

Record of a Hearing of the Bradford District Licensing Panel held on Tuesday, 6 November 2018 in Committee Room 4 - 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

Hearings

- 1. Application for a Review of a premises licence for Mill Hey Brew House, 2 Mill Hey, Haworth (Document "I")**

MILL HEY BREW HOUSE, 2 MILL HEY, HAWORTH

RECORD OF A HEARING FOR A REVIEW OF A PREMISES LICENCE FOR MILL HEY BREW HOUSE, 2 MILL HEY, HAWORTH (DOCUMENT "I")

Commenced: 1320
Adjourned: 1510
Reconvened: 1530
Concluded: 1535

Members of the Panel:

Bradford District Licensing Panel: Councillors Slater (Chair), Godwin and Hawkesworth

Parties to the Hearing:

Representing the Responsible Authorities Applicant for Review:

Ms J Howarth, Environmental Health Unit, Bradford Council

Representing Responsible Authorities

Mrs M McFadden, Licensing Enforcement Officer, Bradford Council

Representing Interested Parties

Mr West, representing Miss Addie, local resident
Miss Addie, local resident

Representing the Licensee:

Mr Jannetta, representing the Licensee
Mrs Blackwell, in support of the Licensee

Observers:

Councillor Poulsen
Councillor Herd
Mr Brooke, Licensing Enforcement Officer

Representations:

The licensing officer in attendance summarised the background to the application and valid representations received as set out in the report. It was explained that a request for a review had been received from the Council's Environmental Health Unit in light of regular noise complaints that had been received from local residents since 2017. Letters had been sent to the premises licence holder and monitoring had been undertaken in 2017, which had resulted in a statutory nuisance being witnessed and an Abatement Notice being served. The premises licence holder had failed to address the noise issues and contraventions of the Abatement Notice had been witnessed. Recordings of the noise would be used to support the application. The licensing officer reported that it had been

requested that the Panel considered dis-applying the live music exemption under the Live Music Act 2012 and the imposition of additional conditions. A representation had been submitted by the Council's licensing enforcement officer, who had also received noise complaints and alleged breaches of the licence. Advice letters had been sent to the premises licence holder and the officer was in support of the proposed action. Finally it was noted that a local resident had raised concerns due to the noise from the premises and 31 letters of support had been submitted.

The Council's Environmental Health Unit representative confirmed that they had requested the Review and explained that there were both residential and commercial properties in the area. The premises had been closed following floods and reopened in 2016 after being refurbished. In October 2012 the Live Music Act came into force and since April 2017 regular complaints had been submitted in relation to noise, mainly music and disturbances outside the premises. On 19 April 2017 a warning letter was sent to the Licensee, however, further complaints were reported in May and July which resulted in the premises being served an Abatement Notice on 24 July 2017. The Environmental Health Unit representative confirmed that the Notice had been hand delivered and a response had been received from the Licensee stating that the issues raised would be resolved. Members noted that a live music festival had taken place in the car park of the premises on 25 August 2017 and the Licensee had been informed of the consequences of the Abatement Notice on 29 August 2017. A further event on 16 September 2017 had received a complaint due to the noise emanating from open doors and windows at the premises.

It was acknowledged that the noise disturbance did not occur every weekend and no complaints had been received during the winter months. The Environmental Health Unit representative reported that the complaints had recommenced in 2018 on Good Friday and a letter from the Licensing Enforcement officer had been sent to the Licensee. In response to a number of warning letters, the Licensee had stated that the complaints were from one person and other residents did not have any concerns. He confirmed that noise readings had been taken and the Abatement Notice was not being ignored. Members were informed that the readings taken were meaningless and following a visit to the complainant's property in May 2018, when the noise disturbance was witnessed, a letter had been sent to the Licensee on 30 May 2018 in relation to the contravention and the legal proceedings to be undertaken. The Licensee reiterated that he would comply with the Notice, however, further complaints were submitted and a meeting that had been agreed to discuss the issues was cancelled by the Licensee. Responses to prosecution questions had not been provided either.

