

Licensing Sub-Committee

Thursday, 23rd July, 2015
2.00 - 3.15 pm

| Attendees | |
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| Councillors: | Andrew Chard (Chair), Helena McCloskey and John Payne (Reserve) |
| Officers: | Louis Krog and Vikki Fennell |

Minutes

1. ELECTION OF CHAIRMAN

Councillor Chard was duly elected as Chair.

2. APOLOGIES

Councillor Lillywhite had given his apologies and Councillor Payne was attending as his substitute.

3. DECLARATIONS OF INTEREST

None.

4. DETERMINATION OF TWO OBJECTION NOTICES IN RELATION TO A TEMPORARY EVENT NOTICE

The Licensing and Business Support Team Leader, Louis Krog, introduced the report as circulated with the agenda. A Temporary Event Notice (TEN) had been served on the authority on 13 July 2015 for a proposed outdoor event at the junction of St Pauls Road and Hanover Street. A copy of the TEN was attached at Appendix A.

The TEN was served by Miss Nicola Morrison for the following proposed events on Saturday, 15 August 2015 and for the hours of 14:00 to 22:00.

- The sale by retail of alcohol; and
- The performance of regulated entertainment.

Section 104 of the 2003 Act (as amended by section 112 of the Police Reform and Social Responsibility Act 2011) permits both the Chief Officer of Police and the council's Environmental Protection team to serve an objection notice to a TEN on the basis of an adverse effect on any of the licensing objectives.

Objection notices were submitted by Gloucestershire Constabulary and the council's Environmental Health Department responsible for noise nuisance. Copies of the objection notices were attached at Appendix B.

The committee was asked to consider the objection notices in relation to the TEN and decide whether to serve a counter notice to the TEN.

In response to a question, the licensing officer confirmed that there had been complaints after similar events in previous years at this location and the environmental health officer would be able to give details later in the meeting.

The applicant, Miss Nicola Morrison, was invited to speak in support of her application. She explained that she had been running the pub for seven and a half years and during that time had turned it round to be a safe haven for the local community and crime in the local area had dropped. She had started this event in 2010 and to her knowledge there had been no issues with any of the events to date. She had always had very good relationships with the previous Police Licensing Officer and environmental health officers at the council and had always been very willing to adopt their advice on staging, safety and sound. For example environmental health officers had recommended that earplugs should be made available and she had adopted this three years ago and now offered free earplugs. In her view the complaints this time were from people she had barred from the pub in the past. Her aim was to run this event safely for charity and she had a complement of sound engineers, fire wardens and security staff to ensure this. She was open to advice on how it could be made a safer event. She concluded that the event was important to herself and the local community and there was very strong support for it from local people.

In response to questions from members, the applicant gave the following responses:

- there were no significant differences to the arrangements for this event compared with previous years apart from being for a different charity and a general move to acoustic bands. There had previously been two to three events a year but this had been reduced to one event a year following advice from environmental health about noise disturbance.
- the lorry supporting the stage had formerly been adjacent to the alleyway so it could be easily reversed out of the way if there was any incident. However it had been moved forward at the request of the Gloucestershire roadwork team to its current proposed position. She would be happy to take advice from officers on the most suitable location and position accordingly.
- there was no planned activity in the church on the day of the event. There had been one previously and they had made an agreement with the church to blend the timescales for both events.
- she was asked what lessons she had learned from previous events, she stressed the importance of seeking expert advice and setting up good communication links with the council and Gloucestershire highways.
- she confirmed that children under 18 were asked to leave the site by 8 p.m. The only children allowed after that time were with the band members or staff and had identifiable wrist bands. She acknowledged that the risk assessment wording regarding children could be rewritten to make this point clearer.
- She confirmed that the security fencing at the front and rear of the location was on the road and the paths were always kept completely open. The main purpose of the fencing was to stop cars and there would be one door supervisor to ensure this happens.
- The expected attendance was in the order of 200 to 250 people. They had had a record attendance of 350 to 375 people in 2011. She managed the attendance with 10 members of staff including two first aiders, one fire warden, one qualified sound engineer and two qualified security supervisors from a local security firm.

- She was asked what would be the procedure if there was an incident, she advised that there had only been one occasion when an elderly gentleman fell over and banged his head and she had called an ambulance. She considered she ran the safest venue in Cheltenham.
- She acknowledged that there was a mistake in the risk assessment and the decibel level would be restricted to a maximum of 90 dba and not 70 as listed. She advised that the sound would be measured at the front of the stage.
- If there was a complaint on the day she would be diplomatic and professional when dealing with this and make apologies as necessary. She was aware that there were a small handful of people who did not support the pub or its events and there had been a previous occasion where a man had complained and assaulted some of the musicians.

