

**Unconfirmed**



Minutes of a Meeting of the **Licensing Sub-Committee** held remotely via Zoom, on **Friday, 11 September 2020 at 3.00pm**

**Members of the Committee present:**

Councillor Janet Craig, Councillor Tony Goldson, Councillor Keith Robinson

**Officers present:** Chris Bing (Legal and Licensing Services Manager), Sarah Carter (Democratic Services Officer), Martin Clarke (Housing Projects Lawyer), Mollie Evans (Environmental Protection Technical Officer), Leonie Houlton (Licensing Officer), Matt Makin (Democratic Services Officer), Andrew Reynolds (Environmental Protection Manager)

**Others present:** Mr Adam Coulton (Applicant)

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**1 Election of a Chairman**

Consideration was given to the election of a Chairman for this Licensing Sub-Committee hearing and it was

**RESOLVED**

That Councillor Goldson be elected Chairman.

**2 Apologies for Absence**

There were no apologies for absence.

**3 Declarations of Interest**

There were no declarations of interest.

**4 Declarations of Lobbying and Responses to Lobbying**

There were no declarations of lobbying.

**5 Environmental Health Objection to a Temporary Event Notice**

**Note:** At 3.05pm, there was a short pause in proceedings to allow the Applicant to join the Zoom meeting. The meeting reconvened at 3.09pm.

The Licensing Officer advised that a Temporary Event Notice had been given by Mr Coulton (the premises user) for the premises known as Lowestoft and Yarmouth Rugby Football Club to allow alcohol sales and regulated entertainment under the Licensing Act 2003.

The reason for the hearing was that a valid objection had been made by the Environmental Protection Team, within the required statutory period. The premises user had been provided with a copy of the objection which was set out in Appendix B to the report.

The Sub-Committee was being asked to consider the objection and had the option to:

1. Allow the notice to have effect, giving the premises user and the Environmental Protection Officer notice of the decision.
2. If the notice was in connection with licensable activities at a licensed premises, the Sub-Committee might impose one or more of the existing licence conditions on the TEN and give the premises user and the Environmental Protection Officer notice of the decision.
3. Issue the premises user with a counter notice, if considered it necessary for the promotion of the prevention of public nuisance objective, and a notice stating the reasons for its decision

Depending on the decision of the Sub-Committee, the premises user and relevant persons could appeal to the local Magistrates' Court within 21 days and no later than five working days before the day of the planned event.

When announcing its decision, the Sub-Committee was asked to state its reasons.

There being no questions at this stage, the Chairman invited the Environmental Protection Manager to present his case.

The Environmental Protection Manager advised that the TEN application was for an outdoor concert which would include amplified music and voices for seven hours on two days. The site was surrounded by private dwellings and there was a significant likelihood that the residents would be severely affected. The Applicant had submitted a risk assessment for Covid19 but there had been no accompanying information recognising the risks of noise impact or how that might be mitigated.

The Environmental Protection Manager explained that the whole site was about 9 acres with residential dwellings bordering on four sides no further than 100m in distance, which was close enough for noise sensitive premises to be adversely impacted by the type of entertainment proposed with high levels of amplification. The Council's Statement of Licensing Policy contained guidance on how licensees needed to address the matter of public nuisance and the relevant Code of Practice contained guidance on how permitted noise levels from outdoor events might be calculated and what limits should be imposed. It was important to make an appropriate assessment resulting in a noise control plan containing details of checks to be undertaken before and during an event to validate noise levels and ensure those levels were not

exceeded. The objective of the guidance was to achieve a reasonable balance between the event organiser, the pleasure of the people to be entertained and the rights of local residents.

The Environmental Protection Manager reminded the Sub-Committee that the proposal was for 14 hours of loud amplified outdoor entertainment and, if permitted, it could cause unreasonable noise nuisance. In his opinion, such events were not advisable on the proposed site owing to the close proximity of noise sensitive premises. The Applicant had not taken into account the advice in the Council's Statement of Licensing Policy, Environmental Protection had not been approached for advice and the application had made no reference to noise control. He believed the site was not suitable for the type of entertainment proposed and there would be unreasonable levels of disturbance to neighbouring residential properties. The application should be refused.

The Chairman invited questions.

Members noted that the Rugby Club had been using the site for a number of years and sought clarification as to whether such an event had previously been held on the site. The Environmental Protection Manager advised that there had been an Annual Dinner Dance and a TV Superbowl Event both held in a marquee, resulting in a few complaints. As far as he was aware, there had been no outside events such as the one now being proposed.

The Chairman invited the applicant to address the Sub-Committee.

