
APPLICATION FOR THE GRANT OF A PUBLIC ENTERTAINMENT LICENCE
GRAND MARQUEE C/O ESSEX COUNTY HOTEL AVIATION WAY
SOUTHEND ESSEX

1 SUMMARY

- 1.1 This Committee has been convened to determine an application for the grant of a Public Entertainment Licence (PEL) because an objection has been received.
- 1.2 The functions of this Committee include the determination of opposed applications for the grant or renewal of a Public Entertainment Licence.
- 1.3 Natural justice requires the Council to take into account any representations made by the applicant and/or their representatives, the objectors and/or their representatives and any other interested persons.

2 INTRODUCTION

- 2.1 Public Entertainment Licensing is a statutory function. It regulates the operation of premises ensuring public safety, the provision of adequate facilities and assisting in the prevention of noise nuisance. Schedule 1 of the Local Government (Miscellaneous Provisions) Act 1982 contains the Public Entertainment Licensing provisions which are administered by District Councils.
- 2.2 A Licence is required for most forms of public music, dancing or similar entertainment, but not for private entertainment, held indoors. Licences remain in force for 1 year (or such shorter period specified) and may be renewed on expiry. All of the Council's full licences expire on 31st December. If a renewal application is made before the licence expires it remains in force until the Council determines the application. Before granting or renewing a licence the Council must consult with the Police and Fire Authority who may make observations which the Council must have regard to. Conditions or restrictions may be imposed on licences, but they only apply when the premises are being used for a public entertainment function. There is a right of appeal to the courts against the refusal to grant a licence and conditions attached to a licence
- 2.3 However, a Public Entertainment Licence is not required for certain types of musical entertainment provided in premises licensed to sell liquor by the Licensing Act 1964. This is music provided by no more than two performers or recorded music.

3 LOCATION OF PREMISES

- 3.1 The Grand Marquee is part of the Essex County Hotel complex which is located on the eastern side of Aviation Way at the Eastwoodbury Lane end on the boundary with Southend Borough Council. A photograph of the marquee is included as Appendix 1. A plan indicating the marquee and the immediate area is included as Appendix 2.

3.2 The nearest residential areas are: 305 metres to the south of the Marquee, the other side of Southend Airport's runways, in Avro Road/Wells Avenue area. They are located within Southend Borough Council's area.

4 PUBLIC ENTERTAINMENT LICENCE APPLICATION

4.1 On 22 August 2002 an application and plan (Appendix 3 and 4) was received from Mr Mark Cotman and Mr Alan Heggie, Essex County Hotel Aviation Way Southend, for the grant of a Public Entertainment Licence, to hold public music entertainment and dancing at The Grand Marquee between 10:30 am and 12:30 am on weekdays and 11am and 12:30 am on Sundays for 300 people.

4.2 On 22 August 2002 a Certificate of Exhibition (Appendix 5) was received from Mr M Cotman stating that he had displayed a copy of the notice of intention to make an application for a Public Entertainment Licence on the front of the premises on 25 July 2002.

4.3 On 22 August 2002 a copy of advertisement placed in the Evening Echo newspaper was received (Appendix 6). The advertisement confirms that the application is for a licence for between the hours of 10:30 am and 12:30 am on weekdays and 11 am and 12:30 am on Sundays.

4.4 On 30 September 2002 a letter was sent (Appendix 7) to Mr Cotman informing him that an objection to the application had been made. Mr Cotman was also informed that in order to complete his application he would need to submit an acoustic report detailing the noise impact on the neighbourhood.

4.5 On 16 January 2003 an investigation of noise migration (Appendix 8) was received from Mr Cotman outlining the impact of noise nuisance on the local residents.

4.6 The Council's Environmental Protection Manager assessed the report and raised concerns that the noise levels would exceed the criteria recommended in the draft "Good practice Guide on the Control of noise and clubs" (the section of the draft guidance that details this criteria is included as Appendix 9) and it did not identify to what level the control measures would attenuate the noise.

4.7 On 20 February 2003 a letter (Appendix 10) was sent to Mr Cotman informing him that on the basis of this report the Authority would recommend refusal of the Public Entertainment Licence. Mr Cotman was given the opportunity to resubmit the report with more information as to how effective the proposed control measures would be.

4.8 On 13 March 2003 Mr Cotman telephoned Rochford District Council and said that after negotiations with the objector he was going to withdraw his objection and this would be confirmed in writing. As such, Mr Cotman asked for the Committee hearing to be put on hold until the objector had confirmed his intentions in writing.

