

Record of a Hearing of the Bradford Licensing Panel held on Monday 13 September 2010 and Thursday 30 September 2010 in City Hall, Bradford

Procedural Items

DISCLOSURES OF INTEREST

No disclosures of interest in matters under consideration were received.

INSPECTION OF REPORTS AND BACKGROUND PAPERS

There were no appeals submitted by the public to review decisions to restrict documents.

Hearing

- 1. Application for Variation of a premises licence for Spice Entertainment, 55 Leeds Road, Bradford (Document "B")**



13 September and 30 September 2010

RECORD OF A HEARING FOR VARIATION OF A PREMISES LICENCE FOR SPICE ENTERTAINMENT, 55 LEEDS ROAD, BRADFORD

Commenced: 1035 (13 Sept)
Adjourned: 1035 (13 Sept)
Reconvened: 1300 (30 Sept)
Adjourned: 1430
Reconvened: 1435
Adjourned: 1440
Reconvened: 1500
Concluded: 1505

Note:

In view of the unforeseen absence of a legal advisor for the Licensing Authority, it was resolved that the hearing on 13 September be adjourned to ensure fair and full consideration of the application and representations made. The Hearing was reconvened on 30 September 2010 and the record set out below is of the proceedings on that date.

Present:

Members of the Panel:

Bradford Licensing Panel: Councillors Ruding (Chair), Amin and L'Amie

Parties to the Hearing:

Representing the Applicant:

Mr Hill – Barrister
Mr Bashir – Solicitor
Mr Parmar – Applicant
Ms Parmar - Witness
Mr Shoukat Ali - Witness
Mr Redmile - Witness

Representing Interested Parties:

Mr Marsh – Aldersgate Estates

Representing Responsible Authorities:

Mr Atkins – Environmental Health

Observer:

Councillor Azam

Representations:

The Licensing Officer in attendance summarised the background to the application and valid representations received as set out in Document "B".

The applicant spoke in support of his application, reprising the information set out in the statement that he had previously provided.

The applicant's barrister spoke in support of the application, referring the Panel's attention to the letters of support for Spice Entertainment and a schedule of three similar businesses in the area. He also asked the architect who had tested the noise levels in the area and provided a written report to go through that report for the Panel.

In response to a question from the legal advisor for the Licensing Authority, it was confirmed that the Council's Environmental Protection Officer had not been invited to inspect the noise insulation works carried out to date.

The architect explained in detail the way in which noise in the vicinity of Eastbrook Hall had been measured and advised the Panel on the difficulty of getting a reading which showed noise emanating from music played at Spice Entertainment without also recording noise from traffic.

In response to a question, he advised that the test had been undertaken during the day rather than the evening in order to get it done in time for the hearing. He also advised that he had been unable to test in the alley between the two properties as it was gated and locked.

Members of the Panel questioned him as to the level of ambient noise that would be usual in such an environment and whether variations in dB readings would mean a noticeable difference to people in the area.

In response to questions from Panel members, it was stated that:

- Frequency levels of type of noise were more troublesome to people than dB levels.
- If testing had been undertaken at night it would not have made much difference.
- The venue currently had a licence for entertainment until 2300 but not for the sale of alcohol until the same time due to an error at the time of the original application.
- The premises did not currently open on a Sunday but could do so including the playing of music until 2300.

The Panel's legal advisor advised that the objection received must be assessed and weighed against the licensing objectives, regardless of the alleged employment of the objector as a caretaker in the nearby residential apartments.

The Environmental Health Officer then spoke in respect of the application, stating that he had no objection in principle to the sale of alcohol but that he had concerns in respect of noise nuisance to the residents of Eastbrook Hall and had received a complaint from a resident in June. He also expressed some concern about the technical report provided, considering that the noise levels recorded would represent a nuisance. He indicated that, if the Panel was minded to grant the application, a condition specifying that noise should not be audible from the nearest noise sensitive property would be appropriate. He also stated that the potential noise reduction suggested in the submitted report on the proposed schedule of works provided on behalf of the applicant would be very impressive if it could be achieved.

In response to questions he stated that there was no maximum permitted noise level, every case was judged on its own circumstances. He also advised that his concerns centred around the noise from extractors in the alleyway between the two premises as the narrow alley would cause noise to reverberate.

In response to a question from the applicant he stated that he had not yet undertaken readings as he had only had one complaint. Investigations were usually begun after a number of complaints had been received.

The interested party then spoke in respect of his objection, stating that the alleyway in question was private property with no public access but that works had taken place without permission. He stressed that Little Germany was a prime residential area which would be adversely affected by the application. He did not consider it reasonable for residents of Eastbrook Hall to have to keep their windows closed to minimise noise disturbance. He also advised that the venue had only been open since June and there had already been a complaint. In his view, the planning restrictions in respect of opening hours had been put in place to protect residents' amenity.

He advised that Eastbrook Hall was occupied by mature students and their families and that, therefore, the apartments had been largely unoccupied during the summer months. He considered this was the reason that there had not been more complaints.

He also considered that there was a potential for nuisance from patrons of the venue parking on streets and being dropped / picked up by taxis.

In response to questions, he advised that

- There was one other business in the vicinity which opened on a Sunday but he considered that to be over-saturation for local residents.
- One of the units within Eastbrook Hall was currently advertised for restaurant use.

Following the representations and questioning, the applicant's legal advisor requested a short adjournment in order to take his client's detailed instructions on a condition for the Panel to consider in respect of noise limitation works that the applicant was willing to undertake in order to alleviate the concerns of the Environmental Health Officer and the Interested Party. That request was acceded to.

Following the adjournment, all parties made their closing summaries.

The Environmental Health Officer reiterated that he had no objection to the sale of alcohol and noted that the condition offered by the applicant would allay much of his concern in respect of noise nuisance.

The interested party maintained his objection in respect of noise nuisance and increased activity around the venue.

The applicant's legal advisor stressed that the venue offered a different type of entertainment and increased the diversity of premises in the area, to the benefit of Bradford.

The Panel then adjourned to deliberate.

Decision:

That, having considered all valid representations made by the parties to the hearing; valid written representations received during the statutory period, the published statement of licensing policy and relevant statutory guidance; the Panel grants the application for variation subject to the following condition:

That the applicant will undertake to carry out, to the written satisfaction of the Council's Environmental Protection Department after inspection on site, the works specified as item 1B on the quotation ref BS37280 dated (incorrectly) 10 June 2010 of IAC and tabled at the meeting in respect of four of the five vents. Such works to be effected within eight weeks of the date of this Panel.

Reason: To prevent noise and disturbance to residents in the vicinity of the premises – prevention of public nuisance objective.

Chair

Note: This record is subject to approval as a correct record at the next meeting of the Licensing Committee.