must not be unreasonably withheld;
- Each noise management plan shall set out how noise from all aspects of the business - inside and outside the building - will be controlled so as not to cause undue disturbance to local residents. The outside noise management plan shall include details on the set up and management of outdoor cinema and music events and a plan in respect of communications with neighbouring residents about such events;
- The Applicant shall review and update each noise management plan as required and at least annually;
- The licensee or nominated representative shall ensure that no noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to undue disturbance to local residents or local businesses including the nearby hospital. After 23:00 all windows will be closed

and doors shall only be opened to allow people to either enter or leave the building;

- The gates to the premises located on its driveway (located off of the shared access road, the shared access road being located off Crookham Hill) shall be left open during periods when customers are due to arrive for events and when customers are dispersing at the end of events;
- After 23:00 hours staff shall be available to ensure that customers disperse quietly at the end of licensable activities;
- An active search policy shall be put in place to prevent illegal drugs and weapons being brought on to the premises;
- A closure and dispersal policy for controlling the closing of the premises and the departure of customers from the premises at the conclusion of licensed activities shall be put in place and shall be actively operated. At the end of licensable activities, staff, including door staff where applicable, shall be available to disperse customers away from the premises in line with the dispersal policy.

3.6 Once granted the licence exists for the life of the business or operation concerned. There is no regular review or renewal of these licences. However, should any particular premises operation give rise to cause for concern then a review of the premises licence or club premises certificate can be sought.

3.7 Members of the Licensing Sub-Committee are asked to determine this application as the Licensing Authority has received a valid application for the review of a premises licence under section 51 of the Licensing Act 2003 for this premises.

3.8 The application states that the review relates to the licensing objectives: the prevention of crime and disorder, the prevention of public nuisance, public safety and/or the protection of children from harm licensing.

3.9 The Licensing Authority may only consider aspects relevant to the application that have been raised in these representations.

3.10 Where an application for a review has been received and accepted by the Licensing Authority, and the concerns have not been resolved through mediation between all parties, leading to the withdrawal of the application, the Licensing Act 2003 requires that these applications should be determined by the Licensing Authority's Licensing Committee. The Licensing Act 2003 allows for applications such as this one to be delegated to a Sub-Committee.

4. Application

4.1 The Licensing Authority had received an application to review the premise licence for Pinchington Hall, Crookham Common, Thatcham, RG19 8DQ from Mr Nigel Bryant. Mr Bryant's application has been submitted on behalf of the Bryant household, residents of Wellingtonia Drive, and other local people living in close proximity to Pinchington Hall.

4.2 A copy of the application is attached as Appendix 2.

- 4.3 The licence 20/00133/LQN was granted to the licensee Mrs Linda Beechey-Smith in May 2020. As above, the original licence is attached at Appendix 1.
- 4.4 A plan showing the location of the premises is included in Appendix 1. Pinchington Hall is a large property with fairly large grounds surrounding it. Directly to the left side of the property is the new development Wellingtonia Drive, with a number of properties around the garden. The building within the premises is leased out by Phoenix Apartments. Phoenix Apartments had intended to use the premise as an entertainment venue, to hold events such as wedding receptions, parties and similar events.
- 4.5 The premises is let through AirBnB and has mostly been used for private holiday lets and private parties which do not require a licence.
- 4.6 A wedding was held at the premise on the 19 August 2021. This event was not through the premises licence; the event ran as a private event and the wedding party applied for a Temporary Event Notice which was granted by West Berkshire Council.

5. Outline of the Grounds for Review

- 5.1 The applicant has raised concerns that events are being organised at Pinchington Hall by Phoenix Apartments by either applying for a temporary licence or without any permissions at all. The residents believe that the conditions attached to the licence are not being adhered to. Local residents are not informed of any up-and-coming events.
- 5.2 The applicant believes that the Licensees have shown no concern at all for local residents. The large groups of unsupervised people renting Pinchington Hall through Airbnb is an ongoing noise and disturbance issue for local residents, but he notes that this is not covered by the licensing regime.
- 5.3 The local residents are very upset and concerned with the perceived abuse of the licensing objectives taking place at Pinchington Hall, and feel that the licence should be revoked.
- 5.4 The applicant has separated their concerns into different categories in relation to the licensing objectives. See Appendix 2 for full details.
- 5.5 *The prevention of crime and disorder*

The applicant has alleged that:

- customers of the premise have been seen smoking cannabis on the premises unchecked by Phoenix Apartments staff.
- residents found a large number of used Nitrous Oxide canisters strewn outside the gates of Pinchington Hall on the 13 July 2021.
- a very large and loud wedding was held at the premises on the 07 August 2020 which they believed to be in contravention of the Covid restrictions in place at the time. Neighbouring residents had been threatened by 'an aggressive and drunk' member of that wedding party when they had confronted them and this incident had been reported to the Police.