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- 4.9 On 10 June 2003 Mr Cotman telephoned and stated that the objector was not going to withdraw their objection and he wanted to go to Committee, after all. Mr Cotman also stated that he did not wish to submit a further report.

5 CURRENT USE OF THE MARQUEE

- 5.1 The marquee is currently being used for private entertainment and presentation dinners which do not require a licence.
- 5.2 Mr Cotman is legally entitled to hold musical entertainment when he has obtained an Occasional Liquor Licence to cover the marquee (a licensee from the hotel effectively runs a licensed bar in the Marquee). An Occasional Liquor Licence has been granted for thirteen different occasions from 13 December 2002 to 7 November 2003. He may have up to two live performers or play recorded music, as long as there is no dancing, without the need for a Public Entertainment Licence.
- 5.3 The Public Entertainment Licence being sought, if granted, would allow the same type of events that are held in the adjacent night club, "Ego's," to be held in the marquee.

6 PLANNING

- 6.1 On 15 October 2002 Mr Cotman was sent a letter (Appendix 11) informing him that he required planning permission for the marquee and invited him to apply. A further letter was sent on 18 December 2002 (Appendix 12) stating that no application for planning permission had been received. To date no Application has been received for planning permission for the Marquee, but this is not a prerequisite for consideration of a PEL application.

7 CONSULTATION AND INSPECTION

- 7.1 Following an inspection of the premises and consultation with the Fire Authority, a letter was received (Appendix 13) from the Fire Authority on 28 July 2003 stating that they have no objections to the application.
- 7.2 Essex Police have been consulted and they replied on 27 June 2003 (Appendix 14). The Police have no objections to the grant of a PEL for this applicant, providing suitable noise limitations are put into place, and the following conditions are attached to the licence.
1. A minimum of two registered door staff to be present when the marquee is in use.
 2. CCTV to be installed to Local Authority standards.
 3. Toughened glass only to be used.
 4. Customers should not be permitted to leave the marquee with bottles and glasses.

8 OBJECTORS TO THE APPLICATION

- 8.1 Two letters of objection have been received from local residents, one on 19 August 2002 (Appendix 15) and the other on 5 November 2002. The second objector withdrew their objection on the understanding the licence would not be granted if it was likely to cause a noise nuisance, thus leaving one objector:

Mr R Hanby, 20 Smallholdings, Eastwoodbury Lane, Southend-on-Sea, Essex SS2 6UP.

- 8.2 The nature of the objection is as follows:

1. When a function takes place they can clearly hear both the amplified music and the disc jockey.
2. Feels that the structure of the marquee is not suitable to contain the noise from the amplified music within.

- 8.3 A copy of this letter was sent to Mr Cotman on 30 September 2002 (Appendix 16).

9 HISTORY OF COMPLAINTS

- 9.1 Due to the location of the marquee, local residents in the area fall within the boundary of Southend on Sea Borough Council. A fax from Southend on Sea Borough Council (Appendix 17), received on 8 July 2003, states that since the Marquee has been erected, two complaints have been received regarding noise nuisance allegedly caused by non licensable functions held in the Marquee. The complaints consisted of loud music, received on 14/10/02, from two local residents. Both complaints have been resolved by enforcement officers from Southend on Sea Borough Council who asked that the volume be decreased and the event finish half an hour early on that particular evening.
- 9.2 Rochford District Council received a complaint from a local resident regarding noise from the site on 13 July 2003. The complainant claimed that they could hear the music from the event clearly enough to distinguish the words of the songs being played, the complainant wishes to remain anonymous.

10 NOISE ASSESSMENT

- 10.1 The applicants were asked to provide a noise impact assessment due to concerns of potential noise nuisance. Acoustic consultants BL Acoustics produced a report (Appendix 8). This report has been reviewed by The Environmental Protection Unit Manager with the following observations.

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- 10.2 The report provided measurements of existing background noise levels and predicted likely event noise levels at neighbouring residential properties. These levels were then compared with the standards recommended in the draft "Good Practice Guide on the Control of Noise from Pubs and Clubs".
- 10.3 This guide recommends acceptable noise levels depending on the frequency of the events and the finishing times. Where entertainment takes place more than once a week or continues beyond 2300 hours it is recommended that:
1. The event noise level (L_{Aeq}) does not exceed the background noise level (L_{A90}).
 2. Noise levels (L_{10}) in any $1/3$ rd octave band between 40Hz and 160 Hz must also not exceed the background levels (L_{90}).