Mr Coulton noted the Environmental Protection Manager's opinion to which he heavily disagreed. These such events were never run at 100dB. The Nearly Festival at Nicholas Everitt Park had gone ahead even with the Environmental Protection Manager's disagreement. Readings had been taken all day long, there had been no issues, proving they had a good track record to deliver a satisfactory event. Normal decibel readings at such an event would be 60-65dB and the one proposed would be at the same level and managed in the same way. The proposed brand event was a brunch, not a rave or nightclub, and this would be the fifth time of running a similar event; no objections had been received from elsewhere. Guests would be provided with a marked area of 4x3m to comply with Covid and site staff would manage the sound.

Mr Coulton confirmed they would provide a Noise Management Plan if necessary but it should be noted that it was not a live heavy metal concert that was being proposed. It was a safe event where people could enjoy the music, bring along a deckchair and have a hog roast. If the Council was to decide the proposal was not acceptable, he would not fight the application but withdraw.

The Chairman sought clarification on the 60dB proposal and if that fell within the permitted limits.

The Environmental Protection Manager advised that the event at Nicholas Everitt Park was meant to have been limited to 60dB but that had been greatly exceeded, with the ESC Environmental Health Officers having measured 75dB. The Code of Practice guidance on events of this nature suggested 100dB could be reached. If a Noise

Management Plan had been submitted at the time the application was made, it could have been scrutinised in advance.

The Chairman invited questions.

Members raised issues with regard to:

- heavy repetitive beat music.
- people dancing.
- this event being in a residential area compared to Nicholas Everitt Park.
- live performance of a saxophone being played.
- events being planned for the Sunday.
- the repetitive beat from a DJ could be considered by some people to be annoying.
- allocations of proceeds from the event.

Mr Coulton confirmed that every customer would be given a marked area for their personal bubble/space. They could dance but only in that personal space. Events such as these had been held successfully, one of which was at the Norfolk Showground, and this was the first objection to have been received. Background music would be for the first half of the day with percussion later and finishing at 7pm. The proposed live performances would be allocated one hour each. On the Sunday, it would be a different sound as all artists would be singing to a backing track, similar to karaoke. There would be no difference in controlling the sound or managing dB levels on both days. All proceeds from the event would be split; his business would take the ticket sales and then pay rental to the Rugby Club. Bar sales would be split between his company and the Rugby Club, and local food vendors would split their takings with the Rugby Club. An event had been run on Hoveton playing fields which could have been considered to be noise sensitive but that had gone ahead with no complaints.

The Legal Adviser sought clarification as to the number of ticket sales and if there was considered to be sufficient access via the one private road and also if there would be adequate parking. He sought a response to the comment that 75dB had been recorded at Nicholas Everitt Park.

Mr Coulton advised ticket sales for Nearly Festivals would be around 250 but no more than 400 and each 4x3m space would be sufficient for two people or a family of four. They had no concerns with regard to the number of vehicles as most people did not usually drive but were dropped off by taxi. Parking was unlikely to be a concern as there had been only 25 vehicles at their last event. Mr Coulton was not aware of the alleged sound issues at Nicholas Everitt Park. They had previously been booked to deliver this event but Covid had seen its earlier withdrawal. People locally were advised that the event was happening via letters to residents and on posters on noticeboards. If there was an issue on site, an event telephone number was available for people to contact them.

The Environmental Protection Manager referred to an event at the Bury St Edmunds Rugby Club and compared its location on Google maps to this site. At Bury St Edmunds, the site was adjacent to the A1302 and on the edge of a residential area some 750 yards distant. He also commented on the discussion with his colleague regarding the issues with the Nearly Festival at Nicholas Everitt Park.

Mr Coulton advised that he had not dealt with the festival at Oulton Broad and was not aware of complaints; that festival had been successfully delivered and he was not aware of issues raised with regard to the volume of music.

The Chairman invited those present to sum up if they so wished.

The Environmental Protection Manager advised that nothing that had been said had dispelled their concerns. It would have been beneficial if a noise plan had been provided at the time of the application so it could have been discussed in advance with the applicant. The Code of Practice made it clear that prior assessments of noise impacts were necessary to establish the viability of an event before any further planning went ahead. In his opinion, the Rugby Club site was not a viable site for this sort of event and not in any way comparable to the site used in Bury St Edmunds. His objection still stood.

As a result, Mr Coulton stated that he would withdraw the application.

In seeking clarification on a withdrawal, the Legal Adviser confirmed to the Chairman that an applicant could withdraw at any time and if Mr Coulton did not want the Sub-Committee to determine the application that day, he could withdraw the TEN.

Mr Coulton advised that it would be a fantastic event for local people which could be delivered perfectly. One thousand tickets had been sold and that would all have to be refunded immediately. Mr Coulton confirmed the application was withdrawn and he thanked Members for their time.

The Chairman accepted the withdrawal of the TEN application and closed the meeting.

The meeting concluded at 3.51pm.

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Chairman