- attendees at a wedding on 19 August 2021 were seen to be urinating and defecating in the nearby woods by residents.
- loud swearing and abusive language has been witnessed by residents of Wellingtonia Drive in the grounds of Pinchington Hall late at night and in the early hours of the morning on dozens of occasions.
- cigarette ends have been thrown into the gardens of neighbouring properties.

5.6 *Public Safety*

The applicant has alleged that:

- Pinchington Hall has not been assessed or approved by the Royal Berkshire Fire & Rescue Service. Although the RBFRS were consulted during the original licence application they did not provide any comment as there was no fire safety information submitted by the Licensee.
- No Event Management Plan has been provided by the Licensee.
- There is no fire escape from the basement and there is no fire alarm system or sprinkler system installed at the property.
- The proposed parking layout would make it difficult for a fire engine to gain access and there is no access through the gates as the intercom system does not work. Mr Bryant has stated that the intercom goes through to an unsupervised recorded message.
- There is no fire hydrant access on the property.
- The premise is also within 2 metres of the closest property at Wellingtonia Drive.
- The Licensee has been by-passing the Licence conditions as they are organising events without a responsible child welfare officer and no details have been given on the first aid officer.

5.7 *The prevention of public nuisance*

The applicant has alleged that:

- To the best of his knowledge none of the events have been arranged by Phoenix Apartments Ltd through the proper licencing application process or with the licence conditions being adhered to.
- Noise and disturbance from shouting and loud music have been witnessed and endured by the local residents on a very regular basis. A large number of these events have been reported to Environmental Health.
- A huge build-up of refuse has been observed on the Pinchington Hall boundary with Wellingtonia Drive, and rats have been observed by neighbouring residents.
- A large and very noisy wedding took place during covid restrictions on 7 August 2020

- A stag party was held at Pinchington Hall on 30 April 2021 during lock-down with a lot of bad drunken behaviour, loud voices and music until 02h30 on 1 May 2021.
- A party was held at Pinchington Hall on 19 June 2021 during lock-down which included live music, DJ and a commercial BBQ. The music did not stop until 02h30 on 20 June.
- A wedding took place at Pinchington Hall on 19 August 2021 which reportedly 119 guests attended – a Temporary Event Notice was applied for and approved for serving alcohol. The wedding generated a lot of noise and disturbance to local residents from an external disco with strobing lights. Recorded music and amplified announcements were also witnessed by Environment Health Officers.

5.8 Protection of Children

The applicant has alleged that:

- loud music played until the early hours of the morning resulting in the loss of sleep is a serious concern for residents. They are also having to contend with loud intoxicated and unsupervised guests, smoking of illegal substances and singing rude and explicit lyrics within close earshot of families.
- On the 19 August 2021 there was a very event held at Pinchington Hall which went on until 03.00 on the 20th August. A group of people were seen looking through the fence into a neighbouring garden and a large stone was thrown from Pinchington Hall into the garden just missing a small child.

6. Notification to Premises Licence Holder

- 6.1 The applicant gave notice and a copy of the application to the licensee on 07 September 2021. The licensee has seen the information submitted in relation to the application.
- 6.2 The licensee has made representations in response. The licensee's responses are set out in full in Appendix 3. Below is a summary of their representations.
- 6.3 The licence holder has responded to say that in relation to information submitted about a customer smoking cannabis on the premise the information related to an image and that the image has been extracted from Instagram and they have no knowledge who the person is or on what date they were on the premises. They have commented, in relation to the silver canisters, that it is impossible to gauge how or why they were there. The Licensees have asserted that the build-up of rubbish was an unfortunate occurrence. They have stated that the caretaker on the property who was responsible for the removal and build-up of rubbish failed to do so, and it coincided with a family group staying at the property for a few days. The rubbish was removed as a matter of urgency and the whole area thoroughly cleaned. Commercial bins have now been installed and are emptied bi-weekly.
- 6.4 In relation to the wedding held during Covid lockdown the licensee has commented that this was a family reception prior to the couple's wedding later in the year. There were fewer than 30 people in attendance which accorded with the Covid restrictions in place in August 2020. They were under the impression that the Police were called by neighbours to consider if a breach of Covid regulations had occurred, but no

concerns were identified by the police. They also noted that this was a private hire and therefore not a licensable occasion.

- 6.5 In relation to the wedding on the 19 August 2021 the Licensee stated that this was a private hire, non-licensable occasion where the guests provided their own refreshments. The guest applied for a TENs which was granted this by West Berkshire Council.