These criteria should ensure that noise would be virtually inaudible inside noise sensitive properties.

- 10.4 The noise assessment predicted that the music noise level at the nearest residential property would be 64.5dB L_{Aeq} . The background noise level measured after 11 pm was 38dB L_{A90} . Hence, noise levels from the marquee were predicted to exceed the background noise levels by 26.5dB(A). This would be clearly audible within the neighbouring noise sensitive properties and would be highly likely to cause a nuisance.
- 10.5 Details of the assessment carried out in each $1/3$ rd octave band were not provided. This would have helped in assessing the impact of the low frequency music noise. Disturbance caused by music events is often due to the low frequency beat being audible. Low frequency noise travels further than higher frequencies and also requires denser structures to attenuate the noise.
- 10.6 Noise from marquees is very difficult to control as the structure provides very little noise attenuation. While music levels can be turned down there comes a point where events are no longer viable. The above predictions assumed a dance floor noise level of 93-95dB L_{Aeq} . This is quite low. Generally you would expect a dance floor level of 100dB L_{Aeq} for a successful event; levels below 95dB(A) are unlikely to provide satisfactory entertainment.
- 10.7 The noise assessment predicts that noise levels at the nearest residential properties will exceed guideline levels by 26.5dB(A). As a guideline an increase of noise by 3dBA is just audible, an increase of 10dBA is perceived to be a doubling of loudness.
- 10.8 The report recommends a few general control measures but does not indicate how much attenuation would be achieved from each proposed measure. The recommended control measures are:
1. Install high-level loudspeaker mounting focusing on the dance floor.
 2. Provide acoustic barriers within the south wall.

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3. Control and police each event.
 4. Fit automatic monitoring of sound that will cut out power if persistent excessive noise levels are produced.

These control measures are not likely to provide sufficient attenuation to achieve acceptable criteria at the neighbouring noise sensitive properties while still achieving the volumes necessary to provide satisfactory entertainment.

- 10.9 It is therefore recommended that the application for a public entertainment license is refused, as it is likely to cause a noise nuisance to neighbouring noise sensitive properties.

11 SUMMARY

- 11.1 Mr Cotman has been holding events that do not require a licence such as presentation dinners and private receptions. These kinds of events are different to public music and dancing as applied for, and are highly likely to cause a higher level of noise to be emitted. It was this type of entertainment that the investigation of noise migration report was based on. Should a licence be granted for public music and dancing the marquee would be able to hold the same type of events as the night club "Ego's".
- 11.2 Although an occupier of a nearby house objects to this application, Essex Police are not objecting as long as certain conditions are imposed and on the understanding that suitable noise limitations are put in place.
- 11.3 Southend on Sea Borough Council have received two complaints, both on 14 October 2002, regarding the use of the marquee. Both have been resolved and they are not formally objecting to the application.
- 11.4 Rochford District Council has received two letters of objection to this application. One of the objectors was later withdrawn on the understanding that a licence would not be granted if it was likely to cause a noise nuisance. A complaint has also been received regarding noise from events held at the marquee but the complainant wishes to remain anonymous, as mentioned at 9.2.
- 11.5 The suggested control measures are not likely to provide sufficient attenuation to achieve acceptable noise levels so as not to cause a noise nuisance to neighbouring noise sensitive properties while still achieving the volumes necessary to provide satisfactory entertainment. Members may therefore consider that the application for a Public entertainment Licence should be refused, as it is likely to cause a noise nuisance to neighbouring noise sensitive properties.

12 RESOURCE IMPLICATIONS

- 12.1 An application fee of £462 has been received.

12.2 If a licence is granted a renewal fee is required each year.

13 LEGAL IMPLICATIONS

13.1 The Council must exercise its licensing function in a fair and judicious manner.

13.2 Should the application be refused, the applicant has a right of appeal to the Magistrate's Court.

14 PARISH IMPLICATIONS

14.1 The premises are within the Rochford Parish Council area.

15 RECOMMENDATION

15.1 It is proposed that the Committee **RESOLVES** to determine the application.

Mr G Woolhouse

Head of Housing, Health & Community Care

Background Papers:

Draft "Good Practice Guide on the Control of Noise from Pubs and Clubs".

For further information please contact Andrew Paddon on:

Tel:- 01702 318056

E-Mail:- andrew.paddon@rochford.gov.uk