
DACORUM BOROUGH COUNCIL

LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE

27 JULY 2020

Present –

MEMBERS:

Councillors Bhinder (Chairman), Rogers and Peter

OFFICERS:

Nathan March	Licensing Team Leader
Usman Mohammed	Barrister
Katie Mogan	Corporate and Democratic Support Lead Officer
Charlie Webber	Corporate and Democratic Support Officer (Minutes)

OTHER PERSONS PRESENT:

Vincent Lampey	Applicant – Hertfordshire Constabulary
Roger Taylor	Representative of the licensee

The meeting began at 2pm.

1. MINUTES

To be agreed at the next meeting.

2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

3. DECLARATIONS OF INTERESTS

There were no declarations of interests.

4. PREMISES LICENCE APPLICATIONS UNDER THE LICENSING ACT 2003

Adjourned.

5. PREMISES LICENCE REVIEW APPLICATION UNDER THE LICENSING ACT 2003

The Sub-Committee were required to consider an application for a review of premises licence for the following premises:

Boxmoor Lodge
London Road
Hemel Hempstead

The Chairman asked N March to introduce the report.

N March confirmed that the requirements of the application had been met.

N March stated that the promotion of the four licensing objectives is the key consideration when determining an application, together with any issues specifically relevant to that application, there being evidence to support any decision. N March reminded everyone of the Licensing objectives:

- Prevention of Public Nuisance,
- Protection of Children from Harm,
- Prevention of Crime and Disorder,
- Public Safety

N March stated that this application is for a review of the licence requested by Hertfordshire Constabulary in regards to two of the objectives:

- 1) The prevention of crime and disorder;
- 2) The prevention of public nuisance.

N March said that the information that the police have provided as part of the application to review the premises is included in the report from page 74 and describes attempted engagement between the police, other responsible authorities, and the licensee in regards to complaints and incidents at the premises.

A key issue is the use of the marquee that forms part of the premises. A condition allows this a maximum of 8 times a year.

There is also a condition that states:

‘The management will endeavour to hold events involving live and recorded music inside the main building.’

The police have requested that this be amended to remove the word ‘endeavour’ as this is not considered a clear condition.

As it is live and recorded music taking place in the marquee, the Live Music Act means that the condition does not have effect unless over 500 people are present, or the event takes place after 11:00pm, unless on review of the licence, it is altered to include a statement that this does not apply, therefore reversing the effect of the deregulation.

At the moment the events would only count towards the 8 referred to in the condition if these extend past 11pm (so for the last half hour permitted by the condition).

N March drew the Committee’s attention to a correction relating to the map on page 105 and stated that 1 of the 3 representations (rep 13) shown in support of the review is in support of the business.

N March continued that 11 representations were in support of the licensee, 2 representations were in support of the police review (shown on the map). He said that 5 of these live near to the premises and their location is indicated on the map, the other supportive representations are further away from the premises and this is shown on the map on page 106.

N March noted relevant considerations from representations supporting the Police:

- Concerns around noise nuisance
- Nuisance caused by drunken chanting of customers

He also noted issues that are contained in representations and not relevant:

- Car parking (which would be a planning consideration)
- Planning decisions around the use of the Marquee
- Business related issues

Finally, N March noted relevant considerations of representations supporting the licensee

- Crime and nuisance has not been witnessed when they have attended the premises
- Positive efforts taken by the licensee to avoid nuisance

The Chairman asked N March about regulated activities.

N March stated that these were after 11pm.

The Chairman asked N March about alcohol throughout the period.

N March stated that this was included within the licence and that considerations were more about noise and the idea of modifying conditions and making music regulated within the times.

N March reminded the Committee of the options available to them including revoking the licence and including conditions on the licence. U Mohammed reminded the Chairman and the committee that there was also the option to take no action.

The Chairman invited the Applicant to make representations to the committee:

The Applicant, Vincent Lampey, stated that he was the Licensing Officer and was responsible for the licensing of premises. He said that a local resident had gone into the hotel, that glass had been broken and that the resident had been arrested. He continued that police colleagues had highlighted to the Licensing Department the way in which the premises was being managed. He stated that they wished to assure complainants that the premises was running within its licence. Vincent Lampey referred to two clauses in Annex 3 – 1 being breached and the other allowing a breach. He said that there were 8 events on the licence and that in 2019 40 events had taken place, none of which were covered by TENs. He referred to the term 'endeavour' in reference to music and live events being held inside. He added that marquee events should be restricted to 8 events a year and that there had been a verbal agreement to negotiate a reasonable amount of events and to remove the 'endeavour' clause. Vincent Lampey wished to ask whether management of the premises fully understood their responsibilities under the Licensing Act. He asked for a clear and transparent licence, making it easier for police to make representations. He said that there was not a huge problem regarding the nature of crime and disorder but that management of the premises should seek to know what their responsibilities are.

The Chairman apologised for not doing so before and introduced himself, the members on the Sub-Committee and the officers present.

The Chairman invited questions for the Applicant.

Councillor Rogers asked if there had been any other breaches of the licence.

Vincent Lampey said that the premises had been conducting themselves in this way since 2005 but that he had been the Licensing Officer for the last year, since March 2019. He said that he had only become aware of the issue then and that the premises said that they would continue to conduct themselves in this way unless the Licensing committee said otherwise.

Councillor Peter asked for clarification on the changing of the word 'endeavour'.

Vincent Lampey clarified that they wished for the removal of the entire endeavour clause.

