

## Licensing & Appeals Sub-Committee – 10 December 2019

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Minutes of the meeting of the **Licensing & Appeals Sub-Committee** held on **10 December 2019** when there were present:-

Chairman: Cllr Mrs J R Gooding

Cllr M J Lucas-Gill

Cllr Mrs L Shaw

### OFFICERS PRESENT

C Irwin	- Solicitor
S Greener	- Licensing Officer
C Brooke	- Licensing Assistant
S Sheridan	- Senior Environmental Health Technical Officer
J Spink	- Senior Environmental Health Technical Officer
S Worthington	- Democratic Services Officer

### 11 PROCEDURE DOCUMENT

The Sub-Committee noted the procedure to be followed in hearing the appeal.

### 12 LICENSING ACT 2003 – TEMPORARY EVENT NOTICE (TEN)

The Sub-Committee considered the report of the Assistant Director, People & Communities asking Members to determine an application for the issue of a Temporary Event Notice made under section 100 of the Licensing Act 2003 in respect of a licensed premises known as Crafty Casks, 33 Eastwood Road, Rayleigh.

The Environmental Health officer confirmed that Crafty Casks was a licensed premises with residential premises above and to the side of it. She emphasised that the premises had only recently commenced operating as a licensed premises. One of the conditions of the planning permission in respect of this site required that suitable sound insulation be installed; these works had not yet been carried out and there was no insulation to the outside walls for noise emanating from the premises.

The Sub-Committee was advised that on 4 November 2019 a first complaint was made to the Environmental Health department, not long after the premises had opened. A total of five complaints were made by different people relating to live music. On 21 November officers visited the premises. On 26 November an email was sent to the applicant and on 30 November officers visited the property of one of the complainants; however, no live music was on at the premises so no noise could be heard from the premises. Officers re-visited the complainant's property on 4 December when an open microphone event was taking place at Crafty Casks. Voices and amplified music could be heard at the resident's property. A noise abatement notice was then issued. It was emphasised that there was no noise monitoring equipment in place at the licensed premises.

In response to questions the following points were noted:-

- A number of different complaints were made from residents in the vicinity of the premises.
- Environmental Health officers spoke directly to complainants on an individual basis.
- Complaints were received when the premises had live music on, including, e.g., singers, amplified music, which tended to be at night time.
- Live music events were being held on Friday and Saturday nights. In addition, there were open microphone nights. There had been deregulation of live music during the hours of 0800 – 2300 Monday to Sunday; accordingly, premises did not have to provide forward notification of any live music events.
- When officers visited the complainant's property on 4 December the noise level was unreasonable with voices in the bar clearly audible from the resident's property, as well as loud, amplified music.
- When officers visited the complainant's property on 30 November when there was no live music on at Crafty Casks the noise level did not meet the threshold for statutory nuisance. However, in respect of the planning condition requiring the installation of sound insulation the audibility of voices in the bar below was excessive.

In supporting his application, the applicant stated that he had submitted a planning application on 3 September to the Planning Department in respect of the discharge of planning conditions for the premises and was still waiting for a decision.

He made reference to the fact that noise attenuation had been put in place at a rate of 65 decibels, which was above that required by regulations. He had not received any complaints from residents either in person or in writing; he first heard about the complaints when the Environmental Health officer visited him. He advised that on a subsequent visit the Environmental Health officer informed him that noise from the premises was excessive. As a result he took the decision to cease holding live music events and removed the PA system at the premises.

The applicant further stated that Crafty Casks customers were of mixed age groups and genders, generally over 35s, and well behaved. Live music was not the core business of Crafty Casks, which was that of the sale of locally produced craft beers.

He drew attention to the fact that his premises licence currently ended at 2330 hours, which presented a problem on New Year's Eve when customers would want to stay to see in the New Year. It would be more problematic to ask customers to depart at 2355 rather than them staying to see in the New Year in a controlled environment. He indicated that he was willing to withdraw the

application for the music element but would like the premises to remain open until a reasonable time, e.g., 0030 hours.

In response to questions, the following points were noted:-

- A planning application had been submitted for sound insulation, in excess of what was required by Building Regulations, but a decision on this application had not been received. The Planning Department had exceeded the 8-week deadline for determining the application had the planning application fee had been refunded as a result of the delay in determining the application.
- Public nuisance from the premises would not add significantly to noise nuisance around Rayleigh High Street on New Year's Eve, with other premises operating and fireworks going off outside.

The Sub-Committee retired from the Chamber with the Legal and Member Services officers to consider the decision, returning for its announcement.

The Sub-Committee gave careful consideration to the application and all the written and verbal evidence presented at the hearing, including the objection notice from Environmental Health. The Sub-Committee commended Environmental Health officers for visiting one of the complainant's properties and conducting noise monitoring on more than one occasion. However, the Sub-Committee did not consider it necessary for a counter notice to be served in order to promote the public nuisance licensing objective. The Sub-Committee considered that the application, with the removal of regulated entertainment and the closure of the premises at 12.30 am, together with the conditions in place on the current on the premises licence, would promote the licensing objective.

### **Resolved**

That the application be approved, subject to removal of regulated entertainment and the closure of the premises at 12.30 am and inclusion of all conditions currently in place on the current premises licence. (ADP&C)

The meeting commenced at 10.00 am and closed at 11.10 am

Chairman .....

Date .....

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