The chair indicated that he would now invite the Senior Environmental Health Officer (SEHO), Gareth Jones, to set out the objections from the Environmental Protection team at the council. He asked the officer to explain why there had been a large number of events at this venue in previous years and it was only this year that officers had raised objections.

The SEHO said he had been alarmed when he had read the risk assessment as this did not adequately set out how public nuisance was being controlled. The noise level restrictions set out in 4. Existing Controls did not make sense. The information provided did not explain where public nuisance was going to be assessed and any sound monitoring needed to be located in areas that were likely to be affected. He confirmed that there had been complaints after the events in previous years. Some people had indicated that they intended to make themselves scarce for the day but this in itself was a demonstration of public nuisance. He had not personally been involved in any assessment of the event in 2014, though he was aware that there had been an intention to send officers out to measure the sound at the event but this had not taken place. In his assessment this year he had looked at the history of previous complaints and acknowledged that his assessment was subjective.

Members asked the SEHO whether the loud music was likely to cause a significant nuisance for a significant number of residents in the area and what would he consider was a reasonable sound level 4 streets away where the applicant indicated that sound levels would be measured?

In response, the SEHO said that this was difficult to assess and would always be subjective. Certainly people on the street itself would be adversely affected by sound and the fact that sound was being measured four streets away indicated some potential impact there. It would be difficult to put an exact figure on the sound level there that could cause a disturbance as generally it was measured as the difference between the background noise and the noise from the event. He added that under the legislation something could be classified as public nuisance even if it only impacted one person and the important question was did it stop that person doing their normal activity.

A member asked how other events in the town measured up, as based on this assessment events such as the Jazz Festival and Montpellier Street party would not be allowed to go ahead.

The SEHO responded that the council supported lots of events some of which would have an impact but officers were satisfied that they were properly run. The concern with this event was that there were a large number of people and a large area that could be affected and officers could not see how noise levels were going to be controlled. As well as noise, officers were concerned about public safety particularly in terms of the ingress and exits if there was an emergency incident. The licensing officer referred members to paragraph 4.12 in the report where a definition of public nuisance was given.

After clarification from the applicant, the SEHO accepted that there had been a misunderstanding about the fire exit in the plan and this did not go into a neighbouring property. The applicant confirmed that the fire exit door in the pub would be open at all times during the event as well as the front door. The SEHO confirmed that there would be scope to move the lorry as set out in the plan to a safer location which could be agreed with the applicant. At this point the applicant acknowledged that the plan supplied was out of date.

The head of the Licensing Department at the police, David McFarlane, spoke in support of the objection by Gloucestershire Constabulary as set out in Appendix B. He explained that they revisited events afresh every year and object if they were not happy. Their objections were based on the plan which did not demonstrate sufficient room for emergency services to get in out of should there be an incident.

The chair invited the applicant to speak again in support of the TEN. She repeated that she was not aware of any instances of trouble in the past and emphasised the excellent record for the event in the past. She concluded that she wanted to do it right and she wanted to run the event safely. There were general issues with emergency access in the St Paul's area arising from parked cars on the street and Gloucestershire Highways were looking at this. She had been confused by conflicting advice but she would be happy to follow any advice being offered in order for this event to go ahead.

Councillor Jon Walklett, the local ward councillor, had been in attendance at the meeting and was invited to speak by the chair in support of the applicant. He could not understand why the fire services and the police were raising objections now. He was fully supportive of the applicant and stated that she had raised several thousand pounds for local charities through similar events over the past 10 years which was a superb effort. He was not aware of any issues apart from a single neighbour who did not like living next door to a pub.

The committee withdrew at 3 p.m. and reconvened at 3:15 p.m. when the chair read out the following statement.

“The licensing sub-committee has considered the statutory guidance, has listened to the representations of the applicant of the TEN, the police representative, the senior environmental health officer and the local ward councillor.

In determining the objection notices received in relation to this notice, the committee has seriously considered the four licensing objectives in particular public safety and the prevention of public nuisance. It has decided that it will be

serving a counter notice as it does believe that the licensing objectives of public safety would be adversely affected by the TEN.

There are serious concerns in relation to the siting of the stage in relation to the fire exit and emergency access for fire vehicles and/or ambulances.

The sub-committee advises that you resubmit your notice after serious consultation with the police and environmental health and that the correct plans accompany the notice. If this is done the committee believes the event would go ahead without further objections.”

Andrew Chard
Chairman