7. Consultation

- 7.1 The 28 day consultation period inviting representations about the application ran from 18 September 2021 to 15 October 2021. Responsible Authorities, Ward Members and the Parish Council were advised by email on the 17 September 2021. The application has been advertised in accordance with the regulations, with the required notices displayed by the Licensing Authority at the premises subject to review, and at the Council Offices in Market Street, Newbury and on the Public Protection Partnership website on the 17 September 2021.
- 7.2 A copy of the representations received during the consultation period are attached at Appendices 4 and 5.
- 7.3 Environment Health (EH) had commented that a number of noise complaints had been received about the premise. These complaints escalated once the neighbouring properties were occupied most notably in the summer of 2021. Officers reported that many of the complaints received may not be relevant to this review application specifically, as they were noises from people staying at the property as a holiday let with no specific organised entertainment.
- 7.4 EH had not objected to the application for a Temporary Event Notice (TEN) for the premises for retail sale of alcohol for an event on the 19th August 2021. The application was for the sale of alcohol only and they could therefore not object on grounds of noise nuisance even though they were concerned about the likelihood of music and corresponding noise nuisance.
- 7.5 Officers did however liaise with Phoenix Apartments to remind them of the proximity to local residents and need to control noise to ensure that nuisance would not occur. EH Officers recommended that a detailed noise management plan be put in place and that noise ought to be monitored throughout the event and corrective action should be taken if it was needed.
- 7.6 On the evening of the 19 August 2021 Officers visited Wellingtonia Drive and the local area to assess for noise nuisance. They had also placed a fixed noise meter in one of the properties and the residents all had access to the Noise App, an app which enables residents to make recordings and send direct to the Council as evidence of nuisance.
- 7.7 Officers observed noise within the bedrooms of one property to be audible, with lyrics recognisable, through closed double-glazed windows. With open windows the noise was clearly audible and intrusive. They also received 20 noise app recordings on the night from three other properties and nine recordings on the noise meter. The findings corroborated the assertion that songs were clearly audible and lyrics recognisable within the neighbouring dwellings.

- 7.8 This information was fed back to the person responsible for the event on the night. Officers were of the opinion that the noise levels within the outdoor marquee were as low as could be achieved in order to provide a reasonable quality of entertainment. Officers were reassured that the music would be switched off by 23h00 which was adhered to.
- 7.9 Officers also noted the noise and light disturbance generated when the taxis arrived at the end of the event to collect guests.
- 7.10 EH Officers are concerned that the issues raised with regards to poor management of waste and risk of encouraging rodents have not been taken seriously by the Licence Holder.
- 7.11 Thatcham Town Council's Planning and Highways Committee considered the application to review the premise licence at a meeting on the 28 September 2021. The Committee agreed to support the application to review the premise licence.
- 7.12 The Committee shared the concerns of residents about noise nuisance and noted that Councillors had received representations directly about the issues raised in the application. They had attended a meeting organised by the local residents to hear about the concerns. They noted that Environment Health had attended the premises to monitor noise. The Town Council commented that the parking arrangements had not received planning permission and that the Town Council had objected to the change of use planning application associated with this premise.

8. Responses Received from Responsible Authorities:

Fire Authority – None

The Chief Officer of Police Thames Valley – None

Environmental Health – Response received. See Appendix 4 and summary in consultation section paragraphs 7.3 to 7.10

The Local Enforcement Agency for the Health and Safety at work etc. Act 1974 – None

The Weights and Measures Authority/Trading Standards – None

Children's Safeguarding Board - None

Public Health - None

Home Office Immigration - None

Planning – None. It was noted by Environment Health that while Planning is a separate regime to Licensing, the Planning Committee decided in August 2021 to refuse planning permission for the uses permitted by the premises licence due to concerns of noise nuisance.

The Licensing Authority – None

9. Options

- 9.1 The Home Office's Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018) must be taken into account when determining this Application.
- 9.2 Members are asked to consider, after taking all the representations both oral and written into account, and having due regard to the licensing objectives, whether or not it is appropriate to take any action in relation to the premises licence (and conditions attached thereto), and, if so, whether or not to revoke or amend the existing licence in accordance with the options available to them as set out at paragraph 2.2 above.
- 9.3 Members will need to provide the reasons for their decision(s) in the decision notice.

Background Papers:

- (1) The Licensing Act 2003, appropriate Regulations, Statutory Revised Guidance issued under section 182 of the Licensing Act 2003
 - (2) The Council's Statement of Licensing Policy Licensing Act 2003
 - (3) The Council's Constitution
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10. Appendices

- Appendix 1 – The current premise licence
Appendix 2 – Application to Review the Premise Licence
Appendix 3 – Comments received from the Licensee
Appendix 4 – EH Representation
Appendix 5– Thatcham Town Council Representation