The Licensing Team had been informed that a charity event would take place at the premises on 25 August 2018 and the Licensee had been served with an Abatement Notice which required the prevention of nuisance. A representative of the Council's Environmental Health Unit had inspected the area during the charity event and noted that the music could be clearly heard some distance from the premises. Doors and windows were open at the premises and a live band was performing outside. Members were informed that the Licensee had shown a complete disregard for the Abatement Notice and the majority of premises would not have allowed live music in their car park if they had been served such a notice. The Council's Environmental Health Unit representative then requested that the live music exemption be dis-applied and a number of additional conditions in respect of noise prevention be imposed on the licence.

In response to questions, Members' were informed that approximately eight forms of

correspondence had been sent to the Licensee from the reopening to present and three festivals had taken place.

The supporter of the Licensee then posed questions to the Council's Environmental Health Unit representative who clarified that two complaints had been received from residents and the Abatement Notice did not prevent music from being played, however, the Notice and Licensing Laws had to be adhered to. It could not be definitely stated that all noise nuisance was attributed to the premises, but complaints had been received and officers had witnessed the disturbances. The Council's Environmental Health Unit representative confirmed that conditions in respect of live music would become applicable if the live music exemption was dis-applied.

The Council's licensing enforcement officer addressed the Panel explaining that the premises licence holder had applied to be the Designated Premises Supervisor (DPS) in September 2016 and was responsible for the management of the premises. It was noted that on 18 November 2016 a complaint had been received regarding loud music emanating from the premises at 12.45am. The DPS had been contacted on 22 November 2016 and had assured that the incident would be dealt with. An advice letter had been sent and an email from the DPS had been received on 24 November 2016 stating that all the concerns previously raised had been covered. A further complaint had been received on 11 July 2017 and the DPS had been contacted on 28 July 2017. The Council's licensing enforcement officer reported that on 3 April 2018 the Council's Environmental Health Unit had confirmed that another complaint had been submitted and following investigations, the DPS had explained that it related to a group of tourists that had been drinking in the premises. More noise nuisance reports were raised from events held in May and August at the premises. It was noted that the Live Music Act 2012 was implemented on 1 October 2018 and provided that any licence conditions relating to regulated entertainment could not be enforced between 08.00 and 23.00 hours. Given the numerous noise complaints received since November 2016, the Council's licensing enforcement officer supported the proposed additional conditions and the dis-application of the Live Music Act 2012.

In response to queries from the Panel, the Council's licensing enforcement officer confirmed that they were working in conjunction with the Environmental Health Unit. It was explained that the noise from the premises could be reduced and the events that had taken place in the car park had been operated by the public house under the premises licence.

Interested parties were present at the meeting and informed the Panel that they had resided in the vicinity for 17 years. They had experienced issues with various landlords and had reported their concerns, the main contention being that the premises did not comply with their licensing conditions. On contacting the public house they had met with resistance and believed that there was no intention to adhere to the rules. It was confirmed that noise nuisance had not occurred whilst the public house had been closed and the new bar located on Mill Hey, which had held acoustic events, had not caused any problems. It was noted that the Council had been informed of events witnessed at the premises and officers had since witnessed noise disturbances. There appeared to be no drive to contain the noise from the premises and it was believed that their business model was based upon causing harm to the residents of Mill Hey.

The interested parties then responded to questions posed and stated that in relation to the 1940s day, the events that had taken place elsewhere in the village that day were irrelevant as they had only complained in relation to what had affected them. The acoustic guitar session held in the car park had been amplified and the events held at the public

house were significantly louder than others. The key issue was about how the business was operating. The Council's Environmental Health Unit representative clarified that due to the geography of the area, those living further up the hill would be affected more by the noise from events in the park rather than the public house.