U Mohammed referred to the licensing objectives and the applicant's purpose of calling the licence in for review.

The Chairman invited Roger Taylor to make representations on behalf of the licensee:

Roger Taylor stated that 8-10 events were agreed when the use of the marquee was put up with the expectation of music included. He stated that there was now no music in the marquee and that all music was now played from the house. He said that an Environmental Health Officer had allowed for 8-10 events in the short-term but that there was now no music in the marquee. He added that there was a sound ceiling which was monitored by staff and that there was no music in the marquee whatsoever. Roger Taylor stated that the premises is abiding by the licence and that the intruder did not like what was going on and that Boxmoor Lodge themselves called the police. He added that the noise monitors did not cause injunction to go onto the premises. He stated that there is no record of a chargeable offence in repute of the licence and that he had made his own enquiries of individuals. He said that there had been no noise abatement. He said that the licence was being complied with and that he could provide a copy of the Environmental Health Officer judgement. He said that the licence in the hotel, bar, restaurant and marquee had been ratified by the Environmental Health Officer.

The Chairman invited questions.

Councillor Rogers asked about the documentation since 2005 and asked how long the problems have continued.

Roger Taylor said that a number of neighbours had tried to obtain an abatement notice but that it was not noisy enough to warrant it. He said that he was confident that this was the only attempt at noise abatement. He said that it had been decreed by Dacorum Borough Council that it was not noisy enough. He added that the licensee's record was exemplary.

The Chairman asked about the sound ceiling and whether it was monitored by staff.

Roger Taylor said that the sound ceiling was approved to be sufficient to retain noise.

The Chairman asked whether the noise monitors were the same equipment and whether they were installed by the owners.

Roger Taylor said that the licensee had been asked by a number of residents to put noise monitors in place. He added that the monitors had been tested but that it was not noisy enough.

U Mohammed asked for clarification that events were no longer taking place in the marquee.

Roger Taylor stated that the marquee was used for dining and for drinks but that there was no music. He said that music was played from the house.

U Mohammed asked whether there had ever been any music.

Roger Taylor said that in 2005 there had been music in the marquee but that it had been a problem. He said that the licensee now played music from the house and not the marquee. He added that there was a system in the house to suppress music. He said that staff abided by the rules and regulations. He said that they honoured the 8-10 bookings but that there had been no new bookings with music in the marquee and that there had not been for the past 15 years.

Councillor Rogers said that representations suggested an amicable way forward and asked what had happened.

Roger Taylor said that the licensee offered to put in place a brick building but that planning permission was turned down. He said that the premises is in accordance with the licence that currently operates. He said that he was aware of the licensee's integrity and knew that he would try his best to endeavour to ensure the care of those around the hotel. Roger Taylor stated that the licensee had volunteered to monitor and at no time had he accrued a bad reputation with the police authority. Roger Taylor stated that he could not find any evidence of blatant disregard or of any evidence of the licensee saying he will do something and then not.

The Chairman made reference to 40 events that Mr Lampey had stated instead of the 8 last year. He said that there seemed to be a gap in providing TENs from 2005-2019. He said that Mr Lampey seemed to imply that the TENs started to appear after he got involved.

Roger Taylor stated that 8-10 events were accommodating those who had booked the marquee with music. He said that after these bookings were honoured there were no more TENs as there was no longer music in the marquee.

There were no further questions.

The meeting was ended at 2:47pm and the sub-committee deliberated.

Decision:

The representations of the Police reference only a single criminal incident from 27 July 2019 resulting in a male being arrested at the Premises for causing criminal damage. Moreover, the Committee were informed at the hearing that the Police were called to the Premises by the Applicant in response to this incident. The Police reference that "The officer involved in this enquiry were (*sic*) sympathetic towards the frustrations of the offender and bought this to our attention to ensure that Boxmoor Lodge Hotel were operating responsibly".

The Committee, with reference to the Guidance issued by the Home Office, notes that an individual who engages in anti-social behaviour is accountable in their own right. The Committee cannot condone criminal behaviour, even if this was borne out of frustration as alleged in the Police's representations. The Committee expects complaints and reports to be made to the relevant persons, to include the licence holder as well as relevant authorities, rather than the use of violence.

The Police's representations note that Environmental Community Protection, also a responsible authority, have been of the view that there are no ongoing issues and have directed local residents to register complaints via the appropriate avenues. The Guidance notes that it is reasonable for the Licensing Authority to expect Environmental Community Protection to make representations where there are concerns about noise. Consultation in respect of this Application has taken place with the responsible authorities and no representations have been received.

The Police's representations further record that local residents were reminded in September 2019 to contact the Police too regarding further incidents of nuisance but no such evidence accompanies the review representations or reference to any such reports having been received by the Police, despite a representation in support of the Police's application stating *'We have not been directly affected by any of the incidents requiring police attention but understand that such occasions are not infrequent'*.

The Licensing Authority's Statement of Licensing Policy records that it will usually require evidence which substantiates the grounds cited in review applications if it is to act upon those grounds.

Having reviewed the application for review and the subsequent representations received by the Licensing Authority, the Committee cannot find a basis to substantiate taking action against the licence in connection with the licensing objectives.

The Committee are satisfied that the Licensing Authority and other responsible authorities, including the Police, have powers available to them in the event that substantiated issues arise at the Premises in connection with the licensing objectives.

For the above reasons the Committee has resolved to take no further action.