

Record of a Hearing of the Bradford District Licensing Panel held on Tuesday, 29 January 2019 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 Temporary Event Notice for Mill Hey Brew House, Mill Hey, Haworth (Document "R")**

MILL HEY BREW HOUSE, 2 MILL HEY, HAWORTH

RECORD OF A HEARING FOR A TEMPORARY EVENT NOTICE FOR MILL HEY BREW HOUSE, MILL HEY, HAWORTH (DOCUMENT "R")

Commenced: 1355

Adjourned: 1455

Reconvened: 1515

Concluded: 1520

Present:

Members of the Panel:

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

Parties to the Hearing:

Representing the Licensee:

Mr Tomlinson, Applicant

Mr Jannetta, Events Manager - Witness

Mr Mitchum, Noise Mitigation Consultant - Witness

Responsible Authority

Mr Winchcombe, Environmental Health Unit, Bradford Council

Representations:

The licensing officer in attendance summarised the background to the application and valid representations received as set out in the report. Members were informed that the Council's Environmental Health Unit had submitted an objection to the event on the grounds of prevention of public nuisance, as regular complaints of noise had been received from local residents since the premises had opened as the Mill Hey Brew House. The Licensee had been served with an Abatement Notice and a review application was had been considered on 11 September 2018, which had resulted in the dis-application of the Live Music Act 2012. It was strongly suspected that should the event take place further complaints would be received and the Environmental Health Unit would have to initiate prosecution proceedings. The licensing officer reported that it was unclear whether the regulated entertainment and sale of alcohol would be provided inside or outside the premises.

The applicant addressed the Panel stating that the event would be held on 25 and 26 May 2019 and had successfully raised money for charity the previous year. He confirmed that alcohol would only be served inside the premises and the licensing objectives had been complied with since the review. The applicant's Noise Mitigation Consultant reported that he had 25 years experience of working with venues in relation to noise mitigation and would ensure that the event went ahead without causing a nuisance.

In response to questions from the Panel, the applicant and his witnesses reported that:

- The Noise Mitigation Consultant had been trained to effectively use the equipment to ISO standards, which would keep the event within noise limits.
- The levels would be mutually agreed. Music events were covered by legislation and a sensible limit could be agreed.
- The music would be measured over a 15 minute time frame and must remain within the set threshold. The noise would be constantly monitored and logs would be available.
- A typical level for a small event would be 89-92 decibels.
- If the noise levels could be agreed the event would be held outside, but if not it would take place inside the premises and sound limiters had now been fitted.
- The entertainment would work to a schedule and cease at 10pm. Previous events had not exceeded the timescales and last year it had finished at 10pm.
- The entertainment would probably consist of two live bands and between six to eight acts per day, however, this had not been agreed as yet.
- If agreed, the live music would take place outside and inside if not, however, it would be weather permitting.
- A copy of the Abatement Notice had been seen and it did not refer to decibels.
- The Noise Mitigation Consultant had recently been engaged and had worked on similar size events.
- An appeal against the Abatement Notice had not been made.
- Complaints against functions inside the premises had led to the Abatement Notice being served.
- It was believed that the noise complaints were vexatious and none had been received recently. Changes had also been made to the premises since the review.

The Council's Environmental Health Unit representative stated that they did not want the event to take place as they believed that it would cause issues. He confirmed that an Abatement Notice had been served that clearly stated the premises had to 'abate nuisance', however, the Licensee had failed to acknowledge this and three contraventions had occurred. The Environmental Health Unit operated a noise witness service and officers had observed noise in a resident's property. It was appreciated that a sound advisor had been engaged, however, they had no confidence in the event being run without noise issues. Members were informed that if the Temporary Event Notice was granted it could result in a breach and another contravention notice being served. Noise was a statutory nuisance and had to be at a reasonable level. It was acknowledged that Abatement Notices were not served without due consideration and the Environmental Health Unit always tried to engage with the business or person involved. The Council's Environmental Health Unit representative explained that the serving of an Abatement Notice and three subsequent contraventions was a serious matter. He respected the experience of the sound advisor, however, like for like could not be compared. The Environmental Protection Act 1990 did not specify decibels in relation to statutory nuisance and the Environmental Health Unit were not confident that the event would take place without causing problems.

The Council's Environmental Health Unit representative then replied to Members' queries stating that:

- The premises could technically continue to operate following being served an Abatement Notice.
- The Environmental Health Unit did not want a further review of the premises to be undertaken.
- He believed that complaints were still being received but could not confirm this point or how many had been submitted.
- It was believed that issues would be caused based on the track record of the premises and that the Abatement Notice was extant. Three contraventions had been served on the premises and a prosecution case was being considered. If the event went ahead contraventions of the Abatement Notice would probably occur.
- Guidance was available for outside events that referred to decibel levels.
- Under the Environmental Protection Act 1990 a statutory nuisance could be served an Abatement Notice. Decibel levels were not part of the legislation and it was based on the subjective view of an officer.
- The premises wanted to hold live music events and an Abatement Notice had been served due to the noise from music events, therefore, he believed that complaints would be highly probable.
- It was accepted that some complaints could be without merit.
- It was a sensitive matter and he believed that the Environmental Health Unit would be contacted.
- If the music was not amplified or at a low level, he did not think many complaints would be submitted, however, they would be if amplifiers were used.

In summation the Council's Environmental Health Unit representative reiterated that the premises had been served an Abatement Notice that had been contravened three times and that they had no confidence that the event would comply with the Notice. He believed that complaints would be received and prosecution action could be taken.

In conclusion the applicant stated that lessons had been learnt and mitigation measures had been put in place. He indicated that he did not believe there had been any further complaints made and there had only been one complainant previously. Many noisy events took place in Haworth and he requested that the application be granted. The applicant's Noise Mitigation Consultant stated that outside music could be curtailed by barriers. He noted that there was no factual evidence of the submitted complaints and believed that prosecution action would have been undertaken previously if there was proof. He reported that the applicant had taken steps to mitigate the noise and there were many other businesses in the vicinity that did not have noise limiters.

Decision –

That on balance there is insufficient evidence to prevent the event taking place and the Environmental Health objection is therefore not upheld.

The Panel are satisfied that the event could go ahead subject to the following condition being imposed on the Temporary Event Notice:

- (i) 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.**

Chair

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