In relation to some of the comments made, the Licensee's representative stated that a private party had been held at the premises during mid summer and, although acknowledging the responsibility to restrict noise emanating from the property, he indicated that people had been struggling to breathe, therefore, the windows had been opened. To his knowledge music had not been played at the function. With regard to the complaint of music being played at 2am on a Thursday, Members were informed that the premises closed at midnight and other licensed properties in the vicinity were open until later. The Licensee's representative confirmed that he organised the music events held at the public house and raised money for charities. He stated that he was a piano teacher, by profession and he liked to use the events as an opportunity for musicians.

A supporter of the Licensee was present and reported that she lived higher up the road from the premises. It was noted that occasionally music was played, however, it was not a nuisance and would cease at 10pm. Events held at the premises were not loud and other noise disturbance in Haworth should be taken into account. The supporter of the Licensee stated that social occasions brought trade and tourists into Haworth. Local residents living in close proximity to the property had not raised any issues and more complaints would have been submitted if the business created problems. Members were questioned whether the application would set a precedent for other premises in the village and, if so, the result could have a detrimental impact on Haworth. The supporter of the Licensee stated that noise nuisance from taxis should not be taken into consideration and that all the events should be considered as a collective.

In relation to the private party that had been held at the premises, the licensing officer indicated that messages sent by the complainant at 01.33 hours stated that music was being played and this was a breach of the premises licence.

In response to questions, the Licensee's representative and supporter confirmed that:

- The windows had been kept open due to the exceptional weather, however, the Licensee would be consulted in relation to the installation of air conditioning.
- The music outside had been amplified due to the size of the car park.
- Events would not take place if the live music exemption was dis-applied.
- He had not been aware that his actions would bring the charities involved into disrepute.
- He had not received the Abatement Notice.
- He could not comment on why events had been held outside when the premises had been served an Abatement Notice.
- There was no evidence that other events elsewhere had been in breach of guidelines.
- Noise from other premises and events could be heard in the vicinity.
- The charities involved had supplied their own paraphernalia.
- He had not been made aware of the Abatement Notice until after the event had taken place.
- He had not been informed that an Abatement Notice would be served on the premises.
- He had not known what an Abatement Notice was when informed by the Licensing

Enforcement officer.

The Licensee's representative apologised for the review having to take place and stated that he would like the licence to remain. The premises provided opportunities for children and raised money for charities. Events brought money into the village and local economy and it would be a travesty if they could not continue. The supporter of the licensee added that the impact upon the business and trade should be taken into consideration if the proposed restrictions were enforced.

The interested parties informed the Panel that they had requested that the premises adhered to the conditions on its licence. They were in support of charities and music events, however, such occasions should not harm local residents. The proposed restrictions were sensible and would enforce the conditions. The Licensing Enforcement officer stated that the Licensee had acted above the law and blatantly disregarded the premises licence, however, there was no reason why the proposed restrictions would prohibit events from taking place.

In conclusion the Council's Environmental Health Unit representative clarified that a revocation of the licence had not been requested and the Review application would not have been submitted had it not been necessary. Members were informed that the majority of licensed premises complied with an Abatement Notice and the noise needed to be controlled. The hot weather conditions were acknowledged, however, windows and doors should not be opened and the business was not being managed properly.

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 finds as follows:

That the live music exemption under the Live Music Act 2012 be dis-applied and the licence be subject to the following additional conditions:

- 1. That noise prevention measures, including the use of a noise limiting device, levels to be agreed with the Council's Environmental Health Department, shall be installed at the premises.**
- 2. That noise from amplified and non-amplified music, singing and speech arising from regulated entertainment at the premises shall not be audible at the nearest noise sensitive premises.**
- 3. That the hours of licensable activity for regulated entertainment shall be restricted on Monday to Sunday to 09.00 to 23.00 hours except statutory public holidays, which shall have an additional hour to those stated above.**
- 4. That, except for the purpose of access and egress, all external doors and windows be kept closed during periods of regulated entertainment.**
- 5. That the external areas be cleared of customers by 22.00 hours with appropriate signage displayed.**

Reason - it is considered that the above conditions are necessary to minimise noise disturbance to nearby residents – 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.